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PENNSYLVANIA BULLETIN

Volume 40

Number 23

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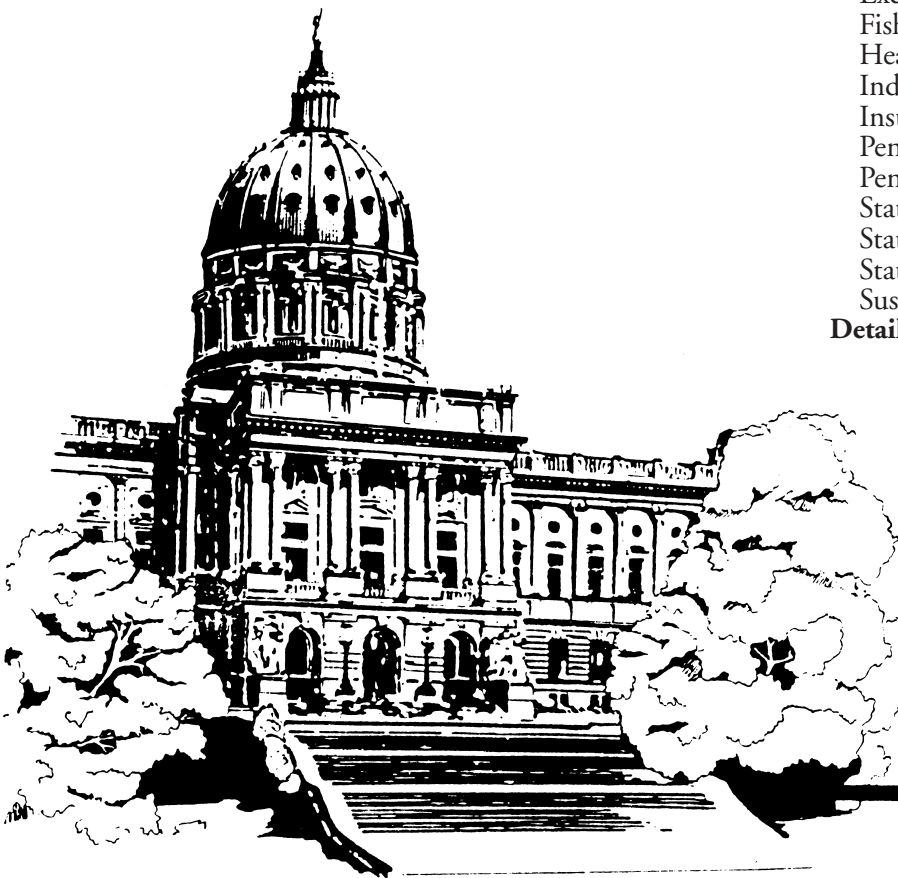
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**Latest Pennsylvania Code Reporters
(Master Transmittal Sheets):**

No. 427, June 2010

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Pennsylvania Bulletin

The *Pennsylvania Bulletin* is the official gazette of the Commonwealth of Pennsylvania. It is published every week and includes a table of contents. A cumulative subject matter index is published quarterly.

The *Pennsylvania Bulletin* serves several purposes. First, it is the temporary supplement to the *Pennsylvania Code*, which is the official codification of agency rules and regulations and other statutorily authorized documents. Changes in the codified text, whether by adoption, amendment, repeal or emergency action must be published in the *Pennsylvania Bulletin*. Further, agencies proposing changes to the codified text do so in the *Pennsylvania Bulletin*.

Second, the *Pennsylvania Bulletin* also publishes: Governor's Executive Orders; State Contract Notices; Summaries of Enacted Statutes; Statewide and Local Court Rules; Attorney General Opinions; Motor Carrier Applications before the Public Utility Commission; Applications and Actions before the Department of Environmental Protection; Orders of the Independent Regulatory Review Commission; and other documents authorized by law.

The text of certain documents published in the *Pennsylvania Bulletin* is the only valid and enforceable text. Courts are required to take judicial notice of the *Pennsylvania Bulletin*.

Adoption, Amendment or Repeal of Regulations

Generally an agency wishing to adopt, amend or repeal regulations must first publish in the *Pennsylvania Bulletin* a Notice of Proposed Rulemaking. There are limited instances where the agency may omit the proposal step; they still must publish the adopted version.

The Notice of Proposed Rulemaking contains the full text of the change, the agency contact person, a fiscal note required by law and background for the action.

The agency then allows sufficient time for public comment before taking final action. An adopted proposal must be published in the *Pennsylvania*

Bulletin before it can take effect. If the agency wishes to adopt changes to the Notice of Proposed Rulemaking to enlarge the scope, they must re-propose.

Citation to the *Pennsylvania Bulletin*

Cite material in the *Pennsylvania Bulletin* by volume number and page number. Example: Volume 1, *Pennsylvania Bulletin*, page 801 (short form: 1 Pa.B. 801).

Pennsylvania Code

The *Pennsylvania Code* is the official codification of rules and regulations issued by Commonwealth agencies and other statutorily authorized documents. The *Pennsylvania Bulletin* is the temporary supplement to the *Pennsylvania Code*, printing changes as soon as they occur. These changes are then permanently codified by the *Pennsylvania Code Reporter*, a monthly, loose-leaf supplement.

The *Pennsylvania Code* is cited by title number and section number. Example: Title 10 *Pennsylvania Code*, § 1.1 (short form: 10 Pa.Code § 1.1).

Under the *Pennsylvania Code* codification system, each regulation is assigned a unique number by title and section. Titles roughly parallel the organization of Commonwealth government. Title 1 *Pennsylvania Code* lists every agency and its corresponding *Code* title location.

How to Find Documents

Search for your area of interest in the *Pennsylvania Code*.

The *Pennsylvania Code* contains, as Finding Aids, subject indexes for the complete *Code* and for each individual title, a list of Statutes Used As Authority for Adopting Rules and a list of annotated cases. Source Notes give you the history of the documents. To see if there have been recent changes, not yet codified, check the List of *Pennsylvania Code* Chapters Affected in the most recent issue of the *Pennsylvania Bulletin*.

The *Pennsylvania Bulletin* also publishes a quarterly List of Pennsylvania Code Sections Affected which lists the regulations in numerical order, followed by the citation to the *Pennsylvania Bulletin* in which the change occurred.

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Printing Format

Material proposed to be added to an existing rule or regulation is printed in **bold face** and material proposed to be deleted from such a rule or regulation is enclosed in brackets [] and printed in **bold face**. Asterisks indicate ellipsis of *Pennsylvania Code* text retained without change. Proposed new or additional regulations are printed in ordinary style face.

Fiscal Notes

Section 612 of The Administrative Code of 1929 (71 P. S. § 232) requires that the Office of Budget prepare a fiscal note for regulatory actions and administrative procedures of the administrative departments, boards, commissions or authorities receiving money from the State Treasury stating whether the proposed action or procedure causes a loss of revenue or an increase in the cost of programs for the Commonwealth or its political subdivisions; that the fiscal note be published in the *Pennsylvania Bulletin* at the same time as the proposed change is advertised; and that the fiscal note shall provide the following information: (1) the designation of the fund out of which the appropriation providing for expenditures under the action or procedure shall be made; (2) the probable cost for the fiscal year the program is implemented; (3) projected cost estimate of the program for each of the five succeeding fiscal years; (4) fiscal history of the program for which expenditures are to be made; (5) probable loss of revenue for the fiscal year of its implementation; (6) projected loss of revenue from the program for each of the five succeeding fiscal years; (7) line item, if any, of the General Appropriation Act or other appropriation act out of which expenditures or losses of Commonwealth funds shall occur as a result of the action or procedures; (8) recommendation, if any, of the Secretary of the Budget and the reasons therefor.

The required information is published in the foregoing order immediately following the proposed change to which it relates; the omission of an item indicates that the agency text of the fiscal note states that there is no information available with respect thereto. In items (3) and (6) information is set forth for the first through fifth fiscal years; in that order, following the year the program is implemented, which is stated. In item (4) information is set forth for the current and two immediately preceding years, in that order. In item (8) the recommendation, if any, made by the Secretary of Budget is published with the fiscal note. See 4 Pa. Code § 7.231 *et seq.* Where “no fiscal impact” is published, the statement means no additional cost or revenue loss to the Commonwealth or its local political subdivision is intended.

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List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2010.

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THE COURTS

Title 255—LOCAL COURT RULES

ALLEGHENY COUNTY

Criminal Rules of the Court of Common Pleas; No. 2 of 2010

Order of Court

And Now, to-wit, this 17th day of May, 2010, *It Is Hereby Ordered, Adjudged and Decreed* that the following Rule of the Court of Common Pleas of Allegheny County, Pennsylvania, Criminal Division, adopted by the Board of Judges on May 13, 2010, shall be effective thirty (30) days after publication in the *Pennsylvania Bulletin*:

Criminal Procedure Rule 202.2 Approval of Search Warrant Applications by Attorney for the Commonwealth in Felony Sexual Assault Cases

Criminal Procedure Rule 507.2 Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth in Felony Sexual Assault Cases

By the Court

DONNA JO McDANIEL,
President Judge

Rule 202.2. Approval of Search Warrant Applications by Attorney for the Commonwealth in Felony Sexual Assault Cases.

The District Attorney of Allegheny County, Stephen A. Zappala, Jr., having filed a certification pursuant to Pa.R.Crim.P. 202, search warrants in the following circumstances: wherein the search warrant is relative to the investigation or prosecution of the following criminal offenses:

Rape (18 Pa.C.S. § 3121), Statutory Sexual Assault (18 Pa.C.S. § 3122.1), Involuntary Deviate Sexual Intercourse (18 Pa.C.S. § 3123), Sexual Assault (18 Pa.C.S. § 3124.1), Institutional Sexual Assault (18 Pa.C.S. § 3124.2), or Aggravated Indecent Assault (18 Pa.C.S. § 3125), shall not hereafter be accepted by any judicial officer unless the search warrant applications have the approval of an Attorney for the Commonwealth prior to filing.

Rule 507.2. Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth in Felony Sexual Assault Cases.

The District Attorney of Allegheny County, Stephen A. Zappala, Jr., having filed a certification pursuant to Pa.R.Crim.P. 507, criminal complaints and arrest warrant affidavits by police officers, as defined in the Rules of Criminal Procedure, charging Rape (18 Pa.C.S. § 3121), Statutory Sexual Assault (18 Pa.C.S. § 3122.1), Involuntary Deviate Sexual Intercourse (18 Pa.C.S. § 3123), Sexual Assault (18 Pa.C.S. § 3124.1), Institutional Sexual Assault (18 Pa.C.S. § 3124.2), or Aggravated Indecent Assault (18 Pa.C.S. § 3125), shall not hereafter be ac-

cepted by any judicial officer unless the criminal complaint and arrest warrant affidavit have the approval of an Attorney for the Commonwealth prior to filing.

[Pa.B. Doc. No. 10-1026. Filed for public inspection June 4, 2010, 9:00 a.m.]

BUCKS COUNTY

Imposition of Laboratory Fees in Certain Criminal Matters; Administrative Order No. 57

And Now, this 10th day of May, 2010, pursuant to 16 P. S. § 1403, it is hereby *Ordered and Directed* that all defendants convicted under the Driving After Imbibing Statute, Title 75, Chapter 38, of driving under the influence of alcohol and/or other controlled substance and anyone accepted into Accelerated Rehabilitative Disposition in such matters, shall be assessed a fee of \$150.00 to offset forensic laboratory costs associated with prosecution of these offenses. Said fees shall be assessed as court costs. This fee is in addition to all other authorized fines, costs and supervision fees legally assessed.

Fees so collected shall be paid into the General fund of Bucks County. Each year the Controller's Office shall disburse these funds to the Bucks County District Attorney's Office which shall apply the said funds to the cost of performing forensic tests necessary to the investigation and prosecution of the said cases.

This Order shall become effective July 1, 2010.

By the Court

SUSAN D. SCOTT,
President Judge

[Pa.B. Doc. No. 10-1027. Filed for public inspection June 4, 2010, 9:00 a.m.]

CLARION COUNTY

Administrative Order Appointing Designee to Receive Reports Pursuant to Pa.R.J.C.P. 1604(B); No. 586 CD 2010

Administrative Order

And Now, May 12, 2010 pursuant to Rule 1604(B) of the Pa. Rules of Juvenile Court Procedure, the President Judge hereby appoints the Clarion County Court Administrator as designee to receive reports of a foster parent, pre-adoptive parent or relative providing care for a child, submitted regarding the child's adjustment, progress and condition for view by the Court in dependency hearings.

The report to the herein appointed designee shall be submitted at least seven (7) days prior to the hearing. The Court Administrator, no later than one business day following receipt of the report, shall promptly distribute said report to the Judge before whom the hearing will be held. Further, the Court Administrator shall file the original report with the Clerk of Courts and distribute copies to the attorneys of record, unrepresented parties and Children & Youth Services, as well as the court-appointed special advocate if one is appointed.

At the time that Children & Youth Services distributes the form designated by 42 Pa.C.S. § 6336.1(b), which shall be not less than twenty-one days prior to the scheduled hearing, they shall provide to the Clarion County Court Administrator a list of those parties to whom the form was distributed as well as a complete list of those persons who should receive the completed form along with their addresses.

This order shall become effective thirty days after its publication in the *Pennsylvania Bulletin*.

By the Court

JAMES G. ARNER,
President Judge

[Pa.B. Doc. No. 10-1028. Filed for public inspection June 4, 2010, 9:00 a.m.]

FAYETTE COUNTY

Fayette County Civil Rules: 212.5 and 205.2(b); No. 1271 of 2010 GD

Order

And Now, this 20th day of May, 2010, pursuant to Pa.R.C.P. Sec 239, it is hereby directed that Local Rule 212.5 is hereby rescinded, effective 30 days after publication in the *Pennsylvania Bulletin*; and a new Fayette County Civil Rule 205.2(b) is hereby proposed.

With regard to Fayette County Civil Rule 212.5, the Prothonotary is directed as follows:

(1) Seven certified copies this order shall be filed with the Administrative Office of Pennsylvania Courts

(2) Two certified copies and diskette of the Local Rules shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(3) One certified copy of this order shall be sent to the State Civil Procedural Rules Committee.

(4) One certified copy shall be sent to the Fayette County Law Library and the Editor of the *Fayette Legal Journal*.

In accordance with Pa.R.C.P. Sec. 239.1, the proposed Fayette County Rule of Civil Procedure 205.2(b) is to be hereby processed by the Fayette County District Court Administrator in accordance with Pa.R.C.P. 239.8, and shall become effective upon publication on the AOPC web site at <http://ujportal.pacourts.us/>.

By the Court

GERALD R. SOLOMON,
President Judge

RULE 205.2(b)

CIVIL COVER SHEET

A party commencing an action by summons, complaint, pleading or other document used to commence a new civil action filed in the Prothonotary is required to attach a duly completed cover sheet in the form set forth as follows. The cover sheet may also be obtained in the in Office of the Prothonotary of Fayette County or printed from the webpage of the Administrative Office of Fayette County Courts found at <http://www.co.fayette.pa.us>.

Court of Common Pleas of Fayette County Civil Cover Sheet		For Prothonotary Use only (Docket Number)	
A. PLAINTIFF'S NAME:		DEFENDANT'S NAME:	
PLAINTIFF'S ADDRESS & TELEPHONE NUMBER:		DEFENDANT'S ADDRESS & TELEPHONE NUMBER:	
PLAINTIFF'S NAME:		DEFENDANT'S NAME:	
PLAINTIFF'S ADDRESS & TELEPHONE NUMBER:		DEFENDANT'S ADDRESS & TELEPHONE NUMBER:	
TOTAL NUMBER OF PLAINTIFFS		TOTAL NUMBER OF DEFENDANT'S	
B. AMOUNT IN CONTROVERSY _____ \$50,000 or less _____ More than \$50,000	C. COMMENCEMENT OF ACTION _____ 1. Complaint _____ 2. Writ of Summons _____ 3. Notice of Appeal _____ 4. Petition Action _____ 5. Arbitration		D. CASE PROCESS _____ 6. Jury _____ 7. Non Jury _____ 8. Class Action _____ 9. For Order
E. CODE AND CASE TYPE (See Instructions)			
F. STATUTORY BASIS FOR CAUSE OF ACTION (See Instructions)			
G. RELATED PENDING CASES (List by Docket Number - Indicate whether the related cases have been consolidated)			
H. TO THE PROTHONOTARY: Kindly enter my appearance on behalf of Plaintiff/Petitioner/Appellant. Papers may be served at the address set forth below.			
NAME OF PLAINTIFF'S/APPELLANT'S ATTORNEY		ADDRESS	
PHONE NUMBER	SUPREME COURT IDENTIFICATION NUMBER	E-MAIL ADDRESS:	
		FAX NO. (OPTIONAL - FOR SERVICE):	
DATE: _____ SIGNATURE: _____			

Instructions for Completing Civil Cover Sheet

The attorney (or pro se party) filing a case shall complete the form as follows:

A. Parties

i. Plaintiff(s)/Defendant(s)

Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency or corporation, use the full name of the agency or corporation. In the event there are more than two plaintiffs and/or two defendants, list the additional parties on a separate sheet of paper. Husband and wife should be listed as separate parties.

ii. Parties' Addresses and Telephone Numbers

Enter the address and telephone numbers of the parties at the time of filing of the action. If any party is a corporation, enter the address and telephone number of the registered office of the corporation.

iii. Number of Plaintiffs/Defendants

Indicate the total number of plaintiffs and the total number of defendants in the action.

B. Amount in Controversy

Check the appropriate box. Indicate whether an Assessment of Damages Hearing is required.

C. Commencement of Action

Indicate type of document to be filed to initiate the action.

D. Other

Indicate whether the case is an arbitration, jury or non-jury case. Check any other appropriate boxes. If the action will require the entry of an Order approving a minor/incapacitated person's compromise, wrongful death or survival action, check the appropriate box.

E. Type of Action - Case Type

Select and insert the applicable case type and code from the following list.

Code	Case Type	Code	Case Type	Code	Case Type
TORT <i>(do not include Mass Tort)</i> 201 - Intentional 202 - Malicious Prosecution 203 - Motor Vehicle 204 - Nuisance 205 - Premises Liability 206 - Product Liability <i>(does not include mass tort)</i> 207 - Slander/Libel/Defamation 208 - Other: <div></div>		CONTRACT <i>(do not include Judgments)</i> 231 - Buyer Plaintiff 232 - Debt Collection: Credit Card 233 - Debt Collection: Other <div></div> <div></div> 234 - Employment Dispute: Discrimination 235 - Employment Dispute: Other <div></div> <div></div> 236 - Other: <div></div> <div></div>		CIVIL APPEALS Administrative Agencies 251 - Board of Assessment 252 - Board of Elections 253 - Dept. of Transportation 254 - Zoning Board 255 - Statutory Appeal: Other <div></div> <div></div> Judicial Appeals 256 - MDJ - Landlord/Tenant 257 - MDJ - Money Judgment 258 - Other: <div></div> <div></div>	
MASS TORT 211 - Asbestos 212 - Tobacco 213 - Toxic Tort - DES 214 - Toxic Tort - Implant 215 - Toxic Waste 216 - Other: <div></div>		REAL PROPERTY 241 - Ejectment 242 - Eminent Domain/Condemnation 243 - Ground Rent 244 - Landlord/Tenant Dispute 245 - Mortgage Foreclosure 246 - Partition 247 - Quiet Title 248 - Other: <div></div> <div></div>		MISCELLANEOUS 261 - Common Law/Statutory Arbitration 262 - Declaratory Judgment 263 - Mandamus 264 - Non-Domestic Relations 265 - Restraining Order 266 - Quo Warranto 267 - Replevin 116 - Name Change 268 - Other: <div></div> <div></div>	
PROFESSIONAL LIABILITY 221 - Dental 222 - Legal 223 - Medical 224 - Other Professional: <div></div> <div></div>					
Code	Case Type	Code	Case Type	Code	Case Type
DOMESTIC					
104 - Custody		106 - Divorce		111 - PFA	

F. Statutory Basis for Cause of Action

If the action is commenced pursuant to statutory authority ("Petition Action"), the specific statute must be cited.

G. Related Pending Cases

All previously filed related cases must be identified. Indicated whether they have been consolidated by Court Order or Stipulation.

H. Plaintiffs/Appellant's/Petitioner's Attorney - Entry of Appearance

The name of filing party's attorney must be inserted, together with the other required information. Unrepresented filers must provide their name, address, telephone number and signature. **Providing the fax number shall authorize the service of legal papers by facsimile transmission. See Pa.R.C.P. 440(d).**

[Pa.B. Doc. No. 10-1029. Filed for public inspection June 4, 2010, 9:00 a.m.]

JEFFERSON COUNTY

Administrative Order Requiring Affidavits of Non-Military Service When Counsel Does Not Appear of Record on Defendants' Behalf; No. 9-2010 AD**Order**

And Now, this 19th day of May 2010, *It Is Ordered That* in all divorce actions in which counsel does not appear of record for the defendant, whether for purposes of a divorce pursuant to 23 Pa.C.S.A. § 3301(c) or § 3301(d), the plaintiff shall file a notarized Affidavit of Non-military Service before transmitting the action for the Court's signature. If the plaintiff is represented by counsel, it shall be sufficient for counsel to state in the verified complaint that the defendant is not in the military. This order shall be known as Jeff.Co.R.C.P. 1920.46.

This Order shall become effective thirty (30) days after the date of publication in the *Pennsylvania Bulletin*.

By the Court

HONORABLE JOHN HENRY FORADORA,
President Judge

[Pa.B. Doc. No. 10-1030. Filed for public inspection June 4, 2010, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that Edward Davis Fagan having been disbarred from the practice of law in the State of New Jersey by Order of the Supreme Court of New Jersey dated June 18, 2009, the Supreme Court of Pennsylvania issued an Order on May 17, 2010, disbarring Edward Davis Fagan from the Bar of this Commonwealth, effective June 16, 2010. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 10-1031. Filed for public inspection June 4, 2010, 9:00 a.m.]

Notice of Disbarment

Notice is hereby given that Brian Grayson West having been disbarred from the practice of law in the State of Maryland by Opinion and Order of the Court of Appeals of Maryland filed October 6, 2009, the Supreme Court of Pennsylvania issued an Order on May 17, 2010, disbarring Brian Grayson West from the Bar of this Commonwealth, effective June 16, 2010. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 10-1032. Filed for public inspection June 4, 2010, 9:00 a.m.]

Notice of Suspension

Notice is hereby given that by Order of the Supreme Court of Pennsylvania dated May 24, 2010, Jack Willard Snyder is Suspended on Consent from the Bar of this Commonwealth for a period of 3 years, to be effective June 23, 2010. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 10-1033. Filed for public inspection June 4, 2010, 9:00 a.m.]

RULES AND REGULATIONS

Title 10—BANKS AND BANKING

DEPARTMENT OF BANKING

[10 PA. CODE CH. 3]

Hearings and Conferences

The Department of Banking (Department), under the authority in section 202.C of the Department of Banking Code (act) (71 P. S. § 733-202.C), rescinds §§ 3.1—3.16 to read as set forth in Annex A.

Introduction

The Department determined that the existing regulations are obsolete, preempted by statute and thus unnecessary for conducting the subject administrative hearings at the agency level.

Analysis

On July 8, 2008, the act was amended to include section 503.E of the act (71 P. S. § 733-503.E), which requires that administrative proceedings conducted by the Department regarding institutions, licensees and credit unions be subject to the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Additionally, section 503.E of the act provides statutory procedures for the conduct of protest proceedings regarding institutions and credit unions that supplant §§ 3.1—3.16. The Department further determined that protest procedures regarding licensees can adequately be governed by 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure). Therefore, §§ 3.1—3.16 have been determined by the Department to be obsolete, preempted by statute and thus unnecessary for conducting the subject administrative hearings at the agency level and should be rescinded.

Cost and Paperwork Requirement

Rescinding §§ 3.1—3.16 will have no effect on costs or paperwork requirements.

Fiscal Impact

Rescinding §§ 3.1—3.16 will have no fiscal impact.

Final-Omitted Rulemaking

Notice of proposed rulemaking has been omitted under section 204(3) of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204(3)), known as the Commonwealth Documents Law (CDL), which specifies that a regulation may be adopted without notice of proposed rulemaking if proposed rulemaking procedures are “in the circumstances impracticable, unnecessary, or contrary to the public interest.” The proposed rulemaking procedures in this instance are unnecessary because the Department is rescinding obsolete regulations.

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on March 25, 2010, the Department submitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the House Committee on Commerce and the Senate Committee on Banking and Insurance (Committees). On the same date, the regulations were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5.1(j.2) of the Regulatory Review Act, on May 12, 2010, the final-omitted rulemaking was approved by the Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on May 13, 2010, and approved the final-omitted rulemaking.

Effective Date

This final-omitted rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

Sunset Date

Since this final-omitted rulemaking rescinds obsolete regulations, a sunset date is not necessary.

Contact Person

For an explanation of this final-omitted rulemaking contact Lauren A. Sassani, Assistant Counsel, Department of Banking, 17 North Second Street, Suite 1300, Harrisburg, PA 17101, (717) 787-1471, pabankreg@state.pa.us; or Robert C. Lopez, Deputy Chief Counsel, Department of Banking, 17 North Second Street, Suite 1300, Harrisburg, PA 17101, (717) 787-1471, pabankreg@state.pa.us.

Findings

The Department finds that:

(1) The proposed rulemaking procedures in sections 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202) are unnecessary because this final-form rulemaking rescinds obsolete regulations.

(2) Public notice of intention to adopt this final-omitted rulemaking has been omitted under section 204 of the CDL and 1 Pa. Code § 7.4.

Order

The Department orders that:

(a) The regulations of the Department, 10 Pa. Code Chapter 3, are amended by rescinding §§ 3.1—3.16 to read as set forth in Annex A.

(b) The Department shall submit this order and Annex A to the Office of Attorney General and the Office of General Counsel for approval as to legality as required by law.

(c) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

STEVEN KAPLAN,
Secretary

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 40 Pa.B. 2838 (May 29, 2010).)

Fiscal Note: 3-46. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 10. BANKS AND BANKING

PART I. GENERAL PROVISIONS

CHAPTER 3. (Reserved)

§§ 3.1—3.16. (Reserved).

[Pa.B. Doc. No. 10-1034. Filed for public inspection June 4, 2010, 9:00 a.m.]

DEPARTMENT OF BANKING

[10 PA. CODE CH. 44]

Mortgage Bankers and Brokers and Consumer Equity Protection

The Department of Banking (Department), under the authority in 7 Pa.C.S. § 6138(a)(4) (relating to authority of department), rescinds §§ 44.1—44.5 to read as set forth in Annex A.

Introduction

The Department determined that the existing regulations are preempted by statute and thus obsolete.

Analysis

On November 5, 2008, Chapter 3 of the Mortgage Bankers and Brokers and Consumer Equity Protection Act was repealed by operation of law and replaced by 7 Pa.C.S. Chapter 61 (relating to Mortgage Licensing Act). On August 5, 2009, 7 Pa.C.S. Chapter 61 was amended to include more stringent education requirements for mortgage licensees. See 7 Pa.C.S. § 6131.1 (relating to prelicensing and continuing education). The rescission was made, in part, to conform to the new Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (12 U.S.C.A. §§ 5101—5116), which mandates minimum education requirements for mortgage loan originators. Based on the new statutory requirements, §§ 44.1—44.5 have been superseded by statute and thus obsolete.

Cost and Paperwork Requirement

Rescinding §§ 44.1—44.5 will have no effect on costs or paperwork requirements.

Fiscal Impact

Rescinding §§ 44.1—44.5 will have no fiscal impact.

Final-Omitted Rulemaking

Notice of proposed rulemaking has been omitted under section 204(3) of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204(3)), known as the Commonwealth Documents Law (CDL), which specifies that a regulation may be adopted without notice of proposed rulemaking if proposed rulemaking procedures are “in the circumstances impracticable, unnecessary, or contrary to the public interest.” The proposed rulemaking procedures in this instance are unnecessary because the Department is rescinding obsolete regulations that have been superseded by statute.

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on March 25, 2010, the Department submitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the House Committee on Commerce and the Senate Committee on Banking and Insurance (Committees). On the same date, the regulations were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5.1(j.2) of the Regulatory Review Act, on May 12, 2010, the final-omitted rulemaking was approved by the Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on May 13, 2010, and approved the final-omitted rulemaking.

Effective Date

This final-omitted rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

Sunset Date

Since this final-omitted rulemaking rescinds obsolete regulations, a sunset date is not necessary.

Contact Person

For an explanation of this final-omitted rulemaking, contact Lauren A. Sassani, Assistant Counsel, Department of Banking, 17 North Second Street, Suite 1300, Harrisburg, PA 17101, (717) 787-1471, pabankreg@state.pa.us; or Robert C. Lopez, Deputy Chief Counsel, Department of Banking, 17 North Second Street, Suite 1300, Harrisburg, PA 17101, (717) 787-1471, pabankreg@state.pa.us.

Findings

The Department finds that:

(1) The proposed rulemaking procedures in sections 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202) are unnecessary because this final-omitted rulemaking rescinds obsolete regulations.

(2) Public notice of intention to adopt this rulemaking has been omitted under section 204 of the CDL and 1 Pa. Code § 7.4.

Order

The Department orders that:

(a) The regulations of the Department, 10 Pa. Code Chapter 44, are amended by rescinding §§ 44.1—44.2 to read as set forth in Annex A.

(b) The Department shall submit this order and Annex A to the Office of Attorney General and the Office of General Counsel for approval as to legality as required by law.

(c) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

STEVEN KAPLAN,
Secretary

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 40 Pa.B. 2838 (May 29, 2010).)

Fiscal Note: 3-47. No fiscal impact; (8) recommends adoption.

Annex A**TITLE 10. BANKS AND BANKING****PART IV. BUREAU OF CONSUMER CREDIT AGENCIES****CHAPTER 44. (Reserved)****§§ 44.1—44.5. (Reserved).**

[Pa.B. Doc. No. 10-1035. Filed for public inspection June 4, 2010, 9:00 a.m.]

Title 22—EDUCATION**DEPARTMENT OF EDUCATION****[22 PA. CODE CH. 405]****Pennsylvania Pre-K Counts**

The Department of Education (Department) adds Chapter 405 (relating to PA Pre-K Counts) to read as set forth in Annex A.

Notice of proposed rulemaking has been omitted under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202), known as the Commonwealth Documents Law (CDL), and section 1513-D(1) of the Public School Code of 1949 (24 P. S. § 15-1513-D(1)), added by the act of July 20, 2007 (P. L. 278, No. 45) (Act 45). Public comment is unnecessary because the authorizing statute for the PA Pre-K Counts Program (Program) to which this final-omitted rulemaking applies has given the Department authority to promulgate regulations and establish guidelines necessary to implement Act 45.

Entities affected by this final-omitted rulemaking have been notified of the intention of the Department to issue final-omitted rulemaking and will receive electronic notice of the final promulgated regulations by means of an announcement to Program grantees. Individuals and stakeholder organizations will be notified of the final-omitted rulemaking through the BUILD list serve which reaches over 7,300 recipients.

Statutory Authority

The Department acts under the authority of Article XV-D(b) of the Public School Code of 1949 (24 P. S. §§ 15-1511-D—15-1516-D) added by Act 45.

Background

Act 45 established the Program as a competitive grant program to expand prekindergarten opportunities for eligible students throughout this Commonwealth. It directed the Department to promulgate regulations and establish guidelines and standards necessary to implement the Program. Act 45 requires that regulations be promulgated in accordance with the procedures in the CDL and the Regulatory Review Act (71 P. S. §§ 745.1—745.12) for promulgation and review of final-omitted regulations. Subsequent regulations promulgated for this Program or amendments to the initial regulations are not to be in final-omitted form.

The Program serves children who are at least 3 years of age and younger than the entry age for kindergarten in their school district of residence and must be provided free of charge. However, families that can afford to pay some or all of the cost for the Program may do so but they may not be solicited to pay. Grants are awarded through a competitive grant process to school districts, Head Start recipients, licensed nursery schools, child care centers and group child care homes that are at least a STAR 3 under the Keystone STARS quality rating system established by the Department of Public Welfare and third-party entities that carry out the administrative and fiduciary provisions of the Program but not operate a classroom funded by the grant. The programs must target enrollment to children who are most at risk of school failure, which is defined as living in households below 300% of the Federal poverty rate, are English language learners or are at risk due to community factors, academic difficulties or economic disadvantage. Grant recipients shall verify income and family size before enrolling students. Children with identifiable disabilities or developmental delays may be included in the Program and shall be served in inclusive environments in which they constitute no more than 20% of the initial enrollment at the start of the Program year.

Grant funds may not be placed in a reserve account or used for administrative purposes. They may only fund Programs that provide no fewer than 180 days of prekindergarten services, include a minimum of 2 1/2 hours of instructional services in half-day programs and a

minimum of 5 hours of instructional services for full-day programs. Program providers may have a delayed start-up in the first year of their participation in the Program and offer fewer than 180 days of instructional services upon approval by the Department. Classrooms size is restricted to no more than 20 students (with 17 students preferred as in the State Board of Education regulations in Chapter 4 (relating to academic standards and assessment)) with two adult staff—a teacher, who shall be certified in early childhood education by December of 2011, and a teacher aide who is highly qualified. To be considered highly qualified, a teacher aide shall have completed 2 full years of postsecondary study, hold a child development associate's credential or an associate's degree or higher, or pass a rigorous formal State or local assessment demonstrating knowledge. Continuing professional development must be provided to both teachers and teacher aides. In addition, teachers shall complete a year-long teacher induction program, undergo evaluations and apply for Level II certification under the State Board of Education regulations in Chapter 49 (relating to certification of professional personnel).

In planning programs, providers shall coordinate and collaborate with early intervention and Head Start agencies, school districts, community engagement groups and other area providers of pre-K services. In particular, grantees should coordinate the availability of services with other Office of Child Development and Early Learning programs which have waiting lists. Grantees operating in partnerships with other entities shall have written partnership agreements explaining how they will operate. Providers shall have plans for parental engagement, transition of students to kindergarten, immunizations and emergency response.

The Program's curriculum must be aligned with the early learning standards established by the Department and grantees and their provider partners shall perform other duties under applicable regulations and standards, including assessment of student progress and the classroom environment. Eligible students may not be included in school district calculations for average daily membership for the purpose of fund reimbursements under Article XXV of the Public School Code of 1949 (24 P. S. §§ 25-2501—25-2599.3).

The Department has the responsibility under the statute to promulgate regulations and establish guidelines and standards that address the process through which eligible providers may apply for grant funds, allowable and required uses of the funds, per-student funding levels and the criteria for identifying approved providers. The Department will also identify student and program assessments to be used by approved providers, encourage the development and maintenance of community coordination and partnerships and perform other functions necessary to carry out the Program, including the monitoring of approved providers.

Fiscal Impact and Paperwork Requirements

The Program will have no fiscal impact on the Commonwealth or its political subdivisions because the cost of the program is fully paid for by funds appropriated by the General Assembly.

Effective Date

The final-omitted rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

Sunset Date

The Department will review the implementation of the Program and the effectiveness of the regulations on a continuous basis. Therefore, no sunset date is necessary.

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on January 27, 2010, the Department submitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the House and Senate Committees on Education (Committees). On the same date, the regulations were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5.1(j.2) of the Regulatory Review Act, on May 12, 2010, the final-omitted rulemaking was approved by the Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on May 13, 2010, and approved the final-omitted rulemaking.

Contact Person

The official responsible for information on this final-omitted rulemaking is Harriet Dichter, Deputy Secretary, Office of Child Development and Early Learning, Department of Education, 333 Market Street, Harrisburg, PA 17126-0333, (717) 346-9320.

Findings

The Department finds that:

(1) Public notice of the intention to promulgate regulations for the Program has been omitted under section 1513-D(1) of the Public School Code of 1949.

Order

The Department, acting under authorizing statute, orders that:

(a) The regulations of the Department, 22 Pa. Code, are amended by adding §§ 405.1—405.3, 405.11—405.14, 405.21—405.24, 405.31, 405.32, 405.41—405.51, 405.61—405.64 and 405.71—405.73 to read as set forth in Annex A.

(b) The Secretary of Education will submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form as required by law.

(c) The Secretary of Education shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order is effective upon publication in the *Pennsylvania Bulletin*.

THOMAS E. GLUCK,
Acting Secretary

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 40 Pa.B. 2838 (May 29, 2010).)

Fiscal Note: 6-319. No fiscal impact; (8) recommends adoption.

Annex A**TITLE 22. EDUCATION****PART XVI. STANDARDS****CHAPTER 405. PA PRE-K COUNTS****GENERAL PROVISIONS**

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| 405.2. | Definitions. |
| 405.3. | General rules. |

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- | | |
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GENERAL PROVISIONS**§ 405.1. Purpose.**

This chapter establishes rules and procedures for implementing the Program created to provide expanded access to high quality prekindergarten experiences for eligible students.

§ 405.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—Article XV-D(b) of the Public School Code of 1949 (24 P. S. §§ 15-1511-D—15-1516-D), added by the act of July 20, 2007 (P. L. 278, No. 45).

Approved provider—An eligible provider that has been approved by the Department to offer prekindergarten under the act.

At-risk child—A child who is at risk of educational failure because of poverty, economic disadvantage, limited English proficiency, academic difficulties, or individual or community factors.

CDA—Child Development Associate credential.

Department—The Department of Education of the Commonwealth.

Eligible applicant—Any of the following entities:

- (i) A school district.
- (ii) A Head Start program.
- (iii) A nursery school licensed under the Private Academic Schools Act (24 P. S. §§ 6701—6721).
- (iv) A regulated child day care center or a group day care home that is designated a STAR 3, or higher under the Keystone STARS quality rating system established by the Department of Public Welfare, as of the beginning of the 2009-2010 program year.
- (v) A third party entity that will carry out fiduciary and other lead agency responsibilities for entities eligible to operate program classrooms.

Eligible provider—An eligible provider as defined in section 1511-D of the act (24 P. S. § 15-1511-D). A child day care center or group day care home must have been designated a STAR 3, or higher under the Keystone STARS quality rating system established by the Department of Public Welfare as of the beginning of the 2009-2010 program year.

Eligible student—An eligible student as defined in the section 1511-D of the act.

Grant—An award of funds by the Department for the purposes of carrying out the Program.

Identified developmental delay or disability—As used in this chapter, a child who has a written Individualized Education Program under Chapter 14 (relating to special education services and programs) and the Federal Individuals with Disabilities Education Improvement Act (20 U.S.C.A. §§ 1400—1419).

Lead agency—An entity that submits an application for funding and will undertake reporting, recordkeeping, compliance and fiduciary responsibilities for the members of a partnership under the grant.

Location—The site, place or address where Program services are provided.

Partner—One, or more, entities that are in a formal relationship with a lead agency to provide Program services using grant funds and that have signed a written partnership agreement.

Partnership agreement—The written document that specifies the roles and responsibilities of all entities in the partnership established to provide Program services using grant funds.

Program—The PA Pre-K Counts Program established under the act.

Program year—The school year during which Program services are delivered to children enrolled in the program.

Teacher—The primary teacher in the classroom who is responsible for the instruction of children and meets the requirements in § 405.44 (relating to staffing and professional development).

Teacher aide—A paraprofessional who provides instructional support to students, including those who do one or more of the following:

- (i) Provide one-on-one tutoring if tutoring is scheduled at a time when a student would not otherwise receive instruction from a teacher.
- (ii) Assist with classroom management, by organizing instructional materials.

(iii) Provide instructional assistance in a computer laboratory.

(iv) Conduct parental involvement activities.

(v) Provide instructional support in a library or media center.

(vi) Act as a translator.

(vii) Provide instructional support services under the direct supervision of the primary teacher.

§ 405.3. General rules.

(a) Program services shall be provided free of charge.

(b) Nothing in this section shall be construed to prevent families with children who participate in the Program and are willing and able to pay part or all of the cost of the participation, from doing so. Approved and eligible providers and lead agencies are prohibited from soliciting costs from families.

(c) A student participating in the Program may not be included in the average daily membership or adjusted average daily membership of an approved provider school district for the purpose of reimbursement under Article XXV of the Public School Code of 1949 (24 P. S. §§ 25-2501—25-2599.3).

(d) Programs must be open to children with identified developmental delays or disabilities, or both, and provide inclusive environments for these children.

(e) Approved providers may enroll eligible students who reside outside of the providers' usual attendance area but all eligible children must be residents of this Commonwealth.

(f) Program grant funds are to be used for providing services and programs to age-eligible students as described in § 405.21 (relating to targeting children to be served). Program classes may include children supported by alternative funding sources, including Early Intervention, Head Start, school district or other public funds. In addition, those other funding sources may be used to support a student in a Program outside the age requirements or the 2-year time limitation.

(g) Approved providers shall verify the income and family size of all children participating in the Program prior to enrollment pursuant to Program announcements issued by the Department.

(h) Program providers shall be provided with Program announcements issued by the Department to provide guidance and direction regarding application, implementation and reporting requirements.

(i) The Department will administer the Program consistent with the statutory authorization.

COMPETITIVE APPLICATION PROCEDURES

§ 405.11. Eligible provider.

An eligible provider may apply for a grant alone or in combination with other eligible providers as a joint applicant, in which case the entity that applies for the grant shall be the lead agency in a partnership, as defined in § 405.2 (relating to definitions).

§ 405.12. Proposal submission.

(a) The Department will announce through its web site that competitive grant applications are to be submitted to the Department, specifying the submission deadline.

(b) To be considered for a grant award, an applicant shall meet the deadline for submission of all information by the dates announced in the request for applications.

§ 405.13. Grant agreements.

(a) After an eligible provider has been approved, the provider or lead agency shall enter into a grant agreement with the Department. Grant agreements must contain, at a minimum, a work statement and budget.

(b) Grantees shall contact the Department for guidance if a change needs to be made to the scope of work or the budget contained in the grant agreement.

§ 405.14. Annual community needs assessment.

Applicants for Program funding shall conduct an annual assessment of community needs for Pre-K services as part of the application process for continuation, expansion or new grant funds.

PROGRAM PLANNING**§ 405.21. Targeting children to be served.**

The Department will instruct applicants to target their Program enrollment to children who are most at risk, consistent with the description in the Program guidance of targeting services to children most at risk, if it is likely that the funds appropriated for the upcoming program year will be less than the funds required to serve all eligible children in this Commonwealth. The Department will also instruct approved providers to engage in outreach and partnership with Child Care Works, Head Start, and other appropriate programs of the Office of Child Development and Early Learning to inform Programs and families that they serve about the availability of the Program and to coordinate with these programs, particularly when there are waiting lists.

§ 405.22. Maximizing resources.

Approved providers shall use Program grant funds to supplement, not to supplant, public funds from any other source that are used to serve otherwise eligible students, including, but not limited to, Accountability Block Grant funds, local funds, or Federal or State Head Start funds for Programs provided in the same geographic area. However, this requirement does not prohibit combining funding sources for support of a single Program as long as additional eligible students are served and all of the Program standards are met by the program supported with combined resources.

§ 405.23. Disallowance of duplicate funding.

Program funds may not be used to provide the same service for a child already receiving that service funded by another resource.

§ 405.24. Enrollment.

Each approved provider shall develop and implement a plan for securing full enrollment on the first day of class for the program year and maintaining full enrollment throughout the program year, except as follows:

(1) When a student leaves the Program after the start of the program year, the provider shall have up to 20 instructional days to fill the vacancy, after which time the Department may request the return of funds or reduce future payments for the vacated and unfilled slot in the amount of funds relative to the remaining instructional days of the Program for that program year, unless the vacancy occurs within 21 instructional days of the last day of class.

(2) If an enrolled child has ten or more unexcused absences, the provider shall take appropriate steps to address attendance, up to and including dismissal of the child from the Program. The Department may request the

return of funds or reduce future payments to Programs that have not taken appropriate steps to overcome unexcused absences.

(3) Provider policies regarding unexcused absences and the number allowed must be written and provided to parents, families or guardians of enrolled children, and to the Department.

(4) An approved provider may not deny a student admission to a Program by reason of the student's disability.

PROGRAM COORDINATION AND COLLABORATION**§ 405.31. Coordination and collaboration with agencies providing services to young children.**

(a) Approved providers shall coordinate and collaborate with the local agencies providing Early Intervention services to Infants and Toddlers to ensure a smooth transition for children and families that have been receiving services from Early Intervention.

(b) Approved providers shall coordinate and collaborate with the local agencies providing Early Intervention services to preschool age children to ensure the following:

(1) A smooth transition for children and families that have been receiving services from Early Intervention.

(2) Coordination of any continued Early Intervention services the child will receive while enrolled in the Program.

(3) Awareness of the available Early Intervention services for children enrolled in the Program who have not been identified as in need of Early Intervention services but who may be eligible for the services, and the capacity to provide appropriate information to parents and make appropriate referrals for Early Intervention evaluations and services.

(c) Approved providers shall coordinate and collaborate with the Child Care Information Services agency in their area to coordinate services and benefits received by families and to achieve enrollment in the Program of children who are most at risk and in need of services.

(d) Approved providers shall coordinate and collaborate with programs that provide the before and after Program child care for participating children so that transportation arrangements, emergency contacts and other necessary information are shared and so that the needs of families whose children are enrolled in the Program are met.

(e) Approved providers shall coordinate and collaborate with Head Start agencies.

(f) Approved providers shall coordinate and collaborate with school districts in those areas from which they are enrolling children in the Program to develop and implement plans for a smooth transition for children who will leave the Program to be enrolled in the school districts' K-12 program; to ensure alignment of curriculum and standards between the Program and the K-12 school district program; and to consolidate activities, such as professional development, to the extent practicable, to the advantage of both programs and creation of greater efficiencies.

(g) Approved providers shall coordinate and collaborate with the local community groups that engage the public in issues related to early childhood education.

(h) Approved providers shall coordinate and collaborate with other Program sites in their county on activities

such as professional development, family outreach and child enrollment strategies, to the extent practicable to the advantage of all of the Programs and creation of greater efficiencies.

§ 405.32. Partnerships.

Partnerships of eligible providers must have a signed partnership agreement. The agreement shall be submitted to and approved by the Department. The partnership agreement must delineate how the entities that comprise the partnership will carry out their roles and responsibilities within the Program, including: communication, decision-making, reporting, monitoring of program requirements, recordkeeping and fiduciary matters.

PROGRAM AND CLASSROOM REQUIREMENTS

§ 405.41. School term.

Programs shall offer a minimum of 180 days of developmentally appropriate instructional practices and activities for students.

(1) In the first year of operation as a provider, if the provider is unable to start up immediately at the beginning of the program year, the provider may serve children for fewer than 180 days, but in no case fewer than 160 days.

(2) Days may not be counted as days of developmentally appropriate practices and activities when the Program is closed, and time may not be counted as time spent on developmentally appropriate practices and activities for an activity to which admission is charged.

§ 405.42. Program day and developmentally appropriate instructional practices and activities.

Instructional time for students shall be time in the program devoted to developmentally appropriate instructional practices and activities provided as an integral part of the Program under the direction of qualified employees.

(1) The following practices and activities, as described in the early learning standards in § 4.20 (relating to prekindergarten education), count towards instructional time:

- (i) Classroom instruction.
- (ii) Orientation of children during regular school hours to the Program, Program setting and Program routines conducted.
- (iii) Meals and snack-time, as long as they are integral parts of the curriculum, facilitated by the lead teacher and used for student learning experiences.
- (iv) Play-time, including outdoor and indoor play or child directed activities as long as they are an integral part of the instructional day, facilitated by the lead teacher and used for student learning.
- (v) Time spent at the library, and in art, music or physical education.
- (vi) Opening exercises that engage children, including opening circle time, in preparation for the day.
- (vii) School, group or class educational trips to which admission is not charged to students or parents and provided that a teacher accompanies the students.
- (viii) Student services, such as guidance and counseling services, psychological services, speech pathology and audiology services, and student health services.
- (ix) Civil defense, fire, bus evacuation and similar drills.

(x) Early dismissal and delayed opening only when due to inclement weather.

(2) Time spent in transportation, professional development and parent/teacher conferences does not count as instructional time.

(3) In addition to the activities described in subsection (a), home visiting may be counted toward required instructional time, provided that the home visits are of sufficient frequency and duration for each child to constitute the equivalent of classroom hours missed and that this activity has been approved by the Department in advance of implementation.

§ 405.43. Class size and student/staffing ratio.

(a) Program class enrollments are limited to at most 20 students with at least one teacher and one aide in the classroom, however, for high quality programming a maximum of 17 students is recommended.

(b) If a Program class has ten or fewer students, there shall be one teacher in the classroom and an aide must be available onsite to assist the teacher as needed.

(c) Whenever the enrollment in a class exceeds 20, the class shall be divided into two classes so that each class individually does not exceed 20 students. Each class must be properly staffed and, if space is to be shared, that space must be divided by a barrier that adequately separates the spaces for instructional purposes.

§ 405.44. Staffing and professional development.

(a) Teachers of eligible students supported by Program funding shall meet the following requirements:

- (1) In school districts, teachers shall have early childhood education certification.
- (2) In Head Start and child care programs, teachers shall possess a minimum of an associate's degree in early childhood education or child development.
- (3) In licensed nursery school programs, teachers shall have a minimum of a bachelor's degree, 18 credits from an institution of higher education in early childhood education and a private academic teaching or temporary approval certificate.

(4) By December 31, 2011, all teachers in Program classrooms shall have early childhood education certification.

(b) Teacher aides in any classroom of eligible students supported by Program funding shall meet one of the following criteria:

- (1) Completion of at least 2 years of full-time postsecondary study or the equivalent.
- (2) Possession of an associate's degree or higher.
- (3) Ability to meet a rigorous standard of quality and demonstration of knowledge through a formal state or local academic assessment or possession by the teacher aide of a Child Development Associate's (CDA) certificate.

(4) Teacher aides who work solely as translators shall have a high school diploma or its equivalent, and do not have to meet any of the other requirements of paragraphs (1)–(3).

(c) A lead teacher in the Program, including those in community-based settings, including outdoor and indoor play or child directed activities with an Instructional Level I certificate shall convert the certificate to an Instructional Level II certificate within 6 years from the time of initial service as an Instructional Level I teacher

in the Program. Teachers holding an Instructional Level I early childhood certificate may count their time working in a Program community-based program toward the 3 years of required experience necessary before converting the certificate to an Instructional Level II certificate, in accordance with the requirements of the Department, including a year's participation in a Department approved teacher induction plan, six semiannual evaluations and the Department specified continuing professional development credits.

(d) Program teachers shall undertake continuous professional development as specified by the Department and, at a minimum, meet the requirements of sections 1205.1—1205.5 of the Public School Code of 1949 (24 P. S. §§ 12-1205.1—12-1205.5).

(e) Program teacher aides shall take a minimum of 24 hours of continuous professional development as specified by the Department, and in early childhood education and development, each year.

§ 405.45. Curriculum.

(a) The curriculum used in any classroom that includes a child who is enrolled in the Program must be standards-based.

(b) The curriculum used in the Program must be determined by the Department to be aligned with the Early Learning Standards established by the Department.

§ 405.46. Assessment.

Approved providers shall:

(1) Assess eligible students with a minimum frequency determined by the Department using an assessment tool approved by the Department.

(2) Participate in Department conducted training in the use of the assessment tool as prescribed by the Department.

(3) Report aggregate assessment information to the Department for purposes of Program monitoring, evaluation, reporting child outcomes and accountability in a manner and with a frequency and schedule determined by the Department.

(4) Participate in a Department conducted assessment of the Program learning environment and attend the training in the use of the environmental self-assessment tool as prescribed by the Department.

§ 405.47. Parent involvement.

Approved providers shall develop and implement a plan for involvement and input of parents, families and guardians of children enrolled in the Program to inform them of program goals, instructional strategies, and the progress of their children and to involve them in supportive activities designed to help ensure their child's success.

§ 405.48. Program transition planning.

(a) Approved providers shall develop and implement plans designed to ensure a smooth and supportive transition for children entering the program from the setting from which they are coming, including the home, Early Intervention services, Early Head Start or child care.

(b) Approved providers shall develop and implement plans to ensure a smooth and supportive transition for children leaving the Program to enter kindergarten and the K-12 school environment.

§ 405.49. Immunizations.

Approved providers shall meet the immunization requirements that pertain to their provider type; for school districts and licensed nursery schools see 28 Pa. Code §§ 23.81—23.87 (relating to immunization); for child care centers and group child care homes see 28 Pa. Code § 27.77 (relating to immunization requirements for children in child care group settings); and for Head Start agencies see 45 CFR 1304.20 (relating to child health and development services), the Federal Head Start Performance Standards.

§ 405.50. Emergency response plans.

Approved providers shall develop, implement and review and revise annually, as necessary, a comprehensive disaster and emergency response plan that meets the guidelines of the Pennsylvania Emergency Management Agency. See, *Practical Information on Crisis Planning: a Guide for Schools and Communities*, at www.pema.state.pa.us.

§ 405.51. Inclusive environments.

A Program classroom should reflect the naturally occurring ratio of students with and without developmental delays and disabilities in the area served by the approved provider and should not contain more than 20% of students who have been identified by the start of the program year as having a developmental delay or disability. However, in attempting to promote inclusion in this way, approved providers may not deny students admission to a classroom based on their disability or delay.

RECORDKEEPING, REPORTING AND ATTENDANCE AT DEPARTMENT SPONSORED MEETINGS AND TRAINING

§ 405.61. Program reporting.

Approved providers shall provide reports as requested by the Department and in the manner and at times as prescribed by the Department, including, but not limited to, expenditure reports, reconciliation of cash reports, enrollment, attendance, demographic information and child outcomes.

§ 405.62. Recordkeeping.

Approved providers shall maintain all records pertinent to the program, including, but not limited to, financial, statistical, property, changes in Keystone STARS status, child care certificate, nursery school license, teacher evaluations and recommendations, and any other supporting documentation, for a period of at least 7 years from the date of submission of their final closeout report, or until all audits are complete and findings have been completely resolved, whichever occurs last.

§ 405.63. Attendance at Department sponsored meetings and training.

Approved providers shall attend any mandatory meetings and training sessions arranged by the Department.

§ 405.64. Teacher induction plans and evaluations.

Approved providers shall facilitate activities that teachers must undertake to advance their certification from Instructional Level I to Instructional Level II.

(1) Providers shall implement a teacher induction program that meets the requirements of §§ 49.16 and 49.83 (relating to approval of induction plans; and Instructional II) and implementing Department guidelines, and that has been approved by the Department and facilitates the involvement of teachers in the Program.

(2) Providers shall conduct or make available to teachers holding Level I teaching certificates semiannual evaluations as are necessary for Level I certificate holders to be recommended for a Level II teaching certificate.

GRANTEE FISCAL RESPONSIBILITIES

§ 405.71. Segregation of funds.

An approved provider that receives grant funds under the Program shall maintain a separate account in its budget to facilitate monitoring and auditing of the use of the grant funds. If the approved provider is a school district, the school district may not place grant funds in a reserve account.

§ 405.72. Grant awards.

(a) Grants shall be awarded by the Department to approved providers on a per-child basis, in an amount set by the Department, for each eligible student served by an approved provider.

(b) The amount of grant funds provided per-student may not exceed the cost of administering the approved provider's prekindergarten program.

§ 405.73. Use of funds.

(a) Funds may only be used for the costs associated with providing Program services to eligible students enrolled in the Program.

(b) Funds may not be used for administrative or indirect costs.

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Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF PSYCHOLOGY

[49 PA. CODE CH. 41]

Qualifications

The State Board of Psychology (Board) amends §§ 41.1, 41.11, 41.31, 41.32 and 41.41 and adds §§ 41.30 and 41.33 (relating to qualifications and documentation necessary for licensure; and supervisors) to read as set forth in Annex A.

Summary

To obtain a license as a psychologist, an applicant shall complete education, experience and examination requirements. These requirements appear in numerous sections of the existing regulations. In this final-form rulemaking, the Board reorganizes the education, examination and experience requirements into four sequential sections—§ 41.31 (relating to educational qualifications) for educational requirements, § 41.32 (relating to experience qualifications) for experience requirements, § 41.33 (relating to supervisors) for supervision requirements and § 41.41 (relating to examinations) for examination requirements. The final-form rulemaking also clarifies existing requirements. Additionally, the Board amends current examination requirements to permit doctoral degree holders to take the licensure examinations prior to completing their experience.

Statutory Authority

The final-form rulemaking is authorized under sections 3.2(1), 6(a) and 8(a)(6) of the Professional Psychologists Practice Act (act) (63 P.S. §§ 1203.2(1), 1206(a)(2) and 1208(a)(6)).

Response to Comments

The proposed rulemaking was published at 39 Pa.B. 2211 (May 2, 2009). Publication was followed by a 30-day public comment period during which the Board received public comments from the Pennsylvania Psychological Association (PPA) and the Pennsylvania Osteopathic Medical Association (POMA). Following the close of the public comment period, the Board received comments from the Independent Regulatory Review Commission (IRRC) and the House Professional Licensure Committee (HPLC). The Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) did not comment.

§ 41.1. Definitions.

IRRC recommended that the Board define the terms “licensed health professional” and “possesses special expertise or skills” used in the proposed definition of “delegated supervisor.” For the former, the Board's intent on proposed was to include persons licensed by a health licensing board within the Bureau of Professional and Occupational Affairs, such as physicians, nurses, occupational therapists, pharmacists and social workers. For the latter, the Board's intent was that the standards in the qualifications for supervisors demonstrate possession of special expertise or skills. In this final-form rulemaking, the Board replaced “licensed health professional” with “a person . . . who holds a current license, certificate or registration from a health related board within the Bureau of Professional and Occupational Affairs” and replaces “possesses special expertise or skills” with “meets the requirements in § 41.33(a) and (b).”

In this final-form rulemaking, the Board also added a definition for “graduate training in psychology” previously contained in the Board regulations. In reviewing the proposed rulemaking, the Board noted that § 41.32(6) referenced educational standards for those with graduate training in psychology. However, those standards were inadvertently removed and replaced with a cross reference when the Board amended this definition at 36 Pa.B. 2680 (June 3, 2006). Because these standards are necessary, the Board reinserted applicable portions from the former definition of “graduate training in psychology” in this final-form rulemaking and will continue to interpret this provision as including graduate coursework which could apply to a doctoral degree, including coursework from terminal master's degree programs.

IRRC pointed out that the Board's cross reference in the definition of “psychology resident” was incorrectly numbered. The Board corrected the typographical error in this final-form rulemaking.

§ 41.11. Licenses.

IRRC questioned whether the supervisory rating forms contained in proposed § 41.11(a)(3) (relating to licenses) are still required to be submitted with the application to take the examination given that the proposed rulemaking permits graduate degree holders to complete the examination prior to completing the experience requirement. The Board concurs with IRRC that in many, if not most, instances this form would not be completed at this stage in the process and therefore has removed the requirement of submitting the supervisory rating forms when applying

for examination. As part of its review of this paragraph, however, the Board determined that the criminal history records information (CHRI) report and the child abuse clearance required to be submitted under proposed § 41.30(b) should be submitted when an applicant seeks to take the examinations and only updated as needed when the applicant applies for licensure. Accordingly, the Board added these initial submission requirements to § 41.11(a)(3) and (4).

§ 41.30. Qualifications and documentation necessary for licensure.

IRRC recommended that the Board replace the reference “criminal background check” in proposed § 41.30(b)(2) with “criminal history records information report” or “CHRI report.” The Board has made that change and uses “criminal history records information report” throughout.

The HPLC questioned whether a National background check would provide a greater public safeguard than a CHRI report and whether a National background check is required under 23 Pa.C.S. § 6344.2(a) (relating to information relating to other persons having contact with children). Upon investigation, the Board does not believe that a National background check, commonly known as the Federal Bureau of Investigation Identification Record (FBI Record), would provide greater public protection. First, applicants are required to report felony and misdemeanor convictions to the Board regardless of whether the convictions are included on the CHRI report or FBI Record. Second, the FBI Record does not necessarily include all state and Federal offenses committed by an applicant. According to the United States Department of Justice Order 556-73, the record is “based upon certain information taken from fingerprint submissions retained by the FBI in connection with arrests . . . as submitted by agencies having criminal justice responsibilities.” It is not information collected by the FBI. Third, unlike the CHRI report which can be obtained almost immediately when filed online, the FBI Record takes approximately 3 to 4 weeks to obtain. This additional time creates significant delay in obtaining a license. Fourth, the FBI Record costs \$8 more than the \$10 CHRI report and can only be paid by certified check or credit card adding further inconvenience for applicants. With regard to the amendments to 23 Pa.C.S. § 6344.2(a), and the reference in the Department of Welfare’s bulletin (#3490-08-03) published on June 27, 2008, 23 Pa.C.S. Chapter 63 (relating to Child Protective Services Law) imposes employment rather than licensure requirements for those who are engaged in occupations with a significant likelihood of regular contact with children. Because all licensees do not engage in these occupations, 23 Pa.C.S. § 6344.2(a) does not automatically apply to all Board licensees. Therefore, in this final-form rulemaking, the Board did not replace the requirement that applicants obtain a CHRI report. In the event licensees also fall within the gamut of 23 Pa.C.S. § 6344.2(a), due to their specific employment, they would have to satisfy the FBI Record requirement independently.

IRRC recommended that the Board include a reference in this section advising applicants that the CHRI report and the child abuse clearance forms are available online. The Board declines to make this change even though information regarding many applications is available online because the form of availability changes over time. To ensure that the regulations do not have to be amended when the form of availability changes, but at the same

time provide applicants with this information, the Board will direct applicants to online information on its web site.

Because the Board is requiring submission of the CHRI report and the child abuse clearance forms at the time the applicant applies to take the examination, in this final-form rulemaking, the Board amended § 41.30(b)(2) and (3) to only require updates unless these reports/forms were submitted within 90 days of the application for licensure. If submitted within that time frame, the applicant for licensure need not even submit updates.

§ 41.31. Educational qualifications.

The HPLC pointed out that the Board incorrectly referred to “subsection (a)(1)” in § 41.31(4) and (5) rather than § 41.41(c). In this final-form rulemaking, the Board deleted proposed § 41.41(c) as it was a holdover from when the examinations were only administered two times a year. Because the examinations are now administered 6 days a week, this subsection is unnecessary. Nonetheless, in this final-form rulemaking, the Board references § 41.42(b) in both sections.

§ 41.32. Experience qualifications

IRRC asked the Board to clarify how it assures that applicants complete 1 year of predoctoral experience required under section 6(a)(2) of the act. In prior amendments to § 41.31(b), published at 36 Pa.B. 2680, the Board explained that to obtain American Psychological Association/Canadian Psychological Association accreditation or Association of State and Provincial Psychology Board designation, a doctoral degree program in psychology or a field related to psychology must include a 1-year supervised predoctoral internship. Owing to IRRC’s concern that the Board is not sufficiently assuring that applicants complete the predoctoral internship, the Board added a requirement in § 41.11(a)(5) that the application for examination include an internship verification form and job description.

IRRC recommended that the Board include all supervisory qualifications in a provision separate from the experience qualifications. In accordance with this suggestion, in this final-form rulemaking, the Board removed the supervisory requirements from § 41.32 and reinserted them in § 41.33.

Section 41.32(1), previously in § 41.31(c), delineates the timing for the 1-year of supervised postdoctoral experience. IRRC asks the Board to clarify “any of the above categories” mentioned in § 41.32(1)(iii). In this subparagraph, the Board requires that 50% of the total supervised experience be in direct care while the additional 50% may be obtained in teaching, research or direct care. To provide further clarification, in this final-form rulemaking, the Board replaced “any of the above categories” with “any of the categories listed in this paragraph.” IRRC also questioned whether supervised teaching experience, in the latter category includes teaching in graduate and undergraduate programs. The Board believes that both settings are acceptable.

POMA recommended that the Board increase the amount of direct care to 75%, a 25% increase over that recommended by the Board. Based on this recommendation, IRRC asked the Board to provide a justification for the proposed breakdown. As the Board previously explained, the 50% requirement in direct care is a minimum rather than a maximum number of hours that can be obtained in this category. Applicants may complete the remaining 50% in direct care or a combination of direct care, teaching or research. In reviewing POMA’s recom-

mendation, the Board considered whether increasing direct care would preclude academicians or researchers from completing the required hours within 1 year. The Board has been advised that increasing the hours as POMA recommended would disadvantage academicians and researchers. Accordingly, the Board declined to implement POMA's suggestion. Nonetheless, the Board notes that while it has not increased the percentage, the overall amount of direct care has been increased in this final-form rulemaking as the Board has increased the total experience hours from 1,500 to 1,750.

POMA also expressed concern that allowing post-doctoral experience to be completed within 10 calendar years with half in the most recent 5 years from the application for licensure date in § 41.32(1)(iv) is too long of a time frame to assure that the applicant remains current. Because this regulation permits applicants to take their examination immediately following graduation, but prior to completing the experience, the Board reevaluated this time frame and determined that it would be appropriate for the 10-year time frame to begin upon being awarded the doctoral degree. The Board believes that this shortened time frame properly considers the difficulty in obtaining postdoctoral internship placements but assures that applicants obtain their licenses within 10 years of the doctoral degree. However, because the Board is aware that there are personal extenuating circumstances which may preclude an applicant from completing the 10-year time frame, the Board inserted a provision allowing for a waiver request identical to the waiver provision for continuing education.

The HPLC questioned why the Board limits the amount of time that can be delegated to a delegated supervisor to 1 hour under the definition of "delegated supervisor" in § 41.1 (relating to definitions) and § 41.32(3)(ii). While the Board appreciates that delegated supervisors, who are either licensees, registrants or certificateholders of other health related boards or persons providing psychological services in exempt settings, impart valuable learning experiences to psychology residents, the Board believes that supervision by a Board licensee is equally valuable given the licensees' duties and responsibilities under the Board's regulations and § 41.61 (relating to code of ethics). The Board divided the supervision hours equally.

§ 41.33. Supervisors.

Proposed § 41.32(3)(iii)(D) and (v)(L) repeated the requirement that the supervisors review practice and ethical issues with the psychology resident. IRRC questioned whether both clauses are necessary. The Board concurs with IRRC that both are not. In this final-form rulemaking, the Board moved regulations about supervisors to § 41.33 and included this requirement only in § 41.33(a)(4).

Proposed § 41.32(3)(iv)(E), moved to § 41.33(b)(5), prevents a supervisor who is the subject of active discipline from continuing his supervision. The HPLC questioned the meaning of "active discipline." In the preamble of the proposed rulemaking, the Board defined "active discipline" as during an active suspension or revocation. Owing to any confusion, the Board replaced "discipline" with "active suspension or revocation." Although the requirement that a supervisor be replaced during supervision negatively impacts the psychology resident, the Board does not believe that licensees who are subject to current discipline should serve as role models or mentors for soon to be licensees. Supervisory hours completed prior to the removal of the disciplined supervisor will be credited fully.

Proposed § 41.32(3)(v)(A) required primary supervisors to hold an active license for at least 2 years before becoming a supervisor. The PPA voiced its opposition to the clause on the grounds that this requirement could reduce the number of available supervisors. In this final-form rulemaking, the Board removed the 2-year requirement acknowledging that requiring new licensees to wait 2 years after obtaining a license would make internship placements even harder to obtain. Nonetheless, the Board retained the requirement that supervisors complete a 3-credit continuing education course or a doctoral degree course. In this final-form rulemaking, the Board added a 4-year effective date for implementation of the course requirement in § 41.33(c)(1). Supervisors will be required to certify that they completed the course on supervisory forms.

Proposed § 41.32(3)(v)(F) and (G) require the supervisor to observe client sessions "regularly" and also "regularly apprise the psychology resident of progress and needed improvement." IRRC asked the Board to clarify the duration of "regularly." In light of § 41.33(a)(8), which requires primary and delegated supervisors to make quarterly reviews of the psychology resident's performance, the Board replaced "regularly" with "at least quarterly."

Compliance with Executive Order 1996-1, Regulatory Review and Promulgation

The Board reviewed this final-form rulemaking and considered its purpose and likely impact on the public and the regulated population under the directives of Executive Order 1996-1.

Fiscal Impact and Paperwork Requirements

The final-form rulemaking will have no adverse fiscal impact or paperwork requirements on the Board, licensees, the Commonwealth, its political subdivisions or the public sector.

Sunset Date

The Board continually monitors the effectiveness of its regulations through communication with the regulated population. Accordingly, no sunset date has been set.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 22, 2009, the Board submitted a copy of the notice of proposed rulemaking, published at 39 Pa.B. 2211, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments from IRRC, the HPLC, the SCP/PLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on March 24, 2010, the final-form rulemaking was approved by the HPLC. On April 21, 2010, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on April 22, 2010, and approved the final-form rulemaking.

Contact Person

Further information may be obtained by contacting Christina Stuckey, Administrative Assistant, State Board of Psychology at P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-7155.

Findings

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202), and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered.

(3) This final-form rulemaking does not enlarge the purpose of proposed rulemaking published at 39 Pa.B. 2211.

(4) This final-form rulemaking is necessary and appropriate for administering and enforcing the authorizing acts identified in this preamble.

Order

The Board, acting under its authorizing statutes, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 41, are amended by amending §§ 41.1, 41.11, 41.31, 41.32 and 41.41; and adding §§ 41.30 and 41.33 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General as required by law.

(c) The Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect on publication in the *Pennsylvania Bulletin*.

KAREN W. EDELSTEIN, Psy.D.,
Chairperson

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 40 Pa.B. 2493 (May 8, 2010).)

Fiscal Note: Fiscal Note 16A-6315 remains valid for the final adoption of the subject regulations.

Annex A**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS****PART I. DEPARTMENT OF STATE****Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS****CHAPTER 41. STATE BOARD OF PSYCHOLOGY
GENERAL****§ 41.1. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Delegated supervisor—A person to whom the primary supervisor has delegated up to 1 hour of the 2 hours of required weekly supervision who holds a current license, certificate or registration from a health related board within the Bureau of Professional and Occupational Affairs or a person who is exempt from licensure under section 3(4)—(8) of the act (63 P. S. § 1203(4)—(8)), who meets the requirements in § 41.33(a) and (b) (relating to supervisors).

* * * * *

Graduate training in psychology—The completion of 15 graduate semester hours in a doctoral degree program in psychology that includes any of the following:

(i) Provides in its core program required instruction in ethics, research design and methodology, statistics and psychometrics. In addition, requires students to demonstrate competence in each of the following four substantive content areas (this criterion will typically be met by requiring a minimum of three graduate semester hours in each area): biological bases of behavior—for example, physiological psychology, comparative psychology, neuropsychology, sensation and perception, psychopharmacology; cognitive-affective bases of behavior—for example, learning, thinking, motivation, emotion; social bases of behavior—for example, social psychology, group processes, organizational and systems theory; individual differences—for example, human development, personality theory, abnormal psychology.

(ii) Includes supervised practicum, internship, field or laboratory training appropriate to the practice of psychology.

(iii) Includes course requirements in specialty areas of psychology.

* * * * *

Primary supervisor—A currently licensed psychologist having primary responsibility for directing and supervising the psychology resident.

* * * * *

Psychology intern—A student participating in an internship as part of a doctoral degree program in psychology or a field related to psychology.

Psychology resident—An individual who has obtained a doctoral degree and is fulfilling the supervised experience requirement for licensure, or an applicant for licensure who is continuing training under § 41.31(4) (relating to educational qualifications).

Psychology trainee—A psychology intern or psychology resident.

* * * * *

LICENSES**§ 41.11. Licenses.**

(a) To be considered for admission to the examination provided in the act, an applicant shall first file with the Board or its designee:

(1) A completed application form and the application fee.

(2) Official transcripts of graduate work from an accredited college or university.

(3) A criminal history records information report completed by the Pennsylvania State Police dated within 90 days of the application. If the applicant resides outside of this Commonwealth, the criminal history report shall be completed by the law enforcement agency responsible for criminal history reports in the jurisdiction where the applicant resides.

(4) Child abuse history clearance completed by the Department of Public Welfare dated within 90 days of the application.

(5) An internship verification form and job description.

(6) Other forms or materials requested by the Board.

(b) An applicant who has demonstrated compliance with the education and experience requirements of the act and §§ 41.31 and 41.32 (relating to educational qualifications; and experience qualifications), who has completed the procedures in subsection (a), who has passed the examination provided for in the act and who has satisfied the other qualifications for licensure set out in the act shall be granted a license by the Board. Only the holder of a current license shall have the right and privilege of using the title “psychologist” and of practicing psychology. Other professionals may, however, use official titles and engage in the practice of psychology or do work of a psychological nature insofar as they are excepted from licensure by applicable provisions under section 3 of the act (63 P. S. § 1203).

(c) Each licensee is issued a wall certificate indicating initial licensure and a registration packet including a biennial renewal certificate and a wallet-size license card, both of which show the expiration date of the license. Licenses expire on November 30 of each odd-numbered year, regardless of the date of issuance.

(d) Licenses are renewable for a 2-year period beginning December 1 of each odd-numbered year. The fee for biennial renewal is set by the Board. See § 41.12 (relating to fees). Late fees as prescribed by the Bureau of Professional and Occupational Affairs Fee Act (63 P. S. §§ 1401-101—1401-501) shall be added to the renewal fees of licensees who do not submit their renewal applications by December 1 of the year of expiration of their licenses. Upon renewing their licenses, licensees receive new biennial renewal certificates and wallet-size license cards which show the next expiration date of the license. These documents are the only evidence of valid, current licensure.

(e) Fees as prescribed by the Bureau of Professional and Occupational Affairs Fee Act shall be charged for duplicate wall certificates and biennial renewal documents. Duplicates will be issued only upon submission by the licensee of a notarized statement specifying that the original has been lost or destroyed and stating that the duplicate will be returned if the original is recovered.

QUALIFICATIONS

§ 41.30. Qualifications and documentation necessary for licensure.

(a) To qualify for licensure, an applicant shall complete the educational requirements in § 41.31 (relating to educational qualifications), the experience requirements in § 41.32 (relating to experience qualifications) and the examination requirements in § 41.41 (relating to examinations).

(b) An applicant for licensure shall submit an application and fee to the Board plus:

(1) In a sealed envelope, signed by the primary supervisors on the envelope flap, verification of post doctoral experience form, quarterly evaluations/progress reports, which include objectives, prepared during the course of supervision, and a letter describing the supervisory interactions and the supervisor’s judgment of the applicant’s potential as a psychologist.

(2) An updated criminal history records information report unless submitted to the Board within 90 days of the application for licensure under § 41.11(a)(3) (relating to licenses).

(3) An updated Child Abuse History Clearance unless submitted to the Board within 90 days of the application for licensure under § 41.11(a)(3).

§ 41.31. Educational qualifications.

To meet the education requirements for licensure under section 6 of the act (63 P. S. § 1206), an applicant shall complete the requirements for a doctoral degree in psychology or a field related to psychology as defined in § 41.1 (relating to definitions). The following documentation evidences compliance:

(1) For degree holders from a program in the United States, Canada or United States territories, a Verification of Doctoral Program Approval Status completed by the program’s director reflecting accreditation by the APA or CPA or designation by the ASPPB/National Register Designation Project within 1 year from the award of the doctoral degree, and an official transcript from the registrar.

(2) For degree holders from a foreign college or university, an evaluation completed by the National Register evidencing compliance with the educational requirements for degree holders from foreign colleges or universities in § 41.1. The Board will make a determination regarding the applicant’s compliance based upon the evaluation.

(3) An applicant who does not meet the criteria in paragraph (2) shall complete supplemental education or training, or both, from a program accredited by the APA or the CPA or designated by ASPPB/National Register Designation Project based upon an evaluation of the deficiency by the program. The program director shall certify that the supplemental coursework or experience, or both, makes the applicant equivalent to a graduate of that program.

(4) First-time applicants who enroll in a graduate degree program in psychology or a field related to psychology on or after July 1, 2008, will be evaluated under these regulations. Applicants enrolled prior to this date will be evaluated under regulations in effect at the time of enrollment. Reapplicants under § 41.42(b) (relating to reexamination) will be evaluated under regulations in effect at the time of reapplication.

(5) First time applicants who were enrolled in a doctoral degree program prior to March 23, 1991, will have their education credentials evaluated under regulations in effect at that time. Applicants who apply under § 41.42(b) will have their credentials evaluated under regulations in effect at the time of reapplication.

§ 41.32. Experience qualifications.

To meet the experience requirements for licensure under section 6 of the act (63 P. S. § 1206), an applicant shall complete 1 year of acceptable postdoctoral supervised experience.

(1) *Timing.*

(i) One year is calculated as a period of at least 12 months consisting of at least 1,750 hours of experience.

(ii) No more than 45 hours but no less than 15 hours of experience may be counted per week.

(iii) Fifty percent of the required hours must be obtained performing diagnosis, assessment, therapy, other interventions, supervision or consultation and receiving supervision or consultation. The remaining required hours may be obtained by teaching in association with an organized psychology program preparing practicing psychologists or a postdoctoral training program, psychological research or any of the categories listed in this paragraph.

(iv) The total experience must be obtained within 10-calendar years from the award of the doctoral degree.

A psychologist who cannot meet this time frame due to hardship or medical necessity may apply to the Board in writing for a waiver. The request must include a description of circumstances sufficient to show why compliance was impossible. Waiver requests will be evaluated by the Board on a case-by-case basis and will be approved or disapproved at its discretion.

(v) The required experience may be obtained at more than one entity simultaneously, if the following criteria are met:

(A) The experience is obtained for each entity for a minimum of 6 consecutive months.

(B) The experience occurs for a minimum of 15 hours per week at each setting.

(C) The total experience for all settings does not exceed 45 hours per week.

(D) The experience complies with the requirements in paragraphs (2) and (3).

(2) *Acceptable experience.*

(i) The practice at an entity in which experience is obtained must be consistent with the psychology resident's education and training.

(ii) No experience may be obtained where the psychology resident acts independently (for example, as a qualified member of another recognized profession under section 3(3) of the act (63 P. S. § 1203(3)).

(3) *Supervision.* All experience, including that obtained during consultation, must be obtained under the supervision of a primary supervisor.

(i) *Primary supervisors.* If the experience is obtained from more than one entity, the psychology resident shall obtain a primary supervisor for each entity.

(ii) *Delegated supervisors.* The primary supervisor may delegate supervision over the psychology resident to a delegated supervisor for up to 1 hour per week.

(4) *Exceptional circumstances.* A psychology resident who cannot comply with the supervisory requirements, may, upon a showing of exceptional circumstances, request the Board to approve a detailed written plan for supervision. The granting of such a request is at the Board's discretion. The Board will evaluate each plan submitted and each psychology resident's situation on a case-by-case basis.

(5) *Effective date.* First-time applicants for licensure who commenced postdoctoral supervised experience prior to December 6, 2010, will have their postdoctoral experience credentials evaluated under regulations in effect prior to that date. Applicants who commence postdoctoral supervised experience after that date will have their postdoctoral experience evaluated under the regulations in effect at that time.

(6) *Supervised practice following completion of training.* Upon completion of the required supervisory hours, a psychology resident may practice psychology under the supervision of a licensed psychologist until the psychology resident obtains a license, under § 41.58 (relating to standards for the employment and supervision of unlicensed persons with graduate training in psychology) or may practice psychology in exempt settings under section 3(4), (6), (8) and (10) of the act (63 P. S. § 1203(4), (6), (8), and (10)).

§ 41.33. Supervisors.

(a) Primary and delegated supervisors are required to:

(1) Be currently licensed while providing supervision.

(2) Be qualified by training and experience to practice in the psychology resident's areas of supervised practice.

(3) Own, be an employee of, or be in contract status with the entity employing the psychology resident.

(4) Review issues of practice and ethics with the psychology resident.

(5) Meet individually face-to-face with the psychology resident for an average supervisory total of at least 2 hours per week.

(6) Maintain notes or records of scheduled supervisory sessions until the psychology resident obtains a license or for at least 10 years, whichever is greater.

(7) Ensure that the psychology resident's status is made known to client/patients and to third-party payors.

(8) Prepare written evaluations/progress reports at least quarterly delineating the psychology resident's strengths and weaknesses. These evaluations/reports must be included with the applicant's application for licensure.

(b) Primary and delegated supervisors may not:

(1) Be subject to the psychology resident's control or influence.

(2) Be related to the psychology resident by blood or marriage.

(3) Be involved in a dual relationship, as defined in Principle 6(b) of the Code of Ethics (§ 41.61, Principle (B)), with the psychology resident.

(4) Treat or have treated the psychology resident.

(5) Be the subject of an active suspension or revocation by a licensing board. In the event that disciplinary action is taken against the supervisor during the supervisory period, the supervisor shall immediately notify the psychology resident and assist the psychology resident in immediately obtaining a new supervisor.

(6) Accept fees, honoraria, favors or gifts from the psychology resident.

(c) In addition to the responsibilities for primary and delegated supervisors in subsection (a), primary supervisors shall:

(1) Beginning December 1, 2015, complete either a course in supervision from a psychology doctoral degree program or 3 hours of continuing education in supervision.

(2) Develop with the psychology resident objectives to be achieved during supervision.

(3) Be accessible to the psychology resident for consultation and to clients/patients of the psychology resident to answer questions and respond to concerns.

(4) Be responsible to each client/patient for psychology services provided by the psychology resident.

(5) Be authorized to interrupt or terminate the services being provided by the psychology resident to a client/patient and, if necessary, to terminate the supervisory relationship.

(6) Observe client/patient sessions of the psychology resident or review verbatim recordings of these sessions on a quarterly basis.

(7) At least quarterly, in supervisory meetings, evaluate and apprise the psychology resident about areas of progress and needed improvement, recommend applicable

professional literature and assist the resident in gaining a level of skill necessary for independent practice.

(8) Assist the psychology resident in working with professionals in other disciplines as indicated by the needs of each client/patient and periodically observe these cooperative encounters.

(9) Ensure that the psychology resident has access to multidisciplinary consultation, as necessary.

(10) Monitor the supervision provided by any delegated supervisor.

(11) At the conclusion of the period of supervision, evaluate the psychology resident's level of professional competence and theoretical knowledge in the areas of assessment, diagnosis, effective interventions, consultation, evaluation of programs, supervision of others, strategies of scholarly inquiry, cultural/individual diversity and professional conduct. This evaluation must be signed and included as part of the verification of post doctoral experience submitted to the Board with the applicant's application for licensure.

EXAMINATIONS

§ 41.41. Examinations.

(a) To be eligible to take the licensure examinations, the applicant shall have obtained a doctoral degree in psychology or a field related to psychology and completed all degree requirements in § 41.31 (relating to educational qualifications).

(b) Applicants shall obtain a passing score on the Examination for Professional Practice In Psychology and the Pennsylvania Psychology Law Examination to qualify for licensure. Information about the contents of the examinations is available from the Board office.

(c) An applicant who has been deemed ineligible to take the examinations shall be notified in writing of the reasons for ineligibility, whereupon the applicant may, within 30 days of the notice, correct the causes for the ineligibility or file a request for reconsideration. A request for reconsideration must give the reasons for the applicant's request, must be accompanied by documentary materials not previously submitted which the applicant wishes the Board to consider, and may include a request for an informal interview before the Board.

[Pa.B. Doc. No. 10-1037. Filed for public inspection June 4, 2010, 9:00 a.m.]

Title 58—RECREATION

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CH. 525]

Table Game Internal Controls; Temporary Regulations

The Pennsylvania Gaming Control Board (Board), under its general authority in 4 Pa.C.S. § 1303A (relating to temporary table game regulations) enacted by the act of January 7, 2010 (P.L. 1, No. 1) (Act 1) and the specific authority in 4 Pa.C.S. §§ 1302A(6) and 1325A (relating to regulatory authority; and table game accounting controls and audit protocols), adopts temporary regulations in Chapter 525 (relating to table game internal controls) to read as set forth in Annex A. The Board's temporary

regulations will be added to Part VII (relating to Gaming Control Board) as part of Subpart K (relating to table games).

Purpose of the Temporary Rulemaking

This temporary rulemaking adds additional sections to Chapter 525 regarding table inventories which are the gaming chips, coins and plaques that the dealer or boxperson uses to pay winning wagers and collect losing wagers during the conduct of a table game.

Explanation of Chapter 525

Section 525.7 (relating to table inventories) contains security requirements associated with table inventories; articulates when gaming chips, coins and plaques may be added to or removed from a table inventory; and specifies the information that must be included on Table Inventory Slips.

Section 525.8 (relating to procedures for opening table games) addresses the procedures that must be followed when a table is being opened for gaming. The dealer or floorperson assigned to the table shall count the table inventory and compare their count to the totals on the Table Inventory Slip included in the table inventory. If the totals agree, the dealer or boxperson and supervising floorperson shall sign the Table Inventory Slip and place it in the drop box at the gaming table. If there is a discrepancy, notice must be made to the appropriate parties and a written report must be prepared explaining the cause of the discrepancy.

Section 525.9 (relating to procedures for distributing gaming chips, coins and plaques to gaming tables) sets forth the procedures for bringing additional gaming chips, coins or plaques to a gaming table to replenish the table inventory. A Fill Request Slip is made out specifying what gaming chips, coins or plaques are needed for the replenishment and that form is transported to the chip bank. The personnel in the chip bank will fill the request and complete a Fill Slip which is used to verify that the request has been fulfilled and that the requested amount of gaming chips, coins or plaques are delivered to the gaming table. This section specifies the information and signatures that must be on the Fill Request Slip and Fill Slip and how the copies of these forms are to be distributed.

Section 525.10 (relating to procedures for removing gaming chips and plaques from gaming tables) establishes the procedures to be used when excess gaming chips or plaques in a table inventory need to be sent back to the chip bank. Like the process for requesting fills, a Credit Request Slip is made out specifying what gaming chips or plaques are being returned and that form is transported to the chip bank along with the gaming chips or plaques. The personnel in the chip bank shall count the gaming chips or plaques being returned and complete a Credit Slip which is used to verify that the gaming chips or plaques being returned and both copies of the Credit slip will be returned to the gaming table to obtain the required signatures. After the appropriate signatures are obtained, the duplicate copy of the Credit Slip must be placed in the table game drop box and the original copy must be returned to the chip bank. This section also specifies the information and signatures that must be on a Credit Request Slip and a Credit Slip and how the copies of these forms are to be distributed.

Section 525.11 (relating to procedures for accepting cash for gaming chips or plaques at table games) outlines the procedures that a dealer or boxman shall use when a patron asks to exchange cash for gaming chips. These

procedures are designed to insure that the process is captured by the surveillance department and to avoid errors or disputes associated with the exchange.

Section 525.12 (relating to procedures for acceptance of tips or gratuities from patrons) specifies: which personnel in a licensed facility may accept tips or gratuities from patrons; how those tips or gratuities are to be collected and distributed amongst the dealers; and that the certificate holder must establish a system for reporting the tips or gratuities to the Internal Revenue Service.

Section 525.13 (relating to procedures for drops at open table games) establishes a procedure for recording the table inventory at a gaming table that is open when the drop occurs. The count of the table inventory just prior to the removal of the drop box is necessary so that the daily revenue for that gaming table can be calculated.

Section 525.14 (relating to procedures for closing table games) sets forth the procedures that must be followed when a gaming table is being closed. The dealer or boxperson and the floorperson assigned to the gaming table shall be required to complete a Table Inventory Slip which will be used to calculate the gaming revenue from that table and to verify the contents of the table inventory when the table is reopened. Additionally, this section requires that table inventory be secured in a container attached to the table or that is returned to the cashiers' cage.

Section 525.15 (relating to table inventories for Poker tables) gives certificate holders the option of using dealer impressed table inventories for Poker tables. Because the rake will be deposited in the drop box at Poker tables, rather than following the procedures in §§ 525.7, 525.8, 525.13 and 525.14 a certificate holder may want to have its Poker dealers use an impressed table inventory that only they will be responsible for and which will have to be balanced by the dealer at the end of the dealer's shift.

Section 525.16 (relating to table inventory counts on a per shift basis) gives certificate holders who use drop boxes that segregate the contents by shift the option of adopting procedures which would require the completion of a new Table Inventory Slip at the close of each shift in addition to the other times a Table Inventory Slip is required to be completed under this chapter.

Affected Parties

Slot machine licensees who elect to become certificate holders will be required to modify and expand their existing internal controls to meet the additional requirements in this temporary rulemaking.

The Board will experience increased regulatory demands to review the new and revised internal controls regarding table games that are submitted by the certificate holders.

Fiscal Impact

Commonwealth

The Board will have to review each certificate holder's initial table games internal control submissions and subsequent amendments thereto. These reviews will be conducted by existing Bureau of Gaming Operations staff, so the Board does not project that it will incur any significant cost increases as a result of this temporary rulemaking.

Political Subdivisions

This temporary rulemaking will have no direct fiscal impact on political subdivisions of this Commonwealth.

Eventually, host municipalities and counties will benefit from the local share funding that is mandated by Act 1.

Private Sector

This temporary rulemaking will result in additional costs for slot machine licensees who elect to become certificate holders. More specifically, certificate holders will be required to revise and expand the scope of their internal controls to cover table games operations. These revisions could cost between \$20,000 and \$50,000 per certificate holder to prepare depending on the scope of the revisions and if the revisions are prepared internally or by outside consultants.

General Public

This temporary rulemaking will have no direct fiscal impact on the general public.

Paperwork Requirements

This temporary rulemaking will require certificate holders to draft, and submit to the Board for its approval, revised internal controls.

Effective Date

This temporary rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

Public Comments

While this temporary rulemaking will be effective upon publication, the Board is seeking comments from the public and affected parties as to how this temporary regulation might be improved. Interested persons are invited to submit written comments, suggestions or objections regarding this temporary rulemaking within 30 days after the date of publication in the *Pennsylvania Bulletin* to Richard Sandusky, Director of Regulatory Review, Pennsylvania Gaming Control Board, P. O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation #125-120.

Contact Person

The contact person for questions about this temporary rulemaking is Richard Sandusky, Director of Regulatory Review at (717) 214-8111.

Regulatory Review

Under 4 Pa.C.S. § 1303A, the Board is authorized to adopt temporary regulations which are not subject to the provisions of sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1205), referred to as the Commonwealth Documents Law, the Regulatory Review Act (71 P. S. §§ 745.1—745.12) and sections 204(b) and 301(10) of the Commonwealth Attorneys Act (71 P. S. §§ 732-204(b) and 732-301(10)). These temporary regulations expire 2 years after publication in the *Pennsylvania Bulletin*.

Findings

The Board finds that:

(1) Under 4 Pa.C.S. § 1303A, the temporary regulations are exempt from the requirements of the Regulatory Review Act, sections 201—205 of the Commonwealth Documents Law and sections 204(b) and 301(10) of the Commonwealth Attorney Act.

(2) The adoption of the temporary regulations is necessary and appropriate for the administration and enforcement of 4 Pa.C.S. Part II (relating to gaming).

Order

The Board, acting under 4 Pa.C.S. Part II, orders that:

(1) The regulations of the Board, 58 Pa. Code Chapter 525, are amended by adding §§ 525.7—525.16 to read as set forth in Annex A.

(2) The temporary regulations are effective June 5, 2010.

(3) The temporary regulations will be posted on the Board's web site and published in the *Pennsylvania Bulletin*.

(4) The temporary regulations shall be subject to amendment as deemed necessary by the Board.

(5) The Chairperson of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

GREGORY C. FAJT,
Chairperson

(Editor's Note: The Board has added temporary regulations in §§ 525.1—525.6 at 40 Pa.B. 2539 (May 15, 2010). All of these temporary regulations will be codified in *Pennsylvania Code* MTS No. 429 (August, 2010).

Fiscal Note: 125-120. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart K. TABLE GAMES

CHAPTER 525. TABLE GAME INTERNAL CONTROLS

§ 525.7. Table inventories.

(a) Whenever a table game in a licensed facility is opened for gaming, operations shall commence with an amount of gaming chips, coins and plaques to be known as the table inventory.

(b) A certificate holder may not cause or permit gaming chips, coins or plaques to be added to, or removed from, the table inventory during the gaming day except:

(1) In exchange for cash.

(2) In exchange for the issuance copies of Counter Checks presented by patrons.

(3) For the payment of winning wagers and collection of losing wagers made at the gaming table.

(4) In exchange for gaming chips or plaques received from a patron having an equal aggregate face value.

(5) In conformity with the fill and credit procedures described in §§ 525.9 and 525.10 (relating to procedures for distributing gaming chips, coins and plaques to gaming tables; and procedures for removing gaming chips and plaques from gaming tables).

(6) For the collection of vigorish.

(c) Whenever a table game is not open for gaming activity, the table inventory and a Table Inventory Slip prepared in conformity with §§ 525.8, 525.14 and 525.16 (relating to procedures for opening table games; procedures for closing table games; and table inventory counts on a per shift basis) shall be stored in a locked container which shall be clearly marked on the outside with the game and the gaming table number to which it corresponds. The information on the Table Inventory Slip must be visible from the outside of the container. Containers shall be stored either in the cashiers' cage or secured to the gaming table, in a manner approved by the Bureau of Gaming Operations.

(d) The keys to the locked containers containing the table inventories shall be maintained and controlled by the table games department and may not be made accessible to cashiers' cage personnel or to any employee responsible for transporting the table inventories to or from the gaming tables.

(e) Table Inventory Slips must be two-part forms upon which the following is recorded:

(1) The date and identification of the shift ended.

(2) The game and table number.

(3) The total value of each denomination of gaming chips, coins and plaques remaining at the gaming table.

(4) The total value of all denominations of gaming chips, coins and plaques remaining at the gaming table.

(5) The signatures of the dealer or boxperson and floorperson assigned to the gaming table who conducted the count of the table inventory when the gaming table was closed and when the gaming table was opened.

§ 525.8. Procedures for opening table games.

(a) Whenever a table game is to be opened for gaming activity, the locked container with the table inventory and the duplicate copy of the Table Inventory Slip, if not already attached to the gaming table, shall be transported directly from the cashiers' cage to the gaming table by a security department member.

(b) Immediately prior to opening the table game for gaming, the floorperson assigned to the gaming table shall unlock the container with the table inventory after assuring that it is the proper container for that gaming table.

(c) The dealer or boxperson assigned to the gaming table shall count the contents of the container with the table inventory in the presence of the floorperson assigned to the gaming table and reconcile the count to the totals on the duplicate copy of the Table Inventory Slip removed from the container.

(d) Signatures attesting to the accuracy of the information recorded on the duplicate copy of the Table Inventory Slip shall be placed on the duplicate copy of the Table Inventory Slip by the dealer or boxperson assigned to the table and the floorperson that observed the dealer or boxperson count the contents of the container.

(e) After the count of the table inventory and the duplicate copy of the Table Inventory Slip has been signed as required under subsection (d), the slip shall be immediately deposited in the table game drop box attached to the gaming table by the dealer or boxperson.

(f) If there is a discrepancy between the amount of gaming chips and plaques counted and the amount of the gaming chips and plaques recorded on the duplicate copy of the Table Inventory Slip:

(1) The discrepancy shall be immediately verbally reported to the pit manager or above, the security department and the casino compliance representatives.

(2) The dealer or boxperson assigned to the table, in the presence of the pit manager or above and a security department employee, shall recount the table inventory and complete a new Table Inventory Slip reflecting the results of the dealer's or boxperson's recount of the table inventory.

(3) The pit manager or above shall:

(i) Prepare an Error Notification Slip, which must be a three-part form containing the following information:

- (A) The date and time.
- (B) The type of game.
- (C) The table number and pit.
- (D) An explanation of the error.
- (ii) Write "Incorrect Copy" on the copy of the Table Inventory Slip that was in the table inventory.
- (iii) Sign the "Incorrect Copy."
- (iv) Write "Correct Copy" on both copies of the Table Inventory Slip required to be prepared by the dealer or boxperson under paragraph (2).
- (4) The "Correct Copy" shall be signed by the dealer or boxperson who recounted the table inventory, the security department employee who witnessed the recount and the pit manager or above.
- (5) After the signatures required under paragraph (4) have been obtained, the "Incorrect Copy" Table Inventory Slip, both copies of the "Correct Copy" Table Inventory Slip and the first copy of the Error Notification Slip shall be attached to each other and deposited by the dealer or boxperson in the drop box.
- (g) The second copy of the Error Notification Slip shall be given to the pit clerk and the third copy of the Error Notification Slip shall be delivered to the casino compliance representatives.
- (h) For any discrepancy greater than \$10, the security department shall investigate the discrepancy and, within 24 hours, complete a standard written incident report on a form approved by the Bureau of Gaming Operations and immediately forward a copy of the incident report to the casino compliance representatives.

§ 525.9. Procedures for distributing gaming chips, coins and plaques to gaming tables.

- (a) A request for a fill shall be prepared by a pit clerk or floorperson or above using a Fill Request Slip. Access to the blank Fill Request Slips shall be restricted to pit clerks and floorpersons or above.
- (b) A Fill Request Slip must be a two-part form on which the following information, at a minimum, shall be recorded:
 - (1) The date, time and shift of preparation.
 - (2) The denomination of gaming chips, coins and plaques to be distributed to the gaming table.
 - (3) The total amount of each denomination of gaming chips, coins and plaques to be distributed to the gaming table.
 - (4) The game and table number to which the gaming chips, coins and plaques are to be distributed.
 - (5) The signature of the floorperson or above requesting the fill.
- (c) After the preparation of the Fill Request Slip, the original copy of the Fill Request Slip shall be transported directly to the chip bank by a security department employee.
- (d) The duplicate copy of the Fill Request Slip shall be placed by the dealer or boxperson in view of the slot machine licensee's surveillance system on the gaming table to which gaming chips, coins and plaques are to be received. When the chips, coins and plaques are received, the amounts shall be verified by the dealer or boxperson assigned to the gaming table and then the duplicate copy of the Fill Request Slip shall be deposited in the table game drop box.

(e) Notwithstanding the requirements of subsections (a)–(d), a request for a fill may be prepared electronically if the input data for preparation of the fill is entered by, and ability to input data is restricted to, the pit clerk or a floorperson or above, and a Fill Slip is generated in the chip bank, as a direct result of the input.

(f) A Fill Slip shall be prepared by a chip bank cashier or, if the required information was input in conformity with subsection (e), the Fill Slip may be electronically generated in the chip bank.

(g) Fill Slips must be serially prenumbered forms. Each series of Fill Slips shall be used in sequential order, and the series number of all Fill Slips received by a certificate holder shall be accounted for by employees with no incompatible functions. Original and duplicate void Fill Slips shall be marked "Void" and require the signature of the preparer.

(h) When Fill Slips are manually prepared, the following procedures and requirements shall be observed:

(1) Each series of Fill Slips must be a three-part form and shall be inserted in a locked dispenser that will permit an individual Fill Slip in the series and its copies to be written upon simultaneously while still locked in the dispenser.

(2) The Fill Slip dispenser must discharge the original and duplicate copies of the Fill Slip while the triplicate copy remains in a continuous, unbroken form in the dispenser.

(3) Access to the triplicate copies of the Fill Slips shall be maintained and controlled by finance department employees with no incompatible functions who are responsible for controlling and accounting for the unused supply of Fill Slips, placing Fill Slips in the dispensers, and removing the triplicate copies of the Fill Slips from the dispensers each gaming day.

(i) When Fill Slips are electronically prepared, each series of Fill Slips must be a two-part form and:

(1) Be inserted in a printer that will simultaneously print an original and a duplicate Fill Slip.

(2) Store, in machine readable form, the information printed on the original and duplicate copies of the Fill Slips. The stored data may not be susceptible to change or removal by any personnel involved in the preparation of a Fill Slip after the Fill Slip has been prepared.

(j) Copies of a Fill Slip, and when applicable, the stored data, must contain, at a minimum, the following information:

(1) The denominations of the gaming chips, coins and plaques being distributed.

(2) The total amount of each denomination of gaming chips, coins and plaques being distributed.

(3) The total amount of all denominations of gaming chips, coins and plaques being distributed.

(4) The game and table number to which the gaming chips, coins and plaques are being distributed.

(5) The date and shift during which the distribution of gaming chips, coins and plaques occurs.

(6) The signature of the preparer or, if electronically prepared, the identification code of the preparer.

(k) The time of preparation of the Fill Slip shall be recorded, at a minimum, on the original and duplicate copies of the Fill Slip upon preparation.

(l) Gaming chips, coins and plaques distributed to the gaming tables from the chip bank shall be transported directly to the gaming tables from the chip bank by a security department employee who shall compare the Fill Request Slip to the Fill Slip and sign the original copy of the Fill Request Slip transported to the chip bank. If the fill request was prepared manually, before transporting the gaming chips, coins and plaques and the original and duplicate copies of the Fill Slip shall be compared for signatures.

(m) Signatures attesting to the accuracy of the information contained on a Fill Slip shall be required on the original and duplicate copies of the Fill Slip of the following employees at the following times:

- (1) The chip bank cashier upon preparation.
- (2) The security department employee transporting the gaming chips, coins and plaques to the gaming table upon receipt from the cashier of the gaming chips, coins and plaques to be transported.
- (3) The dealer or boxperson assigned to the gaming table upon receipt and verification of the amounts of the gaming chips, coins and plaques at the gaming table from the security department employee.
- (4) The floorperson assigned to the gaming table upon receipt and verification of the amounts of the gaming chips, coins and plaques at the gaming table.
- (n) After meeting the signature requirements in subsection (m), the security department employee that transported the gaming chips, coins and plaques and the original and duplicate copies of the Fill Slip to the gaming table shall observe the immediate placement by the dealer or boxperson of the duplicate Fill Slip and the duplicate Fill Request Slip in the drop box attached to the gaming table to which the gaming chips, coins and plaques were transported. The security department employee shall then return the original Fill Slip to the chip bank where the original Fill Slip and the original Fill Request Slip shall be maintained together and controlled by employees of the cage until forwarded to the finance department.
- (o) The original and duplicate of void Fill Slips, the original Fill Request Slips and original Fill Slips, maintained and controlled in conformity with subsection (n), shall be forwarded to the finance department for agreement, on a daily basis, with the duplicate Fill Slips and duplicate Fill Request Slips removed from the drop box from the gaming table and triplicate copy stored in the manual Fill Slip dispenser or the stored electronic data.

§ 525.10. Procedures for removing gaming chips and plaques from gaming tables.

(a) A request for a credit shall be prepared by a pit clerk or floorperson or above, using a Credit Request Slip for the removal of gaming chips, coins and plaques from gaming tables to the chip bank. Access to blank Credit Request Slips shall be restricted to pit clerks and floorpersons or above.

(b) A Credit Request Slip must be a two-part form on which, at a minimum, the following information is recorded:

- (1) The date, time and shift of preparation.
- (2) The denominations of chips, coins and plaques to be removed from the gaming table.
- (3) The total amount of denominations of gaming chips, coins and plaques to be removed from the gaming table.

(4) The game and table number from which the gaming chips, coins and plaques are to be removed.

(5) The signatures of the dealer or boxperson and the floorperson or above assigned to the gaming table from which the gaming chips, coins and plaques are to be removed.

(c) After the preparation of a Credit Request Slip and prior to the transfer of the gaming chips, coins and plaques to be removed to a security department employee, a floorperson or above shall obtain on the duplicate copy of the Credit Request Slip, the signature of the security department employee to which the gaming chips and plaques are being transferred. The dealer or boxperson assigned to the gaming table shall place the duplicate copy of the Credit Request Slip in view of the slot machine licensee's surveillance system on the gaming table from which the gaming chips, coins and plaques were removed. The duplicate copy of the Credit Request Slip may not be removed until a Credit Slip is received from the chip bank at which time the Credit Request Slip and Credit Slip are to be deposited in the drop box attached to the gaming table.

(d) The original Credit Request Slip and the gaming chips, coins and plaques removed from the gaming table shall be transported directly to the chip bank by the security department employee.

(e) Notwithstanding the requirements of subsections (a)–(d), a request for a credit may be prepared electronically if the input data for preparation of the credit is entered by, and ability to input data is restricted to, the pit clerk or a floorperson or above, and a Credit Slip is generated in the chip bank, as a direct result of the input.

(f) A Credit Slip shall be prepared by a chip bank cashier or, if the required information was input in conformity with subsection (e), the Credit Slip may be electronically generated in the chip bank.

(g) Credit Slips must be serially prenumbered forms. Each series of Credit Slips shall be used in sequential order, and the series numbers of all Credit Slips received by a certificate holder shall be accounted for by employees with no incompatible functions. Original and duplicate void Credit Slips shall be marked "Void" and require the signature of the preparer.

(h) When Credit Slips are manually prepared, the following procedures and requirements shall be observed:

(1) Each series of Credit Slips must be a three-part form and be inserted in a locked dispenser that will permit an individual Credit Slip in the series and its copies to be written upon simultaneously while still locked in the dispenser.

(2) The Credit Slip dispenser must discharge the original and duplicate copies of the Credit Slip while the triplicate copy of the Credit Slip remains in a continuous, unbroken form in the dispenser.

(3) Access to the triplicate copies of the Credit Slips shall be maintained and controlled by finance department employees with no incompatible functions who are responsible for controlling and accounting for the unused supply of the Credit Slips, placing Credit Slips in the dispensers, and removing the triplicate copies of the Credit Slips from the dispensers each gaming day.

(i) When Credit Slips are electronically prepared, each series of Credit Slips must be a two-part form and:

(1) Be inserted in a printer that will simultaneously print an original and a duplicate copy of the Credit Slip in the chip bank.

(2) Store, in machine-readable form, the information printed on the original and duplicate copies of the Credit Slip. The stored data may not be susceptible to change or removal by any personnel after the preparation of a Credit Slip.

(j) Copies of the Credit Slip, and when applicable, the stored data, must contain, at a minimum, the following information:

(1) The denominations of the gaming chips, coins and plaques being returned.

(2) The total amount of each denomination of gaming chips, coins and plaques being returned.

(3) The total amount of all denominations of gaming chips, coins and plaques being returned.

(4) The game and table number from which the gaming chips, coins and plaques are being returned.

(5) The date and shift during which the removal of gaming chips, coins and plaques occurs.

(6) The signature of the preparer or, if electronically prepared, the identification code of the preparer.

(k) The time of preparation of the Credit Slip shall be recorded, at a minimum, on the original and duplicate copies of the Credit Slip upon preparation.

(l) After the Credit Slip has been prepared by the chip bank cashier or has been printed in the chip bank as a result of the information being input electronically by a pit clerk or floorperson or above and the gaming chips, coins and plaques from a gaming table have been returned to the chip bank, the security department employee shall transport the original and duplicate copies of the Credit Slip to the gaming table from which the gaming chips, coins and plaques were returned.

(m) Signatures on the original and duplicate copies of a Credit Slip attesting to the accuracy of the information contained on the Credit Slip shall be required of the following personnel at the following times:

(1) The chip bank cashier upon preparation.

(2) The security department employee returning the gaming chips, coins and plaques to the chip bank.

(3) The dealer or boxperson assigned to the gaming table upon receipt of the Credit Slip at the gaming table from the security department member.

(4) The floorperson assigned to the gaming table upon receipt of the Credit Slip at the gaming table from the security department member.

(n) After meeting the signature requirements required under subsection (m), the security department member returning the original and duplicate copies of the Credit Slip to the gaming table, shall observe the immediate placement by the dealer or boxperson of the duplicate copy of the Credit Slip and the duplicate copy of the Credit Request Slip in the drop box attached to the gaming table from which the gaming chips, coins and plaques were removed. The security department member shall then return the original Credit Slip to the chip bank where the original Credit Slip and Credit Request Slip shall be maintained and controlled by employees of the cage until forwarded to the finance department.

(o) The original and duplicate copies of void Credit Slips and the original Credit Request Slips and Credit Slips maintained and controlled in accordance with subsection (n), shall be forwarded to the finance department for agreement, on a daily basis, with the duplicate Credit

Slips and duplicate Credit Request Slips removed from the drop box and the triplicate copy of the Credit Slips from the Credit Slip dispenser or the stored electronic data.

§ 525.11. Procedures for accepting cash for gaming chips or plaques at table games.

Whenever cash is presented by a patron at a table game for exchange for gaming chips or plaques:

(1) The cash shall be spread on the top of the gaming table by the dealer or boxperson accepting it in full view of the patron who presented it, the floorperson assigned to the gaming table and the slot machine licensee's surveillance system.

(2) The amount of cash shall be verbalized by the dealer or boxperson accepting it in a tone of voice calculated to be heard by the patron who presented it and the floorperson assigned to the gaming table.

(3) Immediately after an equivalent amount of gaming chips or plaques has been given to the patron, the cash shall be taken from the top of the gaming table and placed by the dealer or boxperson into the drop box attached to the gaming table.

§ 525.12. Procedures for acceptance of tips or gratuities from patrons.

(a) A boxperson, floorperson, or any other table game supervisory employee, while serving in a supervisory position, may not solicit or accept, and no other table game employee may solicit, a tip or gratuity from any patron in the licensed facility where he is employed. A certificate holder may not permit any practices prohibited by this section.

(b) Except as permitted under subsection (f), tips and gratuities received by dealers in a licensed facility shall be:

(1) Immediately deposited in a transparent locked box reserved for tips and gratuities. If nonvalue chips are received as tips or gratuities at a roulette table, the marker button indicating the specific value of the nonvalue chips may not be removed until after the dealer, in the presence of a floorperson or above, has expeditiously converted the nonvalue chips into value chips which shall then be immediately deposited in the transparent locked box reserved for tips and gratuities.

(2) Collected and accounted for at least once each gaming day.

(3) Placed in a common pool for distribution pro rata among all dealers in accordance with subsection (d).

(c) Upon receipt from a patron of a tip or gratuity, a dealer shall extend his arm in an overt motion, and deposit the tip or gratuity in the locked box reserved for tips and gratuities.

(d) Tips and gratuities placed in a common pool shall be distributed pro rata among all the dealers in the pool based upon the number of hours worked. In determining the number of hours which an employee has worked for purposes of tip pool distribution, a certificate holder may establish standards for distribution which include hours of vacation time, personal leave time or any other authorized leave of absence in the number of hours worked by each employee. These standards shall apply uniformly to all employees, except that a certificate holder may establish different standards for full-time or part-time employees.

(e) Any distribution of tips and gratuities from a common tip pool under this section must occur no more frequently than once every 7 calendar days.

(f) Notwithstanding the requirements in subsection (b), a certificate holder that offers the game of Poker may either:

(1) Establish a separate common pool for tips and gratuities received by its Poker dealers.

(2) Permit each Poker dealer to retain his own tips and gratuities, in which case the tips and gratuities received by each Poker dealer shall be deposited, in accordance with procedures in subsection (c), in a transparent locked box assigned to the particular dealer. The box shall be moved from table to table with the dealer.

(g) When a certificate holder elects to use the option in subsection (f)(2), at the end of the dealer's shift, the dealer shall take the transparent locked box assigned to the dealer to a cage cashier. The cage cashier shall open the container and count the tips and gratuities in the presence of the dealer and record the total amount of the tips and gratuities received by the dealer and either:

(1) Return the tips and gratuities to the dealer.

(2) Retain all or a portion of the tips and gratuities for inclusion in the dealer's paycheck.

(h) Each certificate holder shall develop procedures for the reporting of dealer tips and gratuities to the Internal Revenue Service.

§ 525.13. Procedures for drops at open table games.

(a) Whenever a table game is to remain open for gaming activity when the table is being dropped, the gaming chips, coins and plaques remaining in the table inventory at the gaming table at the time of the drop shall be counted by the dealer or boxperson assigned to the gaming table and recorded on a Table Inventory Slip.

(b) The count required under subsection (a) shall be observed by the floorperson who is responsible for supervising the table game at the time of the drop.

(c) Signatures attesting to the accuracy of the information recorded on the Table Inventory Slip shall be placed on both copies of the Table Inventory Slip by the dealer or boxperson assigned to the table and the floorperson that observed the dealer or boxperson count the contents of the table inventory.

(d) After meeting the signature requirements in subsection (c), the original and the duplicate of the Table Inventory Slip shall be deposited in the drop box that is attached to the gaming table immediately before the drop box is removed from the gaming table as part of the drop.

§ 525.14. Procedures for closing table games.

(a) Whenever gaming activity at a table game is concluded, the gaming chips, coins and plaques remaining at the gaming table shall be counted by the dealer or boxperson assigned to the gaming table in the presence of the floorperson assigned to the gaming table.

(b) The amounts of the gaming chips, coins and plaques counted shall be recorded on the Table Inventory Slip by the floorperson assigned to the gaming table and the original copy of the Table Inventory Slip shall be signed by the dealer or boxperson who counted the table inventory and the floorperson who observed the dealer or boxperson count the contents of the table inventory.

(c) After the original copy of the Table Inventory Slip has been signed as required under subsection (b), the

original copy of the Table Inventory Slip shall be immediately deposited in the table game drop box attached to the gaming table.

(d) After the original copy of the table inventory slip has been deposited in the table game drop box attached to the gaming table, the duplicate copy of the table inventory slip and the gaming chips, coins and plaques remaining at the gaming table shall be placed in the container required under § 525.7 (relating to table inventories), after which the container shall be locked and either transported directly to the cashiers' cage by a security department member or secured to the gaming table in a manner approved by the Bureau of Gaming Operations.

(e) If the locked containers are transported to the cashiers' cage, a cage supervisor shall determine that all locked containers have been returned.

(f) If the locked containers are secured to the gaming table, a pit manager or above shall verify that all the containers are locked.

§ 525.15. Table inventories for Poker tables.

(a) Notwithstanding the requirements in §§ 525.7, 525.8, 525.13 and 525.14, a certificate holder may establish procedures for the issuance of table inventories that are maintained by Poker dealers on an imprest basis.

(b) The procedures developed under subsection (a) shall be submitted as part of the certificate holder's internal controls and be approved by the Board.

§ 525.16. Table inventory counts on a per shift basis.

(a) In addition to the requirements in §§ 525.8, 525.13 and 525.14 (relating to procedures for opening table games; procedures for drops at open table games; and procedures for closing table games), a certificate holder may establish procedures for the use of a three-compartment drop box which require the preparation of a Table Inventory Slip at the close of each shift.

(b) The procedures developed under subsection (a) shall be submitted as part of the certificate holder's internal controls and be approved by the Board.

[Pa.B. Doc. No. 10-1038. Filed for public inspection June 4, 2010, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CHS. 535, 541, 543, 545, 549, 551, 553, 555, 557, 559, 561, 563, 565 AND 567]

Table Game Rules Amendments; Temporary Regulations

The Pennsylvania Gaming Control Board (Board), under its general authority in 4 Pa.C.S. § 1303A (relating to temporary table game regulations) enacted by the act of January 7, 2010 (P.L. 1, No. 1) (Act 1) and the specific authority in 4 Pa.C.S. §§ 1302A(1) and (2) (relating to regulatory authority), amends temporary regulations in Chapters 535, 541, 543, 545, 549, 551, 553, 555, 557, 559, 561, 563, 565 and 567 to read as set forth in Annex A. The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board) as part of Subpart K (relating to table games).

Purpose of the Temporary Rulemaking

This temporary rulemaking amends the rules for table games in response to comments received from certificate

holders by amending the sections regarding opening of tables for gaming and shuffling of cards to permit the use of preinspected and reshuffled cards as authorized under § 523.16(u) or (v) (relating to cards; receipt, storage, inspections and removal from use). It also makes revisions to the rules for Blackjack and Spanish 21 to incorporate some of the suggestions offered by commentators.

Explanation of Chapters 535, 541, 543, 545, 549, 551, 553, 555, 557, 559, 561, 563, 565 and 567

The Board received numerous comments on the temporary regulations that it has promulgated so far. The Board found these comments useful and thanks the commentators for their input.

While the Board does not agree with all of the suggestions offered and is still reviewing a number of the comments that have been made, the Board does agree that improvements can be made in several areas now. This temporary rulemaking, which makes a number of amendments, is just the first of what the Board expects will be a number of changes to improve the Board's regulations.

Commentators stated that the temporary regulations were not clear as to whether or not the use of preinspected and reshuffled decks of cards would be permitted. In Regulation #125-116, which appeared at 40 Pa.B. 2088 (April 24, 2010), the Board adopted its requirements authorizing the use of preinspected and reshuffled decks of cards. To add additional clarity, in this temporary rulemaking, the rules for table games that are played with decks of cards are being amended to clarify that preinspected and reshuffled cards are permitted to be used and that the provisions related to inspection and shuffling of decks of cards at the opening of the tables do not apply if preinspected and reshuffled cards are used.

In § 535.2 (relating to Pai Gow table; Pai Gow shaker; physical characteristics), the phrase "imprinted or impressed" has been deleted from subsection (d)(2). Because a certificate holder's name or logo can be placed on a Pai Gow shaker using numerous manufacturing processes, requiring the name or logo to be applied by only being imprinted or impressed is unnecessarily restrictive.

In §§ 541.10, 543.10 and 545.10 (relating to procedure for dealing a third card), additional language has been added to address how the play is to proceed when the first card in the dealing shoe at the beginning of a round of play of Minibaccarat, Midibaccarat and Baccarat is the cover card.

Additionally, in § 543.9 (relating to hands of player and banker; procedure for dealing initial two cards to each hand), the last sentence in subsection (c)(3), which was incomplete, has been revised.

In addition to the changes regarding preinspected and reshuffled cards, a number of other changes have been made in Chapters 549 and 551 (relating to blackjack; and Spanish 21). In §§ 549.2 and 551.2 (relating to Blackjack table; card reader device; physical characteristics; inspections; and Spanish 21 table; card reader device; physical characteristics; inspections), the phrases "or similar language approved by the Bureau of Gaming Operations" and "or in another location approved by the Bureau of Gaming Operations" have been added to subsections (c)(2) and (f), respectively, to give certificate holders some additional operating flexibility.

In §§ 549.3 and 551.3 (relating to cards; number of decks; value of cards), subsections (e) and (c), respectively,

have been added which will require that the cards used on Blackjack and Spanish 21 tables to be changed every 24 hours. This is needed because time period for changing cards was not included in the initial Blackjack or Spanish 21 temporary regulations.

In §§ 549.7 and 551.8 (relating to procedure for dealing cards; and procedure for dealing the cards), the word "hit" in subsection (b) was deleted to allow dealers the option of dealing all cards, not just hit cards, to the first two positions with the dealer's left hand. In §§ 549.7(i) and 551.8(h), the phrase "announce Dealer's card," which shall be stated by the dealer in a tone of voice calculated to be heard by each person at the table, and" has been deleted. Commentators noted that this pronouncement is not needed and it can be annoying to players.

As was done in the chapters regarding Minibaccarat, Midibaccarat and Baccarat, language has been added to §§ 549.7(k) and 551.8(j) to address the how play is to proceed when the first card in the dealing shoe at the beginning of a round of play is the cover card. Additionally, in § 549.7(l), the word "player" has been replaced with "players" to make it consistent with the rest of the wording in that subsection.

In §§ 549.12 and 551.12 (relating to splitting pairs), an example has been added to subsection (a) to make it clear that any two cards that have a value of ten may be used to split the hand. In § 549.12(c)(2), the phrase "and may not elect to receive additional cards" has been deleted because it is redundant and was confusing to some commentators.

In §§ 549.15 and 551.15 (relating to continuous shuffling shoe or device), the phrase "is approved by the Bureau of Gaming Laboratory Operations" has been added to make it clear that the technical approval of the device will be done by the Bureau of Gaming Laboratory Operations, while the procedures for using the device for gaming will be approved by the Bureau of Gaming Operations.

Affected Parties

The amendments in this temporary rulemaking will affect how certificate holders may conduct table games at their licensed facilities.

Fiscal Impact

Commonwealth

The Board does not expect that the revisions in this temporary rulemaking will have any fiscal impact on the Board or other Commonwealth agencies.

Political Subdivisions

This temporary rulemaking will have no direct fiscal impact on political subdivisions of this Commonwealth. Eventually, host municipalities and counties will benefit from the local share funding that is mandated by Act 1.

Private Sector

The amendments in this temporary rulemaking will give certificate holders some additional flexibility as to how they conduct table games which may result in faster play and thereby result in lower costs for certificate holders.

General Public

This temporary rulemaking will have no direct fiscal impact on the general public.

Paperwork Requirements

This temporary rulemaking will impose no new paperwork requirements on certificate holders.

Effective Date

This temporary rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

Public Comments

While this temporary rulemaking will be effective upon publication, the Board is seeking comments from the public and affected parties as to how this temporary rulemaking might be improved. Interested persons are invited to submit written comments, suggestions or objections regarding this temporary rulemaking within 30 days after the date of publication in the *Pennsylvania Bulletin* to Richard Sandusky, Director of Regulatory Review, Pennsylvania Gaming Control Board, P. O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation #125-119.

Contact Person

The contact person for questions about this temporary rulemaking is Richard Sandusky, Director of Regulatory Review at (717) 214-8111.

Regulatory Review

Under 4 Pa.C.S. § 1303A, the Board is authorized to adopt temporary regulations which are not subject to the provisions of sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1205), referred to as the Commonwealth Documents Law (CDL), the Regulatory Review Act (71 P. S. §§ 745.1—745.12) and sections 204(b) and 301(10) of the Commonwealth Attorneys Act (71 P. S. §§ 732-204(b) and 732-301(10)). These temporary regulations expire 2 years after publication in the *Pennsylvania Bulletin*.

Findings

The Board finds that:

(1) Under 4 Pa.C.S. § 1303A, the temporary regulations are exempt from the requirements of the Regulatory Review Act, sections 201—205 of the CDL and sections 204(b) and 301(10) of the Commonwealth Attorney Act.

(2) The adoption of the temporary regulations is necessary and appropriate for the administration and enforcement of 4 Pa.C.S. Part II (relating to gaming).

Order

The Board, acting under 4 Pa.C.S. Part II, orders that:

(1) The regulations of the Board, 58 Pa. Code Chapters 535, 541, 543, 545, 549, 551, 553, 555, 557, 559, 561, 563, 565 and 567, are amended by amending §§ 535.2, 541.4, 541.5, 541.10, 543.4, 543.5, 543.9, 543.10, 545.4, 545.5, 545.10, 549.2, 549.3, 549.5—549.7, 549.12, 549.15, 551.2—551.5, 551.8, 551.12, 551.15, 553.5, 553.6, 555.4, 555.5, 557.4, 557.5, 559.4, 559.5, 561.4, 561.5, 563.4, 563.5, 565.4, 565.5, 567.4 and 567.5 to read as set forth in Annex A.

(2) The temporary regulations are effective June 5, 2010.

(3) The temporary regulations will be posted on the Board's web site and published in the *Pennsylvania Bulletin*.

(4) The temporary regulations are subject to amendment as deemed necessary by the Board.

(5) The Chairperson of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

GREGORY C. FAJT,
Chairperson

Fiscal Note: 125-119. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart K. TABLE GAMES

CHAPTER 535. PAI GOW

§ 535.2. Pai Gow table; Pai Gow shaker; physical characteristics.

(a) Pai Gow shall be played at a table having on one side places for six players and on the opposite side a place for the dealer.

(b) The layout for a Pai Gow table shall be approved by the Bureau of Gaming Operations and contain, at a minimum, the following:

(1) Six separate designated betting areas for the players at the table with each area being numbered one through six.

(2) A separate area, located to the left of the dealer, for the placement of four tiles which shall be referred to as the Dead Hand.

(3) The name or logo of the certificate holder offering the game.

(c) Each Pai Gow table must have a drop box with a tip box attached to it on the same side of the gaming table as, but on opposite sides of, the dealer, in locations approved by the Bureau of Gaming Operations.

(d) Pai Gow shall be played with a Pai Gow shaker, approved by the Bureau of Gaming Operations, used to shake three dice before each hand of Pai Gow is dealt to determine the starting position for the dealing of the Pai Gow tiles. The Pai Gow shaker shall be designed and constructed to maintain the integrity of the game and, at a minimum, adhere to the following specifications:

(1) The Pai Gow shaker must be capable of housing three dice and be designed to prevent the dice from being seen while being shaken by the dealer.

(2) The Pai Gow shaker must have the name or logo of the certificate holder thereon.

CHAPTER 541. MINIBACCARAT

§ 541.4. Opening of a table for gaming.

(a) After receiving the six or more decks of cards at the table, the dealer calling the game shall sort and inspect each deck of cards separately, facedown and the floorperson assigned to the table shall verify the inspection.

(b) Following the inspection of the cards by the dealer and the verification by the floorperson assigned to the table, the cards shall be spread out face up on the table for visual inspection by the first player to arrive at the table. The cards shall be spread out in horizontal rows by deck according to suit and in sequence.

(c) After the first player is afforded an opportunity to visually inspect the cards, the cards shall be turned face down on the table, mixed thoroughly by a washing of the cards and stacked.

(d) If a certificate holder uses an automated card shuffling device to play the game and two batches of six to eight decks of cards are received at the table as permitted under § 541.3(b) (relating to cards; number of decks), each deck of cards in each batch of cards shall be

separately sorted, inspected, verified, laid out, inspected, washed and stacked in accordance with subsections (a), (b) and (c).

(e) If the decks of cards received at the table are preinspected and reshuffled in accordance with § 523.16(u) or (v) (relating to cards; receipt, storage, inspections and removal from use), the requirements in subsections (a)—(d) do not apply.

§ 541.5. Shuffle and cut of the cards.

(a) Immediately prior to commencement of play, unless the cards were reshuffled in accordance with § 523.16(u) or (v) (relating to cards; receipt, storage, inspections and removal from use), and after each dealing shoe of cards is completed, unless an automated shuffling device is used, the dealer shall shuffle the cards so that they are randomly intermixed.

(b) After the cards have been shuffled by a dealer, the dealer shall leave the entire stack of cards intermixed but not entirely squared off (leave them feathered) so that the floorperson can verify that the shuffle did not result in any uneven distribution of cards.

(c) After shuffling the cards and, when applicable, reshuffling them, the dealer shall offer the stack of cards, with backs facing away from the dealer, to the players to be cut. The dealer shall begin with the player seated in the highest number position at the table and, working clockwise around the table, shall offer the stack to each player until a player accepts the cut. If no player accepts the cut, the dealer shall cut the cards.

(d) The cards shall be cut by placing a cover card in the stack at least ten cards in from the top or the bottom of the stack.

(e) Once the cover card has been inserted into the stack, the dealer shall take all cards above the cover card and the cover card and place them on the bottom of the stack. The dealer shall then insert the second cover card in a position at least 14 cards above the bottom of the stack, and the second cover card at the bottom of the stack. The stack of cards shall then be inserted into the dealing shoe for commencement of play.

(f) After the cards have been cut and before the cards have been placed in the dealing shoe, a floorperson or above may require the cards to be recut if the floorperson or above determines that the cut was performed improperly or in any way that might affect the integrity or fairness of the game. If a recut is required, the cards shall be recut by the next person entitled to cut the cards, as determined by subsection (c).

(g) Prior to commencement of play, the dealer shall remove the first card from the dealing shoe and place it, and an additional number of cards equal to the face value of the first card drawn, in the discard rack after all cards have been shown to the players. When determining the face value of the first card removed from the dealing shoe, a 10, jack, queen or king shall count as ten and an ace shall count as one.

(h) If there is no gaming activity at a Minibaccarat table which is open for gaming, the cards shall be removed from the dealing shoe and the discard rack, and spread out on the table either face up or face down. If the cards are spread face down, they shall be turned face up once a player arrives at the table. After the first player is afforded an opportunity to visually inspect the cards, the cards shall be turned face down on the table and:

(1) If there is no automated shuffling device in use, the cards shall be mixed thoroughly by a washing of the cards, stacked, then shuffled and cut in accordance with this section.

(2) If an automated shuffling device is in use, the cards shall be stacked and placed into the automated shuffling device to be shuffled. The batch of cards already in the shuffler shall then be removed. Unless a player so requests, the batch of cards removed from the shuffler need not be spread for inspection and reshuffled prior to being dealt, if:

(i) The automated card shuffling device stores a single batch of shuffled cards inside the shuffler in a secure manner approved by the Bureau of Gaming Operations.

(ii) The shuffled cards have been secured, released and prepared for play in accordance with procedures approved by the Bureau of Gaming Operations.

§ 541.10. Procedure for dealing a third card.

(a) After the dealer positions the cards in accordance with § 541.9(c)(1) or (2) (relating to hands of player and banker; procedure for dealing initial two cards to each hand), the dealer shall announce the point count of the Player's Hand and then the Banker's Hand.

(b) Following the announcement of the Point Counts of each hand, the dealer shall determine whether to deal a third card to each hand in conformity with the requirements of § 541.11 (relating to rules for determining whether a third card shall be dealt).

(c) After the dealer positions the cards in accordance with § 541.9(c)(1) or (2), any third card required to be dealt shall first be dealt face up to the Player's Hand and then to the Banker's Hand by the dealer.

(d) In no event may more than one additional card be dealt to either hand.

(e) Whenever the cover card appears as the first card in the dealing shoe at the beginning of a round of play or appears during play, the cover card shall be removed and placed to the side and the hand will be completed. Upon completion of that hand, the dealer calling the game shall announce "last hand." At the completion of one more hand, the cards shall be reshuffled.

CHAPTER 543. MIDIBACCARAT

§ 543.4. Opening of a table for gaming.

(a) After receiving the six or more decks of cards at the table, the dealer calling the game shall sort and inspect each deck of cards separately, face down and the floorperson assigned to the table shall verify the inspection.

(b) Following the inspection of the cards by the dealer and the verification by the floorperson assigned to the table, the cards shall be spread out face up on the table for visual inspection by the first player to arrive at the table. The cards shall be spread out in horizontal rows by deck according to suit and in sequence.

(c) After the first player is afforded an opportunity to visually inspect the cards, the cards shall be turned face down on the table, mixed thoroughly by a washing of the cards and stacked.

(d) If the decks of cards received at the table are preinspected and reshuffled in accordance with § 523.16(u) or (v) (relating to cards; receipt, storage, inspections and removal from use), the requirements in subsections (a)—(c) do not apply.

§ 543.5. Shuffle and cut of the cards.

(a) Immediately prior to commencement of play, unless the cards were reshuffled in accordance with § 523.16(u) or (v) (relating to cards; receipt, storage, inspections and removal from use), the dealer shall shuffle the cards so that they are randomly intermixed.

(b) After the cards have been shuffled by a dealer, the dealer shall leave the entire stack of cards intermixed but not entirely squared off (leave them feathered) so that the floorperson can verify that the shuffle did not result in any uneven distribution of cards.

(c) After shuffling the cards and, when applicable, reshuffling them, the dealer shall offer the stack of cards, with backs facing away from the dealer, to the players to be cut. The dealer shall begin with the player seated in the highest number position at the table and, working clockwise around the table, shall offer the stack to each player until a player accepts the cut. If no player accepts the cut, the dealer shall cut the cards.

(d) The cards shall be cut by placing a cover card in the stack at least ten cards in from the top or the bottom of the stack.

(e) Once the cover card has been inserted into the stack, the dealer shall take all cards above the cover card and the cover card and place them on the bottom of the stack. The dealer shall then insert the second cover card in a position at least 14 cards above the bottom of the stack, and the second cover card at the bottom of the stack. The stack of cards shall then be inserted into the dealing shoe for commencement of play.

(f) After the cards have been cut and before the cards have been placed in the dealing shoe, a floorperson or above may require the cards to be recut if the floorperson or above determines that the cut was performed improperly or in any way that might affect the integrity or fairness of the game. If a recut is required, the cards shall be recut by the next person entitled to cut the cards, as determined by subsection (c).

(g) Prior to commencement of play, the dealer shall remove the first card from the dealing shoe and place it, and an additional number of cards equal to the face value of the first card drawn, in the discard bucket after all cards have been shown to the players. When determining the face value of the first card removed from the dealing shoe, a 10, jack, queen or king shall count as ten and an ace shall count as one.

§ 543.9. Hands of player and banker; procedure for dealing initial two cards to each hand.

(a) There shall be two hands dealt in the game of Midibaccarat, one of which shall be designated the Player's Hand and the other designated the Banker's Hand.

(b) Prior to dealing any cards, the dealer calling the game shall announce "no more bets."

(c) The dealer shall then deal an initial four cards from the dealing shoe. The first and third cards dealt shall constitute the first and second cards of the Player's Hand. The second and fourth cards dealt shall constitute the first and second cards of the Banker's Hand. The dealer shall deal the initial four cards in accordance with one of the following options selected in the certificate holder's Rules Submission under § 521.2 (relating to table games Rules Submissions):

(1) The dealer shall remove cards from the dealing shoe with his left hand, turn them face up and then place them on the appropriate area of the layout with his right

hand. The first and third cards dealt shall be placed on the area designated for the Player's Hand and the second and fourth cards dealt shall be placed on the area designated for the Banker's Hand.

(2) The first and third cards dealt shall be placed face down on the area designated for the Player's Hand and the second and fourth cards dealt shall be placed face down underneath the right corner of the dealing shoe until the Player's Hand is called as provided for in § 543.10 (relating to procedure for dealing a third card), at which time the second and fourth cards shall be turned face up and placed on the area designated for the Banker's Hand.

(3) The first and third cards dealt shall be placed face down on the area designated for the Player's Hand and the second and fourth cards dealt shall be placed face down on the area designated for the Banker's Hand. After all four cards have been dealt, the dealer shall place the Banker's Hand underneath the right corner of the dealing shoe until the procedure in subparagraph (i) is completed.

(i) The dealer shall then hand the two cards of the Player's Hand, face down, to the player with the highest wager on the Player's Hand. After viewing the Player's Hand, the player shall return the two cards, face up, to the dealer, who shall place the cards face up on the area designated for the Player's Hand and announce the point count of the Player's Hand.

(ii) The dealer shall then hand the two cards of the Banker's Hand, face down, to the player with the highest wager on the Banker's Hand. After viewing the Banker's Hand, the player shall return the two cards, face up, to the dealer, who shall place the cards face up on the area designated for the Banker's Hand and announce the point count of the Banker's Hand.

(iii) Any third card required to be dealt to the Player's Hand shall be placed face down on the area designated for the Player's Hand. The dealer shall then hand the card, face down, to the player who was handed and returned the Player's Hand. After viewing the card, the player shall return the card, face up, to the dealer, who shall place the card face up on the area designated for the Player's Hand.

(iv) Any third card required to be dealt to the Banker's Hand shall be placed face down on the area designated for the Banker's Hand. The dealer shall then hand the card, face down, to the player who was handed and returned the Banker's Hand. After viewing the card, the player shall return the card, face up, to the dealer, who shall place the card face up on the area designated for the Banker's Hand.

(v) If two or more players wager an equally high amount on the Player's Hand, the player making the wager who is closest to the dealer moving counterclockwise around the table shall be handed the Player's Hand and any third card required to be dealt. If two or more players wager an equally high amount on the Banker's Hand, the player making the wager who is closest to the dealer moving counterclockwise around the table shall be handed the Banker's Hand and any third card required to be dealt.

§ 543.10. Procedure for dealing a third card.

(a) After the dealer positions the cards in accordance with § 543.9(c)(1) or (2) (relating to hands of player and banker; procedure for dealing initial two cards to each hand), the dealer shall announce the point count of the Player's Hand and then the Banker's Hand. If the dealer

positions the cards in accordance with § 541.9(c)(3), the point counts of the Player's Hand and Banker's Hand shall be announced as provided therein.

(b) Following the announcement of the Point Counts of each hand, the dealer shall determine whether to deal a third card to each hand in conformity with the requirements of § 543.11 (relating to rules for determining whether a third card shall be dealt).

(c) If the dealer positions the cards in accordance with § 543.9(c)(1) or (2), any third card required to be dealt shall first be dealt face up to the Player's Hand and then to the Banker's Hand by the dealer. If the dealer positions the cards in accordance with § 541.9(c)(3), any third cards required to be dealt shall be dealt as provided therein.

(d) In no event may more than one additional card be dealt to either hand.

(e) Whenever the cover card appears as the first card in the dealing shoe at the beginning of a round of play or appears during play, the cover card shall be removed and placed to the side and the hand will be completed. Upon completion of that hand, the dealer calling the game shall announce "last hand." At the completion of one more hand, the cards shall be replaced with new decks of cards.

CHAPTER 545. BACCARAT

§ 545.4. Opening of a table for gaming.

(a) After receiving the six or more decks of cards at the table, the dealer calling the game shall sort and inspect each deck of cards separately, face down and the floorperson assigned to the table shall verify the inspection.

(b) Following the inspection of the cards by the dealer and the verification by the floorperson assigned to the table, the cards shall be spread out face up on the table for visual inspection by the first player to arrive at the table. The cards shall be spread out in columns by deck according to suit and in sequence.

(c) After the first player is afforded an opportunity to visually inspect the cards, the cards shall be turned face down on the table, mixed thoroughly by a washing of the cards and stacked.

(d) If the decks of cards received at the table are preinspected and reshuffled in accordance with § 523.16(u) or (v) (relating to cards; receipt, storage, inspections and removal from use), the requirements in subsections (a)—(c) do not apply.

§ 545.5. Shuffle and cut of the cards.

(a) Immediately prior to commencement of play, unless the cards were reshuffled in accordance with § 523.16(u) or (v) (relating to cards; receipt, storage, inspections and removal from use), one or more of the dealers shall wash and stack the cards, after which each of the dealers shall shuffle the stack of cards independently.

(b) After shuffling the cards and, when applicable, reshuffling them, the dealer calling the game shall offer the stack of cards, with backs facing away from the dealer, to the players to be cut. The dealer shall begin with the player seated in the highest number position at the table or, in the case of a reshuffle, the last curator and working clockwise around the table, shall offer the stack to each player until a player accepts the cut. If no player accepts the cut, the dealer shall cut the cards.

(c) The cards shall be cut by placing a cover card in the stack at least ten cards in from the top or the bottom of the stack.

(d) Once the cover card has been inserted into the stack, the dealer shall take all cards above the cover card and the cover card and place them on the bottom of the stack. The dealer shall then insert the second cover card in a position at least 14 cards above the bottom of the stack. The stack of cards shall then be inserted into the dealing shoe for commencement of play.

(e) After the cards have been cut and before the cards have been placed in the dealing shoe, a floorperson or above may require the cards to be recut if the floorperson or above determines that the cut was performed improperly or in any way that might affect the integrity or fairness of the game. If a recut is required, the cards shall be recut by the next person entitled to cut the cards, as determined under subsection (b).

(f) Prior to commencement of play, the dealer shall remove the first card from the dealing shoe and place it, and an additional number of cards equal to the face value of the first card drawn, in the discard bucket after all cards have been shown to the players. When determining the face value of the first card removed from the dealing shoe, a 10, jack, queen or king shall count as ten and an ace shall count as one.

§ 545.10. Procedure for dealing a third card.

(a) Except as provided in § 545.9(d) (relating to hands of player and banker; procedure for dealing initial two cards to each hand), after the initial four cards have been dealt and the dealer calling the game places the cards face up in front of himself, the dealer calling the game shall announce the Point Count of the Player's Hand and the Banker's Hand.

(b) Following the announcement of the Point Counts of each hand, the dealer calling the game shall instruct the curator whether to deal a third card to either or both hands in conformity with § 545.11 (relating to rules for determining whether a third card shall be dealt).

(c) Any third card required to be dealt by § 545.11 shall first be dealt face up to the Player's Hand and then to the Banker's Hand by the curator.

(d) In no event may more than one additional card be dealt to either hand.

(e) Whenever the cover card appears as the first card in the dealing shoe at the beginning of a round of play or appears during play, the cover card shall be removed and placed to the side and the hand will be completed. Upon completion of that hand, the dealer calling the game shall announce "last hand." At the completion of one more hand, the cards shall be replaced with new decks of cards.

CHAPTER 549. BLACKJACK

§ 549.2. Blackjack table; card reader device; physical characteristics; inspections.

(a) Blackjack shall be played at a table having on one side places for the players and on the opposite side a place for the dealer.

(b) The layout for a Blackjack table shall be approved by the Bureau of Gaming Operations and shall contain, at a minimum:

(1) The name or logo of the certificate holder offering the game.

(2) No more than seven specific areas designated for the placement of wagers.

(c) The following must be inscribed on the Blackjack layout:

(1) Blackjack pays 3 to 2.

(2) Dealer shall draw to 16 and stand on all 17's or similar language approved by the Bureau of Gaming Operations.

(3) Insurance pays 2 to 1.

(d) Each Blackjack table shall have a drop box and a tip box attached to it with the location of the boxes on the same side of the gaming table, but on opposite sides of the dealer, as approved by the Bureau of Gaming Operations.

(e) A Blackjack table shall have attached to it a card reader device, approved by the Bureau of Gaming Operations, which permits the dealer to determine if the dealer has a Blackjack in accordance with § 549.7 (relating to procedure for dealing cards). The floorperson assigned to the Blackjack table shall inspect the card reader device at the beginning of each gaming day to insure that there has been no tampering with the device and that it is in proper working order.

(f) To collect the cards at the conclusion of a round of play as required under § 549.7(i), each Blackjack table shall have a discard rack securely attached to the top of the dealer's side of the table or in another location approved by the Bureau of Gaming Operations. The height of each discard rack must either:

(1) Equal the height of the cards, stacked one on top of the other, contained in the total number of decks that are to be used in the dealing shoe at that table.

(2) Be taller than the height of the total number of decks being used if the discard rack has a distinct and clearly visible mark on its side to show the exact height for a stack of cards equal to the total number of cards contained in the number of decks to be used in the dealing shoe at that table.

(g) Whenever a double shoe is used at a Blackjack table, the height and marking requirements as in subsection (f) for that table's discard rack shall be determined by the number of decks used in one side of the shoe.

§ 549.3. Cards; number of decks; value of cards.

(a) Blackjack shall be played with at least one deck of cards. Except as otherwise provided in subsections (c) and (d), all decks of cards used for the play of Blackjack shall be identical in appearance. Blackjack shall also be played with at least one cutting card, approved by the Bureau of Gaming Operations.

(b) The value of the cards contained in each deck shall be as follows:

(1) Any card from 2 to 10 shall have its face value.

(2) Any jack, queen or king shall have a value of ten.

(3) An ace shall have a value of 11, unless that value would give a player or the dealer a score in excess of 21, in which case, the ace shall have a value of 1.

(c) If a double shoe is utilized, Blackjack shall be played with at least two decks of cards that shall be dealt from separate sides of the dealing shoe with the same number of decks used in each side of the double shoe. The cards dealt from both sides of the shoe shall be identical in appearance; however, the backs of the cards being dealt from one side of the shoe, shall be of a different color than the backs of the cards being dealt from the other side of the shoe. In addition, a separate cutting card shall be used in each side of the shoe.

(d) If an automated card shuffling device is utilized, Blackjack shall be played with at least two decks of cards in accordance with the following requirements:

(1) The cards shall be separated into two batches, with an equal number of decks included in each batch.

(2) The cards in each batch must be of the same design, but the backs of the cards in one batch must be of a different color than the cards included in the other batch.

(3) One batch of cards shall be shuffled and stored in the automated card shuffling device while the other batch is being dealt or used to play the game.

(4) Both batches of cards shall be continuously alternated in and out of play, with each batch being used for every other dealing shoe.

(5) The cards from only one batch shall be placed in the discard rack at any given time.

(e) The decks of cards opened for use at a Blackjack table shall be changed at least once every 24 hours.

§ 549.5. Opening of table for gaming.

(a) After receiving one or more decks of cards at the table, the dealer shall inspect the cards for any defects.

(b) After the cards are inspected, the cards shall be spread out face upwards on the table for visual inspection by the first player or players to arrive at the table. The cards shall be spread out in horizontal fan shaped columns by deck according to suit and in sequence. The cards shall be laid out according to suit and in sequence.

(c) After the first player or players are afforded an opportunity to visually inspect the cards, the cards shall be turned face downward on the table, mixed thoroughly by a washing of the cards and stacked.

(d) If a double shoe is utilized, all the decks that comprise one side of the dealing shoe shall be spread for inspection on the table separate from the decks that comprise the other side of the dealing shoe. After the player or players are afforded an opportunity to visually inspect the cards, the cards that comprise one side of the dealing shoe and the cards that comprise the other side of the dealing shoe shall separately be turned face downward on the table, mixed thoroughly by a washing of the cards and stacked.

(e) If an automated shuffling device is utilized, all the decks in one batch of cards shall be spread for inspection on the table separate from the decks in the other batch of cards. After the player or players is afforded an opportunity to visually inspect the cards, each batch of cards shall separately be turned face downward on the table and stacked.

(f) If the decks of cards received at the table are preinspected and reshuffled in accordance with § 523.16(u) or (v) (relating to cards; receipt, storage, inspections and removal from use), the requirements in subsections (a)–(e) do not apply.

§ 549.6. Shuffle and cut of the cards.

(a) Immediately prior to commencement of play, unless the cards were reshuffled in accordance with § 523.16(u) or (v) (relating to cards; receipt, storage, inspections and removal from use), after any round of play as may be determined by a floorperson and after each shoe of cards is dealt, the dealer shall shuffle the cards so that they are randomly intermixed.

(b) After the cards have been shuffled, the dealer shall offer the stack of cards, with backs facing upward to the players to be cut. The player to cut the cards shall be:

(1) The first player to the table if the game is just beginning.

(2) The player on whose box the cutting card appeared during the last round of play.

(3) The player at the farthest point to the right of the dealer if the cutting card appeared on the dealer's hand during the last round of play.

(4) The player at the farthest point to the right of the dealer if the reshuffle was initiated at the discretion of a floorperson or above.

(c) If the player designated in subsection (b) refuses the cut, the cards shall be offered to each other player moving clockwise around the table until a player accepts the cut. If no player accepts the cut, the dealer shall cut the cards.

(d) The player shall cut the cards by placing the cutting card in the stack at least 10 cards in from the top or bottom of the stack.

(e) Once the cutting card has been inserted by the player, the dealer shall take all cards above the cutting card and place them on the bottom of the stack. The dealer shall then take the entire stack of cards that was just cut and align them along the side of the dealing shoe which has a mark that will allow the dealer to insert the cutting card in the stack at a position at least approximately one-quarter of the way in from the bottom of the stack. The stack of cards shall then be inserted into the dealing shoe for commencement of play.

(f) After the cards have been cut and before any cards have been dealt, a floorperson or above may require the cards to be recut if he determines that the cut was performed improperly or in any way that might affect the integrity or fairness of the game. If a recut is required, the cards shall be recut, at the certificate holder's option, by the player who last cut the cards, or by the next person entitled to cut the cards, as determined by subsection (b)(4).

(g) A reshuffle of the cards in the shoe shall take place after the cutting card is reached in the shoe as provided for in § 549.7(k) (relating to procedure for dealing cards) except that a floorperson may determine after each round of play that the cards should be reshuffled.

(h) If there is no gaming activity at a Blackjack table which is open for gaming, the cards shall be removed from the dealing shoe and the discard rack, and spread out on the table for inspection, either face up or face down. If the cards are spread face down, they shall be turned face up once a player arrives at the table. After the first player is afforded an opportunity to visually inspect the cards the cards shall be turned face downward on the table.

(1) If there is no automated shuffling device in use, the cards shall be mixed thoroughly by a washing shuffle of the cards, stacked, then shuffled and cut in accordance with this section.

(2) If an automated shuffling device is in use, the cards shall be stacked and placed into the automated shuffling device to be shuffled. The batch of cards already in the shuffler shall then be removed. Unless a player so requests, the batch of cards removed from the shuffler need not be spread for inspection and reshuffled prior to being dealt, if:

(i) The automated card shuffling device stores a single batch of shuffled cards inside the shuffler in a secure manner approved by the Bureau of Gaming Operations.

(ii) The shuffled cards have been secured, released and prepared for play in accordance with procedures approved by the Bureau of Gaming Operations.

§ 549.7. Procedure for dealing cards.

(a) All cards used to play Blackjack shall be dealt from a dealing shoe specifically designed for that purpose.

(b) The dealer shall remove cards from the shoe with his left hand, and then place the cards on the appropriate area of the layout with his right hand, except that the dealer shall have the option to deal cards to the first two positions with his left hand.

(c) After each full batch of cards is placed in the shoe, the dealer shall remove the first card and place it in the discard rack. Each new dealer who comes to the table shall also remove one card and place it in the discard rack before dealing any cards to the players.

(d) If a double shoe is utilized, the following procedures shall be used in lieu of the procedures in subsection (c).

(1) Prior to commencement of each round of play, the dealer shall draw a determinate card from either side of the double shoe. The suit of that card shall determine from which side of the shoe that round of play will be dealt. The certificate holder shall designate that the suits of hearts and diamonds shall correspond to the color of the backs of the cards being dealt from one side of the shoe, and that the suits of spades and clubs shall correspond to the color of the backs of the cards being dealt from the other side of the shoe.

(2) A determinant card corresponding to the side of the shoe from which it was drawn shall become the player's first card. A determinant card that does not correspond to the side of the shoe from which it was dealt shall be placed in a segregated area of the dealing shoe.

(e) At the commencement of each round of play, or immediately after the determinant card has been drawn and either removed or used as the player's first card, the dealer shall, starting on his left and continuing around the table, deal the cards in the following order:

(1) One card face upwards to each box on the layout in which a wager is contained.

(2) One card face upwards to the dealer.

(3) A second card face upwards to each box in which a wager is contained.

(4) A second card face downwards to himself.

(f) If the dealer's first card is an ace, king, queen, jack or 10 of any suit, the dealer shall determine whether the hole card will give the dealer a Blackjack prior to dealing any additional cards to the players at the table. The dealer shall insert the hole card into the card reader device by moving the card face down on the layout without exposing it to anyone, including the dealer, at the table.

(g) After the cards have been dealt, and if necessary, the procedure in subsection (f) has been executed, the dealer shall, beginning from his left, announce the point total of each player. As each player's point total is announced, the player shall indicate whether he wishes to surrender as permitted under § 549.9 (relating to surrender), double down as permitted under § 549.11 (relating to Double Down Wager), split pairs as permitted under § 549.12 (relating to splitting pairs), stand or draw as

permitted under § 549.13 (relating to drawing of additional cards by players and the dealer).

(h) As each player indicates his decision, the dealer shall deal face upwards whatever additional cards are necessary to effectuate the player's decision consistent with this chapter and shall announce the new point total of the player after each additional card is dealt.

(i) After the decisions of each player have been implemented and all additional cards have been dealt, the dealer shall turn the second card that was dealt to the dealer face upwards. Any additional cards required to be dealt to the hand of the dealer by § 549.13(b) shall be dealt face upwards at this time. The dealer shall announce the dealer's total point count after each additional card is dealt.

(j) At the conclusion of a round of play, all cards still remaining on the layout shall be picked up by the dealer in order and in a way that the cards can be readily arranged to indicate each player's hand in case of question or dispute. The dealer shall pick up the cards beginning with those of the player to his far right and moving counterclockwise around the table. After all the players' cards have been collected the dealer shall pick up his cards against the bottom of the players' cards and place them in the discard rack or in a segregated area of the double shoe.

(k) Whenever the cutting card is the first card in the dealing shoe at the beginning of a round of play or is reached in the deal of the cards, the dealer shall continue dealing the cards until that round of play is completed after which the dealer shall:

- (1) Collect the cards as provided in subsection (j).
- (2) Prepare to shuffle the cards, as follows:

(i) Whenever a single dealing shoe is used, the dealer shall remove the cards remaining in the shoe and place them in the discard rack to ensure that no cards are missing.

(ii) Whenever a double shoe is used, the dealer shall remove the cards remaining in the side of the shoe from which the cutting card was drawn and the cards, if any, that were put in a separate segregated area for the discards from that side of the double shoe, after which the dealer shall place those cards face down in the discard rack in order to ensure that no cards are missing.

(3) Shuffle the cards so that they are randomly intermixed. If a double shoe is utilized, the shuffle of the cards shall be limited to the side of the shoe from which the cutting card was drawn.

(l) Players and spectators may not handle, remove or alter any cards used to play Blackjack.

(m) Each player at the table shall be responsible for correctly computing the point count of his hand and no player shall rely on the point counts announced by the dealer.

§ 549.12. Splitting pairs.

(a) Whenever the initial two cards dealt to a player are identical in value, the player may elect to split the hand into two separate hands provided that he makes a wager on the second hand so formed in an amount equal to his original wager. For example, if a player has two 7's or a king and a 10, the player may elect to split the hand.

(b) When a player splits pairs, the dealer shall deal a card to and complete the player's decisions with respect to

the first incomplete hand on the dealer's left before proceeding to deal any cards to the second hand.

(c) After a second card is dealt to each split pair hand, the dealer shall announce the point total of the hand and the player shall indicate his decision to stand, draw or double down with respect to that hand except that:

(1) A player may split one more pair if the second card dealt is identical in value to a card of the split pair, for a total of three hands. A player may not split another identical value pair.

(2) A player splitting aces may only have one card dealt to each ace.

(d) If the dealer obtains Blackjack after a player splits pairs, the dealer shall only collect the amount of the original wager of the player and may not collect the additional amount wagered in splitting pairs.

§ 549.15. Continuous shuffling shoe or device.

In lieu of the dealing and shuffling requirements set forth in §§ 549.6 and 549.7 (relating to shuffle and cut of the cards; and procedure for dealing cards), a certificate holder may utilize a dealing shoe or other device designed to automatically reshuffle the cards provided that the shoe or device is approved by the Bureau of Gaming Laboratory Operations and the procedures for dealing and shuffling the cards through use of this device are approved by the Bureau of Gaming Operations.

CHAPTER 551. SPANISH 21

§ 551.2. Spanish 21 table; card reader device; physical characteristics; inspections.

(a) Spanish 21 shall be played at a table having on one side places for the players and on the opposite side a place for the dealer.

(b) The layout for a Spanish 21 table shall be approved by the Bureau of Gaming Operations and contain, at a minimum:

(1) The name or logo of the certificate holder offering the game.

(2) No more than seven player positions containing a separate designated betting area for the placement of the following wagers:

- (i) The required Spanish 21 wager.
- (ii) An optional Match-The-Dealer Wager.

(c) The following must be inscribed on the Spanish 21 layout:

(1) Blackjack pays 3 to 2.

(2) Dealer shall draw to 16 and stand on all 17's or similar language approved by the Bureau of Gaming Operations.

(3) Insurance pays 2 to 1.

(4) The payout odds for each of the wagers listed in § 551.6(f) and (g) (relating to wagers; payout odds).

(5) The payout odds for the Match-The-Dealer Wager, if offered, unless these odds are included in the sign required by subsection (g).

(d) Each Spanish 21 table must have a drop box and a tip box attached to it with the location of the boxes on the same side of the gaming table, but on opposite sides of the dealer, as approved by the Bureau of Gaming Operations.

(e) A Spanish 21 table must have attached to it a card reader device, approved by the Bureau of Gaming Operations.

tions, which permits the dealer to determine if the dealer has a Blackjack in accordance with § 551.8 (relating to procedure for dealing the cards). The floorperson assigned to the Spanish 21 table shall inspect the card reader device at the beginning of each gaming day to insure that there has been no tampering with the device and that it is in proper working order.

(f) To collect the cards at the conclusion of a round of play as required under § 551.8(i), each Spanish 21 table must have a discard rack securely attached to the top of the dealer's side of the table or in another location approved by the Bureau of Gaming Operations. The height of the discard rack must either:

(1) Equal the height of the cards, stacked one on top of the other, contained in the total number of decks that are to be used in the dealing shoe at that table.

(2) Be taller than the height of the total number of decks being used if the discard rack has a distinct and clearly visible mark on its side to show the exact height for a stack of cards equal to the total number of cards contained in the number of decks to be used in the dealing shoe at that table.

(g) A certificate holder shall post a sign approved by the Bureau of Gaming Operations at each Spanish 21 table, which explains:

(1) That doubled down hands are not eligible for the additional payouts in § 551.6(g) and (h).

(2) The payout odds for the Match-The-Dealer Wager, if those payout odds are not imprinted on the layout.

§ 551.3. Cards; number of decks; value of cards.

(a) Spanish 21 shall be played with six or eight decks of cards identical in appearance. The decks must consist of 48 cards, with the 10 of each suit removed from each deck during the inspection required under § 551.4 (relating to opening of the table for gaming). Spanish 21 shall also be played with at least one cutting card.

(b) The value of the cards contained in each deck shall be as follows:

(1) Any card from 2 to 9 shall have its face value.

(2) Any jack, queen or king shall have a value of 10.

(3) An ace shall have a value of 11, unless that value would give a player or the dealer a score in excess of 21, in which case the ace shall have a value of one.

(c) The decks of cards opened for use at a Spanish 21 table shall be changed at least once every 24 hours.

§ 551.4. Opening of the table for gaming.

(a) After receiving the decks of cards at the table, the dealer shall inspect the cards for any defects.

(b) If the decks contain the 10 of any suit, the dealer and a floorperson shall ensure that these cards are removed from the decks, torn in half and placed in the box, envelope or container that the decks came from. Following the inspection of the cards by the dealer and the verification by the floorperson assigned to the table, the cards shall be spread out face up on the table for visual inspection by the first player to arrive at the table. The cards shall be spread out in horizontal fan shaped columns by deck according to suit and in sequence.

(c) After the first player has been afforded an opportunity to visually inspect the cards, the cards shall be turned face down on the table, mixed thoroughly by a washing of the cards, and stacked.

(d) If the decks of cards received at the table are preinspected and reshuffled in accordance with § 523.16(u) or (v) (relating to cards; receipt, storage, inspections and removal from use), the requirements in subsections (a)—(c) do not apply.

§ 551.5. Shuffle and cut of the cards.

(a) Immediately prior to commencement of play, unless the cards were reshuffled in accordance with § 523.16(u) or (v) (relating to cards; receipt, storage, inspections and removal from use), after any round of play as may be determined by a floorperson and after each shoe of cards is dealt, the dealer shall shuffle the cards so that they are randomly intermixed.

(b) After the cards have been shuffled, the dealer shall offer the stack of cards, with backs facing up to the players to be cut. The player to cut the cards shall be:

(1) The first player to the table if the game is just beginning.

(2) The player on whose box the cutting card appeared during the last round of play.

(3) The player at the farthest point to the right of the dealer if the cutting card appeared on the dealer's hand during the last round of play.

(4) The player at the farthest point to the right of the dealer if the reshuffle was initiated at the discretion of a floorperson.

(c) If the player designated in subsection (b) refuses the cut, the cards shall be offered to each other player moving clockwise around the table until a player accepts the cut. If no player accepts the cut, the dealer shall cut the cards.

(d) The player shall cut the cards by placing the cutting card in the stack at least ten cards in from the top or bottom of the stack.

(e) Once the cutting card has been inserted by the player, the dealer shall take all cards above the cutting card and place them on the bottom of the stack. The dealer shall then take the entire stack of cards and align them along the side of the dealing shoe which has a mark that will allow the dealer to insert the cutting card in the stack at a position at least approximately one-quarter of the way in from the bottom of the stack. The stack of cards shall then be inserted into the dealing shoe for commencement of play.

(f) After the cards have been cut and before any cards have been dealt, a floorperson or above may require the cards to be recut if he determines that the cut was performed improperly or in any way that might affect the integrity or fairness of the game. If a recut is required, the cards shall be cut by the next player entitled to cut the cards, as determined by subsection (c).

(g) A reshuffle of the cards in the shoe shall take place after the cutting card is reached in the shoe as provided for in § 551.8(j) (relating to procedure for dealing the cards) except that the floorperson may determine after each round of play that the cards should be reshuffled.

(h) If there is no gaming activity at a Spanish 21 table which is open for gaming, the cards shall be removed from the dealing shoe and the discard rack, and spread out on the table for inspection, either face up or face down. If the cards are spread face down, they shall be turned face up once a player arrives at the table. After the first player is afforded an opportunity to visually inspect the cards, the cards shall be turned face down on the table.

(1) If there is no automated shuffling device in use, the cards shall be mixed thoroughly by a washing of the cards, stacked, then shuffled and cut in accordance with this section.

(2) If an automated shuffling device is in use, the cards shall be stacked and placed into the automated shuffling device to be shuffled. The batch of cards already in the shuffler shall then be removed. Unless a player so requests, the batch of cards removed from the shuffler need not be spread for inspection and reshuffled prior to being dealt, if:

(i) The automated card shuffling device stores a single batch of shuffled cards inside the shuffler in a secure manner approved by the Bureau of Gaming Operations.

(ii) The shuffled cards have been secured, released and prepared for play in accordance with procedures approved by the Bureau of Gaming Operations.

§ 551.8. Procedure for dealing the cards.

(a) Cards used to play Spanish 21 shall be dealt from a dealing shoe specifically designed for that purpose.

(b) The dealer shall remove cards from the shoe with his left hand, and then place the cards on the appropriate area of the layout with his right hand, except that the dealer shall have the option to deal cards to the first two positions with his left hand.

(c) After each full batch of cards is placed in the shoe, the dealer shall remove the first card and place it in the discard rack. Each new dealer who comes to the table shall also remove one card and place it in the discard rack before dealing any cards to the players.

(d) At the commencement of each round of play, the dealer shall, starting on his left and continuing around the table, deal the cards in the following order:

(1) One card face up to each box on the layout in which a wager is contained.

(2) One card face up to the dealer.

(3) A second card face up to each box in which a wager is contained.

(4) A second card face down to himself.

(e) If the dealer's first card is an ace, king, queen or jack of any suit, the dealer shall determine whether the hole card will give the dealer a Blackjack prior to dealing any additional cards to the players at the table. The dealer shall insert the hole card into the card reader device by moving the card face down on the layout without exposing it to anyone, including the dealer, at the table.

(f) After the cards have been dealt, and if necessary, the procedure in subsection (e) has been executed, the dealer shall, beginning from his left, announce the point total of each player. As each player's point total is announced, the player shall indicate whether he wishes to surrender as permitted under § 551.9 (relating to surrender), double down as permitted under § 551.11 (relating to Double Down Wager; rescue), split pairs as permitted under § 551.12 (relating to splitting pairs), stand or draw as permitted by § 551.13 (relating to drawing of additional cards by players and the dealer).

(g) As each player indicates his decision, the dealer shall deal face up whatever additional cards are necessary to effectuate the player's decision consistent with this chapter and shall announce the new point total of the player after each additional card is dealt.

(h) After the decisions of each player have been implemented and all additional cards have been dealt, the dealer shall turn the second card that was dealt to the dealer face up. Additional cards required to be dealt to the hand of the dealer by § 551.13(b) shall be dealt face up at this time. The dealer shall announce the dealer's total point count after each additional card is dealt.

(i) At the conclusion of a round of play, all cards still remaining on the layout shall be picked up by the dealer in order and in such a way that they can be readily arranged to indicate each player's hand in case of question or dispute. The dealer shall pick up the cards beginning with those of the player to his far right and moving counterclockwise around the table. After all the players' cards have been collected the dealer shall pick up his cards against the bottom of the players' cards and place them in the discard rack.

(j) Whenever the cutting card is the first card in the dealing shoe at the beginning of a round of play or is reached in the deal of the cards, the dealer shall continue dealing the cards until that round of play is completed, after which the dealer shall:

(1) Collect the cards as provided in subsection (i).

(2) Remove the cards remaining in the shoe and place them in the discard rack to ensure that no cards are missing.

(3) Shuffle the cards so that they are randomly intermixed.

(k) Players may not handle, remove or alter any cards used to play at Spanish 21.

(l) Each player at the table shall be responsible for correctly computing the point count of his hand, and no player shall rely on the point counts announced by the dealer.

§ 551.12. Splitting pairs.

(a) Whenever the initial two cards dealt to a player are identical in value, the player may elect to split the hand into two separate hands, provided that he makes a wager on the second hand so formed in an amount equal to his original wager. For example, if a player has two 7's or a king and a jack, he may elect to split the hand.

(b) When a player splits pairs, the dealer shall deal a card to and complete the player's decisions with respect to the first incomplete hand on the dealer's left before proceeding to deal any cards to the second hand.

(c) After a second card is dealt to a split pair hand, the dealer shall announce the point total of the hand and the player shall indicate his decision to stand, draw or double down with respect to that hand. A player may split one more pair if the second card dealt is identical in value to a card of the split pair, for a total of three hands. A player may not split another identical value pair.

(d) If the dealer obtains Blackjack after a player splits pairs, the dealer shall only collect the amount of the original wager of the player, and may not collect the additional amount wagered in splitting pairs.

(e) The additional payouts provided in § 551.6(h) (relating to wagers; payout odds) are not applicable to a winning wager on a split hand.

§ 551.15. Continuous shuffling shoe or device.

In lieu of the dealing and shuffling requirements in §§ 551.5 and 551.8 (relating to shuffle and cut of the cards; and procedure for dealing cards), a certificate holder may utilize a dealing shoe or other device designed

to automatically reshuffle the cards, provided that the shoe or device is approved by the Bureau of Gaming Laboratory Operations and the procedures for dealing and shuffling the cards through use of this device are approved by the Bureau of Gaming Operations.

CHAPTER 553. POKER

§ 553.5. Opening of the table for gaming.

(a) After receiving two decks of cards at the table, the dealer shall inspect the cards for any defects.

(b) Following the inspection of the cards by the dealer and the verification by a floorperson or higher, the cards shall be spread out face up on the table for visual inspection by the first two players to be seated at the table. The cards shall be spread out according to suit and in sequence.

(c) Immediately prior to the commencement of play and after a minimum of two players are afforded an opportunity to visually inspect the cards from each deck at the table, each deck shall be separately turned face down on the table, mixed thoroughly by a washing of the cards and stacked. Each deck of cards shall then be shuffled in accordance with § 553.6 (relating to shuffle and cut of the cards).

(d) If an automated card shuffling device is not being used, one of the decks shall be cut in accordance with § 553.6 and the other deck shall be placed in the area designated under § 553.2(c) (relating to poker table physical characteristics). In the alternative, a certificate holder may wash, shuffle and cut only the deck intended for immediate use and place the other deck in the area designated under § 553.2(c). Upon rotation of the decks of cards as required under § 553.3 (relating to cards; number of decks), the other deck shall be washed, shuffled and cut in accordance with the requirements in this section.

(e) If an automated card shuffling device is being used, one of the decks shall be cut in accordance with § 553.6 and the other deck shall be placed or left in the automated shuffler for the next round of play.

(f) If the decks of cards received at the table are preinspected and preshuffled in accordance with § 523.16(u) or (v) (relating to cards; receipt, storage, inspections and removal from use), the requirements in subsections (a)—(c) do not apply.

§ 553.6. Shuffle and cut of the cards.

(a) Immediately prior to commencement of play, unless the cards were preshuffled in accordance with § 523.16(u) or (v) (relating to cards; receipt, storage, inspections and removal from use), and after the completion of each round of play, the dealer shall shuffle the entire deck of cards, either manually or by use of an automated card shuffling device, so that they are randomly intermixed. Upon completion of the shuffle, the dealer or device shall place the deck of cards in a single stack.

(b) After the cards have been shuffled, stacked, and placed on the table in front of the dealer, the dealer shall, using one hand, cut the deck by:

(1) Placing the cover card on the table in front of the deck of cards.

(2) Taking a stack of at least 10 cards from the top of the deck and placing them on top of the cover card.

(3) Placing the cards remaining in the deck on top of the stack of cards that were cut and placed on the cover card.

(c) After the cards have been cut and before any cards have been dealt, a floorperson or above may require the cards to be recut if he determines that the cut was performed improperly or in any way that might affect the integrity or fairness of the game.

(d) If there is no gaming activity at the Poker table, each deck of cards at the table shall be spread out on the table face up. After the first two players who arrive at the table are afforded an opportunity to visually inspect both of the decks, the procedures required under § 553.5(c) (relating to opening the table for gaming) shall be completed.

CHAPTER 555. CARIBBEAN STUD POKER

§ 555.4. Opening of the table for gaming.

(a) After receiving one or more decks of cards at the table, the dealer shall inspect the cards for any defects.

(b) Following the inspection of the cards by the dealer and the verification by the floorperson assigned to the table, the cards shall be spread out face up on the table for visual inspection by the first player to arrive at the table. The cards shall be laid out according to suit and in sequence.

(c) After the first player arriving at the table is afforded an opportunity to visually inspect the cards, the cards shall be turned face down on the table, mixed thoroughly by a washing of the cards and stacked. Once the cards have been stacked, they shall be shuffled in accordance with § 555.5 (relating to shuffle and cut of the cards).

(d) If a certificate holder uses an automated card shuffling device to play the game and two decks of cards are received at the table as permitted under § 555.3(b) (relating to cards; number of decks), each deck of cards shall be separately spread, inspected, verified, laid out, inspected, mixed, stacked and washed in accordance with subsections (a), (b) and (c).

(e) If the decks of cards received at the table are preinspected and preshuffled in accordance with § 523.16(u) or (v) (relating to cards; receipt, storage, inspections and removal from use), the requirements in subsections (a)—(d) do not apply.

§ 555.5. Shuffle and cut of the cards.

(a) Immediately prior to commencement of play, unless the cards were preshuffled in accordance with § 523.16(u) or (v) (relating to cards; receipt, storage, inspections and removal from use), and after each round of play has been completed, the dealer shall shuffle the cards, either manually or by use of an automated card shuffling device, so that the cards are randomly intermixed. Upon completion of the shuffle, the dealer or device shall place the deck of cards in a single stack; provided, however, that nothing herein prohibits the use of an automated card shuffling device which, upon completion of the shuffling of the cards, inserts the stack of cards directly into a dealing shoe.

(b) If an automated card shuffling device that counts the number of cards in the deck after the completion of each shuffle and indicates whether 52 cards are present is being used and reveals that an incorrect number of cards are present, the deck shall be removed from the table.

(c) After the cards have been shuffled and stacked, the dealer shall:

(1) If the cards were shuffled using an automated card shuffling device, deal the cards in accordance with the

procedures in § 555.8, § 555.9 or § 555.10 (relating to procedures for dealing the cards from a manual dealing shoe; procedures for dealing the cards from the hand; and procedures for dealing the cards from an automated dealing shoe).

(2) If the cards were shuffled manually or were preshuffled, cut the cards in accordance with subsection (d).

(d) If a cut of the cards is required, the dealer shall:

(1) Cut the deck, using one hand, by:

(i) Placing the cover card on the table in front of the deck of cards.

(ii) Taking a stack of at least 10 cards from the top of the deck and placing them on top of the cover card.

(iii) Placing the cards remaining in the deck on top of the stack of cards that were cut and placed on the cover card.

(2) Deal the cards in accordance with § 555.8, § 555.9 or § 555.10.

(e) Notwithstanding subsection (d), after the cards have been cut and before any cards have been dealt, a floorperson or above may require the cards to be recut if he determines that the cut was performed improperly or in any way that might affect the integrity or fairness of the game.

(f) Whenever there is no gaming activity at a Caribbean Stud Poker table which is open for gaming, the cards shall be spread out on the table either face up or face down. If the cards are spread face down, they shall be turned face up once a player arrives at the table. After the first player is afforded an opportunity to visually inspect the cards, the procedures in § 555.4(c) (relating to opening of the table for gaming) and this section shall be completed.

CHAPTER 557. FOUR CARD POKER

§ 557.4. Opening of the table for gaming.

(a) After receiving one or more decks of cards at the table, the dealer shall inspect the cards for any defects.

(b) Following the inspection of the cards by the dealer and the verification by the floorperson assigned to the table, the cards shall be spread out face up on the table for visual inspection by the first player to arrive at the table. The cards shall be spread out according to suit and in sequence.

(c) After the first player arriving at the table has been afforded an opportunity to visually inspect the cards, the cards shall be turned face down on the table, mixed thoroughly by a washing of the cards and stacked. Once the cards have been stacked, the cards shall be shuffled in accordance with § 557.5 (relating to shuffle and cut of the cards).

(d) If a certificate holder uses an automated card shuffling device to play the game and two decks of cards are received at the table as permitted under § 557.3(b) (relating to cards; number of decks), each deck of cards shall be separately spread, inspected, verified, spread, inspected, mixed, stacked and shuffled in accordance with subsections (a), (b) and (c).

(e) If the decks of cards received at the table are preinspected and preshuffled in accordance with § 523.16(u) or (v) (relating to cards; receipt, storage, inspections and removal from use), the requirements in subsections (a)—(d) do not apply.

§ 557.5. Shuffle and cut of the cards.

(a) Immediately prior to commencement of play, unless the cards were preshuffled in accordance with § 523.16(u) or (v) (relating to cards; receipt, storage, inspections and removal from use), and after each round of play has been completed, the dealer shall shuffle the cards, either manually or by use of an automated card shuffling device, so that the cards are randomly intermixed. Upon completion of the shuffle, the dealer or device shall place the deck of cards in a single stack; provided, however, that nothing in this section prohibits the use of an automated card shuffling device which, upon completion of the shuffling of the cards, inserts the stack of cards directly into a dealing shoe.

(b) If an automated card shuffling device that counts the number of cards in the deck after the completion of each shuffle and indicates whether 52 cards are present is being used and reveals that an incorrect number of cards are present, the deck shall be removed from the table.

(c) After the cards have been shuffled and stacked, the dealer shall:

(1) If the cards were shuffled using an automated card shuffling device, deal the cards in accordance with § 557.8, § 557.9 or § 557.10 (relating to procedures for dealing the cards from a manual dealing shoe; procedures for dealing the cards from the hand; and procedures for dealing the cards from an automated dealing shoe).

(2) If the cards were shuffled manually or were preshuffled, cut the cards in accordance with the procedures in subsection (d).

(d) If a cut of the cards is required, the dealer shall:

(1) Cut the deck, using one hand, by:

(i) Placing the cover card on the table in front of the deck of cards.

(ii) Taking a stack of at least 10 cards from the top of the deck and placing them on top of the cover card.

(iii) Placing the cards remaining in the deck on top of the stack of cards that were cut and placed on the cover card.

(2) Deal the cards in accordance with § 557.8, § 557.9 or § 557.10.

(e) Notwithstanding subsection (d), after the cards have been cut and before any cards have been dealt, a floorperson or above may require the cards to be recut if he determines that the cut was performed improperly or in any way that might affect the integrity or fairness of the game.

(f) Whenever there is no gaming activity at a Four Card Poker table which is open for gaming, the cards shall be spread out on the table either face up or face down. If the cards are spread face down, the cards shall be turned face up once a player arrives at the table. After the first player arriving at the table is afforded an opportunity to visually inspect the cards, the procedures in § 557.4(c) (relating to opening of the table for gaming) and this section shall be completed.

CHAPTER 559. LET IT RIDE POKER

§ 559.4. Opening of the table for gaming.

(a) After receiving one or more decks of cards at the table, the dealer shall inspect the cards for any defects.

(b) Following the inspection of the cards by the dealer and the verification by the floorperson assigned to the

table, the cards shall be spread out face up on the table for visual inspection by the first player to arrive at the table. The cards shall be spread out according to suit and in sequence.

(c) After the first player arriving at the table has been afforded an opportunity to visually inspect the cards, the cards shall be turned face down on the table, mixed thoroughly by a washing of the cards and stacked. Once the cards have been stacked, they shall be shuffled in accordance with § 559.5 (relating to shuffle and cut of the cards).

(d) If a certificate holder uses an automated card shuffling device to play the game and two decks of cards are received at the table as permitted under § 559.3(b) (relating to cards; number of decks), each deck of cards shall be separately spread, inspected, verified, spread, inspected, mixed, stacked and shuffled in accordance with the provisions of subsections (a), (b) and (c).

(e) If the decks of cards received at the table are preinspected and reshuffled in accordance with § 523.16(u) or (v) (relating to cards; receipt, storage, inspections and removal from use), the requirements in subsections (a)—(d) do not apply.

§ 559.5. Shuffle and cut of the cards.

(a) Immediately prior to commencement of play, unless the cards were reshuffled in accordance with § 523.16(u) or (v) (relating to cards; receipt, storage, inspections and removal from use), and after each round of play has been completed, the dealer shall shuffle the cards, either manually or by use of an automated card shuffling device, so that the cards are randomly intermixed. Upon completion of the shuffle, the dealer or automated shuffling device shall place the deck of cards in a single stack; provided, however, that nothing herein prohibits the use of an automated card shuffling device which, upon completion of the shuffling of the cards, inserts the stack of cards directly into a dealing shoe.

(b) If an automated card shuffling device that counts the number of cards in the deck after the completion of each shuffle and indicates whether 52 cards are present is being used and reveals that an incorrect number of cards are present, the deck shall be removed from the table.

(c) After the cards have been shuffled and stacked, the dealer shall:

(1) If the cards were shuffled using an automated card shuffling device, deal the cards in accordance with § 559.10, § 559.11 or § 559.12 (relating to procedure for dealing the cards from a manual dealing shoe; procedure for dealing the cards from the hand; and procedure for dealing the cards from an automated dealing shoe).

(2) If the cards were shuffled manually or were reshuffled, cut the cards in accordance with the procedures in subsection (d).

(d) If a cut of the cards is required, the dealer shall:

(1) Cut the deck, using one hand, by:

(i) Placing the cover card on the table in front of the deck of cards.

(ii) Taking a stack of at least 10 cards from the top of the deck and placing them on top of the cover card.

(iii) Placing the cards remaining in the deck on top of the stack of cards that were cut and placed on top of the cover card.

(2) Deal the cards in accordance with § 559.10, § 559.11 or § 559.12.

(e) Notwithstanding subsection (d), after the cards have been cut and before any cards have been dealt, a floorperson or above may require the cards to be recut if he determines that the cut was performed improperly or in any way that might affect the integrity or fairness of the game.

(f) Whenever there is no gaming activity at a Let It Ride Poker table which is open for gaming, the cards shall be spread out on the table either face up or face down. If the cards are spread face down, the cards shall be turned face up once a player arrives at the table. After the first player arriving at the table is afforded an opportunity to visually inspect the cards, the procedures in § 559.4(c) (relating to opening of the table for gaming) shall be completed.

CHAPTER 561. PAI GOW POKER

§ 561.4. Opening of the table for gaming.

(a) After receiving a deck of cards at the table, the dealer shall inspect the cards for any defects.

(b) If the deck of cards used by the certificate holder contains two jokers, the dealer and a floorperson shall ensure that only one joker is utilized and that the other joker is torn in half and placed in the box, envelope or container that the deck came from. Following the inspection of the cards by the dealer and the verification by the floorperson assigned to the table, the cards shall be spread out face up on the table for visual inspection by the first player to arrive at the table. The cards shall be spread out according to suit and in sequence and include the one joker.

(c) After the first player is afforded an opportunity to visually inspect the cards, the cards shall be turned face down on the table, mixed thoroughly by a washing of the cards and stacked. Once the cards have been stacked, they shall be shuffled in accordance with § 561.5 (relating to shuffle and cut of the cards).

(d) If a certificate holder uses an automated card shuffling device to play the game of Pai Gow Poker and two decks of cards are received at the table as permitted under § 561.3(b) (relating to cards; number of decks), each deck of cards shall be separately spread, inspected, verified, spread, mixed, stacked and shuffled in accordance with subsections (a)—(c).

(e) If the decks of cards received at the table are preinspected and reshuffled in accordance with § 523.16(u) or (v) (relating to cards; receipt, storage, inspections and removal from use), the requirements in subsections (a)—(d) do not apply.

§ 561.5. Shuffle and cut of the cards.

(a) Immediately prior to commencement of play, unless the cards were reshuffled in accordance with § 523.16(u) or (v) (relating to cards; receipt, storage, inspections and removal from use), and after each round of play has been completed, the dealer shall shuffle the cards either manually or by use of an automated card shuffling device so that the cards are randomly intermixed. Upon completion of the shuffle, the dealer or device shall place the deck of cards in a single stack; provided, however, that nothing herein prohibits the use of an automated card shuffling device which, upon completion of the shuffling of the cards, inserts the cards directly into an automated or manual dealing shoe.

(b) After the cards have been shuffled and stacked, the dealer shall:

(1) If the cards were shuffled using an automated card shuffling device, deal or deliver the cards in accordance with § 561.9, § 561.10 or § 561.11 (relating to procedures for dealing the cards from a manual dealing shoe; procedures for dealing the cards by hand; and procedures for dealing the cards from an automated dealing shoe).

(2) If the cards were shuffled manually or were pre-shuffled, cut the cards in accordance with the procedures in subsections (c)—(e).

(c) Upon completion of a manual shuffle, the dealer shall place the stack of cards on top of one of the cover cards. The dealer shall offer the stack of cards to be cut, with the backs facing up, to the player determined under subsection (d). If no player accepts the cut, the dealer shall cut the cards.

(d) The cut of the cards shall be offered to players in the following order:

(1) The first player arriving at the table, if the game is just beginning.

(2) The player at the farthest position to the right of the dealer. If this player refuses, the offer to cut the cards shall rotate to each player in a counterclockwise manner.

(e) The player or dealer making the cut shall place the second cover card in the stack at least 10 cards from the top or the bottom of the deck. Once the second cover card has been inserted, the dealer shall take the second cover card and all the cards on top of the second cover card and place them on the bottom of the stack. The dealer shall then remove the first cover card and place it on the bottom of the stack. The dealer shall remove one of the cover cards and either place it in the discard rack or use it as an additional cover card to be inserted four cards from the bottom of the deck. The dealer shall then deal the cards in accordance with § 561.9, § 561.10 or § 561.11.

(f) After the cards have been cut and before any cards have been dealt, a floorperson or higher may require the cards to be recut if he determines that the cut was performed improperly or in any way that might affect the integrity or fairness of the game. If a recut is required, the cards shall be recut either by the player who last cut the cards, or by the next person entitled to cut the cards, as determined under subsection (d).

(g) Whenever there is no gaming activity at a Pai Gow Poker table which is open for gaming, the cards shall be spread out on the table either face up or face down. If the cards are spread face down, the cards shall be turned face up once a player arrives at the table. After the first player arriving at the table is afforded an opportunity to visually inspect the cards, the table may be opened and the cards shuffled and cut in accordance with § 561.4 (relating to opening of the table for gaming) and this section.

CHAPTER 563. TEXAS HOLD 'EM BONUS POKER

§ 563.4. Opening of the table for gaming.

(a) After receiving the cards at the table, the dealer shall inspect the cards for any defects.

(b) Following the inspection of the cards by the dealer and the verification by the floorperson assigned to the table, the cards shall be spread out face up on the table for visual inspection by the first player to arrive at the table. The cards shall be spread out by deck according to suit and in sequence.

(c) After the first player arriving at the table is afforded an opportunity to visually inspect the cards, the cards shall be turned face down on the table, mixed thoroughly by a washing of the cards and stacked. Once the cards have been stacked, they shall be shuffled in accordance with § 563.5 (relating to shuffle and cut of the cards).

(d) If a certificate holder uses an automated card shuffling device to play the game and two decks of cards are received at the table as permitted under § 563.3(b) (relating to cards; number of decks), each deck of cards shall be separately spread, inspected, verified, spread, inspected, mixed, stacked and shuffled in accordance with subsections (a), (b) and (c).

(e) If the decks of cards received at the table are preinspected and reshuffled in accordance with § 523.16(u) or (v) (relating to cards; receipt, storage, inspections and removal from use), the requirements in subsections (a)—(d) do not apply.

§ 563.5. Shuffle and cut of the cards.

(a) Immediately prior to commencement of play, unless the cards were reshuffled in accordance with § 523.16(u) or (v) (relating to cards; receipt, storage, inspections and removal from use), and after each round of play has been completed, the dealer shall shuffle the cards, either manually or by use of an automated card shuffling device, so that the cards are randomly intermixed. Upon completion of the shuffle, the dealer or device shall place the deck of cards in a single stack; provided, however, that nothing in this section prohibits the use of an automated card shuffling device which, upon completion of the shuffling of the cards, inserts the stack of cards directly into a dealing shoe.

(b) If an automated card shuffling device that counts the number of cards in the deck after the completion of each shuffle and indicates whether 52 cards are present is being used and reveals that an incorrect number of cards are present, the deck shall be removed from the table.

(c) After the cards have been shuffled and stacked, the dealer shall:

(1) If the cards were shuffled using an automated card shuffling device, deal or deliver the cards in accordance with the procedures in § 563.8, § 563.9 or § 563.10 (relating to procedure for dealing the cards from a manual dealing shoe; procedure for dealing the cards from the hand; and procedure for dealing the cards from an automated dealing shoe).

(2) If the cards were shuffled manually or were pre-shuffled, cut the cards in accordance with subsection (d).

(d) If a cut of the cards is required, the dealer shall:

(1) Cut the deck, using one hand, by:

(i) Placing a cover card on the table in front of the deck of cards.

(ii) Taking a stack of at least 10 cards from the top of the deck and placing them on top of the cover card.

(iii) Placing the cards remaining in the deck on top of the stack of cards that were cut and placed on the cover card.

(2) Deal the cards in accordance with § 563.8, § 563.9 or § 563.10.

(e) Notwithstanding subsection (d), after the cards have been cut and before any cards have been dealt, a floorperson or higher may require the cards to be recut if

he determines that the cut was performed improperly or in any way that might affect the integrity or fairness of the game.

(f) Whenever there is no gaming activity at a Texas Hold 'Em Bonus Poker table that is open for gaming, the cards shall be spread out on the table either face up or face down. If the cards are spread face down, the cards shall be turned face up once a player arrives at the table. After the first player arriving at the table is afforded an opportunity to visually inspect the cards, the procedures in § 563.4(c) (relating to opening of the table for gaming) and this section shall be completed.

CHAPTER 565. THREE CARD POKER

§ 565.4. Opening of the table for gaming.

(a) After receiving one or more decks of cards at the table, the dealer shall inspect the cards for any defects.

(b) Following the inspection of the cards by the dealer and the verification by the floorperson assigned to the table, the cards shall be spread out face up on the table for visual inspection by the first player to arrive at the table. The cards shall be spread out according to suit and in sequence.

(c) After the first player arriving at the table has been afforded an opportunity to visually inspect the cards, the cards shall be turned face down on the table, mixed thoroughly by a washing of the cards and stacked. Once the cards have been stacked, they shall be shuffled in accordance with § 565.5 (relating to shuffle and cut of the cards).

(d) If a certificate holder uses an automated card shuffling device to play the game and two decks of cards are received at the table as permitted under § 565.3(b) (relating to cards; number of decks), each deck of cards shall be separately spread, inspected, verified, spread, inspected, mixed, stacked and shuffled in accordance with the subsections (a), (b) and (c).

(e) If the decks of cards received at the table are preinspected and reshuffled in accordance with § 523.16(u) or (v) (relating to cards; receipt, storage, inspections and removal from use), the requirements in subsections (a)—(d) do not apply.

§ 565.5. Shuffle and cut of the cards.

(a) Immediately prior to commencement of play, unless the cards were reshuffled in accordance with § 523.16(u) or (v) (relating to cards; receipt, storage, inspections and removal from use), and after each round of play has been completed, the dealer shall shuffle the cards, either manually or by use of an automated card shuffling device, so that the cards are randomly intermixed. Upon completion of the shuffle, the dealer or device shall place the deck of cards in a single stack; provided, however, that nothing in this section prohibits the use of an automated card shuffling device which, upon completion of the shuffling of the cards, inserts the stack of cards directly into a dealing shoe.

(b) If an automated card shuffling device that counts the number of cards in the deck after the completion of each shuffle and indicates whether 52 cards are present is being used and reveals that an incorrect number of cards are present, the deck shall be removed from the table.

(c) After the cards have been shuffled and stacked, the dealer shall:

(1) If the cards were shuffled using an automated card shuffling device, deal the cards in accordance with

§ 565.8, § 565.9 or § 565.10 (relating to procedures for dealing the cards from a manual dealing shoe; procedures for dealing the cards from the hand; and procedures for dealing the cards from an automated dealing shoe).

(2) If the cards were shuffled manually or were reshuffled, cut the cards in accordance with the procedures in subsection (d).

(d) If a cut of the cards is required, the dealer shall:

(1) Cut the deck, using one hand, by:

(i) Placing the cover card on the table in front of the deck of cards.

(ii) Taking a stack of at least 10 cards from the top of the deck and placing them on top of the cover card.

(iii) Placing the cards remaining in the deck on top of the stack of cards that were cut and placed on the cover card.

(2) Deal the cards in accordance with § 565.8, § 565.9 or § 565.10.

(e) Notwithstanding subsection (d), after the cards have been cut and before any cards have been dealt, a floorperson or above may require the cards to be recut if he determines that the cut was performed improperly or in any way that might affect the integrity or fairness of the game.

(f) Whenever there is no gaming activity at a Three Card Poker table which is open for gaming, the cards shall be spread out on the table either face up or face down. If the cards are spread face down, the cards shall be turned face up once a player arrives at the table. After the first player arriving at the table is afforded an opportunity to visually inspect the cards, the procedures in § 565.4(c) (relating to opening of the table for gaming) and this section shall be completed.

CHAPTER 567. WAR

§ 567.4. Opening of the table for gaming.

(a) After receiving six or more decks of cards at the table, the dealer shall sort and inspect each deck of cards separately, face down, and the floorperson assigned to the table shall verify the inspection.

(b) Following the inspection of the cards by the dealer and the verification by the floorperson assigned to the table, the cards shall be spread out face up on the table for visual inspection by the first player to arrive at the table. The cards shall be spread out according to suit and in sequence.

(c) After the first player is afforded an opportunity to visually inspect the cards, the cards shall be turned face down on the table, mixed thoroughly by a washing of the cards and stacked.

(d) If an automated shuffling device is utilized, all the decks in one batch of cards shall be spread for inspection on the table separate from the decks in the other batch of cards. After the first player to arrive at the table is afforded an opportunity to visually inspect the cards, each batch of cards shall separately be turned face downward on the table and stacked.

(e) If the decks of cards received at the table are preinspected and reshuffled in accordance with § 523.16(u) or (v) (relating to cards; receipt, storage, inspections and removal from use), the requirements in subsections (a)—(d) do not apply.

§ 567.5. Shuffle and cut of the cards.

(a) Immediately prior to commencement of play, unless the cards were preshuffled in accordance with § 523.16(u) or (v) (relating to cards; receipt, storage, inspections and removal from use), and after each dealing shoe of cards is dealt or when directed by a floorperson or above, the dealer shall shuffle the cards, either manually or by use of an automated card shuffling device, so that the cards are randomly intermixed. Upon completion of the shuffle, the dealer or device shall place the deck of cards in a single stack.

(b) After the cards have been shuffled and stacked, the dealer shall offer the stack of cards to be cut, with the backs facing away from the dealer, to players in the following order:

(1) The first player to the table, if the game is just beginning.

(2) The player on whose betting area the cover card appeared during the last round of play.

(3) The player at the farthest point to the right of the dealer if the cover card appeared on the dealer's hand during the last round of play.

(4) The player at the farthest point to the right of the dealer if the reshuffle was initiated at the discretion of a floorperson or above.

(c) If the player designated in subsection (b) refuses to cut, the dealer shall offer the cut to each other player moving clockwise around the table until a player accepts the cut. If no player accepts the cut, the dealer shall cut the cards.

(d) The player or dealer making the cut shall place a cover card in the stack at least 10 cards in from the top or the bottom of the stack.

(e) Once the cover card has been inserted, the dealer shall take all cards above the cover card and the cover card and place them on the bottom of the stack. The dealer shall then insert the second cover card in the stack at a position at least approximately one-quarter of the way in from the bottom of the stack. The stack of cards shall then be inserted into the dealing shoe for commencement of play.

(f) After the cards have been cut and before the cards have been placed in the dealing shoe, a floorperson or above may require the cards to be recut if the floorperson or above determines that the cut was performed improperly or in any way that might affect the integrity or fairness of the game. If a recut is required, the cards shall be recut by the next person entitled to cut the cards, as determined under subsection (b)(4).

(g) A reshuffle of the cards in the shoe shall take place after the cover card is reached in the shoe as required under § 567.8(d) (relating to procedure for dealing the cards).

(h) If there is no gaming activity at the War table, the cards shall be removed from the dealing shoe and the discard rack, and spread out on the table either face up or face down. If the cards are spread face down, they shall be turned face up once a player arrives at the table. After the first player is afforded an opportunity to visually inspect the cards, the cards shall be turned face downward on the table and:

(1) If there is no automated shuffling device in use, the cards shall be mixed thoroughly by a washing of the cards, stacked, then shuffled and cut in accordance with this section.

(2) If an automated shuffling device is in use, the cards shall be stacked and placed into the automated shuffling device to be shuffled. The batch of cards already in the shuffler shall then be removed. Unless a player so requests, the batch of cards removed from the shuffler need not be spread for inspection and reshuffled prior to being dealt, if:

(i) The automated card shuffling device stores a single batch of shuffled cards inside the shuffler in a secure manner approved by the Bureau of Gaming Operations.

(ii) The shuffled cards have been secured, released and prepared for play in accordance with procedures approved by the Bureau of Gaming Operations.

[Pa.B. Doc. No. 10-1039. Filed for public inspection June 4, 2010, 9:00 a.m.]

PROPOSED RULEMAKING

INSURANCE DEPARTMENT

[31 PA. CODE CH. 160]

Standards to Define Insurers Deemed to be in Hazardous Financial Condition

The Insurance Department (Department) proposes to amend Chapter 160 (relating to standards to define insurers deemed to be in hazardous financial condition) to read as set forth in Annex A. This proposed rulemaking is under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412) regarding the general rulemaking authority of the Department; Article V of The Insurance Department Act of 1921 (40 P. S. §§ 221.1—221.63) regarding the suspension of business; sections 5.1 and 10 of the Health Maintenance Organization Act (40 P. S. §§ 1555.1 and 1560) regarding the authority and supervision of health maintenance organizations; and sections 2456 and 2457 of The Insurance Company Law of 1921 (40 P. S. §§ 991.2456 and 991.2457) regarding notice of deficiencies and sanctions of fraternal benefit societies.

Purpose

The purpose of this proposed rulemaking is to amend Chapter 160, adopted in 1993, to update and clarify standards used to identify insurers in hazardous financial condition and specify corrective actions to be taken to minimize the number and impact of insurer insolvencies. It is based on a model regulation developed by the National Association of Insurance Commissioners (NAIC) entitled "Model Regulation to Define Standards and Commissioner's Authority for Companies Deemed to be in Hazardous Financial Condition" (Model Regulation 385) and included in the NAIC's Financial Regulation Standards and Accreditation Program.

The amendments in this proposed rulemaking are based upon updates made in 2009 to the NAIC model, which was updated to provide timely and effective guidance for financial regulation. Because of the regulation's significance in efforts to prevent insolvencies, the Department expects that the amendments to the NAIC model will be incorporated into the financial regulation standards the Department must meet to maintain its accreditation by the NAIC.

Explanation of Regulatory Requirements

The following is a description of the amendments in the proposed rulemaking:

Section 160.1 (relating to purpose) is being amended consistent with updates to the NAIC model and language in the authorizing statutes.

Section 160.2 (relating to definitions) is being amended to update the citation within the definition of "act" and to add definitions for "Department," "NAIC" and "statutory accounting practices" consistent with use of these terms in state financial regulations, including Chapter 147 (relating to annual financial reporting requirements).

Section 160.3 (relating to standards) is being amended to make the introductory paragraph consistent with proposed amendments to § 160.1; add language in paragraphs (2) and (3) and to add paragraph (19) regarding current financial reporting requirements and analytical tools; clarify terminology in paragraphs (4) and (7) regarding minimum financial requirements; and strengthen

or add standards in paragraphs (8) and (14) and to add paragraph (18) consistent with updates to the NAIC model.

Section 160.4 (relating to commissioner's authority) is being amended to replace the reference to "insurance law of the Commonwealth" with "statutory accounting practices," a more specific and newly defined term.

Section 160.5 (relating to commissioner's summary orders) is being amended to include a reference to current law regarding to fraternal benefit societies in subsections (a) and (c); recognize the consideration of a need to increase an insurer's capitalization in subsection (a)(4); and add corrective actions regarding deficiencies in corporate governance and premium rates in subsection (a)(12) and (13) consistent with current statutory and regulatory requirements in this Commonwealth and updates to the NAIC model.

Affected Parties

The chapter applies to all types of insurers doing or purporting to do business in this Commonwealth, as provided under the scope and definitions of the authorizing statutes.

Fiscal Impact

State Government

The proposed rulemaking will strengthen, clarify and update existing regulatory requirements. There will be no material increase in cost to the Department as a result of this proposed rulemaking.

General Public

The public will benefit to the extent the proposed rulemaking strengthens financial solvency regulatory requirements for insurers, thereby promoting the ability of the insurance industry to meet obligations under insurance policies and the Department's ability to minimize the number and impact of insurer insolvencies.

Political Subdivisions

The proposed rulemaking will not impose additional costs on political subdivisions.

Private Sector

The strengthened requirements in the proposed rulemaking should not impose additional costs on insurers currently subject to State financial reporting and solvency requirements.

Paperwork

The proposed rulemaking updates and strengthens existing standards and authority used by the Department in financial regulation of insurers and would impose no additional paperwork requirements.

Effectiveness/Sunset Date

The proposed rulemaking will become effective upon final-form publication in the *Pennsylvania Bulletin*. The Department continues to monitor the effectiveness of regulations on a triennial basis; therefore, no sunset date has been assigned.

Contact Person

Questions or comments regarding the proposed rulemaking should be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120,

psalvatore@state.pa.us, or faxed to (717) 705-3873 within 30 days following the publication in the *Pennsylvania Bulletin*.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on May 25, 2010, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Senate Banking and Insurance Committee and the House Insurance Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

JOEL SCOTT ARIO,
Insurance Commissioner

Fiscal Note: 11-243. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 31. INSURANCE

PART VIII. MISCELLANEOUS PROVISIONS

CHAPTER 160. STANDARDS TO DEFINE INSURERS DEEMED TO BE IN HAZARDOUS FINANCIAL CONDITION

§ 160.1. Purpose.

This chapter sets forth the standards which the Commissioner may use for identifying insurers found to be in a condition that renders the continuance of their business financially hazardous to the **general public [or to]**, holders of their policies or certificates of insurance, **or creditors**.

§ 160.2. Definitions.

[The] In addition to the terms defined in section 503 of the act (40 P.S. § 221.3), the following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Insurance Department Act of **[one thousand nine hundred and twenty one]** 1921 (40 P.S. §§ 1—[297.4] 326.7).

* * * * *

Department—The Insurance Department of the Commonwealth.

NAIC—The National Association of Insurance Commissioners or successor organization.

Statutory accounting practices—Practices and procedures prescribed by the Accounting Practices and Procedures Manuals published by the NAIC, or as otherwise prescribed or provided by specific statutes, regulations, orders or rulings of the Commonwealth or the Department.

* * * * *

§ 160.3. Standards.

The following standards, either singly or a combination of two or more, may be considered by the Commissioner to determine whether the continued operation of an insurer transacting an insurance business in this Commonwealth might be deemed to be financially hazardous to the **[policyholders, creditors or the]** general public, **holders of policies or certificates of insurance, or creditors**. The Commissioner may consider one or more of the following:

* * * * *

(2) Material adverse findings relating to an insurer's financial condition reported in financial condition or market conduct examination reports; **audit reports and other communications required under Chapter 147 (relating to annual financial reporting requirements); or actuarial opinions, reports, work papers or summaries.**

(3) **[The financial ratios and related reports generated by the National Association of Insurance Commissioners Insurance Regulatory Information System]** Financial analysis ratios, analyst team reports and other financial analytical results produced by the NAIC.

(4) Whether the insurer's net loss from operations in the last 12-month period or shorter period of time, excluding net realized capital gains, is greater than 20% of the insurer's surplus **in excess of the statutorily required minimum capital and surplus.**

* * * * *

(7) Whether the insurer's net loss in the last 12-month period or a shorter period of time, including, change in nonadmitted assets, net realized and unrealized capital gain or loss, cash dividends paid to shareholders, and other direct charges against surplus is greater than 50% of the insurer's surplus in excess of the **statutorily required minimum capital and surplus [required].**

(8) Whether **[an affiliate, subsidiary or]** a reinsurer, **obligor or any entity within the insurer's insurance holding company system** is insolvent, threatened with insolvency or delinquent in payment of monetary or other obligations.

* * * * *

(14) Whether management of an insurer has done one of the following:

* * * * *

(iii) Established reserves that do not comply with minimum standards as required by law, regulation, statutory accounting practices and accepted actuarial standards and principles.

(iv) Engaged in material under-reserving that resulted in continued adverse development reported in financial statements filed with the Department.

* * * * *

(18) Whether the insurer has made adequate provision, in accordance with accepted actuarial standards and principles, for the anticipated cash flows required to meet its contractual obligations and related expenses, considering the value, liquidity, diversity and investment earnings of assets held as reserves to meet those obligations and expenses,

and other actuarial items, including considerations anticipated to be received and retained under policies and contracts.

(19) The insurer has failed to file financial statements as required by law or regulation or to make filings required under Article XIV of The Insurance Company Law (40 P.S. §§ 991.1401—991.1413) within the time allowed by law and, after written demand by the Commissioner, has failed to provide a satisfactory explanation for that failure.

§ 160.4. Commissioner's authority.

For the purpose of making a determination of an insurer's financial condition under this chapter, the Commissioner may restate the value of assets and liabilities to conform to [insurance law of the Commonwealth] statutory accounting practices, including the following:

* * * * *

§ 160.5. Commissioner's summary orders.

(a) If the Commissioner has reasonable cause to believe that the continued operation of an insurer transacting insurance business in this Commonwealth is financially hazardous to the [policyholders or the] general public, holders of policies or certificates of insurance, or creditors, the Commissioner may, upon the Commissioner's determination, issue an order under Article V of the act (40 P.S. §§ 211 and 221.1—221.63) or notice of deficiency under sections 2456 and 2457 of The Insurance Company Law of 1921 (40 P.S. §§ 991.2456 and 991.2457). The order or notice may list the requirements for the insurer to abate the determination, including the following:

* * * * *

(4) Increasing the insurer's capital or surplus, or both.

* * * * *

(6) Filing reports in a form acceptable to the Commissioner concerning the market value of an insurer's assets and the value of its loss reserves or policy reserves, or both[, reserves].

* * * * *

(12) Correcting deficiencies in corporate governance practices and adopting and utilizing governance practice acceptable to the Commissioner.

(13) Adjusting premium rates for non-life insurance products written by the insurer as the Commissioner deems necessary to improve the insurer's financial condition, notwithstanding other provisions of law that limit the frequency or amount of premium rate adjustments.

(b) [If the insurer is a foreign insurer] For insurers not incorporated or organized under the laws of the Commonwealth, the Commissioner's order or notice provided for [in] under subsection (a) may be limited to the extent provided by [statute] law.

(c) An insurer subject to an order or notice under subsection (a) is entitled to a hearing to review that order in accordance with [Article V] section 510 of the act (40 P.S. § 221.10) or section 2456(c) of The Insurance Company Law of 1921 (40 P.S. § 991.2456(c)), 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law) and 1 Pa. Code Part II (relating to the general rules of administrative practice and procedure).

[Pa.B. Doc. No. 10-1040. Filed for public inspection June 4, 2010, 9:00 a.m.]

STATEMENTS OF POLICY

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Governor's Office of Administration

The Executive Board approved a reorganization of the Governor's Office of Administration effective May 12, 2010.

The organization chart at 40 Pa.B. 2980 (June 5, 2010) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

*(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of *Pennsylvania Code*) as a document general and permanent in nature which shall be codified in the *Pennsylvania Code*.)*

[Pa.B. Doc. No. 10-1041. Filed for public inspection June 4, 2010, 9:00 a.m.]

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Historical and Museum Commission

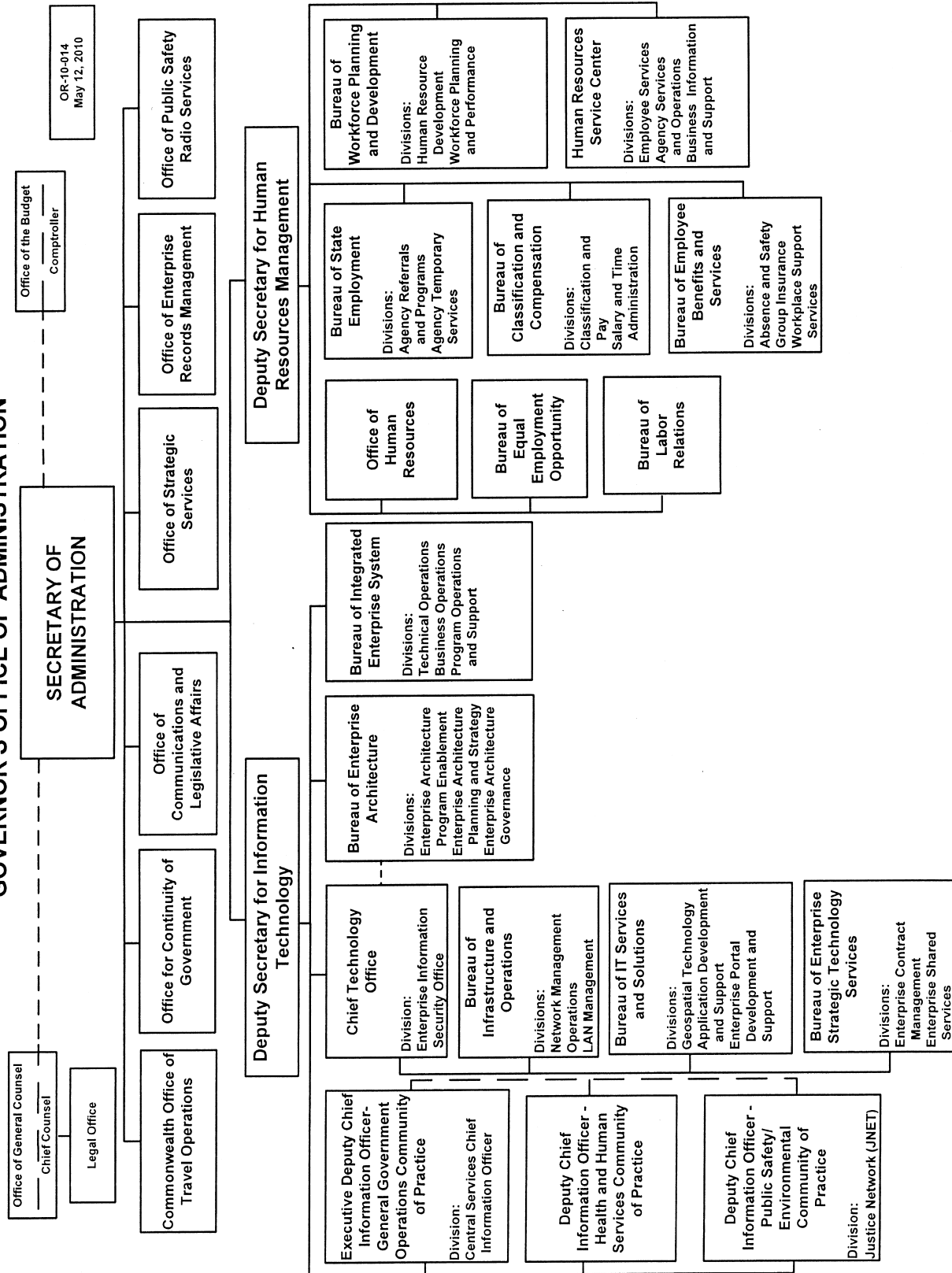
The Executive Board approved a reorganization of the Historical and Museum Commission effective May 10, 2010.

The organization chart at 40 Pa.B. 2981 (June 5, 2010) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

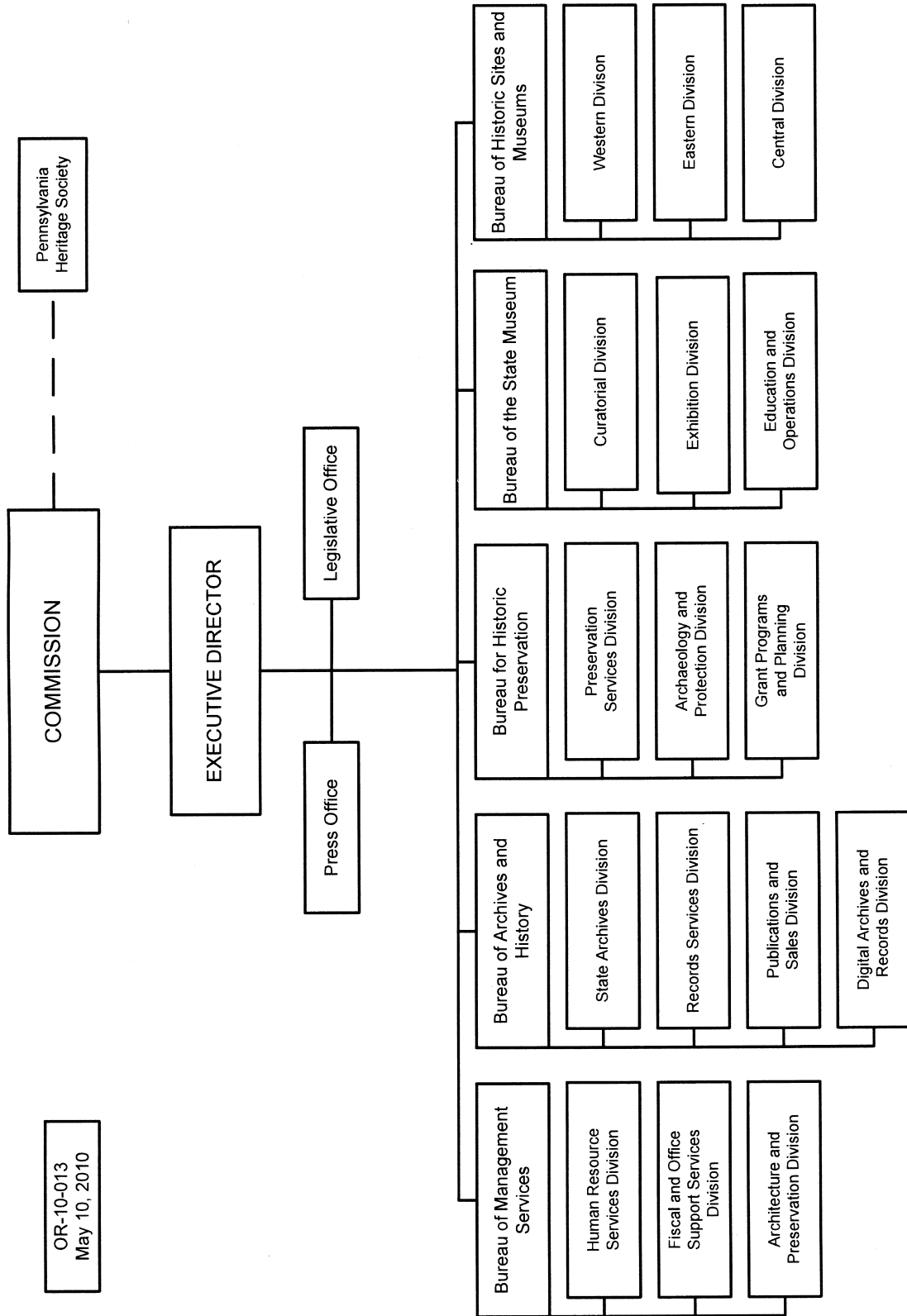
*(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of *Pennsylvania Code*) as a document general and permanent in nature which shall be codified in the *Pennsylvania Code*.)*

[Pa.B. Doc. No. 10-1042. Filed for public inspection June 4, 2010, 9:00 a.m.]

GOVERNOR'S OFFICE OF ADMINISTRATION



HISTORICAL AND MUSEUM COMMISSION



NOTICES

DEPARTMENT OF BANKING

Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending May 18, 2010.

Under section 503.E of the Department of Banking Code (71 P. S. § 733-503.E), any person wishing to comment on the following applications, with the exception of branch applications, may file their comments in writing with the Department of Banking, Corporate Applications Division, 17 North Second Street, Suite 1300, Harrisburg, PA 17101-2290. Comments must be received no later than 30 days from the date notice regarding receipt of the application is published in the *Pennsylvania Bulletin*. The nonconfidential portions of the applications are on file at the Department and are available for public inspection, by appointment only, during regular business hours. To schedule an appointment, contact the Corporate Applications Division at (717) 783-2253. Photocopies of the nonconfidential portions of the applications may be requested consistent with the Department's Right-to-Know Law Records Request policy.

BANKING INSTITUTIONS

Section 112 Acquisitions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
5-18-2010	Marc D. Lewis, Melvin W. Lewis, and the Lewis family Application for approval to acquire, in the aggregate, up to 18.2% of the common stock of Woodlands Financial Services Company, Williamsport.	Approved

Branch Applications

De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
5-13-2010	CNB Bank Clearfield Clearfield County	885 Park Avenue Meadville Crawford County	Opened

Branch Relocations

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
5-17-2010	Mid Penn Bank Millersburg Dauphin County	<i>To:</i> 4509 Derry Street Harrisburg Dauphin County <i>From:</i> 4098 Derry Street Harrisburg Dauphin County	Effective

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

Consolidations, Mergers, and Absorptions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
4-29-2010	Lancaster Red Rose Credit Union Lancaster Lancaster County Application for approval to merge Lancaster PA Police Federal Credit Union, Lancaster, with and into Lancaster Red Rose Credit Union, Lancaster.	Filed

Articles of Amendment

<i>Date</i>	<i>Name and Location of Institution</i>	<i>Action</i>
5-13-2010	Franklin County Teachers' Credit Union Chambersburg Franklin County Amendment to Article 1 of the credit union's Articles of Incorporation provides for the name of the credit union to be changed to "1st Ed Credit Union."	Filed

**Branch Applications
De Novo Branches**

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
5-18-2010	Lancaster Red Rose Credit Union Lancaster Lancaster County	150 North Queen Street Lancaster Lancaster County	Filed

The Department's web site at www.banking.state.pa.us includes public notices for more recently filed applications.

STEVEN KAPLAN,
Secretary

[Pa.B. Doc. No. 10-1043. Filed for public inspection June 4, 2010, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

This notice provides information about persons who have applied for a new, amended or renewed NPDES or WQM permit, a permit waiver for certain stormwater discharges or submitted a Notice of Intent (NOI) for coverage under a general permit. The applications concern, but are not limited to, discharges related to industrial, animal or sewage waste, discharges to groundwater, discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities or concentrated animal feeding operations (CAFOs). This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal waste; discharge into groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

For NPDES renewal applications in Section I, the Department of Environmental Protection (Department) has made a tentative determination to reissue these permits for 5 years, subject to effluent limitations and monitoring and reporting requirements in their current permits, with appropriate and necessary updated requirements to reflect new and changed regulations and other requirements.

For applications for new NPDES permits and renewal applications with major changes in Section II, as well as applications for MS4 individual permits and individual stormwater construction permits in Sections IV and VI, the Department, based upon preliminary reviews, has made a tentative determination of proposed effluent limitations and other terms and conditions for the permit applications. These determinations are published as proposed actions for comments prior to taking final actions.

Unless indicated otherwise, the Environmental Protection Agency (EPA) Region III Administrator has waived the right to review or object to proposed NPDES permit actions under the waiver provision in 40 CFR 123.24(d).

Persons wishing to comment on an NPDES application are invited to submit a statement to the regional office noted before an application within 30 days from the date of this public notice. Persons wishing to comment on a WQM permit application are invited to submit a statement to the regional office noted before the application within 15 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the applications. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests for a public hearing on applications. A public hearing may be held if the responsible office considers the public response significant. If a hearing is scheduled, a notice of the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. The Department will postpone its final determination until after a public hearing is held.

Persons with a disability who require an auxiliary aid, service, including TDD users, or other accommodations to seek additional information should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

I. NPDES Renewal Applications

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0061662 (Sewage)	Arrowhead Sewer Co., Inc. HC 88 Box 305 Pocono Lake, PA 18347	Monroe County Coolbaugh Township	Lehigh River 2-A	Y
PA0035033 (Sewage)	Pinebrook Bible Conference & Retreat Center 1 Pinebrook Road East Stroudsburg, PA 18301	Monroe County Stroud Township	Brodhead Creek 1-E	Y

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone: 717-705-4707.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0028983 (Sew)	McVeytown Borough Authority 10 North Queen Street McVeytown, PA 17051-7436	Mifflin County McVeytown Borough	Juniata River 12-A	Y
PA0009458 (IW)	Pittsburgh Glass Works, LLC 30 Isabella Street Suite 500 Pittsburgh, PA 15212	Blair County Antis Township	Little Juniata River 11-A	Y
PA0247685 (CAFO)	Rohrer Dairy Farms, LLC 124 Charlestown Road Washington Boro, PA 17582	Lancaster County Manor Township	Stamans Run 7-G	Y

Northcentral Regional Office: Water Management Program Manager, 208 West Third Street Suite 101, Williamsport, PA 17701-6448. Phone: 570-327-0532.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0209058 (Sewage)	Montour Township Sanitary Sewer STP Rupert Village 195 Rupert Drive Bloomsburg, PA 17815-9627	Columbia County Montour Township	Fishing Creek 5-C	Y
PA0114286 (Sewage)	New Albany Borough Sewer System STP Main Street New Albany, PA 18833-0067	Bradford County New Albany Borough	South Branch Towanda Creek 4-C	Y
PA0113280 (Industrial) Non-Public	Breazeale Reactor 100 Breazeale Nuclear Reactor Building University Park, PA 16802-2301	State College Borough Centre County	UNT to Slab Cabin SWP 9C	Y
PA0209066 (Sewage)	Roulette Township Sewer System STP SR 4003 Roulette, PA 16746	Potter County Roulette Township	Allegheny River 16-C	Y
PA0112615 (Industrial Waste)	Northumberland Cogen Plant 909 Cannery Road Northumberland, PA 17857	Northumberland County Point Township	Unnamed Tributary of West Branch Susquehanna River 10-D	Y
PA0112020 (Sewage)	Brookside MHP 89 Valley Drive Berwick, PA 18603	Columbia County North Centre Township	West Branch Briar Creek 5-D	Y

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0000256 (Industrial Waste)	PA American Water Company 800 Westhershey Park Drive Hershey, PA 17033	Jefferson County Gaskill Township	East Branch Mahoning Creek 17-D	Y

II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Applications

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone: 717-705-4707.

Application No. PA0261441, Sewage, **Playful Pups Retreat, LLC**, 950 North Milton Grove Road, Elizabethtown, PA 17022. This facility is located in Mount Joy Township, **Lancaster County**.

Description of activity: The application is for issuance of an NPDES permit for a new discharge of treated sewage.

The receiving stream, unnamed tributary to Conewago Creek, is in Watershed 7-G, and classified for trout stocking fishes, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Elizabethtown Borough Water is located on the Conewago Creek, approximately 5.2 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.00024 MGD are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
pH		From 6.0 to 9.0 inclusive	
Total Suspended Solids	30		60
CBOD ₅	25		50
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)		200/100 ml as a Geometric Average 2,000/100 ml as a Geometric Average	
Clean UV Tube	Report Date		

You may make an appointment to review the Department of Environmental Protection's files on this case by calling the File Review Coordinator at 717-705-4732.

The EPA waiver is in effect.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

PAS224804, Industrial Waste, SIC 2421 and 2452, **Kuhns Brothers Lumber Company, Inc.**, 434 Swartz Road, Lewisburg, PA 17837. This existing facility is located in Buffalo Township, **Union County**.

Description of Activity: The applicant has applied for a permit to authorize the discharge of stormwater associated with industrial activities from a lumber company that processes lumber for log homes, mulch and firewood.

The receiving stream, Unnamed Tributary to Spruce Run, is in the State Water Plan watershed 10C and is classified for high quality cold water fishes and migratory fishes. The nearest downstream public water supply intake for Sunbury Municipal Authority is located on the Susquehanna River and is 21 miles below the point of discharge.

The applicant must comply with one of the two following options: (1) the applicant must perform annual inspections of the facility in lieu of monitoring and submit annual inspection reports; or (2) the applicant must monitor and report results at Outfalls 001, 002 and 003 for the water quality parameters listed as follows.

<i>Discharge Parameter</i>	<i>Units</i>	<i>Sample Type</i>	<i>Measurement Frequency</i>
C-Biochemical Oxygen Demand (5-day)	mg/L	1 Grab	1/year
Chemical Oxygen Demand	mg/L	1 Grab	1/year
Oil and Grease	mg/L	1 Grab	1/year
pH	S.U.	1 Grab	1/year
Total Suspended Solids	mg/L	1 Grab	1/year
Total Kjeldahl Nitrogen	mg/L	1 Grab	1/year
Total Phosphorous	mg/L	1 Grab	1/year
Effluent Guideline Pollutants ¹	mg/L	1 Grab	1/year
Iron (Total)	mg/L	1 Grab	1/year

¹ Any Pollutant Limited in an Effluent Guideline, Which the Facility is Subjected to.

In addition to the effluent limits, this permit includes the following major conditions:

1. Monitoring Requirements.
2. Requirements Applicable to Stormwater Outfalls.

Southwest Regional Office: Regional Manager, Water Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, 412-442-4000.

PA0218243, Sewage, **Donald L. Hobaugh**, 401 Red Arrow Road, Ligonier, PA 15658. This application is for renewal of an NPDES permit to discharge treated sewage from Hobaugh Single Residence STP in Ligonier Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Bergstrom Hollow Run, which are classified as a high-quality cold water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Latrobe Municipal Authority, Latrobe Reservoir, on Trout Run.

Outfall 001: existing discharge, design flow of 0.0004 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	10			20
Suspended Solids	10			20
Ammonia Nitrogen				
May 1 to Oct 31	1.5			3.0
Nov 1 to Apr 30	4.5			9.0
Fecal Coliform				
May 1 to Sep 30	200/100 ml as a Geometric Mean			
Oct 1 to Apr 30	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	1.4			3.3
Dissolved Oxygen	not less than 5.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0254177, Sewage, **William and Georgette Jones**, 119 Tanglewood Lane, Ruffs Dale, PA 15679. This application is for issuance of an NPDES permit to discharge treated sewage from Madison Pittsburgh KOA STP in Sewickley Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Unnamed Tributary of Sewickley Creek, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Westmoreland County Municipal Authority, McKeesport Plant, on the Youghiogheny River.

Outfall 001: new discharge, design flow of 0.01 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
May 1 to Oct 31	3.0			6.0
Nov 1 to Apr 30	9.0			18.0
Fecal Coliform				
May 1 to Sep 30	200/100 ml as a Geometric Mean			
Oct 1 to Apr 30	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine ⁽¹⁾	0.39			0.92
Dissolved Oxygen	not less than 4.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

Other Condition: ⁽¹⁾ The above effluent limits for Total Residual Chlorine are effective if chlorination versus ultraviolet radiation is used for disinfection.

The EPA waiver is in effect.

III. WQM Industrial Waste and Sewerage Applications under The Clean Streams Law (35 P.S. §§ 691.1—691.1001)

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

WQM Permit No. 6009201, **Kuhns Brothers Lumber Company, Inc.**, 434 Swartz Road, Lewisburg, PA 17837. This proposed facility will be located in Buffalo Township, **Union County**.

Description of Proposed Action/Activity: Applicant seeks permit to authorize the design, construction and operation of a leachate collection impoundment at an existing lumber company facility. Leachate will be collected for reuse in a mulch spray operation. Impoundment will be lined, maintain 2 foot of freeboard and be designed to accommodate a 25 year-24 hour storm (approximately 148,000 cubic feet of storage).

WQM Permit No. 410404, Sewerage, SIC 4952, **Borough of Duboistown**, 2651 Euclid Avenue, Duboistown, PA 17702. This proposed facility is located in Duboistown Borough, **Lycoming County**.

Description of Proposed Action/Activity: The Borough of Duboistown proposes the construction of an 8-inch forcemain and a 1 MG wet weather storage tank. The Borough is seeking coverage under an individual water quality management permit.

IV. NPDES Applications for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

V. Applications for NPDES Wavier Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water / Use</i>
PAI030610004	Clair Martin 354 Oak Haven Road Fleetwood, PA 19522	Berks	Richmond Township	Moselem Creek HQ-CWF-MF
PAI030610006	Forino Company, LP 555 Mountain Home Road Sinking Spring, PA 19608	Berks	Ontelaunee Township	Willow Creek CWF-HQ
PAI030610005	Calvin Hess Topton Ambulance P. O. Box 22 Topton, PA 19562	Berks	Longswamp Township	Little Lehigh Creek HQ-WWF-MF

Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Cambria County Conservation District, 401 Candlelight Drive, Suite 221, Ebensburg, PA 15931, (814-472-2120).

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water / Use</i>
PAI051110002	Highland North, LLC 444 East 30th Street 10th Floor New York, NY 10016	Cambria	Adams, Summerhill and Portage Townships	South Fork Little Conemaugh and Beaverdam Run (HQ-CWF) Laurel Run (CWF)

Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Venango County Conservation District, 1793 Cherrytree Road, Franklin, PA 16323, 814-676-2832.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water / Use</i>
PAI 0661 10 001	Rudolph Tracy GOC Property Holdings, LLC 175 Main Street Oil City, PA 16301	Venango	Rouseville Borough	Oil Creek WWF

VII. List of NOIs for NPDES and/or Other General Permit Types

PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

STATE CONSERVATION COMMISSION

NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFO)

This notice provides information about agricultural operations that have submitted nutrient management plans (NMPs) for approval under the act of July 6, 2005 (Act 38 of 2005, 3 Pa.C.S. §§ 501—522) (hereinafter referred to as Act 38), and that have or anticipate submitting applications for new, amended or renewed NPDES permits, or Notices of Intent (NOIs) for coverage under a general permit, for CAFOs, under 25 Pa. Code Chapter 92. This notice is provided in accordance with 25 Pa. Code Chapter 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

Based upon preliminary reviews, the State Conservation Commission (SCC), or County Conservation Districts (CCD) working under a delegation agreement with the SCC, have completed an administrative review of NMPs described. These NMPs are published as proposed plans for comment prior to taking final actions. The NMPs are available for review at the CCD office for the county where the agricultural operation is located. A list of CCD office locations is available at www.pacd.org/districts/directory.htm or can be obtained from the SCC at the office address listed or by calling (717) 787-8821.

Persons wishing to comment on an NMP are invited to submit a statement outlining their comments on the plan to the CCD, with a copy to the SCC for each NMP, within 30 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the NMPs. Comments should include the name, address and telephone number of the writer and a concise statement to inform the SCC of the exact basis of the comments and the relevant facts upon which they are based.

The address for the SCC is Agriculture Building, Room 407, 2301 North Cameron Street, Harrisburg, PA 17110.

Persons with a disability who require an auxiliary aid, service, including TDD users or other accommodations to seek additional information should contact the SCC through the Pennsylvania AT&T Relay Service at (800) 654-5984.

NUTRIENT MANAGEMENT PLAN—PUBLIC NOTICE SPREADSHEET—APPLICATIONS

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Renewal/New</i>
Hetrickdale Farms (Home Farm) Joel Hetrick 69 Hetrick Road Bernville, PA 19506	Berks	1,786.4	1,499.9	Dairy and Beef	None	Renewal

PUBLIC WATER SUPPLY (PWS) PERMIT

Under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17), the following parties have applied for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on a permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of Environmental Protection (Department) of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

Following the comment period, the Department will make a final determination regarding the proposed permit. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The permit application and any related documents are on file at the office listed before the application and are available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability who require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office

listed before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

MINOR AMENDMENT

Applications Received under the Pennsylvania Safe Drinking Water Act

*Southwest Region: Water Supply Management Program
Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

Application No. 0210515MA, Minor Amendment.

Applicant	Municipal Authority of the Borough of Oakmont 721 Allegheny Avenue Oakmont, PA 15139
Township or Borough	Oakmont Borough
Responsible Official	Henry Buechli Chairperson Board of Governors Oakmont Water Authority P. O. Box 73 721 Allegheny Avenue Oakmont, PA 15139
Type of Facility	Hulton WTP
Consulting Engineer	NIRA Consulting Engineers, Inc. 950 Fifth Avenue Coraopolis, PA 15108
Application Received Date	May 24, 2010
Description of Action	Replacement of dry potassium permanganate feed with liquid sodium permanganate.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P.S. §§ 6026.101—6026.908).

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the Background Standard, Statewide Health Standard, the Site-Specific Standard or who intend to remediate a site as a special industrial area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a Site-Specific Standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a Site-Specific Standard or as a special industrial area, the municipality within which the site is located may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the environmental cleanup program manager in the Department regional office before which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.

Lockheed Martin—Information System & Global Services, Upper Merion Township, **Montgomery County**. Mark Eschbacher, H&K Group, 2052 Lucon Road, Skippack, PA 19474, Peter Charrington, Stantec, 400 Davis Drive, Suite 400, Plymouth Meeting, PA 19462, Christine Kline, Lockheed Martin—Information System & Global Services, 230 Mall Boulevard, King of Prussia, PA 19428 on behalf of Edward Novak, Lockheed Martin—Information System & Global Services, 230 Mall Boulevard, King of Prussia, PA 19428 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of chlorinated solvents. The intended future use of the property is green space.

E. I. du Pont de Nemours and Company Marshall Laboratory, City of Philadelphia, **Philadelphia County**. Mathew Brill, URS Corporation, 335 Commerce Drive, Suite 300, Fort Washington, PA 19034, David Kistner URS Corporation, 335 Commerce Drive, Suite 300, Fort Washington, PA 19034 on behalf of Sathya Yalvigi, E. I. du Pont de Nemours and Company Marshall Laboratory, 3401 Grays Ferry Avenue, Philadelphia, PA 19146 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site has been impacted with the release of inorganic and lead. The future use of the site is nonresidential.

(REVISED) Lincoln High School Athletic Field, City of the Philadelphia, **Philadelphia County**. Gloria Hansberger Kleinfelder, 180 Sheree Boulevard, Suite 3800, Exton, PA 19341, Thomas Keating, Kleinfelder, 180 Sheree Boulevard, Suite 3800, Exton, PA 19341 on behalf of Francis Locke, School District of Philadelphia, 440 North Broad Street, Philadelphia, PA 19130 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of inorganic. The future use of the site will remain the same.

URG Graphics, Inc. Facility, Richland Township, **Bucks County**. Sean M. Damon, P. G., Langan Engineering & Environmental Services, P.O. Box 1569, Doylestown, PA 18901, Martin M. Lindsay, The Middleby Corporation, 1400 Toast Master Drive, Elgin, IL 60120 on behalf of Eugene Landy, Monmouth Real Estate Investment, Juniper Business Plaza, 3499 Route 9 North, Suite 3-C, Freehold, NJ 07728 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of inorganic. The future use of the site will remain the same. A Summary of the Notice of Intent to Remediate was to have been published in the *Philadelphia Weekly* on April 7, 2010.

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

NEW SOURCES AND MODIFICATIONS

The Department of Environmental Protection (Department) has developed an "integrated" plan approval, State operating permit and Title V operating permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

The Department has received applications for plan approvals and/or operating permits from the following facilities.

Copies of the applications, subsequently prepared draft permits, review summaries and other support materials

are available for review in the regional office identified in this notice. Persons interested in reviewing the application files should contact the appropriate regional office to schedule an appointment.

Persons wishing to receive a copy of a proposed plan approval or operating permit must indicate their interest to the Department regional office within 30 days of the date of this notice and must file protests or comments on a proposed plan approval or operating permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Comments or protests filed with the Department regional offices must include a concise statement of the objections to the issuance of the Plan approval or operating permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office identified before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121–143, the Federal Clean Air Act (act) and regulations adopted under the act.

PLAN APPROVALS

Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P.S. §§ 4001–4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Gary Daniel Husted, Chief, West Permitting Section—Telephone: 814-949-7935.

67-05033A: Gichner Systems Group, Inc. (490 East Locust Street, Dallastown, PA 17313) for construction of a paint booth in York Township, **York County**. The primary emissions from the source will be VOC and particulate matter, and this plan approval will replace an existing paint booth, which will be removed. The plan approval will be incorporated into the facility's Title V Operating Permit (TVOP), the administrative amendment to TVOP number 67-05033 will include emissions standards, testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3637.

59-00004F: Ward Manufacturing, LLC (117 Gulick Street, P. O. Box 9, Blossburg, PA 16912) for a plan approval to construct a tumbler blast cleaning and peening machine at their facility in Blossburg Borough, **Tioga**

County. The respective facility is a major facility for which a Title V Operating Permit 59-00004 has been issued.

The Department of Environmental Protection's (Department) review of the information submitted by Ward Manufacturing, LLC indicates that the construction of the tumbler blast cleaning and peening machine will meet all applicable air quality regulatory requirements pertaining to air contamination sources and the emission of air contaminants. Based on these findings, the Department intends to issue a plan approval for the construction of a tumbler blast cleaning and peening machine. Additionally, if the Department determines that the tumbler blast cleaning and peening machine is operating in compliance with all plan approval conditions, the conditions established in the plan approval will be incorporated into Title V operating permit 59-00004 by means of an administrative amendment under 25 Pa. Code § 127.450.

The following is a summary of the conditions that the Department proposes to place in the plan approval to be issued to ensure compliance with all applicable regulatory requirements:

1. The permittee shall not permit the emission of particulate matter into the outdoor atmosphere from Source 107 in such a manner that the concentration of particulate matter in the effluent gas from Control Device C19 exceeds 0.01 grain per dry standard cubic foot whenever either or both of the 14 cubic foot, Rosler JMT #14 tumbler blast cleaning and peening machines are the only machines incorporated in Source 107 that are operating and being controlled by Control Device C19. At all other times the concentration of particulate matter in the effluent gas from Control Device C19 shall not exceed 0.04 grain per dry standard cubic foot.

2. Control Device C19 shall be equipped with instrumentation to continuously monitor the pressure differential across the collector.

3. The permittee shall keep on hand a sufficient quantity of spare fabric collector bags for Control Device C19 to be able to immediately replace any bags requiring replacement due to deterioration resulting from routine operation of Source 107 and Control Device C19.

4. All conditions contained in Title V Operating Permit 59-00004 and Plan Approval 59-00004E remain in effect unless superseded or amended by conditions contained in this plan approval. If there is a conflict between a condition or requirement contained in this plan approval and a condition or requirement contained in Title V Operating Permit 59-00004 or Plan Approval 59-00004E, the permittee shall comply with the condition or requirement contained in this plan approval rather than the conflicting condition or requirement contained in Title V Operating Permit 59-00004 or Plan Approval 59-00004E.

A copy of the plan approval application is available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review may be made by calling the Department at 570-327-3693. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Environmental Program Manager, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, 570-327-0512.

59-00004D: Ward Manufacturing, LLC (117 Gulick Street, P. O. Box 9, Blossburg, PA 16912) for a plan approval to construct a wastewater evaporator at their

facility in Blossburg Borough, **Tioga County**. The respective facility is a major facility for which Title V Operating Permit 59-00004 has been issued.

The Department of Environmental Protection's (Department) review of the information submitted by Ward Manufacturing, LLC indicates that the construction of the wastewater evaporator will meet all applicable air quality regulatory requirements pertaining to air contamination sources and the emission of air contaminants. Based on these findings, the Department intends to issue a plan approval for the construction of a wastewater evaporator. Additionally, if the Department determines that the wastewater evaporator is operating in compliance with all plan approval conditions, the conditions established in the plan approval will be incorporated into Title V operating permit 59-00004 by means of an administrative amendment under 25 Pa. Code § 127.450.

The following is a summary of the conditions that the Department proposes to place in the plan approval to be issued to ensure compliance with all applicable regulatory requirements:

1. The total combined emission of volatile organic compounds from the wastewater evaporator shall not exceed 1.75 tons in any 12-consecutive month period.

2. The wastewater evaporator shall not be used to process wastewater containing hazardous air pollutants.

3. The wastewater evaporator shall only be fired on natural gas or propane.

4. The wastewater evaporator shall be equipped with a mist eliminator.

5. The wastewater evaporator shall be equipped with the following alarms/interlocks that shut down the evaporator when activated.

- a. High fluid level.
- b. Low fluid level.
- c. High bath temperature at 220° F.
- d. High flue temperature at 600° F.
- e. High heat exchanger temperature at 230° F.

6. The permittee shall maintain accurate and comprehensive records of the following:

- a. The type, quantity and volatile organic compound content of each fluid processed in the wastewater evaporator each month.

- b. The calculations used to determine the volatile organic compound emissions from the wastewater evaporator each month for the previous 12 month period.

All records generated pursuant to this condition shall be retained on site for a minimum of 5 years and shall be made available to the Department upon request.

7. All conditions contained in Title V Operating Permit 59-00004 remain in effect unless superseded or amended by conditions contained in this plan approval. If there is a conflict between a condition or requirement contained in this plan approval and a condition or requirement contained in Title V Operating Permit 59-00004, the permittee shall comply with the condition or requirement contained in this plan approval rather than the conflicting condition or requirement contained in Title V Operating Permit 59-00004.

A copy of the plan approval application is available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Regional Office, 208 West Third

Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review may be made by calling the Department at 570-327-3693. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Environmental Program Manager, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, 570-327-0512.

18-315-001E: First Quality Tissue, LLC (904 Woods Avenue, Lock Haven, PA 17745) for a plan approval to modify a paper towel and tissue manufacturing operation to lower the operation's carbon monoxide emissions limitations at their facility in Castanea Township, **Clinton County**. The respective facility is a major facility for which a Title V operating permit has not been issued.

The Department of Environmental Protection's (Department) review of the information submitted by First Quality Tissue, LLC indicates that the modification will meet all applicable air quality regulatory requirements pertaining to air contamination sources and the emission of air contaminants. Based on these findings, the Department intends to approve the application and issue plan approval for the modification of the paper towel and tissue manufacturing operation. Additionally, if the Department determines that the paper towel and tissue manufacturing operation is operating in compliance with all plan approval conditions, the conditions established in the plan approval will be incorporated into a Title V operating permit under 25 Pa. Code § 127.505.

The following is a summary of the conditions that the Department proposes to place in the plan approval to be issued to ensure compliance with all applicable regulatory requirements:

1. The emission of carbon monoxide from each of the sources listed shall not exceed the following limitations:

Paper Machine #1 / Dryers #1 and #2—21.70 pounds per hour, 240 ppmvd @ 3% O₂ and 92.4 tons in any 12-consecutive month period.

Paper Machine #2 / Dryers #1 and #2—21.70 pounds per hour, 240 ppmvd @ 3% O₂ and 92.4 tons in any 12-consecutive month period.

Boiler #1—0.80 pound per hour, 15 ppmvd @ 3% O₂ and 3.50 tons in any 12-consecutive month period.

Boiler #2—0.80 pound per hour, 15 ppmvd @ 3% O₂ and 3.50 tons in any 12-consecutive month period.

2. "Unit Heaters and Air Make-Up Units" will be comprised of the following combustion units:

One 0.64 million Btu per hour, natural gas/propane-fired Utilities Electrical Room air handler.

Two 0.13 million Btu per hour, natural gas/propane-fired Raw Material door heaters.

Thirty 0.2 million Btu per hour, natural gas/propane-fired Raw Material and Finished Goods door heaters.

Twelve 0.35 million Btu per hour, natural gas/propane-fired Raw Material door heaters.

Ten 9.7 million Btu per hour, natural gas/propane-fired air make-up units.

One 0.155 million Btu per hour, natural gas/propane-fired Parent Roll Storage door heater.

Ten 0.125 million Btu per hour, natural gas/propane-fired Parent Roll Storage unit heaters.

Seven 0.25 million Btu per hour, natural gas/propane-fired Broke Bailer unit heaters.

Four 1.5 million Btu per hour, natural gas/propane-fired air rotation units.

Four 2.2 million Btu per hour, natural gas/propane-fired air rotation units.

3. No more than a combined total of 326.0 million cubic feet of natural gas shall be used to fire the unit heaters and air make-up units in any 12-consecutive month period. The permittee may substitute propane for natural gas, however, only on an equivalent Btu basis.

4. The emission of air contaminants from all unit heaters & air make-up units shall not exceed the limitations specified as follows:

Nitrogen oxides (NO_x, expressed as NO₂)—16.30 tons in any 12-consecutive month period.

Carbon monoxide—13.69 tons in any 12-consecutive month period.

Volatile organic compounds—0.90 ton in any 12-consecutive month period.

Sulfur Oxides (SO_x, expressed as SO₂)—0.10 ton in any 12-consecutive month period.

Particulate matter, including particulate matter with an aerodynamic diameter of 10 microns or less—1.24 tons in any 12 consecutive month period.

5. All conditions contained in Plan Approval 18-315-001 and Plan Approval 18-315-001C remain in effect unless superseded or amended by a condition contained herein, or unless superseded or amended by a condition contained in another plan approval issued by the Department of Environmental Protection (Department). If there is a conflict between a condition contained herein and a condition contained in Plan Approval 18-315-001 or Plan Approval 18-315-001C, the permittee shall comply with the condition contained herein rather than the conflicting condition contained in Plan Approval 18-315-001 or Plan Approval 18-315-001C.

A copy of the plan approval application is available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review may be made by calling the Department at 570-327-3693. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Environmental Program Manager, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, 570-327-0512.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104. Contact: Edward Braun, Chief—Telephone: 215-685-9476.

AMS 09191: Catalent Pharma Solutions, LLC (3001 Red Lion Road, Philadelphia, PA 19114) to use inkjet labeling machine and equipment sanitization process in the City of Philadelphia, **Philadelphia County**. The process will consist of the inkjet labeling machine printing on exterior pouches and clean up with ink-wash up and thinner solvents. Equipment Sanitization Process involves manual wiping of packaging equipment with Sanitization alcohol. Total VOC emissions from package labeling and Ink tray cleaning process are limited to 3.0 tons per rolling 12-month period. Total VOC emissions from the Equipment Sanitization Process shall be less than 2.0 tons per rolling 12-month period. The plan approval will contain operating, monitoring, recordkeeping and reporting requirements to ensure operation within all applicable requirements.

AMS 10135: SunGard Availability Services, Inc. (401 North Broad Street, Philadelphia, PA 19108) to modify Condition 13 of Plan Approval No. 09139 dated September 9, 2009, to extend the deadline date for installing Nitrogen Oxides (NO_x) Selective Catalytic Reductive (SCR) control devices on four emergency generators in the City of Philadelphia, **Philadelphia County**:

- Engines No. 4 and 5—Extend SCR installation deadline date to 9/8/2011 from within 24 months of Plan Approval issuance date (9/8/2011) or the end of calendar year 2010, whichever is earlier.

- Engines No. 6 and 7—Extend SCR installation deadline date to 9/8/2012 from within 36 months of Plan Approval issuance date (9/8/2012) or the end of calendar year 2011, whichever is earlier.

There will be no potential increase of emissions as a result of extending the installation dates. The Plan Approval will contain operating, testing, monitoring, and recordkeeping requirements to ensure operation within all applicable requirements.

OPERATING PERMITS

Intent to Issue Title V Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 814-949-7935.

06-05066: Exide Technologies (P. O. Box 14294, Reading, PA 19612-4294) for operation of a secondary lead smelter in the Borough of Laureldale and Muhlenberg Township, **Berks County**. The facility is subject to 40 CFR Part 52, Prevention of Significant Deterioration (PSD), Part 60, Subpart L, Standards of Performance for New Stationary Sources (NSPS and Part 63, Subpart X, National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelters (MACT)). This proposed action would be a renewal of the Title V Operating Permit issued in 2000. This notice regards a revised draft of the Title V permit, which was prepared considering public comments on the 2009 draft of the permit, and testimony from a public hearing on the 2009 draft of the permit that was held on November 17, 2009.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.

53-00004: Dominion Transmission, Inc. (501 Martindale Street, Suite 400, Pittsburgh, PA 15212-5817) for renewal of their Title V Operating Permit for their Harrison Compressor station in Harrison Township, **Potter County**. The facility's sources include one 14.0 million Btu per hour heater; three heaters each rated at 6.5 mmBtu/hr; nine combustion units each rated less than 1.0 mmBtu/hr; one 25.2 mmBtu/hr boiler; one 1,100 bhp natural gas-fired engine; five natural gas-fired engines each rated at 2,000 bhp; emergency gas blowdown; six engine transition vents, fuel gas and crankcase vents; 8 liquid storage tanks; two parts cleaners; one 700 bhp natural gas-fired engine; and miscellaneous sources determined to be of minor significance. The facility has the potential to emit carbon monoxide (CO), nitrogen oxides (NO_x) and volatile organic compounds (VOCs) above their respective major emission thresholds. The potential emis-

sions for particulate matter (PM/PM₁₀), sulfur oxides (SO_x) and volatile hazardous air pollutants (VHAPs) are below their respective major emission thresholds. The renewal proposed Title V operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428. Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.

46-00269: Yellow Book USA, Inc. (2201 Renaissance Boulevard, King of Prussia, PA 19406) for operation of three (3) emergency generators at their facility in Upper Merion Township, **Montgomery County**. The permit is for a non-Title V (State-only) facility. The facility has elected to cap Nitrogen Oxide (NO_x) to less than 25 tons per year; therefore the facility is a Synthetic Minor. The permit incorporates the plan approvals covering the generators, Nos. 46-0269 and 46-0269A. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

09-00163: H & K Materials, Inc.—Blooming Glen Quarry (901 Minsi Trail, Blooming Glen, PA 18911) for a non-Title V facility renewal of a synthetic minor operating permit issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450 in Hilltown Township, **Bucks County**. The Operating Permit will contain recordkeeping requirements, monitoring requirements and operating conditions designed to keep the facility operating within the allowable emission limits and all applicable air quality requirements.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507.

54-00050: Rubbermaid Commercial Products (1400 Laurel Boulevard, Pottsville, PA 17901) for operation of a pyrolysis furnace at their manufacturing facility in the City of Pottsville, **Schuylkill County**. This is a renewal of a State-only Operating Permit.

40-00074: Altec Industries, Inc. (250 Laird Street, Plains, PA 18705-3821) for operation of a spray coating operation of vehicle bodies at their facility in Plains Township, **Luzerne County**. This is a renewal of a State-only Operating Permit.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 814-949-7935.

36-05137: B&S Woodcrafts (722 Truce Road, Quarryville, PA 17566) for operation of two spray paint booths in their Providence Township, **Lancaster County** facility. This is a renewal of the State-only operating permit issued in September 2005.

67-05013: York City Sewer Authority (1701 Black Bridge Road, York, PA 17402) for a waste water treatment plant and digester gas powered engines in Manchester Township, **York County**. This is renewal of a synthetic minor operating permit issued in January 2006.

36-03120: Esbenschade Mills (220 Eby Chiques Road, Mount Joy, PA 17552) for operation of their feed mill in Rapho Township, **Lancaster County**. This is a renewal of the State-only Operating permit issued in 2004.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: Muhammad Zaman, Environmental Program Manager—Telephone: 570-327-3648.

08-00033: Talisman Energy USA, Inc. (337 Daniel Zenker Drive, Horseheads, NY 14845) to issue a State-only (synthetic minor) operating permit for operation of its Watkins Compressor Station located in Columbia Township, **Bradford County**.

The facility incorporates twelve natural gas-fired ultra lean burn compression engines each rated at 1380 bhp equipped with air fuel ratio control and two natural gas dehydration units each rated at 60 million standard cubic feet per day.

The facility has the potential to emit up to 6.40 tons of HAPs, 80.27 tons of NO_x, 39.07 tons of VOCs and 38.65 tons of CO per year.

The facility is not a major (Title V) facility for any air contaminant.

The Department of Environmental Protection (Department) proposes to issue State-only (Synthetic Minor) Operating Permit 08-00033. The State-only (Synthetic Minor) operating permit contains monitoring, recordkeeping and reporting conditions to ensure compliance with applicable Federal and State regulatory requirements.

PLAN APPROVALS

Receipt of Plan Approval Applications and Intent to Issue Plan Approvals, and Intent to Issue Amended Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B and Subchapter F. These actions may include the administrative amendments of an associated operating permit.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507.

PA39-304-027: Bridesburg Foundry Co. (901 Front Street, P. O. Box 269, Whitehall, PA 18052-0269) for modification to their existing blasting operation for their facility in Whitehall Township, **Lehigh County**.

In accordance with 25 Pa. Code §§ 127.44(a) and 127.45(a), the Department of Environmental Protection (Department) has received and intends to issue a Plan Approval to Bridesburg Foundry Co. (901 Front Street, P. O. Box 269, Whitehall, PA 18052-0269) for their facility to be located in Whitehall Township, Lehigh County. This Plan Approval No. 39-304-027 will be incorporated into a Synthetic Minor Permit through an administrative amendment at a later date.

Plan Approval No. 39-304-027 is for the modification to their existing blasting operation. The company will be removing one of their existing baghouses and any process emissions that were controlled by that baghouse will be ducted to another existing baghouse. Also, a sand reclaimer will be installed. Particulate emissions will not exceed 0.01 gr/dscf. The company shall be subject to and comply with 25 Pa. Code § 123.31 for malodorous emissions. The company shall be subject to and comply with 25 Pa. Code § 123.41 for Visible emissions. Emissions will be controlled by the use of baghouses. There will be no production rate increases or increase in hours of operation. These limits will meet BAT requirements for this source. The Plan Approval and Operating permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

Copies of the application, the Department's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Any person(s) wishing to provide the Department with additional information, which they believe should be considered prior to the issuance of this permit, may submit the information to the address shown in the preceding paragraph. Each written comment must contain the following:

Name, address and telephone number of the person submitting the comments.

Identification of the proposed permit No. 39-304-027.

A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted based on the comments received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Ray Kempa, Chief, New Source Review Section, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711, Phone 570-826-2511 within 30 days after publication date.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to such applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of the application is available for inspection at the District Mining Office indicated above each application. Where a 401

Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for the certification.

Written comments or objections, or requests for an informal conference, or a public hearing, as applicable, on a mining permit application may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the address of the district mining office indicated above each application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Written comments or objections related to a mining permit application should contain the name, address and telephone number of persons submitting comments or objections; application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based.

Requests for an informal conference, or a public hearing, as applicable, on a mining permit application, as provided by 25 Pa. Code §§ 77.123 or 86.34, must contain the name, address and telephone number of the requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

When a National Pollutant Discharge Elimination System (NPDES) number is listed, the mining activity permit application was accompanied by an application for an individual NPDES permit. The Department has made a tentative determination to issue the NPDES permit in conjunction with the mining activity permit, but the issuance of the NPDES permit is contingent upon the approval of the associated mining activity permit.

For coal mining activities, NPDES permits, when issued, will contain effluent limits that do not exceed the technology-based effluent limitations. The proposed limits are listed in Table 1.

For noncoal mining activities, the proposed limits are found in Table 2. Discharges from noncoal mines located in some geologic settings (for example, in the coal fields) may require additional effluent limits. If additional effluent limits are needed for an NPDES permit associated with a noncoal mining permit, then the permit description below specifies the parameters. The limits will be in the ranges specified in Table 1.

More restrictive effluent limitations, restrictions on discharge volume, or restrictions on the extent of mining that may occur, will be incorporated into an NPDES permit when necessary for compliance with water quality standards and antidegradation requirements (in accordance with 25 Pa. Code Chapters 91—96).

The procedures for determining the final effluent limits, using a mass-balance equation or model, are found in Technical Guidance Document 362-0600-001, NPDES Program Implementation—Memorandum of Understanding Concerning Water Quality Management, NPDES Program Implementation and Related Matters. Other specific factors to be considered include public comments and Total Maximum Daily Loads (TMDLs).

Persons wishing to comment on an NPDES permit application should submit a statement to the Department at the address of the district mining office indicated previously each application within 30 days of this public notice. Comments received within the comment period will be considered in the final determinations regarding the NPDES permit applications. Comments must include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests or petitions for a public hearing on NPDES permit applications, as provided in 25 Pa. Code § 92.61. The request or petition for a public hearing shall be filed within 30 days of this public notice and shall contain the name, address, tele-

phone number and the interest of the party filing the request, and shall state the reasons why a hearing is warranted. A public hearing may be held if the Department considers the public interest significant. If a hearing is scheduled, a notice of the hearing on the NPDES permit application will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. In the case where a public hearing is held, the Department will consider comments from the public hearing in the final determination on the NPDES permit application.

Coal Applications Received

Effluent Limits—The following range of effluent limits will apply to NPDES permits issued in conjunction with the associated coal mining activity permit and, in some cases, noncoal mining permits:

<i>Parameter</i>	<i>Table 1</i>		
	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (Total)	1.5 to 3.0 mg/l	3.0 to 6.0 mg/l	3.5 to 7.0 mg/l
Manganese (Total)	1.0 to 2.0 mg/l	2.0 to 4.0 mg/l	2.5 to 5.0 mg/l
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Aluminum (Total)	0.75 to 2.0 mg/l	1.5 to 4.0 mg/l	2.0 to 5.0 mg/l
pH ¹		greater than 6.0; less than 9.0	
Alkalinity greater than acidity ¹			

¹ The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; and mined areas backfilled and revegetated; and drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

California District Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100.

56733702 and NPDES Permit # PA0110035, Robindale Energy Services, Inc., (224 Grange Hall Road, P. O. Box 228, Armagh, PA 15920), to renew the permit for the Marmon Refuse Site in Jenner Township, **Somerset County** and related NPDES permit. No additional discharges. Application received: April 22, 2010.

30841316, Consol PA Coal Company, LLC, (1525 Pleasant Grove Road, P. O. Box J, Claysville, PA 15323), to revise the permit for the Bailey Mine and Prep Plant in Richhill Township, **Greene County**, ACOE Pittsburgh. Wind Ridge, PA Quadrangle from N: 3.78 inches; W: 11.09 inches to N: 4.70 inches; W: 10.60 inches. This is a Chapter 105 Water Obstruction and Encroachment permit application (Stream Module 15), and 401 Water Quality Certification request, if applicable, submitted as part of the mining permit revision application to authorize the stream restoration for stream flow loss resulting from longwall mining to one area of unnamed tributary 32596 of North Fork of Dunkard Fork. Written comments or objections on the request for Section 401 Water Quality Certification or to the issuance of the Water Obstruction and Encroachment Permit, (Stream Module 15) may be submitted to the Department within 30 days of the date

of this notice to the District Mining Office identified previously. Comments should contain the name, address and telephone number of the person commenting, identification of the request for 401 Water Quality Certification and Chapter 105 permit application, (Stream Module 15) to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including relevant facts upon which they are based. The Water Obstruction and Encroachment permit application is available for review at the California District Mining Office, by appointment, at the address listed previously. Application received: April 19, 2010.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.

32000102 and NPDES No. PA02345296. Britt Energies, Inc., 2450 Philadelphia Street, Indiana, PA 15701, permit renewal for reclamation only of a bituminous surface and auger mine in White Township, **Indiana County**, affecting 105.3 acres. Receiving stream(s): unnamed tributaries to/and Yellow Creek classified for the following use(s): trout stocked fishery; cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: May 14, 2010.

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925- 5500.

63100102 and NPDES Permit No. PA0251968. Arthur J. Boyle (P. O. Box 400, Laughlintown, PA 15655). Application for commencement, operation and reclamation of a bituminous surface mine, located in Centerville Borough, **Washington County**, affecting 32.2 acres. Receiving streams: unnamed tributaries to

Monongahela River, classified for the following use: WWF. The potable water supplies with intake within 10 miles downstream from the point of discharge: PA American Water Co., Brownsville Plant. Application received: May 7, 2010.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

40-305-006GP12. Silverbrook Anthracite, Inc., (1 Market Street, Laflin, PA 18702), renewal application to operate a coal preparation plant whose pollution control

equipment is required to meet all applicable limitations, terms and conditions of General Permit, BAQ-GPA/GP-12 on Surface Mining Permit No. 40850203 in Newport Township, **Schuylkill County**. Application received: May 14, 2010.

Noncoal Applications Received

Effluent Limits—The following effluent limits will apply to NPDES permits issued in conjunction with a noncoal mining permit:

<i>Parameter</i>	<i>Table 2</i>		
	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Alkalinity exceeding acidity*			
pH*		greater than 6.0; less than 9.0	

* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.

1475302 and NPDES No. PA0112275. Con-Lime, Inc. (965 East College Avenue, Pleasant Gap, PA 16823). Renewal of the NPDES Permit for discharges of treated mine drainage from a quarry operation in Benner Township, **Centre County**. Receiving streams: Buffalo Run classified for High Quality Cold Water Fishery. Application received: April 30, 2010.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Floodplain Management Act (32 P. S. § 679.302) and requests for certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636.

E53-433. Ultra Resources, Inc., 304 Inverness Way South, Suite 295, Englewood, CO 80112-5828. Ultra Resources PL-115 Natural Gas Pipeline Development in West Branch Township, **Potter County**, ACOE Baltimore District (Galeton, PA Quadrangle Latitude: 41° 39' 59.07"; Longitude: 77° 37' 08.06").

Ultra Resources, Inc. proposes to construct, operate and maintain its PL-115 natural gas pipeline for the Marshland Play Area gas well development requiring encroachment of the following of two (2) wetlands and two (2) stream crossings:

<i>Permit ID</i>	<i>Activity</i>	<i>Resource</i>	<i>Water Quality</i>	<i>Latitude</i>	<i>Longitude</i>
Wetland	Pipeline PL-115 Crossing	Wetland to Unnamed Tributary	EV	41° 39' 59.07"	77° 37' 08.06"
Watercourse 1	Pipeline PL-115 Crossing	Unnamed Tributary to Sliders Branch	EV	41° 39' 59.07"	77° 37' 08.06"
Wetland	Pipeline PL-115 Crossing	Wetland to Sliders Branch	EV	41° 39' 59.07"	77° 37' 08.06"
Watercourse 2	Pipeline PL-115 Crossing	Sliders Branch	EV	41° 39' 59.07"	77° 37' 08.06"
Wetland	Pipeline PL-115 Crossing	Wetland to Slider Branch	EV	41° 39' 59.07"	77° 37' 08.06"

Since the unnamed tributary and Sliders Branch are wild trout fisheries, no construction or future repair work shall be done in or along the stream channel between October 1 and December 31 without prior written approval from the Fish and Boat Commission. Installation of the gas pipeline shall be accomplished by standard boring or directional drilling beneath the previously listed wetlands and streams. As proposed, the pipeline installation shall not result in any temporary or permanent wetland and stream impact. The project is located along the southern right-of-way of Pigeon Hill Road approximately 3,265-feet west of South Mitchell and Pigeon Hill Roads intersection.

Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E63-625. Washington Investments, LLC, 325 Wiley Street, Morgantown, WV 26505. To construct a culvert, retaining wall and fill in floodway in North and South Strabane Townships, **Washington County**, Pittsburgh ACOE District (Washington East, PA Quadrangle N: 15.7 inches; W: 9.3 inches, Latitude: 40° 12' 41"; Longitude: 80° 11' 45"). The applicant proposes to construct and maintain a CON/SPAN bridge across an unnamed tributary to Chartiers Creek (WWF) having a span of 40 feet and an underclearance of 11 feet. To construct and maintain a retaining wall and fill in the floodway along said stream. The project proposes the development of 14 acres for commercial buildings. The site is located along SR 19 in North and South Strabane Townships, Washington County.

Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

E25-040A, T. E. Flower Estate, 6390 West Lake Road, Erie, PA 16505. Avonia Beach Boat Club Amendment, in Fairview Township, **Erie County**, ACOE Pittsburgh District (Fairview, PA Quadrangle N: 12.2 inches; W: 3.0 inches).

On February 16, 2005, the Department of Environmental Protection (Department) received a request from the T. E. Flower Estate to amend Permit No. E25-040A. Based on this application, the Department has prepared a draft amended permit.

The proposed amendment is to decommission the marina and restore the site to a more natural condition involving the following:

1. To remove the existing docks and infrastructure within the marina.

2. To remove the entire existing north marina bulkhead wall and northeast marina bulkhead wall including concrete rubble adjacent to the bulkheads.

3. To remove the stacked 2' by 2' by 6' concrete blocks from the top of the west marina bulkhead wall for a length of approximately 66 feet landward from the northern end. The remaining western wall will remain intact.

4. To leave the east and south marina bulkhead walls in place.

5. To install and maintain a rubble fill along the entire western side of the east bulkhead wall.

6. To establish and maintain 0.64 acre of fill within the existing marina basin with sand and with stone/concrete from the demolished marina walls and bulkhead walls.

7. The previously listed work shall be conducted in accordance with Urban Engineers Permit E25-040A Amendment—Drawing number STDY-194-6 dated February 19, 2007, and identified as Appendix 1.

The application and draft amended permit are available for review at the Department of Environmental Protection, Northwest Regional Office (DEP—NWRO). Comments will be accepted by DEP—NWRO for 30 days from the date of this notice. Please send comments to: Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, PA 16335.

DAM SAFETY

Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.

D51-016. City of Philadelphia Water Department, ARA Tower at One Reading Center, 1101 Market Street, Philadelphia, PA 19107. To modify, operate and maintain the Queen Lane Raw Water Basin Dam located within the Schuylkill River Watershed (WWF), for the purpose of providing an acceptable emergency spillway structure (Germantown, PA Quadrangle N: 2.5 inches; W: 9.4 inches) in City of Philadelphia, **Philadelphia County**.

ACTIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT FINAL ACTIONS TAKEN FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal wastes; discharges to groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

I. NPDES Renewal Permit Actions

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0060674 (Sewage)	Camp Lee Mar 450 Route 590 Lackawaxen, PA 18435	Pike County Lackawaxen Township	Unnamed tributary to Lords Creek 1-B	Y

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0228761 (Sewage) Non-Public	Bakercrest Home for the Elderly 76 Baker Crest Lane Millerton, PA 16936	Tioga County Rutland Township	UNT to Bear Creek SWP 4A	Y
PA0113956 (Sewage)	Locust Township East Lake Glory Road Catawissa, PA 17820	Columbia County Locust Township	Unnamed Tributary of Roaring Creek 5-E	Y

II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

NPDES Permit No. PAG040065, Amendment 1, Sewage, **Chad A. Fultz**, 190 Lonely Road, Sellersville, PA 18960. This proposed facility is located in West Rockhill Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the transfer of the operation of sewerage facilities discharge into an Unnamed Tributary to East Branch Perkiomen Creek in Watershed 3-E.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

PA0229121, CAFO, SIC 0259, **Cotner Farms Inc.**, 127 Rushtown Road, Danville, PA 17821. This proposed facility is located in Rush Township, **Northumberland County**.

Description of Proposed Activity: Poultry operation with layer chickens. The receiving streams, Logan and Wilson Runs, are in the State Water Plan Catawissa-Roaring Creek Watershed 5E and is classified for: Cold Water Fishery.

The proposed effluent limits for the operation/activity include: Except for the chronic or catastrophic rainfall events defined as over the 25-year/24-hour rain storms, the CAFO individual permit is a non-discharge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required.

In addition to the effluent limits, the permit contains the following major special conditions.

1. Compliance with the farm's Nutrient Management Plan.
2. Compliance with the farm's Preparedness, Prevention and Contingency Plan.
3. Compliance with the Farm's Erosion and Sedimentation Control Plan for plowing and tilling.
4. Erosion and Sedimentation Control Plan requirements for stormwater during construction activities.
5. Animal mortality handling and disposing requirements.
6. Requirements for storage of feed and other raw materials.
7. Best Management Practices requirements.
8. Egg Wash Water Disposal System self inspection and reporting requirements.

III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

WQM Permit No. 4009411, Sewerage, **YMCA of Wilkes-Barre, Inc.**, 40 West Northampton Street, Wilkes-Barre, PA 18711. This proposed facility is located in Dennison Township, **Luzerne County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit for a project to replace existing deteriorating equipment and improve existing operations at sewage treatment lagoon to include conversion to aerobic sewage treatment lagoon at the camping and retreat/conference center at Camp Kresge.

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, Phone: 717-705-4707.

WQM Permit No. 6791402, Sewage, **Penn Township**, 20 Wayne Avenue, Hanover, PA 17331. This proposed facility is located in Penn Township, **York County**.

Description of Proposed Action/Activity: Permit approval for the construction/operation of sewerage facilities consisting of the upgrade of the existing treatment plant to meet proposed nutrient limits specified in Part I NPDES permit issued on January 9, 2009.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

WQM Permit No. 1009405, Sewerage, **Heron Ridge Development Company, LLC**, 108 Deer Lane, Harmony, PA 16037. This proposed facility is located in Muddy Creek Township, **Butler County**.

Description of Proposed Action/Activity: Issuance of a sewage treatment plant and disposal facilities permit to serve the planned Heron Ridge Development. It will be designed to ultimately discharge up to 14,000 gallons per day of treated effluent.

IV. NPDES Stormwater Discharges from MS4 Permit Actions

V. NPDES Waiver Stormwater Discharges from MS4 Actions

VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water / Use</i>
PAI023907001(2)	Muhlenberg College David Rabold 240 Chew Street Allentown, PA 18104-5586	Lehigh	City of Allentown	Cedar Creek HQ-CWF, MF
PAI024509005	Monroe-Pike Land, LLC R. R. 5 Box 5199 East Stroudsburg, PA 18301	Monroe	Hamilton Township	McMichaels Creek HQ-CWF, MF

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, Telephone 717-705-4707.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water / Use</i>
PAI032808004	B2M2, LLC Steve Minnich 226 Walnut Street Waynesboro, PA 17268	Franklin	Washington Township	Antietam Creek CWF
PAI034410004	Thomas White, Jr. Chairperson Oliver Township 4670 US Highway 522 South McVeytown, PA 17051	Mifflin	Oliver Township	Wakefield Run HQ-CWF

Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

Centre County Conservation District: 414 Holmes Avenue, Suite 4, Bellefonte, PA 16823, (814) 355-6817.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water / Use</i>
PAI040009009R-1	Mr. Dan Spivey Northeastern ITS 6779 Engle Road Suite D Middleburg Heights, OH 44130-7926	Centre, Northampton, Northumberland, Schuylkill and Snyder	Various	Numerous

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Small Flow Treatment Facilities
PAG-5	General Permit for Discharges From Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)

PAG-12 Concentrated Animal Feeding Operations (CAFOs)
 PAG-13 Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

General Permit Type—PAG-2

*Facility Location:
Municipality &
County*

Permit No.

Applicant Name & Address

Receiving Water/Use

*Contact Office &
Phone No.*

Middletown Township Bucks County	PAG200 0904087-2	St. Mary Medical Center 1201 Langhorne-Newtown Road Langhorne, PA 19047	Neshaminy Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Plumstead Township Bucks County	PAG200 0905002-R	Andrew Lykon 477 Cafferty Road Pipersville, PA 18047	Deep Run Delaware River WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Kennett Square Borough Chester County	PAG0200 151011	YMCA of Brandywine Valley 50 South First Avenue Coatesville, PA 19320	Red Clay Creek CWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Williams Township Glendon Borough Northampton County	PAG2004809013	Greg Chrin Chrin Brothers, Inc. 635 Industrial Drive Easton, PA 18042	Lehigh River WWF, MF	Northampton County Conservation District 610-746-1971
City of Scranton Lackawanna County	PAG2003510005	Chick Evers R. R. 3 Box 155-1 Pond Road Dalton, PA 18414	UNT to Lackawanna River CWF, MF	Lackawanna County Conservation District 570-281-9495
Washington County Chartiers Township	PAG2006310010	JCG Development, LLC P. O. Box 500 Meadowlands, PA 15347	Chartiers Creek WWF	Washington County Conservation District 602 Courthouse Square Washington, PA 15301 724-228-6774
Adams Township Butler County	PAG02 0010 10 003	Wickerham Heights James A. West Echo5, LLC 100 Arthur Drive Wexford, PA 15090	UNT to Breakneck Creek WWF	Butler County Conservation District 724-284-5270
Borough of Edinboro Erie County	PAG02 0025 10 005	Edinboro University Foundation Alumni House 210 Meadville Street Edinboro, PA 16412	Conneauttee Creek TSF	Erie County Conservation District 814-825-6403
Towanda Township Bradford County	PAG2000810009	Bradford County Airport Authority R. R. 2 Box 69A Towanda, PA 18848	UNT to Towanda Creek CWF	Bradford County Conservation District Stoll Natural Resource Center R. R. 5 Box 5030C Towanda, PA 18848 (570) 265-5539 Ext. 6
Benner Township Centre County	PAG2001410008	Robert Franks Sheetz, Inc. 5700 Sixth Avenue Altoona, PA 16602	UNT to Spring Creek CWF	Centre County Conservation District 414 Holmes Avenue Suite 4 Bellefonte, PA 16823 (814) 355-6817

*Facility Location:
Municipality &
County*

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
College Township Centre County	PAG2001410012	P. Jules Patt BXAL, Inc. Independence Place 422 Allegheny Street Hollidaysburg, PA 16648	UNT to Spring Creek CWF	Centre County Conservation District 414 Holmes Avenue Suite 4 Bellefonte, PA 16823 (814) 355-6817
Sandy Township Clearfield County	PAG2001710005	Roger Chapman A & R Development, Inc. Route 1 Box 1131 Roosevelt, UT 84066	Wolf Run CWF	Clearfield County Conservation District 650 Leonard Street Clearfield, PA 16830 (814) 765-2629

General Permit Type—PAG-3

*Facility Location:
Municipality &
County*

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Blair County Allegheny Township	PAR803721	A. Duie Pyle, Inc. (Altoona Facility) 650 Western Road P. O. Box 564 West Chester, PA 19381-0564	UNT to Gillians Run CWF 11-A	DEP—SCRO—WQ 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
Cumberland County Silver Spring Township	PAR603576	Safety-Kleen Systems, Inc. (New Kingstown Branch) Ten Eleanor Drive New Kingstown, PA 17072	Hogestown Run CWF 7-B	DEP—SCRO—WQ 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
Mifflin County Granville Township	PAR223515	CHM Manufacturing, Inc., d/b/a Marlette Homes, Inc. 30 Industrial Park Road Lewistown, PA 17044	Juniata River WWF	DEP—SCRO—WQ 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
Berks County Sinking Spring Borough	PAR203512	Hofmann Industries, Inc. 3145 Shillington Road Sinking Spring, PA 19608-0147	Cacoosing Creek TSF	DEP—SCRO—WQ 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
York County Warrington Township	PAR603521	Perry A. Witmer Witmer's Auto Salvage 340 Fickes Road Dillsburg, PA 17019	Beaver WWF	DEP—SCRO—WQ 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707

General Permit Type—PAG-8

*Facility Location:
Municipality &
County*

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Site Name & Location</i>	<i>Contact Office & Phone No.</i>
Lewisburg Area Joint Sewer Authority P. O. Box 305 Lewisburg, PA 17837 East Buffalo Township Union County	PAG084820	Lewisburg Area Joint Sewer Authority P. O. Box 305 Lewisburg, PA 17837	Lewisburg Area Joint Sewer Authority P. O. Box 305 Lewisburg, PA 17837 East Buffalo Township Union County	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-0526

PUBLIC WATER SUPPLY (PWS) PERMITS

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P.S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing

Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act

Southeast Region: Water Supply Management Program Manager, 2 East Main Street, Norristown, PA 19401.

Permit No. 1509502, Public Water Supply.

Applicant	Aqua Pennsylvania, Inc. 762 West Lancaster Avenue Bryn Mawr, PA 19010
Township	Schuylkill
County	Chester
Type of Facility	PWS
Consulting Engineer	C.E.T. Engineering Service 1240 North Mountain Road Harrisburg, PA 17112
Permit to Construct Issued	February 25, 2009

Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permit No. 0210502, Public Water Supply.

Applicant	Pittsburgh Water & Sewer Authority 1200 Penn Avenue 2nd Floor Pittsburgh, PA 15222-4204
Borough or Township	City of Pittsburgh
County	Allegheny
Type of Facility	Squirrel Hill water storage tank
Consulting Engineer	
Permit to Construct Issued	May 19, 2010

Operations Permit issued to **Municipal Authority of Westmoreland County**, 124 Park and Pool Road, New Stanton, PA 15672, (PWSID No. 5020025) City of McKeesport, **Allegheny County** on May 19, 2010, for the operation of facilities approved under Construction Permit No. 0207502MA.

Operations Permit issued to **Brighton Township Municipal Authority**, 1300 Brighton Road, Beaver, PA

15009, (PWSID No. 5040017) Brighton Township, **Beaver County** on May 19, 2010, for the operation of facilities approved under Construction Permit No. 0406505MA.

Operations Permit issued to **Pittsburgh Water & Sewer Authority**, 1200 Penn Avenue, 2nd Floor, Pittsburgh, PA 15222-4204, (PWSID No. 5020038) City of Pittsburgh, **Allegheny County** on May 19, 2010, for the designation of water quality parameter performance requirements approved under Permit No. 465W001T1C3.

Permit No. 0209521MA, Minor Amendment, Public Water Supply.

Applicant	Pittsburgh Water & Sewer Authority 1200 Penn Avenue 2nd Floor Pittsburgh, PA 15222-4204
Borough or Township	City of Pittsburgh
County	Allegheny
Type of Facility	Highland Reservoir No. 2 cover
Consulting Engineer	
Permit to Construct Issued	May 19, 2010

Permit No. 4560040T1, Minor Amendment, Public Water Supply.

Applicant	ARCPA Properties, LLC, a/k/a Sunny Acres MHC 4643 South Ulster Street Suite 400 Denver, CO 80237
Borough or Township	Somerset Township
County	Somerset
Type of Facility	Water supply system comprehensive permit
Consulting Engineer	
Permit to Operate Issued	May 19, 2010

Permit No. 6395501T1, Minor Amendment, Public Water Supply.

Applicant	Pennsylvania American Water Company 800 West Hersheypark Drive Hershey, PA 17033
Borough or Township	Amwell Township
County	Washington
Type of Facility	Transfer of the Amwell Township Water Authority
Consulting Engineer	
Permit to Operate Issued	May 19, 2010

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, Telephone: 717-705-4707.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Drumore Township	P. O. Box 38 Drumore, PA 17518	Lancaster County

Plan Description: The approved plan is for a commercial development of 77 EDUs or 30,646 gallons per day from proposed retail and restaurant space. Sewage will be treated onsite and discharged to drip irrigation disposal fields. The Department of Environmental Protection (Department) code number for this plan revision is A3-36922-092-3 and the APS number is 696250. The proposed development is located on the west side of PA Route 272, 400 feet south of PA Route 372 in Drumore Township, Lancaster County. The project name is Drumore Crossings. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the sewage system owner.

Plan Location: on the west side of Paxton Run Road at Brethren Church Road.

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Lurgan Township	8650 McClays Mill Road Newburg, PA 17240	Franklin County

Plan Description: The approved plan, in the name of John M. Lee, provides for a Small Flow Treatment Facility to serve one residential dwelling with sewage flows of 400 gallons per day. The project is located on the west side of Paxton Run Road at Brethren Church Road. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the owner.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup

plan for a Site-Specific Standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.

Lonza, Inc., Conshohocken Borough, **Montgomery County**. Heath A. Brown, Environmental Standards, Inc., 1140 Valley Forge Road, Valley Forge, PA 19482, Martin Bagnall Tier De, Inc., 5745 Lincoln Highway, Gap, PA 17527, Dennis Fallon, City Construction Co., Inc., 1100 Bondsville Road, Downingtown, PA 19335 on behalf of Peter McGinns, Lonza, Inc., 900 River Road, Conshohocken, PA 19428 has submitted a 90 day Final Report concerning remediation of site soil contaminated with other organics. The Report is intended to document remediation of the site to meet the Statewide Health Standard.

Enterprise Heights, City of Philadelphia, **Philadelphia County**. Paul Martino, Pennoni Associates, Inc., 3001 Market Street, Philadelphia, PA 19104, Bill Schmidt, Pennoni Associates, Inc., 3001 Market Street, Philadelphia, PA 19104 on behalf of Omowale Crenshaw, Enterprise Heights Real Estate Development, 4548 Market Street, Philadelphia, PA 19139 has submitted a Final Report concerning remediation of site soil contaminated with lead and PAH. The Report is intended to document remediation of the site to meet the Statewide Health Standard.

URG Graphics, Inc. Facility, Richland Township, **Bucks County**. Sean M. Damon, Langan Engineering & Environmental, P. O. Box 1569, Doylestown, PA 18901, Martin Lindsay, The Middleby Corporation, 1400 Toastmaster Drive, Elgin, PA 60120 on behalf of Eugene Landy, Monmouth Real Estate Investment, Juniper Business Plaza, 3499 Route 9 North, Suite 3-C, Freehold, NJ 07728 has submitted a Final Report concerning remediation of site soil contaminated with inorganic. The Report is intended to document remediation of the site to meet the Statewide Health Standard.

Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Pennzoil Rouseville Refinery Plant 2 (Former PQS Rouseville Refinery Plant #2), Cornplanter Township, **Venango County**. URS Corporation, 200 Orchard Ridge Drive, Suite 101, Gaithersburg, MD 20878 on behalf of Pennzoil-Quaker State Company, 910 Louisiana OSP 687, Houston, TX 77002 has submitted a Risk Assessment Report concerning the remediation of site soil contaminated with 1,1,2,2-tetrachloroethane, 1,2,3-trichloro-

propane, 1,2,4-trimethylbenzene, benzene, ethylbenzene, naphthalene, toluene, xylenes (total), 2-methylnaphthalene, benz[a]anthracene, benzo[a]pyrene, benzo[b]fluoranthene, benzo[k]fluoranthene, dibenz[a,h]anthracene, indeno[1,2,3-cd]pyrene, antimony, arsenic, chromium, cobalt, iron, lead, manganese, mercury, thallium, and vanadium; site groundwater contaminated with 1,2,3-trichloropropane, 1,2,4-trimethylbenzene, 1,2-dichloroethane, 1,3,5-trimethylbenzene, 2-hexanone, 4-isopropyltoluene, benzene, cumene, ethylbenzene, methylene chloride, methyl-tert-butyl-ether, naphthalene, n-propylbenzene, styrene, toluene, xylenes (total), 2,4-dimethylphenol, 2-methylnaphthalene, 3 and 4 methylphenol, acenaphthene, benz[a]anthracene, benzo[a]pyrene, benzo[b]fluoranthene, benzo[g,h,i]perylene, benzo[k]fluoranthene, bix[2-ethylhexyl]phthalate, chrysene, dibenz[a,h]anthracene, dibenzofuran, di-n-octyl phthalate, fluoranthene, fluorene, indeno[1,2,3-cd]pyrene, pentachlorophenol, phenanthrene, pyrene, antimony (dissolved and total), arsenic (dissolved and total), barium (dissolved and total), cadmium (total), cobalt (dissolved and total), iron (dissolved and total), lead (dissolved and total), manganese (dissolved and total), mercury (dissolved and total), nickel (total), selenium (dissolved and total), vanadium (dissolved and total), zinc (dissolved and total), and cyanide; sediment contaminated with benzene, benz[a]anthracene, benzo[a]pyrene, benzo[b]fluoranthene, benzo[k]fluoranthene, chrysene, and dibenz[a,h]anthracene. The Risk Assessment Report is intended to document remediation of the site to meet the Site-Specific Standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a Site-Specific Standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of reuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk

assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.

1610 Republic Road Property, Lower Merion Township **Montgomery County**. Stacie Cottone, J & J Spill Service & Supplies, Inc., P. O. Box 370, Blue Bell, PA 19422 on behalf of John Swanson, Han Mar Associates MLP and Mark Hankin, Building 1, 5301 Tacony Street, Philadelphia, PA 19137 has submitted a 90 day Final Report concerning the remediation of site soil contaminated with diesel fuel. The 90 day Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on May 10, 2010.

Buemi Residence, Bethel Township **Delaware County**. Brenda MacPhail Kellogg, REPSG, Inc., 6901 Kingessing Avenue, 2nd Floor, Philadelphia, PA 19142, Thomas Maloney, Erie Insurance, 1400 North Providence Road, Media, PA 19063 on behalf of Joseph and Colleen Buemi, 3062 Booth Drive, Bethel, PA 19060 has submitted a Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on May 5, 2010.

McDonalds Restaurant, City of Philadelphia, **Philadelphia County**. Keith T. D'Ambrosio, P. E., Whitestone Associates, Inc., New Britain Corporate Center, 1600 Manor Drive, Suite 220, Chalfont, PA 18914 on behalf of Scott Lang, McDonald Corporation, 150 South Warner Road, Suite 470, King of Prussia, PA 19406 has submitted a Remedial Investigation Report concerning the remediation of site groundwater contaminated with No. 2 fuel oil. The Remedial Investigation Report was approved by the Department of Environmental Protection on May 10, 2010.

Northeast Region: Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Eagle Systems, Inc.—Schantz Road Diesel Fuel Spill, 9875 and 9929 Schantz Road, Upper Macungie

Township, **Lehigh County**. Dennis Fisher, Taylor GeoServices, Inc., 38 Bishop Hollow Road, Suite 200, Newtown Square, PA 19073 submitted a Final Report (on behalf of his client, Department of Transportation, Engineering District 5-0, 1002 West Hamilton Street, Allentown, PA 18101), concerning the remediation of soil found to have been impacted by diesel fuel as a result of a tractor-trailer accident, which caused two 100-gallon capacity saddle tanks, containing diesel fuel, to rupture. The Report documented attainment of the Statewide Health Standard for soils and was approved on May 17, 2010. The Report was originally submitted within 90 days of the release.

Stefko Boulevard Shopping Center, 1802—1880 Stefko Boulevard, Bethlehem City, **Northampton County**. George H. Keil, URS Corporation, 335 Commerce Drive, Suite 300, Fort Washington, PA 19034 submitted a Cleanup Plan (on behalf of his client, Regency Centers, LP, 1 Independent Drive, Suite 114, Jacksonville, FL 32202), concerning the remediation of soil found to have been impacted by dry cleaning solvents (PCE) as a result of historical dry cleaning operations at the site. The Report will meet the requirements of the Site-Specific Standard for soils and was approved on May 14, 2010.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Lewis J. Kennedy Trucking Co., I80 Westbound Accident, Delaware Township, **Northumberland County**. Northridge Group, Inc., 1172 Ridge Road, Northumberland, PA 17857 on behalf of Lewis J. Kennedy Trucking Co., 342 Schuyler Avenue, Kearny, NJ 07032 has submitted a Final Report concerning Remediation of site soil contaminated with diesel fuel. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on May 19, 2010.

XTL Transport, Route 15N Accident. Kelly Township, **Union County**. Northridge Group, Inc., 1172 Ridge Road, Northumberland, PA 17857 on behalf of XTL Transport, 2350 Henry Ford Street, Vaudreuil-Dorion, Quebec, Canada J7V9H5 has submitted a Final Report concerning remediation of site soil contaminated with diesel fuel. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on May 19, 2010.

DETERMINATION FOR APPLICABILITY FOR MUNICIPAL WASTE GENERAL PERMITS

Applications for Determination of Applicability for General Permit Issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Municipal Waste Regulations for a General Permit to Operate Municipal Waste Processing Facilities and/or the Beneficial Use of Municipal Waste.

Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.

General Permit Application No. WMGR096SE005. Clean Earth Dredging Technologies, Inc., 269 Canal Road, Fairless Hills, PA 19030-4305. This General Permit Determination of Applicability (DOA) approval for the beneficial use of regulated fill, as defined in Guidance Document 258-2182-773 (Management of Fill), to be

utilized as construction material at the Canal Road Site, located in Falls Township, **Bucks County**. The application for determination of applicability was issued by the Southeast Regional Office on May 21, 2010.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Permits Approved under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.

Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.

Permit No. 301220. Clean Earth of Philadelphia, Inc., 3201 South 61st Street, Philadelphia, PA 19153-3502, City of Philadelphia, **Philadelphia County**. This permit was issued to allow for the short-term, continued operation of the Clean Earth of Philadelphia, Inc. facility, an existing residual waste processing facility, during the review of the facility's 10-year renewal application. The permit was issued by the Southeast Regional Office on April 24, 2010.

Permit No. 101069. Southeast Chester County Refuse Authority (SECCRA), P. O. Box 221, Kennett Square, PA 19348. This minor permit modification is to install and operate a third landfill gas internal combustion (IC) engine/generator unit and associated appurtenances at the SECCRA Community Landfill located in London Grove Township, **Chester County**. The permit was issued by the Southeast Regional Office on May 3, 2010.

Permit No. 400590. Riddle Memorial Hospital, 1068 West Baltimore Pike, Route 1, Media, PA 19063. This 10-year permit renewal is for the continued operation of the Ecolaire ECP Model 480E solid waste incinerator unit for the processing of municipal, infectious and chemotherapeutic waste generated at Riddle Memorial Hospital, located at 1068 Baltimore Pike in Middletown Township, **Delaware County**. The permit was issued by the Southeast Regional Office May 21, 2010.

Permit No. 101290. Waste Management of Pennsylvania, Inc., 3605 Grays Ferry Avenue, Philadelphia, PA 19067. This minor permit modification is issued to operate a single-stream recycling center at the Philadelphia Transfer Station, a municipal waste transfer facility located at 3605 Grays Ferry Avenue in the City of Philadelphia, **Philadelphia County**. The permit was issued by the Southeast Regional Office on April 27, 2010.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Contact: Sachin Shankar, New Source Review Chief—Telephone: 484-250-5920.

GP11-09-0023: Haines & Kibblehouse—Naceville Materials—Plumstead (5031 Point Pleasant Pike, Doylestown, PA 18901) on May 19, 2010, to operate a non-road engine in Plumstead Township, **Bucks County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 814-949-7935.

GP3-67-05045: Glen-Gery Corp. (433 South Pottsville Pike, Shoemakersville, PA 19555) on May 18, 2010, to relocate a 350 tph crusher with single deck screen and four conveyors to their brick manufacturing facility in Spring Garden Township, **York County**.

GP11-67-05045: Glen-Gery Corp. (433 South Pottsville Pike, Shoemakersville, PA 19555) on May 18, 2010, to relocate two diesel engines to power crushing and screening equipment at their brick manufacturing facility in the Spring Garden Township, **York County**.

Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Contact: Sachin Shankar, New Source Review Chief—Telephone: 484-250-5920.

09-0214: Haddon Windows, LLC (1211 Ford Road, Bensalem, PA 19020) on May 21, 2010, for installation of two (2) spray booths at an existing unpermitted assembly facility in **Bucks County**. There will also be a 0.288 natural gas-fired drying oven installed. There will be operational limitations (operation hours, as well as throughput) in place to ensure compliance with the aggregate VOC emissions of 3.42 tons and total HAP emissions of 2.03 tons. Particulate matter emissions will be controlled by a single bank of panel filters that are designed to capture 90% of the overspray. The plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507.

48-309-126: ESSROC Cement Corp. (Route 248 and Easton Road, Nazareth, PA 18064) on May 10, 2010, to revise their short term CO limits at their facility in Nazareth Township, **Northampton County**.

48-309-133: Greenstar Allentown, LLC (799 Smith Lane, Northampton, PA 18067-1500) on May 24, 2010, to install a new baghouse at their facility in Northampton Borough, **Northampton County**.

39-309-076: Lafarge North America, Inc. (5160 Main Street, Whitehall, PA 18052-1827) on May 19, 2010, to install and operate DAA and SNCR systems at the facility in Whitehall Township, **Lehigh County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.

41-00078B: Chief Gathering, LLC (6051 Wallace Road, Ext., Suite 210, Wexford, PA 15090-7386) on April 28, 2010, to construct three natural gas-fired compressor engines each equipped with oxidation catalysts at the Barto Compressor Station located in Penn Township, **Lycoming County**.

08-00030A: Angelina Gathering Co. (2350 North Sam Houston Parkway East, Houston, TX 77009) on May 19, 2010, to construct four (4) natural gas-fired compressor engines each equipped with oxidation catalysts and to construct two natural gas glycol dehydration units each equipped with reboiler fireboxes at the Greenzweig Compressor Station in Herrick Township, **Bradford County**. Minor revisions of the carbon monoxide and benzene emission limitations have been incorporated into the plan approval.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Contact: Sachin Shankar, New Source Review Chief—Telephone: 484-250-5920.

09-0010: TEVA Pharmaceuticals USA, Inc. (650 Cathill Road, Sellersville, PA 18960) on May 21, 2010, to operate a 60" accelacota tablet coater in West Rockhill Township, **Bucks County**.

23-0109A: Cataylst International, Inc. (1050 Ashland Avenue, Folcroft, PA 19032) on May 21, 2010, to operate a roller coating adhesive application in Folcroft Borough, **Delaware County**.

46-0267: SmithKline Beecham Research Co., d/b/a GlaxoSmithKline (1250 South Collegeville Road, Collegeville, PA 19426) on May 21, 2010, to operate an (8) eight 2,000-kW electric generator in Upper Providence Township, **Montgomery County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.

14-328-002: Dominion Transmission, Inc. (P. O. Box 2450, Clarksburg, WV 26302-2450) on May 6, 2010, to authorize the construction and operation of a natural gas compressor station until November 5, 2010. The plan approval has been extended.

08-313-038H: Global Tungsten & Powders, Corp. (Hawes Street, North Towanda, PA 18848) on May 21, 2010, to extend the authorization to temporarily operate an International Furnace Company, Inc. multiple hearth furnace (MHF) and associated material handling equipment and cartridge collector and final filter to control the emissions from the MHF at their Towanda facility in the North Towanda Township, **Bradford County** until November 28, 2010. The plan approval has been extended.

Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 814-949-7935.

21-05002: PPG Industries, Inc. (400 Park Drive, Carlisle, PA 17013-9271) on May 21, 2010, for their glass manufacturing facility in South Middleton Township, **Cumberland County**. This is a renewal of the operating permit.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: Muhammad Zaman, Facilities Permitting Chief—Telephone: 570-327-3648.

19-00004: Cheetah Chassis Corp. (P. O. Box 388, Berwick, PA 18603) on April 20, 2010, for operation of their facility in Berwick Borough, **Columbia County**.

17-00003: Dominion Transmission, Inc. (501 Martindale Street, Suite 400, Pittsburgh, PA 15212-5817) on May 7, 2010, for renewal of their Title V Operating Permit for their Luther Compressor station in Brady Township, **Clearfield County**.

41-00002: Koppers, Inc. (P. O. Box 189, Montgomery, PA 17750-0189) on April 28, 2010, for renewal of their Title V Operating Permit for their facility in Clinton Township, **Lycoming County**.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507.

40-00027: PPL Susquehanna, LLC (769 Salem Boulevard, Berwick, PA 18603-6828) on May 18, 2010, to operate an electric transmission and utilities facility in Salem Township, **Luzerne County**. This is a renewal of the State-only Synthetic Minor Operating Permit. The State-only operating permit includes emissions, work practice standards and testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

39-00091: Service Tire Truck Center, Inc. (2255 Avenue A, Bethlehem, PA 18017-2108) on May 17, 2010, to operate a tire retreading facility in the City of Bethlehem, **Lehigh County**. This is a renewal of the State-only Natural Minor Operating Permit. The State-only operating permit includes emissions, work practice standards and testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.

19-00002: Foam Fabricators, Inc. (7050 Columbia Boulevard, Bloomsburg, PA 17815) on May 6, 2010, to operate their Bloomsburg facility in South Centre Township, **Columbia County**. The State-only (Synthetic Minor) operating permit contains monitoring, recordkeeping and reporting conditions to ensure compliance with applicable Federal and State regulatory requirements.

19-00014: Hanson Aggregates (PA), Inc. (7660 Imperial Way, Allentown, PA 18195) on May 11, 2010, to issue a State-only operating permit for their facility in Hemlock Township, **Columbia County**. The facility's main sources include three crushers and associated various material sizing and conveying equipment. The State-only operating permit contains applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

53-00009: Morgan Advance Materials & Technology, Inc. (1118 East Second Street, Coudersport, PA 16915) on May 11, 2010, to issue a State-only operating

permit for their facility in Eulalia Township, **Potter County**. The facility's main sources include carbon batch mixers, coking ovens, graphitizers, space heaters, resin mixer, impregnation areas, curing ovens, parts washers, and emergency generators. The facility has the potential to emit NO_x, CO, PM (PM₁₀), VOCs, and HAPs below the major emission thresholds. The facility has taken a synthetic minor restriction to limit the sulfur oxides (SO_x) emissions below the major thresholds. The State-only operating permit contains applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

17-00064: Rosebud Mining Co. (301 Market Street, Kittanning, PA 16201) on May 21, 2010, to issue a revised State-only (Natural Minor) operating permit for a change in ownership of their Cherry Tree facility from Parkwood Resources, Inc. to Rosebud Mining Co. in Burnside Township, **Clearfield County**. This revised State-only (Natural Minor) operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.

46-00048: Wyeth Pharmaceuticals (500 Arcola Road, Collegeville, PA 19426) on May 19, 2010, to amend their Operating Permit for their major (Title V) facility in Upper Providence Township, **Montgomery County**. The Administrative Amendment incorporates the conditions of Plan Approval 46-0048E for an emergency generator (Source ID 734) and removes the non-operative research laboratory (Source ID 102) and associated equipment.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.

19-00025: Keystone Starches, LLC (920 Seventh Avenue, Berwick, PA 18603) on April 26, 2010, to issue a revised State-only (Natural Minor) operating permit for a change of ownership of the Berwick facility from Ciba Corporation to Keystone Starches, LLC in Berwick Borough, **Columbia County**. This revised State-only (Natural Minor) operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

08-399-001B: Global Tungsten & Powders, Corp. (Hawes Street, Towanda, PA 18848-0504) on April 27, 2010, to issue a minor modification operating permit for their facility in North Towanda Township, **Bradford County**. This operating permit revision will require the following: the particulate matter emissions from two small multiple draw units (SMDs), one medium multiple draw units (MMDs), two master annealers, and two capstans heads to be controlled by the Mikropul fabric collector and filter; the particulate matter emissions from two annealers to be controlled by the Carborundum dust collector and filter; and three SMDs and six MMDs to be controlled by the Griffin fabric collector and filter. The emissions from these sources are considered insignificant. Due to increased efficiencies of the control devices, the

proposed revision will not increase the particulate matter emissions from the sources. The operating permit contains applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

17-00017: Rescar, Inc. (407 West Brentwood Street, Channelview, TX 77530-3952) on May 21, 2010, to issue an amendment of their State-only operating permit for their facility in DuBois, **Clearfield County**. This operating permit amendment incorporates all terms and conditions specified in Plan Approval 17-00017B.

De Minimis Emissions Increases Authorized under 25 Pa. Code § 127.449.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 814-949-7935.

67-05063: York Building Products Co., Inc. (950 Smile Way, York, PA 17404-1798). Per 25 Pa. Code § 127.449(i), this Notice is for the following *de minimis* emissions increase at the Roosevelt Avenue site in West Manchester, **York County**: Less than 0.4 tpy PM including less than 0.15 tpy PM_{2.5}, less than 0.32 tpy VOC and NO_x each, and less than 0.28 tpy CO from the installation of a 125 tpy portable crusher and screen powered by diesel engines.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permits Actions

California District Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100.

32733708 and NPDES Permit No. PA0215503, Pennsylvania Mines, LLC, (2 North Ninth Street, Allentown, PA 18101), to renew the permit for the Greenwich No. 1 Coal Refuse Disposal Area in Green Township, **Indiana County** and Susquehanna Township, **Cambria County** and related NPDES permit. No additional discharges. Application received: December 18, 2009. Permit issued: May 18, 2010.

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500.

630380102 and NPDES Permit No. PA0251429, Neiswonger Construction, Inc. (17592 Route 322,

Strattanville, PA 16258). Permit revised to change the postmining land use from forestland to pasture/land occasionally cut for hay at an existing bituminous surface mining site located in Somerset Township, **Washington County**, affecting 187.8 acres. Receiving streams: unnamed tributaries to Center Branch Pigeon Creek. Application received: November 16, 2009. Revised permit issued: May 5, 2010.

26090102 and NPDES Permit No. PA0251615, Piccolomini Contractors, Inc. (P. O. Box 78, Waltersburg, PA 15488). Permit issued for commencement, operation and reclamation of a bituminous surface mine and auger mining, located in Franklin Township, **Fayette County**, affecting 60.6 acres. Receiving streams: unnamed tributaries to Redstone Creek and Bolden Run. Application received: March 20, 2009. Permit issued: May 20, 2010.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.

33723006 and NPDES Permit No. PA0603406, Keystone Coal Mining Corporation (CMX Center, 1000 Consol Energy Drive, Canonsburg, PA 15317) Renewal of an existing bituminous strip and auger operation in Winslow Township, **Jefferson County** affecting 450.2 acres. This renewal is issued for reclamation only. Receiving streams: Unnamed tributaries to Soldier Run and Soldier Run. Application received: January 22, 2010. Permit Issued: May 17, 2010.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

54773017T and NPDES Permit No. PA0118770, KK Coal, LLC, (P. O. Box 8, Cumbola, PA 17930), transfer and renewal of an existing anthracite surface mine operation in East Norwegian and Blythe Townships, **Schuylkill County** affecting 259.0 acres, receiving stream: East Branch Schuylkill River. Transfer and Renewal Applications received: November 17, 2009. Transfer and Renewal issued: May 19, 2010.

54830103T and NPDES Permit No. PA0613398, KK Coal, LLC, (P. O. Box 8, Cumbola, PA 17930), transfer of an existing anthracite surface mine operation in Blythe Township, **Schuylkill County** affecting 160.0 acres, receiving stream: unnamed tributaries to East Branch Schuylkill River. Application received: December 14, 2009. Transfer issued: May 19, 2010.

13940201R3, Rossi Excavating Company, (R. R. 1, Box 189E, Beaver Meadows, PA 18216), renewal of an existing anthracite coal refuse reprocessing operation in Banks Township, **Carbon County** affecting 11.5 acres, receiving stream: none. Application received: July 15, 2009. Renewal issued: May 20, 2010.

Noncoal Permits Actions

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500.

26090601, John Joseph (470 Vanderbilt Road, Connellsville, PA 15425). Permit issued for commencement, operation and reclamation of a large noncoal surface mining site located in Dunbar Township, **Fayette County**, affecting 14.6 acres. Receiving streams: N/A. Application received: May 5, 2009. Permit issued: May 14, 2010.

Final bond release:

26072801, Fayette Coal & Coke, Inc. (195 Enterprise Lane, Connellsville, PA 15425). Final bond release for a small noncoal mining operation in Dunbar Township,

Fayette County. Restoration of 5.0 acres completed. Receiving streams: Unnamed Tributary A to Dickerson Run to Youghiogheny River. Application received: December 18, 2009. Final bond release approved: May 13, 2010

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.

08990301 and NPDES No. PA0242721. Calvin C. Cole, Inc. (27321 Route 220, Milan, PA 18831). Renewal of the NPDES Permit for discharges of treated mine drainage from a quarry operation in Athens Township, **Bradford County**. Receiving stream: Susquehanna River classified for Warm Water Fishery. Application received: January 25, 2010. Permit issued: March 15, 2010.

59880301 and NPDES No. PA0116327. Jill D. Cross, (P. O. Box 240, Mainesburg, PA 16932). Renewal of the NPDES Permit for discharges of treated mine drainage from a quarry operation in Clymer Township, **Tioga County**. Receiving streams: Mill Creek to Cowanesque River classified for Trout Stocked Fisheries. Application received: January 19, 2010. Permit issued: March 15, 2010.

59950301 and NPDES No. PA0220086. Jill D. Cross (P. O. Box 240, Mainesburg, PA 16932). Renewal of the NPDES Permit for discharges of treated mine drainage from a quarry operation in Sullivan Township, **Tioga County**. Receiving stream: Corey Creek classified for Cold Water Fishery. Application received January 25, 2010. Permit issued March 15, 2010.

59980302 and NPDES No. PA0238066. Dunbar Farm and Gravel (6275 Route 249, Westfield, PA 16950). Renewal of the NPDES Permit for discharges of treated mine drainage from a quarry operation in Chatham and Westfield Townships, **Tioga County**. Receiving stream: Jemison Creek classified for Warm Water Fishery. Application received January 25, 2010. Permit issued March 15, 2010.

59020301 and NPDES No. PA0243213. Jill D. Cross (P. O. Box 240, Mainesburg, PA 16932). Renewal of the NPDES Permit for discharges of treated mine drainage from a quarry operation in Lawrence Township, **Tioga County**. Receiving streams: Harts Creek to Tioga River classified for Warm Water Fisheries. Application received January 25, 2010. Permit issued March 16, 2010.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

7475SM5C4 and NPDES Permit No. PA0223522. ESSROC Cement Corp., (Route 248 and Easton Road, Nazareth, PA 18064), renewal of NPDES permit for discharge of treated mine drainage from a quarry operation in Upper and Lower Nazareth Townships and Nazareth Borough, **Northampton County**, receiving stream: unnamed tributary to Schoeneck Creek. Application received: April 7, 2010. Renewal issued: May 20, 2010.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Actions on applications under the Explosives Acts of 1937 and 1957 (43 P.S. §§ 151–161); and 25 Pa. Code § 211.124 (relating to blasting activity permits). Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.

Blasting Permits Actions

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.

42104013. River Valley Energy Services, Inc. (Box 1038, Grimshaw, Alberta T0H 1W0, Canada) Blasting Activity Permit for seismic exploration in Norwich, Hamlin, Sergeant, Jones and Shippen Townships, **McKean, Elk and Cameron Counties**. This Blasting Activity Permit expires on November 1, 2010. Permit issued: May 7, 2010.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.

08104008. Doug Wathen, LLC (16282 State Highway 13, Suite J, Branson West, MO 65616). Blasting for Coates (NEO40)—well location located in Standing Stone Township, **Bradford County**. Permit issued: May 18, 2010. Permit expires: May 1, 2011.

08104009. Doug Wathen, LLC (16282 State Highway 13, Suite J, Branson West, MO 65616). Blasting for Stalford 1H—6H well location located in Standing Stone Township, **Bradford County**. Permit issued May 18, 2010. Permit expires: May 1, 2011.

08104108. Holbert Explosives, Inc. (237 Mast Hope Plank Road, Lackawaxen, PA 18435). Construction blasting for a gas drilling platform—Calvin Cole, Inc. Chesapeake Energy—located in West Burlington Township, **Bradford County**. Permit issued: May 13, 2010. Permit expires: May 12, 2012.

08104109. Meshoppen Blasting, Inc. (Frantz Road, P. O. Box 127, Meshoppen, PA 18630). Construction blasting for a well pad located in Wyalusing Township, **Bradford County**. Permit issued: May 20, 2010. Permit expires: June 30, 2010

08104110. Austin Powder Northeast, LLC (25800 Science Park Drive, Beachwood, OH 44122). Construction blasting for a well pad located in Wyalusing Township, **Bradford County**. Permit issued: May 20, 2010. Permit expires: May 19, 2011.

14105002. Douglas Explosives, Inc. (P. O. Box 77, Philipsburg, PA 16866). Blasting activity permit by rule for removal of a pump located in Benner Township, **Centre County**. Permit issued: May 20, 2010. Permit expires: June 20, 2010.

53104004. Dynamic Drilling, LLC (10373 Taylor Hawks Road, Herron, MI 46744). Seismic survey blasting—Seneca 2D—located in Sweden Township, **Potter County**. Permit issued: May 18, 2010. Permit expires: October 30, 2010.

59104006. Dynamic Drilling, LLC (10373 Taylor Hawks Road, Herron, MI 46744). Seismic survey blasting—Seneca 2D—located in Chatham, Shippen and Delmar Townships, **Tioga County**. Permit issued: May 18, 2010. Permit expires: October 30, 2010.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

36104122. Newville Construction Services, Inc., (408 Mohawk Road, Newville, PA 17241), construction blasting for Roseville Tap Pole Holes in Manheim Township, **Lancaster County** with an expiration date of May 14, 2011. Permit issued: May 18, 2010.

36104123. Dyno-Nobel, Inc., (1320 Galiffa Drive, Donora, PA 15033), construction blasting for Herr & Sacco in Rapho Township, **Lancaster County** with an expiration date of December 31, 2010. Permit issued: May 18, 2010.

38104107. Abel Construction Co., Inc., (P. O. Box 476, Mountville, PA 17554), construction blasting for Village at Springbrook Farms in North and South Londonderry Townships, **Lebanon County** with an expiration date of May 17, 2011. Permit issued: May 18, 2010.

67104111. Keystone Blasting Service, (15 Hopeland Road, Lititz, PA 17543), construction blasting for Ashley Farms in Dover Township, **York County** with an expiration date of May 31, 2011. Permit issued: May 18, 2010.

36104124. Keystone Blasting Service, (15 Hopeland Road, Lititz, PA 17543), construction blasting for The East Meadows at Wetherburn in Manheim Township, **Lancaster County** with an expiration date of May 31, 2011. Permit issued: May 20, 2010.

64104102. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Indian Rock in Salem Township, **Wayne County** with an expiration date of May 12, 2011. Permit issued: May 20, 2010.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro

bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27), section 302 of the Floodplain Management Act (32 P.S. § 679.302) and The Clean Streams Law (35 P.S. §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).

Permits, Environmental Assessments and 401 Water Quality Certifications Issued:

WATER OBSTRUCTIONS AND ENCROACHMENTS

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

E51-235. Philadelphia Water Department, Office of Watersheds, Stormwater Program, 1101 Market Street, 4th Floor, Philadelphia, PA 19107, City of Philadelphia, **Philadelphia County**, ACOE Philadelphia District.

To perform the following Water Obstruction and Encroachment activities across/along Wise's Mill Run and Cathedral Run within the Fairmont Park:

1. To restore, stabilize and maintain approximately 1,355 linear feet of streambank.

2. To construct and maintain a stormwater management basin in the floodway of Cathedral Run.

The project will temporarily impact approximately 0.09 acre and permanently impact 0.01 acre of wetlands. The project commences along Cathedral Run, approximately 227 feet north of the intersection of Seffert Street and Kelly Place (Germantown, PA USGS Quadrangle N: 9.99 inches; W: 14.54 inches) in the City of Philadelphia, Philadelphia County.

The issuance of this permit also constitutes approval of a Water Quality Certification under Section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636.

E14-527. Northeast ITS, 6779 Engle Road, Middleburg Heights, OH 44130. Wilderness Fiber Optic Project, in various Municipalities, **Centre County**, ACOE Baltimore District.

To construct, operate and maintain a conduit fiber optic system across the Commonwealth along roadway right-of-ways. The project originates in Cleveland, OH and terminates in New Jersey running approximately 450 miles. A total of 61.8 miles of Centre County will be traversed by the project beginning at the Clearfield County/Centre County border on SR 0322 and ending at the Union County/Centre County border on SR 0045. The project will cross a total of 48 streams in Centre County by means of boring. There are no wetland crossings authorized with this permit. The proposed crossings are listed as follows:

Table 2. Centre County Stream Crossing Specifics

<i>Municipality</i>	<i>Stream ID</i>	<i>Latitude (N)</i>	<i>Longitude (W)</i>	<i>Crossing Length in feet from Top-of-Bank</i>	<i>Crossing Method</i>	<i>Stream Name</i>	<i>Flow</i>	<i>Chapter 93 Designation</i>	<i>Wild Trout (Y/N)</i>	<i>Class A Wild Trout (Y/N)</i>
Philipsburg Borough	S-CE-000	40° 54' 09.00"	78° 13' 40.42"	100	bore	Moshannon Creek	Perennial	TSF, MF	Y	N
Philipsburg Borough	S-CE-001	40° 54' 00.85"	78° 12' 36.55"	45	bore	Cold Stream Creek	Perennial	CWF, MF	Y	N
Worth Township	S-CE-002	40° 48' 34.31"	78° 04' 20.68"	75	bore	Laurel Run	Perennial	CWF, MF	Y	Y
Port Matilda Borough	S-CE-003	40° 48' 06.47"	78° 03' 05.28"	80	bore	Oliver Run	Perennial	CWF, MF	Y	N
Worth Township	S-CE-004	40° 48' 30.40"	78° 02' 40.25"	10	bore	Tributary to Bald Eagle Creek	Perennial	CWF, MF	N	N
Worth Township	S-CE-005	40° 48' 45.62"	78° 02' 22.41"	65	bore	Tributary to Bald Eagle Creek	Perennial	CWF, MF	N	N
Worth Township	S-CE-006	40° 48' 55.93"	78° 02' 08.61"	25	bore	Tributary to Bald Eagle Creek	Intermittent	CWF, MF	N	N
Worth Township	S-CE-007	40° 49' 09.64"	78° 01' 53.36"	12	bore/trench	Tributary to Bald Eagle Creek	Intermittent	CWF, MF	N	N
Worth Township	S-CE-008	40° 49' 17.17"	78° 01' 44.95"	2	bore/trench	Tributary to Bald Eagle Creek	Ephemeral	CWF, MF	N	N
Worth Township	S-CE-009	40° 49' 18.85"	78° 01' 42.99"	1	bore/trench	Tributary to Bald Eagle Creek	Intermittent	CWF, MF	N	N
Worth Township	S-CE-010	40° 49' 21.81"	78° 01' 39.53"	8	bore	Tributary to Bald Eagle Creek	Intermittent	CWF, MF	N	N
Worth Township	S-CE-011	40° 49' 24.46"	78° 01' 35.84"	7	bore	Tributary to Bald Eagle Creek	Intermittent	CWF, MF	N	N
Worth Township	S-CE-012	40° 49' 28.88"	78° 01' 28.75"	9	bore	Tributary to Bald Eagle Creek	Intermittent	CWF, MF	N	N
Worth Township	S-CE-013	40° 49' 30.43"	78° 01' 26.40"	8	bore	Tributary to Bald Eagle Creek	Intermittent	CWF, MF	N	N
Worth Township	S-CE-014	40° 49' 32.50"	78° 01' 23.08"	3	bore	Tributary to Bald Eagle Creek	Intermittent	CWF, MF	N	N

Table 2. Centre County Stream Crossing Specifics

Municipality	Stream ID	Latitude (N)	Longitude (W)	Crossing Length in feet from Top-of-Bank	Crossing Method	Stream Name	Flow	Chapter 93 Designation	Wild Trout (Y/N)	Class A Wild Trout (Y/N)
Worth Township	S-CE-015	40° 49' 35.01"	78° 01' 19.04"	10	bore	Tributary to Bald Eagle Creek	Intermittent	CWF, MF	N	N
Worth Township	S-CE-016	40° 49' 39.98"	78° 01' 10.83"	8	bore	Tributary to Bald Eagle Creek	Intermittent	CWF, MF	N	N
Worth Township	S-CE-017	40° 49' 41.62"	78° 00' 51.67"	50	bore	Bald Eagle Creek	Perennial	TSF, MF	N	N
Patton Township	S-CE-018	40° 49' 39.46"	77° 57' 40.07"	15	bore	Buffalo Run	Perennial	HQ-CWF, MF	Y	Y
Patton Township	S-CE-019	40° 49' 24.13"	77° 56' 41.43"	25	bore	Buffalo Run	Ephemeral	HQ-CWF, MF	Y	Y
Patton Township	S-CE-020	40° 48' 48.62"	77° 56' 27.37"	1	bore/ trench	Tributary to Buffalo Run	NA-Culvert Only	HQ-CWF, MF	Y	Y
Patton Township	S-CE-021	40° 48' 47.57"	77° 56' 28.60"	1	bore/ trench	Tributary to Buffalo Run	NA-Culvert Only	HQ-CWF, MF	Y	Y
Patton Township	S-CE-022	40° 48' 47.26"	77° 56' 29.15"	1	bore/ trench	Tributary to Buffalo Run	NA-Culvert Only	HQ-CWF, MF	Y	Y
Ferguson Township	S-CE-023	40° 47' 19.91"	77° 54' 28.28"	1	bore	Tributary to Spring Creek	Ephemeral	HQ-CWF, MF	N	Y
Ferguson Township	S-CE-024	40° 46' 02.53"	77° 53' 08.34"	1	bore/ trench	Tributary to Slab Cabin Run	NA-Culvert Only	HQ-CWF, MF	Y	N
Ferguson Township	S-CE-025	40° 45' 02.15"	77° 52' 06.49"	15	bore	Slab Cabin Run	Perennial	HQ-CWF, MF	Y	N
Ferguson Township	S-CE-026	40° 45' 16.78"	77° 51' 18.39"	10	bore/ trench	Tributary to Slab Cabin Run	Ephemeral	HQ-CWF, MF	Y	N
Harris Township	S-CE-027	40° 45' 34.72"	77° 50' 38.49"	15	bore/ trench	Tributary to Slab Cabin Run	Intermittent	HQ-CWF, MF	Y	N
Harris Township	S-CE-028	40° 45' 50.85"	77° 49' 47.61"	30	bore	Roaring Run	Perennial	HQ-CWF, MF	Y	N
Harris Township	S-CE-029	40° 46' 49.66"	77° 47' 56.39"	40	bore	Branch of Spring Creek	Perennial	HQ-CWF, MF	Y	N
Harris Township	S-CE-030	40° 46' 37.45"	77° 47' 20.76"	20	bore	Spring Creek	Perennial	HQ-CWF, MF	Y	N
Harris Township	S-CE-031	40° 46' 36.89"	77° 47' 14.64"	45	bore	Spring Creek	Perennial	HQ-CWF, MF	Y	N
Potter Township	S-CE-032	40° 47' 48.80"	77° 43' 47.08"	1	bore/ trench	Tributary to Cedar Run	NA-Culvert Only	CWF, MF	Y	Y
Potter Township	S-CE-033	40° 47' 55.41"	77° 43' 36.37"	1	bore	Tributary to Cedar Run	NA-Culvert Only	CWF, MF	Y	Y
Gregg Township	S-CE-034	40° 51' 22.81"	77° 34' 27.08"	90	bore	Penns Creek	Perennial	CWF, MF	N	N

NOTICES

Table 2. Centre County Stream Crossing Specifics

<i>Municipality</i>	<i>Stream ID</i>	<i>Latitude (N)</i>	<i>Longitude (W)</i>	<i>Crossing Length in feet from Top-of-Bank</i>	<i>Crossing Method</i>	<i>Stream Name</i>	<i>Flow</i>	<i>Chapter 93 Designation</i>	<i>Wild Trout (Y/N)</i>	<i>Class A Wild Trout (Y/N)</i>
Gregg Township	S-CE-035	40° 51' 38.54"	77° 33' 32.16"	8	bore/trench	Tributary to Penns Creek	Perennial	CWF, MF	N	N
Gregg Township	S-CE-036	40° 51' 50.32"	77° 33' 12.19"	40	bore	Tributary to Penns Creek	Perennial	CWF, MF	N	N
Penn Township	S-CE-037	40° 52' 45.65"	77° 31' 15.61"	1	bore	Tributary to Elk Creek	NA-Culvert Only	EV, MF-Chapter 93	Y	N
Penn Township	S-CE-038	40° 53' 07.51"	77° 30' 00.51"	8	bore	Tributary to Elk Creek	Perennial	EV, MF-Chapter 93	Y	N
Millheim Bor	S-CE-039	40° 53' 28.51"	77° 28' 27.21"	90	bore	Elk Creek	Perennial	EV, MF-Chapter 93	Y	Y
Haines Township	S-CE-044	40° 54' 15.90"	77° 24' 05.03"	13	bore/trench	Tributary to Pine Creek	Perennial	HQ-CWF/EV, MF on border RT 45 bridge - dwnstrm EV CH 93	Y	Y
Haines Township	S-CE-040	40° 54' 17.07"	77° 23' 21.99"	10	bore	Tributary to Pine Creek	Perennial	HQ-CWF/EV, MF on border RT 45 bridge - dwnstrm EV CH 93	Y	Y
Haines Township	S-CE-041	40° 54' 16.88"	77° 23' 20.51"	8	bore	Tributary to Pine Creek	Perennial	HQ-CWF/EV, MF on border RT 45 bridge - dwnstrm EV CH 93	Y	Y
Haines Township	S-CE-042	40° 54' 14.83"	77° 23' 11.21"	5	bore/trench	Tributary to Pine Creek	Intermittent	HQ-CWF/EV, MF on border RT 45 bridge - dwnstrm EV CH 93	Y	Y
Haines Township	S-CE-043	40° 53' 56.44"	77° 21' 25.13"	80	bore	Pine Creek	Perennial	HQ-CWF/EV, MF on border RT 45 bridge - dwnstrm EV CH 93	Y	Y
	40.8995	-77.4586				Unknown 20				
	40.8666	-77.5498				Tributary 18369 Penns Creek				
	40.7803	-77.8016				Tributary 23073 Spring Creek				

Table 2. Centre County Stream Crossing Specifics

Municipality	Stream ID	Latitude (N)	Longitude (W)	Crossing Length in feet from		Stream Name	Flow	Chapter 93 Designation	Class A	
				Top-of-Bank	Crossing Method				Wild	Trout
									(Y/N)	(Y/N)
Sum				1093						

(McAlevys Fort, Spring Mills, Centre Hall, State College, Julian, Mifflinburg, Hartelton, Woodward, Millheim, Madisonburg, Port Matilda, Sandy Ridge and Philipsburg, PA Quadrangles, with previous referenced coordinates). Rush, Worth, Huston, Patton, Ferguson, Harris, Potter, Gregg, Penn, Haines Townships and Philipsburg, Port Matilda and Millheim Boroughs, Centre County.

E17-453. Northeast ITS, 6779 Engle Road, Middleburg Heights, OH 44130. Wilderness Fiber Optic Project, in various Municipalities, **Clearfield County**, ACOE Baltimore District.

To construct, operate and maintain a conduit fiber optic system across this Commonwealth along roadway right-of-ways. The project originates in Cleveland, OH and terminates in New Jersey, running approximately 450 miles. A total of 36.5 miles of Clearfield County will be traversed by the project beginning at the Jefferson County/Clearfield County border on SR 0322 and ending at the Clearfield County/Centre County border on SR 0322. The project will cross a total of 27 streams in Clearfield County by means of boring. There are no wetland crossings authorized with this permit. The proposed crossings are listed as follows:

Table 2. Clearfield County Stream Crossing Specifics

Municipality	Stream ID	Latitude (N)	Longitude (W)	Crossing Length in feet from		Stream Name	Flow	Chapter 93 Designation	Class A Wild Trout (Y/N)	
				Top-of-Bank	Method				Wild Trout (Y/N)	Trout (Y/N)
Union Township	S-CLE-1A-101	41° 05' 19.99"	78° 48' 63.55"	4		Soldier Run	Intermittent	CWF	N	N
Union Township	S-CLE-1A-102	41° 05' 16.17"	78° 47' 48.77"	3	bore/trench	Soldier Run	Intermittent	CWF	N	N
Union/Bloom Township	S-CLE-1A-103	41° 01' 36.62"	78° 40' 15.54"	12	bore	Little Anderson Creek	Perennial	CWF, MF	Y	N
Bloom Township	S-CLE-1A-104A	41° 00' 56.99"	78° 37' 39.74"	4	bore/trench	Tributary to Anderson Creek	Intermittent	CWF, MF	Y	N
Bloom Township	S-CLE-1A-104B	41° 00' 56.76"	78° 37' 37.77"	4	bore/trench	Tributary to Anderson Creek	Intermittent	CWF, MF	Y	N
Pike Township	S-CLE-1A-105	40° 59' 17.91"	78° 34' 33.73"	4	bore	Tributary to Anderson Creek	Intermittent	CWF, MF	Y	N
Pike Township	S-CLE-1A-106	40° 58' 35.82"	78° 32' 54.58"	15	bore	Katzer Run	Seasonal	CWF, MF	Y	N
Curwensville Borough	S-CLE-1A-107	40° 58' 45.37"	78° 32' 13.14"	4	bore	Tributary to Anderson Creek	Intermittent	CWF, MF	Y	N
Pike Township	S-CLE-1A-108	40° 58' 31.22"	78° 32' 48.09"	45	bore	Anderson Creek	Perennial	CWF, MF	Y	N
Pike Township	S-CLE-1A-109	40° 58' 27.41"	78° 32' 39.08"	35	bore	Anderson Creek-back channel	Perennial	CWF, MF	Y	N

Table 2. Clearfield County Stream Crossing Specifics

<i>Municipality</i>	<i>Stream ID</i>	<i>Latitude (N)</i>	<i>Longitude (W)</i>	<i>Crossing Length in feet from Top-of-Bank</i>	<i>Crossing Method</i>	<i>Stream Name</i>	<i>Flow</i>	<i>Chapter 93 Designation</i>	<i>Wild Trout (Y/N)</i>	<i>Class A Wild Trout (Y/N)</i>
Pike/Lawrence Township	S-CLE-1A-110	40° 58' 25.70"	78° 29' 26.54"	150	attach/bore	W. Branch Susquehanna River	Perennial	CWF, MF	N	N
Lawrence Township	S-CLE-1A-111	40° 58' 18.43"	78° 25' 59.57"	12	bore/trench	Laurel Run	Intermittent	CWF, MF	N	N
Lawrence/Boggs Township	S-CLE-1A-112	40° 58' 17.10"	78° 24' 25.14"	250	attach/bore	Clearfield Creek	Perennial	WWF, MF	N	N
Boggs Township	S-CLE-1A-113	40° 58' 15.42"	78° 24' 02.48"	7	bore	Tributary to Clearfield Creek	Intermittent	CWF, MF	N	N
Boggs Township	S-CLE-1A-114	40° 58' 09.06"	78° 23' 45.16"	2	bore	Tributary to Clearfield Creek	Intermittent	CWF, MF	N	N
Boggs Township	S-CLE-1A-115	40° 58' 02.58"	78° 23' 08.81"	5	bore/trench	Tributary to Morgan Run	Intermittent	CWF, MF	N	N
Boggs Township	S-CLE-1A-116	40° 57' 33.12"	78° 21' 29.99"	4	bore/trench	Tributary to Simeling Run	Intermittent	HQ-CWF, MF	Y	Y
Boggs Township	S-CLE-1A-117	40° 57' 07.64"	78° 20' 30.67"	5	bore/trench	Simeling Run	Intermittent	HQ-CWF, MF	Y	Y
Boggs Township	S-CLE-1A-118	40° 56' 00.38"	78° 18' 14.30"	5	bore/trench	Simeling Run	Intermittent	HQ-CWF, MF	Y	Y
Boggs Township	S-CLE-1A-119	40° 55' 42.55"	78° 16' 57.13"	4	bore/trench	Simeling Run	Intermittent	HQ-CWF, MF	Y	Y
Decatur Township	S-CLE-1A-120	40° 54' 52.03"	78° 15' 22.43"	20	bore	Laurel Run	Perennial	CWF, MF	N	N
		40.9774	-78.516			Tributary 26656 WB Susquehanna R				
		40.9663	-78.3691			Unknown 2				
		40.9631	-78.3614			Unknown 3				
		40.9623	-78.3599			Tributary 26175 Morgan Run				
		40.9065	-78.2408			Tributary 25856 Laurel Run				
		40.9038	-78.2321			Tributary 25855 Laurel Run				
			Sum	594						

(Sandy Ridge, Philipsburg, Wallacetown, Glen Richey, Curwensville, Elliot Park, Luthersburg, DuBois, PA Quadrangles, with previous referenced coordinates). Sandy, Brady, Union, Bloom, Pike, Lawrence, Boggs and Decatur Townships and Curwensville Borough, Clearfield County. This permit also includes 401 Water Quality Certification.

Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E02-1617. Township of Upper St. Clair, 1820 McLaughlin Run Road, Upper St. Clair, PA 15241.

To relocate the stream flows in Upper St. Clair Township, Allegheny County, Pittsburgh ACOE District (Bridgeville, PA Quadrangle N: 15.3 inches; W: 14.0 inches, Latitude: 40° 20' 03"; Longitude: 80° 06' 02").

1. To relocate the stream flows from an approximately 840 linear feet reach of an existing, unnamed tributary to Chartiers Creek (WWF), referred to as Channel S1, by constructing approximately 739 linear feet of new watercourse and by reconstructing approximately 250-ft of another unnamed tributary, referred to as Channel EPH1, for the purpose of relocating the stream flow around an historic dump site and eliminating sediment pollution from an existing, unstable, eroding reach of Channel S1;

2. to construct and maintain a temporary road crossing in Channel S1, to facilitate the construction of the relocated reach of watercourse;

3. to construct and maintain step pools, a boulder cascade and a rock-formed scour pool in the new and/or reconstructed channel reach;

4. to construct and maintain a channel block, to divert stream flows into the new channel reach;

5. to construct and maintain an outfall channel to the relocated reach of Channel S1, along with riparian plantings;

6. to install a 30' long by 6' wide fiberglass pedestrian bridge over the relocated reach of watercourse;

7. and to place and maintain fill in approximately 630' of the abandoned reach of Channel S1 and to operate and maintain an existing 22' long, 36" diameter RCP culvert in the remaining, abandoned reach of Channel S1.

The project is located within the Township of Upper St. Clair's Boyce Mayview Park (formerly the Mayview State Hospital Grounds), approximately 1,600.0 feet upstream from the confluence of the unnamed tributary with Chartiers Creek. The construction/reconstruction of approximately 989-ft of watercourse will mitigate for the impacts to approximately 1,090-ft of existing watercourse.

DAM SAFETY

Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.

D48-149A. PPL Martins Creek, LLC, PPL Martins Creek, LLC, c/o Steve Holler, 2 North Ninth Street, GenPl6, Allentown, PA 18101. To modify the Martins Creek Ash Basin No. 4 across a tributary to Oughoughton Creek, impacting 0 acres of wetlands and 0 feet of stream channel, for the purpose of closing and deregulating Ash Basin No. 4 Dam (Belvidere, NJ/PA Quadrangle N: 10 inches; W: 16 inches) in Lower Mount Bethel Township, Northampton County.

Southwest Regional Oil and Gas Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permit No. E30-07-001. Penneco Oil Company, Inc., P. O. Box 300, 6608 US Route 22, Delmont, PA 15626. To construct a steel beam and timber deck bridge crossing an unnamed tributary to Browns Creek in Morris Township, **Greene County**, Pittsburgh ACOE District (Rogersville, PA Quadrangle N: 19.1 inches; W: 7.2 inches, Latitude: N 39° 58' 47.68"; Longitude: W 80° 18' 5.19"). The applicant proposes to involve the installation of a steel beam and timber deck bridge (20 ft long and 15 ft wide) crossing an unnamed tributary to Browns Creek (HQ-WWF) to replace a temporary stream crossing consisting of eight 12" diameter culverts with rock fill and serve as permanent access to a producing gas well (Mooney Well No. 1). This project is located at Reeves Road (north 0.45 mile) in Morris Township, Greene County.

Permit No. E30-07-002. Penneco Oil Company, Inc., P. O. Box 300, 6608 US Route 22, Delmont, PA 15626. To construct a steel beam and timber deck bridge crossing an unnamed tributary to Browns Creek in Morris Township, **Greene County**, Pittsburgh ACOE District (Rogersville, PA Quadrangle N: 18.15 inches; W: 7.0 inches, Latitude: N 39° 58' 29.14"; Longitude: W 80° 17' 59.60"). The applicant proposes to involve the installation of a steel beam and timber deck bridge (20 ft long and 15ft wide) crossing an unnamed tributary to Browns Creek (HQ-WWF) to replace a temporary stream crossing consisting of eight 12" diameter culverts with rock fill and serve as permanent access to a producing gas well (Hildreth Well No. 1). This project is located at Reeves Road (north 0.6 mile) in Morris Township, Greene County.

Northcentral Region: Oil and Gas Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

95-16-65420-006. Southwestern Energy Company, 2350 North Sam Houston Parkway East, Suite 125, Houston, TX 77032. Project proposes to operate and maintain the Greenzweig 2 Impoundment Dam as a centralized impoundment to collect and store flow-back water, for the use and re-use of hydraulic fracturing water, from the Greenzweig Well Pad, Reeve Well Pad, Ferguson Well Pad, Ball Well Pad and future wells in the area (LeRaysville, PA Quadrangle Latitude: N 41° 47' 9.245"; Longitude: W 76° 13' 52.56") Herrick Township, **Bradford County**.

EROSION AND SEDIMENT CONTROL

The following Erosion and Sediment Control Permits have been issued.

Any person aggrieved by these actions may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. Chapter 5, Subchapter A (relating to practice and procedure of Commonwealth agencies), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal

form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

If individuals want to challenge this action, their appeal must reach the Board within 30 days. Individuals do not need a lawyer to file an appeal with the Board. Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. If individuals cannot afford a lawyer, individuals may qualify for pro bono representation. Call the Secretary to the Board (717) 787-3483 for more information.

Southwest Region: Oil and Gas Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

4/27/10

ESCGP-1 No.: ESX10-125-0034

Applicant Name: Range Resources—Appalachia, LLC

Contact Person: Carla Suszkowski

Address: 380 Southpointe Boulevard, Suite 300

City: Canonsburg State: PA Zip Code: 15317

County: Washington Township(s): MT. Pleasant

Receiving Stream(s) and Classifications: UNT to South Fork Cross Creek, HQ

4/28/10

ESCGP-1 No.: ESX10-005-0005

Applicant Name: EXCO Resources (PA), Inc.

Contact Person: Larry Sanders

Address: 3000 Ericsson Drive, Suite 200

City: Warrendale State: PA Zip Code: 15086

County: Armstrong Township(s): Rayburn

Receiving Stream(s) and Classifications: UNT to Cowanshannock Creek (WWF)/Cowanshannock Creek Watershed (WWF), other

4/28/10

ESCGP-1 No.: ESX10-063-0003

Applicant Name: CNX Gas Company, LLC

Contact Person: Kenneth Kormendy

Address: 200 Evergreeene Drive

City: Waynesburg State: PA Zip Code: 15370

County: Indiana Township(s): Conemaugh

Receiving Stream(s) and Classifications: Blackleggs Creek, Kiskiminetas River, Sulphur Run, Bug Run, other

5/4/10

ESCGP-1 No.: Esx10-125-0010

Applicant Name: Dominion Exploration & Production, Inc.

Contact Person: Craig Neal

Address: 280 Indian Springs Road, Suite 333

City: Indiana State: PA Zip Code: 15701

County: Westmoreland Township(s): Washington

Receiving Stream(s) and Classifications: Beaver Run Reservoir/Poke Run, HQ

4/27/10

ESCGP-1 No.: ESX10-129-0009

Applicant Name: XTO Energy, Inc.

Contact Person: Bernhart Kissel

Address: 395 Airport Road

City: Indiana State: PA Zip Code: 15701

County Westmoreland Township(s): Ligonier

Receiving Stream(s) and Classifications: UNT to Hanas Run-CWF, other

4/30/10 Major Rev.

ESCGP-1 No.: ESX09-063-0008

Applicant Name: EQT Production Company

Contact Person: Todd Klaner

Address: 455 Racetrack Road, Suite 101

City: Washington State: PA Zip Code: 15301

County: Indiana Township(s): Cherryhill

Receiving Stream(s) and Classifications: Browns Run, other

4/26/10

ESCGP-1 No.: Esx10-125-0032

Applicant Name: Range Resources—Appalachia, LLC

Contact Person: Carla Suszkowski

Address: 380 Southpointe Boulevard, Suite 300

City: Canonsburg State: PA Zip Code: 15317

County: Washington Township(s): Cecil

Receiving Stream(s) and Classifications: Brush Run, other

4/29/10

ESCGP-1 No.: ESX10-059-0029

Applicant Name: EQT Production Company

Contact Person: Todd Klaner

Address: 455 Racetrack Road

City: Washington State: PA Zip Code: 15301

County: Greene Township(s): Washington

Receiving Stream(s) and Classifications: Petit Run/Gamers Run—HQ-WWF (High Quality-Warm Water Fishery), HQ

5/11/10

ESCGP-1 No.: ESX10-125-0036

Applicant Name: Markwest Liberty Midstream & Resources, LLC

Contact Person: Robert Mchale

Address: 100 Plaza Drive, Suite 102

City: Atlasburg State: PA Zip Code: 15004

County: Washington Township(s): Cross Creek

Receiving Stream(s) and Classifications: Cross Creek Lake, Cross Creek, UNT'S to Cross Creek Lake and UNT'S to Cross Creek, HQ

5/10/10

ESCGP-1 No.: ESX10-059-0031

Applicant Name: Atlas Resources, LLC

Contact Person: Jeremy Hirtz

ADDRESS: 800 Mountain View Drive

City: Smithfield State: PA Zip Code: 15423

County: Greene Township(s): Cumberland

Receiving Stream(s) and Classifications: Little Whiteley Creek, other

5/4/10

ESCGP-1 No.: ESX10-059-0030

Applicant Name: Atlas Resources, LLC

Contact Person: Jeremy Hirtz

Address: 800 Mountain View Drive

City: Smithfield State: PA Zip Code: 15478

County: Greene Township(s): Jefferson/Cumberland

Receiving Stream(s) and Classifications: UNT to Muddy Creek, other

4/7/10 Major Rev.

ESCGP-1 No.: ESX10-059-0008

Applicant Name: Atlas Resources, LLC

Applicant Name: Jeremy Hirtz

ADDRESS: 800 Mountain View Drive

City: Smithfield State: PA Zip Code: 15423

County: Greene Township(s): Cumberland

Receiving Stream(s) and Classifications: UNT to Monongahela River, other

Northwest Region: Oil and Gas Program Manager, 230 Chestnut Street, Meadville, PA 16335.

ESCGP-1 #ESX10-053-0009
Applicant PA General Energy
Contact Douglas Kuntz
Address 120 Market Street
Warren, PA 16365
County Forest Township(s) Jenks and Kingsley Townships
Receiving Stream(s) and Classification(s) Salmon Creek
(HQ); UNT to Little Salmon Creek (HQ); Little Salmon
Creek (HQ)

ESCGP-1 #ESX10-047-0005
Applicant Seneca Resources Corp.
Contact Douglas Kepler
Address 51 Zents Boulevard
Brookville, PA 15825
County Elk Township(s) Horton
Receiving Stream(s) and Classification(s) Rattlesnake
Creek (HQ); Mountain Run (HQ)

ESCGP-1 #ESX10-083-0011
Applicant St. Mary Land & Exploration Co.
Contact Michael Lynch
Address 7060 South Yale
Tulsa, OK 74136
County McKean Township(s) Norwich
Receiving Stream(s) and Classification(s) North Branch of
Colegrove Brook (HQ,CWF); Colgrove Brook (HQ)
(CWF); Saltlog Hollow (HQ, CWF); East Branch of
Potato Creek (HQ, CWF); UNT to East Branch of
Potato Creek (HQ, CWF); Allegheny River Basin

SPECIAL NOTICES

Planning Grant Awards under Section 901 of the Municipal Waste Planning, Recycling and Waste Reduction Act of 1988, Act 101

The Department of Environmental Protection hereby announces the following grants to counties under the Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act of 1988 (P. L. 556, Act 101) Section 901 and Section 208 of the Waste Tire Recycling Act/ Small Business and Household Pollution Prevention Act (Act 190 of 1996).

Planning grants are awarded to counties for 80% of approved costs for preparing municipal waste management plans as required by Act 101, for carrying out related studies, surveys, investigations, inquiries, research and analysis, including those related to siting, environmental mediation, education programs on pollution prevention and household hazardous waste and providing technical assistance to small businesses for pollution prevention. Grants may be awarded for feasibility studies and project development for municipal waste processing or disposal facilities, except for facilities for the combustion of municipal waste that are not proposed to be operated for the recovery of energy. Grant awards are predicated on the receipt of recycling fees required by sections 701 and 702 of Act 101, and the availability of monies in the Recycling Fund.

Inquiries regarding the grant offerings should be directed to Mr. Mark Vottero, Department of Environmental Protection, Bureau of Waste Management, Division of Waste Minimization and Planning, P. O. Box 8472, Harrisburg, PA 17105-8472.

Act 101, Section 901 Planning Grants

<i>Region</i>	<i>County</i>	<i>Applicant</i>	<i>Project Description</i>	<i>Grant Award</i>
Southeast	Montgomery County	Montgomery County	Plan Revision	\$199,574
Northcentral	Lycoming County	Lycoming County	Regional Plan Development	\$200,000
Northeast	Luzerne County	Luzerne County	Plan Update	\$56,509

Request for Comments and Notice of Public Meeting for the Proposed Total Maximum Daily Loads (TMDLs) Developed for the East Branch Fishing Creek Watershed

The Department of Environmental Protection (Department) and the Susquehanna River Basin Commission are holding a public meeting on June 24, 2010, at 6 p.m., at the Sugarloaf Township building at 90 Schoolhouse Road, Benton, PA 17814. The purpose of the meeting is to discuss and accept comments on the proposed TMDL developed for the East Branch Fishing Creek Watershed. In accordance with the requirements of section 303(d) of the Clean Water Act, stream segments in the East Branch Fishing Creek Watershed have been identified as impaired due to high levels of metals and low pH, as a result of atmospheric deposition.

The proposed TMDLs set allowable loadings to meet water quality standards at specified points in East Branch Fishing Creek for aluminum and acidity. Loads have been allocated to nonpoint sources. The TMDLs were established using field data collected in 2009.

The data and all supporting documentation used to develop the proposed TMDLs are available from the Department. The proposed TMDL and information on the TMDL program can be viewed on the Department's web site www.dep.state.pa.us/watermanagement_apps/tmdl/. To request a copy of any of the TMDLs, contact Bill Brown, Department of Environmental Protection, Water Quality Assessment and Standards, 400 Market Street, P. O. Box 8467, Harrisburg, PA 17105, (717) 783-2951.

Written comments will be accepted at the previous address and must be postmarked no later than July 5, 2010. The Department will consider all comments in developing the final TMDL, which will be submitted to the United States Environmental Protection Agency for approval.

Request for Comments and Notice of Public Meeting for the Proposed Total Maximum Daily Loads (TMDLs) Developed for the Johnson Creek

The Department of Environmental Protection (Department) and the Susquehanna River Basin Commission are holding a public meeting on June 15, 2010, at 6 p.m., at the Wysox Volunteer Fire Company Auxillary building at

R. R. 3, Box 55, Towanda, PA 18848. The purpose of the meeting is to discuss and accept comments on the proposed TMDL developed for the Johnson Watershed. In accordance with the requirements of section 303(d) of the Clean Water Act, stream segments in the Johnson Watershed TMDL have been identified as impaired due to high levels of sediment, as a result of agricultural land uses and road runoff.

The proposed TMDLs set allowable loadings to meet water quality standards at specified points in Johnson Creek for sediment. Loads have been allocated to nonpoint sources. The TMDLs were established using ArcView Generalized Watershed Loading Function (AVGWLF), a Department-approved method.

The data and all supporting documentation used to develop the proposed TMDLs are available from the Department. The proposed TMDL and information on the TMDL program can be viewed on the Department's web site www.dep.state.pa.us/watermanagement_apps/tmdl/. To request a copy of any of the TMDLs, contact Bill Brown, Department of Environmental Protection, Water Quality Assessment and Standards, 400 Market Street, P. O. Box 8467, Harrisburg, PA 17105, (717) 783-2951.

Written comments will be accepted at the previous address and must be postmarked no later than July 5, 2010. The Department will consider all comments in developing the final TMDL, which will be submitted to the United States Environmental Protection Agency for approval.

Request for Comments and Notice of Public Meeting for the Proposed Total Maximum Daily Loads (TMDLs) Developed for the Little Shamokin Watershed

The Department of Environmental Protection (Department) and the Susquehanna River Basin Commission are holding a public meeting on June 17, 2010, at 6 p.m., at the Rockefeller Township building at 538 Points Road, Sunbury, PA 17801. The purpose of the meeting is to discuss and accept comments on the proposed TMDL developed for the Little Shamokin Creek Watershed. In accordance with the requirements of section 303(d) of the Clean Water Act, stream segments in the Little Shamokin Creek Watershed have been identified as impaired due to high levels of nutrients and sediment, as a result of agricultural land uses.

The proposed TMDLs set allowable loadings to meet water quality standards at specified points in Little Shamokin Creek Watershed for nutrients and sediment. Loads have been allocated to nonpoint sources. The TMDLs were established using ArcView Generalized Watershed Loading Function (AVGWLF), a Department-approved method.

The data and all supporting documentation used to develop the proposed TMDLs are available from the Department. The proposed TMDL and information on the TMDL program can be viewed on the Department's web site www.dep.state.pa.us/watermanagement_apps/tmdl/. To request a copy of any of the TMDLs, contact Bill Brown, Department of Environmental Protection, Water Quality Assessment and Standards, 400 Market Street, P. O. Box 8467, Harrisburg, PA 17105, (717) 783-2951.

Written comments will be accepted at the previous address and must be postmarked no later than July 5, 2010. The Department will consider all comments in developing the final TMDL, which will be submitted to the United States Environmental Protection Agency for approval.

Request for Comments and Notice of Public Meeting for the Proposed Total Maximum Daily Loads (TMDLs) Developed for the Little Swatara Creek Tributaries

The Department of Environmental Protection (Department) and the Susquehanna River Basin Commission are holding a public meeting on June 16, 2010, at 6 p.m., at the Pine Grove Township building at 175 Oak Grove Road, Pine Grove, PA 17963. The purpose of the meeting is to discuss and accept comments on the proposed TMDL developed for the Little Swatara Creek Tributaries. In accordance with the requirements of section 303(d) of the Clean Water Act, stream segments in the Little Swatara Creek Tributaries TMDL have been identified as impaired due to high levels of nutrients and sediment, as a result of agricultural land uses.

The proposed TMDLs set allowable loadings to meet water quality standards at specified points in Little Swatara Creek for nutrients and sediment. Loads have been allocated to nonpoint sources. The TMDLs were established using ArcView Generalized Watershed Loading Function (AVGWLF), a Department-approved method.

The data and all supporting documentation used to develop the proposed TMDLs are available from the Department. The proposed TMDL and information on the TMDL program can be viewed on the Department's web site www.dep.state.pa.us/watermanagement_apps/tmdl/. To request a copy of any of the TMDLs, contact Bill Brown, Department of Environmental Protection, Water Quality Assessment and Standards, 400 Market Street, P. O. Box 8467, Harrisburg, PA 17105, (717) 783-2951.

Written comments will be accepted at the previous address and must be postmarked no later than July 5, 2010. The Department will consider all comments in developing the final TMDL, which will be submitted to the United States Environmental Protection Agency for approval.

Request for Comments and Notice of Public Meeting for the Proposed Total Maximum Daily Loads (TMDLs) Developed for the Lower Little Swatara Creek

The Department of Environmental Protection (Department) and the Susquehanna River Basin Commission are holding a public meeting on June 16, 2010, at 6 p.m., at the Pine Grove Township building at 175 Oak Grove Road, Pine Grove, PA 17963. The purpose of the meeting is to discuss and accept comments on the proposed TMDL developed for the Lower Little Swatara Creek Watershed. In accordance with the requirements of section 303(d) of the Clean Water Act, stream segments in the Lower Little Swatara Creek Watershed TMDL have been identified as impaired due to high levels of nutrients and sediment, as a result of agricultural land uses.

The proposed TMDLs set allowable loadings to meet water quality standards at specified points in Lower Little Swatara Creek for nutrients and sediment. Loads have been allocated to nonpoint sources. The TMDLs were established using ArcView Generalized Watershed Loading Function (AVGWLF), a Department-approved method.

The data and all supporting documentation used to develop the proposed TMDLs are available from the Department. The proposed TMDL and information on the TMDL program can be viewed on the Department's web site www.dep.state.pa.us/watermanagement_apps/tmdl/. To request a copy of any of the TMDLs, contact Bill Brown, Department of Environmental Protection, Water

Quality Assessment and Standards, 400 Market Street, P. O. Box 8467, Harrisburg, PA 17105, (717) 783-2951.

Written comments will be accepted at the previous address and must be postmarked no later than July 5, 2010. The Department will consider all comments in developing the final TMDL, which will be submitted to the United States Environmental Protection Agency for approval.

Request for Comments and Notice of Public Meeting for the Proposed Total Maximum Daily Loads (TMDLs) Developed for the Mud Creek Watershed

The Department of Environmental Protection (Department) and the Susquehanna River Basin Commission are holding a public meeting on June 21, 2010, at 6 p.m., at the Montour Preserve Environmental Education Center (auditorium) at 700 Preserve Road, Danville, PA 17821. The purpose of the meeting is to discuss and accept comments on the proposed TMDL developed for the Mud Creek Watershed. In accordance with the requirements of section 303(d) of the Clean Water Act, stream segments in the Mud Creek Watershed have been identified as impaired due to high levels of nutrients and sediment, as a result of agricultural land uses.

The proposed TMDLs set allowable loadings to meet water quality standards at specified points in Mud Creek Watershed for nutrients and sediment. Loads have been allocated to nonpoint sources. The TMDLs were established using ArcView Generalized Watershed Loading Function (AVGWLF), a Department-approved method.

The data and all supporting documentation used to develop the proposed TMDLs are available from the Department. The proposed TMDL and information on the TMDL program can be viewed on the Department's web site www.dep.state.pa.us/watermanagement_apps/tmdl/. To request a copy of any of the TMDLs, contact Bill Brown, Department of Environmental Protection, Water Quality Assessment and Standards, 400 Market Street, P. O. Box 8467, Harrisburg, PA 17105, (717) 783-2951.

Written comments will be accepted at the previous address and must be postmarked no later than July 5, 2010. The Department will consider all comments in developing the final TMDL, which will be submitted to the United States Environmental Protection Agency for approval.

Request for Comments and Notice of Public Meeting for the Proposed Total Maximum Daily Loads (TMDLs) Developed for the Yellow Creek Watershed

The Department of Environmental Protection (Department) and the Susquehanna River Basin Commission are holding a public meeting on June 23, 2010, at 6 p.m., at the South Woodbury Township building at 125 North Road, New Enterprise, PA 16664. The purpose of the meeting is to discuss and accept comments on the proposed TMDL developed for the Yellow Creek Watershed. In accordance with the requirements of section 303(d) of the Clean Water Act, stream segments in the Yellow Creek Watershed have been identified as impaired due to high levels of nutrients and sediment, as a result of agricultural land uses.

The proposed TMDLs set allowable loadings to meet water quality standards at specified points in Yellow Creek Watershed for nutrients and sediment. Loads have been allocated to nonpoint sources. The TMDLs were

established using ArcView Generalized Watershed Loading Function (AVGWLF), a Department-approved method.

The data and all supporting documentation used to develop the proposed TMDLs are available from the Department. The proposed TMDL and information on the TMDL program can be viewed on the Department's web site www.dep.state.pa.us/watermanagement_apps/tmdl/. To request a copy of any of the TMDLs, contact Bill Brown, Department of Environmental Protection, Water Quality Assessment and Standards, 400 Market Street, P. O. Box 8467, Harrisburg, PA 17105, (717) 783-2951.

Written comments will be accepted at the previous address and must be postmarked no later than July 5, 2010. The Department will consider all comments in developing the final TMDL, which will be submitted to the United States Environmental Protection Agency for approval.

[Pa.B. Doc. No. 10-1044. Filed for public inspection June 4, 2010, 9:00 a.m.]

Cleanup Standards Scientific Advisory Board Meeting

The Cleanup Standards Scientific Advisory Board meeting is scheduled for Tuesday, June 15, 2010, at 9:30 a.m. in the 10th Floor Conference Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105.

Questions concerning this meeting can be directed to Marilyn Wooding at (717) 783-7816 or mwooding@state.pa.us. The agenda and meeting materials for the June 15, 2010, meeting will be available through the Public Participation center on the Department of Environmental Protection's (Department) web site at www.depweb.state.pa.us.

Persons with a disability who require accommodations to attend the meeting should contact the Department at (717) 783-7816 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 10-1045. Filed for public inspection June 4, 2010, 9:00 a.m.]

Environmental Justice Advisory Board; Meeting Change

The August 3, 2010, meeting of the Environmental Justice Advisory Board will now convene at an alternate location than was previously advertised in the *Pennsylvania Bulletin*. The meeting will begin at 8:30 am in Room 105, 1st Floor of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105.

Questions concerning the meeting can be directed to Nora Carreras at (717) 783-5630 or ncarreras@state.pa.us. The agenda and meeting materials for the meeting will be available through the Public Participation Center on the Department of Environmental Protection's (Department) web site at <http://www.depweb.state.pa.us>.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Tammey Adams at (717) 783-5630, or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 10-1046. Filed for public inspection June 4, 2010, 9:00 a.m.]

Extension to Pennsylvania General National Pollutant Discharge Elimination System (NPDES) Permit for Stormwater Discharges Associated With Industrial Activities (PAG-03)

Under The Pennsylvania Clean Streams Law (35 P.S. §§ 691.1—691.101), sections 1905-A, 1917-A and 1920-A of The Administrative Code of 1929 (71 P.S. §§ 510-5, 510-17 and 510-20), the Department of Environmental Protection (Department) by this notice informs the public of the extension to the Department's NPDES Stormwater General Permit (PAG-03) for Discharges of Stormwater Associated With Industrial Activities, the Notice of Intent and other related permit documents, for 6 months, effective from June 5, 2010, through December 4, 2010. The current General Permit will expire at midnight on June 4, 2010. The Department is extending this permit to adequately complete the renewal of PAG-03.

This General Permit will continue to be not applicable for stormwater discharges to "high quality" and "exceptional value" waters designated under 25 Pa. Code Chapter 93 (relating to water quality standards). An individual permit is required for these discharges.

The Department will continue to use Standard Industrial Classification Codes, per the Environmental Protection Agency guidance, to define the categories of industrial activities covered by this permit.

The permit documents package will continue to be available at the Department's central and regional offices until they are updated or replaced.

In addition, the permit documents package can be accessed at the Department's web site at www.depweb.state.pa.us, by selecting:

Licensing, Permits & Certification in the left-side column,
Program-Specific Permits/Authorization Packages in the third paragraph,
Water Management,
NPDES,
General Permits,
01 PAG-03 Discharges of Stormwater Associated With Industrial Activities,
The document numbers are: 3800-PM-WSFR0083a through z and aa,

persons should also contact the Department's Bureau of Water Standards and Facility Regulation, P. O. Box 8467, Harrisburg, PA 17105-8467, (717) 787-8184, or Geoffrey Maduka at gmaduka@state.pa.us.

Persons with a disability may use the Pennsylvania AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 10-1047. Filed for public inspection June 4, 2010, 9:00 a.m.]

DEPARTMENT OF HEALTH

Emergency Medical Services Operating Fund Funding Priorities

Under 28 Pa. Code §§ 1001.22 and 1001.23 (relating to criteria for funding; and allocation of funds), the Department of Health (Department) gives notice of priorities for the distribution by the regional emergency medical services (EMS) councils of funding from the Emergency Medical Services Operating Fund (EMSOF) for the Fiscal Year (FY) beginning July 1, 2010, and ending June 30, 2011.

EMSOF moneys are to be used to provide funding to maintain, improve and develop the quality of the EMS system within this Commonwealth. The Department finds that EMSOF is not sufficient to fully fund the EMS system. Therefore, it gives notice, under 28 Pa. Code § 1001.22(d), that recipients of EMSOF funding from regional EMS councils may be required to contribute funds toward all purchases, acquisitions and projects for which the Department permits the use of EMSOF moneys.

Each regional EMS council shall prioritize the distribution of its EMSOF allocation based upon the Statewide EMS Development Plan and its regional EMS development plan, subject to the funding priorities set forth in this notice. By October 30, 2010, the regional EMS councils shall notify the providers and other appropriate entities of the established funding priorities, the application process, acquisition documentation requirements and processing deadlines. Each regional EMS council must complete all documents required for the distribution of EMSOF funding by June 30, 2011.

The Department may increase the amount of the initial payment or reimbursement from EMSOF based upon the EMS development plans (State and regional) or documented financial hardship of a provider of EMS. A provider of EMS that seeks additional funds due to financial hardship shall be required to submit a financial disclosure statement and other documentation deemed necessary by the Department.

A provider of EMS applying for EMSOF funding must be in full compliance with all regulations, policies and priorities of the State and regional EMS systems.

Funds for purchases, acquisitions and projects for the FY beginning July 1, 2010, and ending June 30, 2011, must be expended or encumbered by the regional EMS council by June 30, 2011.

Funding Priorities

These priorities are not ranked. The priorities must be considered before there is any regional distribution of EMSOF moneys for initiatives that are not listed. All funding must be distributed consistent with the regional

and Statewide EMS development plans. Consequently, if the priorities in this notice have been funded and additional funding is available, the request to use EMSOF money towards nonpriority items must still be supported by the Statewide and regional EMS development plans.

- Development or improvement of an organizational risk management program (safety measures, hazard recognition/mitigation and the necessary organizational structure and support processes) proposed by an ambulance service. Proposals for funding must be comprehensive and include safe vehicle operations. Approval by the Department is required prior to funding.

- Recruitment and retention programs, including scholarships/tuition reimbursement for first responder, emergency medical technician and paramedic training in areas with high prehospital personnel vacancy rates as determined by the regional EMS council and approved by the Department.

- Equipment required to meet basic life support (BLS) and advanced life support (ALS) ambulance service licensure.

- Capnography equipment (especially wave-form end-tidal CO₂ monitors).

- An ambulance for ambulance services that is older than 10 years or has more than 200,000 miles on it. Limit to one per FY.

- Software/computer equipment to enable services to collect and transmit EMS patient care reports electronically.

- Quality assurance/improvement program.

- EMS personnel protective respiratory equipment approved by the Department to protect the EMS practitioner from communicable diseases transmitted from person to person through airborne mechanisms.

- Costs associated with investigating a potential merger or consolidation of services. These costs include but are not limited to consulting fees, studies, legal fees and statistical analysis.

- Costs associated with the actual merger or consolidation of services.

- The additional cost of reflective chevron markings on back of a new ambulance purchased by an ambulance service.

When two or more ambulance companies have consolidated, for the first 5 years after the ambulance companies completed consolidation the entity may be deemed eligible

to receive funding not to exceed the amount of the combined total for which the individual companies would have been eligible had they not consolidated.

Emergency Preparedness and Response Funding Requests

Emergency preparedness and response funding requests must be based on local and response roles of services, regional needs and needs identified by threat vulnerability analysis. Purchases must be coordinated with county emergency, fire service, HAZMAT and hospital organizations in the applicant's service area to assure interoperability and to prevent duplication. Funding requests related to response to all hazard and emergency preparedness must have a clear connection to the regional EMS catastrophic plan and the regional EMS development plan. Priority will be given to fund the ambulance services in each region that have committed to participating in the EMS strike team capability project and respond to requests for EMS, both interstate and intrastate, as identified in the State and regional mass casualty plans.

Provider Equipment

Purchases by providers of EMS are not limited to equipment. If an EMS provider requests EMSOF moneys to purchase equipment, the Eligible Provider Equipment List identifies equipment for which EMSOF funds will be made available to purchase. This chart identifies the types of providers of EMS eligible for equipment purchases supported by EMSOF funding and the maximum allowable cost upon which the EMSOF contribution will be calculated.

EMSOF funds will fund 60% of the maximum allowable cost of an equipment item for rural providers and will fund 50% of the maximum allowable cost of an equipment item for nonrural providers. An eligible provider is responsible for the balance of the purchase price. The provider may purchase an item for an amount that exceeds the maximum allowable cost, but the provider will be responsible for any amount exceeding that figure. The last two columns of the chart identify the percentage of EMSOF contribution towards the purchase price, up to the maximum allowable cost of the item, based upon whether the provider operates in a rural or nonrural area.

Paramedic Examinations

Funding may be provided to services to cover the cost of the State written test for paramedic certification taken by their personnel at 100% of the cost of two examination attempts up to a maximum allowable cost of \$300 per person.

ELIGIBLE PROVIDER EQUIPMENT LIST

<i>EQUIPMENT DESCRIPTION</i>	<i>LIFE EXPECTANCY</i>	<i>ELIGIBLE PURCHASE FOR:</i>				<i>ALLOWABLE COSTS¹</i>	<i>NON RURAL (50%)</i>	<i>RURAL (60%)</i>
		<i>ALS</i>	<i>ALS/SQ</i>	<i>BLS</i>	<i>QRS</i>			
EKG Monitor/Defibrillator with Pacer	5 years	Y	Y	N	N	12,000	6,000	7,200
12 Lead EKG ²	5 years	Y	Y	N	N	20,000	10,000	12,000
Automated External Defibrillator (AED)	5 years	N	N	Y ³	Y ³	1,500	750	900
Automated External Defibrillator Trainer	5 years	N	N	Y	Y	400	200	240

<i>EQUIPMENT DESCRIPTION</i>	<i>LIFE EXPECTANCY</i>	<i>ELIGIBLE PURCHASE FOR:</i>				<i>ALLOWABLE COSTS¹</i>	<i>NON RURAL (50%)</i>	<i>RURAL (60%)</i>
<i>ALS</i>	<i>ALS/SQ</i>	<i>BLS</i>	<i>QRS</i>					
Oxygen Equipment (any combination) Cylinder Demand Valve w/Hose & Mask Regulator (combination or constant flow—25 lpm capable) Case	5 years	Y	Y	Y	Y	500	250	300
Capnography Equipment	3 years	Y	Y	N	N	3,000	1,500	1,800
CPAP Ventilation Portable Equipment	5 years	Y	Y	Y	Y	1,500	750	900
Pulse Oximeter	5 years	Y	Y	Y	Y	700	350	420
Nitrous Oxide Delivery System	5 years	Y	Y	N	N	2,000	1,000	1,200
Intravenous Infusion Pumps	5 years	Y	Y	N	N	2,000	1,000	1,000
Adult/Pediatric Intubation Kits	5 years	Y ⁴	Y ⁴	N	N	600	300	360
Transtracheal Jet Insufflators (TTJ)	5 years	Y	Y	N	N	200	100	120
Splinting/Immobilization Devices (any combination) Backboard Cervical Immobilization Device Splints (rigid, traction, and the like)	3 years	Y	Y	Y	Y	500	250	300
Stairchair 300 lb Capacity	3 years	Y	N	Y	N	2,000	1,000	1,200
Stairchair 500 lb Capacity	5 years	Y	N	Y	N	2,650	1,325	1,590
Stretcher 300 lb Capacity	5 years	Y	N	Y	N	4,000	2,000	2,400
Stretcher 700 lb Capacity	5 years	Y	N	Y	N	11,500	5,750	6,900
Stretcher/Chair Combination	5 years	Y	N	Y	N	700	350	420
Suction (Portable)	3 years	Y	Y	Y	Y	900	450	540
Ventilator, Automatic (per Department of Health Guidelines)	5 years	Y ⁵	Y ⁵	Y ⁶	Y ⁶	3,000	1,500	1,800
Ambulance with Chevron Marking on Back of Unit	—	Y	N	Y	N	—	15,000	20,000
Chevron	—	Y	Y	Y	Y	1,500	750	900
Squad/Response Vehicle with Chevron Marking on Back of Unit	—	N	Y	N	Y	—	7,500	9,000
Data Collection Software/Technology ⁷	—	Y	Y	Y	Y	1,700	850	1,020
Data Collection Hardware ⁸	3 years	Y	Y	Y	Y	2,000	1,000	1,200
Radio, Mobile (two per vehicle)	5 years	Y ⁹	Y ⁹	Y ⁹	Y ⁹	5,000	2,500	3,000

<i>EQUIPMENT DESCRIPTION</i>	<i>LIFE EXPECTANCY</i>	<i>ELIGIBLE PURCHASE FOR:</i>				<i>ALLOWABLE COSTS¹</i>	<i>NON RURAL (50%)</i>	<i>RURAL (60%)</i>
		<i>ALS</i>	<i>ALS/SQ</i>	<i>BLS</i>	<i>QRS</i>			
Radio, Portable (two per vehicle per year)	5 years	Y ⁹	Y ⁹	Y ⁹	Y ⁹	5,000	2,500	3,000
Triage Vest with Reflection Stripes Meeting ANSI National Standards	5 years	Y	Y	Y	Y	150	75	90
Triage System	5 years	Y	Y	Y	Y	750	375	450
Alerting Equipment (5 per service \$400 each)	5 years	Y ⁹	Y ⁹	Y ⁹	Y ⁹	2,000	1,000	1,200
Vehicle Safety Monitoring Systems	5 years	Y	Y	Y	Y	3,500	1,750	2,100
Personal Protective Equipment/Turnout Gear: Helmet, Coat, Pants, Boots, Protection Vest Meeting ANSI National Standards (one set per provider) Respiratory Protection from Communicable Diseases	5 years	Y	Y	Y	Y	1,200	600	720
Protective Ballistic Vest	5 years	Y	Y	Y	Y	1,000	500	600
Global Positioning System Receiver 1 per licensed Ambulance or Recognized QRS Vehicle	5 years	Y	Y	Y	Y	500	250	275
Traffic Safety Equipment	5 years	Y	Y	Y	Y	2,500	1,250	1,500
Large Patient Moving/Carrying Device	10 years	Y	Y	Y	Y	3,000	1,500	1,800
Self Contained Breathing Apparatus (2 per licensed vehicle)	10 years	Y	Y	Y	Y	3,000	1,500	1,800
EMT-P Testing (Written)	—	Y	Y	N	N	300	300	300
CO Detectors (Monitors)	5 Years	Y	Y	Y	Y	200	100	120
12 Lead EKG Transmitter System	5 Years	Y	Y	N	N	1,000	500	600
IO Drills or Bone Injection Systems	5 Years	Y	Y	N	N	300	150	180
Narcotics Security Systems	5 Years	Y	Y	N	N	900	450	540

¹ All figures are dollar amounts for each item of equipment.

² Amount includes \$1,000 for communications package. Receiving facility must have appropriate communications capabilities.

³ Must be an approved AED service or part of regional planning, and AED medical director required.

⁴ Must be durable equipment, not disposable equipment.

⁵ Completion of approved training program required.

⁶ Completion of approved training program required and BLS service medical director approval required.

⁷ Must be a Department-approved software program, version and vendor.

⁸ Data collection hardware may include computer, modem, printer, backup device, and battery system.

⁹ Must be compatible with regional and State EMS communications plan.

Questions regarding the Eligible Provider Equipment List or other matters addressed in this notice should be directed to Joseph W. Schmider, Director, Bureau of Emergency Medical Services, Department of Health, Room 606, Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120-0701, (717) 787-8740.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotape, Braille) should contact Joseph W. Schmider at the previously listed address or telephone numbers or for speech or hearing impaired persons may use VTT (717) 783-6514, or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 10-1048. Filed for public inspection June 4, 2010, 9:00 a.m.]

Long-Term Care Nursing Facilities; Requests for Exception

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 201.3 (relating to definitions).

Maple Farm
604 Oak Street
Akron, PA 17501-0136
Facility ID 22720201

This request is on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 10-1049. Filed for public inspection June 4, 2010, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

Nursing Facility Assessment Program for Fiscal Year 2010-2011

This notice announces the proposed assessment amount, the proposed assessment methodology and the

estimated aggregate impact on nursing facilities that will be subject to the assessment under the Nursing Facility Assessment Program (Assessment Program) in Fiscal Year (FY) 2010-2011.

Background

In 2003, the Pennsylvania General Assembly amended the Public Welfare Code to authorize the Department of Public Welfare (Department) to implement a monetary assessment on private nursing facilities in this Commonwealth over a 4-year period beginning July 1, 2003, and ending June 30, 2007. Act of September 30, 2003 (P. L. 169, No. 25) (Act 25), codified at 62 P. S. §§ 801-A—815-A. Since the implementation of the Assessment Program, the Department used the Assessment Program revenue to support payments to Pennsylvania's Medical Assistance (MA) nursing facility providers. Recognizing the substantial benefits realized through the Assessment Program, the General Assembly enacted Act 16 of 2007 to reauthorize the Assessment Program for an additional 5 years. Act of June 30, 2007 (P. L. 49, No. 16) (Act 16). In addition to reauthorizing the Assessment Program, Act 16 amended the Public Welfare Code to allow the Department to include county nursing facilities in the Assessment Program effective July 1, 2007. Id., 62 P. S. § 802-A. For FYs 2007-2008, 2008-2009 and 2009-2010, the Department exercised its discretion to include the county nursing facilities in the Assessment Program. The Department will continue this practice for FY 2010-2011.

For each FY that the Assessment Program is implemented, the Secretary of the Department (Secretary), in consultation with the Secretary of the Budget, must determine the aggregate amount of the assessment and the annual assessment rate. The aggregate amount and rate of assessment must be approved by the Governor's Office. The annual assessment rates must be sufficient to generate at least \$50 million in additional revenue, subject to the maximum aggregate assessment amount that qualifies for Federal matching funds. See section 804-A of Act 25 (62 P. S. § 804-A).

Before implementing the Assessment Program in a FY, the Secretary must publish a notice in the *Pennsylvania Bulletin* that specifies the amount of the assessment being proposed, provides an explanation of the assessment methodology and assessment amount, and identifies the aggregate impact on nursing facilities subject to the assessment. See section 805-A of Act 25 (62 P. S. § 805-A).

Additionally, the Department must seek approval from the Federal Centers for Medicare and Medicaid Services (CMS) to implement the Assessment Program in conformity with Federal law and to guarantee that the assessment amounts qualify for matching Federal funds. See 62 P. S. § 812-A. To assure that revenues generated from the Assessment Program qualify for Federal matching funds, the Department submitted a request to CMS for an amendment to the Assessment Program for FY 2010-2011. The implementation of the changes to the Assessment Program is contingent on CMS's approval of the request.

This notice announces the assessment amounts, rates and methodology that the Department is proposing to implement in FY 2010-2011 and the estimated aggregate impact on nursing facilities that will be subject to the assessment in FY 2010-2011.

Proposed Assessment Methodology and Rates

During FY 2010-2011, the Department is proposing to maintain the same assessment methodology that was used in FY 2009-2010.

The following nursing facilities will continue to be exempt from the Assessment Program in FY 2010-2011:

- (1) State owned and operated nursing facilities.
- (2) Veteran's Administration nursing facilities.
- (3) Nursing facilities that have not been licensed and operated by the current or previous owner for the full calendar quarter prior to the calendar quarter in which an assessment is collected.
- (4) Nursing facilities that provide nursing facility services free of charge to all residents.

Under the proposed rate structure, the Department will assess nonexempt nursing facilities at two rates. One rate will apply to three categories of nursing facilities: county nursing facilities; nursing facilities that have 50 or fewer licensed beds; and nursing facilities that participated in a Continuing Care Retirement Community (CCRC) before July 1, 2010, and that continue to participate within that CCRC. The other rate will apply to all other nonexempt facilities, including nursing facilities that begin participation in a CCRC on or after July 1, 2010. Using the applicable rate, the Department will calculate each non-exempt facility's quarterly assessment amount by multiplying its assessment rate by the facility's non-Medicare resident days during the calendar quarter that immediately preceded the assessment quarter.

Since the Nursing Facility Assessment Program began in 2003, the number of nursing facilities assessed at the lower CCRC rate has increased dramatically. Some facilities qualified for the lower CCRC assessment rate merely by adding a few residential units to create a continuum of care, but otherwise continued to operate as usual. Over the years, the Department adopted guidelines in an effort to confine the CCRC assessment category to those entities that operate as traditional CCRCs. Despite these efforts, the CCRC category has grown by 82%. Rather than reacting to each new scheme, the Department is proposing to eliminate the CCRC category prospectively to discourage nursing facilities from undertaking arrangements simply to qualify for a lower assessment rate. If this proposal is adopted, the Department will not approve any new requests for the CCRC rate made on or after July 1, 2010. The Department also intends to require nursing facilities that currently qualify for the CCRC rate to certify, upon written request, that they continue to qualify for the CCRC assessment rate pursuant to the guidelines under which they were approved. These changes will ensure that the assessment program continues to achieve its intended purpose of generating revenue to support medical assistance payments to nursing facilities while minimizing any potential financial harm to nursing facilities.

The Department will continue to accept requests to be assessed at the CCRC rate. To process approvals before July 1, 2010, the Department must receive new requests for the CCRC rate no later than June 23, 2010.

The Department also proposes to increase the assessment rates for nonexempt nursing facilities from the rates in FY 2009-2010. The proposed assessment rates for FY 2010-2011 are as follows:

- (1) For county nursing facilities, for nursing facilities that have 50 or fewer licensed beds, and for nursing facilities that participated in a CCRC before July 1, 2010, and that have certified continued participation within that CCRC, the assessment rate will be \$4.05 per non-Medicare resident day.

- (2) For all other non-exempt nursing facilities, the assessment rate will be \$25.50 per non-Medicare resident day.

Aggregate Assessment Amounts and Fiscal Impact

The Department estimates that, if the proposed assessment rates are implemented, the annual aggregate assessment fees for nonexempt nursing facilities will total \$390.726 million. The Department will use the State revenue derived from the assessment fees and any associated Federal matching funds to support payments to qualified MA nursing facility providers in accordance with applicable law and regulations.

Public Comment

Interested persons are invited to submit written comments regarding the contents of this notice to Yvette Sanchez-Roberts, Department of Public Welfare/Department of Aging, Office of Long-Term Living, 555 Walnut Street, Forum Place, 5th Floor, Harrisburg, PA 17101-1919. Comments must be submitted within 30 days of publication of the notice. See 62 P.S. § 805-A. After considering the comments, the Secretary will publish a second notice announcing the final assessment rates for FY 2010-2011. The Department will not begin collecting assessment fees until after the publication of the final assessment rate notice.

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

HARRIET DICHTER,
Secretary

Fiscal Note: 14-NOT-642. No fiscal impact; (8) recommendations adoption.

[Pa.B. Doc. No. 10-1050. Filed for public inspection June 4, 2010, 9:00 a.m.]

FISH AND BOAT COMMISSION

Proposed Additions to List of Class A Wild Trout Waters

The Fish and Boat Commission (Commission) is considering changes to its list of Class A Wild Trout Streams. Under 58 Pa. Code § 57.8a (relating to Class A wild trout streams), it is the Commission's policy to manage self-sustaining Class A wild trout populations as a renewable natural resource to conserve that resource and the angling it provides. Class A wild trout populations represent the best of this Commonwealth's naturally reproducing trout fisheries. The Commission manages these stream sections solely for the perpetuation of the wild trout fishery with no stocking.

The criteria developed for Class A Wild Trout fisheries are species specific. Wild Trout Abundance Class Criteria include provisions for:

- (i) *Wild Brook Trout Fisheries*

(A) Total brook trout biomass of at least 30 kg/ha (26.7 lbs/acre).

(B) Total biomass of brook trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(C) Brook trout biomass must comprise at least 75% of the total trout biomass.

(ii) *Wild Brown Trout Fisheries*

(A) Total brown trout biomass of at least 40 kg/ha (35.6 lbs/acre).

(B) Total biomass of brown trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(C) Brown trout biomass must comprise at least 75% of the total trout biomass.

(iii) *Mixed Wild Brook and Brown Trout Fisheries*

(A) Combined brook and brown trout biomass of at least 40 kg/ha (35.6 lbs/acre).

(B) Total biomass of brook trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(C) Total biomass of brown trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(D) Brook trout biomass must comprise less than 75% of the total trout biomass.

(E) Brown trout biomass must comprise less than 75% of the total trout biomass.

(iv) *Wild Rainbow Trout Fisheries*

Total biomass of rainbow trout less than 15 cm (5.9 inches) in total length of at least 2.0 kg/ha (1.78 lbs/acre).

For a water to be removed from the Class A Wild Trout Streams designation, total trout biomass must be documented below the set criteria for two consecutive stream examinations.

During recent surveys, Commission staff have documented the following stream sections to have Class A Wild Trout populations. The Commission intends to consider adding these waters to its list of Class A Wild Trout Streams at its meeting on July 12 and 13, 2010.

<i>County</i>	<i>Stream</i>	<i>Section</i>	<i>Limits</i>	<i>Trout Biomass (kg/ha) Brook</i>	<i>Length (miles)</i>	<i>Survey Year</i>
<i>Wallenpaupack Creek Basin</i>						
Pike	Kleinmans Creek	1	Headwaters to Confluence with Lake Wallenpaupack/Wallenpaupack Creek	36.22	1.68	2004
<i>Lehigh River Basin</i>						
Lackawanna	Sand Spring Creek	1	Headwaters to Confluence with Lehigh River	134.08	2.82	2004
<i>Brown</i>						
Carbon	Hunter Creek	1	Headwaters to Confluence with Buckwha Creek	56.58	6.21	2009
Lehigh	Catasauqua Creek	3	Eastwood Street Bridge downstream to the former Lehigh Canal downstream Lehigh Street (SR 1007) Bridge	94.90	0.56	2009
	Iron Run	2	Upstream face of the Turning Leaf Trail Bridge downstream to confluence with Spring Creek	64.42	0.48	2009
	Spring Creek	1	Headwater (Schaefer and Iron Run confluence) downstream to confluence with Little Lehigh Creek	148.06	1.24	2009
<i>County</i>	<i>Stream</i>	<i>Section</i>	<i>Limits</i>	<i>Trout Biomass (kg/ha) Mixed Brook / Brown</i>	<i>Length (miles)</i>	<i>Survey Year</i>
Luzerne	Shades Creek	2	Downstream face of the SR 0115 Bridge downstream Pipeline Crossing	70.49	1.75	2004

Persons with comments, objections or suggestions concerning the additions are invited to submit comments in writing to Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30

days after publication of this notice in the *Pennsylvania Bulletin*. Comments also may be submitted electronically by completing the form at www.fishandboat.com/regcomments. If an acknowledgment of electronic com-

ments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

JOHN A. ARWAY,
Executive Director

[Pa.B. Doc. No. 10-1051. Filed for public inspection June 4, 2010, 9:00 a.m.]

Removal of Certain Refuge Areas

Under 58 Pa. Code § 67.2 (relating to refuge areas), the Executive Director of the Fish and Boat Commission (Commission), with the approval of the Commission, may designate waters as refuge areas to which 30 Pa.C.S. § 2306 (relating to refuge areas), shall apply. Section 2306 of 30 Pa.C.S. provides that the Commission may set aside, in its discretion, areas as it may judge best as refuge areas in which fishing or entry shall be prohibited for periods of time as the Commission prescribes. According to the regulation, the designation of waters as refuge areas shall be effective upon posting of the waters after publication of a notice that the waters have been so designated in the *Pennsylvania Bulletin*. Refuge areas are closed to public fishing except during the period from June 15 until the last day of February of the following year. It is unlawful to disturb fish or other aquatic life in refuge areas by any means, including wading, throwing stones, rocks or other objects or otherwise agitating the waters. The regulation will not be construed to prohibit fishing in these areas during the extended trout season.

Based on current conditions, there are reasons to remove the refuge area designation from 18 streams. For example, some streams are no longer being maintained as marked refuge areas, some streams are no longer stocked with trout and some streams are simply not being well utilized by anglers. These conditions are inconsistent with the premise for the use of refuge areas. Therefore, the Commission, at its next meeting on July 12 and 13, 2010, will consider taking action to remove the refuge area designations from the sections of the following waters that have been so designated:

County	Water Area
Cambria/Clearfield	Chest Creek
Clearfield	Little Clearfield Creek
Clearfield	Gifford Run
Clearfield	Mosquito Creek
Elk	Bear Creek
Elk	Big Mill Creek
Elk/McKean	Wilson Run
Forest	Bluejay Creek
Luzerne/Wyoming	Bowman Creek
Lycoming	White Deer Hole Creek
McKean	Combs Creek
McKean	East Branch Tunungwant Creek
McKean	Lewis Run
Monroe	Tobyhanna Creek
Snyder	Swift Run
Schuylkill	Little Schuylkill River

County	Water Area
Warren	Farnsworth Branch
Warren	West Branch Tionesta Creek

The sections of the following waters that have designated as refuge areas will remain in the program.

County	Water Area
Cameron	Hicks Run
Cameron	Mix Run
Cameron	Upper Jerry Run
Cameron	Wykoff Run
Clearfield	Jack Dent Branch
Elk	Medix Run
McKean	Chappel Fork
McKean	Kinzua Creek
McKean	Kinzua Creek, South Branch
McKean	Skinner Creek
McKean	Sugar Run
McKean	Sugar Run, North Branch
McKean	Tionesta Creek, East Branch
McKean	Two Mile Run
McKean	Willow Creek
McKean	Wilson Run
Warren	Two Mile Run

At this time, the Commission is soliciting public input concerning the previously listed redesignations. Persons with comments, objections or suggestions concerning the redesignations are invited to submit comments in writing to Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted. Comments also may be submitted electronically by completing the form at www.fishandboat.com/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

JOHN A. ARWAY,
Executive Director

[Pa.B. Doc. No. 10-1052. Filed for public inspection June 4, 2010, 9:00 a.m.]

Triploid Grass Carp Permit Application

Under 58 Pa. Code § 71.7 (relating to triploid grass carp), the Fish and Boat Commission (Commission) may issue permits to stock triploid grass carp in Commonwealth waters. Triploid grass carp are sterile fish that may, in appropriate circumstances, help control aquatic vegetation. The Commission has determined consistent with 58 Pa. Code § 71.7(e)(3) to seek public input with respect to any proposed stockings of triploid grass carp in waters having a surface area of more than 5 acres.

Interested persons are invited to submit written comments, objections or suggestions about the notice to the

Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 10 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted. Comments also may be submitted electronically by completing the form at www.fishandboat.com/regcomments. If an acknowledgment of electronic comments is not re-

ceived by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

The following application to stock triploid grass carp in waters having a surface area of greater than 5 acres is currently undergoing staff review:

<i>Applicant</i>	<i>Water</i>	<i>Location of Water</i>	<i>Description of Water</i>	<i>Nature of Vegetation to be Controlled</i>
Chartiers City Rod & Gun Club	Club Lake	Hanover Township Beaver County	7 acre lake which discharges into an UNT to Aunt Clara Fork, then Kings Creek and then into the Ohio River	<i>Myriophyllum spicatum</i> <i>Nymphaea spp</i>

JOHN A. ARWAY,
Executive Director

[Pa.B. Doc. No. 10-1053. Filed for public inspection June 4, 2010, 9:00 a.m.]

HEALTH CARE COST CONTAINMENT COUNCIL

Meetings Scheduled

The following meetings of the Health Care Cost Containment Council (Council) have been scheduled: Wednesday, June 23, 2010, 10 a.m. Payment Data Advisory Group, Wednesday, July 7, 2010, 10 a.m. Data Systems Committee, 1 p.m. Education Committee and 2:30 p.m. Executive Committee; Thursday, July 8, 2010, 9:30 a.m. Council Meeting; Wednesday, July 21, 2010, 10 a.m. Technical Advisory Group Teleconference. The meetings will be either held or accessible from the conference room at the Council Office, 225 Market Street, Suite 400, Harrisburg, PA 17101. The public is invited to attend. Persons in need of accommodation due to a disability who wish to attend the meetings should contact Reneé Greenawalt, (717) 232-6787 at least 24 hours in advance so that arrangements can be made.

JOE MARTIN,
Executive Director

[Pa.B. Doc. No. 10-1054. Filed for public inspection June 4, 2010, 9:00 a.m.]

Request for Information

The Health Care Cost Containment Council (Council) is issuing a Request for Information (RFI) to identify potential vendors that may be chosen by hospitals in this Commonwealth for the submission of laboratory data to the Council. The Council's authorizing legislation, Act 3 of 2009, includes language which states: "The Council shall not require any data sources to contract with any specific vendor for submission of any specific data elements to the Council . . . The Council shall maintain a list of at least two vendors that may be chosen by any data source for submission of any specific data elements." The purpose of this RFI is to assist hospitals in identifying potential vendors for the purposes of submitting laboratory data to the Council.

Copies of the RFI are available on the Council's web site at www.phc4.org, or by contacting Reneé Greenawalt at the Health Care Cost Containment Council, 225 Market Street, Suite 400, Harrisburg, PA 17101, (717) 232-6787 or rgreenawalt@phc4.org.

JOE MARTIN,
Executive Director

[Pa.B. Doc. No. 10-1055. Filed for public inspection June 4, 2010, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Filing of Final Rulemaking

The Independent Regulatory Review Commission (Commission) received the following regulation. It is scheduled to be considered on the date noted. The Commission's public meetings are held at 333 Market Street, 14th Floor, Harrisburg, PA at 10 a.m. To obtain a copy of the regulation, interested parties should first contact the promulgating agency. If a copy cannot be obtained from the promulgating agency, the Commission will provide a copy or a copy can be obtained on the web site, www.irrc.state.pa.us.

Final-Form

<i>Reg. No.</i>	<i>Agency / Title</i>	<i>Received</i>	<i>Public Meeting</i>
16A-5615	State Real Estate Commission Initial Licensure Fees	5/25/10	7/15/10

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 10-1056. Filed for public inspection June 4, 2010, 9:00 a.m.]

INSURANCE DEPARTMENT

Application and Request for a Certificate of Authority to Provide a Continuing Care Retirement Community by Chester Valley SNF, LLC

Chester Valley SNF, LLC has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at Chester Valley Rehabilitation and Nursing Center in Malvern, PA. The initial filing was received on May 25, 2010, and was made under the Continuing-Care Provider Registration and Disclosure Act (40 P.S. §§ 3201—3325).

Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party; identification of the application to which the statement is addressed; and a concise statement with sufficient detail to inform the Department of the exact basis of the statement. Written statements should be directed to Steven L. Yerger, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557 or syerger@state.pa.us.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 10-1057. Filed for public inspection June 4, 2010, 9:00 a.m.]

Application and Request for a Certificate of Authority to Provide a Continuing Care Retirement Community by Chestnut Hill Rehab Center, LLC

Chestnut Hill Rehab Center, LLC has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at Montgomery Rehab Center of Chestnut Hill in Wyndmoor, PA. The initial filing was received on May 24, 2010, and was made under the Continuing-Care Provider Registration and Disclosure Act (40 P.S. §§ 3201—3325).

Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party; identification of the application to which the statement is addressed; and a concise statement with sufficient detail to inform the Department of the exact basis of the statement. Written statements should be directed to Steven L. Yerger, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557 or syerger@state.pa.us.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 10-1058. Filed for public inspection June 4, 2010, 9:00 a.m.]

Application and Request for a Certificate of Authority to Provide a Continuing Care Retirement Community by Westgate Hills SNF, LLC

Westgate Hills SNF, LLC has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at Westgate Hills Rehabilitation and Nursing Center in Havertown, PA. The initial filing was received on May 25, 2010, and was made under the Continuing-Care Provider Registration and Disclosure Act (40 P.S. §§ 3201—3325).

Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party; identification of the application to which the statement is addressed; and a concise statement with sufficient detail to inform the Department of the exact basis of the statement. Written statements should be directed to Steven L. Yerger, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557 or syerger@state.pa.us.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 10-1059. Filed for public inspection June 4, 2010, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Order

Public Meeting held
May 20, 2010

Commissioners Present: James H. Cawley, Chairperson;
Tyrone J. Christy, Vice Chairperson; Wayne E. Gardner;
Robert F. Powelson

*Recalculation of the Pennsylvania Telecommunications
Relay Service Surcharge; M-2010-2151504; M-00900239*

Order

By the Commission:

Pursuant to our May 29, 1990 Order at Docket No. M-00900239 establishing the Pennsylvania Telephone Relay Service (Relay)¹ and surcharge funding mechanism (TRS surcharge) and subsequent legislation,² we have

¹ Additional information on TRS may be found at http://www.puc.state.pa.us/telecom/telecom_relay_service.aspx

² See Act 34 of 1995, 35 P.S. §§ 6701.1—6701.4 (the statutory provisions were amended by Act 181 of 2002 to be more inclusive of persons with disabilities), establishing the Telephone Device Distribution Program (TDDP) to be funded by the TRS surcharge and which codified Relay and use of the TRS surcharge funding mechanism; and Act 174 of 2004, 35 P.S. § 6701.3a, which established the Print Media Access System Program (PMASP) to be funded in part by the TRS surcharge. PMASP is a reading service for persons with certain vision and physical disabilities. The law is now called the "Universal Telecommunications and Print Media Access Act."

completed the annual recalculation of the TRS surcharge as it will apply to residence and business wireline access lines for July 1, 2010, through June 30, 2011. The monthly residential and business monthly access line surcharge will remain set at \$0.08.

Background

The annual TRS recalculation is dependent on data from several sources. Local Exchange Carriers (LECs)³ submitted annual wireline access line counts per 52 Pa. Code § 63.37. The Relay Provider, AT&T Communications of Pennsylvania, LLC, submitted the estimated minutes of use and charges for July 1, 2010, through June 30, 2011. Hamilton Telecommunications submitted the estimated minutes of use report for the captioned telephone relay service (CTRS). The Executive Director of the Office of Vocational Rehabilitation (OVR) in the Department of Labor and Industry submitted the 2010-2011 TDDP budget and the 2010-2011 PMASP budget. The surcharge also funds the TRS Advisory Board activities and Fund administration costs. U.S. Bank,⁴ the Fund Administrator, provided a statement of the financial status of the Fund.⁵

Calculation for 2010—2011

Wireline access lines reported by LECs for 2009 and adjusted for Centrex lines are 6,818,611, (4,836,663 residence and 1,981,948 business). Based upon the number of access lines, projected program costs (Relay, CTRS, TDDP, and PMASP), anticipated Relay Advisory Board expenses, TRS Fund administration costs, and the financial status of the TRS Fund, the 2010-2011, the monthly TRS surcharge rate for both residence and business access lines will continue to be set at \$0.08 per month. All LECs shall continue to remit TRS surcharge revenues to the Fund Administrator.⁶ Since the 2010-2011 surcharge remains the same as the 2009-2010 rate \$0.08, tariff supplements are not required.

Effective July 1, 2010, the monthly surcharge allocation for each fund account is as follows:⁷

2010-2011 Monthly Surcharge Percentage

	<i>Residence %</i>	<i>Business %</i>
Relay	94.0	94.0
TDDP	4.0	2.0
PMASP	<u>2.0</u>	<u>2.0</u>
Total Percentage	100.0	100.0

³ LEC includes both incumbent and competitive local exchange carriers. Thirty-eight LECs had not submitted access line counts as of the date of preparation of this order; therefore, access line counts are estimated for surcharge calculation purposes. Noncompliant LECs are referred to the Commission's Law Bureau prosecutory staff.

⁴ As a result of mergers, acquisitions, and name changes, Fund administration has been handled by Hamilton Bank (1990), CoreStates Bank N.A. (1995), First Union National Bank (1999), Wachovia Bank, N.A. (2002), and U.S. Bank Institutional Trust & Custody (2006).

⁵ Separate accounts are maintained for the portions of the surcharge allocated to Relay, TDDP, and PMASP. Relay Advisory Board, CTRS, and outreach activities are funded from the Relay account; Fund administration draws from each respective account.

⁶ U.S. Bank Institutional Trust & Custody, Attn: Sue Massey, EX-PA-WBSP, 50 South 16th Street, 20th Floor, Philadelphia, PA 19102, payable to the "PA Relay Service Fund" and designated for Relay. Wire instructions effective September 11, 2006 can be found on the remittance form.

⁷ The TRS surcharge appears as a single line item on customers' bills but actually has three components (Relay TDDP and PMASP).

Operations for 2010—2011

We shall continue our active oversight of the operations of the Pennsylvania Relay, (traditional, speech-to-speech, and captioned telephone). Further, in accordance with 35 P.S. §§ 6701.3a and 4, we shall continue to collaborate with OVR and its TDDP administrator⁸ to ensure adequate funding for distribution of TDDP equipment to low-income households. Further, we shall continue to assist OVR in its mission to ensure adequate funding for PMASP.

Audits

On May 29, 2003, the Commission authorized an audit of the TRS fund. The scope of this audit has expanded to include additional fiscal periods. On August 7, 2003, a Commission Secretarial Letter required AT&T to file, on or before May 1st of each year, a Statement of Actual Underlying Costs of the PA TRS for the prior completed period of July 1 through June 30. The Bureau of Audits is currently auditing the PA TRS underlying costs for the three fiscal periods ending June 30, 2007, 2008, 2009. Regarding the TDDP the Bureau of Audits is currently conducting the audit of the two fiscal periods ending June 30, 2008 and 2009.

Conclusion

The Commission has completed the annual recalculation of the TRS Surcharge. The surcharge to be applied beginning July 1, 2010, through June 30, 2011, will remain at \$0.08 for residential and business access lines; *Therefore,*

It Is Ordered That:

1. For the period of July 1, 2010, through June 30, 2011, the monthly TRS surcharge rate shall be \$0.08 for residence and business, unless we take further action to revise the TRS surcharge prior to June 30, 2011.

2. All local exchange carriers are directed to use the attached form to remit the monthly TRS surcharge collections to U.S. Bank, Institutional Trust & Custody.

3. A copy of this Order be served upon all local exchange carriers, AT&T Communications Company of Pennsylvania, LLC, Hamilton Telecommunications, U.S. Bank Institutional Trust & Custody, the Office of Vocational Rehabilitation in the Department of Labor and Industry, the Office of Consumer Advocate, the Office of Small Business Advocate, and the Pennsylvania Telephone Association.

4. A copy of this Order be published in the *Pennsylvania Bulletin*.

5. A copy of this Order be posted to the Commission's web site.

ROSEMARY CHIAVETTA,
Secretary

⁸ As of January 1, 2007, the TDD program is administered by Pennsylvania's Initiative on Assistive Technology (PIAT), Institute on Disabilities, Temple University (IDT).

REMITTANCE FORM FOR MONTHLY TRS SURCHARGE COLLECTIONS

Effective July 1, 2010 through June 30, 2011

Docket No. M-2010-2151504

All local service providers are required to collect and remit the TRS surcharge revenue monthly, by the 20th of each month using the following format for the monthly remittance:

Pennsylvania TRS Surcharge

For the Month Ending _____

Number of **Residential** access lines _____

X \$0.08 per line _____

Allocated:

TRS Relay 94.0 percent _____

TDDP 4.0 percent _____

PMASP 2.0 percent _____

Number of **Business** access lines _____

X \$0.08 per line _____

Allocated:

TRS Relay 94.0 percent _____

TDDP 4.0 percent _____

PMASP 2.0 percent _____

Total Remittance _____

Make check payable to: Pennsylvania TRS Fund**Mail Report and payment to:**

U.S. Bank Institutional Trust & Custody
Sue Massey
EX-PA-WBSP
50 South 16th Street, 20th Floor
Philadelphia, PA 19102

Wire Instructions:

BANK U.S. Bank N.A
ADDRESS 60 Livingston Avenue, St Paul
 MN 55107-2292
ABA 091 000 022
BNF ITC Depository South & East
ACCOUNT 173 103 781 832
OBI PA Relay
ATTN: Sue Massey

Remittance for: Company Name(s): _____

Contact Person: _____

Voice Phone Number: (____) _____ FAX: (____) _____

E-mail address _____

Authorized Signature: _____ *Date:* _____

Please direct any questions regarding the TRS Surcharge remittance to Eric Jeschke at (717) 783-3850 or ejeschke@state.pa.us.

[Pa.B. Doc. No. 10-1060. Filed for public inspection June 4, 2010, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by June 21, 2010. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Application of the following for approval to *begin operating as common carriers for transportation of persons* as described under the application.

A-2010-2177833. Southern Berks Regional Emergency Medical Services, Inc. (769 Mountain View Road, Reading, Berks County, PA 19607)—persons, in paratransit service, from points in the County of Berks, to points in Pennsylvania, and return. *Attorney:* Jennifer M. Sultzaberger, 212 Locust Street, Suite 500, P. O. Box 9500, Harrisburg, PA 17108.

Application of the following for approval of the *additional right and privilege of operating motor vehicles as common carriers for transportation of persons* as described under the application.

A-2010-2151312. Medallion Transportation, Ltd. (1116 Pheasant Lane, Collegeville, Montgomery County, PA 19426)—a corporation of the Commonwealth—persons, in Group and Party service, in vehicles seating between 11 and 15 passengers, including the driver, from points in Bucks, Lehigh and Montgomery Counties, to points in Pennsylvania, and return.

Application of the following for approval of the *beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of household goods* as described under the application.

A-2010-2177293. Top's Movers, LLC (P. O. Box 3794, Reading, Berks County, PA 19606)—a limited liability corporation of the Commonwealth—household goods in use, from points in Berks, Bucks, Chester, Lehigh and Montgomery Counties, to points in Pennsylvania, and vice versa.

Application of the following for *amendment to the certificate of public convenience approving the operation of motor vehicles as common carriers for transportation of household goods* as described under the application.

A-2010-2177361. Roan's Transfer and Storage, Inc. (2100 Whitney Street, Williamsport, Lycoming County, PA 17701)—a corporation of the Commonwealth—for amendment to its common carrier certificate, which grants the right, to transport, as a common carrier, household goods in use, as more thoroughly described in the ordering paragraphs at A-00109373 and A-00109373, F. 1, Am-A: *SO AS TO PERMIT* the transportation of household goods in use, from points in Columbia and Montour Counties, to points in Pennsylvania, and vice versa. *Attorney:* John A. Pillar, 680 Washington Road, Suite B101, Pittsburgh, PA 15228.

Pennsylvania Public Utility, Bureau of Transportation and Safety v. Golden Taxi, LLC;
A-6310376; C-2010-2119000

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Golden Taxi, LLC, respondent, maintains its principal place of business at 909 South Allen Street, State College, PA 16803.

2. That respondent was issued a certificate of public convenience by this Commission, for Call or Demand service, on December 18, 2008, at Application Docket No. A-6310376.

3. That on July 13, 2009, a random vehicle inspection was performed on respondent by Enforcement Officer Robert Crawford of the Commission's Altoona District Office, a duly authorized officer of this Commission. The information contained in this complaint was obtained during said inspection.

4. That respondent, on July 13, 2009, at approximately 3:30 p.m., at 2492 Fox Hollow Road, Benner Township, Centre County, PA, presented a certain 1999 Pontiac, bearing License No. TX46740, Vehicle Identification No. 1GMDX03EXXD229692. During said inspection it was determined that said vehicle was beyond eight model years old and without proper taxicab vehicle markings.

5. That respondent, by operating a vehicle older than eight model years old without an exemption certificate, violated 52 Pa. Code § 29.333(e). The penalty is \$250.00.

6. That respondent, by failing to have the taxicab number markings placed on the vehicle, violated 52 Pa. Code § 29.71(c) and 66 Pa.C.S. § 501(c). The penalty is \$50.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Golden Taxi, LLC the sum of three-hundred dollars (\$300.00) for the illegal activity described in this complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services & Enforcement Division
Bureau of Transportation and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements

herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services and Enforcement
Division
Bureau of Transportation and Safety

NOTICE

A. You must file an Answer within twenty (20) days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An Answer is a written explanation of circumstances wished to be considered in determining the outcome. The Answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your Answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

C. You may elect not to contest this complaint by paying the fine proposed in this Complaint by certified check or money order. Payment must be made to the Commonwealth of Pennsylvania and should be forwarded to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of your payment, the complaint proceeding shall be closed.

D. If you file an Answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format of this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 10-1061. Filed for public inspection June 4, 2010, 9:00 a.m.]

STATE BOARD OF MEDICINE

Bureau of Professional and Occupational Affairs v. Swapnadip Lahiri, MD; Doc. No. 2135-49-08

On May 6, 2010, Swapnadip Lahiri, M.D., license no. MD055117L, of Saddle Brook, NJ, had his Pennsylvania license indefinitely suspended based on disciplinary action taken against his license by the proper licensing authority of New York and that he failed to notify the State Board of Medicine (Board) within 60 days of the occurrence of the disciplinary action.

Individuals may obtain a copy of the final order by writing to Steven R. Dade, Board Counsel, State Board of Medicine, P. O. Box 2649, Harrisburg, PA 17105-2649.

This final order represents the Board's final decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court, must serve the Board with a copy of their petition for review. The Board contact for receiving service of the appeals is the previously-named Board Counsel.

CAROL E. ROSE, MD,
Chairperson

[Pa.B. Doc. No. 10-1062. Filed for public inspection June 4, 2010, 9:00 a.m.]

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Approved for Consumptive Uses of Water

The Susquehanna River Basin Commission (Commission) has approved the following list of projects, during April 1, 2010, through April 30, 2010.

For further information contact Richard A. Cairo, General Counsel, (717) 238-0423, Ext. 306, fax (717) 238-2436, rcairo@srbc.net; or Stephanie L. Richardson, Secretary to the Commission, (717) 238-0423, Ext. 304, fax (717) 238-2436, sr Richardson@srbc.net, or mail inquiries to Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, PA 17102-2391.

Supplementary Information

This notice lists the projects, described as follows, receiving approval for the consumptive use of water under the Commission's approval by rule process set forth in and 18 CFR 806.22(f) (relating to standards for consumptive uses of water) for the time period specified previously:

Approvals By Rule Issued Under 18 CFR 806.22(f):

1. Chesapeake Appalachia, LLC, Pad ID: Potter, ABR-20100401, Terry Township, Bradford County, PA; Approval Date: April 1, 2010.

2. Chesapeake Appalachia, LLC, Pad ID: Crawford, ABR-20100402, Terry Township, Bradford County, PA; Approval Date: April 1, 2010.

3. Southwestern Energy Production Company, Pad ID: Reeve, ABR-20100403, Herrick Township, Bradford County, PA; Approval Date: April 1, 2010.

4. Novus Operating, LLC, Pad ID: Strange, ABR-20100404, Sullivan Township, Tioga County, PA; Approval Date: April 2, 2010.

5. Ultra Resources, Inc., Pad ID: 905 Fowler, ABR-20100405, West Branch Township, Potter County, PA; Approval Date: April 5, 2010.

6. East Resources, Inc., Pad ID: Halteman 611, ABR-20100406, Delmar Township, Tioga County, PA; Approval Date: April 6, 2010.

7. Cabot Oil & Gas Corporation, Pad ID: RoseC P1, ABR-20100407, Dimock Township, Susquehanna County, PA; Approval Date: April 6, 2010.

8. Chesapeake Appalachia, LLC, Pad ID: Everbreeze, ABR-20100408, Troy Township, Bradford County, PA; Approval Date: April 8, 2010.

9. Chesapeake Appalachia, LLC, Pad ID: Ballibay, ABR-20100409, Herrick Township, Bradford County, PA; Approval Date: April 8, 2010.

10. Chesapeake Appalachia, LLC, Pad ID: Balduzzi, ABR-20100410, Wyalusing Township, Bradford County, PA; Approval Date: April 8, 2010.

11. Chesapeake Appalachia, LLC, Pad ID: Alton, ABR-20100411, Ulster Township, Bradford County, PA; Approval Date: April 8, 2010.

12. Chesapeake Appalachia, LLC, Pad ID: Allford, ABR-20100412, Smithfield Township, Bradford County, PA; Approval Date: April 8, 2010.

13. Chesapeake Appalachia, LLC, Pad ID: Frisbee, ABR-20100413, Orwell Township, Bradford County, PA; Approval Date: April 8, 2010.

14. Chesapeake Appalachia, LLC, Pad ID: Blannard, ABR-20100414, Standing Stone Township, Bradford County, PA; Approval Date: April 8, 2010.

15. East Resources, Inc., Pad ID: Wood 512, ABR-20100415, Rutland Township, Tioga County, PA; Approval Date: April 9, 2010.

16. Chief Oil & Gas, LLC, Pad ID: Myers Drilling Pad No. 1, ABR-20100416, Penn Township, Lycoming County, PA; Approval Date: April 12, 2010.

17. XTO Energy Incorporated, Pad ID: Marquardt Unit 8517H, ABR-2010417, Penn Township, Lycoming County, PA; Approval Date: April 13, 2010.

18. Chesapeake Appalachia, LLC, Pad ID: Dunham, ABR-20100418, Albany Township, Bradford County, PA; Approval Date: April 13, 2010.

19. Chesapeake Appalachia, LLC, Pad ID: Yoder, ABR-20100419, West Burlington Township, Bradford County, PA; Approval Date: April 13, 2010.

20. Chesapeake Appalachia, LLC, Pad ID: Brackman, ABR-20100420, Leroy Township, Bradford County, PA; Approval Date: April 13, 2010.

21. Chesapeake Appalachia, LLC, Pad ID: Koromlan, ABR-20100421, Auburn Township, Susquehanna County, PA; Approval Date: April 13, 2010.

22. Chesapeake Appalachia, LLC, Pad ID: Johnson, ABR-20100422, Monroe Township, Bradford County, PA; Approval Date: April 13, 2010.

23. Chesapeake Appalachia, LLC, Pad ID: Henry, ABR-20100423, Albany Township, Bradford County, PA; Approval Date: April 13, 2010.

24. Talisman Energy USA, Inc., Pad ID: Ziegler 03 001, ABR-20100424, Columbia Township, Bradford County, PA; Approval Date: April 14, 2010.

25. Chief Oil & Gas, LLC, Pad ID: Oliver Drilling Pad No. 1, ABR-20100425, Springville Township, Susquehanna County, PA; Approval Date: April 14, 2010.

26. EOG Resources, Inc., Pad ID: JENKINS 1H, ABR-20100426, Springfield Township, Bradford County, PA; Approval Date: April 15, 2010.

27. EOG Resources, Inc., Pad ID: PHC 21V, ABR-20100427, Lawrence Township, Clearfield County, PA; Approval Date: April 15, 2010.

28. East Resources, Inc., Pad ID: Lange 447, ABR-20100428, Delmar Township, Tioga County, PA; Approval Date: April 15, 2010.

29. East Resources, Inc., Pad ID: Clark 486, ABR-20100429, Sullivan Township, Tioga County, PA; Approval Date: April 16, 2010.

30. Talisman Energy USA, Inc., Pad ID: Crank 03 067, ABR-20100430, Columbia Township, Bradford County, PA; Approval Date: April 19, 2010.

31. Cabot Oil & Gas Corporation, Pad ID: BlaisureJe P1, ABR-20100431, Dimock Township, Susquehanna County, PA; Approval Date: April 19, 2010.

32. Cabot Oil & Gas Corporation, Pad ID: Rayias P1, ABR-20100432, Dimock Township, Susquehanna County, PA; Approval Date: April 19, 2010.

33. Novus Operating, LLC, Pad ID: Golden Eagle, ABR-20100433, Covington Township, Tioga County, PA; Approval Date: April 21, 2010.

34. Novus Operating, LLC, Pad ID: Chicken Hawk, ABR-20100434, Sullivan Township, Tioga County, PA; Approval Date: April 21, 2010.

35. Chesapeake Appalachia, LLC, Pad ID: McGavin, ABR-20100435, Auburn Township, Susquehanna County, PA; Approval Date: April 21, 2010.

36. Chesapeake Appalachia, LLC, Pad ID: Nickolyn, ABR-20100436, Auburn Township, Susquehanna County, PA; Approval Date: April 21, 2010.

37. Chesapeake Appalachia, LLC, Pad ID: Rexford, ABR-20100437, Orwell Township, Bradford County, PA; Approval Date: April 21, 2010.

38. Chesapeake Appalachia, LLC, Pad ID: Amburke, ABR-20100438, Auburn Township, Susquehanna County, PA; Approval Date: April 21, 2010.

39. Seneca Resources Corporation, Pad ID: DCNR Tract 100 5H, ABR-20100439, Lewis Township, Lycoming County, PA; Approval Date: April 21, 2010, including a partial waiver of 18 CFR 806.15.

40. Ultra Resources, Inc., Pad ID: State 815, ABR-20100440, Elk Township, Tioga County, PA; Approval Date: April 22, 2010, including a partial waiver of 18 CFR 806.15.

41. Chesapeake Appalachia, LLC, Pad ID: Angie, ABR-20100441, Auburn Township, Susquehanna County, PA; Approval Date: April 22, 2010.

42. East Resources, Inc., Pad ID: Vandergrift 290, ABR-20100442, Charleston Township, Tioga County, PA; Approval Date: April 23, 2010.

43. East Resources, Inc., Pad ID: Topf 416, ABR-20100443, Delmar Township, Tioga County, PA; Approval Date: April 23, 2010.

44. East Resources, Inc., Pad ID: Gee 832, ABR-20100444, Middlebury Township, Tioga County, PA; Approval Date: April 26, 2010.

45. Talisman Energy USA, Inc., Pad ID: Storch 03 035, ABR-20100445, Wells Township, Bradford County, PA; Approval Date: April 28, 2010.

46. Chesapeake Appalachia, LLC, Pad ID: Holtan, ABR-20100446, Auburn Township, Susquehanna County, PA; Approval Date: April 28, 2010.

47. Chesapeake Appalachia, LLC, Pad ID: Polomski, ABR-20100447, Wyalusing Township, Bradford County, PA; Approval Date: April 28, 2010.

48. Chesapeake Appalachia, LLC, Pad ID: Way, ABR-20100448, Wyalusing Township, Bradford County, PA; Approval Date: April 28, 2010.

49. Chesapeake Appalachia, LLC, Pad ID: Brink, ABR-20100449, Herrick Township, Bradford County, PA; Approval Date: April 28, 2010.

50. Chesapeake Appalachia, LLC, Pad ID: Champdale, ABR-20100450, Tuscarora Township, Bradford County, PA; Approval Date: April 29, 2010.

51. Chief Oil & Gas, LLC, Pad ID: Warner Drilling Pad No. 1, ABR-20100451, Franklin Township, Lycoming County, PA; Approval Date: April 29, 2010.

52. Chief Oil & Gas, LLC, Pad ID: Emig Drilling Pad No. 1, ABR-20100452, Cogan House Township, Lycoming County, PA; Approval Date: April 29, 2010.

53. Talisman Energy USA, Inc., Pad ID: Ferguson 01 023, ABR-20100453, Granville Township, Bradford County, PA; Approval Date: April 30, 2010.

54. Williams Production Appalachia, LLC, Pad ID: Alder Run Land LP No. 2H, ABR-20100454, Cooper Township, Clearfield County, PA; Approval Date: April 30, 2010.

55. Range Resources-Appalachia, LLC, Pad ID: Gray's Run Club Unit No. 2H, ABR-20100455, Jackson Township, Lycoming County, PA; Approval Date: April 30, 2010.

56. Range Resources-Appalachia, LLC, Pad ID: Dog Run Hunting Club Unit, ABR-20100456, Cummings Township, Lycoming County, PA; Approval Date: April 30, 2010.

Authority: Pub. L. No. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806—808. Dated: May 24, 2010.

PAUL O. SWARTZ,
Executive Director

[Pa.B. Doc. No. 10-1063. Filed for public inspection June 4, 2010, 9:00 a.m.]

PROPOSED RULEMAKING

STATE BOARD OF CRANE OPERATORS

[49 PA. CODE CH. 6]

Crane Operators; Initial Rulemaking

The State Board of Crane Operators (Board) proposes to add Chapter 6 to read as set forth in Annex A. This is the Board's initial general rulemaking.

Effective Date

This proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*.

Statutory Authority

This proposed rulemaking is authorized under sections 302 and 2102 of the Crane Operator Licensure Act (act) (63 P. S. §§ 2400.302 and 2400.2102).

Background and Need for the Regulations

Section 2102 of the act requires the Board to promulgate regulations. Section 302 of the act directs the Board to regulate and enforce the act. Accordingly, the Board proposes a comprehensive regulatory scheme intended to implement and effect the General Assembly's intent as manifested by the act.

Legislative History

It appears that legislation to license crane operators was first introduced by Senator Erickson on October 15, 2004, as Senate Bill (SB) 1235, Printer's Number (PN) 1867, and referred to the Senate Committee on Consumer Protection and Professional Licensure. In the following session, Senator Erickson reintroduced the same legislation as SB 140, PN 127 on February 1, 2005. The bill was reported from the Senate Committee for Consumer Protection and Professional Licensure and referred to the Senate Appropriations Committee where it remained for the duration of the session.

During the same legislative session, Representative Mario Civera introduced a substantially similar bill in the House of Representatives on February 16, 2005, as House Bill (HB) 617, PN 690. After a series of amendments, the bill passed the House of Representatives on February 13, 2006, but its progress terminated in the Senate Appropriations Committee after referral on May 1, 2006.

In the 2007-2008 session of the General Assembly, Senator Erickson reintroduced his bill on February 8, 2007, as SB 59, PN 80. Again, the bill was reported from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) and referred to the Appropriations Committee where it remained for the duration of the session.

On March 6, 2007, Representative Civera also reintroduced his legislation as HB 647, PN 706. After a series of amendments in both chambers, Governor Rendell signed the bill on October 9, 2008 (P. L. 1363, No. 100) (Act 100). Discussion of the legislation can be found in the *House Journal* of June 27, 2007, page 1474; *Senate Journal*, October 7, 2008, page 2598; *Senate Journal*, October 8, 2008, page 2623; and final passage in the *House Journal*, October 8, 2008, page 2289.

Legislative analyses prepared by staff of the House Democratic, Senate Democratic and Senate Republican

caucuses of the General Assembly were reviewed and considered by the Board in the course of formulating this proposed rulemaking. Copies of those documents are available in the offices of the Board and are available for review upon request.

Historical Background of the Act

ASME and the Origins of Crane Operation Standards

The American Society of Mechanical Engineers (ASME) is recognized as the principal authority for developing voluntary industry standards for the construction, installation, operation, inspection, testing, maintenance and use of cranes and other lifting and material-handling related equipment. ASME's activity in developing these standards dates back to 1916 and it has continued to revise its standards for nearly a century.

The first National regulations applied to cranes were issued by the United States Department of Labor under section 107 of the Construction Safety Act (CSA), (40 U.S.C.A. § 333), but only applied to construction employment under government-funded contracts. Following the adoption of the Occupational Safety and Health Act of 1970 (29 U.S.C.A. §§ 651—678), the Secretary of Labor transferred those regulations to the Occupational Safety and Health Administration (OSHA) with the effect of applying the CSA safety standards to construction employees. See 53 FR 29116 (August 2, 1988).

The specific OSHA regulation regarding to crane operations in 29 CFR 1926.550(b)(2) (relating to cranes and derricks), included a requirement that the operation of cranes meet the requirements prescribed in the ASME B 30.5-1968, Safety Code for Crawler, Locomotive and Truck Cranes. In the 1968 standards, there were not requirements for a written examination for crane operators, but there were requirements for a physical exam and a practical test. However, OSHA did not enforce either requirement. (Source: Pennsylvania House of Representatives, House Democratic Bill Analysis, HB 647, PN 706, April 17, 2007.)

In 1982, ASME further revised its standards and took the additional step of reorganizing its standards committee and obtaining accreditation of its procedures by the American National Standards Institute (ANSI). Since at least 2000, ASME standards have included a requirement for a physical examination, written examination and an operational test demonstrating proficiency in handling a specific type of crane. (Source: Pennsylvania House of Representatives, House Democratic Bill Analysis, HB 647, PN 706, April 17, 2007.) Since 1982, it appears that National and state regulations have fallen further behind voluntary standards in the industry.

The Industry Urges Stronger National Regulation

Against this historical backdrop of the industrial and regulatory standards, the crane industry changed considerably. Within the last decade a number of industry stakeholders asked OSHA to update its cranes and derrick requirements. Experts and practitioners in the construction industry were concerned that accidents involving cranes and derricks continued to be a significant cause of fatal and other serious injuries on construction sites and believed that reform was needed to address the causes of these accidents and to reduce the frequency of personal injury, property damage, and disruption of worksite production. (OSHA proposed rulemaking published at 73 FR 59714 (October 9, 2008).)

The Commonwealth was not an exception to the National experience. Between 1972 and 2004, there were 106 serious crane accidents in this Commonwealth reported to OSHA. Of the 106 accidents, 99 resulted in at least 1 fatality and some cases involved multiple fatalities. (Rep. Civera, *House Journal*, June 27, 2007, page 1477.)

In 1998 OSHA's Advisory Committee for Construction Safety and Health (ACCSH) established a workgroup to develop recommended changes to the requirements for cranes and derricks. The workgroup developed recommendations on some issues and submitted them to the full committee in a draft workgroup report. (OSHA—2007—0066—0020). In December 1999, ACCSH recommended to OSHA that the agency consider using a negotiated rulemaking process. (OSHA proposed rulemaking published at 73 FR 59714.)

In July 2002, OSHA announced its intent to use negotiated rulemaking to revise the cranes and derricks standard and established the Cranes and Derricks Negotiated Rulemaking Advisory Committee (Committee) (67 FR 46612 (July 16, 2002)). The Committee members were selected for their knowledge, expertise and experience in the industry and represented a broad cross-section of the industry. The Committee members relied upon their knowledge and experience to identify the most important issues and craft regulations that would solve problems. Due to the extensive practical experience of the Committee, the proposed amendments to the OSHA regulations were called "practical and workable." (OSHA proposed rulemaking published at 73 FR 59718.)

Significantly, the Committee concluded that incorrect operation was a factor in many accidents. Operating a crane is a complex job requiring skill and knowledge. To operate a crane safely requires a thorough knowledge of the equipment and controls and a complete understanding of the factors that can affect the safe operation. The latest OSHA regulations represent an informed judgment that it is essential to have qualified operators in order to reduce accidents resulting from incorrect operation. (OSHA proposed rulemaking published at 73 FR 59718.)

The Committee gave exhaustive consideration to the processes for qualifying equipment operators and determined that it was necessary for crane operators to be certified or qualified through a formal process to ensure that they possessed the degree of knowledge necessary to operate their equipment safely. (OSHA proposed rulemaking published at 73 FR 59718.)

Improper operation, including, for example, the failure to understand and compensate for the effects of factors, such as dynamic loading, may cause employees to be struck by a load. These, and other incidents arising from operator error, will be reduced by compliance with proposed 29 CFR 1926.1427 and 1926.1430 (relating to operator qualification and certification; and training). (OSHA proposed rulemaking published at 73 FR 59720, 59721.)

The Commonwealth Joins the National Trend

While OSHA pursued a negotiated rulemaking, the General Assembly enacted Act 100. With the act, the Commonwealth becomes the 16th state to advance the prevailing view in the industry that higher standards must be applied to the training and qualification of crane operators and that entry and tenure in the industry must be subject to mandatory oversight by a governmental body backed by the force of law. Experience in the industry has shown that voluntary compliance is an

unsatisfactory practice. Voluntary compliance does not produce the best results for workplace safety; efficient and productive construction practices; or lower costs to employers, contractors and property owners.

Act 100 directed the formation of the Board. The act represents a significant delegation of legislative power to formulate and craft not only procedures but substantive standards as well. This proposed rulemaking is the product of that delegation of legislative power. In addition to considering the intent of the General Assembly, the Board has also taken into consideration existing and anticipated changes to ASME volumes and OSHA regulations. The Board did not think that it would be wise to promulgate regulations based solely upon current or existing standards or regulations when it was aware of changes that are likely to take effect before, or soon after, the effective date of its regulations. Therefore, this proposed rulemaking, when it is appropriate, accounts for what the regulatory environment will be in June 2010, as well as the current state of the law.

General Note on References to ASME B30

The ASME B30 Standard contains provisions that apply to the construction, installation, operation, inspection, testing, maintenance, and use of cranes and other lifting and material-handling related equipment. For convenience, the ASME Standard has been divided into separate volumes. Each volume has been written under the direction of the ASME B30 Standards Committee and has successfully completed a consensus approval process under the general auspices of the ANSI. As of March 7, 2008, the B30 Standard comprised 26 volumes, with another 3 volumes in development. The volumes are designated as ASME B 30.1, Jacks, ASME B 30.2, Overhead and Gantry Cranes, and so forth.

By its express terms, the act applies only to the types of cranes described in ASME B 30.3, Construction Tower Cranes; ASME B 30.4, Portal, Tower, and Pedestal Cranes; and ASME B 30.5, Mobile and Locomotive Cranes. However, because these volumes are routinely and regularly revised by ASME, the types of cranes currently covered under these volumes may be, and, in fact, are expected to be, covered by other volumes in the future. In particular, ASME B 30.29, Self-Erecting Tower Cranes, is expected to be published in 2011. Self-erecting tower cranes are currently covered by ASME B 30.3, but will be assigned a new volume designation with the issuance of the new volume.

ASME B 30.3-2004, Construction Tower Cranes was approved by ANSI on January 22, 2004, and issued by ASME on November 15, 2004. Revisions are in process and the next edition was due to be published in 2009. The volume will begin a 3-year publication cycle beginning after the next revision.

ASME B 30.4-2003, Portal, Tower and Pedestal Cranes, was approved by ANSI on February 19, 2003, and issued by ASME on June 16, 2003. It was reaffirmed on February 2, 2009. The subcommittee is preparing a new revision to be in line with ASME B 30.3 to be published in 2010. In the future, the Board anticipates that permanently-mounted tower cranes will be removed from ASME B30. At that point, the Board's jurisdiction over cranes covered by this volume will continue but the applicable standards will be taken from ASME B 30.3. This volume will be on a 5-year publication cycle.

ASME B 30.5-2007, Mobile and Locomotive Cranes, was approved by ANSI on November 20, 2007, and issued on March 7, 2008. It is published on a 3-year cycle and will be published again in 2011.

Description of the Proposed Rulemaking

Introduction

The Board considered carefully the National standards adopted by the act and framed its regulations in furtherance of that legislative intent. Additionally, where the act left discretion to the Board, the Board selected options with an eye toward protecting important public interests, yet balanced competing values.

Safety of the public and construction workers were deemed critically important, but the Board also gave careful consideration to the effects that its choices would have on business competitiveness, employee privacy, construction costs, openness of the market, freedom of contract, impacts on interstate commerce and private property rights. The Board adopted a broader, more intrusive option only when it deemed that option to be served by a greater public interest.

When prudent, the Board has preferred to allow the marketplace to act as the principal source of allocation of resources and the proposed rulemaking expresses the Board's desire for an efficient and small governmental presence. Still, recognizing that economic forces do not have unlimited ability to provide public goods in the short term, the Board's proposed rulemaking reflects the Board's determination that the public interest should not go unserved because of a slavish devotion to a narrow economic philosophy.

General Provisions

§ 6.1. Findings and purpose.

After considerable discussion, the Board adopted a section setting forth the findings and purpose underlying the final-form adoption of this proposed rulemaking. The Board believed that these findings would aid future boards, staff, courts and the regulated community to understand and interpret the regulations in specific cases.

Of particular importance, the Board wished to express its position that the legislative intent of the act, and therefore, its mission, and the objective of its regulations, is to protect the lives and safety not only of construction workers, but also the general public. As if to highlight the risks to the broader public, during the Board's deliberations an accident occurred in the City of Philadelphia on October 12, 2009. Although the equipment in question would not have been subject to the Board's jurisdiction, the injuries sustained by members of the public and the damage to property outside the construction site illustrates the kinds of risks that may arise from improper operation of cranes.

§ 6.2. Definitions.

The Board incorporated several definitions from the act and broke those definitions into separate elements represented in paragraph and subparagraph form for easier analysis. Also, the Board's definitions include several acronyms for ease of reference.

Several definitions warrant specific explanation. In the definition of "certification" and throughout the remainder of the regulations, the Board preferred to use phrases such as "applicable requirements," "applicable provisions" or "applicable volumes" of ASME B30, rather than enumerate ASME B 30.3, B 30.4 and B 30.5. There are two reasons for this decision. First, the Board desired brevity. Second, as previously discussed in the General Note on References to ASME B30, the specific designations of volumes may change, or new volumes may be added, that apply to cranes covered by these current volumes. There-

fore, for the sake of anticipating changes, the Board determined that it would be more consistent with the legislative intent to use reference to ASME B30.

The term "certifying organization" has been adopted to encompass the National Commission for the Certification of Crane Operators (NCCCO) and other bodies approved by the Board to issue certification.

The act excludes coal mining and coal mining operations from the Board's jurisdiction. Therefore, the Board deemed it appropriate to define this exclusion. The Board's definition is adapted from section 3 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C.A. § 802). The definition of the phrase "work of preparing the coal" is likewise drawn from the same Federal statute.

In defining the coal mining exclusion, the Board believed that it was necessary to make it clear that construction activities remain covered, regardless of where the construction occurs. The mere fact that a crane is used to construct a building which happens to be located on the premises of a coal mine, for example, would not place the crane operation outside the jurisdiction of the Board. To the contrary, the use of a crane for construction, regardless of the premises where the construction occurs, is a regulated activity under the act. The Board adapted the language used in section 2 of the Tax Reform Code of 1971 (72 P.S. § 7201) to exclude construction from the definitions of "coal mining" and "manufacturing." This construction exclusion was also used in the definitions of "longshore operations," "other intermodal operations" and "manufacturing application."

The Board inserted a definition of "conviction" for the purpose of defining the term as used in § 6.11(d) (relating to general requirements) and to make it clear that a disposition other than a conviction is not a disqualifying or disabling condition. This definition of "conviction" does not limit the grounds on which disciplinary action may be taken under § 6.44(b)(5) (relating to standards of conduct, disciplinary action, suspension and revocation), which permits disciplinary action not only for convictions of a felony or a crime of moral turpitude, but also dispositions of probation without verdict, Accelerated Rehabilitative Disposition, disposition instead of trial, and so forth.

The language used in this definition was extracted from several authorities. *Commonwealth v. Hughes*, 865 A.2d 761 (2004) and *Commonwealth v. Kimmel*, 111, 565 A.2d 426, 428 (1989) are the source of the initial clause defining conviction as an ascertainment of guilt and judgment thereon. Section 9102 of 18 Pa.C.S. (relating to definitions), defines "disposition." "Guilty but mentally ill" is defined in 18 Pa.C.S. § 314 (relating to guilty but mentally ill). Adjudications of delinquency are not to be considered convictions as provided in 42 Pa.C.S. § 6354(a) (relating to effect of adjudication).

The Board broke the statutory definition of "crane" into its constituent elements for ease of reference and analysis. The reference to "applicable ASME B30 volume" in the description of a "tower crane" was chosen for reasons previously stated.

In defining the types of equipment and machinery that are included in the definition of "crane," the Board followed the statutory definition and the list of particular words or phrases has been enumerated in the regulations. However, the use of the word "derrick" requires further explanation.

For the general public, the colloquial use of the word "derrick" is typically associated with oil rigs. Plainly, the

act was not intended to cover the operation of oil rigs. However, ASME promulgated a standard for derricks in ASME B 30.6, as well as a standard for floating derricks in ASME B 30.8. The usage of the term “derrick” in the context of those two ASME standards is also outside of the act’s definition of “crane.”

“Derrick,” when used in the specific, technical usage of ASME B 30.6 applies to guy, stiffleg, basket, breast, gin pole, Chicago boom, shearleg, and A-frame derricks. See *Introductory Description of ASME Volume B 30.6*. These derricks, powered by hoists through systems of wire rope reeving, are used for lifting, lowering and horizontal movement of freely suspended unguided loads. Derricks are usually stationary mounted and may be temporarily or permanently installed. Derricks covered by ASME B 30.6 are distinguished from cranes covered by the act in that this class of equipment does not have a boom moving laterally by the rotation of the machine on a carrier or base.

The professional members of the Board, based upon their involvement in the passage of the act, hold the position that the term “derrick” was included in the act principally because the term “derrick” is used in the common title of all of the ASME B30 safety standards, including ASME B 30.3, B 30.4, and B 30.5. The legislative intent was not to include the types of equipment and machinery covered under ASME B 30.6 or B 30.8. Rather, in the context of the act, “derrick” only has a generic, common dictionary definition of the word, meaning “. . . a hoisting apparatus employing a tackle rigged at the end of a beam” (see *Merriam Webster Dictionary*) and which meets all of the other statutory criteria of a crane. In this general sense of the word, all cranes include a “hoisting apparatus with a tackle rigged at the end of a beam.” Therefore, the Board includes “derrick” to make it clear that regardless of the label that one might apply to a particular piece of equipment or machinery, the controlling issue is what components the machine has, what its function is, and how it operates.

The Board thought it advisable to include a definition for “engage in the operation of a crane” or “operate a crane” because, in fact, the operation of a crane involves multiple individuals. Persons who assemble the crane, who rig the load, who signal or who inspect, are integral members of a coordinated team of persons who are required to safely operate a crane. However, it is only the person who actually controls the activation and movement of a crane who is “operating a crane.” Within this concept, the Board contemplates that operation of a crane includes an individual who is seated in a cab and who manipulates levers, wheels and other control mechanisms. However, in light of new and future technology, operation of a crane also includes an individual who operates a crane by use of a wireless or other remote device.

The term “lift director” is defined according to the definition used in ASME B 30.5. This term is used in the regulations to define the reporting requirements for a crane operator under § 6.42(b) (relating to impaired operation of a crane and reportable conditions, incidents or events).

The act excludes longshore operations, intermodal operations and manufacturing applications from the definition of “crane.” The Board deemed it appropriate to define these terms. The definitions of “longshore operations” and “intermodal operations” are adapted from 29 CFR 1917.2 (relating to definitions). Counsel for the Board contacted the Federal authorities and confirmed that the term

“marine terminal” includes operations at the Port of Philadelphia, which handles ocean-going vessels, the Port of Erie, which handles shipments from lake freighters, and the Port of Pittsburgh, which handles river barges. A terminal on a body of navigable water, whether freshwater or seawater, constitutes a “marine terminal” as defined in 29 CFR 1917.2.

The definition of “manufacturing application” borrows heavily from the definition in section 2 of the Tax Reform Code of 1971.

The definition of “trainee” is taken from the act, but amplified by reference to § 6.13 (relating to qualifications and supervision of trainees). The Board notes that the statutory definition includes individuals who have neither certification nor a license. The Board entertained discussions about the proper status of persons who have obtained certification, but who are awaiting a license. In addition, the Board recognizes the remote possibility that a person may hold a current valid certification, but is disqualified from holding a license. The Board addresses the status of these individuals in § 6.12(e) (relating to certification), and discusses that provision in greater detail as follows.

§ 6.3. *Applicability of general rules.*

This section makes clear that individuals may avail themselves of applicable remedies and procedures available under 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

§ 6.4. *Fees.*

Some of these fees are commonplace among licensing boards and require little explanation. The amount of the initial licensing application fee, biennial renewal fee and reactivation fee were determined based upon estimated costs of administering those licensing functions of the Board and an expected licensed population of approximately 2,750 licensees. The estimate of licensees was based upon the number of individuals residing in this Commonwealth who hold a current certification issued by NCCCO, plus an estimate of the additional individuals who would be licensed without certification or hold certification through another certifying organization.

The fees for certified copies of records and addition of specialty were based upon an estimate of the pro rata share of staff expenditures required to perform those functions.

The fee for addition of specialty applies to those persons who are licensed with certification who acquire a certification for an additional type of crane before the biennial licensing period expires. The fee represents the cost of staff time in amending the person’s licensure record to reflect their authority to operate an additional type of crane.

The fee for application for certifying organization represents the cost of obtaining a professional review of the application by a qualified outside evaluator who will determine whether the application satisfies the criteria for approval as a certifying organization.

The trainee registration fee applies to those persons who register as trainees under § 6.13 and represents the value of staff expenditures needed to process that registration form.

Licensure

§ 6.11. *General requirements.*

As a general rule, applicants for licensure will possess certification. The Board notes that certification requires a

passing score in a written examination and a practical examination, as well as physician's report confirming that the individual is physically capable of safely operating a crane. Because those requirements are already specified as prerequisites to certification, the Board did not repeat those requirements in these regulations. However, the Board does require the applicant for licensure to aver under penalties for perjury that they have been examined by a physician and determined to be physically capable of operating a crane.

There is one requirement for persons obtaining a license under section 502 of the act (63 P. S. § 2400.502) that is not specified in this section that is specifically required under ASME B30 volumes and OSHA's negotiated rulemaking. Under ASME B30 and OSHA's negotiated rulemaking, crane operators shall submit to a physical exam performed by a physician as a prerequisite to obtaining certification. Furthermore, ASME B30 volumes and OSHA's negotiated rulemaking require the physical exam to be repeated every 3 years. The Board considered a requirement that the applicant submit a copy of the physician's report with the license application. However, that requirement was deemed unnecessary because widespread practice in the industry is that crane operators are frequently reviewed by employers for a current physical exam. Therefore, a simple averment that a physical examination has occurred was deemed to be sufficient.

In addition to the statutory qualifications for licensure, the Board also concluded that it would be prudent to enunciate a standard for "progress in personal rehabilitation." The Board believed that it would be prudent because it would provide a fixed point of reference on which to judge each applicant, and thus decrease the likelihood of arbitrary or inconsistent decisions. Also, based upon the experience gained from other licensing boards, an applicant can be confused or uncertain as to what type of information that he should offer to support the application for licensure, as well as the negative information that may be brought up in opposition to licensure.

"Totality of the circumstances" is a familiar term of art in the common law. While it is impossible to create an exhaustive list of the possible circumstances that may be relevant to evaluating any particular case, the Board's proposal does provide a substantial coverage of the most common factors that will bear upon a typical case.

The reference to refraining from "tortious" conduct deserves further explanation. The Board considered that an individual may be involved in conduct which may not rise to the level of criminality, but may evidence instability, lack of judgment or risk-taking behavior. The Board does not purport to offer a comprehensive list of the types of tortious acts that may be relevant to the Board's consideration. However, a person who has a driving record that includes reckless driving, who has been found negligent in one or more automobile accidents or who has a history of domestic abuse may give rise to concern about the individual's judgment and lack of inhibition against dangerous or risky behavior and it would also bear upon the degree of an individual's "progress in personal rehabilitation" from felonious conduct.

Another factor sometimes overlooked by applicants is a history of successful therapy. It is likely that a person with a felony conviction for a violation under The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144) has been engaged in abuse of one or more substances. It is well-established that a

person with a history of substance abuse or dependency has a health problem. The mere fact that the individual has been able to refrain from abusing the substance does not demonstrate that they have entered recovery. The so-called "dry drunk syndrome" describes this phenomenon. In light of that possibility, the Board concluded that an individual's history of therapy bears upon whether that individual would pose a substantial risk of harm to workers and the public.

§ 6.12. Certification.

The act provides that a crane operator's license obtained by certification is only valid in conjunction with a current certification in the specialty for which the crane operator has been certified. Based upon that language, the Board determined that every crane operator will need to possess two documents as evidence of their authority to operate a crane. First, the crane operator shall possess the license that is issued by the Board. Second, the crane operator shall also possess the certification. NCCCO issues a wallet size card with a photograph of the crane operator. Photo identification is a critical element for verification of the crane operator's identity. Certification through NCCCO offers that means of verification.

NCCCO provides its examinees with copies of written and practical examination scores. A photocopy of those scores must be attached to an application for licensure. In addition, the Board administrative staff is able to submit a list of applicants and obtain independent affirmation from NCCCO that the applicants do, or do not, possess current valid certification from NCCCO.

Because certification is limited to only certain types of cranes the license, too, only constitutes authorization to operate the type of crane for which the applicant possesses certification. (See previous discussion of ASME B 30 volumes.) The Board plans to insert a code or other information on the license and wallet card to indicate which types of cranes the licensee is authorized to operate.

The Board included a regulation that a person who possesses an acceptable certification cannot bypass the licensure with certification requirements and seek licensure without certification. There are three principal reasons for this prohibition.

First, the act demonstrates that licensure by certification is the preferred means of demonstrating an individual's qualification to operate a crane. Section 506 of the act (63 P. S. § 2400.506), regarding license without certification, was added in the late stages of HB 647. The original intent of the bill was for certification to be the exclusive pathway to licensure. This suggests that licensure without certification was added only as a secondary option for persons who were unable to satisfy the written examination requirements of certification, to avoid a harsh result for a few individuals.

Second, an individual shall renew certification on a 5-year cycle, which overlaps the biennial period for licensure. Therefore, certification is evidence of continuing proficiency and understanding of the latest standards and practices. That the legislation requires certified individuals to continue to be recertified as crane operators as a prerequisite to licensure renewal demonstrates the legislative intent to require proof of continued proficiency and skill.

Third, as previously discussed, the Board has taken account the OSHA standards that are the subject of the negotiated rulemaking. Those standards would, if enacted in their current form, disqualify persons without certifica-

tion to operate a crane. In other words, the licenses issued under section 506 of the act may ultimately prove to be invalid under OSHA regulations that are in the course of being promulgated.

This third point warrants further explanation. Under OSHA's proposed 29 CFR 1926.1427, an individual would need to be certified or qualified to operate a crane. This requirement would be fully effective in 4 years from the effective date of the OSHA rulemaking, which will be approximately 2014. Under proposed 29 CFR 1926.1427(j), acceptable qualification and certification programs will need to include both a written and a practical examination. This qualification or certification requirement could be satisfied by one of four options.

First, an accredited crane operator testing organization could certify the individual. Act 100 satisfies this requirement by reference to NCCCO as a statutorily recognized body. Second, OSHA would accept qualification through an audited employer program. However, this option also requires a written and practical examination and an independent audit to verify the authenticity and reliability of the employer's testing program. Furthermore, qualification under this provision is not portable, meaning that it is valid only with that particular employer. Act 100 does not recognize this second option as a basis for granting a license.

Third, OSHA would accept qualification by the United States military. However, military qualification, like the second option, is not portable. Fourth, OSHA would accept licensing by a qualified governmental entity. To qualify as a governmental testing agency, the Board would need to administer its own written and practical examination. However, the Board has neither the statutory authority nor the resources to administer its own written or practical examinations for individuals who are licensed under section 506 of the act. Furthermore, if the Board were to engage a contractor to administer written and practical examinations, it would, in effect, require certification for licensees under section 506 of the act, which the provisions of section 506(b) of the act prohibit.

Accordingly, the Board concluded that unless its standards for licensure without certification under section 506 of the act are rigorous and satisfy the requirements of OSHA regulations, the license without certification will become meaningless in approximately 3 to 4 years from the date the window closes for this licensure option. Therefore, the Board concludes that the only rational policy is to prohibit individuals who hold certification from applying for licensure without certification.

The Board also noted that the definition of "trainee" in the act as an individual who holds neither certification nor a license, would not cover an individual who has recently obtained certification, but who awaits the issuance of a license. The Board determined that it should address the status of this group of individuals in § 6.12(e) for two reasons.

First, the Board contemplated that there will be a lag time between the date on which an individual obtains certification, but either has not filed an application for licensure with the Board or who is awaiting that application to be processed and the license to be issued. The Board deemed it prudent to clarify that this individual would be authorized to continue to operate a crane under supervision as a trainee, even though that individual does not meet the technical definition of a "trainee" in the act.

Second, the Board anticipates that there could be rare instances in which a person has obtained certification,

but may not qualify for a license, especially because of character issues, such as a past felony conviction for a nondrug related offense involving fraud or violence. The Board deemed it prudent to preclude this individual from operating a crane under the fiction of operating as a trainee, for an indefinite period of time.

For these two reasons, the Board concluded that a person who has obtained certification, but who has not obtained a license, may operate a crane for a period of 90 days following the date of certification, with the option of obtaining an additional 90-day period with permission from the Board, to allow time for an application for licensure to be filed, processed and, when a denial occurs, to appeal that denial.

§ 6.13. Qualifications and supervision of trainees.

The qualification and supervision of trainees is addressed in section 501(c) of the act (63 P.S. § 2400.501(c)). The Board evaluated this section in light of the knowledge that an individual who is a trainee on one type of crane may already be certified and licensed to operate another type of crane. In other words, not every trainee is a complete novice to the field of crane operation. Nonetheless, with respect to a type of crane for which the individual is not certified, even a long-tenured crane operator remains a trainee for purposes of operating the crane for which he is not certified. Therefore, § 6.13 should be read together with §§ 6.11 and 6.12 and § 6.14 (relating to specialties).

With respect to this principle, the Board notes that a trainee and supervisor will be required to comply with the requirements of two other standards, the applicable ASME volume for the type of crane being operated and OSHA regulations. The applicability of ASME standards is noted in § 6.13(b)(2). A corollary requirement for the supervising crane operator to comply with applicable ASME and OSHA rules has been set forth in subsection (d).

One point that is not specifically addressed in ASME or OSHA is whether an individual may supervise simultaneously two or more trainees. "Immediate supervision" is defined in § 6.2 (relating to definitions) as "circumstances in which the crane operator is in the immediate area of the trainee, within visual sighting distance and able to effectively communicate with the trainee." Immediate supervision is further explained in subsection (e) as requiring a one-to-one ratio between supervising crane operator and trainee and adds that the supervisor may not perform other functions or have other responsibilities while supervising a trainee.

The Board contemplated certain types of cranes that actually require more than one individual to manipulate the controls. In that case, an employer who assigns a trainee to operate that crane has two options. First, have only one trainee, supervised by a single crane operator, with licensed crane operators in the other positions for that crane. Second, if more than one trainee is involved in the operation of a crane such as this, then each trainee shall have an individual supervising one trainee and only one trainee.

The Board concluded that this one-to-one ratio is not only justified, but necessary, for the safe operation of the crane and the proper supervision and instruction of the trainee. Construction sites are characterized by the presence of many large, loud, diesel engines along with hydraulic and pneumatic tools and machinery. At any given moment, traffic intersects, multiple operations occur and, as a result, there are many causes of distraction and unexpected movement.

Furthermore, because of the small size of a crane cab, the supervising crane operator may not be within arm's reach of the trainee. In many circumstances, the supervising crane operator and trainee may be separated by a considerable distance measured in feet or yards. So long as the supervising crane operator and trainee can communicate effectively, and taking into account other relevant circumstances, that type of physical distance may be appropriate and safe. To permit an individual to supervise multiple trainees, though, creates an unreasonable degree of risk.

In light of the complexity of human activity that occurs on a construction site, in the Board's judgment, there is no room for error as a result of a supervising crane operator trying to supervise multiple trainees, or to perform other functions at the same time. The Board concluded that it is of vital importance that a supervising crane operator devote his undivided attention to observing and instructing the trainee. Because of the momentum of moving loads and similar factors, dangerous conditions can rapidly deteriorate and result in catastrophic accidents if immediate corrective measures are not taken. Because a response to a dangerous condition may be necessary in the span of seconds, or a split second, a supervising crane operator who is distracted only for a moment by the performance of another duty poses an unacceptable degree of risk to proper supervision of a trainee. Therefore, the Board concluded that the one-to-one ratio is a necessary requirement.

Finally, the Board also determined that a crane operator shall evaluate his own ability and competence to supervise a trainee before accepting that responsibility. Therefore, subsection (f) provides that a crane operator may not accept an assignment if supervision of a trainee is beyond the competence and experience of the crane operator, considering the type of crane to be operated, the nature of the task or operation to be performed and the skill and knowledge of the licensed crane operator. The issuance of a license to operate a crane does not grant the individual an unqualified permission to begin supervising trainees. Subsection (f) places a responsibility upon the licensee to assess the licensee's own ability as a supervising crane operator and to refuse an assignment when it would be unsafe to supervise.

§ 6.14. *Specialties.*

The act requires the Board to issue specialty licenses for the following crane types: tower cranes; lattice boom crawler cranes; lattice boom truck cranes; telescopic boom cranes with a rotating control station; and telescopic boom cranes with a fixed control station.

The Board concluded that the most efficient means of satisfying this requirement was to add a designation or code to each license to specify the type of crane or cranes that a licensee would be authorized to operate. At this time, there are no other types of cranes for which a specialty license is deemed to be appropriate.

§ 6.15. *Licensure of a crane operator from another jurisdiction.*

To facilitate interstate commerce and increase employment and business opportunities for residents of this Commonwealth who are crane operators, the Board provided for licensure for persons licensed by other jurisdictions in a manner consistent with the practice of other licensing boards.

Licensure without Certification

§ 6.21. *Licensure without certification generally.*

This section, together with §§ 6.22 and 6.23, (relating to licensure without certification by practical examination; and licensure without certification by experience), implement section 506 of the act. As reflected in the discussion of § 6.12, the Board was obliged to consider the implementation of section 506 of the act in light of the anticipated provisions of OSHA regulations and the requirements of proposed 29 CFR 1926.1427.

There is a limited time frame for submitting applications for licensure without certification. As of the date of the initial discussion and drafting of this proposed rulemaking, on May 29, 2009, HB 1551, PN 1926 passed the House of Representatives and been referred to the SCP/PLC. HB 1551 was introduced at the recommendation of the Bureau of Professional and Occupational Affairs (Bureau) to correct a technical defect in HB 647 regarding when this limited time frame would begin and end.

The Board drafted §§ 6.21, 6.22 and 6.23 on the assumption that HB 1551 would be enacted into law before the effective date of the Board's regulations. Under HB 1551, the window for applications under section 506 of the act would open on the effective date of the Board's regulations, which was estimated to be June 8, 2010. In any event, because the act requires a license beginning on October 9, 2010, regulations needed to be in place before that date. Under this same amendment proposed in HB 1551, the window would close on December 9, 2011, thus allowing individuals pursuing licensure without certification a period of 14 to 18 months to obtain that license. Subsection (a) reflects the date of closure of that window, based upon the expected passage of HB 1551.

In addition to the requirements under the act, subsection (b)(5) is a corollary statement of the principle expressed in § 6.12(d) that an applicant who possesses a valid certification cannot apply for a license without certification.

§ 6.22. *Licensure without certification by practical examination.*

One point that bears highlighting is that section 506(a)(2) of the act specifically requires a passing score on a practical examination administered by NCCCO. The act does not authorize or permit the Board to accept the results of examinations administered by another testing organization, even if that organization has been approved by the Board as a certifying organization.

Under § 6.22, the applicant will be required to produce three pieces of documentation, in addition to the required personal identifying information essential to licensure. First, the applicant shall submit scores for the NCCCO practical examination demonstrating a passing score. As with crane operators certified by the NCCCO, the Board administrative staff can independently confirm that the applicant has a passing score.

Second, the applicant shall make an averment subject to the penalties for perjury that the applicant has passed a physical examination meeting the requirements of ASME B 30.5.

The Board considered whether to use the language of "applicable ASME B30 volume" that is repeated elsewhere in the proposed rulemaking. That language would have meant that the applicant would submit to the relevant physical examination based upon the crane type for which he applied. However, in this particular instance, the Board chose to specify ASME B 30.5 for two important reasons.

First, ASME B 30.5-3.1.2 is the only provision that expressly requires a substance abuse test. ASME B 30.3 and B 30.4 do not include this requirement for their physical exams. In this regard, the Board considered safety of workers and public to be better served by requiring a substance abuse test, as required by ASME B 30.5, of licensed crane operators.

Second, from the standpoint of ease of administration, the Board concluded that it would be more efficient to specify a single physical exam for licensees. Adding to the strength of this reason is that the Board expects ASME to adopt the same substance abuse requirement in future revisions of ASME B 30.3 and B 30.4.

Third, the physical examination requirements of ASME B 30.5 include language that is more protective of individual crane operators who have a disability that is capable of accommodation without jeopardizing safety.

The third item of documentation that an applicant shall produce with the application is a copy of results from assessments administered in the 2-year period prior to the date of application. The purpose of this requirement is to inform the Board of assessments that resulted in a failing grade or score. The rationale of the Board is that it should be advised of indicators that a particular crane operator may not be qualified.

The Board is concerned about the possibility of testing shopping. That is, an unqualified individual who fails to obtain certification, and who may have failed one or more attempts to become certified, may shop around for the easiest path to licensure. Because there are no residency restrictions in the act, there is the possibility that unqualified, out-of-State residents may attempt to use section 506 of the act as a pathway to entry into the industry. This is clearly not the legislative intent behind the act. (See *House Journal*, June 27, 2007, pages 1475 and 1476.) In light of the legislative intent to assure competence, the Board concludes that a failing grade on an assessment, whether on the written or practical portion of the examination, is a fair indicator of a lack of competence.

The Board considered two basic fact patterns that may give rise to adverse consequences to the applicant. The first scenario occurs when the applicant obtained a passing score on the NCCCO practical exam, but is denied certification due to a failing score on the written examination. The same applicant then takes the practical exam for the same type of crane with another organization, with an audited employer assessment program or an assessment program administered by another jurisdiction, but obtains a failing score on its practical examination.

In this case, the Board believes that the subsequent failing grade on the second practical exam would negate the passing grade on the NCCCO practical examination and may constitute grounds for denial of a license under this section. The failing grade indicates a degradation of the individual's knowledge and skill to an unacceptably unsafe level. Therefore, a license may be denied.

In the second scenario, the applicant obtains a passing score on the NCCCO practical examination for mobile cranes. The same applicant had, prior to the passing score on the NCCCO practical exam and within the 2 years prior to the date of application, failed the written examination for either an audited employer assessment program or an assessment program administered in another state for a mobile crane. Under these circumstances, the Board believes that it could grant a license for mobile cranes, but with restrictions. An appropriate

restriction may be, for example, limiting the licensee to working for the current employer, or the employer with whom the applicant failed the audited employer assessment.

Although the Board would not be able to deny a license to an applicant under this scenario, the Board believes that the failing scores would be appropriate grounds for a license restriction appropriate to the circumstances. For example, if the individual failed an audited employer assessment program, the license may appropriately restrict the licensee to work for that specific employer and none other. If the applicant failed an assessment program administered by another state, then the Board may appropriately restrict the licensee to this Commonwealth and deny the licensee the right to use the license from the Commonwealth to apply for a reciprocal license issued by another jurisdiction.

§ 6.23. Licensure without certification by experience.

As previously discussed, Act 100 was amended in both chambers of the General Assembly. The Civera Amendment was adopted by the House of Representatives and added section 506 of the act, regarding license without certification. The Civera Amendment created one pathway to licensure without certification.

The Waugh Amendment was offered in the Senate and amended section 506 of the act. The effect of the Waugh Amendment was to create two distinct pathways to licensure without certification. The Board grappled with this distinction and the implications both for public safety, as well as consistency with OSHA's negotiated rulemaking.

Licensure without certification by experience is a pathway to licensure as provided in section 506(a)(3) of the act. That paragraph states that an individual is eligible for licensure without certification if they meet the requirements of section 502 of the act, except for certification, plus "...document five or more years' experience immediately preceding the date of application for licensure to operate a crane as defined in this act." Section 506(a)(3) of the act further provides that "Licenses granted under this provision shall be issued only for the operation of cranes where documentation, acceptable to the board, has been provided. Licenses issued pursuant to this section shall only authorize the operation of a crane within the experience documented and accepted by the board."

From the Waugh Amendment arises an issue not contemplated, or at least not discussed, when the Civera Amendment was offered in the House of Representatives. Under the Civera Amendment, as well as under the current pathway for licensure without certification by practical examination in § 6.22, there is a clear, objective standard for determining which type of crane or cranes an individual is qualified to operate. Passing a practical examination that assesses competence and skill in operating a particular type of crane demonstrates to the Board which type of specialty license may be issued to an applicant. For example, if an applicant passed the tower crane practical examination, then the Board knows that the applicant is eligible for a license to operate a tower crane.

However, in the absence of a passing score for a specific examination that demonstrates the type of crane for which an applicant is qualified, the Board will possess documentation that proves an applicant's competence and skill with a particular type of crane. As a result, the extensive debate that occurred in the House of Represen-

tatives between Representatives Fairchild, Sturla and Civera loses some of its value in amplifying legislative intent as to how the Board is to evaluate experience under section 506 of the act.

Under the Civera Amendment, it appeared that the legislative intent was for the Board to credit all experience obtained in operating all types of cranes, so long as a significant amount of the 5 years of experience regarded the specific type of crane for which the applicant sought licensure. The rationale behind this thinking is easy to understand, namely, that instead of passing a written examination for a specific type of crane, the Board could accept overall experience as a substitute.

By detaching the element of experience from the practical examination, then, the Waugh Amendment requires the Board to substitute experience not only for the assessment of a written examination, but also the assessment gained from a practical examination. Thus, the second and third sentences of section 506(a)(3) of the act, which state "Licenses granted under this provision shall be issued only for the operation of cranes where documentation, acceptable to the board, has been provided. Licenses issued pursuant to this section shall only authorize the operation of a crane within the experience documented and accepted by the board," acquire added significance under the Waugh Amendment and the final version of Act 100, as adopted.

Based upon this analysis, the Board determined that it would need to have a procedure of documentation that would allow its staff to analyze each individual applicant's qualifications to operate a specific type of crane. In designing this procedure the Board turned to the established, familiar and time-tested practices employed by other licensing boards within the Bureau. The State Board of Accountancy, the State Board of Certified Real Estate Appraisers and the State Board of Professional Engineers, Land Surveyors and Geologists (Engineering Board) require documentation of experience, to cite three examples.

However, these three boards, as well as nearly all of the other licensing boards that require experience documentation, have one key requirement that a new board like the Board cannot mandate. Boards require a currently licensed individual who has supervised the applicant to attest to the accuracy of the documented experience. It is unusual for a board to allow the applicant to self-verify his own experience without corroborating verification by a supervising licensee.

The reason for this requirement is clear. It is fundamentally unreliable to take the applicant's uncorroborated claims. The Board was aware of evidence to suggest that self-verification is, in fact, unreliable. The only other state known to allow for licensure without certification is West Virginia. Based upon the reports from that state, the Board determined that it could not prudently rely upon an applicant's uncorroborated self-verification. Since there are no licensed crane operators in this Commonwealth, the Board cannot require an applicant to have documented experience verified by a supervisor who is a current licensee.

In addition, the Board recognized that some of the individuals that would apply for licensure by experience would be self-employed and proprietors of their own companies. Therefore, it would not even be possible to allow the applicant to obtain verification from a third-party employer because that would, in effect, also constitute uncorroborated self-verification.

Another factor that the Board considered is the effect of OSHA's negotiated rulemaking. When the negotiated rulemaking is expected to take effect in 2014, it may have the effect of excluding this class of licensees from working in the construction industry. Certification would be required by OSHA to operate a crane in a construction setting 4 years after final promulgation of the negotiated rulemaking. At that point, the grandfathered licensees would continue to be eligible to operate a crane under the Board's jurisdiction in nonconstruction settings that may include, for example, quarrying or general industry.

Accordingly, the Board determined that it is in the interests of licensees as well as public safety to establish a procedure under section 506(a)(3) of the act that is rigorous and reliable. The standard may be a challenge for applicants to meet, but a higher standard will allow the Board and the individuals granted licenses under this section to argue credibly to Federal authorities that licenses issued under this provision are substantially equivalent in quality to a license issued with certification, and thus have a credible basis on which to request relief from OSHA. By no means can the outcome of an appeal be assured, but the Board concluded that it was a more responsible position to assume, and one that was more consistent with legislative intent, than the alternative of adopting a lax standard that may, in the space of a few years, be rendered worthless by National regulations.

Based upon these considerations, the Board looked to the procedure used by the Engineering Board to provide a starting point or template for its regulations. Of the 29 licensing boards in the Bureau, the Engineering Board has the most in common with operation of cranes. Looking to that precedent, the Board developed the criteria of required documentation.

The Board found that several factors were critical to properly evaluate an individual's experience and qualifications to operate a crane. Those criteria include verifiability of information, physical fitness and ability to safely operate a crane, sufficiency of the quantity of experience and crane specialty experience.

The principle of verifiability

The first principle that the Board seeks to address through its application process is that the information that is supplied by the applicant can be verified as true and correct. To accomplish that objective, the Board discussed the possibility of requiring applicants to produce some type of business records prepared by independent third parties that would supply information regarding crane specialties and amount of experience. The Board believed that documents prepared by third parties at the time that the applicant actually performed the work would provide an inherently high degree of reliability since none of the information could have been created in contemplation of a future application for licensure.

Based upon the combined experience of the four professional members, the Board determined that, unfortunately, there business records in the industry are not routinely created by an independent third party that would supply the information that is required to assess an individual's competence to operate a crane. In fact, there are few business records that would be prepared contemporaneously at the time the work was performed that would identify the crane type and the number of hours worked on a particular type of crane.

In light of these limitations, it became apparent to the Board that it will be necessary for the professional Board members to scrutinize each application to determine if the applicant's documented experience is credible.

The Board identified several types of business records that would make the process more efficient. IRS Form W-2 as required in § 6.23(b)(1) will provide reliable documented evidence of the applicant's employers over a 5-year period. Alternatively, if the crane operator were self-employed during all or part of that 5-year period, IRS Form 1099 would identify the prime contractors who retained the applicant's services. These forms would also tend to supply corroborating evidence of the amount of work that the applicant performed over that same period.

The Board noted, though, that these documents by themselves would not supply evidence whatsoever as to whether the applicant actually worked as a crane operator rather than in some other capacity. The Board took note of the fact that many individuals who work as a crane operator are also qualified to operate other heavy equipment. Therefore, these documents would only identify source of employment and not actual qualifying experience.

For applicants who worked as independent contractors for all or part of the previous 5-year period, certificates of insurance for policies of comprehensive general liability insurance also supply a central source of information. An insurer would be able to supply a comprehensive, independent source of information regarding the type of work that the applicant performed, where the work was performed and whether claims or injuries arose from the applicant's work.

The principle of physical fitness and ability to safely operate a crane

The Board recognized that OSHA's negotiated rulemaking and ASME's standards require a physical examination performed by a physician to confirm the individual's physical ability to operate a crane. Based upon those two standards, the Board determined that it is necessary for licensees to demonstrate their physical fitness. Therefore, under § 6.23(e), the Board requires the applicant to aver subject to the penalties for perjury that the applicant passed a physical examination meeting the requirements of ASME B 30.5.

The principle of sufficiency of quantity of experience

The act requires 5 years of experience to be documented in a manner acceptable to the Board. However, the act is not more specific. As a general rule, there are 2,000 hours in a standard work year and 10,000 work hours in a 5-year period. On one extreme, the 5 years' experience requirement could be interpreted to mean that an individual could document that he operated a crane for 1 day 5 years before the date of application and 1 more day on the date before the application. The Board viewed that interpretation as unreasonable and unsafe.

At the other extreme, the act could be interpreted to mean that an individual would need to document 10,000 hours of crane operation during the 5-year period. This, too, seemed unreasonable to the Board, especially in light of the experience of the professional members that many people in the profession are qualified to operate other apparatus, as well as the fact that construction is a somewhat seasonal work activity.

Looking to West Virginia, the Board noted that uncertified operators were required to document 2,000 hours in a 4-year period. Viewing that standard as a happy medium between the two extremes, the Board opted for a requirement of 5,000 hours of experience documented over a 5-year period. See § 6.23(b)(2).

To permit inspectors to verify that information, the Board requires information about the particular projects

where the crane operation was performed. The required information includes the name and business address of the general contractor or other person who employed or engaged the services of the applicant, whether the applicant worked as an employee or independent contractor on the project, the location of the project and the number of hours worked on the project. See § 6.23(c)(1), (2), (3) and (6).

The Board also requires an applicant under § 6.23(c)(5) to identify incidents in which an injury occurred in the operation of the crane resulting in disability to an individual in excess of the working shift or turn in which the injury was received. The Board would not give credit for hours on a project in which an incident occurred as a result of the applicant's failure to exercise reasonable care in the operation of the crane.

Under § 6.23(f), the Board also requires reporting of past assessment results. The Board will not give credit for experience to an individual who has submitted to an assessment for crane operation within the 2-year period immediately preceding the date of application and failed that assessment. The Board holds the position that it cannot reasonably accept experience as evidence of competence if the individual has objective testing results demonstrating a lack of competence.

The principle of documented crane specialty experience

Section 506(a)(3) of the act states that a license based upon experience must only be issued to operate the specialty crane for which the individual has supplied acceptable documentation. Therefore, for each project, the applicant shall identify the type of crane that he operated. The Board cannot give credit for time operating a crane that is not covered by the act.

The Board will not require 5,000 hours for each type of specialty crane, that is, tower, lattice boom crawler, lattice boom truck, telescopic boom fixed control and telescopic boom rotating control cranes. However, the Board will require at least 5,000 hours overall and 1,000 hours of experience in the specialty, free of incidents resulting in injury as described in § 6.23(c)(2).

Because the licensee does not possess certification, the Board determined that it would be necessary to provide the individual with a declaration identifying the specialty type of crane that the licensee is qualified to operate. The provision of this additional declaration will result in the charge of an additional fee in the amount specified in § 6.4 (relating to fees).

An individual licensed under this section shall possess both the license and the declaration to hold himself out as a crane operator. See § 6.23(h).

Renewal of License

§ 6.31. Duration of license.

Under section 504 of the act (63 P.S. § 2400.504), licenses will be issued for not more than 2 years. To clarify the statutory language, this section states that the license is only valid until the end of the biennial licensure period. In other words, if a person obtains a license midway through the biennial license period, the license will not last for 2 years, but only for the balance of the licensure period. This is consistent with other licensing bodies.

In developing this proposed rulemaking, the Board was advised that the anniversary date for renewal may be adjusted by several months for administrative reasons within the Bureau. Therefore, if inaugural licenses are

issued in October 2010, licensees should be aware that the renewal period may not occur in October 2012. Appropriate measures will be taken to communicate with licensees regarding the renewal date.

§ 6.32. *Renewal of license.*

The procedures for renewal of licenses will vary depending on the initial pathway to licensure. For persons who hold a license through certification, those individuals will be required to attach proof of current, valid certification with the renewal application. Board administrative staff will be able to independently verify that information with the certifying organization. The Bureau encourages the use of online renewal of licenses. Online renewal does not allow for the submission of documentation to accompany the renewal. Therefore, licensees who renew online will be required to answer a question in the online process verifying that they possess current and valid certification. The answers to these online questions are subject to penalties for unsworn falsification to authorities. Administrative staff will have the ability to independently verify the licensee's certification with NCCCO or another certifying organization. NCCCO certification runs on a 5-year cycle.

Under ASME and NCCCO requirements, an individual shall submit to a physical examination by a physician as evidence of the ability to meet the physical demands of operating a crane. The physical examination must be repeated every 3 years. Accordingly, in § 6.32(a)(5), the Board requires a certified crane operator to aver that the physical examination has been performed.

For individuals who have not been certified, whether they obtained licensure through passing the practical examination or by documenting 5 years of experience, the Board requires the individuals seeking renewal to state that physical examinations were performed by physicians that satisfy the requirements of ASME B 30.5 in § 6.32(b)(2) and (c)(2).

With respect to individuals who have been licensed without certification, the question arises as to how continued competency could be determined. The Board considered this question because of a desire to assure that individuals seeking license renewal have maintained proficiency and remain abreast of technical developments in the industry. The continuous critical examination and revision of standards and procedures in the industry has been discussed at length previously in this preamble in reference to OSHA and ASME proceedings. This question is answered with respect to certified crane operators by the OSHA and ASME requirement that crane operators be recertified every 5 years. The process of recertification includes a written examination, plus a practical examination or documentation of 1,000 hours of crane-related experience over the 5-year recertification period.

The answer to this same question required the Board to analyze the problem and extrapolate from the act a satisfactory alternative. The act explicitly prohibits the Board from requiring certification as a condition for renewal of a license obtained under section 506(b) of the act. Still, the fact that the General Assembly subjects licensees to the same biennial renewal requirement demonstrates the legislative intent that licensees prove some degree of continued competency as a prerequisite to renewal of the license.

For individuals who have obtained licensure without certification by practical examination under section 506(a)(2) of the act and § 6.22, the Board requires in § 6.32(b)(1) that the individual demonstrate continued

proficiency by a passing score on the NCCCO practical examination administered during the biennial period immediately preceding the date of application for renewal. The Board also requires that the licensee submit scores for other assessments administered during the biennial period in § 6.32(b)(3). Consistent with §§ 6.22 and 6.23, the Board views a failing score obtained after a passing score as *prima facie* evidence of a lack of proficiency or skill that may justify a refusal or restriction of the license.

The Board considered a requirement that licensees under this section obtain a passing score on a practical examination over a 5-year cycle. However, the Board recognized that there would be additional costs, enforcement challenges and administrative complications for this option. If the Board were to adopt this alternative, each licensee under section 506(a)(2) of the act would have his own 5-year anniversary for passing the NCCCO practical examination. Therefore, the Board's administrative staff would have additional responsibility and expense of monitoring each licensee's personal 5-year cycle for passing the practical examination.

Another consideration weighing against the option of a 5-year cycle is that it would terminate during a biennial period. There are two negative consequences arising from this fact. First, the Board would need to decide whether the failure to repeat the practical examination by the 5-year anniversary date constituted grounds for disciplinary action and lead to a suspension or restriction of a license in midterm. If it would constitute grounds for disciplinary action, as it would for certified crane operators who fail to be recertified, the Board foresees additional expense and demands on administrative resources due to an increased number of disciplinary actions. If not, licensees under this section would, in effect, have as many as 7 years to obtain a passing score on the practical exam, that the 5-year anniversary could end immediately after the license has been renewed and the licensee would not need to pass the practical exam for another 2 years when the next renewal occurred. A 7-year delay in demonstrating continued competency represents an unreasonable risk to public safety.

The second negative consequence of a termination of a 5-year cycle in midterm is that it would effectively create a multiple standards for licensees in this classification. That is, as previously noted, a licensee whose 5-year anniversary date ends just after the renewal of the license could effectively get 7 years until taking the practical examination again. The individual whose anniversary date falls just before the expiration of a biennial period will need to take the practical examination in 5 years. Because each individual will have a different anniversary date, the length of time to complete the practical examination will vary from person to person.

The Board concluded that to avoid additional cost of administration, to better confirm a licensee's continued competency, to avoid multiplicity of enforcement actions and to avoid arbitrary and disparate treatment of licensees within the same class, the only reasonable option would be to require biennial passing scores on the NCCCO practical examination as a condition for renewal.

For individuals who have obtained a license without certification by experience, under section 506(a)(3) of the act and § 6.23, the Board would require the licensee to satisfy conditions that parallel the requirements for licensees without certification by practical examination. Those requirements include that the individual submit documentation in the form described more fully in

§ 6.23(c)(1) that demonstrates that the individual has at least 2,000 hours of experience in operating a crane during the biennial period. The 2,000 hours of experience follows the reasoning employed for initial licensure, that is, that the licensee document experience equivalent to 1/2 of the standard 4,000 work hours for the biennial period in the operation of a crane.

The Board also requires in that the individual submit the results of an assessment administered in the previous 2 years in § 6.32(c)(3). As discussed in regard to § 6.23(f), the Board will consider a failing grade in an assessment to be *prima facie* evidence of a lack of skill or proficiency that may justify a refusal or restriction of the license.

Section 6.32(c) also expresses that a failing score on an assessment that is not cured with a subsequent passing score constitutes grounds for denying renewal.

§ 6.33. Initiating and terminating inactive status.

Section 504(b) of the act allows an individual to apply for inactive status without fee. The act further provides for reinstatement of the license when the license has remained inactive for a period of 5 consecutive calendar years by requiring certification.

In the Board's view, this means that if an individual who obtained a license without certification remains on inactive status for a period of 5 years or more, then that individual cannot reinstate the license. Rather, the individual shall become certified and apply for a new license under section 502 of the act. This is a regulation that is consistently followed by the licensed professions and occupations under the Bureau's jurisdiction.

Based upon this principle, the Board makes this regulation explicit by providing that a license without certification has a maximum inactive term of 5 years less 1 day in § 6.33(b). A license without certification that has been revoked, which remains inactive for 5 years or more, or which has been suspended and not renewed for 5 years or more, would terminate and cease to exist. Re-entry to the licensed profession after one of these three events could only be accomplished by an initial application for licensure under section 502 of the act.

With respect to licenses that are on inactive status when the biennial period expires, the Board interprets the act consistently with the other licensing statutes under the Bureau's jurisdiction. To reinstate a license that was inactive or suspended at the end of a biennial period, other boards require the licensee to have satisfied the continuing education and experience criteria that the licensee would have been required to complete if he had been active and renewed the license on time.

The Board considered the problem of a person who hold a license without certification by experience whose license remains inactive for a period that extends beyond the biennial period when his current license becomes inactive. For purposes of illustration, the Board considered the following hypothetical example: An individual has a license without certification by experience that is issued on October 1, 2010, and is set to expire on October 1, 2012. The licensee applies for inactive status beginning on October 1, 2011, and ending on October 1, 2013.

Under this hypothetical situation, on October 1, 2013, the licensee would need to apply to reactivate the license and also to renew. To renew, the licensee would need to submit documentation of 2,000 hours of experience. However, because the licensee was only lawfully permitted to operate a crane for a 1-year period from October 1, 2010, to September 30, 2011, it would be very difficult for the

individual to satisfy the documented experience requirements for renewal. The individual would have had to accumulate 2,000 hours of experience within the span of a single year when the license was active.

This hypothetical example illustrates that, as a practical matter, the Board expects that an individual who holds a license without certification by experience will find it increasingly difficult to reactivate the license as a period of inactivity lengthens. For all intents and purposes, it would be nearly impossible for a license without certification by experience to be reactivated after a period of inactivity exceeding 2 years. The individual would need to document experience of 4,000 hours (2,000 hours for the first biennial renewal period that was bypassed as a result of inactive status, plus an additional 2,000 hours for the second biennial renewal period). However, the individual in this case would be unable to acquire 4,000 hours of experience, at least in this Commonwealth, because they were not licensed to operate a crane in this Commonwealth. It would only be possible if the individual were able to lawfully operate a crane in another jurisdiction during the period when the license from the Commonwealth was inactive.

The Board considered the type of problem previously outlined. One alternative solution would be to allow individuals who lacked experience to renew their license and operate a crane even after extended periods of inactivity or without documenting continued proficiency by experience. The Board examined the legislative history and did not find evidence to support that view as the legislative intent. The legislative record does not contain evidence that the General Assembly believed that 5 years of experience justifies granting a lifetime license to operate a crane without demonstration of continued proficiency and skill.

On the contrary, for the same reasons discussed in regard to § 6.32 (relating to renewal of license), the Board determined that the General Assembly expressed a preference for crane operators to demonstrate their proficiency through certification. Licensure without certification is the legislative exception to the rule. However, the General Assembly found that exception to be justified because of a period of uninterrupted experience as a substitute for objectively tested proficiency.

In the absence of documented experience, the legislative exception is no longer satisfied. Therefore, to advance legislative intent, the Board will require documented experience for each consecutive biennial period as a condition of renewal for that biennial period. Inactive status runs contrary to the need for continued, uninterrupted experience and obviates the rationale for the legislative exception. Accordingly, the Board has concluded that the license without certification by experience issued under § 6.23 is a license that must continue uninterrupted, but for brief periods of inactivity.

The problem of inactive status for a period of less than 5 years is not the same for a license without certification by practical examination issued under § 6.22. A licensee who goes on inactive status for a period in excess of 2 years but less than 5 years would still be required to take and pass the practical examination administered by NCCCO. Actual experience operating a crane is not a prerequisite to taking the practical examination. Therefore, a licensee returning from inactive status could take the practical examination and obtain a passing grade and have the license reinstated. The practical examination, therefore, is evidence of continued proficiency and justifies the exception to the legislative rule.

§ 6.34. Licensee's change of name and address; service of process and legal papers.

Section 6.34 formalizes the act regarding the identification of the licensee and the record address at which service can be made. The Board anticipates that nonresidents may apply for licensure in this Commonwealth and therefore the Board wants licensees to have a clear understanding that they shall maintain an accurate address with the Board and that service of process will be attempted at the licensee's address of record.

Disciplinary Actions

§ 6.41. Unlicensed crane operation.

To define the offense of unlicensed crane operation, the Board rephrased the statutory provision in section 501 of the act in terms of a prohibition in § 6.41(a).

Section 6.41(b) then defines offering services or holding out as a crane operator. There are four general ways in which the Board defines "offering services" or "holding out as" a crane operator.

First, express words or conduct offering services or holding out as a crane operator constitute a violation of this section. Second, a failure to disclose the lack of a license would, by itself, constitute a violation under circumstances that would require one.

The third way in which the violation may occur is through words or conduct that would reasonably cause a third person to believe that the individual is a crane operator, holds a license as a crane operator or possesses the skill, knowledge, authority or expertise to operate a crane. The Board adapted the phrase "... would cause a third person to reasonably believe ..." from the *Restatement* 2d, Torts. The Board concludes that this language is a familiar legal formula that effectively states an objective standard by which a fact finder could determine whether an utterance or conduct constitutes a material misrepresentation of fact.

The Board considered an alternative phrase "justifiably believe" that is also used in the *Restatement* 2d, Torts. However, "justifiable" is used in the context of a misrepresentation that actually causes a person to change their position in reliance upon that misrepresentation. The Board does not think that proof of actual reliance should be a required element of proof for this violation. The inquiry should not lead to whether a person, in fact, relied upon the misrepresentation. The violation occurs when the misrepresentation occurs, even if no other person acted upon that misrepresentation. Therefore, the only inquiry should be whether a reasonable and prudent person would have believed the misrepresentation, and not whether someone actually believed the misrepresentation. This section intends to discipline misrepresentations, even if they had no measurable effect.

§ 6.42. Impaired operation of a crane and reportable conditions, incidents or events.

The Board's proposed rulemaking attempts to comprehensively cover forms of impairment that may compromise safety on the worksite. The Board's primary regulation in § 6.42(a) is that an individual may not operate a crane with a physical or mental impairment that may reasonably be expected to affect the operation of a crane. By this section, the Board establishes the principle that it is not whether the licensee subjectively believes that he can safely operate a crane. Rather, the Board would apply an objective standard of whether a reasonable and prudent person, knowing the condition of the licensee, would believe that it would be unsafe for the licensee to operate a crane.

In addition to this general rule, § 6.42(b) also requires that a crane operator disclose an impairment that would reasonably be expected to affect the safe operation of a crane. Plainly, the Board would prefer that an impaired individual refrain from operating a crane. However, in the event that an impaired licensee operated a crane, the individual would be subject to a second violation for failure to disclose the impairment.

Section 6.42(c) applies to a crane operator who is self-employed or a principal of a crane company. When a crane operator is not an employee, the corollary to § 6.42(b) is that the principal, owner or self-employed individual be required to disclose an impairment to a property owner, prime contractor, project manager or project superintendent or another person who is in charge of the premises where the work is performed. These terms are well known and familiar in the crane industry.

The Board also considered other circumstances in which a licensee has a duty to disclose the existence of an impairment that may reasonably be expected to affect the licensee's ability to safely operate a crane. When an individual files a claim for benefits because of a disability, it may be inconsistent to also enjoy a privilege of holding a valid license to operate a crane. For example, a claim for Social Security disability benefits requires the claimant to assert total disability. Under those circumstances, the licensee should contemporaneously request inactive status. If the licensee does not apply to be placed on inactive status, the Board believes it is necessary to have the authority to suspend the individual's license.

When the individual has not claimed total disability, the licensee should not be in the position of making a self-determination of whether the disability would safely affect the operation of a crane. For that reason, when the licensee asserts claim for benefits or compensation for a personal injury, § 6.42(d) requires the licensee to notify the Board so that an independent evaluation can be conducted to determine whether the licensee can safely continue to operate a crane with the alleged impairment. This will require a case-by-case evaluation of reported conditions in order to determine the licensee's continued fitness.

For the same reasons stated with respect to § 6.42(d), the Board also requires in § 6.42(e) that a licensee report a medical diagnosis of a condition that may reasonably be expected to affect the safe operation of a crane. As with § 6.42(d), when a licensee has been diagnosed with a condition that impairs the ability to safely operate a crane, the proper action is to request inactive status while the condition persists. However, where the crane operator has not taken inactive status, the Board should be authorized to take disciplinary action for the failure to disclose an impairment.

The Board also requires that a licensee report the institution of criminal proceedings in § 6.42(f). Not every criminal complaint or information will result in disciplinary action. However, the Board concludes that requiring the reporting of this information will allow the matter to be evaluated on a case-by-case basis to determine whether disciplinary action should be taken, particularly under section 705 of the act (63 P. S. § 2400.705), authorizing temporary and automatic suspensions.

When a trainee has criminal proceedings pending, that individual shall obtain permission from the Board to act as a trainee under § 6.42(g). As with § 6.42(f), the Board will not refuse permission in every case, but the reporting requirement will allow the Board to evaluate the matter

on a case-by-case basis to determine whether the nature of the alleged offenses warrant a restriction on the trainee.

§ 6.43. Aiding and abetting unlicensed crane operation.

Section 501(b) of the act provides that an individual, corporation, partnership, firm or other entity may not employ an individual to operate a crane or allow or direct an individual to operate a crane unless the individual is licensed. For this proposed rulemaking, the Board has taken the statutory prohibition and enumerated three specific prohibited acts in § 6.43(a).

First, using the statutory language, this section prohibits a business entity from using its employee as an unlicensed crane operator. Second, this section uses the statutory language prohibiting a business entity from passively permitting an unlicensed individual to operate a crane, or to order or instruct an unlicensed individual to operate a crane.

The Board interpreted this second statutory prohibition to include the situation when a business entity uses a relationship other than the master-servant or employer-employee relationship. The intent behind this broader language was to prohibit attempts to circumvent the prohibition on unlicensed crane operation by using independent contractors. To make its interpretation more explicit, the Board added the third prohibitory clause regarding retention or hiring of an unlicensed crane operator as an independent contractor. This third clause is not redundant, though. Section 6.43(a)(2) is broader than the independent contractor language. In the Board's view, to "allow or direct" an unlicensed individual to operate a crane would also include circumstances in which a business entity uses a third party or intermediary to engage the services of an unlicensed individual, but never enters into a direct relationship with the unlicensed person as an employee or as an independent contractor.

Because business entities are not licensed, the Board foresees a problem of enforcement of unlicensed crane operation against business entities. An unlicensed individual who operates a crane may be subject not only to civil penalties, but the Board may also issue an administrative cease and desist order against an individual to enjoin that person from operating a crane. However, since business entities are not licensed, the Board would not be able to issue cease and desist orders to a business entity to remove the business entity from the crane industry.

In response to this problem, the Board incorporated a regulation restricting individual licensees from working for repeat offender business entities in § 6.43(b). This three strikes rule applies to a business entity that has been found in violation of unlicensed crane operation three times in the space of 4 years. Individual licensees would be barred from operating a crane for these adjudicated chronic violators.

A business entity that cannot employ licensed crane operators would be effectively barred from lawful participation in the crane industry in this Commonwealth for a period of at least 1 year. However, that stiff penalty is reserved for serious offenders. The standard is not three offenses committed in a 4-year period, but three separate findings by the Board in the course of 4 consecutive years. In other words, under this provision a strike is called on the date of an adjudication, and not on the date of an offense.

Given the length of time that disciplinary actions take to investigate and prosecute, in practical terms, the recidivist conduct that would be penalized by this provi-

sion would likely involve the commission of three offenses in less than 36 consecutive months. In light of this type of obstinate and flagrant repetitious misconduct, the Board believes that this type of sanction is appropriate as a means of protecting the public from willful disregard for safe and legal standards of crane operation and to effectively police and enforce the act.

The Board also provided for a procedure and standards for removing the sanction in § 6.43(d) and (e). After 1 year, a business entity may petition for the removal of the sanction and as a protective measure the Board may place restrictions on individual licensees working for the business entity, or require the business entity to post a bond, other security or impose other restrictions on the business entity's activities as a condition of permitting licensees to work for the business entity.

§ 6.44. Standards of conduct, disciplinary action, suspension and revocation.

With respect to standards of conduct, the Board begins by restating its statutory authority to levy a civil penalty upon a licensee and impose a range of sanctions upon licensees under its jurisdiction.

Subsection (b) enumerates certain acts, errors, conditions or omissions that may provide the basis for disciplinary action. These include negligence and the inability to use reasonable skill due to mental or physical illness or condition.

The Board also distinguishes between two types of impairment due to substance use or abuse. Subsection (b)(3) is intended to cover operation of a crane while actually impaired. Subsection (b)(4) would not necessarily require proof of actual impairment during the operation of a crane, but can be proved by evidence that the individual was dependent or engaged in a pattern of substance abuse during the period of time when he operated a crane.

In subsection (b)(4), the Board tracked the language of the Diagnostic and Statistical Manual of Mental Disorders-IV (DSM-IV) criteria for substance abuse. Subsection (b)(4)(i) fits the DSM-IV definition for "substance abuse" which requires evidence that the individual has had recurrent substance use resulting in a failure to fulfill major role obligations at work, school or home; recurrent use in situations in which it is physically hazardous; recurrent substance-related legal problems; or continued substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the substance.

Subsection (b)(4)(iii) requires the Commonwealth to present evidence of dependence. Applying the DSM-IV criteria, the evidence would include a diagnosis by an qualified health care practitioner or three or more of the following occurring any time in the same 12-month period: (1) tolerance; (2) withdrawal; (3) the substance is often taken in larger amounts or over a longer period than intended; (4) a persistent desire or unsuccessful efforts to cut down or control substance use; (5) a great deal of time is spent to obtain the substance, use the substance or recover from its effects; (6) important social, occupational or recreational activities are given up or reduced because of substance use; or (7) the substance use is continued despite knowledge of having a persistent physical or psychological problem that is likely to have been caused or exacerbated by the substance.

Under the DSM-IV, "full remission" can be early or sustained. Early full remission means that for at least 1 month, but for less than 12 months, criteria for depen-

dence or abuse have not been met. Sustained full remission describes remission of 12 months or longer. Under the final clause of § 6.44(b)(4)(ii), therefore, if an individual has become dependent on a substance, that licensee should immediately refrain from operation of a crane and not return to crane operation until he has been in full remission for at least 1 month.

Licensees would also be subject to disciplinary action for violations of the act, the Board's regulations, fraud or deceit regarding licensure or crane operation, or conviction for a felony or crime of moral turpitude.

Insofar as the Controlled Substances, Drug, Device and Cosmetic Act is concerned, § 6.44(b)(8) provides that a licensee could also be disciplined for a violation that falls short of a conviction. This would include dispositions such as probation without verdict under Commonwealth law or similar provisions of other states.

Disciplinary action also could be based upon failure to adhere to applicable ASME standards, other accepted standards in the industry or with knowledge of conditions or circumstances that operation of the crane posed an unreasonable risk of harm. Normally, a prosecution for a violation of any of these three provisions would require the testimony of an expert to demonstrate the standard to be applied, or if an ASME standard or other industry standard were not applicable to the specific situation in question, expert testimony would be needed to establish why the conditions or circumstances made crane operation unsafe.

A licensee would also be subject to discipline for violation of a lawful order of the Board, or for failure to properly supervise a trainee as covered by the provisions of § 6.13.

Another ground for disciplinary action would be the failure to report an incident, condition or event as defined by § 6.42. The Board would also consider disciplinary sanctions for the failure to follow an OSHA safety standard or other applicable safety standard, regardless of whether the violation involved crane operation. Because crane operators also perform other jobs, including engineering work, construction supervision and operation of other heavy equipment, the possibility exists that a licensee may exhibit unsafe or reckless conduct outside of crane operation that may warrant disciplinary action.

Section 6.44(b)(16) regards convictions or violations for drunk driving and § 6.44(b)(17) regards to convictions or violations for criminal conduct that exhibits intentional or reckless conduct that poses a threat of bodily harm to others. In the Board's view, a person who has a history of unsafe behavior should be accountable for such conduct as a condition for the license to operate a crane.

The Board would also provide for the discipline of licensees for retaliatory conduct against others in § 6.44(b)(18). The language of this paragraph was modeled on Federal motor safety antiretaliation provisions for commercial truck drivers and on the Whistleblower Law (43 P.S. §§ 1421—1428). In addition, the Board notes that it believes that the Whistleblower Law would apply independently to persons who report violations of the act or the Board's regulations.

The Board's licensees may not retaliate against another person for four reasons. First, the Board wishes to protect its own licensees who refuse to operate a crane in violation of applicable standards. This provision would apply, for example, when a project superintendent or foreman is also a licensed crane operator and orders another licensed crane operator to violate applicable

crane standards. Second, the Board would prohibit retaliatory conduct committed by one of its licensees against another licensee who files a complaint or report of a safety violation, or who is a witness in a proceeding for a crane safety violation. Third, the Board would prohibit its licensees from retaliating against persons who are not licensed crane operators, but who work in some other integral role in the operation of cranes, such as a rigger, signalperson, inspector or related jobs. Fourth, the Board would sanction its licensees who retaliate against another person who performs a duty assigned or directed by a licensed crane operator, but who does so under duress or under protest. For this fourth violation to be found, the Board would need to make a determination that an individual performed a job as assigned or directed by a licensed crane operator, that the person had a bona fide belief that the operation was unsafe and that the individual sought corrective or remedial measures from the lift director but the request was denied.

Finally, the Board expressly recognizes affirmative defenses in several enumerated cases. When a licensee is charged with negligence, violation of ASME or industry standards, or general unsafe operations under § 6.44(b)(1), (9), (10) or (11), a licensee may plead and prove as an affirmative defense justifiable reliance upon the professional advice of a lift director or a site supervisor. The Board recognizes that a licensed crane operator shall exercise sound, independent judgment in the operation of a crane. However, both ASME standards and OSHA regulations recognize a hierarchy of responsibility in the field. The crane operator may rely upon the professional expertise of another person who holds a higher position in the hierarchy of responsibility, namely the lift director or the site supervisor.

The Board also recognizes that a crane operator may justifiably rely upon the advice of a licensed health care practitioner in determining one's fitness to work and operate a crane. The Board believes that the recognition of these two affirmative defenses will encourage licensees to consult with professionals and fully disclose their concerns about crane operations or their personal health issues to protect themselves against future disciplinary action. Furthermore, the Board believes that encouraging early disclosure and communication about potential problems will promote safety and resolve problems at an early stage.

Certifying Organizations

§ 6.51. Certifying organizations.

Under section 102 of the act (63 P.S. § 2400.102), the Board has been empowered by the General Assembly to designate organizations as certifying organizations. The statutory criteria include a requirement that the organization offer a testing and certification program that is equivalent to NCCCO, that it meet applicable requirements of ASME and that it be accredited by NCCA or ANSI.

Under this section, the Board provides that it will accept applications for approval as a certifying organization, and that the applications will be considered according to 1 Pa. Code Part II.

The Board considered several issues in drafting this proposed rulemaking. First, the Board noted that the General Assembly's legislative intent was expressed in terms of equivalence to NCCCO certification, which is, by statute, required to be recognized under the law. Notably, the General Assembly did not set forth a standard of comparability or similarity or other verbal standards that

might suggest a greater degree of latitude in the Board's approval of certifying organizations. The use of the term "equivalence" indicates the General Assembly's intent that the Board limit its approval to those other organizations that are point-by-point identical to NCCCO in relevant criteria, except for the fact of a separate corporate existence and control.

Accordingly, the Board examined carefully the criteria that apply to NCCCO and that would be relevant to setting an objective standard of equivalence. Those criteria are more fully discussed in §§ 6.52 and 6.53 (relating to application for approval as a certifying organization; and required and discretionary bases for disapproval of an application for approval as a certifying organization).

§ 6.52. Application for approval as a certifying organization.

In addition to the basic identifying information, the Board was concerned about the independence and integrity of the certifying process and the organizations that would issue certification. Notably, NCCCO is only a certifying organization. It does not train or educate people to be crane operators.

The Board considered this fact to be of great importance. Among the licensed professions and occupations, it is rare for a single organization to train or educate individuals, and then assume responsibility for determining whether they should be certified or licensed. The Board believes that the combination of those functions constitutes a conflict of interest.

A business entity or other organization that charges substantial fees to provide a course of education or training would have an interest in skewing the testing process to gain higher pass rates. Clearly, there is a marketing advantage to be gained if an entity can advertise that the graduates of its program or course of study have a higher pass rate. The temptation to manipulate or game the system to gain that advantage is too great to be ignored. The Board believes that the obvious existence of a conflict of interest explains why most licensing bodies keep those functions distinct.

For that reason, the Board requires that an applicant for approval as a certifying organization identify its affiliated corporations or organizations. The Board would not approve as a certifying organization a corporation which owns, or is owned by, a company that owns a training program. The Board does not believe that an applicant with a substantial interest in a training or education program should be permitted to circumvent the barriers against a conflict of interest by forming a shell organization to perform certification. Accordingly, in § 6.52(a)(5)–(7), the Board requires detailed information regarding affiliated corporations or organizations so that potential conflicts of interest may be evaluated.

The Board requires the applicant to identify its accreditations with ANSI and NCCA in § 6.52(a)(8). The Board requires the applicant to provide a narrative description of its testing and certification program in § 6.52(a)(9). The Board noted that NCCCO has entered into a voluntary agreement with OSHA recognizing NCCCO as a certifying organization. In light of the importance of OSHA as a regulatory body in this field, the Board considered this factor to be relevant in determining equivalence. See § 6.52(a)(10).

An organization need not be approved to certify crane operators for all types of cranes under the Board's jurisdiction. Therefore, the Board requires that the applicant specify what ASME standards it is requesting ap-

proval to certify in § 6.52(a)(11). The Board also notes that NCCCO certifies other occupations besides crane operators, including signalpersons and riggers. Therefore, in § 6.52(a)(12), the Board requires that the applicant identify other crane-related certifications that it offers.

Finally, the Board requires that the applicant make an unsworn verification of its application and state that it is equivalent to the testing and certification used by NCCCO, and that the applicant report any disciplinary actions, judgments or civil or criminal actions against it or its affiliated organizations in another state. The Board believes that in performing its function to approve certifying organizations, it has a duty to protect prospective licensees from organizations with a history of unfair or deceptive practices or conduct in other states, and that this history would be grounds for disapproval.

The Board also requires the applicant to attach supporting documentation to the application and to pay the requisite fee.

§ 6.53. Required and discretionary bases for disapproval of an application for approval as a certifying organization.

The Board distinguished between required and discretionary bases for disapproval of an application to be a certifying organization. In the Board's judgment, there are several criteria that automatically disqualify an applicant asserting equivalence to NCCCO. Those factors include the failure to possess both ANSI and NCCA accreditation, the absence of a voluntary agreement with OSHA, the absence of an affiliation with a program of education or training in crane operation, the failure to verify the averments in the application, or a material statement on the application that the applicant knows or has reason to know is false.

The failure to verify the application or the inclusion of a material false statement require no further justification for inclusion. With respect to accreditation, the Board noted that when the act was introduced in the General Assembly, NCCCO had been accredited by NCCA, but not by ANSI. However, NCCCO earned ANSI accreditation by September 2007, a little more than 1 year before final passage of Act 100.

The Board considered the statutory language of the definition of "certification." The first principle of the definition is equivalency with NCCCO. At the time of the initial drafting of the bill, either form of accreditation would have satisfied the equivalency test because NCCCO only had been accredited by NCCA and ANSI accreditation actually exceeds or is superior to NCCA accreditation.

The Board came to this conclusion after examining the accrediting processes of each organization. NCCA bases its accreditation entirely upon a documentary submission. It does not conduct a site visit to independently verify or confirm the statements made by an organization seeking accreditation. In contrast, ANSI conducts an onsite assessment and is the only personnel accreditation organization that meets nationally accepted practices for accreditation bodies. In addition, the process used by ANSI to accredit certification bodies is based on an international standard (ISO/IEC 17011).

While NCCA is recognized as an accrediting body, the Board concluded that its standards are minimal. In contrast, certification that has been accredited by ANSI can be recognized internationally. The Board determined that the General Assembly intended to provide crane operators licensed in this Commonwealth with a competi-

tive advantage in the global marketplace by assuring that their license would be consistent with international standards of personnel certification.

Based upon this reasoning, the Board concluded that the equivalency test could only be satisfied by possessing both forms of accreditation.

In consideration of the primacy of the anticipated OSHA regulations, the Board concluded that a voluntary OSHA agreement was also an indispensable and objective criterion by which to measure equivalency. Since NCCCO's voluntary agreement with OSHA was expressly predicated in part on the independence of NCCCO from training or education programs, the Board also deemed that factor to be essential. The Board believes that approval of organizations which offer a certification certain to be accepted by OSHA as a valid form of certification protects the public, as well as licensees, by assuring that the certification that the individual acquires will be accepted in the marketplace.

The Board determined that there may be other grounds in which the weight of evidence may need to be considered to make a determination of equivalency. If the Board found evidence that the applicant was not independent of a training or education program, even though it did not have an interlocking corporate organization of the sort described in § 6.52(a)(5)–(7), then the Board would disapprove the application. For example, an applicant that had an exclusive contractual relationship to test and certify candidates from a separate organization that trains and educates crane operators may rise to the level of a conflict of interest that violates the need for independence.

Another example of a lack of independence may arise when a certifying organization and a training organization may not have common ownership or a corporate affiliation, but the principals of the two organizations are members of the same immediate family or have other common enterprises or commercial relationships. In these cases, the Board would need to evaluate evidence to determine whether the organizations do, in fact, act independently and have no conflict of interest.

The Board would also evaluate on a case by case basis each applicant with a history of administrative, civil or criminal actions. Minor or isolated infractions would not be sufficient, in the Board's judgment, to warrant disapproval. However, if the history is serious enough, or if there is a pattern of repeated violations, the Board would rely upon such evidentiary findings to base its disapproval.

Finally, if all of the other factors have been satisfied, but the weight of other evidence supports a finding that the applicant does not offer a program of testing and certification that is equivalent to NCCCO, then the Board may disapprove the application. The Board anticipates that this basis for disapproval would be limited to a small number of cases. These cases might include, for example, those in which the Commonwealth has challenged with expert testimony the validity of the applicant's psychometrics for its assessment instruments or the Commonwealth has challenged the validity of the applicant's disciplinary or complaints processes. If the Commonwealth offered evidence demonstrating that these types of components were not valid or performed in good faith, then the Board may, based upon findings of fact supported by substantial evidence, disapprove those applications.

§ 6.54. Determination of application for approval as a certifying organization.

The Board spelled out in § 6.54 the procedures by which an application will be evaluated. The Board anticipates that the initial determination of completeness will be made by administrative staff. When an application is incomplete, the Board, through its staff, will make a preliminary determination as to whether there are factors on the face of the application that would automatically disqualify the applicant from approval as a certifying organization. When the application is incomplete and includes criteria that would disqualify the applicant, the Board would notify the applicant of a disapproval, the grounds for disapproval and provide the applicant with notice of the right to a hearing before the Board and the opportunity to supplement the application and cure defects.

When the application is incomplete, but does not appear to have grounds for automatic disapproval, then the Board, through its staff, would notify the applicant of the deficiencies and advise the applicant of the right to supplement the application within 30 days.

When the application is complete, or the applicant has not elected to supplement the application, the Board, through its staff, will forward the application to a third party professional evaluator, to independently evaluate and review the application for equivalency to NCCCO. The independent evaluation would be completed within 60 days, and the evaluator would provide the Board and the applicant with a written report of the findings. The Board anticipates soliciting a request for proposals for this service and issuing a contract to a private contractor.

Upon receipt and review of the independent evaluation, the Board would then make a determination to approve, schedule a hearing or provisionally deny the application. The provisional denial of an application would trigger a notice to the applicant of a right to request a hearing, and if the applicant exercised that right, the Board would schedule a hearing.

After an evidentiary hearing the Board could grant the application in whole or in part, or sustain the disapproval. The applicant would have the burden of proving by substantial evidence that the program is equivalent to NCCCO. The Commonwealth, consistent with the earlier discussion of discretionary and required grounds for disapproval in § 6.53, would be able to offer evidence contradicting the applicant's case. Upon review of the record, the Board would enter findings of fact based upon the weight of evidence offered by the applicant and the Commonwealth.

When the applicant who has received a provisional denial has not exercised the right to a hearing, a final order will be entered disapproving the application. An applicant is not limited in the frequency or number of applications that it submits.

§ 6.55. Order granting an application for approval as a certifying organization.

The act does not authorize the Board to license certifying organizations, but only to grant approval. The Board's interpretation of the act is that once approved, a certifying organization remains approved indefinitely until it relinquishes its approval voluntarily or circumstances change and it is no longer equivalent to NCCCO.

For this reason, the Board enumerated in detail the contents of orders granting approval in § 6.55(a)(1)–(5),

including the conditions on which approval of the organization is based, and which, if changed, would trigger disqualification.

These conditions of approval include the organization's accreditation with ANSI and NCCA, a condition of voluntary relinquishment of its authority to certify in the event of a loss of accreditation, a requirement of ongoing submission of future accreditation by ANSI and NCCA and a limitation prohibiting the transfer of the approval to another organization. The proposed rulemaking provides that the approval ceases to be effective by operation of law upon the violation of any of these latter requirements.

§ 6.56. Petition to terminate approval as a certifying organization.

For the same reasons stated in the preceding section, the Board included a procedure for the Commonwealth to terminate the approval of a certifying organization. The grounds for termination are limited.

The Commonwealth may petition to terminate approval when the Commonwealth has a reasonable basis to assert that the certifying organization no longer satisfies the conditions in § 6.55 or made a material misrepresentation of fact that was not known to the Commonwealth at the time of approval of the application.

When the Commonwealth has reason to believe that the certifying organization is no longer a viable functioning entity because of dissolution, bankruptcy, merger and acquisition, or other similar reasons, the Board does not want the approval of this organization to remain on the record. Therefore, the Commonwealth may seek termination of the approval under those circumstances. Also, the Commonwealth may petition to terminate approval of a certifying organization that is no longer independent of a training and education program, and which holds a conflict of interest as a result of that loss of independence.

Section 6.56(b) provides for procedures to be followed by the Commonwealth in petitioning for termination and specifies that if an immediate suspension is required, then the Commonwealth will set forth facts demonstrating an immediate risk of harm. The proposed rulemaking also provides for an answer to the petition to be filed within 20 days, followed by a hearing, and, if successful, the authority to levy the costs of investigation in support of a petition.

Fiscal Impact and Paperwork Requirements

The proposed rulemaking should have no adverse fiscal impact on the Commonwealth, its political subdivisions or the private sector. The proposed rulemaking does impose additional paperwork requirements upon the Commonwealth and the private sector, but those costs are consistent with and in furtherance of the act.

Sunset Date

The Board continuously monitors the cost effectiveness of its regulations. Therefore, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on May 25, 2010, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the SCP/PLC and the House Professional Licensure Committee (HPLC). A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Regulatory Unit Counsel, Department of State, P. O. Box 2649, Harrisburg, PA 17105-2649, RA-CRANEOPERATORS@state.pa.us within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference No. 16A-7101 (Initial General Rulemaking) when submitting comments.

ANTHONY J. LUSI, Jr.,
Chairperson

Fiscal Note: 16A-7101. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 6. STATE BOARD OF CRANE OPERATORS

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CERTIFYING ORGANIZATIONS

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GENERAL PROVISIONS

§ 6.1. Findings and purpose.

(a) The Board finds that:

(1) The improper operation of a crane may cause a catastrophic event on a work site, resulting in fatality, other bodily harm and property damage.

(2) Although any machine or man-made activity may cause fatality, other bodily harm or property damage, the magnitude of the loads borne by cranes, the associated tension and stress on structural elements of cranes, the motor power required to operate winches, the mobility of cranes and other factors that are peculiar to cranes, lead to exceptional hazards and risk of harm arising from crane operation that warrant additional regulation by the Commonwealth.

(3) Operator error is a significant cause of bodily harm and property damage arising from the use of cranes.

(4) A uniform standard of testing, certification and licensure as a prerequisite to admission to the occupation of crane operator is necessary to reduce the incidence of error and promote a higher degree of conformity to safe crane operation.

(5) Reduction of crane-related incidents will save lives, reduce bodily injury to the public and construction workers, reduce property damage, increase efficiency and raise productivity of businesses in this Commonwealth.

(b) The Board promulgates the regulations in this chapter to:

(1) Protect people from bodily harm by reducing the incidence of operator error through a process of objectively measured testing, certification and licensure as a prerequisite to admission to the occupation of crane operator.

(2) Protect people from bodily harm by establishing standards of conduct applied to crane operators in order to restrict or remove from the occupation of crane operation those persons proved to have engaged in conduct, habits, behavior or judgment that has caused bodily harm or is reasonably likely to create an unreasonable risk of harm in the future.

(3) Protect crane operators and trainees from undue influence to engage in unsafe practices.

(4) Protect crane operators and trainees from unfair practices in the process of certification or recertification.

(5) Promote competitiveness and economic efficiency in the crane industry without impairing safety, training or certification.

§ 6.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

ANSI—The American National Standards Institute.

ASME—The American Society of Mechanical Engineers.

Act—The Crane Operator Licensure Act (63 P. S. §§ 2400.101—2400.2103).

Board—The State Board of Crane Operators.

Certification—Certification from the National Commission for the Certification of Crane Operators, or another organization found by the Board to offer:

(i) A testing and certification program equivalent to National Commission for the Certification of Crane Operators and meeting the applicable requirements of ASME B30.

(ii) The accreditation requirements of the National Commission for Certifying Agencies and ANSI.

Certifying organization—The National Commission for the Certification of Crane Operators, or another organization approved by the Board to issue certification.

Coal mining or coal mining operations—The extraction of bituminous coal, lignite or anthracite from natural deposits in nonliquid form, or if in liquid form, with workers underground, by any means or method, and the work of preparing coal so extracted.

Commissioner—The Commissioner of Professional and Occupational Affairs within the Department.

Conviction—

(i) An ascertainment of guilt of the accused and judgment thereon by a court, and includes a disposition of a criminal proceeding under Pennsylvania law, or any similar disposition under the laws of another jurisdiction, by a plea of guilty, guilty but mentally ill, or nolo contendere; or a verdict of guilty, or guilty but mentally ill.

(ii) “Conviction” does not include an adjudication of delinquency under 42 Pa.C.S. Chapter 63 (relating to Juvenile Act).

Crane—A power-operated hoisting machine that has a power-operated winch, load line and boom moving laterally by the rotation of the machine on a carrier or base which has a manufacturer’s rated maximum lifting capacity of 15 tons or more as specified in ASME Volumes B 30.3, B 30.4, and B 30.5, and any successor volumes.

(i) The term includes:

(A) A derrick.

(B) A crawler crane.

(C) A wheel-mounted crane of both truck and self-propelled wheel type.

(D) A tower crane, which has a manufacturer’s rated maximum lifting capacity of 10 meter tons or more, as specified in the applicable ASME B30 volume.

(ii) The term does not include:

(A) A crane or drag line used in coal mining operations.

(B) A forklift.

(C) A digger derrick truck.

(D) An aircraft.

(E) A bucket truck.

(F) A vehicle or machine not having a power-operated winch.

(G) A tow truck or wrecking crane when used for towing or vehicle recovery.

(H) A locomotive crane.

(I) A crane used in longshore operations or other intermodal operations.

(J) A crane used in manufacturing applications.

Crane operator—An individual licensed by the Board to operate a crane.

Department—The Department of State of the Commonwealth.

Engage in the operation of a crane or operate a crane—To perform a physical function related to the activation or movement of a crane, and encompassing the use and manipulation of the control mechanisms that direct the movement and hoisting functions of a crane.

Immediate supervision—Circumstances in which the crane operator is in the immediate area of the trainee, within visual sighting distance and able to effectively communicate with the trainee.

Lift director—An individual who directly oversees the work being performed by a crane.

Longshore operations—

(i) Receiving, handling, holding, consolidation, loading or delivery of waterborne shipments at a marine terminal as that term is defined in 29 CFR 1917.2 (relating to definitions).

(ii) The term does not include:

(A) The construction, alteration, service, repair or improvement of real estate appurtenant to a marine terminal.

(B) The repair, service or installation of tangible personal property appurtenant to a marine terminal.

(C) The assembly, fabrication, installation or arrangement of parts or components of a machine, fixture, transportation improvement to real estate, or building, whether for the purpose of a fitting, adjustment, refinement or test as a temporary or preliminary condition; or as a final, permanent or completed work or product.

Manufacturing application or manufacturing or manufacture—

(i) The performance of manufacturing, fabricating, compounding, processing or other operations, engaged in as a business, which place any tangible personal property in a form, composition or character different from that in which it is acquired whether for sale or use by the manufacturer.

(ii) The term includes, every operation commencing with the first production stage and ending with the completion of tangible personal property having the physical qualities (including packaging, if any, passing to the ultimate consumer) which it has when transferred by the manufacturer to another.

(iii) The terms “manufacturing application,” “manufacturing” or “manufacture” do not include:

(A) The construction, alteration, service, repair or improvement of real estate.

(B) The repair, service or installation of tangible personal property.

(C) The assembly, fabrication, installation or arrangement of parts or components of a machine, fixture, transportation improvement to real estate or building, whether for the purpose of a fitting, adjustment, refinement or test as a temporary or preliminary condition; or as a final, permanent or completed work or product.

NCCA—National Commission for Certifying Agencies.

NCCCO—National Commission for the Certification of Crane Operators.

Other intermodal operations or intermodal operations or intermodal services—

(i) Receiving, handling, holding, consolidation, loading or delivery of an intermodal container, as defined in 29 CFR 1917.2, at a facility other than a marine terminal.

(ii) The term does not include:

(A) The construction, alteration, service, repair or improvement of real estate appurtenant to a railroad or trucking terminal.

(B) The repair, service or installation of tangible personal property appurtenant to a railroad or trucking terminal.

(C) The assembly, fabrication, installation, or arrangement of parts or components of a machine, fixture, transportation improvement to real estate or building, whether for the purpose of a fitting, adjustment, refinement or test as a temporary or preliminary condition; or as a final, permanent or completed work or product.

OSHA—The United States Occupational Safety and Health Administration.

Trainee—An individual who has not been issued a license under this act or obtained certification but who is authorized to operate a crane as set forth in section 501(c) of the act (63 P.S. § 2400.501(c)), and § 6.13 (relating to qualifications and supervision of trainees) when under the immediate supervision of a crane operator.

Work of preparing the coal—

(i) The breaking, crushing, sizing, cleaning, washing, drying, mixing, storing and loading of bituminous coal, lignite or anthracite, and such other work of preparing the coal as is usually done by the operator of a coal mine.

(ii) The term does not include:

(A) The construction, alteration, service, repair or improvement of real estate appurtenant to a coal mine.

(B) The repair, service or installation of tangible personal property appurtenant to a coal mine.

(C) The assembly, fabrication, installation or arrangement of parts or components of a machine, fixture, transportation improvement to a coal mine or building, whether for the purpose of a fitting, adjustment, refinement or test as a temporary or preliminary condition; or as final, permanent or completed work or product.

§ 6.3. Applicability of general rules.

Under 1 Pa. Code § 31.1 (relating to scope of part), 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure), is applicable to the activities of and proceedings before the Board, and the Board may exercise the powers, remedies, or procedures prescribed therein.

§ 6.4. Fees.

(a) The schedule of fees charged by the Board is as follows:

Initial licensing application fee:	\$100
Biennial renewal fee:	\$100
Verification of Licensure:	\$15
Addition of crane specialty:	\$70
Application for certifying organization:	\$1,000
Trainee registration fee:	\$100

(b) Fees must accompany applications and be made payable to “Commonwealth of Pennsylvania.”

LICENSURE**§ 6.11. General requirements.**

(a) An individual who engages in the operation of a crane in this Commonwealth shall be licensed by the Board, or shall be authorized to operate a crane as a trainee.

(b) An individual who holds a license as a crane operator shall have the right to use the title "Licensed Crane Operator" and the abbreviation "L.C.O."

(c) To qualify as a candidate for licensure, the applicant shall:

- (1) Be 18 years of age or older.
- (2) Be of good moral character.

(3) Present satisfactory evidence to the Board that the applicant possesses a current certification, or qualifies for licensure without certification under section 506 of the act (63 P. S. § 2400.506).

(4) Aver subject to penalties for unsworn falsification to authorities under 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities), that the applicant has been examined by a physician and determined to be physically capable of operating a crane.

(5) Pay all requisite fees.

(d) Felony convictions under The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144), or an offense under the laws of another jurisdiction which if committed in this Commonwealth would be a felony under The Controlled Substance, Drug, Device and Cosmetic Act, will preclude an applicant from obtaining or maintaining a license to operate a crane unless:

(1) At least 10 years have elapsed from the date of conviction.

(2) The individual satisfactorily demonstrates to the Board that the individual has made significant progress in personal rehabilitation since the conviction such that licensure of the individual should not be expected to create a substantial risk of harm to the health and safety of crane operators, trainees or the public or a substantial risk of further criminal violations.

(3) The individual otherwise satisfies the qualifications provided in the act and this chapter.

(4) The Board will evaluate an individual's progress in personal rehabilitation from the totality of the circumstances, including, but not limited to, the individual's entire criminal history, employment history, the severity and frequency of past criminal history, whether and for how long the individual has abstained from substance abuse, refrained from tortious or criminal conduct, made restitution or compensation, followed a course of treatment and therapy, completed a program of education, offers testimony from other persons of the individual's good character, and practices an ongoing commitment to recovery.

(e) An applicant who has a conviction described in subsection (d) shall report the conviction on a form prescribed by the Board, and attach documentary evidence in support of the factors identified in subsection (d)(1), (2) and (4).

§ 6.12. Certification.

(a) A crane operator's license obtained by certification will be valid only in conjunction with a current certification in the specialty for which the crane operator has been certified.

(b) Proof of certification must include a copy of written and practical examination scores as provided to the applicant by a certifying organization, and a waiver for the certifying organization to release the licensee's certification status and recertification scores to the Board.

(c) A license shall authorize the licensee to operate only the type of crane for which the individual holds a valid certification, and will not be construed as a general license to operate any crane type or to perform any or all activities related to crane operation.

(d) A person who possesses a certification may not apply for licensure without certification under §§ 6.21—6.23 (relating to licensure without certification).

(e) An individual who acquires certification after October 9, 2010, may not operate a crane as a trainee for a period of more than 90 days from the date of certification, unless granted leave by the Board to operate a crane as a trainee for an additional period of 90 days while an application for licensure is pending before the Board.

§ 6.13. Qualifications and supervision of trainees.

(a) A trainee may operate a crane in this Commonwealth for purposes of acquiring the experience necessary to obtain certification subject to the act and this chapter.

(b) A trainee may only operate a crane, or engage in crane operations, if:

(1) The trainee is under the immediate supervision of a crane operator.

(2) The trainee has satisfied applicable ASME standards for trainee qualification requirements as more fully set forth in the applicable ASME volumes for the type of crane for which the trainee is being trained and supervised, and trainee requirements prescribed by OSHA regulations.

(c) A trainee must be 18 years of age or older and demonstrate to the satisfaction of the crane operator providing immediate supervision and the person employing the crane operator providing immediate supervision, that the trainee is physically capable of operating a crane.

(d) A trainee shall register on a form prescribed by the Board, and attach documentary evidence of a passing score on a written examination administered by a certifying organization.

(e) A trainee may only be authorized to act as a trainee when in possession of written authorization issued in a form prescribed by the Board, and the authorization will only be valid for 1 year from the date of passing the written examination.

(f) A crane operator who immediately supervises a trainee shall perform the duties for supervision of trainees set forth in the ASME volume applicable to the type of crane that is the subject of operation by the trainee, and requirements prescribed by OSHA regulations.

(g) When providing immediate supervision of a trainee pursuant to this section, a crane operator may not have other duties, and shall supervise only one trainee at any time.

(h) A crane operator may not accept a duty to supervise a trainee unless the crane operator possesses sufficient competence and experience to safely supervise the trainee for the specific operation or task to be undertaken by the trainee.

§ 6.14. Specialties.

(a) The following types of cranes shall require specialty licenses from the Board:

- (1) Tower cranes.
- (2) Lattice boom crawlers.
- (3) Lattice boom trucks.
- (4) Telescopic boom cranes with a rotating control station.
- (5) Telescopic boom cranes with a fixed control station.

(b) A license to operate a crane shall be valid only in conjunction with certification if the licensee maintains a current certification in the specialty for which the crane operator is certified.

§ 6.15. Licensure of a crane operator from another jurisdiction.

(a) The Board may issue a license to an individual who has licensure or its equivalent as a crane operator in any other state or territory of the United States or the Dominion of Canada if the individual is 18 years of age or older, of good moral character, currently certified by a certifying organization and has paid all requisite fees.

(b) A crane operator or an applicant for licensure as a crane operator shall report the following to the Board:

(1) Any license held by the individual to operate a crane in another jurisdiction on the original application and on the biennial renewal application.

(2) Any disciplinary action in another jurisdiction on the biennial registration, or within 30 days of the final disposition, whichever is sooner. For purposes of this section, final disposition means a disposition by a governmental agency levying a monetary penalty, reprimanding the individual, restricting the individual's license, or otherwise adversely affecting the individual's property interest in the license, and which is appealable under the laws of the jurisdiction where the disposition has been entered.

(c) The Board will note an individual's licensure held in other jurisdictions in the crane operator's record.

(d) The Board will issue written notice to other jurisdictions of the final disposition of any disciplinary action commenced in this Commonwealth.

LICENSURE WITHOUT CERTIFICATION**§ 6.21. Licensure without certification generally.**

(a) The Board will accept applications to grant to individuals a license without certification until December 9, 2011, subject to the provisions of this section and §§ 6.22 and 6.23 (relating to licensure without certification by practical examination; and licensure without certification by experience).

(b) To qualify for a license without certification the applicant shall:

- (1) Be at least 18 years old.
- (2) Be of good moral character.
- (3) Pay all requisite fees.
- (4) Satisfy the requirements of § 6.22 or § 6.23.
- (5) Be without any valid certification.

(c) A crane operator's license obtained without certification will be valid only in conjunction with a current and valid photo identification issued by a governmental agency.

§ 6.22. Licensure without certification by practical examination.

(a) An individual who applies for a license without certification under section 506 of the act (63 P.S. § 2400.506) and who satisfies the requirements of § 6.21(b)(1), (2) and (3) (relating to licensure without certification generally) may elect to qualify for a license without certification by a practical examination administered by NCCCO.

(b) An applicant seeking to qualify for a license without certification under this section shall submit with the application for licensure a copy of the practical examination score as provided by NCCCO and shall pay the declaration fee set forth in § 6.4 (relating to fees).

(c) An applicant for a license without certification under this section may be eligible only for a license in the specialty for which the applicant has passed a practical examination administered by NCCCO.

(d) An applicant for a license without certification under this section shall submit with the application an averment that the applicant has been examined by a physician and successfully passed an examination that satisfies the requirements of ASME Volume B 30.5.

(e) An applicant for a license without certification under this section shall submit with the application documentation of the results of any assessment administered within the 2 years prior to the date of application by a program of operator qualification and certification satisfying the requirements of 29 CFR Part 1926 (relating to safety and health regulations for construction).

(f) In lieu of certification, with a license without certification the Board will issue a declaration specifying the specialty crane for which the licensee has qualified and for which the applicant has passed a practical examination administered by NCCCO, and limiting the types of cranes that the holder of a license without certification by practical examination may operate.

(g) A license without certification under this section will only be valid in conjunction with the declaration in subsection (f).

§ 6.23. Licensure without certification by experience.

(a) An individual who applies for a license without certification under section 506 of the act (63 P.S. § 2400.506) and who satisfies the requirements of § 6.21(b)(1), (2) and (3) (relating to licensure without certification generally) may elect to qualify for a license without certification by submitting acceptable documentation of 5 or more years of experience immediately preceding the date of application for licensure demonstrating to the Board's satisfaction the applicant's competency to safely operate the type of crane for which the applicant seeks a license, and payment of the requisite declaration fee.

(b) Acceptable documentation consists of:

(1) Each Internal Revenue Service Form W-2 (Wage and Tax Statement) and Internal Revenue Service Form 1099 issued to the applicant for the 5 calendar years prior to the year of application for which the applicant received compensation as a crane operator.

(2) A record of the applicant's experience on a form prescribed by the Board, listing each project in which the applicant operated a crane, or engaged in the operation of

a crane including no less than 5,000 hours of work during a period of 5 years immediately preceding the date of application for licensure.

(c) The record of the applicant's experience must identify:

(1) The name and business address of the prime contractor or other person who employed or engaged the services of the applicant.

(2) Whether the applicant worked as an employee or independent contractor on the project.

(3) The location of the project.

(4) The type of crane operated.

(5) Whether an incident occurred in the operation of the crane resulting in disability to an individual in excess of the working shift or turn in which the injury was received.

(6) The number of hours worked on the project engaged in the operation of a crane.

(7) If the applicant worked as an independent contractor in the operation of a crane at any time during the 5 years prior to the date of application, a certificate of insurance for each insurer who issued a policy of comprehensive general liability insurance to the applicant.

(d) An applicant for a license without certification under this section may be eligible only for a license in the specialty for which the applicant has submitted acceptable documentation.

(e) An applicant for a license without certification under this section shall submit with the application an averment that the applicant has been examined by a physician and successfully passed an examination that satisfies the requirements of ASME Volume B 30.5.

(f) An applicant for a license without certification under this section shall submit with the application documentation of the results of any assessment administered within the 2 years prior to the date of application by a program of operator qualification and certification satisfying the requirements of 29 CFR Part 1926 (relating to safety and health organizations for construction).

(g) In lieu of certification, with a license without certification under this section the Board will issue a declaration specifying the specialty crane for which the licensee has qualified with at least 1,000 hours and for which the applicant has submitted acceptable documentation, and limiting the types of cranes that the holder of a license without certification by experience may operate.

(h) A license without certification under this section shall only be valid in conjunction with the declaration in subsection (g).

RENEWAL OF LICENSE

§ 6.31. Duration of license.

(a) A licensee shall register each biennial period to retain the right to operate a crane.

(b) Licensure is valid throughout this Commonwealth, is not assignable or transferable, and is valid until the last date of the biennial licensure period.

§ 6.32. Renewal of license.

(a) Application for renewal of a license with certification must be made on forms provided by the Board, and include:

(1) Proof of current, valid certification issued by a certifying organization.

(2) An indication whether certification will expire before the biennial renewal cycle will expire. In the case of a licensee applying for renewal of license where certification will expire before the biennial renewal cycle will expire, the licensee shall submit to the board before the expiration of the certification, evidence that the licensee has renewed certification consisting of proof of recertification. Failure to maintain certification, or to submit evidence of renewal of certification before the expiration date of certification will subject the licensee to disciplinary action.

(3) A waiver for the certifying organization to release the licensee's certification status and recertification scores to the Board.

(4) An averment that the licensee has been examined by a physician and successfully passed an examination that satisfies the requirements of ASME Volume B 30.5.

(b) Application for renewal of a license without certification by practical examination issued originally under § 6.22 (relating to licensure without certification by practical examination) must be made on forms provided by the Board, and include:

(1) Proof of a passing score on a practical examination administered by NCCCO during the 2-year period immediately preceding the date of the application for renewal.

(2) An averment that the applicant has been examined by a physician and successfully passed an examination that satisfies the requirements of ASME Volume B 30.5.

(3) The results of any assessment administered after the commencement of the previous biennial period of licensure by a program of operator qualification and certification satisfying the requirements of 29 CFR Part 1926 (relating to safety and health regulations for construction).

(c) Application for renewal of a license without certification by experience issued originally under § 6.23 (relating to licensure without certification by experience) must be made on forms provided by the Board, and include:

(1) A record of the applicant's work experience in the form provided under § 6.23(c) demonstrating 2,000 hours of experience during the 2-year period immediately preceding the date of application for renewal.

(2) An averment that the applicant has been examined by a physician and successfully passed an examination that satisfies the requirements of ASME Volume B 30.5.

(3) The results of any assessment administered after the commencement of the previous biennial period of licensure by a program of operator qualification and certification satisfying the requirements of 29 CFR Part 1926.

(d) The application for renewal must be received by the Board with the required biennial renewal fee before the expiration of the previous biennial registration period.

(e) Renewal of a license without certification under § 6.22 or § 6.23 may be denied for any individual who has been administered an assessment by a program of operator qualification and certification satisfying the requirements of 29 CFR Part 1926, and who has failed the assessment and who has not subsequently obtained a passing score in the same assessment or another assessment that meets the requirements of 29 CFR Part 1926.

§ 6.33. Initiating and terminating inactive status.

(a) An individual holding a license with certification may request an application for inactive status from the Board.

(b) An individual holding a license without certification issued originally under § 6.22 or § 6.23 (relating to licensure without certification by practical examination; and licensure without certification by experience) may request inactive status for a period not to exceed 5 years less 1 day.

(c) The license will be maintained on inactive status without fee and the individual shall be entitled to apply for a license reactivation at any time.

(d) An individual who applies to reactivate a license that has been placed on inactive status for a period of 5 consecutive years or more shall, prior to receiving an active license, submit satisfactory evidence of current certification and remit the required fee.

§ 6.34. Licensee's change of name or address; service of process and legal papers.

(a) A licensee's name on file with the Board shall be the name that appears on the license unless that name is legally changed, in which case the licensee shall report the change and the reason for the change to the Board in writing within 10 days.

(b) A licensee who changes an address on file with the Board shall notify the Board in writing within 10 days. Licensees who do not comply with this subsection shall bear full responsibility for failure to receive correspondence from the Board, including biennial renewal notifications.

(c) A licensee's most recent name and address on file with the Board shall be deemed the licensee's official name and address for the purposes of service of process and other legal papers.

DISCIPLINARY ACTIONS

§ 6.41. Unlicensed crane operation.

(a) An individual may not operate a crane, offer one's services as a crane operator or hold oneself out as a crane operator unless licensed by the Board.

(b) A person who is not licensed by the Board offers services as a crane operator, or holds oneself out as a crane operator by:

(1) Express words or conduct that the individual is a licensed crane operator.

(2) A failure to disclose that the individual does not possess a license to operate a crane, under circumstances which would require a license.

(3) Words or conduct that the person offering services as a crane operator or holding out as a crane operator has reason to know would cause a third person to reasonably believe that the individual uttering the words or engaging in the conduct is a crane operator, holds a license as a crane operator, or possesses the skill, knowledge, authority or expertise to operate a crane.

§ 6.42. Impaired operation of a crane and reportable conditions, incidents or events.

(a) A crane operator or trainee may not operate a crane if, by reason of physical or mental impairment, the crane operator or trainee cannot reasonably be expected to operate a crane safely or engage in the operation of a crane safely.

(b) A crane operator or trainee shall report to the lift director of the crane which the crane operator or trainee has been employed to operate, or has been retained to operate as an independent contractor, any physical or

mental impairment that may reasonably be expected to affect the operation of a crane.

(c) If, in addition to acting as the crane operator, the licensee fulfills the function of a lift director, or another role required under applicable ASME B30 volumes, the crane operator shall report to a responsible person, such as the property owner, prime contractor, project manager, project superintendent or other person in charge of the premises on which the crane shall be operated, any physical or mental impairment that may reasonably be expected to affect the operation of a crane.

(d) If a crane operator or trainee files a claim for workers' compensation, Social Security Disability, or for disability benefits under any other policy or program, or commences an action seeking compensation for personal injuries, the crane operator or trainee shall, contemporaneously with the commencement of the claim or action, provide the Board with a copy of the document commencing the claim or action.

(e) If a crane operator or trainee obtains a diagnosis or opinion from a licensed health care practitioner that the crane operator or trainee is subject to a physical, mental or other condition lasting more than 30 days and that may reasonably be expected to affect the operation of a crane, the crane operator or trainee shall notify the Board, in writing within 10 days, of the name of the licensed health care practitioner who provided the opinion, the condition or impairment that has been diagnosed or the opinion that has been rendered, and the prognosis for the condition.

(f) A crane operator shall report in writing to the Board criminal proceedings in a court case against the crane operator within 10 days of the institution of the criminal proceedings. The written report of criminal proceedings under this subsection must include the jurisdiction in which the proceedings have been instituted, the docket number, offense tracking number or other number identifying the criminal proceeding, and the offense or offenses with which the crane operator has been charged. A court case means a case in which one or more of the offenses charged is a misdemeanor, felony, or murder of the first, second, or third degree.

(g) An individual will not be authorized to operate a crane as a trainee if criminal proceedings in a court case have been instituted against that person, unless the individual has petitioned the Board for leave to be authorized to act as a trainee, and the Board has granted the person's petition.

§ 6.43. Aiding and abetting unlicensed crane operation.

(a) Except as provided in § 6.13 (relating to qualifications and supervision of trainees), an individual, corporation, partnership, firm or other entity may not:

(1) Employ an unlicensed individual to operate a crane.

(2) Allow or direct an unlicensed individual to operate a crane.

(3) Retain or hire an unlicensed individual as an independent contractor to operate a crane.

(b) If an individual, corporation, partnership, firm or other entity has been found by the Board on three or more occasions during a 4-year period to have violated subsection (a), the Board may declare the individual, corporation, partnership, firm or other entity to be a chronic aider and abettor of unlicensed crane operation.

(c) The Board may bar all crane operators from accepting employment, or accepting retention as an independent contractor with a chronic aider and abettor of unlicensed crane operation.

(d) An entity which has been declared a chronic aider and abettor of unlicensed crane operation may petition the Board 1 year after being barred to request that the bar be removed.

(e) The Board may impose restrictions on licensees, demand posting of a bond or other security by the petitioner, or place other restrictions on the petitioner to assure future compliance.

§ 6.44. Standards of conduct, disciplinary action, suspension and revocation.

(a) The Board may levy a civil penalty, impose costs of investigation, or refuse, restrict, suspend or revoke a license if the Board finds that an individual subject to its jurisdiction violated the act or this chapter.

(b) The following acts, errors or omissions constitute a violation of the standards of conduct of a crane operator:

(1) Negligent operation of a crane.

(2) Operation of a crane without the ability to use reasonable skill and safety by reason of mental or physical illness or condition.

(3) Operation of a crane while impaired by alcohol, hallucinogenic or narcotic drugs, or another substance that impairs judgment or coordination.

(4) Operation of a crane during a period of time when:

(i) The individual abuses alcohol, hallucinogenic or narcotic drugs, or other substances that impair judgment or coordination.

(ii) The individual is dependent upon alcohol, hallucinogenic or narcotic drugs, or other substances that impair judgment or coordination, and dependence is not in full remission.

(5) Violation of any of the provisions of the act or this chapter.

(6) Commission of fraud or deceit in:

(i) The operation of a crane.

(ii) Securing licensure or certification.

(iii) Securing renewal of licensure or certification.

(7) Conviction of a felony or a crime of moral turpitude, or disposition by probation without verdict, disposition in lieu of trial or Accelerated Rehabilitative Disposition in the disposition of a felony or a crime of moral turpitude in the courts of this Commonwealth, the United States or any other state, territory, possession of the United States or any other country.

(8) Violation of The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §§ 780-101—780-144) or an equivalent offense under the laws of another jurisdiction.

(9) Failure to operate a crane consistent with the applicable ASME B30 standard.

(10) Failure to operate a crane in a manner consistent with accepted standards in the industry.

(11) Operation of a crane, engaging in the operation of a crane or continuing to operate a crane, when the crane operator had reason to know of conditions or circumstances under which the crane could not be operated without exposing persons or property to an unreasonable risk of harm.

(12) Violation of a lawful order of the Board.

(13) Failure to properly supervise a trainee.

(14) Failure to report an event, occurrence, injury, property damage, claim, condition, diagnosis, civil action, criminal proceeding or other matter subject to the duty to report in § 6.42 (relating to impaired operation of a crane and reportable conditions, incidents or events).

(15) Failure to follow applicable workplace safety standards of OSHA, or other applicable safety standards of the Commonwealth or another jurisdiction, regardless of whether the violation arose from the operation of a crane.

(16) Conviction or disposition by Accelerated Rehabilitative Disposition or any disposition other than a nonconviction, for a violation of 75 Pa.C.S. §§ 3801—3817 (relating to driving after imbibing alcohol or utilizing drugs).

(17) Conviction or disposition by Accelerated Rehabilitative Disposition, or any disposition other than a nonconviction for an offense that involves intentional or reckless conduct that poses an unreasonable risk of bodily harm to others.

(18) Whether or not acting in the capacity of a crane operator, to discharge, discipline or in any manner discriminate against another person with respect to that person's compensation, terms, conditions or privileges of employment or independent contract, for any of the following reasons:

(i) The other person has refused to operate a crane, or participate in the operation of a crane in a manner which is not in compliance with the act, this chapter, a Federal rule, regulation, standard or order applicable to crane operation, or the applicable ASME B30 volume.

(ii) The other person, or a person acting pursuant to a request of the other person, has filed a complaint or instituted or caused to be instituted any proceeding relating to a violation of the act, this chapter, a Federal rule, regulation, standard or order applicable to crane operation, or the applicable ASME B30 volume, or has testified or is about to testify in any such proceeding.

(iii) The other person refused to participate in the operation of a crane as a rigger, signal person, or in another function related to the operation of a crane when the operation constitutes a violation of the act, this chapter, an applicable ASME B30 volume, or Federal rules, regulations, standards or orders applicable to crane operation.

(iv) The other person had a reasonable apprehension of serious injury to himself, or to another person due to the unsafe condition of the crane or the unsafe manner in which the crane was to be operated. For purposes of this paragraph, the other person has a reasonable apprehension of serious injury due to the unsafe condition of a crane or the unsafe manner in which a crane is to be operated if:

(A) The condition of the crane or manner of operation is of a nature that a reasonable person, under the circumstances then confronting the other person, would conclude that there is a bona fide danger of an accident, injury or serious impairment of health resulting from the unsafe condition or unsafe manner of operation.

(B) The other person sought from the lift director and was unable to obtain correction of the unsafe condition or unsafe manner of operation.

(c) It shall be an affirmative defense to an allegation of a violation of subsection (b)(1), (9), (10) or (11) that the crane operator acted, or refrained from acting, in justifiable reliance upon the advice, instruction or direction of the site supervisor or the lift director.

(d) It shall be an affirmative defense to an allegation of a violation of subsection (b)(2), (3), (4) or (14) that the crane operator acted, or refrained from acting, in justifiable reliance upon the advice of a licensed health care practitioner.

CERTIFYING ORGANIZATIONS

§ 6.51. Certifying organizations.

An organization may apply to the Board in accordance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) for approval to issue certification under the act.

§ 6.52. Application for approval as a certifying organization.

(a) An entity seeking to issue certification under the act shall submit, in writing, an application in a form prescribed by the Board that avers, under penalty for unsworn falsification to authorities at 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities), the following:

- (1) The name and business address of the applicant.
- (2) The name and title of the individual authorized to act as the applicant's agent.
- (3) The name, title and principal business address of each individual who is an officer of the applicant.
- (4) The type of corporate organization and the state in which the applicant is incorporated or organized.
- (5) The names and addresses of any parent or subsidiary entities of the applicant.
- (6) The names and addresses of each entity that is affiliated with the applicant. For purposes of this section, "entity which is affiliated with the applicant" means an entity having common or interlocking ownership with the applicant, or with a parent or subsidiary of the applicant.
- (7) Whether the applicant or any of the entities identified in paragraph (5) or (6) offer a program of training or education in crane operation.
- (8) Whether the applicant is accredited by ANSI, NCCA, or both.
- (9) A description of the testing and certification program administered by the applicant.
- (10) Whether the applicant has entered into a voluntary agreement with OSHA for the purpose of recognizing its program as a validation of the competency and certification of the qualifications of crane operators.
- (11) Each crane type described in ASME Volume B 30.5 for which the applicant requests approval to issue certification.
- (12) Each function or occupation other than crane operator and which is related to the operation of a crane, for which the applicant issues certification.

(13) An averment that the applicant's testing and certification program is equivalent to the testing and certification program used by NCCCO.

(14) Whether the applicant, a parent entity, subsidiary entity or an entity affiliated with the applicant has been subject to disciplinary action in another jurisdiction, or has been the subject of civil or criminal proceedings in this Commonwealth or another jurisdiction, and if so, the jurisdiction, the nature of the claims or charges, the disposition and the docket or case number of the disciplinary action, civil proceedings or criminal proceedings.

(b) The organization shall attach to its application as an exhibit, and incorporate by reference, a copy of any documents upon which the applicant's accreditation has been based, and the applicant's agreement with OSHA.

(c) The application must be accompanied by the application fee set forth in § 6.4 (relating to fees).

§ 6.53. Required and discretionary bases for disapproval of an application for approval as a certifying organization.

(a) The Board will deny an application for approval as a certifying organization on the basis that it is per se not equivalent to certification issued by NCCCO for any one or more of the following reasons:

- (1) The applicant is not accredited by ANSI.
- (2) The applicant is not accredited by NCCA.
- (3) The applicant is not a party to a voluntary agreement with OSHA for the purpose of recognizing its program as a validation of the competency and certification of the qualifications of crane operators.
- (4) The applicant is a parent or subsidiary of an entity that offers a program of training or education in crane operation.
- (5) An entity that is affiliated with the applicant as defined in § 6.52(a)(6) (relating to application for approval as a certifying organization) offers a program of training or education in crane operation.
- (6) The applicant has failed to verify the statements in the application.

(7) The applicant has made a material statement on its application that it knows or has reason to know is false.

(b) The Board may deny an application for approval as a certifying organization for any of the following reasons:

- (1) A finding by the Board that the applicant is not independent of an entity that offers a program of education or training in crane operation.
- (2) A finding by the Board that the applicant, its parent, its subsidiary, or an entity affiliated with the applicant has been the subject of disciplinary action in another jurisdiction, or has been found in a civil proceeding or criminal proceeding to have been engaged in fraudulent conduct, misrepresentation, unfair commercial or consumer practices, breach of contract or negligence.
- (3) A finding by the Board that the applicant does not offer a program of testing and certification that is equivalent to the program of testing and certification offered by NCCCO.

§ 6.54. Determination of application for approval as a certifying organization.

(a) Upon receipt of an application for approval, the Board will make a determination of completeness of the application.

(b) If the Board has made a determination that the application is incomplete, but the completed portion of the application demonstrates on its face that the applicant's

program is per se not equivalent to NCCCO certification according to the criteria set forth in § 6.53(a) (relating to required and discretionary bases for disapproval of an application for approval as a certifying organization), the Board will deny the application, advise the applicant in writing of the deficiencies or incompleteness, and the specific grounds on which a determination that the program is per se not equivalent to NCCCO certification, and advise the applicant of its right to file within 30 days a request for a hearing before the Board, together with supplementation to complete the application.

(c) If the application is incomplete, and the completed portion of the application does not demonstrate that the applicant's program is per se not equivalent to NCCCO certification, the Board will advise the applicant in writing of the deficiencies or incompleteness, and advise the applicant of its right to supplement the application within 30 days.

(d) If the application is complete, or if the application is incomplete but the applicant has not supplemented the application within 30 days, or if the applicant entity has not requested a continuance of the Board's consideration, the Board will refer the application for review to an appropriate and qualified individual or firm to independently evaluate and review the application for equivalence to NCCCO certification.

(e) The independent evaluation and review will be completed within 60 days with a written opinion provided to the Board by the evaluator expressing an opinion as to the applicant entity's equivalence to NCCCO certification, and a copy of the opinion to the applicant entity.

(f) Upon consideration of the written opinion of the independent evaluation and review, the Board will enter an appropriate order to approve, schedule a hearing, or provisionally deny the application.

(g) If the Board provisionally denies the application, the Board will advise the applicant of its right to file within 30 days a request for a hearing.

(h) Upon filing of a request for a hearing pursuant to subsection (b) or (g), the Board will schedule the matter for a hearing.

(i) After a hearing the Board may:

(1) Grant approval to issue certification for all crane types described in ASME Volume B 30.5 as requested in the application.

(2) Grant approval to issue one or more, but less than all certifications for crane types described in ASME Volume B 30.5 as requested in the application.

(3) Deny approval to issue any certifications requested in the application.

(j) The applicant shall have the burden of proving that its testing and certification program is equivalent to NCCCO.

(k) If the applicant does not request a hearing within 30 days as provided in subsection (b) or (g), the Board will issue a final order denying the application.

(l) An applicant that has been denied approval may re-apply for approval as a certifying organization.

§ 6.55. Order granting an application for approval as a certifying organization.

(a) An order granting an application for approval as a certifying organization will include:

(1) The legal name of the certifying organization.

(2) The date on which the application was approved.

(3) The date on which the order was entered.

(4) Each crane type described in ASME Volume B 30.5 for which the Board has granted approval.

(5) A statement of authorization that the certifying organization may hold itself out as a certifying organization in this Commonwealth.

(6) A statement that the certifying organization shall notify within 10 days, in writing, the Board and to each individual holding its certification, any change to its accreditation by NCCA or ANSI.

(7) A statement that the certifying organization shall immediately and voluntarily cease and desist from issuing certifications, or holding itself out as a certifying organization in this Commonwealth upon a determination withdrawing or terminating its accreditation by NCCA or ANSI.

(8) A statement that the certifying organization shall submit to the Board within 30 days of receipt from NCCA or ANSI a copy of each certificate of renewal of accreditation.

(9) A statement that the authorization to issue certifications in this Commonwealth granted by the order to approve the application is not transferable.

(b) An order granting approval of a certifying organization will cease to be effective by operation of law upon either of the following conditions:

(1) The failure of the certifying organization to comply with the obligations set forth in subsection (a)(6), (7) or (8).

(2) A loss of accreditation by NCCA or ANSI.

§ 6.56. Petition to terminate approval as a certifying organization.

(a) The Commonwealth may file a petition to terminate approval as a certifying organization for any one of the following reasons:

(1) Upon information and belief that the certifying organization has failed to satisfy the conditions of § 6.55(b) (relating to order granting an application for approval as a certifying organization).

(2) Upon information and belief that the order granting the application for approval as a certifying organization was granted based upon a misrepresentation of a material fact by the applicant which neither the Board nor the Commonwealth knew or had reason to know at the time the order was issued.

(3) Upon information and belief that:

(i) The certifying organization has terminated its existence.

(ii) The certifying organization has ceased to be qualified to do business in this Commonwealth.

(iii) The certifying organization has ceased to offer its certification to residents of this Commonwealth.

(iv) The certifying organization offers or has offered a program of training or education in crane operation.

(v) The certifying organization has a parent entity or subsidiary entity that offers a program of training or education in crane operation.

(vi) An entity affiliated with the certifying organization offers a program of training or education in crane operation.

(b) A petition to terminate approval as a certifying organization will include:

(1) A copy of any writing upon which the petition is based.

(2) A notice to plead demanding an answer to the allegations of the petition, and advising the certifying organization of its rights under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(3) If the Commonwealth requests immediate suspension of the certifying organization's approval, the petition must include allegations demonstrating an immediate risk of harm to the public or persons holding certification from the respondent certifying organization.

(c) Within 20 days of service of the petition to terminate approval as a certifying organization, the certifying

organization shall file a written answer to the petition admitting or denying each allegation and setting forth any affirmative defenses.

(d) Upon close of the pleadings, the Board will issue an order scheduling the matter for a hearing at the next available regularly scheduled board meeting, or delegate the matter to a hearing examiner.

(e) If the Board grants the petition to terminate approval as a certifying organization, the Board may, if otherwise authorized by statute, levy the costs of investigation upon the certifying organization.

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