



---

Volume 40 (2010)

Pennsylvania Bulletin  
Repository

---

6-19-2010

**June 19, 2010 (Pages 3315-3482)**

Pennsylvania Legislative Reference Bureau

Follow this and additional works at: [https://digitalcommons.law.villanova.edu/pabulletin\\_2010](https://digitalcommons.law.villanova.edu/pabulletin_2010)

---

### Recommended Citation

Pennsylvania Legislative Reference Bureau, "June 19, 2010 (Pages 3315-3482)" (2010). *Volume 40 (2010)*. 25.

[https://digitalcommons.law.villanova.edu/pabulletin\\_2010/25](https://digitalcommons.law.villanova.edu/pabulletin_2010/25)

This June is brought to you for free and open access by the Pennsylvania Bulletin Repository at Villanova University Charles Widger School of Law Digital Repository. It has been accepted for inclusion in Volume 40 (2010) by an authorized administrator of Villanova University Charles Widger School of Law Digital Repository.

# PENNSYLVANIA BULLETIN

Volume 40

Number 25

Saturday, June 19, 2010 • Harrisburg, PA

Pages 3315—3482

## Agencies in this issue

The General Assembly

The Courts

Department of Agriculture

Department of Banking

Department of Community and Economic  
Development

Department of Environmental Protection

Department of Health

Department of Labor and Industry

Department of Revenue

Environmental Quality Board

Executive Board

Governor's Office

Independent Regulatory Review Commission

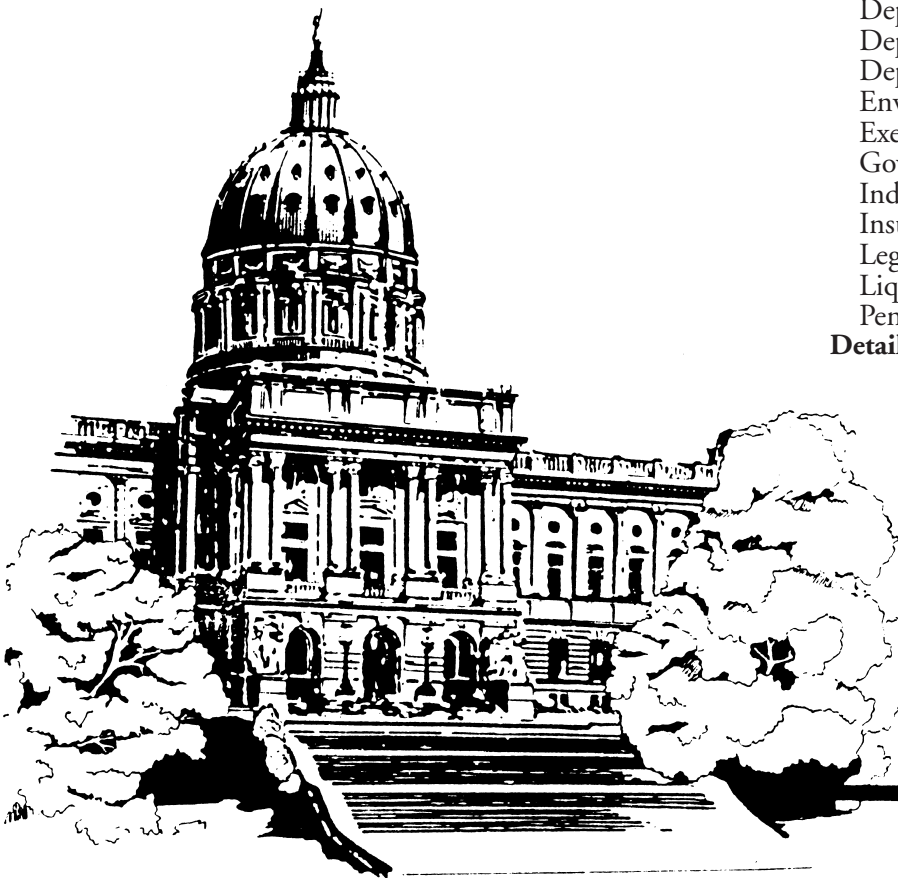
Insurance Department

Legislative Reference Bureau

Liquor Control Board

Pennsylvania Public Utility Commission

**Detailed list of contents appears inside.**



PRINTED ON 100% RECYCLED PAPER



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

**No. 427, June 2010**

CUT ON DOTTED LINES AND ENCLOSE IN AN ENVELOPE

**CHANGE NOTICE**

If information on mailing label is incorrect, please make changes in space provided below and mail to:

**FRY COMMUNICATIONS, INC.  
Attn: *Pennsylvania Bulletin*  
800 W. Church Rd.  
Mechanicsburg, PA 17055-3198**

CUSTOMER NUMBER (6 digit number above name)

NAME OF INDIVIDUAL

OFFICE NAME—TITLE

ADDRESS (Number and Street)

(City) (State) (Zip Code)

TYPE OR PRINT LEGIBLY

**PENNSYLVANIA**



**BULLETIN**

(ISSN 0162-2137)

published weekly by Fry Communications, Inc. for the Commonwealth of Pennsylvania, Legislative Reference Bureau, 641 Main Capitol Building, Harrisburg, Pa. 17120, under the policy supervision and direction of the Joint Committee on Documents pursuant to Part II of Title 45 of the Pennsylvania Consolidated Statutes (relating to publication and effectiveness of Commonwealth Documents). Subscription rate \$82.00 per year, postpaid to points in the United States. Individual copies \$2.50. Checks for subscriptions and individual copies should be made payable to "Fry Communications, Inc." Periodicals postage paid at Harrisburg, Pennsylvania.

Postmaster send address changes to:

FRY COMMUNICATIONS  
Attn: *Pennsylvania Bulletin*  
800 W. Church Rd.  
Mechanicsburg, Pennsylvania 17055-3198  
(717) 766-0211 ext. 2340  
(800) 334-1429 ext. 2340 (toll free, out-of-State)  
(800) 524-3232 ext. 2340 (toll free, in State)

Orders for subscriptions and other circulation matters should be sent to:

Fry Communications, Inc.  
Attn: *Pennsylvania Bulletin*  
800 W. Church Rd.  
Mechanicsburg, PA 17055-3198

Copyright © 2010 Commonwealth of Pennsylvania

Editorial preparation, composition, printing and distribution of the *Pennsylvania Bulletin* is effected on behalf of the Commonwealth of Pennsylvania by FRY COMMUNICATIONS, Inc., 800 W. Church Road, Mechanicsburg, Pennsylvania 17055-3198.

# CONTENTS

## THE GENERAL ASSEMBLY

Recent actions during the 2010 regular session of the General Assembly . . . . . 3324

## THE COURTS

### LOCAL COURT RULES

#### Clarion County

Administrative order establishing a victim/witness coordinator fee; no. 691 CD 2010 . . . . . 3327

### PHILADELPHIA RULES

#### Philadelphia County

Amendment of Philadelphia civil rules \*212.1 and \*212.3; general court regulation no. 2010-01 . . . . . 3326

### RULES OF EVIDENCE

Proposed amendment of Pa.R.E. 104 and revision of comment . . . . . 3325

## EXECUTIVE AGENCIES

### DEPARTMENT OF AGRICULTURE

#### Notices

Fertilizer nutrient values . . . . . 3364

### DEPARTMENT OF BANKING

#### Notices

Actions of applications . . . . . 3364

### DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

#### Notices

Weatherization Assistance Program's proposed State Plan . . . . . 3365

### DEPARTMENT OF ENVIRONMENTAL PROTECTION

#### Notices

Applications, actions and special notices . . . . . 3365

Chesapeake Bay Advisory Committee meeting cancellation . . . . . 3424

Nutrient and Sediment Reduction Credit Trading Program; notice of proposals . . . . . 3424

Removal of a site from the Pennsylvania priority list of hazardous sites for remedial response . . . . . 3425

### DEPARTMENT OF HEALTH

#### Notices

Draft Title V Maternal and Child Health Services Block Grant 2009 report and 2011 application; public comment period . . . . . 3427

Human Immunodeficiency Virus (HIV) Community Prevention Planning Committee; public meetings . . . . . 3427

Integrated Human Immunodeficiency Virus (HIV) Integrated Council; public meeting . . . . . 3427

Long-term care nursing facilities; requests for exception . . . . . 3428

### DEPARTMENT OF LABOR AND INDUSTRY

#### Notices

Current Prevailing Wage Act debarments . . . . . 3428

### DEPARTMENT OF REVENUE

#### Rules and Regulations

Amended report—corporation taxes . . . . . 3356

#### Notices

Pennsylvania Platinum Crossword instant lottery game . . . . . 3428

### ENVIRONMENTAL QUALITY BOARD

#### Rules and Regulations

Control of NOx emissions from cement kilns . . . . . 3346

Control of NOx emissions from glass melting furnaces . . . . . 3328

### EXECUTIVE BOARD

#### Statements of Policy

Reorganization of the:

Department of Labor and Industry . . . . . 3361

Office of Inspector General . . . . . 3361

### GOVERNOR'S OFFICE

#### Notices

Regulatory agenda . . . . . 3431

### INDEPENDENT REGULATORY REVIEW COMMISSION

#### Notices

Action taken by the Commission . . . . . 3471

Notice of comments issued . . . . . 3473

Notice of filing of final rulemakings . . . . . 3473

### INSURANCE DEPARTMENT

#### Notices

Application and request for a certificate of authority to provide a continuing care retirement community by Chester Valley SNF, LLC . . . . . 3473

Application and request for a certificate of authority to provide a continuing care retirement community by Chestnut Hill Rehab Center, LLC . . . . . 3474

Application and request for a certificate of authority to provide a continuing care retirement community by Seton Manor, Inc. . . . . 3474

Application and request for a certificate of authority to provide a continuing care retirement community by Westgate Hills SNF, LLC . . . . . 3474

Application and request for plan approval of a mutual-to-stock conversion . . . . . 3474

Blue Cross of Northeastern Pennsylvania; BlueCare Senior Hospital; rate filing . . . . . 3475

Blue Cross of Northeastern Pennsylvania; BlueCare Senior Pharmacy Rider; rate filing . . . . . 3475

Per diem charges for financial examinations; notice no. 2010-04 . . . . . 3475

Per diem charges for market conduct examinations of Insurance companies; notice no. 2010-05 . . . . . 3475

WJ Enterprises, Inc.; prehearing . . . . . 3476

---

Now Available Online at <http://www.pabulletin.com>

---

**LEGISLATIVE REFERENCE BUREAU**

**Notices**

Documents filed but not published ..... 3476

**LIQUOR CONTROL BOARD**

**Notices**

Expiration of leases ..... 3476

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Notices**

Implementation order ..... 3477

Mandatory thousands-block number pooling ..... 3477

Service of notice of motor carrier applications ..... 3480

Telecommunications (4 documents) ..... 3481

Transfer by sale ..... 3482

# READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

## *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.

**SUBSCRIPTION INFORMATION: (717) 766-0211  
GENERAL INFORMATION AND FINDING AIDS: (717) 783-1530**

### 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.

### Reproduction, Dissemination or Publication of Information

Third parties may not take information from the *Pennsylvania Code* and *Pennsylvania Bulletin* and reproduce, disseminate or publish such information except as provided by 1 Pa. Code § 3.44. 1 Pa. Code § 3.44 reads as follows:

#### § 3.44. General permission to reproduce content of Code and Bulletin.

Information published under this part, which information includes, but is not limited to, cross references, tables of cases, notes of decisions, tables of contents, indexes, source notes, authority notes, numerical lists and codification guides, other than the actual text of rules or regulations may be reproduced only with the written consent of the Bureau. The information which appears on the same leaf with the text of a rule or regulation, however, may be incidentally reproduced in connection with the reproduction of the rule or regulation, if the reproduction is for the private use of a subscriber and not for resale. There are no other restrictions on the reproduction of information published under this part, and the Commonwealth hereby consents to a reproduction.

## 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.

### 4 Pa. Code (Administration)

#### Adopted Rules

1	8, 2513
5	11, 398
6	12, 212, 399, 3078
7a	14, 16
241	971
247	972, 973
249	2015

#### Statements of Policy

9	888, 1406, 1926, 2135, 2287, 2979, 3361
---	---

### 7 Pa. Code (Agriculture)

#### Proposed Rules

143	3127
-----	------

### 10 Pa. Code (Banks and Banking)

#### Adopted Rules

3	2939
44	2940

### 12 Pa. Code (Commerce, Trade and Local Government)

#### Adopted Rules

145	2421
-----	------

#### Statements of Policy

123	2772
-----	------

### 22 Pa. Code (Education)

#### Adopted Rules

4	240
405	2940

### 25 Pa. Code (Environmental Protection)

#### Adopted Rules

93	1734
121	3328
129	3328
145	3346
252	1898

#### Proposed Rules

23	1635
78	623
86	2373, 2425
87	2373
88	2373
89	2373
90	2373
92	847
92a	847
93	2211, 2264
96	876
105	2211
121	703
127	703
129	420
208	1749
250	1297
253	1379
901	1201

### 28 Pa. Code (Health and Safety)

#### Adopted Rules

23	2747
27	2747

### 31 Pa. Code (Insurance)

#### Proposed Rules

160	2976
-----	------

### 34 Pa. Code (Labor and Industry)

#### Proposed Rules

61	2639
65	2643

### 37 Pa. Code (Law)

#### Adopted Rules

93	2759
----	------

### 40 Pa. Code (Liquor)

#### Adopted Rules

1	1149
3	1149
5	1149
7	1149
11	1149
13	1149
17	1149

### 49 Pa. Code (Professional and Vocational Standards)

#### Adopted Rules

16	250
18	250
25	1404
27	842
33	1082, 2532
39	3090, 3092
41	2947

#### Proposed Rules

5	1641, 2128
6	3041
15	623
16	884, 2652
18	884, 2652
20	2428
21	2276
25	2660
29	440
35	2281
43b	2263, 2423
47	2131
48	2131
49	2131

#### Statements of Policy

5	1534
---	------

### 52 Pa. Code (Public Utilities)

#### Proposed Rules

23	1531
54	1763, 1764, 2267
57	1203, 1635
59	1203
62	1764
65	1203



67 ..... 1203  
 76 ..... 1764

**Statements of Policy**

69 ..... 1210, 2289, 2443, 2668

**55 Pa. Code (Public Welfare)**

**Adopted Rules**

108 ..... 2762  
 187 ..... 2762  
 501 ..... 29

**Proposed Rules**

165 ..... 2111

**Statement of Policy**

1153 ..... 1644  
 1187 ..... 1766  
 2380 ..... 1644  
 2600 ..... 1411  
 5200 ..... 1644  
 5210 ..... 1644  
 6400 ..... 1644  
 6500 ..... 1644

**58 Pa. Code (Recreation)**

**Adopted Rules**

61 ..... 254  
 73 ..... 257  
 75 ..... 620, 1500  
 79 ..... 1500  
 111 ..... 1503  
 135 ..... 3095  
 137 ..... 1736  
 139 ..... 3096  
 141 ..... 1737, 3103, 3105, 3106, 3107  
 143 ..... 3107, 3108  
 147 ..... 1739, 3109  
 401a ..... 2533  
 434a ..... 2533  
 435a ..... 975, 1082, 2535  
 437a ..... 975  
 438a ..... 2533  
 441a ..... 2533  
 461a ..... 1082, 2535  
 463a ..... 1082  
 465a ..... 416, 1082, 2535  
 467a ..... 2535  
 491a ..... 254  
 501a ..... 1082, 2535  
 521 ..... 985, 1156, 1740, 2088, 2539  
 523 ..... 2088, 3109  
 524 ..... 2544  
 525 ..... 2539, 2953, 3116  
 527 ..... 1156  
 528 ..... 1740  
 529 ..... 844, 3109  
 531 ..... 985  
 533 ..... 985  
 535 ..... 1504, 1911, 2959, 3109  
 537 ..... 985, 2088  
 539 ..... 1740  
 541 ..... 1504, 2959  
 543 ..... 1504, 2959  
 545 ..... 1504, 2959  
 549 ..... 985, 2959  
 551 ..... 1504, 2959  
 553 ..... 1156, 2959  
 555 ..... 1156, 2959

557 ..... 1156, 2959  
 559 ..... 1156, 2959  
 561 ..... 1156, 2959, 3109  
 563 ..... 1156, 2959  
 565 ..... 1156, 2959  
 567 ..... 1911, 2959

**Proposed Rules**

61 ..... 427  
 65 ..... 427  
 69 ..... 1530  
 75 ..... 429  
 131 ..... 3126  
 135 ..... 1755  
 139 ..... 1756  
 141 ..... 1750, 1752, 1753, 1754, 3123, 3124  
 143 ..... 1749, 1754  
 147 ..... 1761  
 433a ..... 434

**61 Pa. Code (Revenue)**

**Adopted Rules**

53 ..... 1746  
 151 ..... 3356  
 153 ..... 3356

**Proposed Rules**

117 ..... 3122  
 119 ..... 1916

**67 Pa. Code (Transportation)**

**Adopted Rules**

229 ..... 2017  
 231 ..... 2106, 2262

**201 Pa. Code (Judicial Administration)**

**Adopted Rules**

7 ..... 19  
 19 ..... 218

**204 Pa. Code (Judicial System General Provisions)**

**Adopted Rules**

83 ..... 513, 1892  
 87 ..... 700  
 89 ..... 700  
 93 ..... 700  
 213 ..... 513  
 221 ..... 1997

**Proposed Rules**

81 ..... 2516  
 83 ..... 1066

**210 Pa. Code (Appellate Procedure)**

**Proposed Rules**

15 ..... 2393  
 19 ..... 2741

**225 Pa. Code (Rules of Evidence)**

**Proposed Rules**

ART. I ..... 3325

**231 Pa. Code (Rules of Civil Procedure)**

**Adopted Rules**

200 ..... 19, 518, 1395, 1490  
 1000 ..... 1395  
 1910 ..... 413, 586  
 3000 ..... 19, 700, 2243

**Proposed Rules**

200 .....	2242
3000 .....	413, 1892

**234 Pa. Code (Rules of Criminal Procedure)****Adopted Rules**

1 .....	1396
2 .....	1397
5 .....	1068, 1397
10 .....	1068, 2012

**Proposed Rules**

1 .....	2397, 2517, 2519
2 .....	2394
4 .....	2519
5 .....	21
8 .....	2397

**237 Pa. Code (Juvenile Rules)****Adopted Rules**

1 .....	222, 518
2 .....	222
3 .....	222, 1073
4 .....	222
5 .....	222, 518
8 .....	1073
11 .....	222, 518
13 .....	222
16 .....	21

**Proposed Rules**

1 .....	2245
11 .....	2245
15 .....	2245
16 .....	2245

**246 Pa. Code (Minor Court Civil Rules)****Adopted Rules**

100 .....	1146
-----------	------

**Proposed Rules**

500 .....	522
-----------	-----

**249 Pa. Code (Philadelphia Rules)**

Unclassified .....	237, 1075, 1629, 1730, 2013, 3326
--------------------	-----------------------------------

**252 Pa. Code (Allegheny County Rules)**

Unclassified .....	838, 1399, 2934
--------------------	-----------------

**255 Pa. Code (Local Court Rules)**

Unclassified .....	23, 24, 237, 238, 414, 415, 523, 701, 702, 838, 840, 969, 1079, 1080, 1147, 1403, 1490, 1498, 1629, 1630, 1632, 1633, 1730, 1731, 1732, 1733, 1893, 1896, 1897, 2014, 2254, 2257, 2414, 2416, 2418, 2419, 2420, 2531, 2635, 2636, 2742, 2743, 2745, 2934, 2935, 2938, 3083, 3087, 3089, 3327
--------------------	--

# THE GENERAL ASSEMBLY

## Recent Actions during the 2010 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during the 2010 Regular Session.

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
<b>2010 GENERAL ACTS OF REGULAR SESSION ENACTED—ACT 029 through 031</b>					
029	Jun 1	HB1041	PN3564	60 days*	Pharmacy Act—refusal to grant revocation and suspension, drug therapy protocols, collaborative drug therapy management and for construction of act
030	Jun 3	SB0383	PN1954	60 days	Judicial Code (42 Pa.C.S.)—organization and jurisdiction of courts of common pleas and authorizing establishment of problem-solving courts
031	Jun 3	SB0828	PN1924	60 days	Public Eating and Drinking Place Law—providing for definitions and applicability
<b>2010 VETOES OF REGULAR SESSION OF BILLS—VETO 001</b>					
001	May 14	SB0081	PN1862	60 days	Liquor Code—omnibus amendments

\* denotes an effective date with exceptions

### Effective Dates of Statutes

The effective dates specified previously for laws and appropriation acts were contained in the applicable law or appropriation act. Where no date is specified or where the effective date specified is prior to the date of enactment, the effective date is 60 days after final enactment except for statutes making appropriations or affecting budgets of political subdivisions. See 1 Pa.C.S. §§ 1701—1704 (relating to effective dates of statutes).

### Advance Copies of Statutes

Section 1106 of Title 1 of the *Pennsylvania Consolidated Statutes* provides that the prothonotaries of each county shall file advance copies of statutes in their offices for public inspection until the *Laws of Pennsylvania* are generally available. Section 2406(h) of The Administrative Code of 1929 provides that the Department of General Services (Department) shall distribute advance sheets of the *Laws of Pennsylvania* to each law judge of the courts, to every county and public library of this Commonwealth and to each member of the General Assembly. These copies shall be furnished without charge. The Department shall also mail one copy of each law enacted during any legislative session to any person who pays to it the sum of \$25.

Requests for annual subscriptions for advance copies of statutes should be sent to the State Bookstore, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120-0053, accompanied by a check or money order in the sum of \$25, payable to the “Commonwealth of Pennsylvania.”

ROBERT W. ZECH, Jr.,  
*Director*  
*Legislative Reference Bureau*

[Pa.B. Doc. No. 10-1110. Filed for public inspection June 18, 2010, 9:00 a.m.]

# THE COURTS

## Title 225—RULES OF EVIDENCE

[ 225 PA. CODE ART. I ]

### Proposed Amendment of Pa.R.E. 104 and Revision of Comment

The Committee on Rules of Evidence is planning to recommend that the Supreme Court of Pennsylvania approve the Amendment of Pa.R.E. 104 and Revision of Comment.

This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The text for the proposed changes precede the Report. Additions are in bold and deletions are in bold and brackets.

We request that interested persons submit suggestions, comments or objections concerning this proposal to the Committee through counsel:

Daniel A. Durst, Chief Counsel  
Supreme Court of Pennsylvania  
Committee on Rules of Evidence  
Pennsylvania Judicial Center  
601 Commonwealth Avenue, Suite 6200  
P. O. Box 62635  
Harrisburg, PA 17106-2635

Fax: (717) 231-9536  
E-mail: evidencerules@pacourts.us

no later than July 30, 2010.

*By the Committee on Rules of Evidence*

PROFESSOR SANDRA D. JORDAN,  
*Chair*

### Annex A

### TITLE 225. RULES OF EVIDENCE

### ARTICLE I. GENERAL PROVISIONS

#### Rule 104. Preliminary Questions.

(a) *Questions of Admissibility Generally.* Preliminary questions concerning the **admissibility or exclusion of evidence or the qualification of a person to be a witness, [ the existence of a privilege, or the admissibility of evidence ]** shall be determined by the court, subject to the provisions of subdivision (b). In making its determination [ **it** ] **the court** is not bound by the rules of evidence except those with respect to privileges.

(b) [ **Relevancy Conditioned on Fact. When the relevancy of evidence depends upon the fulfillment of a condition of fact, the court shall admit it upon, or subject to, the introduction of evidence sufficient to support a finding of the fulfillment of the condition.** ] *Preliminary Questions Dependent On Proof of Facts.* When the admissibility or exclusion of evidence or the qualification of a person to be a witness under the rules listed below is dependent on the proof of a fact or facts the allocation of the burden of proof and the measure of persuasion shall be as provided in this rule.

#### Article IV

Rule 404(b)—A party offering evidence of other crimes, wrongs, or acts must offer sufficient proof to support a finding of the crimes, wrongs or acts.

Rule 406—A party offering evidence of habit or routine practice must offer sufficient proof to support a finding of the habit or routine practice.

Rules 408 to 410—A party seeking to exclude evidence under Rules 408 to 410 must offer sufficient proof to prove by a preponderance of the evidence the facts required for exclusion.

#### Article V

A person seeking to exclude evidence as privileged must offer sufficient proof to prove by a preponderance of the evidence the required facts. A party offering evidence under an exception or waiver of the privilege must offer sufficient proof to prove by a preponderance of the evidence the required facts.

#### Article VI

Rule 601—A party seeking to disqualify a witness under Rule 601 must offer sufficient proof to prove by clear and convincing evidence the required facts.

Rules 607 to 609—A party seeking to impeach a witness under Rules 607 to 609 must offer sufficient proof to support a finding of the impeaching facts.

#### Article VII

Rule 701—A party offering a lay witness' testimony in the form of an opinion or inference must offer sufficient proof to support a finding of the required facts.

#### Article VIII

Rules 803, 803.1, 804 and 805—A party offering evidence under Rules 803, 803.1, 804 or 805 as an exception to Rule 802 must offer sufficient proof to prove by a preponderance of the evidence the required facts.

#### Article X

A party offering evidence under this Article must offer sufficient proof to support a finding of the required facts.

\* \* \* \* \*

#### Comment

Paragraph 104(a) is [ **identical** ] similar to F.R.E. 104(a). **The differences are designed to accommodate the changes to paragraph (b).** The first sentence is consistent with prior Pennsylvania case law. See *Commonwealth v. Chester*, 526 Pa. 578, 587 A.2d 1367 (1991).

\* \* \* \* \*

[ Paragraph 104(b) is identical to F.R.E. 104(b) and appears to be consistent with prior Pennsylvania case law. See *Commonwealth v. Carpenter*, 472 Pa. 510, 372 A.2d 806 (1977). ]

In many situations under the rules of evidence the preliminary question of admissibility, exclusion, or qualification of a witness depends on proof of a

fact or facts. In making its finding, the court will need to determine which party has the burden of proof and the appropriate measure of persuasion. Pa.R.E. 104(b) differs considerably from F.R.E. 104(b), in that the federal rule deals with the burden of proof only when relevancy depends on proof of facts. Pa.R.E. 104(b) allocates the burden of proof and the measure of persuasion for most of rules requiring fact finding by the court. In some situations another rule may allocate the burden of proof and the measure of persuasion. See, e.g., Pa.R.E. 602 and 901.

There are three measures of proof set out in Pa.R.E. 104(b). The least demanding measure is "sufficient proof to support a finding". This measure might also be expressed as "sufficient proof to justify a reasonable inference" of the required facts, see *Commonwealth v. Hudson*, 489 Pa. 620, 632, 414 A.2d 1381, 1387 (1980), or a "prima facie case" of the required facts, see *Commonwealth v. Brooks*, 352 Pa. Super. 394, 401, 508 A.2d 316, 320 (1986). The preponderance measure requires a more demanding level of proof. See, e.g., *Ferri v. Ferri*, 854 A.2d 600,603 (Pa. Super. 2004) (defining preponderance of evidence). The clear and convincing measure is the most demanding. See, e.g., *Matter of Sylvester*, 521 Pa. 300, 304, 555 A.2d 1202,1203-04 (1989) (defining clear and convincing evidence).

Pa.R.E. 104(b) is not intended to change the law, but to codify and clarify prior Pennsylvania law and practice. See, e.g., *Commonwealth v. Petrillo*, 338 Pa. 65, 12 A.2d 317 (1940) (Rule 404(b)); *Nationwide Mutual Ins. Co. v. Fleming*, 924 A.2d 1259 (Pa. Super. 2007) (Article V); *Commonwealth v. Delbridge*, 578 Pa. 641, 855 A.2d 27 (2003) (Rule 601); *Commonwealth v. Lam*, 453 Pa. Super. 497, 684 A.2d 153 (1996), *appeal denied*, 548 Pa. 645, 695 A.2d 784 (1997) (Rule 803(25)).

Pa.R.E. 104(b) is not intended to extend the scope of the Rules of Evidence. Thus, this rule does not apply where case law has established the rule of evidence and the burden of proof. See, e.g., *Highmont Music Corp. v. J.M. Hoffmann Co.*, 397 Pa. 345, 155 A.2d 363 (1959) (fraud exception to the parol evidence rule must be proven by clear, precise, and indisputable evidence). This rule does not apply to burdens of proof established by the Pennsylvania or United States Constitution, or by statute.

Usually, the evidence offered to establish the admissibility or exclusion of evidence or the qualification of a witness is offered prior to offering the dependent evidence or the testimony of the witness, but it is within the discretion of the trial court to permit variance from the usual order. See Pa.R.E. 611(a).

\* \* \* \* \*

#### REPORT

#### *Proposed Amendment of Pennsylvania Rules of Evidence 104 (Preliminary Questions) and Revision of Comment*

Often the admissibility of evidence is conditioned upon the proof of foundational facts. Pennsylvania Rule of Evidence 104, modeled after Federal Rule of Evidence 104, adopted a process whereby preliminary questions concerning foundational facts are to be decided by the judge before the evidence can be admitted.

To illustrate, a statement by a co-conspirator of a party made during the course and in the furtherance of a conspiracy may be admissible and not excluded as hearsay. However, a preliminary question must be answered before the statement can be admitted as a hearsay exception, to wit, whether there was a conspiracy. See *Commonwealth v. Pinkins*, 525 A.2d 1189, 1191 (Pa. 1987). Case law has established that the proponent of the statement has the burden of proof of proving the conspiracy and the measure of persuasion is by a preponderance. See, e.g., *id.*

The co-conspirator hearsay exception was codified as Rule 803(25)(E), effective October 1, 1998. The burden of proof and measure of persuasion concerning the preliminary question of whether a conspiracy existed were not included in the Rule.

Some Rules, such as Rule 602 and Rule 901, have allocated the burden of proof and measure of persuasion pertaining to preliminary questions while many others have not. Accordingly, for the benefit of the bench and bar, the Committee on the Rules of Evidence proposes amendment of Rule 104 and revision of the Comment thereto, which will codify and clarify the case law regarding the burden of proof and measure of persuasion for preliminary questions.

[Pa.B. Doc. No. 10-1111. Filed for public inspection June 18, 2010, 9:00 a.m.]

## Title 249—PHILADELPHIA RULES

### PHILADELPHIA COUNTY

#### Amendment of Philadelphia Civil Rules \*212.1 and \*212.3; General Court Regulation No. 2010-01

#### Order

And Now, this 2nd day of June, 2010, the Board of Judges of Philadelphia County having voted at the Board of Judges' meeting held on May 20, 2010 to amend Philadelphia Civil Rules \*212.1 and \*212.3, *It Is Hereby Ordered* that Philadelphia Civil Rules \*212.1 and \*212.3 are amended as follows.

This General Court Regulation is issued in accordance with Pa.R.C.P. No. 239 and the above-referenced rule changes shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*. The original General Court Regulation shall be filed with the Prothonotary in a Docket maintained for General Court Regulations issued by the President Judge of the Court of Common Pleas of Philadelphia County, shall be published in the *Pennsylvania Bulletin*, and copies shall be submitted to the Administrative Office of Pennsylvania Courts, and the Civil Procedural Rules Committee. Copies of the General Court Regulation shall also be submitted to American Lawyer Media, *The Legal Intelligencer*, Jenkins Memorial Law Library, and the Law Library for the First Judicial District of Pennsylvania, and shall be posted on the web site of the First Judicial District of Pennsylvania: <http://courts.phila.gov/regs>.

By the Court

HONORABLE PAMELA PRYOR DEMBE,  
President Judge  
Court of Common Pleas

**AMENDMENTS TO PHILADELPHIA  
LOCAL CIVIL RULES**

Philadelphia Civil Rule \*212.1. [ Pretrial and Settlement Conferences ] Filing Pre-Trial Statements.

[ (A) The scheduling of settlement and pretrial conferences and the filing of the pretrial memoranda shall be in accord with the applicable Program Case Management Order. The pretrial memorandum shall include that information required by the Pretrial Scheduling Order ] (Rescinded).

(B) As authorized by Pa.R.Civ.P. No. 212.1(c), pre-trial statements shall be filed as required in a case's applicable Program Case Management Order.

*Adopted by the Board of Judges of the Court of  
Common Pleas on May 20, 2010.*

Philadelphia Civil Rule \*212.3. [ Settlement Conferences—Non-Jury Cases ] Pre-Trial and Settlement Conferences.

(A) The court, in its Program Case Management Orders scheduling pre-trial or settlement conferences pursuant to Pa.R.Civ.P. No. 212.3, may order anyone with a financial interest in the outcome of a case to be personally present at the pre-trial or settlement conference. Failure of anyone with a financial interest in the outcome of a case to appear may result in the imposition of sanctions against such party, or other entity. The court, upon appropriate request of counsel, may for good cause permit a party or representative to appear by telephone rather than in person.

[ (A) ] (B) In non-jury cases, the Trial Judge shall not enter into settlement negotiations without the consent of the parties and may refuse to enter into settlement negotiations even if the parties consent to such participation. In such a case, if the parties wish to pursue settlement negotiations with a judge, arrangements shall be made to find a judge agreeable to all parties to serve as a settlement conference judge.

[ (B) Non-jury cases shall not be assigned for trial to the judge who acted as settlement conference judge unless both the parties and the judge agree to such an assignment. ]

*Adopted by the Board of Judges of the Court of  
Common Pleas on May 20, 2010.*

[Pa.B. Doc. No. 10-1112. Filed for public inspection June 18, 2010, 9:00 a.m.]

---

## Title 25—LOCAL COURT RULES

### CLARION COUNTY

#### Administrative Order Establishing a Victim/Witness Coordinator Fee; No. 691 CD 2010

#### Administrative Order

*And Now*, May 28, 2010 all criminal and juvenile defendants shall be assessed as part of their costs a Seventy-Five dollar (\$75.00) Victim/Witness Coordinator Fee at the time of their sentencing or disposition. These monies shall be deposited into a segregated account by the Clerk of Courts, which account shall be used by the County Commissioners for the exclusive purpose of funding Victim/Witness staff positions to comply with the requirements of the Victim's Bill of Rights.

This order shall become effective thirty (30) days after its publication in the *Pennsylvania Bulletin*.

*By the Court*

JAMES G. ARNER,  
*President Judge*

[Pa.B. Doc. No. 10-1113. Filed for public inspection June 18, 2010, 9:00 a.m.]

---

# RULES AND REGULATIONS

## Title 25—ENVIRONMENTAL PROTECTION

### ENVIRONMENTAL QUALITY BOARD

[ 25 PA. CODE CHS. 121 AND 129 ]

#### Control of NO<sub>x</sub> Emissions from Glass Melting Furnaces

The Environmental Quality Board (Board) amends Chapters 121 and 129 (relating to general provisions; and standards for sources) to read as set forth in Annex A. This final-form rulemaking controls nitrogen oxide (NO<sub>x</sub>) emissions from glass melting furnaces.

This order was adopted by the Board at its meeting of March 16, 2010.

##### A. *Effective Date*

This final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin*.

This final-form rulemaking will be submitted to the United States Environmental Protection Agency (EPA) as a revision to the Pennsylvania State Implementation Plan (SIP) upon publication.

##### B. *Contact Persons*

For further information, contact Jane Mahinske, Air Quality Program Specialist, Division of Air Resource Management, Bureau of Air Quality, 12th Floor, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 783-8949; or Robert "Bo" Reiley, Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. 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). This final-form rulemaking is available electronically through the Department of Environmental Protection's (Department) web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us).

##### C. *Statutory Authority*

This action is being taken under the authority of section 5(a)(1) of the Air Pollution Control Act (APCA) (35 P. S. § 4005(a)(1)), which grants to the Board the authority to adopt regulations for the prevention, control, reduction and abatement of air pollution.

##### D. *Background and Summary*

When ground-level ozone is present in concentrations in excess of the Federal health-based standards, public health is adversely affected. The EPA has concluded that there is an association between ambient ozone concentrations and increased hospital admissions for respiratory ailments, such as asthma. Further, although children, the elderly and those with respiratory problems are most at risk, even healthy individuals may experience increased respiratory ailments and other symptoms when they are exposed to ambient ozone while engaged in activities that involve physical exertion. Though these symptoms are often temporary, repeated exposure could result in permanent lung damage. The implementation of additional measures to reduce exposure to elevated ozone concentrations in this Commonwealth is necessary to protect the public health and the environment. The EPA established

the 8-hour ozone National Ambient Air Quality Standard (NAAQS) at 0.08 parts per million (ppm) at 62 FR 38855, 38856 (July 18, 1997). On March 12, 2008, the EPA issued a more protective 8-hour ozone standard of 0.075 ppm that would require additional reductions of ozone precursor emissions in this Commonwealth. See 73 FR 16436 (March 27, 2008). However, the EPA has reconsidered the 2008 ozone NAAQS and published a proposed rulemaking at 75 FR 2938 (January 19, 2010) to set a more protective 8-hour primary standard at a lower level within the range of 0.060—0.070 ppm. The final revised ozone NAAQS is expected in August 2010.

In addition, the adoption and implementation of this final-form rulemaking also allows the Commonwealth to make progress in attaining and maintaining the fine particulate matter (PM<sub>2.5</sub>) NAAQS, since NO<sub>x</sub> is a PM<sub>2.5</sub> precursor. See 73 FR 28321, 28325 (May 16, 2008). The health effects associated with exposure to PM<sub>2.5</sub> are significant. Epidemiological studies have shown a significant correlation between elevated PM<sub>2.5</sub> levels and premature mortality. Other important effects associated with PM<sub>2.5</sub> exposure include aggravation of respiratory and cardiovascular disease (as indicated by increased hospital admissions, emergency room visits, absences from school or work and restricted activity days), lung disease, decreased lung function, asthma attacks and certain cardiovascular problems. Individuals particularly sensitive to PM<sub>2.5</sub> exposure include older adults, people with heart and lung disease and children. At 74 FR 58688, 58758 (November 13, 2009), the EPA designated 6 areas including all or portions of 22 counties in this Commonwealth as nonattainment areas for the 2006 24-hour PM<sub>2.5</sub> NAAQS.

The purpose of this final-form rulemaking is to reduce emissions of NO<sub>x</sub> from glass melting furnaces to reduce levels of ground-level ozone and fine particulate. Ground-level ozone is not directly emitted by pollution sources, but is created as a result of the chemical reaction of NO<sub>x</sub> and volatile organic compounds in the presence of light and heat. The reduction of NO<sub>x</sub> emissions will also help protect the public health and environment from high levels of PM<sub>2.5</sub>, of which NO<sub>x</sub> is a precursor component. The reduction of NO<sub>x</sub> emissions also reduces visibility impairment and acid deposition. As a result, to the extent that it is more stringent than any corresponding Federal requirement, this final-form rulemaking is reasonably necessary to attain and maintain the NAAQS for both ozone and PM<sub>2.5</sub>.

The glass industry in this Commonwealth produces a variety of products, including flat glass, container glass, fiberglass and pressed and blown glass. In 2002, flat glass production accounted for approximately 7,450 tons of NO<sub>x</sub> emissions; container glass production accounted for approximately 1,800 tons of NO<sub>x</sub> emissions; fiberglass production accounted for approximately 150 tons of NO<sub>x</sub> emissions; and pressed and blown glass, including picture tube glass, accounted for approximately 2,500 tons of NO<sub>x</sub> emissions. Total glass melting furnace NO<sub>x</sub> emissions in 2002 were approximately 11,900 tons. Since 2002, a number of furnaces or facilities, or both, have discontinued operation or made process changes and total NO<sub>x</sub> emissions during 2005 were approximately 9,814 tons. As a result, the glass industry in this Commonwealth remains one of the largest sources of NO<sub>x</sub> emissions in this Commonwealth.

This Commonwealth, along with Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont and Virginia, and the District of Columbia, are members of the Ozone Transport Commission (OTC), which was created under section 184 of the Clean Air Act (CAA) (42 U.S.C.A. § 7511c) to develop and implement regional solutions to the ground-level ozone problem in the Northeast and Mid-Atlantic regions. To date, states from the OTC, including the Commonwealth, have established a number of regulatory programs to reduce ozone precursor emissions, including programs regarding portable fuel containers, architectural and industrial maintenance coatings and consumer products. Consistent with its strategy to achieve equitable ozone precursor emission reductions from all industrial sectors, the Commonwealth, along with other OTC states, has met with representatives of the glass industry to discuss reductions of NOx emissions from glass melting furnaces. There is general agreement that the NOx emission regulatory limits for the glass industry developed by the San Joaquin Valley Air Pollution Control District (SJVAPCD) in California are appropriate NOx emission limits for glass melting operations located in this Commonwealth and the other OTC States. The SJVAPCD Rule was first adopted in 1994 and subsequently amended in 1998, 2002 and 2006; this amended regulation was used to develop the Commonwealth's regulations, which serve as the OTC model rule for glass melting furnaces. The Department reviewed, analyzed and concurred with the OTC's control measures summary document for glass melting furnaces with respect to the individual glass melting furnaces in this Commonwealth and determined that proposing a glass melting furnaces regulation based on the SJVAPCD Rule's mix of control options to meet specified emission limits was the appropriate implementation strategy for a rulemaking to control NOx emissions from this Commonwealth's glass melting furnaces.

As part of the proposed rulemaking, the Board proposed under § 129.309 (relating to compliance demonstration) that the owner or operator of a glass melting furnace may demonstrate compliance with the requirements of § 129.304 (relating to emission requirements) by surrendering Clean Air Interstate Rule (CAIR) NOx Ozone Season allowances for each ton of NOx emissions that exceeds the allowable emissions of the applicable glass melting furnaces. In response to comments received during the official public comment period on the proposed rulemaking for glass melting furnaces, and following the Department's review of other related information, the Department prepared a draft final-form rulemaking for public comment. The draft final-form rulemaking contained significant changes in several areas and the Department believed that, while not legally required, further discussion and an additional comment period would serve the public interest. An Advance Notice of Final Rulemaking (ANFR) was published at 39 Pa.B. 5318 (September 12, 2009). The most significant change made in the draft final-form rulemaking concerned deletion of the NOx surrender compliance option which allowed for the purchase of CAIR NOx allowances. The EPA held discussions with the Department subsequent to the closing of the public comment period on June 23, 2008, regarding the proposed rulemaking's option to demonstrate compliance with the emission limits through the purchase of CAIR NOx allowances under the EPA's CAIR regulation. During these discussions, the EPA indicated to the Department that providing a compliance option to purchase CAIR NOx allowances in the final-form rulemaking would jeopardize the approval of the

Commonwealth's CAIR SIP revision, because glass melting furnaces are not specifically included in the EPA CAIR program as a source category. Therefore, the compliance option to purchase CAIR NOx allowances was deleted from the final-form rulemaking.

There are three additional significant changes to the final-form rulemaking:

(1) The provision requiring compliance with the emission limits during the ozone season from May-September has been deleted. The Department further revised the final-form rulemaking to require compliance with the NOx emission limits year-round because NOx is a precursor to the formation of PM2.5, which is monitored year-round. In addition, NOx is also a precursor to the formation of ozone and it is anticipated that the EPA will extend the ozone monitoring season in this Commonwealth to go from March 1 to October 31, each year, requiring monitoring for the 8-hour ozone NAAQS for a longer period each year. See 74 FR 34525, 34538 (July 16, 2009).

(2) The final-form rulemaking adds a NOx emission limit applicable to a glass melting furnace that produces a glass product that is other than flat, container, fiberglass, or pressed or blown.

(3) The final-form rulemaking provides a petition process for an alternative emission limitation to the owner or operator of a glass melting furnace that demonstrates it is economically or technologically infeasible to meet the NOx emission limitations specified in § 129.304(a). An alternative emission limitation approved by the Department must be included in either a plan approval or an operating permit issued by the Department or a permit issued by the appropriate approved local air pollution control agency. Moreover, the petition process in the final-form rulemaking also allows an owner or operator to submit a petition for an alternative compliance schedule if compliance with the NOx emission limitations is not achieved by the January 1, 2012, compliance deadline specified in § 129.304(b).

The Department worked with the Air Quality Technical Advisory Committee (AQTAC) in the development of this final-form rulemaking. At its November 18, 2009, meeting, the AQTAC recommended revisions to the final-form rulemaking and concurred with the Department's recommendation to advance the regulation to the Board for consideration as a final-form rulemaking. The AQTAC recommended that the Department evaluate the requirements for exemptions in § 129.303 (relating to exemptions), specify the role of local air pollution control agencies and re-evaluate the invalidated data substitution method. These revisions were considered and incorporated into the final-form rulemaking.

The Department also conferred with the Citizens Advisory Council (CAC) concerning the final-form rulemaking on December 15, 2009. The CAC concurred with the Department's recommendation to advance the regulation to the Board for consideration as a final-form rulemaking.

#### *E. Summary of Final-Form Rulemaking and Changes from Proposed to Final-Form Rulemaking*

##### *Summary of Final-Form Rulemaking*

The final-form rulemaking adds the following definitions and terms to § 121.1 (relating to definitions) used in the substantive provisions under §§ 129.301—129.310 (relating to control of NOx emissions from glass melting furnaces): "blown glass," "cold shutdown," "container glass," "fiberglass," "flat glass," "glass melting furnace,"



“idling,” “permitted production capacity,” “pressed glass,” “primary furnace combustion system,” “pull rate,” “shut-down” and “start-up.”

The following proposed definitions and terms were deleted between proposed and final-form rulemaking: “100% air-fuel fired,” “air-fuel firing,” “complete reconstruction,” “furnace battery,” “furnace rebuild,” “multiple furnaces,” “oxyfuel fired” and “oxygen-assisted combustion.”

Section 129.301 (relating to purpose) annually limits the emissions of NOx from glass melting furnaces.

Section 129.302 (relating to applicability) specifies that the regulation applies to an owner or operator of a glass melting furnace that emits or has the potential to emit NOx at a rate greater than 50 tons per year.

Section 129.303 (relating to exemptions) provides, among other things, that the emission requirements in § 129.304 do not apply during periods of start-up, shutdown or idling as defined in § 121.1 if the owner or operator complies with the requirements of §§ 129.305—129.307 (relating to start-up requirements; shutdown requirements; and idling requirements). Owners and operators claiming the exemption shall notify the Department or approved local air pollution control agency within 24 hours after initiation of the operation for which the exemption is claimed. Additionally, the owner or operator of a glass melting furnace granted an exemption under § 129.303 shall maintain operating records or documentation, or both, necessary to support the claim for the exemption.

Section 129.304 provides that the owner or operator of a glass melting furnace shall determine allowable NOx emissions by multiplying the tons of glass pulled by each furnace by: 4.0 pounds of NOx per ton (lbs NOx/ton) of glass pulled for container glass furnaces; 7.0 lbs NOx/ton of glass pulled for pressed or blown glass furnaces; 4.0 lbs NOx/ton of glass pulled for fiberglass furnaces; 7.0 lbs NOx/ton of glass pulled for flat glass furnaces; and 6.0 lbs NOx/ton of glass pulled for all other glass melting furnaces. The owner or operator of a glass melting furnace shall comply with the allowable NOx emissions by January 1, 2012, unless a petition for an alternative emission limitation or compliance schedule is submitted, in writing, to the Department or approved local air pollution control agency by January 1, 2012, and subsequently approved, in writing, by the Department or approved local air pollution control agency.

The final-form rulemaking provides a petition process for an alternative NOx emission limitation to the owner or operator of a glass melting furnace that demonstrates to the Department’s satisfaction that it is economically or technologically infeasible to meet the established emission limitations in § 129.304. An alternative NOx emission limitation approved by the Department must be included in either a plan approval or an operating permit issued by the Department or a permit issued by the appropriate approved local air pollution control agency. Moreover, this final-form rulemaking also includes a petition process for an alternative compliance schedule if an owner or operator of a glass melting furnace demonstrates that compliance cannot be achieved by the January 1, 2012, compliance date specified in § 129.304(b).

Section 129.305 (relating to start-up requirements) requires the owner or operator to submit specific information requested by the Department or approved local air pollution control agency to assure proper operation of the furnace. The owner or operator of a glass melting furnace may submit a request for a start-up exemption in con-

junction with the plan approval application, if required. The length of the start-up exemption may not exceed a finite number of days depending on the type of furnace. The Department or approved local air pollution control agency may approve start-up exemptions to the extent that the request identifies, among other things, the control technologies or strategies to be used. Additionally, the owner or operator shall place the emission control system in operation as soon as technologically feasible during start-up to minimize emissions.

Section 129.306 (relating to shutdown requirements) provides, among other things, that the duration of a glass melting furnace shutdown, as measured from the time the furnace operations drop below 25% of the permitted production capacity or fuel use capacity to when all emissions from the furnace cease, shall not exceed 20 days.

Section 129.307 (relating to idling requirements) provides, among other things, that the owner or operator of a glass melting furnace shall operate the emission control system whenever technologically feasible during idling to minimize emissions.

Section 129.308 (relating to compliance determination) provides, among other things, that no later than 14 days prior to the applicable date under § 129.304, the owner or operator of a glass melting furnace subject to this section and §§ 129.301—129.307 and 129.309 and § 129.310 (relating to recordkeeping) shall install, operate and maintain continuous emissions monitoring systems (CEMS) (as defined in § 121.1) for NOx and other monitoring systems to convert data to required reporting units in compliance with Chapter 139, Subchapter C (relating to requirements for source monitoring for stationary sources), and calculate actual emissions using the CEMS data reported to the Department or approved local air pollution control agency. However, the owner or operator of a glass melting furnace may elect to install and operate an alternate NOx emissions monitoring system or method approved, in writing, by the Department or approved local air pollution control agency. Data invalidated under Chapter 139, Subchapter C shall be substituted with other values if approved, in writing, by the Department or approved local air pollution control agency.

Section 129.309 provides that the owner or operator of a glass melting furnace shall calculate and report to the Department or approved local air pollution control agency on a quarterly basis no later than 30 days after the end of the quarter the CEMS data and glass production data used to show compliance with the allowable NOx emission limitations. The glass production data must consist of the quantity of glass in tons pulled per day for each furnace. Compliance can be demonstrated on a furnace-by-furnace basis; facility-wide emissions averaging basis; or a system-wide emissions averaging basis among glass melting furnaces under common control of the same owner or operator in this Commonwealth. The owner or operator for which the Department has granted approval to voluntarily opt into a market-based program may not demonstrate compliance on an emissions averaging basis. Moreover, an emission reduction obtained by emission averaging to demonstrate compliance with the emission requirements will not be considered surplus for emission reduction purposes.

Section 129.310 (relating to recordkeeping) provides that the owner or operator of a glass melting furnace subject to the requirements of this section and §§ 129.301—129.309 shall maintain certain records to demonstrate compliance.

*Changes from Proposed to Final-Form Rulemaking*

In addition to the revisions for definitions previously discussed in this section, changes from the proposed rulemaking to final-form rulemaking are summarized as follows.

In § 129.302, the metric “20 pounds per hour” and the May 1, 2009, applicability date were deleted from the final-form regulation. The phrase “appropriate approved local air pollution control agency” was added to this section.

Changes to § 129.303 between proposed and final-form rulemakings include, among other things, the deletion of the exemption regarding glass melting furnaces heated by an electric current from electrodes submerged in molten glass. The final-form regulation includes a requirement that owners and operators of glass melting furnaces claiming an exemption shall notify the Department or appropriate approved local air pollution control agency within 24 hours after the initiation of the operation for which the exemption is claimed. As part of the notification requirements, the owner or operator shall identify the emission control system operating during the exemption period. Finally, the phrase “appropriate approved local air pollution control agency” was also added to subsections (b)–(d).

Changes to § 129.304, among other things, include the requirement that the owner or operator of a glass melting furnace may not operate a glass melting furnace that results in NOx emissions in excess of the allowable emissions established therein or the NOx emission limits contained in the plan approval or operating permit, whichever is lower. This section has also been revised to allow the owners and operators of glass melting furnaces to submit a petition for an alternative emission limitation or compliance schedule, if the owners or operators are unable to meet the allowable NOx emission limits. In addition, the final-form rulemaking sets forth the information necessary to be included in a petition that will be considered by the Department or appropriate approved local air pollution control agency as it relates to an alternative NOx emission limitation or compliance schedule. However, the alternative compliance schedule for a cold shutdown which occurs after the effective date of this final-form rulemaking may not be extended beyond 180 days from the start-up of the furnace after the cold shutdown, unless approved, in writing, by the Department. Lastly, an exemption from the NOx emission limits is provided under certain conditions during routine maintenance or repair of certain components of the glass melting furnace.

Final-form changes to § 129.305 include, among other things, start-up exemption periods for all other glass melting furnaces not otherwise covered under the proposed rulemaking. The final-form regulation also includes maximum start-up exemption periods for certain glass melting furnaces that employ NOx control systems not in common use or not readily available from a commercial supplier. Section 129.305 also includes language that allows, in addition to the Department, an approved local air pollution control agency to be notified and to make certain determinations related to start-up requirements.

Changes to §§ 129.306 and 129.307 authorize an approved local air pollution control agency, in addition to the Department, to determine when the operation of an emission control system is technologically feasible.

In § 129.308, the final-form regulation allows the highest valid 1-hour emission values to be substituted if data

is invalidated under Chapter 139, Subchapter C. An approved local air pollution control agency may also make compliance determinations under this section.

Changes to § 129.309 between proposed and final-form rulemaking include the deletion of language regarding the use and surrender of CAIR NOx ozone season allowances.

In § 129.310, the owner or operator claiming that a glass melting furnace is exempt from the requirements of §§ 129.301–129.309 based on the furnace’s potential to emit shall maintain records that clearly demonstrate to the Department or appropriate approved local air pollution control agency that the furnace is not subject to those regulatory requirements.

*F. Summary of Comments and Responses on the Proposed Rulemaking**Comments and Responses on the Proposed Rulemaking*

A commentator supports and strongly urges the adoption of the NOx emission limits for fiberglass plants consistent with the 4.0 lbs NOx/ton of glass pulled adopted by the OTC. The Board appreciates the commentator’s support of the proposed rulemaking for fiberglass plants.

A commentator stated that the emission limit for fiberglass plants in the proposed rulemaking can be achieved by currently available technologies and the emission limit is a technologically feasible and pragmatic approach requiring implementation of low-NOx combustion technology. The Board agrees with the commentator that the emission limit for fiberglass furnaces can be achieved with technologies currently available.

The commentator stated that it is an arbitrary and capricious action to base the regulations proposed NOx emission limits on a California rule without an explanation as to why they are appropriate to this Commonwealth. The Board disagrees with the commentator. The Board proposed the allowable NOx emission requirements as a result of the research conducted by and the recommendations of the Northeast OTC. The Northeast OTC is a multistate organization created under section 184 of the CAA. The OTC is responsible for advising the EPA on ground-level ozone pollution transport issues and for developing and implementing regional solutions to the ground-level ozone problem in the Northeast and Mid-Atlantic regions. The members of the OTC are required to demonstrate attainment with the 1997 8-hour ozone standard of 80 parts per billion (ppb). See 62 FR 38855.

Additionally, on March 12, 2008, the EPA issued a more protective 8-hour ozone standard of 75 ppb that would require additional reductions of ozone precursor emissions. See 73 FR 16436. The 2008 revised standard requires additional reductions of emissions of ozone precursors, including NOx, that impact each member’s nonattainment status. As required by the CAA, the Commonwealth submitted recommendations to the EPA in 2009 to designate 29 counties as nonattainment for the 2008 8-hour ozone NAAQS. The EPA was expected to take final action on the designation recommendations by March 2010. However, the EPA reconsidered the 2008 ozone NAAQS and published a proposed rulemaking at 75 FR 2938 to set a more protective 8-hour primary standard at a lower level within the range of 0.060–0.070 ppm; the final revised ozone standard is expected in August 2010. If, as is widely expected, the EPA tightens the ozone standard, the additional NOx emissions from the final-form rulemaking for glass melting furnaces will be even more important than if the current 2008 ozone

standard remains in place. In addition, Northeast states are conducting attainment planning work to support development of PM<sub>2.5</sub> and regional haze SIPs to satisfy obligations under the CAA and regulations issued under the CAA. See 74 FR 58688 and 64 FR 35713 (July 1, 1999). NO<sub>x</sub> emissions are precursors to the development of PM<sub>2.5</sub> and regional haze.

The OTC undertook a study to identify a suite of additional control measures that could be used by the members in attaining their goals. Workgroups of staff from within the OTC members were established to evaluate control measures for specific sectors or issues. Department staff actively participated in these workgroups. Based on a review of 1,000 candidate control measures, the workgroups developed a short list of measures to be considered for more detailed analysis. The technical information for this short list of measures is found in the OTC report *Identification and Evaluation of Candidate Control Measures, Final Technical Support Document*, prepared by MACTEC Federal Programs, Inc., Herndon, VA, February 28, 2007. Control of NO<sub>x</sub> emissions from glass melting furnaces in the six states within the Ozone Transport Region (OTR) that have glass melting furnaces (this Commonwealth, Maryland, Massachusetts, New Jersey, New York and Rhode Island) was on the short list as a measure for further analysis by the workgroups. The workgroups reviewed information on current NO<sub>x</sub> emissions from the furnaces, controls already in place on the furnaces, anticipated additional NO<sub>x</sub> emissions reductions from the control measures, preliminary cost and cost-effectiveness data, and other implementation issues. The workgroups discussed all the candidate control measures, including controlling NO<sub>x</sub> emissions from glass melting furnaces, during a series of conference calls and workshops to further refine the emission reduction estimates, the cost data and implementation issues.

The workgroups also discussed comments from stakeholders, including glass melting furnace stakeholders (North American Insulation Manufacturers Association and Glass Association of North America). The OTC Commissioners summarized the glass melting furnace control measures and made a recommendation at the Commissioners' meetings in 2006 that the affected member states consider NO<sub>x</sub> emission reductions from glass melting furnaces. The glass melting furnace stakeholders were provided multiple opportunities to review and comment on the glass melting furnace control measures summary. Public meetings were held as an opportunity for stakeholders to review and respond to the Commissioners' recommendations, stakeholders provided written comments, and the workgroups conducted conference calls with specific stakeholders to allow the stakeholders to vocalize their concerns directly to state regulatory staff and to discuss the control options. The OTC staff and state workgroups carefully considered the verbal and written comments received during this process.

The OTC's control measures summary recommends that states may allow the owners or operators of glass melting furnaces to propose compliance methods based on California's SJVAPCD Rule 4354 (relating to glass melting furnaces) which allows a "mix of control options to meet specified emission limits." The NO<sub>x</sub> emission rates recommended in the OTC control measures summary document are the rates specified in SJVAPCD Rule 4354. The Department reviewed, analyzed and concurred with the OTC's control measures summary document for glass melting furnaces with respect to the individual glass melting furnaces in this Commonwealth, and determined that proposing a glass melting furnaces regulation based

on SJVAPCD Rule 4354 mix of control options to meet specified emission limits was the appropriate implementation strategy for a rulemaking to control NO<sub>x</sub> emissions from this Commonwealth's glass melting furnaces.

The Commonwealth, along with the other affected OTC member states, agreed to establish NO<sub>x</sub> emission limits and controls for glass melting furnaces that are based on SJVAPCD Rule 4354 so that there would be a level playing field among the OTC states. The owners and operators of glass melting furnaces in this Commonwealth remain competitive with those states not in the OTC with the option of an alternative compliance schedule contained in the petition process that is provided in § 129.304(b) and (c).

The commentator questioned whether imposing the proposed emission requirements in the absence of a Federal deadline will place this Commonwealth's industry at a competitive disadvantage, and suggests the Board should review the situation carefully in conjunction with the OTC to take precautions to insure a level playing field in the industry. The Board proposed the allowable emission requirements as a result of the research conducted by and the recommendations of the OTC. In addition, the Commonwealth also conducted its own independent research and verified the OTC recommendation. Control of NO<sub>x</sub> emissions from glass melting furnaces in the six states within the OTR that have glass melting furnaces (this Commonwealth, Maryland, Massachusetts, New Jersey, New York and Rhode Island) was identified by the OTC as a control measure for further analysis. Moreover, the owners and operators of glass melting furnaces in this Commonwealth remain competitive with those states not in the OTC with the option of an alternative compliance schedule contained in the petition process that is provided in § 129.304(b) and (c).

The commentator stated that the proposed rulemaking does not include emission requirements for specialty glass manufacturing, and therefore the proposed rulemaking does not apply to their glass melting furnace since it does not meet the applicability criteria defined in the proposed rulemaking. The Board recognizes this and as a result, this final-form rulemaking also includes a petition process for an alternative compliance schedule if the owner or operator of a glass melting furnace demonstrates that compliance will not be achieved by the January 1, 2012, compliance date specified in § 129.304(b).

The proposed rulemaking's compliance determination section should express NO<sub>x</sub> in the same units as in the emission requirements section of the proposed rulemaking (lbs/hr vs. lbs NO<sub>x</sub>/ton glass). The Board disagrees with the commentator. The CEMS' equipment is not designed to sample and report a source's process-derived emissions data, for example, tons of glass pulled at a glass melting furnace. The CEMS equipment samples a "parts per million" emissions concentration, and then automatically calculates a "pounds per hour" emissions concentration. When the monitoring data is submitted to the Department every quarter, as required under § 129.309(a), the submittal shall include the CEMS monitored data in pounds per hour and the glass production data in tons of glass pulled per day for each furnace.

The commentator stated that the emission requirements compliance date of May 1, 2009, is unreasonable because there is less than 1 year until this deadline and the proposed rulemaking was not yet final and may not be final before the end of 2008. The Board acknowledges that the proposed rulemaking's compliance date of May 1,

2009, is impractical. Therefore, the final-form rulemaking requires compliance with the NO<sub>x</sub> emission limits by January 1, 2012.

The commentator stated that this regulation will likely require permitting of air pollution control equipment which reasonably cannot occur by May 1, 2009, and suggests that the regulation's compliance deadline become effective upon the next furnace rebuild, but no sooner than May 1, 2012. The Board agrees with the commentator that the proposed rulemaking's compliance date of May 1, 2009, is impractical. The final-form rulemaking requires compliance with the emission limits by January 1, 2012.

The Independent Regulatory Review Commission (IRRC) commented that the Board should review the practicality of the 2009 compliance deadline, given the uncertainty of the future of the EPA's CAIR allowance program and questioned if other compliance options will be available for providing flexibility to the affected industry. The Board agrees with the commentator. Subsequent to the closing of the public comment period on June 23, 2008, the Department held discussions with the EPA regarding the proposed rulemaking's option to demonstrate compliance with the emission limits through the purchase of CAIR NO<sub>x</sub> allowances under the EPA's CAIR regulation. The EPA indicated to the Department that the glass melting furnace regulation that would provide a compliance option to purchase CAIR NO<sub>x</sub> allowances would be problematic as far as approvability by the EPA for the Commonwealth's SIP, because glass melting furnaces are not specifically included in the EPA's CAIR program as a source category able to purchase CAIR NO<sub>x</sub> allowances to achieve compliance. Therefore, the Board removed from the final-form rulemaking the compliance option to purchase CAIR NO<sub>x</sub> allowances.

The House and Senate Environmental Resources and Energy Committees (Committees) commented that it may assist the Department as well as the regulated industry to not base the compliance time frame on a specific date. The Committees commented that glass melting furnaces could potentially be required by the regulation to be replaced or upgraded prior to the end of their normal life expectancy, which would greatly increase the compliance costs of the regulation, if the regulation contains a specific compliance date. The Committees further commented that they understand several other states permit furnaces to be upgraded after their normal and anticipated life expectancy is exhausted. The Board has modified the final-form rulemaking to provide for a petition process to all glass melting furnace owners and operators under § 129.304(b) for an alternative compliance schedule if they will be unable to meet the emission limits beginning January 1, 2012. The Board believes that a final compliance date specified in the regulation is necessary to ensure that the owners and operators of the glass melting furnaces in this Commonwealth limit the NO<sub>x</sub> emissions from their furnaces by a date certain, either by January 1, 2012, or by the date specified on a case-by-case basis as determined through the petition process for an alternative compliance schedule under § 129.304(c). Additionally, the SJVAPCD Rule whose NO<sub>x</sub> emission limits and compliance methods were recommended by the OTC control measures group specifies a final compliance date.

A commentator stated that the proposed rulemaking limits the purchase of allowances to CAIR NO<sub>x</sub> allowances and should allow for the use of NO<sub>x</sub> credits previously banked as a result of prior emission reduc-

tions. The Board disagrees with the commentator. The use of NO<sub>x</sub> credits previously banked due to prior emission reductions is clarified in the Department's NO<sub>x</sub> Budget Trading Program under § 145.90(a) (relating to emission reduction credit provisions): "ERCs may not be used to satisfy NO<sub>x</sub> allowance requirements." Further, as previously explained, the final-form regulation no longer provides the compliance option to purchase CAIR NO<sub>x</sub> allowances.

A commentator stated that the Board did not adequately address, while drafting and promulgating the proposed rulemaking and in accordance with Executive Order 1996-1, "Regulatory Review and Promulgation," that when there are existing Federal regulations covering the subject matter as does the EPA's CAIR regulation, that a state's regulations cannot be more stringent than the Federal standards. The commentator stated further that the EPA promulgated CAIR for the control of NO<sub>x</sub> emissions at the Federal level and the EPA focused the CAIR regulation on electric generating units (EGU). Glass melting furnaces are not EGUs, thus under the EPA's CAIR, specific regulation of glass manufacturing is notably absent. The purpose of the Department's rulemaking is to address reductions of NO<sub>x</sub> from glass melting furnaces, while the EPA's CAIR addresses NO<sub>x</sub> reductions from EGUs, certain boilers, stationary combustion turbines and stationary internal combustion engines. Therefore, these are two different regulatory strategies with the goal of reducing NO<sub>x</sub> emissions from various source types within this Commonwealth. The EPA did not intend CAIR to comprise the entire solution to control NO<sub>x</sub> emissions from all types of sources, but only to address interstate transport of ozone and PM<sub>2.5</sub> precursors from the EGU sector. In fact, this Commonwealth and other OTC members have determined that additional NO<sub>x</sub> reductions may be necessary in some areas, in combination with reduction of interstate transport, to attain and maintain the NAAQS. Executive Order 1996-1 applies to the final-form rulemaking since there is not a companion Federal rule that reduces NO<sub>x</sub> emissions from glass melting furnaces. However, this final-form rulemaking is reasonably necessary to attain and maintain the 8-hour ozone and PM<sub>2.5</sub> NAAQS. The criteria for adopting state regulations more stringent than Federal regulations (when Federal regulations exist) are in section 4.2 of the APCA, (35 P. S. § 4004.2). Section 4.2 of the APCA authorizes the Board to adopt regulations more stringent than Federal requirements when the control measures are reasonably necessary to attain and maintain the ambient air quality standards.

The Senate Committee commented on the ability of the Board to move forward with the regulation if the United States Court of Appeals for the District of Columbia (D.C. Circuit Court) vacated the CAIR budget and allowance system for NO<sub>x</sub> emissions in this Commonwealth and other states. Their concern is that on July 11, 2008, the D.C. Circuit Court overturned CAIR and specifically that the D.C. Circuit Court found that the state NO<sub>x</sub> budgets as determined by the EPA were "arbitrary and capricious." The decision by the D.C. Circuit Court in *North Carolina v. EPA* only addressed CAIR, and did not address NO<sub>x</sub> emission limits for glass melting furnaces.

IRRC questioned the Board's statutory authority for the use of CAIR NO<sub>x</sub> allowances and revised NO<sub>x</sub> emission limits in the proposed regulation due to the fact that the EPA's CAIR was vacated on July 11, 2008, by the D.C. Circuit Court. IRRC goes on to say that the D.C. Circuit Court in its ruling stated that the analysis done by the EPA was "fundamentally flawed" and that the EPA must

start its analysis anew. The Board disagrees with this analysis. The decision by the D.C. Circuit Court in *North Carolina v. EPA* only addressed CAIR, and did not address NOx emission limits for glass melting furnaces. The D.C. Circuit Court decided to remand, not vacate, the EPA's CAIR in December 2008. The final Federal rule, expected in 2011, must be revised to be consistent with the D.C. Circuit Court's July 11, 2008, decision in *State of North Carolina v. Environmental Protection Agency*, 531 F.3d 896 (2008). The Board agrees that while the EPA's CAIR remains in place at this time, the EPA will propose and finalize a replacement for CAIR that meets the criteria set forth by the court. In light of the SIP-approvability issues raised by the EPA, the compliance option to purchase and surrender CAIR NOx allowances was deleted from the final-form regulation.

IRRC stated that the Board should address the concerns raised by the Senate Committee on the CAIR vacatur, and suggested that if the regulation requires substantial changes, to consider submitting an ANFR or publishing the changes as a new proposed rulemaking in the *Pennsylvania Bulletin*. The Department agrees with the commentator. The provisions of the final-form rulemaking contain significant changes from the proposed rulemaking. Most importantly, during discussions with the EPA following the close of the Board's public comment period for the proposed rulemaking, the EPA indicated to the Department that a final glass melting furnace regulation that provides a compliance option to purchase CAIR NOx allowances would be problematic as far as approvability by the EPA for the Commonwealth's SIP, because glass melting furnaces are not specifically included in the EPA's CAIR program as a source category able to purchase allowances to achieve compliance. The EPA did not intend CAIR to comprise the entire solution to control NOx emissions from all types of sources, but only to address interstate transport of ozone and PM2.5 precursors from the EGU sector. Therefore, the Board removed from the final-form rulemaking the compliance option to purchase CAIR NOx allowances. The Board further revised the final-form rulemaking to require compliance with the NOx emission limits year-round because NOx is not only a precursor to ozone formation, but is also a precursor to the formation of PM2.5, which is monitored year-round. In addition, the proposed rulemaking addressed control of NOx emissions from glass melting furnaces only during the period of May 1 to September 30 of each year, and it is anticipated that the EPA will extend the ozone monitoring season in this Commonwealth to go from March 1 to October 31, each year, requiring monitoring for the 8-hour ozone NAAQS for a longer period each year. See 74 FR 34525, 34538. The Board also added a NOx emission limit applicable to a glass melting furnace that produces a glass product that is other than flat, container, fiberglass or pressed and blown. These changes are sufficiently significant that the Board believed further discussion and an additional comment period served the public interest. An ANFR to solicit comments from the public on the draft final-form rulemaking was published at 39 Pa.B. 5318.

The Senate Committee commented that they support the concept of NOx allowance trading, and would favor removing the requirement for being "under common control of the same owner or operator in this Commonwealth" from the system-wide averaging section of the rulemaking and IRRC commented that the Board should address this issue. The Board disagrees. Allowing multiple owners and operators of glass melting furnaces in this Commonwealth to average their emissions in concert

with each other to demonstrate compliance would essentially provide them the larger framework of an emissions trading program, which is beyond the scope of the final-form rulemaking provision to provide them with an emissions averaging option.

One commentator stated that the proposed rulemaking's requirement to install a NOx emissions monitoring system (CEMS or an alternate) does not impose a time requirement upon the Department for the review and approval of the monitoring system. The Board disagrees with the commentator that the regulation should contain a time requirement. The time frame to review and approve a monitoring system is coordinated with each individual company during the certification process of the monitoring system, in accordance with the Department's *Continuous Source Monitoring Manual* (DEP 274-0300-001). These monitoring-specific issues are not part of individual rulemakings.

Some commentators stated that the deadline of May 1, 2009, for the system to be installed and operational is unreasonable as there is less than 1 year until this deadline, and that it does not provide adequate time allowed for installation and operation of the CEMS. The commentators suggest there should be a longer time frame for the system to be installed and operational, and suggest that May 1, 2010, should be the earliest implementation date for the CEMS. The Board agrees with the commentators. A CEMS or alternate monitoring system or method to determine compliance with the emission limits specified in § 129.304(a) in the final-form rulemaking must be installed, operating and maintained no later than 14 days prior to the applicable date by which a glass melting furnace is required to meet the emission limits specified in § 129.304(b) or (c) in the final-form rulemaking.

A commentator stated that "to be consistent with the requirements of the CAIR, CEMS installation should be reserved for furnaces undergoing reconstruction or modification and not simple rebricking." The Board disagrees with the commentator. The EPA's CAIR requirements are not applicable to this final-form rulemaking. In addition, a CEMS or alternate monitoring system or method to determine compliance with the emission limits specified in § 129.304(a) in the final-form rulemaking must be installed, operating and maintained no later than 14 days prior to the date by which a glass melting furnace is required to meet the emission limits specified in § 129.304(b) or (c) in the final-form rulemaking.

One commentator stated that the "alternate NOx emissions monitoring system or method" referenced in the proposed rulemaking should be further clarified to explain what is an allowable alternate system. The Board disagrees with the commentator. An alternate NOx emissions system or method is not designed to be a prescribed method or system.

A commentator stated that the start-up exemption time of 104 days for a flat glass furnace is too short, and suggests an additional 208 days be allowed for a flat glass furnace that uses a NOx control not readily available from a commercial supplier, not in common use, or that is innovative. The Board agrees with the commentator with respect to the start-up exemption time of 104 days for a flat glass furnace. To be consistent with SJVAPCD Rule 4354, on whose NOx emission limits the OTC based its recommendations to its member states with glass melting furnaces, the final-form rulemaking revised the length of the start-up exemption in § 129.305(d) for all types of glass furnaces. For flat glass furnaces, the maximum

start-up exemption time is 208 days if the NOx control system is not in common use or is not readily available from a commercial supplier.

The commentator stated that the “not to exceed 5% excess oxygen” restriction during a furnace combustion start-up should be eliminated, as it does not appear to have a relationship or a benefit to NOx emissions. The Board retains in the final-form rulemaking the furnace start-up restriction under § 129.305(f) of “not to exceed 5% excess oxygen,” which is consistent with the furnace start-up requirements in SJVAPCD Rule 4354.

The Committees commented to the Board on behalf of one commentator that the start-up exemption unnecessarily restricts the exemption to a new furnace or furnace rebuild and does not account for an idled existing furnace, and implies that a plan approval would be required in connection with a furnace start-up, which is not necessarily the case. The Board revised this section of the final-form rulemaking. Section 129.305(b) specifies that a plan approval application for a furnace start-up exemption request shall be submitted “if required,” in recognition that some furnace start-ups may not require a plan approval.

The NOx proposal should adopt the 2007 National Emissions Standards for Hazardous Air Pollutants (NESHAP) definition of “glass melting furnace” instead of using the outdated 1980 New Source Performance Standard (NSPS) definition. The NSPS definition includes a list of extraneous nonfurnace equipment that goes against the intent of the proposed rulemaking that requires monitoring NOx emissions from only the furnace. The Board agrees with the commentator. The final-form rulemaking adopted the 2007 NESHAP definition of the term “glass melting furnace” that was published at 72 FR 73180 (December 26, 2007).

The definition of “furnace rebuild” is unclear and appears to broaden the scope of repair activities that currently require permitting, and the definition should exclude rebricking activities as defined in 40 CFR Part 60, Subpart CC (relating to standards of performance for glass manufacturing plants) and likewise exclude those activities from permitting. The term “complete reconstruction” in the definition of “furnace rebuild” should be stated as “reconstruction.” The Board agrees and made the necessary changes.

The Committees commented to the Board that the definition of “start-up” should be revised to be consistent with the SJVAPCD Rule to include necessary language on furnace stabilization, that is, the phrase “and systems and instrumentation are brought to stabilization.” The Board agrees with the commentator. The proposed definition of the term “start-up” in § 121.1 has been revised.

The proposed regulation should not expand the scope of what currently triggers permitting or plan approvals specified in the *Pennsylvania Code* and existing Federal regulations, and exemptions should be included for furnace rebricking and repairs or replacements that do not constitute a modification. The final-form rulemaking will require compliance with the NOx emission limits by January 1, 2012. The plan approval issued for the construction of a new glass melting furnace or furnace modification shall include terms and conditions consistent with the requirements of Chapter 127, Subchapter B (relating to plan approval requirements). The Board added in § 121.1 in the final-form rulemaking a definition for “cold shutdown” and the final-form rulemaking includes “scheduled” whenever “cold shutdown” is used

within the final-form rulemaking to distinguish between furnace repair activities and a scheduled “cold shutdown” when the furnace is cold and does not contain molten glass. The Board believes this will alleviate the concerns about routine repairs to a furnace.

The selective catalytic reduction and selective noncatalytic reduction add-on control technologies for glass furnaces are not technically feasible control technologies for the intermittent NOx emissions from nitrate decomposition, and therefore are not feasible add-on controls for this commentator’s glass melting furnace facility. This commentator requested the Board to explicitly exclude its facility from the proposed rulemaking. The Board disagrees with the commentator. The Board recognized that furnaces within this Commonwealth that produce a glass product other than the four types listed in the proposed rulemaking (flat, container, fiberglass and pressed and blown) were not adequately considered in the proposed rulemaking. As a result, the Board added under § 129.304 in the final-form rulemaking an emission limit of 6.0 lbs NOx/ton of glass pulled for a glass melting furnace that does not produce flat, container, fiberglass or pressed and blown glass products. The Board, in researching and analyzing these types of furnaces within this Commonwealth, considered the limit of 6.0 lbs NOx/ton of glass pulled to be a reasonable limit based on the low NOx burner technology that is available to reduce uncontrolled NOx emissions by 30–35%.

The proposed rulemaking was directed at combustion sources of NOx, and the rule’s intent is to limit emissions of thermal NOx. Since 95% of this commentator’s NOx emissions are from decomposition of nitrogen-containing raw materials and not from thermal NOx combustion processes, the Board should clarify that it is inappropriate to apply the proposed rulemaking to them. The Board disagrees with the commentator. The purpose of the final-form rulemaking is to control NOx emissions from glass melting furnaces. Applicability § 129.302 of the final-form rulemaking clearly states that the provisions of the rulemaking apply to an owner or operator of a glass melting furnace that emits or has the potential to emit NOx at a rate greater than 50 tons per year. If a glass melting furnace in this Commonwealth meets the applicability criteria, the final-form rulemaking provisions would apply.

The Committees and another commentator questioned the legal authority of the Department and the Board to require glass melting facilities to significantly reduce NOx emissions under the APCA. The commentators also stated that there is not a legal basis to require significant reductions in NOx emissions when it can be demonstrated that their facility does not contribute to the failure of any nonattainment area to comply with the air quality standards for ozone. The Board disagrees with the commentators. The Board has the legal authority to require the owners and operators of glass melting furnaces to limit their emissions of NOx. The law in this Commonwealth is well-settled regarding whether a regulation is valid and binding. A court must evaluate if the regulation is: (1) within the agency’s granted power; (2) issued under proper procedures; and (3) reasonable. See, for example, *Rohrbaugh v. PUC*, 727 A.2d 1080 (1999) and *Housing Authority v. Pa. Civil Service Com’n*, 730 A.2d 935 (1999). Section 5 of the APCA provides that the Board will adopt rules and regulations for the prevention, control, reduction and abatement of air pollution, applicable throughout this Commonwealth. Clearly the intent of this regulation is to reduce air pollution, and so therefore the Board has the requisite legal authority. The

Board is proceeding with this rulemaking through the proper rulemaking procedures, as identified under the APCA, the Regulatory Review Act (71 P.S. §§ 745.1—745.12) and the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. § 1204(3)), known as the Commonwealth Documents Law (CDL). An environmental regulation is reasonable if it prevents the possibility of pollution (see *Department of Environmental Resources v. Metzger*, 347 A.2d 743 (Pa. Cmwlth. 1975)), protects the public health and safety (see *Chambers Development Company, Inc. v. Department of Environmental Resources*, 545 A.2d 404 (Pa. Cmwlth. 1988)) or reduces pollution (see *Rochez Bros., Inc. v. Department of Environmental Resources*, 334 A.2d 790 (Pa. Cmwlth. 1975)). Since this final-form rulemaking reduces pollution, it is reasonable.

The Committees and another commentator stated that the proposed rulemaking should provide for a variance if it could be demonstrated that it is economically unreasonable for the glass melting furnace facility to comply with the requirements of the rule, that the public interest is best served by granting the variance and that the current operations at the glass melting furnace facility have no significant adverse impact on atmospheric NOx concentrations and do not affect the Commonwealth's 8-hour ozone demonstration. The Board disagrees with the commentator. The Department disagrees with the commentator. A demonstration using air dispersion modeling (point-source or regional scale) to show that a single facility "does not contribute to the failure of any nonattainment area to comply with the air quality standards for ozone" is not the determination of whether a facility is subject to a proposed rulemaking. Moreover, a finding that emission reductions at one source of NOx does not contribute to the failure of a nonattainment area to comply with the air quality standards for ozone is not surprising. Sensitivity analyses have often shown that the Community Multiscale Air Quality model used by states for attainment demonstrations is relatively "stiff" considering even large emission changes; that is, the model may not predict large changes in ozone concentrations even when large emission reductions are made. Therefore, a variance relying on modeling would be inappropriate. The Department maintains that an atmospheric dispersion model such as CALPUFF is not appropriate to use to determine an ozone concentration because ozone is formed chemically and not solely by dispersion. Atmospheric chemistry plays a role in ozone formation, and modeling just the NOx emissions, as is the case with CALPUFF, does not address this atmospheric chemistry. Certain areas of this Commonwealth continue to exceed the health-based 1997 8-hour NAAQS for ozone. See 62 FR 38855. The final-form rulemaking to control NOx emissions from glass melting furnaces will result in additional NOx emission reductions that are necessary to support attaining and maintaining the health-based 1997 8-hour ozone NAAQS in this Commonwealth and downwind areas. Furthermore, on March 12, 2008, the EPA issued a more protective 8-hour ozone standard of 75 ppb that would require additional reductions of ozone precursor emissions, including NOx, that impact ozone attainment in this Commonwealth and throughout the OTR. See 73 FR 16436. However, the EPA has reconsidered the 2008 ozone NAAQS and published a proposed rulemaking at 75 FR 2938 to set a more protective 8-hour primary standard at a lower level within the range of 0.060—0.070 ppm; the final revised ozone standard is expected in August 2010. If, as is widely expected, the EPA tightens the ozone standard, the additional NOx emissions from the final-

form rulemaking for glass melting furnaces will be even more important than if the current ozone standard remains in place.

Nevertheless, the final-form rulemaking provides a petition process, rather than a variance, for an alternative emission limitation compliance deadline to the owner or operator of a glass melting furnace that demonstrates to the Department's satisfaction that it is economically or technologically infeasible to meet the NOx emission limitations in § 129.304(a). The alternative emission limitation must be included in either a plan approval or an operating permit issued by the Department or a permit issued by the appropriate approved local air pollution control agency. Moreover, this final-form rulemaking also includes a petition process for an alternative compliance schedule, rather than a variance, if an owner or operator of a glass melting furnace demonstrates that compliance with the NOx emission limitations will not be achieved by the January 1, 2012, compliance date in § 129.304(b).

This final-form rulemaking will also contribute to reduced formation of PM2.5 and regional haze. The EPA, in its "Clean Air Fine Particle Implementation Rule," determined that NOx emissions are also precursors to the formation of PM2.5. See 72 FR 20586 (April 25, 2007). In November 2009, the EPA designated 6 areas (all or part of 22 counties) in this Commonwealth as not attaining the 2006 24-hour PM2.5 NAAQS. See 74 FR 58688. Regional haze is visibility impairment that is produced by a multitude of sources and activities which emit fine particles and their precursors, including NOx, and which are located across a broad geographic area. See 64 FR 35713, 35715. Therefore, the adoption of the final-form rulemaking for glass melting furnaces will help to reduce formation of ozone, PM2.5 and regional haze in this Commonwealth and downwind. As a result, the regulation is reasonably necessary to attain and maintain the NAAQS for ozone and PM2.5.

A commentator stated that the Board did not adequately address, while drafting and promulgating the proposed regulation and in accordance with Executive Order 1996-1, whether the costs of the regulation exceed its benefits or not, and also that the proposed rulemaking does not support a conclusion that its costs will not exceed the benefits, and therefore the cost/benefit analysis should be more thoroughly addressed. The Board disagrees with the commentator. The Board addressed the benefits and the costs associated with the proposed rulemaking in the preamble published at 38 Pa.B. 1831 (April 19, 2008).

The Committees commented to the Board on behalf of PPG Industries during the ANFR comment period that an exemption from the emission limits should be included for glass melting furnaces during "periods of upset or malfunction" that affect an emission control device. The Board believes that an exemption for a furnace malfunction or upset period is not required. The Department does not routinely provide for exemptions from emission limits from a source for periods of upset or malfunction in regulations to control emissions from sources.

The Committees commented to the Board on behalf of PPG Industries during the ANFR comment period that the petition process described in § 129.304(b) and (c) of the ANFR final-form rulemaking should specify what factors the Department will consider for a glass melting furnace to qualify for an alternative compliance deadline. The Board believes the petition process in § 129.304(b) and (c) of the final-form rulemaking is comprehensive but not overly prescriptive and includes the factors suggested

by the Committees. In addition, the Board revised this section in the final-form rulemaking to require submittal, and not approval, of a petition request to the Department by January 1, 2012, and not by January 1, 2011.

#### *Comments and Responses on the ANFR*

As previously noted, an ANFR was published at 39 Pa.B. 5318 and the comment period closed on October 14, 2009. The draft final-form rulemaking contained significant changes in several areas, and the Department believed that while not legally required, further discussion and an additional comment period would serve the public interest. The most significant change made to the draft final-form rulemaking concerned the NO<sub>x</sub> surrender compliance option under § 129.309(c) which allowed for the purchase of CAIR NO<sub>x</sub> allowances. Three additional significant changes were made to the draft final-form rulemaking regarding: 1) year-round compliance; 2) an additional NO<sub>x</sub> emission limit applicable to the owner or operator of a glass melting furnace that produces a glass product that is other than flat, container, fiberglass or pressed or blown; and 3) the final-form rulemaking provides a petition process for an alternative NO<sub>x</sub> emission limitation to the owner or operator of a glass melting furnace that demonstrates it is economically or technologically infeasible to meet the established emission limitations under § 129.304. The alternative NO<sub>x</sub> emission limitation must be included in either a plan approval or an operating permit issued by the Department or a permit issued by the appropriate approved local air pollution control agency. Moreover, this final-form rulemaking also includes a petition process for an alternative compliance schedule to an owner or operator of any glass melting furnace that demonstrates that compliance will not be achieved by the January 1, 2012, compliance date established in § 129.304(b).

Seventeen commentators submitted comments on the ANFR: the Committees; the Allegheny County Health Department (ACHD); two organizations; three legislators; and eight glass companies.

A commentator supports the adoption of the NO<sub>x</sub> emission limits for fiberglass plants consistent with the 4.0 lbs NO<sub>x</sub>/ton of glass pulled adopted by the OTC. The Department appreciates the commentator's support of the draft final-rulemaking for fiberglass plants. The Department agrees with the commentator that the OTC-recommended emission limit of 4.0 lb NO<sub>x</sub>/ton of glass pulled for fiberglass plants in the final-form rulemaking achieves consistency and uniformity among the 13 members of the OTC and that the emission limit for fiberglass furnaces can be achieved with technologies currently available.

The commentator stated that it is an arbitrary and capricious action to base the regulation's proposed NO<sub>x</sub> emission limits on a California rule without an explanation as to why they are appropriate to this Commonwealth. The Department proposed the allowable NO<sub>x</sub> emission requirements as a result of the research conducted by and the recommendations of the Northeast OTC. The Northeast OTC is a multistate organization created under section 184 of the CAA. The OTC is responsible for advising the EPA on ground-level ozone pollution transport issues and for developing and implementing regional solutions to the ground-level ozone problem in the Northeast and Mid-Atlantic regions. The members of the OTC are required to demonstrate attainment with the 1997 8-hour ozone standard of 80 ppb. See 62 FR 38855.

Additionally, on March 12, 2008, the EPA issued a more protective 8-hour ozone standard of 75 ppb that would require additional reductions of ozone precursor emissions. See 73 FR 16436. The 2008 revised standard requires additional reductions of emissions of ozone precursors, including NO<sub>x</sub>, that impact each member's nonattainment status. As required by the CAA, the Commonwealth submitted recommendations to the EPA in 2009 to designate 29 counties as nonattainment for the 2008 8-hour ozone NAAQS. The EPA was expected to take final action on the designation recommendations by March 2010. However, the EPA reconsidered the 2008 ozone NAAQS and published a proposed rulemaking at 75 FR 2938 to set a more protective 8-hour primary standard at a lower level within the range of 0.060–0.070 ppm; the final revised ozone standard is expected in August 2010. If, as is widely expected, the EPA tightens the ozone standard, the additional NO<sub>x</sub> emissions reductions from the final-form rulemaking for glass melting furnaces will be even more important than if the current 2008 ozone standard remains in place. In addition, Northeast states are conducting attainment planning work to support development of PM<sub>2.5</sub> and regional haze SIPs to satisfy obligations under the CAA and regulations issued under the CAA. See 74 FR 58688 and 64 FR 35713, 35714. NO<sub>x</sub> emissions are precursors to the development of PM<sub>2.5</sub> and regional haze.

The OTC undertook a study to identify a suite of additional control measures that could be used by the members in attaining their goals. Workgroups of staff from within the OTC members were established to evaluate control measures for specific sectors or issues. Department staff actively participated in these workgroups. Based on a review of 1,000 candidate control measures, the workgroups developed a short list of measures to be considered for more detailed analysis. The technical information for this short list of measures is found in the OTC report *Identification and Evaluation of Candidate Control Measures, Final Technical Support Document*, prepared by MACTEC Federal Programs, Inc., Herndon, VA, February 28, 2007. Control of NO<sub>x</sub> emissions from glass melting furnaces in the six states within the OTR that have glass melting furnaces (this Commonwealth, Maryland, Massachusetts, New Jersey, New York and Rhode Island) was on the short list as a measure for further analysis by the workgroups. The workgroups reviewed information on current NO<sub>x</sub> emissions from the furnaces, controls already in place on the furnaces, anticipated additional NO<sub>x</sub> emissions reductions from the control measures, preliminary cost and cost-effectiveness data and other implementation issues. The workgroups discussed all the candidate control measures, including controlling NO<sub>x</sub> emissions from glass melting furnaces, during a series of conference calls and workshops to further refine the emission reduction estimates, the cost data and implementation issues.

The workgroups also discussed comments from stakeholders, including glass melting furnace stakeholders (North American Insulation Manufacturers Association and Glass Association of North America). The OTC Commissioners summarized the glass melting furnace control measures and made a recommendation at the Commissioners' meetings in 2006 that the affected member states consider NO<sub>x</sub> emission reductions from glass melting furnaces. The glass melting furnace stakeholders were provided multiple opportunities to review and comment on the glass melting furnace control measures summary. Public meetings were held as an opportunity for stakeholders to review and respond to the Commissioners'



recommendations, stakeholders provided written comments and the workgroups conducted conference calls with specific stakeholders to allow the stakeholders to vocalize their concerns directly to state regulatory staff and to discuss the control options. The OTC staff and state workgroups carefully considered the verbal and written comments received during this process.

The OTC's control measures summary recommends that states may allow the owners or operators of glass melting furnaces to propose compliance methods based on California's SJVAPCD Rule 4354 which allows a "mix of control options to meet specified emission limits." The NOx emission rates recommended in the OTC control measures summary document are the rates specified in the SJVAPCD Rule 4354. The Department reviewed, analyzed and concurred with the OTC's control measures summary document for glass melting furnaces with respect to the individual glass melting furnaces in this Commonwealth and determined that proposing a glass melting furnaces regulation based on the SJVAPCD Rule 4354 mix of control options to meet specified emission limits was the appropriate implementation strategy for a rulemaking to control NOx emissions from this Commonwealth's glass melting furnaces.

The Commonwealth, along with the other affected OTC member states, agreed to establish NOx emission limits and controls for glass melting furnaces that are based on SJVAPCD Rule 4354 so that there would be a level playing field among the OTC states. The owners and operators of glass melting furnaces in this Commonwealth remain competitive with those states not in the OTC with the option of an alternative compliance schedule or alternative emission limitation contained in the petition process that is provided in § 129.304(b) and (c) of the final-form rulemaking.

A commentator requested that the Department add to the final-form rulemaking a definitive and feasible alternate standard or exemption applicable to unique specialty glass operations such as theirs. The final-form rulemaking includes a petition process for an alternative compliance schedule or alternative NOx emission limitation if an owner or operator of any glass melting furnace demonstrates that compliance will not be achieved by the January 1, 2012, compliance date.

Several commentators questioned why the draft final-form regulation only provided an alternative emission limitation petition process in § 129.304(c) to the owners and operators of glass melting furnaces that produce an "other" glass product. The final-form rulemaking includes a petition process for an alternative compliance schedule or alternative NOx emission limitation if an owner or operator of a glass melting furnace that demonstrates that compliance will not be achieved by the January 1, 2012, compliance date.

The Committees, several legislators and other commentators commented that the Department should consider providing a variance procedure or exception from the regulation for a glass melting furnace that definitively demonstrates that its emissions are not materially contributing to the development of ground level ozone. The Department maintains that a demonstration using air dispersion modeling (point-source or regional scale) to show that a single facility "does not contribute to the failure of any nonattainment area to comply with the air quality standards for ozone" is not the determination of whether a facility is subject to a proposed rulemaking. Air dispersion models are not designed to simulate source-specific contributions to ozone nonattainment areas. A

finding that emission reductions at one source of NOx does not contribute to the failure of any nonattainment area to comply with the air quality standards for ozone is not surprising. Sensitivity analyses have often shown that the Community Multiscale Air Quality model used by states for attainment demonstrations is relatively "stiff" considering even large emission changes; that is, the model may not predict large changes in ozone concentrations even when large emission reductions are made. Therefore, a variance relying on modeling would be inappropriate. The Department maintains that an atmospheric dispersion model such as CALPUFF is not appropriate to use to determine an ozone concentration because ozone is formed chemically and not solely by dispersion. Atmospheric chemistry plays a role in ozone formation, and modeling just the NOx emissions, as is the case with CALPUFF, does not address this atmospheric chemistry." Moreover, the OTC undertook a study to identify a suite of control measures that could be used by the members as part of a regional effort to attain and maintain the 1997 NAAQS for ozone. The NOx emissions reductions from glass melting furnaces are a necessary component in this regional strategy. Certain areas of this Commonwealth continue to exceed the health-based 1997 8-hour NAAQS for ozone. This final-form rulemaking to control NOx emissions from glass melting furnaces will result in additional NOx emission reductions that are necessary to support attaining and maintaining the health-based 1997 8-hour ozone NAAQS of 80 ppb in this Commonwealth and downwind areas. See 62 FR 38855. Furthermore, on March 12, 2008, the EPA issued a more protective 8-hour ozone standard of 75 ppb that would require additional reductions of ozone precursor emissions, including NOx, that impact each OTR member's nonattainment status. See 73 FR 16436. However, the EPA reconsidered the 2008 ozone NAAQS and published a proposed rulemaking at 75 FR 2938 to set a more protective 8-hour primary standard at a lower level within the range of 0.060-0.070 ppm; the final revised ozone standard is expected in August 2010. If, as is widely expected, the EPA tightens the ozone standard, the additional NOx emissions reductions from the final-form rulemaking for glass melting furnaces will be even more important than if the current 2008 ozone standard remains in place.

Nevertheless, the final-form rulemaking provides a petition process, rather than a variance, for an alternative NOx emission limitation or compliance schedule to the owner or operator of any glass melting furnace that demonstrates it is economically or technologically infeasible to meet the NOx emission limitations specified in § 129.304(a). The alternative NOx emission limitation must be included in either a plan approval or an operating permit issued by the Department or a permit issued by the appropriate approved local air pollution control agency. Moreover, this final-form rulemaking also includes a petition process for an alternative compliance schedule, rather than a variance, to an owner or operator of a glass melting furnace that demonstrates that compliance will not be achieved by the January 1, 2012, compliance date.

This final-form rulemaking will also reduce concentrations of PM2.5 and the formation of regional haze. The EPA, in its "Clean Air Fine Particle Implementation Rule," determined that NOx emissions are also precursors to the formation of PM2.5. See 72 FR 20586. Additionally, in November 2009, the EPA designated 6 areas (all or part of 22 counties) in this Commonwealth as not attaining the 2006 24-hour PM2.5 NAAQS. See 74 FR 58688. The EPA is also evaluating the adequacy of the 2006

PM2.5 NAAQS as part of its periodic review required under section 109(d)(1) of the CAA (42 U.S.C.A. § 7409(d)(1)). Furthermore, when initially adopting the visibility protection provisions of the 1977 CAA Amendments, Congress specifically recognized that the “visibility problem is caused primarily by emission into the atmosphere of SO<sub>2</sub>, oxides of nitrogen, and particulate matter, especially fine particulate matter, from inadequate[ly] controlled sources.” See 64 FR 35713, 35715. Section 169A(a)(1) of the CAA (42 U.S.C.A. § 7491(a)(1)) sets forth a National goal for visibility which is the “prevention of any future, and the remedying of any existing, impairment of visibility in Class I areas which impairment results from manmade air pollution.” If adopted, the NO<sub>x</sub> emission reduction provisions of the final-form rulemaking for glass melting furnaces will help to reduce formation of ozone, PM<sub>2.5</sub> and regional haze pollution in this Commonwealth and throughout the OTR. As a result, the regulation is reasonably necessary to attain and maintain the NAAQS for ozone and PM<sub>2.5</sub>.

A primary comment made by numerous commentators, including the Committees, is that to avoid possible economic disruption to the operations at the affected furnaces, the Department should allow an existing furnace to operate through its full life cycle before requiring it to be replaced or rebuilt with control technology to meet the regulation’s NO<sub>x</sub> emission limits. The commentators suggest that it may assist the Department as well as the regulated industry to not base the compliance time frame on a specific date. The commentators also state that other states permit furnaces to be upgraded after their normal and anticipated life expectancy has been exhausted. The Department disagrees with the commentators. The Department agrees that it could possibly be infeasible for all affected owners or operators of glass melting furnaces to comply with the allowable emission limits by January 1, 2012. In recognition of this, § 129.304(b) in the final-form rulemaking provides a process to all glass melting furnace owners and operators to petition the Department for an alternative compliance schedule if they will be unable to meet the emission limits beginning January 1, 2012. The Department believes that a final compliance date specified in the regulation is necessary to ensure that the owners and operators of the glass melting furnaces in this Commonwealth limit the NO<sub>x</sub> emissions from their furnaces by a date certain, either by January 1, 2012, or by the date specified on a case-by-case basis as determined through the petition process for an alternative compliance schedule under § 129.304(c). Moreover, the EPA would not approve revisions to the California SIP contained in the SJVAPCD Rule addressing NO<sub>x</sub> emissions from glass melting furnaces, because the Compliance Schedule section of the rule did not specify a final date for facilities to achieve full compliance with the emission limits specified in the rule’s requirements section. See 67 FR 20078 (April 24, 2002). As a result, the Department believes that a final compliance date specified in the final-form regulation is necessary to receive SIP approval from the EPA.

Several commentators commented that the petition process described in § 129.304(b) and (c) of the draft final rulemaking should specify what factors the Department will consider for the owner or operator of a glass melting furnace to qualify for an alternative compliance deadline. The Department believes the petition process in § 129.304(b) and (c) is comprehensive but not overly prescriptive and includes all the factors suggested by the commentators. In addition, the Department revised this section in the final-form rulemaking to require submittal of a petition request to, and not approval by, the Depart-

ment by January 1, 2012, rather than approval by January 1, 2011. The Department maintains that the concerns expressed by the commentators regarding the petition process will be alleviated by the change to the final-form regulation that requires submittal of the petition by January 1, 2012, and does not require approval of the petition by January 1, 2011.

A comment was made requesting that the short-term applicability criteria for a furnace that emits NO<sub>x</sub> at greater than 20 pounds per hour, but otherwise emits below 50 tons per year of NO<sub>x</sub>, be deleted from the final-form rulemaking. The Department agrees with the commentator in that applying the regulation to these unique glass melting operations will not result in significant overall emission reductions. Section 129.302 in the final-form rulemaking has been revised to include only owners and operators of furnaces that emit NO<sub>x</sub> at greater than 50 tons per year as subject to the regulation.

The ACHD commented that the final-form rulemaking should be modified to state that the regulation applies to furnaces in the jurisdiction of a local air pollution control agency, and for ACHD to implement the provisions of the regulation, all reports and notifications required under the regulation should be submitted directly to the local agency. The Department agrees with the commentator, and the change has been made.

One commentator stated that the exemptions section should be revised to require that the owner or operator of a glass melting furnace notify the Department within 24 hours after the initiation of an exemption operation, instead of within 24 hours prior to initiating the operation, because there are some instances where an unforeseen problem requires a facility to immediately go into an unanticipated idling position. The Department agrees with the commentator, and that change has been made.

One commentator stated that the timing of written notification to the Department contained in the exemptions in § 129.303 not be tied to the occurrence of the exemption event itself. The Department disagrees with the commentator. The Department maintains that the requirement in § 129.303(b) to notify the Department within 24 hours of initiating the exempt operation, and the requirement in § 129.303(d) to notify the Department in writing within 24 hours after completion of the exempt operation, is reasonable and not burdensome to the facility claiming the exemption.

Several commentators commented that an exemption from the emission limits should be included for glass melting furnaces during “periods of upset or malfunction” that affect an emission control device. Comments were also made that the routine maintenance exemption of 144 hours in total for add-on emission controls is not long enough to account for the complexities of the control techniques likely to be employed, and that each major component of the control system be exempted from the emission limits for 144 hours each calendar year for routine maintenance. The Department believes that an exemption for a furnace malfunction or upset period is not required. The Department does not routinely provide for exemptions from emission limits for periods of upset or malfunction in regulations to control emissions from sources.

Several commentators commented that the furnace start-up section should be modified to require a plan approval application for a start-up exemption only “if required” and not for activities associated with routine repair or maintenance of the furnace. The Department

has revised this section of the final-form rulemaking. Section 129.305(b) specifies that a plan approval application for a furnace start-up exemption request shall be submitted "if required" in recognition that some furnace start-ups may not require a plan approval.

Commentators note that the "not to exceed 5% excess oxygen" restriction during a furnace combustion start-up should be eliminated, as it does not appear to have a relationship or a benefit to NOx emissions. The Department retains in the final-form rulemaking the furnace start-up restriction in § 129.305(f) of "not to exceed 5% excess oxygen," which is consistent with the furnace start-up requirements in SJVAPCD Rule 4354.

Several commentators commented that the definition of the term "start-up" should be revised consistent with SJVAPCD Rule 4354 to include necessary language on furnace stabilization, that is, the phrase "and systems and instrumentation are brought to stabilization." The Department agrees with the commentators, and that change was made.

Two commentators commented that the definition of "rebricking" and the revised definition of "furnace rebuild" in the draft final-form rulemaking are confusing, and further comment that they have concern over whether routine repairs to a furnace would be considered a rebuild or rebrick of the furnace. The Department agrees with the commentators and deleted both definitions in the final-form rulemaking and has added a definition for "cold shutdown," and included "scheduled" whenever "cold shutdown" is used within the final-form rulemaking to distinguish between furnace repair activities and a scheduled cold shutdown when the furnace is cold and does not contain molten glass.

Several commentators commented that the data substitution method for emissions monitoring in the compliance determination section that requires the highest valid 1-hour emission value during the reporting quarter be substituted for invalidated data is unreasonable and punitive. They comment further that for periods of invalid data, the Department should allow substituting data that is more representative of the actual emissions. The Department agrees with the commentators, and revised the data substitution method in the final-form rulemaking to require the highest valid 1-hour value that occurred under similar source operating conditions during the reporting quarter be substituted for the invalidated data.

Several commentators commented that the requirements in §§ 129.308 and 129.309 to report CEMS data and daily glass production data on a quarterly basis are inconsistent with existing Title V reporting requirements and create a duplicative and burdensome additional reporting obligation on the regulated community. The Department disagrees with the commentators. The Department does not believe that maintaining records of daily glass production will present a significant inconvenience to owners or operators. Daily records may be needed to enable the Department to verify the relationship between NOx emissions recorded by CEMS, and glass produced during the compliance period. Records sufficiently precise to quantify glass produced by each glass melting furnace during a reporting quarter are necessary to enable owners and operators to demonstrate compliance. Continuous emission monitoring is the most precise means of determining emissions over extended time periods.

Several commentators requested the Department work with the regulated industry in a transparent manner so that the true benefits and costs of the regulation will be known. The commentators further state that although the Department asserts several times in the preamble to the proposed NOx regulation that reducing NOx emissions will also result in reduced emissions of fine particulate matter, they have not provided the regulated community with data or information that supports this assertion. The Department's commitment to transparency is supported by its decision to publish an ANFR on the draft final-form regulation. The EPA, in its "Clean Air Fine Particle Implementation Rule," determined that NOx emissions are precursors to the formation of PM2.5. See 72 FR 20586. In November 2009, the EPA designated 6 areas (all or part of 22 counties) as not attaining the 2006 24-hour PM2.5 NAAQS. See 74 FR 58688. Therefore, the adoption of the final-form rulemaking for glass melting furnaces will help to reduce formation of PM2.5 and is reasonably necessary to attain and maintain the PM2.5 NAAQS.

A commentator stated that the Department did not adequately address, while drafting and promulgating the proposed rulemaking and in accordance with Executive Order 1996-1, whether the costs of the regulation exceed its benefits or not, and also that the proposed rulemaking does not support a conclusion that its costs will not exceed the benefits, and therefore the cost/benefit analysis must be provided. The commentator states further that the Board acknowledges in the ANFR that the EPA advised the Commonwealth that the EPA's CAIR does not apply to glass melting furnaces, and therefore the draft final-form rulemaking imposes requirements on glass melting furnaces that are more stringent than Federal standards. The Department disagrees with the commentator. The Department addressed the benefits and the costs associated with the proposed rulemaking in the preamble to the proposed rulemaking's public notice published at 38 Pa.B. 1831. The purpose of this final-form rulemaking is to address reductions of NOx from glass melting furnaces, while the EPA's CAIR addresses NOx reductions from EGUs, certain boilers, stationary combustion turbines and stationary internal combustion engines. Therefore, these are two different regulatory strategies with the goal of reducing NOx emissions from various source types within this Commonwealth. The EPA did not intend CAIR to comprise the entire solution to control NOx emissions from all types of sources, but only to address interstate transport of ozone and PM2.5 precursors. Moreover, this final-form rulemaking is reasonably necessary to attain and maintain the 8-hour ozone NAAQS.

The commentator stated that the Board acknowledges in the ANFR that the EPA advised the Commonwealth that CAIR does not apply to glass melting furnaces, and therefore the draft final-form rulemaking imposes requirements on glass melting furnaces that are more stringent than Federal standards. The purpose of the rulemaking is to address reductions of NOx from glass melting furnaces, while the EPA's CAIR addresses NOx reductions from EGUs, certain boilers, stationary combustion turbines and stationary internal combustion engines. Therefore, these are two different regulatory strategies with the goal of reducing NOx emissions from various source types within this Commonwealth. The EPA did not intend CAIR to comprise the entire solution to control NOx emissions from all types of sources, but only to address interstate transport of ozone and PM2.5 precursors from the EGU sector. In fact, this Commonwealth

and other OTC members determined that additional NO<sub>x</sub> reductions may be necessary in some areas, in combination with reduction of interstate transport, to attain and maintain the NAAQS. In addition to the PM<sub>2.5</sub> NAAQS, this final-form rulemaking is reasonably necessary to attain and maintain the 1997 8-hour ozone NAAQS. The criteria for adopting state regulations more stringent than Federal regulations (when Federal regulations exist) are in section 4.2 of the APCA. Section 4.2 of the APCA authorizes the Board to adopt regulations more stringent than Federal requirements when the control measures are reasonably necessary to attain and maintain the ambient air quality standards.

A commentator commented that the final-form rulemaking violates section 4.2 of the APCA, because section 4.2 of the APCA restricts the Board to adopting by regulation "... only those control measures or other requirements which are reasonably required, in accordance with the Clean Air Act deadlines, to achieve and maintain the ambient air quality standards or to satisfy related Clean Air Act requirements..." They further quote section 4.2 of the APCA: "Control measures or other requirements adopted under subsection (a) of this section shall be no more stringent than those required by the Clean Air Act unless authorized or required by this act or specifically required by the Clean Air Act." The commentator maintains that NO<sub>x</sub> emissions from glass melting furnaces are not currently regulated by the EPA, so therefore this rulemaking is prohibited by section 4.2 of the APCA since it is more stringent than required by the CAA. The Department disagrees with the commentator. The Department has the legal authority to require glass melting furnaces to limit their emissions of NO<sub>x</sub>. The law in this Commonwealth is well-settled regarding whether a regulation is valid and binding. A court must evaluate if the regulation is: (1) within the agency's granted power; (2) issued under proper procedures; and (3) reasonable. See for example, *Rohrbaugh v. PUC*, 727 A.2d 1080 (1999); and *Housing Authority v. Pa. Civil Service Com'n*, 730 A.2d 935 (1999). Section 5 of the APCA provides that the Board shall adopt rules and regulations, for the prevention, control, reduction and abatement of air pollution, applicable throughout this Commonwealth. Clearly the intent of this regulation is to reduce air pollution, and so therefore the Board has the requisite legal authority. The Board is proceeding with this rulemaking through the proper rulemaking procedures, as identified under the APCA, the Regulatory Review Act and the CDL. An environmental regulation is reasonable if it prevents the possibility of pollution (see *Department of Environmental Resources v. Metzger*, 347 A.2d 743 (Pa. Cmwlth. 1975)), protects the public health and safety (see *Chambers Development Company, Inc. v. Department of Environmental Resources*, 545 A.2d 404 (Pa. Cmwlth. 1988)) or reduces pollution (see *Rochez Bros., Inc. v. Department of Environmental Resources*, 334 A.2d 790 (Pa. Cmwlth. 1975)). Since this final-form rulemaking reduces pollution it is reasonable.

The commentator indicated the Department should consider development of a pool of surplus NO<sub>x</sub> "credits" from glass melting furnaces and allow trading and use of these credits by owners and operators of glass melting furnaces to demonstrate compliance with the regulation, in light of the elimination of using CAIR NO<sub>x</sub> allowances as a compliance option in the draft final-form rulemaking. The Department disagrees with the commentator. Subsequent to the closing of the public comment period on June 23, 2008, the Department held discussions with the EPA regarding the proposed rulemaking's option to demon-

strate compliance with the emission limits through the purchase of CAIR NO<sub>x</sub> allowances under the EPA's CAIR regulation. During those discussions, the EPA indicated to the Department that a glass melting furnace regulation that would provide a compliance option to purchase CAIR NO<sub>x</sub> allowances would be problematic as far as approvability by the EPA for the Commonwealth's SIP, because glass melting furnaces are not specifically included in the EPA's CAIR program as a source category able to purchase CAIR NO<sub>x</sub> allowances to achieve compliance. The Department therefore removed from the draft final-form regulation the compliance option to purchase CAIR NO<sub>x</sub> allowances.

### G. Benefits, Costs and Compliance

#### Benefits

Overall, the citizens of this Commonwealth will benefit from this final-form rulemaking because these amendments will result in improved air quality by reducing ozone and PM<sub>2.5</sub> precursor emissions. The final-form rulemaking will also encourage the development of new technologies and practices, which will reduce emissions of NO<sub>x</sub>.

#### Compliance Costs

The owners and operators of glass melting furnaces in this Commonwealth will be required to install and operate an emissions monitoring system or equipment necessary for an emissions monitoring method to comply with the final-form rulemaking. If an owner or operator elects to install and operate a CEMS, the cost could be as high as \$300,000. However, the final-form rulemaking provides for the installation and operation of an alternate emissions monitoring system or method approved by the Department, in writing, which could significantly reduce the monitoring costs. The estimated cost of the alternate emissions monitoring system or method, if elected by an owner or operator of a glass melting furnace, would cost approximately \$100,000, and would include any one of a number of alternatives including computer modeling or a predictive emissions monitoring system.

#### Compliance Assistance Plan

The Department plans to educate and assist the public and regulated community in understanding the newly revised requirements and how to comply with them. This will be accomplished through the Department's ongoing compliance assistance program.

#### Paperwork Requirements

The final-form rulemaking will not significantly increase the paperwork that is already generated during the normal course of business operations.

### H. Pollution Prevention

The Pollution Prevention Act of 1990 (42 U.S.C.A. §§ 13101—13109) established a National policy that promotes pollution prevention as the preferred means for achieving state environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally friendly materials, more efficient use of raw materials and the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance. This final-form rulemaking provides the owners and operators of glass melting

furnaces the opportunity to improve the energy efficiency of their operations, which will result in lower NOx emissions.

I. *Sunset Review*

This final-form rulemaking will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulation effectively fulfills the goals for which it was intended.

J. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 7, 2008, the Department submitted a copy of the notice of proposed rulemaking, published at 38 Pa.B. 1831, to IRRC and the Committees for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees 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 Department has considered all comments from IRRC, the Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on May 12, 2010, the final-form rulemaking was deemed approved by the Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on May 13, 2010, and approved the final-form rulemaking.

K. *Findings*

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202) and regulations promulgated thereunder at 1 Pa. Code §§ 7.1 and 7.2.

(2) At least a 60-day public comment period was provided as required by law and all comments were considered.

(3) These regulations do not enlarge the purpose of the proposal published at 38 Pa.B. 1831.

(4) These regulations are necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this order.

(5) These regulations are reasonably necessary to attain and maintain the ozone and PM2.5 NAAQS.

L. *Order*

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

(a) The regulations of the Department, 25 Pa. Code Chapters 121 and 129, are amended by amending § 121.1 and by adding §§ 129.301—129.310 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Chairperson of the Board shall 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 Chairperson of the Board shall submit this order and Annex A to IRRC and the Committees as required by the Regulatory Review Act.

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

(e) This final-form rulemaking will be submitted to the EPA as an amendment to the Pennsylvania SIP.

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

JOHN HANGER,  
*Chairperson*

*(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:** Fiscal Note 7-420 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 25. ENVIRONMENTAL PROTECTION**

**PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Subpart C. PROTECTION OF NATURAL RESOURCES**

**ARTICLE III. AIR RESOURCES**

**CHAPTER 121. GENERAL PROVISIONS**

**§ 121.1. Definitions.**

The definitions in section 3 of the act (35 P. S. § 4003) apply to this article. In addition, the following words and terms, when used in this article, have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

*Blown glass*—Glassware shaped by blowing air into a molten glass gather.

\* \* \* \* \*

*Cold shutdown*—A cold repair or replacement of damaged or worn refractory parts of a glass melting furnace while the furnace does not contain molten glass.

\* \* \* \* \*

*Container glass*—Glass manufactured by pressing, blowing in molds, drawing, rolling or casting which is used as a container.

\* \* \* \* \*

*Fiberglass*—For purposes of §§ 129.301—129.310 (relating to control of NOx emissions from glass melting furnaces), material consisting of fine filaments of glass that are combined into yarn and woven or spun into fabrics, or that are used as reinforcement in other materials or in masses as thermal or as acoustical insulating product.

\* \* \* \* \*

*Flat glass*—Glass produced by the float, sheet, rolled or plate glass process which is used in windows, windshields, tabletops or similar products.

\* \* \* \* \*

*Glass melting furnace*—A unit comprising a refractory-lined vessel in which raw materials are charged and melted at high temperature to produce molten glass.

\* \* \* \* \*

*Idling*—For purposes of §§ 129.301—129.310, the operation of a glass melting furnace at less than 25% of the permitted production capacity or fuel use capacity as stated in the plan approval or operating permit.

\* \* \* \* \*

*Permitted production capacity*—The maximum pull rate as stated in the plan approval, operating permit or Title V permit.

\* \* \* \* \*

*Pressed glass*—Glassware formed by placing a blob of molten glass in a metal mold, then pressing it with a metal plunger or “follower” to form the inside shape. The resultant piece, termed “mold-pressed,” has an interior form independent of the exterior, in contrast to mold-blown glass, whose interior corresponds to the outer form.

\* \* \* \* \*

*Primary furnace combustion system*—The burners in a glass melting furnace that are used during production of glass.

\* \* \* \* \*

*Pull rate*—The amount of glass withdrawn from a glass melting furnace, expressed in short tons per day.

\* \* \* \* \*

*Shutdown*—For purposes of §§ 129.301—129.310, the period of time during which a glass melting furnace is taken from an operational to a non-operational status by allowing it to cool down from its operating temperature to a cold or ambient temperature as the fuel supply is turned off.

\* \* \* \* \*

*Start-up*—For purposes of §§ 129.301—129.310, the period of time, after initial construction, shutdown or cold shutdown, during which a glass melting furnace is heated to stable operating temperature by the primary furnace combustion system, and systems and instrumentation are brought to stabilization.

\* \* \* \* \*

**CHAPTER 129. STANDARDS FOR SOURCES  
CONTROL OF NO<sub>x</sub> EMISSIONS FROM GLASS  
MELTING FURNACES**

**§ 129.301. Purpose.**

The purpose of this section and §§ 129.302—129.310 is to annually limit the emissions of NO<sub>x</sub> from glass melting furnaces.

**§ 129.302. Applicability.**

This section, § 129.301 (relating to purpose) and §§ 129.303—129.310 apply to an owner or operator of a glass melting furnace in this Commonwealth, including those within the jurisdiction of local air pollution control agencies in Philadelphia and Allegheny Counties approved under section 12 of the act (35 P. S. § 4012), that emits or has the potential to emit NO<sub>x</sub> at a rate greater than 50 tons per year.

**§ 129.303. Exemptions.**

(a) The emission requirements in § 129.304 (relating to emission requirements) do not apply during periods of start-up, shutdown, or idling as defined in § 121.1 (relating to definitions), if the owner or operator complies with the requirements in §§ 129.305, 129.306 and 129.307 (relating to start-up requirements; shutdown requirements; and idling requirements).

(b) The owner or operator of a glass melting furnace claiming an exemption under subsection (a) shall notify the Department or the appropriate approved local air pollution control agency in writing within 24 hours after initiation of the operation for which the exemption is claimed. The methods for submitting the written notice

may include e-mail, hand or courier delivery, certified mail or facsimile transmissions to the appropriate regional office described in § 121.4 (relating to regional organization of the Department) or appropriate approved local air pollution control agency. The notification must include:

- (1) The date and time of the start of the exempt operation.
- (2) The reason for performing the operation and an estimated completion date.
- (3) Identification of the emission control system operating during the exemption period.

(c) The owner or operator of a glass melting furnace granted an exemption under this section shall maintain operating records or documentation, or both, necessary to support the claim for the exemption. The records shall be maintained for 5 years onsite and made available or submitted to the Department or appropriate approved local air pollution control agency, upon request.

(d) The owner or operator of a glass melting furnace shall notify the Department or the appropriate approved local air pollution control agencies in writing within 24 hours after completion of the operation for which the exemption is claimed.

**§ 129.304. Emission requirements.**

(a) Except as specified in §§ 129.303, 129.304(c), 129.305, 129.306 and 129.307, the owner or operator of a glass melting furnace may not operate the glass melting furnace in a manner that results in NO<sub>x</sub> emissions in excess of the following allowable limits or NO<sub>x</sub> emission limits contained in the plan approval or operating permit, whichever are lower:

- (1) 4.0 pounds of NO<sub>x</sub> per ton of glass pulled for container glass furnaces.
- (2) 7.0 pounds of NO<sub>x</sub> per ton of glass pulled for pressed or blown glass furnaces.
- (3) 4.0 pounds of NO<sub>x</sub> per ton of glass pulled for fiberglass furnaces.
- (4) 7.0 pounds of NO<sub>x</sub> per ton of glass pulled for flat glass furnaces.
- (5) 6.0 pounds of NO<sub>x</sub> per ton of glass pulled for all other glass melting furnaces.

(b) The owner or operator of a glass melting furnace shall comply with subsection (a) by January 1, 2012, unless a petition for an alternative emission limitation or compliance schedule is submitted, in writing, to the Department and appropriate approved local air pollution control agency by January 1, 2012, in accordance with subsection (c) and approved, in writing, by the Department or appropriate approved local air pollution control agency.

(c) An owner or operator of a glass melting furnace that does not meet the NO<sub>x</sub> emission limits specified under this section by January 1, 2012, may petition the Department and appropriate approved local air pollution control agency for an alternative emission limitation or compliance schedule as follows:

(1) The owner or operator of a glass melting furnace subject to this section may submit, in writing, a petition requesting an alternative emission limitation. The petition must demonstrate to the satisfaction of the Department and appropriate approved local air pollution control agency that it is economically or technologically infeasible to meet the emission limitation under this section. The

alternative emission limitation must be included in either a plan approval or an operating permit issued by the Department or a permit issued by the appropriate approved local air pollution control agency.

(2) The owner or operator of a glass melting furnace for which the schedule for cold shutdown does not allow compliance by January 1, 2012 may submit a petition, in writing, requesting an alternative compliance schedule. The alternative compliance schedule for a cold shutdown which occurs after June 19, 2010, may not be extended beyond 180 days from the start-up of the furnace after the cold shutdown, unless approved, in writing, by the Department.

(3) A petition must include the following:

(i) A brief description, including make, model and location, of each affected glass melting furnace.

(ii) A list of all air pollution control technologies and measures that have been installed on each affected glass melting furnace and are operating to control emissions of NO<sub>x</sub>.

(iii) The date of installation and original commencement of operation for each of the technologies and measures listed in accordance with subparagraph (ii).

(iv) An explanation of how the NO<sub>x</sub> control technology or measure installed has been optimized for the maximum NO<sub>x</sub> emission reduction for each of the technologies and measures listed in accordance with subparagraph (ii).

(v) The results of each stack test and other emissions measurements for the affected glass melting furnace following the installation and commencement of operation of the air pollution control technologies and measures listed in accordance with subparagraph (ii).

(vi) The date of last scheduled cold shutdown for each affected furnace.

(vii) The date of next scheduled cold shutdown of each affected furnace.

(viii) Other relevant information requested, in writing, by the Department or appropriate approved local air pollution control agency.

(4) If an alternative compliance schedule is sought to meet the requirements of this section, the owner or operator shall submit a proposed schedule containing proposed interim milestone dates for completing each phase of the required work and a proposed final compliance date. The petition must also include a proposed interim emission limitation until compliance is achieved with the requirements specified in this section.

(5) If an alternative emission limitation is sought to meet the requirements of this section, the conditions or special circumstances which demonstrate that the applicable requirements are technologically or economically infeasible.

(6) If an alternative emission limitation is sought to meet the requirements of this section, the owner or operator shall propose emission limitations in the petition.

(7) Approved interim milestone dates or emission limitations determined to be necessary for effective monitoring of progress toward full compliance with the requirements of this section, §§ 129.301—129.303 and 129.305—129.310 shall be specified in a plan approval or operating permit issued by the Department or a permit issued by the appropriate approved local air pollution control agency.

(d) During routine maintenance of an add-on emission control system or systems, or maintenance or repair measures on furnace components, the owner or operator of a glass melting furnace subject to the emission limits specified under subsection (a) is exempt from these limits if:

(1) All routine maintenance of an add-on emission control system or maintenance or repair measures on furnace components, or both, combined, in each calendar year does not exceed 144 hours total.

(2) The routine maintenance or maintenance or repair measure, or both, is conducted in a manner consistent with good air pollution control practices for minimizing emissions.

#### § 129.305. Start-up requirements.

(a) The owner or operator of the glass melting furnace shall submit, in writing, to the Department or appropriate approved local air pollution control agency, no later than 30 days prior to the anticipated date of start-up, information requested by the Department or appropriate approved local air pollution control agency to assure proper operation of the furnace. The information must include the following:

(1) A detailed list of activities to be performed during start-up and an explanation for the length of time needed to complete each activity.

(2) A description of the material process flow rates and system operating parameters and other information that the owner or operator plans to evaluate during the process optimization.

(b) The owner or operator of a glass melting furnace may submit a request for a start-up exemption in conjunction with the plan approval application if required. The actual length of the start-up exemption, if any, will be determined by the Department or appropriate approved local air pollution control agency at the time of the issuance of the plan approval or operating permit.

(c) The length of the start-up exemption following activation of the primary furnace combustion system may not exceed:

(1) Seventy days for a container, pressed or blown glass furnace.

(2) Forty days for a fiberglass furnace.

(3) One hundred and four days for a flat glass furnace and for all other glass melting furnaces not covered under paragraphs (1) and (2).

(d) The requirements of subsection (c) notwithstanding, if the NO<sub>x</sub> control system is not in common use or is not readily available from a commercial supplier, the length of the maximum start-up exemption following activation of the primary furnace combustion system is as follows:

(1) One hundred days for a container, pressed or blown glass furnace.

(2) One hundred and five days for a fiberglass furnace.

(3) Two hundred and eight days for a flat glass furnace and for all other glass melting furnaces not covered under paragraphs (1) and (2).

(e) The Department or appropriate approved local air pollution control agency may approve start-up exemptions, as appropriate, to the extent that the submittal clearly:

(1) Identifies the control technologies or strategies to be used.

(2) Describes the physical conditions that prevail during start-up periods that prevent the controls from being effective.

(3) Provides a reasonably precise estimate as to when physical conditions will have reached a state that allows for the effective control of emissions.

(f) During the start-up period, the owner or operator of a glass melting furnace shall maintain the stoichiometric ratio of the primary furnace combustion system so as not to exceed 5% excess oxygen, as calculated from the actual fuel and oxidant flow measurements for combustion in the glass melting furnace.

(g) The owner or operator shall place the emission control system in operation as soon as technologically feasible during start-up to minimize emissions.

**§ 129.306. Shutdown requirements.**

(a) The duration of a glass melting furnace shutdown, as measured from the time the furnace operations drop below 25% of the permitted production capacity or fuel use capacity to when all emissions from the furnace cease, may not exceed 20 days.

(b) The owner or operator of a glass melting furnace shall operate the emission control system whenever technologically feasible, as approved by the Department or appropriate approved local air pollution control agency, during shutdown to minimize emissions.

**§ 129.307. Idling requirements.**

(a) The owner or operator of a glass melting furnace shall operate the emission control system whenever technologically feasible, as approved by the Department or appropriate approved local air pollution control agency, during idling to minimize emissions.

(b) The NOx emissions during idling may not exceed the amount calculated using the following equation:

$$\text{Pounds per day emission limit of NOx} = (\text{Applicable NOx emission limit specified in § 129.304(a) (relating to emission requirements) expressed in pounds per ton of glass produced}) \times (\text{Furnace permitted production capacity in tons of glass produced per day})$$

**§ 129.308. Compliance determination.**

(a) Not later than 14 days prior to the applicable compliance date under § 129.304(b) or (c), the owner or operator of a glass melting furnace subject to this section, §§ 129.301—129.307, 129.309 and 129.310 shall install, operate and maintain continuous emissions monitoring systems (CEMS, as defined in § 121.1 (relating to definitions)) for NOx and other monitoring systems to convert data to required reporting units in compliance with Chapter 139, Subchapter C (relating to requirements for source monitoring for stationary sources) and calculate actual emissions using the CEMS data reported to the Department. The owner or operator of a glass melting furnace may install or operate, or both, an alternate NOx emissions monitoring system or method, approved in writing by the Department or appropriate approved local air pollution control agency.

(b) Data invalidated under Chapter 139, Subchapter C, shall be substituted with the following if approved in writing by the Department or appropriate approved local air pollution control agency:

(1) The highest valid 1-hour emission value that occurred under similar source operating conditions during the reporting quarter.

(2) If no valid data were collected during the reporting quarter, one of the following shall be reported to the Department or appropriate approved local air pollution control agency:

(i) The highest valid 1-hour emission value that occurred under similar source operating conditions during the most recent quarter for which valid data were collected.

(ii) The highest valid 1-hour emission value that occurred under similar source operating conditions during an alternative reporting period.

(3) An alternative method of data substitution.

(c) Instead of data substitution, the Department or appropriate approved local air pollution control agency may approve an alternative procedure to quantify NOx emissions and glass production.

(d) The owner or operator of a glass furnace subject to this section shall submit to the Department or the appropriate approved local air pollution control agencies quarterly reports of CEMS monitoring data in pounds of NOx emitted per hour, in a format approved by the Department and in compliance with Chapter 139, Subchapter C, or a format approved by the appropriate approved local air pollution control agencies.

(e) The CEMS or approved monitoring system or method for NOx installed under this section must meet the minimum data availability requirements in Chapter 139, Subchapter C.

**§ 129.309. Compliance demonstration.**

(a) The owner or operator of a glass melting furnace shall calculate and report to the Department or appropriate approved local air pollution control agency on a quarterly basis, no later than 30 days after the end of the quarter, the CEMS data and glass production data used to show compliance with the allowable NOx emission limitation specified in § 129.304 (relating to emission requirements). The glass production data must consist of the quantity of glass, in tons, pulled per day for each furnace.

(b) The owner or operator of a glass melting furnace shall demonstrate compliance with the emission requirements of § 129.304(a) using one of the following methods:

(1) On a furnace-by-furnace basis.

(2) Facility-wide emissions averaging.

(3) System-wide emissions averaging among glass melting furnaces under common control of the same owner or operator in this Commonwealth.

(c) The owner or operator of a glass melting furnace for which the Department or the appropriate approved local air pollution control agency has granted approval to voluntarily opt into a market-based program may not demonstrate compliance on an emissions averaging basis under subsection (b). An emission reduction obtained by emissions averaging to demonstrate compliance with the emission requirements of § 129.304(a) will not be considered surplus for emission reduction credit purposes. The owner or operator of a glass melting furnace shall demonstrate compliance with the emission requirements of § 129.304(a) in accordance with subsection (d).

(d) Compliance with the emission requirements of § 129.304(a) shall be determined on a 30-day rolling average basis.



**§ 129.310. Recordkeeping.**

(a) The owner or operator of a glass melting furnace subject to this section and §§ 129.301—129.309 shall maintain records to demonstrate compliance. The records must include an operating log maintained for each glass melting furnace that includes, on a daily basis:

- (1) The total hours of operation.
- (2) The type and quantity of fuel used.
- (3) The quantity of glass pulled.

(b) The owner or operator of a glass melting furnace shall maintain records of:

(1) Source tests and operating parameters established during the initial source test.

(2) Maintenance, repairs, malfunctions, idling, start-up and shutdown.

(c) The owner or operator claiming that a glass melting furnace is exempt from the requirements of §§ 129.301—129.309 based on the furnace's potential to emit shall maintain records that clearly demonstrate to the Department or appropriate approved local air pollution control agency that the furnace is not subject to §§ 129.301—129.309.

(d) The records required under this section shall be maintained onsite for 5 years. The records shall be made available or submitted to the Department or appropriate approved local air pollution control agency upon request.

[Pa.B. Doc. No. 10-1114. Filed for public inspection June 18, 2010, 9:00 a.m.]

**ENVIRONMENTAL QUALITY BOARD**  
**[ 25 PA. CODE CH. 145 ]**

**Control of NOx Emissions from Cement Kilns**

The Environmental Quality Board (Board) amends Chapter 145 (relating to interstate pollution transport reduction) to read as set forth in Annex A.

This order was adopted by the Board order at its meeting of March 16, 2010.

**A. Effective Date**

This final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin*.

This final-form rulemaking will be submitted to the United States Environmental Protection Agency (EPA) as a revision to the Pennsylvania State Implementation Plan (SIP).

**B. Contact Persons**

For further information, contact Jane Mahinske, Air Quality Program Specialist, Division of Air Resource Management, Bureau of Air Quality, 12th Floor, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-9495; or Robert "Bo" Reiley, Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060.

**C. Statutory Authority**

This final-form rulemaking is being adopted under the authority of section 5(a)(1) of the Air Pollution Control Act (35 P. S. § 4005(a)(1)), which grants to the Board the

authority to adopt regulations for the prevention, control, reduction and abatement of air pollution.

**D. Background and Summary**

The purpose of this final-form rulemaking is to reduce emissions of nitrogen oxides (NOx) from cement kilns to reduce levels of ground-level ozone. Ground-level ozone is not directly emitted by pollution sources, but is created as a result of the chemical reaction of NOx and volatile organic compounds in the presence of light and heat. The reduction of NOx emissions will also help protect the public health from high levels of fine particulate matter (PM2.5), of which NOx is a precursor component. Fine particulates, as well as ozone, are health hazards. The reduction of NOx emissions also reduces visibility impairment and acid deposition.

When ground-level ozone is present in concentrations in excess of the Federal health-based standards, public health is adversely affected. The EPA has concluded that there is an association between ambient ozone concentrations and increased hospital admissions for respiratory ailments, such as asthma. Further, although children, the elderly and those with respiratory problems are most at risk, even healthy individuals may experience increased respiratory ailments and other symptoms when they are exposed to ambient ozone while engaged in activity that involves physical exertion. Though these symptoms are often temporary, repeated exposure could result in permanent lung damage. The implementation of additional measures to address ozone air quality nonattainment in this Commonwealth, including the reduction of NOx emissions from cement kilns, is necessary to protect the public health.

The Commonwealth, along with Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont and Virginia, and the District of Columbia, are members of the Ozone Transport Commission (OTC), which was created under section 184 of the Clean Air Act (42 U.S.C.A. § 7511c) to develop and implement regional solutions to the ground-level ozone problem in the Northeast and Mid-Atlantic regions. To date, states from the OTC, including the Commonwealth, have established a number of regulatory programs to reduce ozone precursor emissions, including programs related to portable fuel containers, architectural and industrial maintenance coatings and consumer products. Consistent with its strategy to achieve equitable ozone precursor emission reductions from all industrial sectors, the Commonwealth, along with other OTC states, has met with representatives of the cement industry to discuss reductions of NOx emissions from their kilns.

In this Commonwealth there are 21 cement kilns, which in 2005 emitted 12,967 tons of NOx emissions in this Commonwealth. Of these 21 kilns in this Commonwealth, 14 of them are "long" kilns. These are older technology kilns that are less energy efficient than preheater kilns and the newest technology, precalciner kilns. The higher energy efficiencies of the preheater and precalciner kilns result in inherently lower NOx emissions than those from long wet and dry kilns, per ton of product.

Control technologies are readily available to achieve NOx emission reductions of greater than 20% from cement kilns. These technologies include: conversion to indirect firing systems with low-NOx burners with approximately 20—30% reduction; midkiln firing of whole tires in long kilns with approximately 20—40% reduction; staged combustion in precalciner kilns with approxi-

mately 30—45% reduction; selective noncatalytic reduction (SNCR) in precalciner kilns with approximately 30—70% reduction; and selective catalytic reduction (SCR) with approximately 80—90% reduction. SNCR has been used on preheater kilns and has been proposed for long kiln applications. All of these technologies, except SCR, are demonstrated on kilns in the United States.

The final-form rulemaking will allow a number of cement manufacturers in this Commonwealth to develop and implement compliance strategies without the need for widespread installation of control equipment on the older technology long kilns, which will likely be replaced with more energy efficient technologies, like preheater or precalciner technologies, over time. An additional compliance option allows the purchase of Clean Air Interstate Rule (CAIR) NO<sub>x</sub> allowances to account for emissions in excess of the proposed limits, as a near term compliance option.

The Department of Environmental Protection (Department) worked with the Air Quality Technical Advisory Committee (AQTAC) in the development of this final-form rulemaking. At its October 30, 2008, meeting, the AQTAC concurred with the Department's recommendation that the Board consider the adoption of this final-form rulemaking, with certain changes. These recommended changes to the final-form rulemaking included requiring written approval from the Department for substituted monitoring data and clarification regarding how cement kilns that begin operation after the effective date of the final-form rulemaking may determine their emissions to average. The change recommended by the AQTAC to require written approval by the Department for substituted monitoring data has been made to the final-form rulemaking. The change concerning the emissions averaging provision for new kilns was considered by the Department, and a decision was made to delete from the final-form rulemaking the emissions averaging provision for new kilns beginning operation after the effective date of the final-form rulemaking. The Department maintains that allowing new cement kilns to average their emissions with existing cement kilns to meet the regulatory obligation for the existing kilns is inconsistent with the Best Available Technology (BAT) regulatory obligation for new cement kilns, which is to control emissions to the maximum degree possible. Therefore, the Department determined that the emissions averaging provision for new cement kilns in the proposed rulemaking is inconsistent with existing regulatory obligations, and this provision has been deleted from the final-form rulemaking.

The Department also conferred with the Citizens Advisory Council concerning the final-form rulemaking on October 27, 2008. The Citizens Advisory Council concurred with the Department's recommendation that the Board consider the adoption of the final-form rulemaking.

To the extent that this final-form rulemaking is more stringent than corresponding Federal requirements, the Board determined that this final-form rulemaking is reasonably necessary to attain and maintain the ozone and PM<sub>2.5</sub> National Ambient Air Quality Standards (NAAQS).

#### *E. Summary of Comments and Responses*

The proposed rulemaking published at 38 Pa.B. 1838 (April 19, 2008) included proposed §§ 129.401—129.405 (relating to emissions of NO<sub>x</sub> from cement manufacturing). These sections have not been adopted. In this final-form rulemaking, the requirements are incorporated in Chapter 145, Subchapter C (relating to emissions of

NO<sub>x</sub> from cement manufacturing) to amend the cement kilns requirements that were adopted at 34 Pa.B. 6509 (December 11, 2004) (§§ 145.141—145.143) and adopted at 38 Pa.B. 1705 (April 12, 2008) (§ 145.143 (relating to standard requirements)). The decision to incorporate the final-form amendments for cement kilns in Chapter 145, Subchapter C was editorial because the existing provisions in Chapter 145, Subchapter C regulate emissions of NO<sub>x</sub> from cement kilns. When appropriate, responses to comments reflect the nature of this editorial change.

Commentators supported the goal of the proposed rulemaking to lower ozone in this Commonwealth and supported efforts in reducing NO<sub>x</sub> and ozone-related pollutants to reduce ground-level ozone. The Board appreciates the commentators' support of this rulemaking. The final-form rulemaking is consistent with regulatory initiatives recommended by the OTC to address transport of ozone precursor emissions, including NO<sub>x</sub>, throughout the Ozone Transport Region (OTR). These measures are reasonably necessary to attain and maintain the health-based 8-hour ozone NAAQS in this Commonwealth.

A commentator supported the facility-wide emissions averaging compliance option among kilns under common control of the same owner in this Commonwealth. The Board appreciates the commentator's support to allow facility-wide emissions averaging as a compliance option. The Department is allowing this option to provide cement kiln owners and operators with greater flexibility to demonstrate compliance with the allowable NO<sub>x</sub> emission limits.

The commentator supported the use of CAIR NO<sub>x</sub> Ozone Season allowances as an economical compliance alternative. The Board appreciates the commentator's support of allowing the use of CAIR NO<sub>x</sub> Ozone Season allowances as part of the proposed rulemaking's compliance alternatives available to cement kiln owners and operators. The proposed rulemaking published at 38 Pa.B. 1838 included proposed amendments to §§ 129.401—129.405 that have been not been adopted. In this final-form rulemaking, the requirements are incorporated in Chapter 145, Subchapter C to amend the cement kilns requirements that were adopted at 34 Pa.B. 6509 under §§ 145.141—145.144 and adopted at 38 Pa.B. 1705 under § 145.143. The use of CAIR NO<sub>x</sub> Ozone Season allowances as a compliance strategy is preserved in the final-form rulemaking under existing § 145.143(d), which provides that the owners or operators of Portland cement kilns shall surrender CAIR NO<sub>x</sub> Ozone Season and CAIR NO<sub>x</sub> annual allowances if the actual NO<sub>x</sub> emissions from their kiln or kilns exceed the allowable NO<sub>x</sub> emissions calculated for the kiln or kilns.

A commentator believed that the proposed emission limits are derived from a 60% emissions reduction (from uncontrolled levels) based on SNCR control technology that should not be applied to wet kilns. The commentator believed that NO<sub>x</sub> limits for wet kilns should be based on a 50% reduction from uncontrolled levels because a 50% reduction from uncontrolled levels of NO<sub>x</sub> is consistent with the EPA cement New Source Performance Standard (NSPS) rule that was proposed at 73 FR 34072 (June 16, 2008). The Board disagrees with the commentator. The Board proposed emission limits based on the OTC recommended limits. The Board is not requiring a specific reduction efficiency from the installation of an SNCR should an affected cement owner or operator decide to install an SNCR to comply with the emission limits proposed.

A commentator urged the addition of a compliance option which allows a cement company to establish a site-specific emission limit in tons of NO<sub>x</sub> during the ozone season. The Board disagrees with the commentator. A site-specific emission limit based on a kiln's applicable emission factor and its clinker production is in effect a cap-based emission limit rather than a rate-based emission limit. The final-form rulemaking emission limits are rate-based, not cap-based, and are emission limits recommended by the OTC.

Commentators wanted the Board to provide the basis for limiting new cement kilns subject to the proposed regulation to a lower emission limit than existing kilns, as specified under proposed § 129.404(d) (relating to compliance demonstration). Prior to publishing the proposed rulemaking for public comment at 38 Pa.B. 1838, the Board reviewed a number of technical documents and concluded that new cement kilns should have a lower emission limit than existing kilns. Moreover, when the OTC recommended to the states the NO<sub>x</sub> emission limits for cement kilns in Resolution 06-02 of the Ozone Transport Commission Concerning Coordination and Implementation of Regional Ozone Control Strategies for Certain Source Categories, adopted June 7, 2006 (OTC Resolution 06-02), two separate limits were proposed for preheater and precalciner kilns, 2.36 lb NO<sub>x</sub>/ton clinker and 1.52 lb NO<sub>x</sub>/ton clinker, respectively (see page 2, OTC Resolution 06-02, June 7, 2006). The Board chose to adopt the 2.36 limit for both preheater and precalciner kilns because the Commonwealth has only one existing precalciner kiln, which is of an early precalciner kiln technology that is more like a preheater kiln from an energy use perspective, and to require that new cement kilns meet the limit of 1.52 lb NO<sub>x</sub>/ton clinker. Under the EPA's proposed NSPS rule for Portland cement kilns, the EPA found that according to the industry, all new kilns will be preheater or precalciner kilns. See 73 FR 34072, 34075. Therefore, proposing to limit new cement kilns, assumed to be precalciner, to 1.52 lb NO<sub>x</sub>/ton clinker is in line with the NO<sub>x</sub> limits for new cement kilns proposed by the EPA at 73 FR 34072. The annual NO<sub>x</sub> emission limit proposed in the NSPS by the EPA is 1.50 lb/ton clinker. See 73 FR pages 34074, 34075 and 34089. The Board maintains that new kilns in this Commonwealth would be the precalciner type, and would therefore be required to meet not only the NO<sub>x</sub> limit established in the EPA's final NSPS but also the BAT regulatory requirement for new cement kilns, which is to control emissions to the maximum degree possible. The NSPS will apply to all new cement kilns that begin operation in this Commonwealth. Therefore, the Board determined that the NO<sub>x</sub> emission limit for new cement kilns in the proposed rulemaking is unnecessary, and this requirement has been deleted from the final-form rulemaking.

A commentator found that the Board should provide the technical basis for the allowable emission limits and explain the data used to make the determination. If the emission limits are based upon an OTC resolution, then the order to the final-form rulemaking should compare the Commonwealth's program with how other OTC states are complying with this resolution. The Board agrees. The NO<sub>x</sub> emission limits for cement kilns in the proposed rulemaking are those recommended by the OTC. The technical basis for the emission limits are based on OTC Resolution 06-02. This resolution used data and analysis from the following report prepared for the OTC: *Identification and Evaluation of Candidate Control Measures, Final Technical Support Document*, prepared by MACTEC Federal Programs, Inc. (February 28, 2007). The Board

independently reviewed this information and concurred with the data and the decisions in the OTC resolution that recommended the emission limits. Regulations based on the OTC recommendations are being pursued by Maryland, New York and the Commonwealth. Maine has one cement kiln permitted to convert to a dry process, and this converted kiln will be subject to Best Available Control Technology, which is typically more stringent than requirements for existing sources, under the Prevention of Significant Deterioration Program. Maryland, Maine, New York and this Commonwealth are the only states in the OTR that have cement kilns. Therefore, it is not anticipated that the final-form rulemaking will place cement plants in this Commonwealth at a competitive disadvantage.

The commentator questioned if the cement emission limits proposed by the EPA at 73 FR 34072 impact the proposed rulemaking and will they result in additional changes to the Commonwealth's NO<sub>x</sub> emission limits in the future. The NSPS proposed by the EPA at 73 FR 34072 caused a minor change to the Board's proposed rulemaking. The EPA proposed an annual NO<sub>x</sub> emission limit of 1.50 lb/ton clinker. See 73 FR 34074, 34075 and 34089. The Board maintains that new kilns in this Commonwealth would be the precalciner type, and therefore must meet not only the NO<sub>x</sub> limit established in the EPA's final NSPS but also the BAT regulatory requirement for new cement kilns, which is to control emissions to the maximum degree possible. Therefore, the Board determined that the NO<sub>x</sub> emission limit for new cement kilns in the proposed rulemaking is unnecessary and this requirement has been deleted from the final-form rulemaking. Additionally, the decision was made to delete from the final-form rulemaking the emissions averaging provision for existing kilns with new kilns beginning operation after the effective date of the final-form rulemaking. The Board maintains that allowing new cement kilns to average their emissions with existing cement kilns to meet the existing kilns' regulatory obligation is inconsistent with the BAT regulatory obligation for new cement kilns, which is to control emissions to the maximum degree possible. Therefore, the Board determined that the proposed rulemaking's emissions averaging provision for new cement kilns is inconsistent with existing regulatory obligations, and this provision has also been deleted from the final-form rulemaking.

The commentator noted that while other sections of the proposed rulemaking mentioned an exact date for compliance with emission requirements, § 129.402(a) and (b) (relating to emission requirements) and § 129.404(a)(1), (c)(1), (d) and (g)(1) refer to the period of May 1 through September 30. The final-form regulations should explain the need for this distinction and how it applies to each of the relevant sections previously listed. The Board disagrees with the commentator that the final-form regulations should explain the distinction. The compliance period for determining allowable emissions of NO<sub>x</sub>, regardless of year, is from May 1 through September 30. The requirements under proposed § 129.402(a) and (b), (which have been moved to § 145.143(b)(1) and (2) in this final-form rulemaking) and § 129.404(a)(1), (c)(1), (d) and (g)(1) (which have been both moved to new § 145.145(a)(1) (relating to compliance demonstration and reporting requirements) and retained under existing § 145.143(d), (e) and (h)(1) in this final-form rulemaking) refer to the first year of the compliance period under the regulation, and each year thereafter.

Commentators were concerned about the ability of the Board to move forward with the regulation if the United States Court of Appeals for the District of Columbia (D.C. Circuit Court) vacated the CAIR budget and allowance system for NOx emissions in this Commonwealth and other states. The decision by the D.C. Circuit Court in *North Carolina v. EPA* only addressed the EPA's CAIR (published at 70 FR 25162 (May 12, 2005)) and did not address NOx emission limits for cement kilns. On December 23, 2008, the D.C. Circuit Court decided to remand the EPA's CAIR rather than to vacate, leaving it in place until the EPA revises it. The final Federal rule, expected in 2011, must be revised to be consistent with the D.C. Circuit Court's July 11, 2008, decision in *State of North Carolina v. Environmental Protection Agency*, 531 F.3d 896 (D.C. Cir. 2008). Therefore, the Board's statutory authority to propose a rulemaking to control NOx emissions from cement kilns is not limited and the Board may move forward with a final rulemaking. On May 23, 2008, the Department submitted to the EPA a SIP revision for the Department's CAIR regulatory requirements under §§ 145.201—145.223 (relating to CAIR NOx and SO<sub>2</sub> trading programs), published at 38 Pa.B. 1705, that provide for a CAIR NOx Ozone Season Trading Program and a CAIR NOx Annual Trading Program. The Department's CAIR regulation also included amendments to existing § 145.143 to require the owners or operators of Portland cement kilns to surrender CAIR NOx Ozone Season and CAIR NOx annual allowances if their actual NOx emissions exceed their allowable NOx emissions. The EPA approved the Department's CAIR regulation as a SIP revision published at 74 FR 65446 (December 10, 2009).

A commentator suggested that, based on the CAIR vacatur, if the regulation requires substantial changes, to consider submitting an Advance Notice of Final Rulemaking or publishing the changes as a new proposed rulemaking. This final-form rulemaking will not require substantial changes as a result of the initial vacatur of the EPA's CAIR on July 11, 2008. On December 23, 2008, the D.C. Circuit Court decided to remand the EPA's CAIR rather than to vacate, leaving it in place until the EPA revises it. The final Federal rule, expected in 2011, must be revised to be consistent with the D.C. Circuit Court's July 11, 2008, decision in *State of North Carolina v. Environmental Protection Agency*, 531 F.3d 896 (D.C. Cir. 2008). On May 23, 2008, the Department submitted to the EPA a SIP revision for the Department's CAIR regulation, including requirements under §§ 145.143 and 145.201—145.223, published at 38 Pa.B. 1705, effective April 12, 2008, that provides for a CAIR NOx Ozone Season Trading Program and a CAIR NOx Annual Trading Program. The EPA approved the Department's CAIR regulation as a SIP revision published at 74 FR 65446, effective December 10, 2009. The Board believes that the approval of the CAIR NOx allowance provisions as a revision to the Commonwealth's SIP will preserve the requirement proposed under § 129.404(c) published at 38 Pa.B. 1838 for the surrender of CAIR NOx allowances if the actual NOx emissions from a kiln exceed its allowable NOx emissions.

Commentators supported the concept of NOx trading and favor removing the requirement for being "under common control of the same owner or operator in this Commonwealth" from the system-wide averaging section of the rulemaking. The Board disagrees. The option to demonstrate compliance with the emission limits by averaging the NOx emissions of several cement kilns under the common control of the same owner or operator

in this Commonwealth provides flexibility to the cement kiln owners and operators in this Commonwealth with more than one facility. Allowing multiple owners and operators of cement kilns in this Commonwealth to average their emissions in concert with each other to demonstrate compliance would essentially provide them the larger framework of an emissions trading program, which is beyond the scope of the final-form rulemaking provision to provide them an emissions averaging option.

A commentator believed that the use of different types of control technologies to achieve NOx emissions greater than 20% implies that facilities can use these technologies without the need for a permitting process. It is not the intent of the Board to imply that there is not a need for a permitting process for the use of NOx emission control technologies. The permitting requirements for the installation of a control technology will be determined in accordance with Chapter 127, Subchapter B (relating to plan approval requirements). The Department has several permit streamlining procedures in place, and plan approval applications are always acted on by the Department as expeditiously as possible.

A commentator thought that the permitting process for installing the NOx control technologies to achieve the emission results of the proposed rulemaking should be streamlined. The authorizations should be issued within 30 days after an application is submitted. The Board disagrees. The permitting requirements for the installation of a control technology will be determined in accordance with Chapter 127, Subchapter B. The Department has several permit streamlining procedures in place, and plan approval applications are always acted on by the Department as expeditiously as possible.

Commentators thought the proposed rulemaking contained punitive and unreasonable data substitution provisions for invalid data by substituting missing data with data calculated using the potential emission rate for the kiln, or with the highest valid 1-hour emission value. The Board recognizes that substituted data should be representative of the actual emissions from the source during the time frame in question and not punitive in nature. The data substitution language in the final-form regulation has been modified to ensure that representative data is substituted while maintaining consistency with the procedures outlined in the Department's *Continuous Source Monitoring Manual* (DEP 274-0300-001).

A commentator believed that kilns subject to the proposed rulemaking will be subject to Title V reporting and compliance certification requirements, and additional reporting requirements are unnecessary and only add to the administrative burden. The Board disagrees and does not believe that maintaining records of daily clinker production will present a significant inconvenience to an owner or operator. Daily records may be needed to enable the Department to verify the relationship between NOx emissions recorded by a continuous emission monitoring system (CEMS), and clinker produced during the compliance period of May 1 through September 30 of each year. The Board maintains that records sufficiently precise to quantify clinker produced by each kiln during that period are necessary to enable owners and operators to demonstrate compliance and determine allowances for surrender.

A commentator commented on whether it is feasible for a cement kiln to report the emission data to the Department by October 31, 2009, and then be required to surrender their NOx allowances 1 day later, which is November 1, 2009. The Board disagrees with the commentator. The requirement to report information to the

Department by October 31 of every compliance year is consistent with reporting requirements in the current regulation for cement kilns in Chapter 145, Subchapter C. The affected owners and operators of cement kilns will know prior to October 31 of every compliance year whether they are required to surrender NOx allowances, because they will have the entire month of October to calculate their emissions for the previous May 1 through September 30 compliance period and determine if and how many allowances they need to surrender by or on the succeeding November 1 to comply with the regulation.

The commentator commented that the proposed regulation required cement kiln operators to report various information to the Department "by October 31, 2009," while other sections of the regulations require compliance with emission limits by September 30, 2009, and questioned if owners or operators of cement plants would be able to collect and deliver the reports within a month. The Board disagrees with the commentator. The requirement to report information to the Department by October 31 of each year is consistent with reporting requirements in the current regulation for cement kilns found under Chapter 145, Subchapter C.

The commentator commented that the proposed regulation required cement kiln operators to submit a report to the Department "in a format approved, in writing, by the Department," and stated that this phrase is vague, and the final-form regulation should provide more detail on the type of format. The Board disagrees with the commentator. The requirement to submit a report to the Department in a format approved, in writing, by the Department, is a standard requirement. This requirement is found in many Board-approved rulemakings, and neither the Department nor the regulated sources have had problems understanding or complying with this requirement.

The commentator asked whether the cement kilns in this Commonwealth would be able to meet the May 1, 2009, compliance deadline. Due to the remand of the EPA's CAIR, and the Commonwealth's lengthy rule-making process, the final-form regulation has an effective compliance date of May 1, 2011, for owners and operators of Portland cement kilns to meet the revised NOx emission limits. The date in the final-form regulation by which the CEMS must be installed, operating and maintained is April 15, 2011.

The commentator commented that the difference between § 129.404(b) and (c) was unclear and stated that the final-form regulation should clarify what circumstances necessitate compliance with § 129.404(c). The Board believes that the final-form regulation clearly specifies what circumstances would necessitate compliance with these subsections. Proposed § 129.404(c) has been deleted in this final-form rulemaking and the requirements retained under existing § 145.143(d). Proposed § 129.404(b) has been deleted in this final-form rulemaking and the same requirements are specified in this final-form rulemaking under new § 145.145(b) and in the definition of "system-wide" under § 145.142 (relating to definitions). New § 145.145(b) lists three options to demonstrate compliance with the allowable NOx emission limits. Cement kiln owners or operators shall choose one compliance option from the three listed to use as the basis for determining the amount of allowable and actual NOx emissions from their kiln or kilns. Existing § 145.143(d) lists the requirements that a cement kiln owner or operator shall follow to surrender NOx allowances if the owner or operator determines, after calculat-

ing the amount of actual NOx emissions in accordance with the requirements under § 145.144 (relating to compliance determination) and § 145.145, that the actual NOx emissions from the kiln or kilns exceed the amount of allowable NOx emissions for the kiln or kilns, determined in accordance with the requirements under § 145.143(b).

The commentator noted that § 129.404(b) referred to "a Portland cement kiln or multiple Portland cement kilns," and subsection (c) only references "a Portland cement kiln," and questions if the latter subsection should also apply to multiple kilns. The final-form rulemaking has been incorporated as amendments to the existing cement kilns regulation under Chapter 145, Subchapter C. The Board believes that the existing provisions of Chapter 145, Subchapter C and the final-form amendments to Chapter 145, Subchapter C accurately reflect that the final-form rulemaking applies to a Portland cement kiln or multiple kilns.

The commentator found that § 129.404(e) required cement kiln operators to surrender the required CAIR NOx ozone allowances by "November 1, 2009, and each year thereafter." Subsection (c) included this surrender as a possible method of compliance. The final-form regulation should explain when each of these subsections would apply. The Board believes that the final-form regulation clearly specifies when the requirements are applicable. Proposed § 129.404(c) has been deleted in this final-form rulemaking and the requirements are retained under existing § 145.143(d). Proposed § 129.404(e) has been deleted in this final-form rulemaking and the requirements are retained under existing § 145.143(f). Existing § 145.143(d) listed the requirements that a cement kiln owner or operator shall follow to surrender NOx allowances if their actual NOx emissions exceed their allowable NOx emissions. Existing § 145.143(f) specified the date by when a cement kiln owner or operator shall surrender the NOx allowances, if needed, to comply with § 145.143(d).

The commentator noted that § 129.404(g)(1) explained how to determine the number of days of violation if the facility has excess emissions for the period May 1 through September 30, and states that "each day in that period . . . constitutes a day in violation unless the owner or operator of the Portland cement kiln demonstrates that a lesser number of days should be considered." The Board should explain what circumstances would warrant consideration. The Board disagrees with the commentator. The Board maintains that it is the responsibility of the affected cement kiln owner to demonstrate to the satisfaction of the Department what circumstance or circumstances would warrant consideration of a lesser number of days in violation. The requirements that were proposed under § 129.404(g)(1) and deleted in this final-form rulemaking are consistent with the requirements specified under existing § 145.143(h)(1) for determining the number of days of violation in the current regulation for cement kilns in Chapter 145, Subchapter C. In this final-form rulemaking, these requirements are retained under existing § 145.143(h)(1).

The commentator stated the program referenced in the preamble to the proposed rulemaking, the Regional Compliance Assistance Program (Program), did not appear to be defined by regulation or statute, and questioned how cement kiln owners and operators would access the Program. The Board agrees with the commentator that the term "Regional Compliance Assistance Program" is not defined by regulation or statute. The term refers to the Department's regional or "field," staff who regularly

assist their respective facilities in understanding and complying with applicable Department regulations.

The commentator commented on the definition of “CEMS—Continuous Emission Monitoring System” as it relates to an earlier “original” definition that references Chapter 127, Subchapter E (relating to new source review) and the proposed regulation’s reference to standards in Chapter 139, Subchapter C (relating to requirements for source monitoring for stationary sources), and suggests the Department explain why a different chapter of 25 Pa. Code (relating to environmental protection) now applies to the proposed definition. The Board agrees with the commentator. The intent of the amendment of the definition of “CEMS—Continuous emissions monitoring system” in § 121.1 (relating to definitions) of the proposed rulemaking is for the definition to apply more broadly to the entire air quality regulatory program. However, subsequent to the close of the public comment period for the proposed cement kilns rulemaking, the Department proposed a revised definition of “CEMS—Continuous emissions monitoring system” in § 121.1 in a proposed rulemaking as part of the amendments to the air quality fee schedules. See 39 Pa.B. 6049 (October 17, 2009). Therefore, the amendment of the definition of “CEMS—Continuous emissions monitoring system” in § 121.1 in the proposed cement kilns rulemaking was deleted in this final-form rulemaking, and the existing definition of “CEMS—Continuous Emission Monitoring System” in § 145.142 that applies to cement kilns has been retained in the final-form rulemaking. The existing definition of “CEMS—Continuous Emission Monitoring System” in § 145.142 ensures that the monitoring equipment complies with the requirements under Chapter 139 (relating to sampling and testing).

The commentator said that the final-form regulation should include a definition for “invalidated data.” In addition, the Board also should explain the difference between an “invalid data period” and an “alternative reporting period” as mentioned in § 129.403(b)(2)(ii) (relating to compliance determination). The Board disagrees with the commentator that the final-form regulation should include a definition for “invalidated data.” Conditions that render data invalid, and procedures for substituting the invalid data with valid data, are defined throughout the *Continuous Source Monitoring Manual* (DEP 274-0300-001). Owners or operators of each Portland cement kiln subject to this rule are familiar with those provisions, since they already operate Department-certified CEMS. An “alternative reporting period” is not specifically defined, since it is provided under proposed § 129.403(b)(2)(ii) (new § 145.144(b)(2)(ii) in this final-form rulemaking) as a means for an owner or operator to propose a unique alternative for the Department’s consideration.

The commentator noted that § 129.403(b)(1) referred to the “potential emission rate” for the cement kiln, but does not explain how this rate is determined. The final-form regulation should define this term. The Board disagrees. Proposed § 129.403(b)(1) (new § 145.144(b) in this final-form rulemaking) has been modified to ensure that representative data is substituted and to maintain consistency with the procedures outlined in the *Continuous Source Monitoring Manual*. The amendments made to this section necessitated deleting the provision for the substitution of invalidated data with the potential emission rate for the kiln. Therefore, a definition of “potential emission rate” is not necessary.

The commentator said that § 129.403(c) stated that Portland cement kiln operators shall submit quarterly reports of CEMS monitoring data in “pounds of NO<sub>x</sub> emitted per hour,” and thinks that this data should refer to “pounds of NO<sub>x</sub> per ton of clinker.” The Board disagrees with the commentator. The CEMS currently operated by the cement kiln owners and operators monitor NO<sub>x</sub> emissions. A CEMS cannot measure tons of clinker produced, since by definition, a CEMS can only monitor emissions per unit of time.

The commentator found that § 129.404(c)(1) referred to “CAIR NO<sub>x</sub> Ozone Season allowance,” as defined in § 145.202 (relating to definitions), but this section does not include a definition for this term. The final-form regulation should provide the appropriate cross-reference in this subsection. The Board agrees with the commentator. The final-form rulemaking, in existing § 145.143(d), includes the appropriate *Code of Federal Regulations* reference for the definitions of “CAIR NO<sub>x</sub> Ozone Season allowance” and “CAIR NO<sub>x</sub> allowance.”

The commentator found that § 129.405(c) (relating to recordkeeping) requires cement kiln owners or operators to maintain records for 5 years, and wondered how the Board determined this was an appropriate time frame. Requiring regulated facilities to maintain records for 5 years is a standard requirement. This requirement is found in many Board-approved regulations, including §§ 127.11(b)(2) and 139.101(5) (relating to plan approval requirements; and general requirements). Regulated sources have not had problems complying with this requirement.

A commentator stated its kilns are long dry-process cement kilns and are subject to the allowable emission limit of 3.44 lb NO<sub>x</sub>/ton clinker. Their kilns are not preheater kilns because the systems do not contain a series or multiple cyclones as defined by the EPA in its 1993 NO<sub>x</sub> Alternative Control Technologies Document (which was updated in September 2000). The commentator requested the Department establish its new NO<sub>x</sub> limit during the ozone season at 3.44 lbs/ton clinker starting with the 2009 Ozone Season. The Board disagrees with the commentator. The comment is an implementation issue. The commentator shall have discussions with the Department prior to the effective compliance date of the final-form regulation on how the final-form rulemaking will be implemented and complied with by their facility.

A commentator stated that a provision to the proposed regulation should be added to indicate that this rulemaking should supersede the case-by-case reasonably available control technology (RACT) determinations for cement kilns in this Commonwealth. The Board disagrees with the commentator. If the final-form rulemaking requirements are more stringent than a RACT requirement previously established on a case-by-case basis, complying with the final-form regulation’s more stringent provisions would ensure compliance with the other RACT requirements.

A commentator stated that the proposal required owners or operators of cement kilns to “install, operate and maintain CEMS for NO<sub>x</sub> emissions” by May 1, 2009. The commentator asked what the costs will be for owners and operators as a result of requiring this device to be installed on kilns in less than 1 year. The owners and operators of the cement kilns in this Commonwealth who are affected by the proposed rulemaking currently have a CEMS as part of the existing cement regulation requirement that limits NO<sub>x</sub> emissions from cement kilns during the ozone season to 6.0 lbs/ton clinker (see § 145.143(b)

published at 34 Pa.B. 6509)). The existing cement regulation published at 34 Pa.B. 6509 was effective December 11, 2004, with a compliance date of May 1, 2005 (see § 145.141 (relating to applicability)). Therefore, there are no costs to the owners and operators of affected cement kilns to install a CEMS. In the final-form rulemaking, the compliance date under new § 145.144(a) by when the CEMS shall be installed, operating and maintained is April 15, 2011, for the owner or operator of a Portland cement kiln subject to new § 145.143(b)(2). This date ensures that the CEMS equipment is running properly before May 1, 2011, which is the first day of the first compliance period for affected owners and operators for the determination of allowable emissions for Portland cement kilns using the new emission limits specified under final-form § 145.143(b)(2).

#### F. Summary of Final-Form Rulemaking

The final-form rulemaking deleted the proposed amendments to the applicability date under § 145.141. The existing regulation containing NOx emission limits for cement kilns in Chapter 145, Subchapter C will remain in effect through April 30, 2011. The compliance date for the final-form amendments to Chapter 145, Subchapter C is May 1, 2011. The compliance date in the final-form rulemaking by which the CEMS shall be installed, operating and maintained is April 15, 2011.

The following regulatory language regarding new terms and definitions in § 145.142 was published in the proposed rulemaking as amendments to § 121.1 to support the proposed amendments to Chapter 129 (relating to standards for sources). This final-form rulemaking removes those terms and definitions from § 121.1 and places them in § 145.142 to support the final-form amendments to Chapter 145, Subchapter C. Subsequent to the close of the public comment period for the cement kilns proposed rulemaking, the Board proposed for public comment a revised definition of the term “CEMS—Continuous emissions monitoring system” under § 121.1 in a proposed rulemaking as part of the amendments to the air quality fee schedules (see 39 Pa.B. 6049). Therefore, an amendment of the definition of “CEMS—Continuous emissions monitoring system” in § 121.1 in the cement kilns proposed rulemaking was deleted, and the existing definition of the term “CEMS—Continuous Emission Monitoring System” in § 145.142 that applies to cement kilns has been retained in the final-form rulemaking.

The final-form rulemaking adds definitions for the following new terms to § 145.142 to support the substantive provisions in §§ 145.141 and 145.43—145.146: “calcine,” “long dry-process cement kiln,” “long wet-process cement kiln,” “precalciner cement kiln,” “preheater cement kiln” and “system-wide.”

Substantive changes were not made to the definitions of the terms between proposed and final-form rulemaking.

A definition for “system-wide” was added between proposed and final-form rulemaking.

The following regulatory language regarding standard requirements under § 145.143(b)(1) and (2) was published at proposed rulemaking under § 129.402(a) and (b). This final-form rulemaking moves the substantive language from § 129.402(a) and (b) to § 145.143(b)(1) and (2).

The final-form § 145.143(b) now provides that the owner or operator of a Portland cement kiln may not operate that kiln in a manner that results in NOx emissions in excess of its allowable emissions. Section

145.143(b)(2) requires that the owner or operator of a Portland cement kiln determine allowable emissions of NOx by multiplying the tons of clinker produced by the Portland cement kiln for the period from May 1 through September 30, 2011, and for each year thereafter by: 3.88 pounds of NOx per ton of clinker produced for long wet-process cement kilns; 3.44 pounds of NOx per ton of clinker produced for long dry-process cement kilns; and 2.36 pounds per ton of clinker produced for preheater cement kilns and for precalciner cement kilns.

Minor clarifying changes are made to § 145.143(c).

The following regulatory language regarding standard requirements in § 145.143(d) was published in the proposed rulemaking under § 129.404(c)(1). This final-form rulemaking retains unchanged the substantive language in § 145.143(d).

Final-form § 145.143(d) is unchanged and provides that the owner or operator of a Portland cement kiln subject to this section shall surrender to the Department one CAIR NOx allowance and one CAIR NOx Ozone Season allowance as defined in 40 CFR 96.102 and 96.302 (relating to definitions), for each ton of NOx by which the combined actual emissions exceed the allowable emissions of the Portland cement kilns subject to this section at a facility from May 1 through September 30.

The following regulatory language regarding compliance determination in § 145.144 was published in the proposed rulemaking as § 129.403. This final-form rulemaking moves the regulatory language from § 129.403 to § 145.144.

Final-form § 145.144 requires, among other things, that by April 15, 2011, the owner or operator of a Portland cement kiln shall install, operate and maintain CEMS for NOx emissions, and report CEMS emissions data to the Department in accordance with the CEMS requirements of Chapter 139, Subchapter C.

The Board modified the compliance date under this section between proposed and final-form rulemaking. The new compliance date under this section is now 2011, and not 2009, as proposed. CEMS must be installed, operated and maintained by April 15, 2011, rather than May 1, 2009, as originally proposed. This change was made to ensure that the CEMS is operational before the compliance date of May 1, 2011, which is the first day of the first compliance period for affected owners and operators for the determination of allowable emissions for the Portland cement kilns using the new emission limits specified under § 145.143(b)(2). In addition, the Board changed certain data substitution requirements in subsection (b). For example, subsection (b) now provides that data invalidated shall be substituted either by the highest valid 1-hour emission value that occurred under similar source operating conditions during the reporting quarter for an invalid data period during that quarter or an alternative method of data substitution as approved by the Department in writing.

Additionally under this section, the owner or operator of a Portland cement kiln subject to this section shall submit to the Department quarterly reports of CEMS monitoring data in pounds of NOx emitted per hour, in a format approved by the Department, which is in compliance with Chapter 139, Subchapter C. Also the CEMS for NOx installed under the requirements of this section must meet the minimum data availability requirements in Chapter 139, Subchapter C.

The following regulatory language regarding compliance demonstration and reporting requirements in § 145.145 was published in the proposed rulemaking as § 129.404. This final-form rulemaking moves the regulatory language from § 129.404 to § 145.145.

Final-form § 145.145 provides, among other things, that by October 31, 2011, and each year thereafter, the owner or operator of a Portland cement kiln shall report certain information in writing to the Department, in a format approved by the Department. The owner or operator of a Portland cement kiln or multiple Portland cement kilns shall demonstrate compliance with the emission requirements specified in § 145.143 on either a kiln-by-kiln basis, a facility-wide basis or a system-wide basis among Portland cement kilns under the common control of the same owner or operator in this Commonwealth.

The Board decided to delete the averaging provision for new cement kilns under proposed § 129.404(d), which would have been placed under § 145.145. Under § 127.1 (relating to purpose), new cement kilns, like all new sources, are required to control emissions to the maximum extent, consistent with BAT as determined by the Department at the date of issuance of the plan approval for the new source. The term "best available technology" is defined in § 121.1 as equipment, devices, methods or techniques as determined by the Department which will prevent, reduce or control emissions of air contaminants to the maximum degree possible and which are available or may be made available. To allow new sources to average with existing sources to meet the regulatory obligations of the existing sources would be inconsistent with the intent of the BAT regulatory obligation of the new sources, which is to control emissions to the maximum degree possible. Consequently, the Board believes that the proposed averaging section is inconsistent with existing regulatory obligations, and this provision has been deleted from the final-form rulemaking.

The Board modified the compliance date under this section between proposed and final-form rulemaking. The new compliance date under this section is now October 31, 2011, and not October 31, 2009, as proposed.

The following regulatory language regarding record keeping in § 145.146 (relating to recordkeeping) was published at proposed rulemaking as § 129.405. This final-form rulemaking moves the regulatory language from § 129.405 to § 145.146.

Final-form § 145.146 provides that the owner or operator of a Portland cement kiln shall maintain an operating log for each Portland cement kiln that includes certain monthly information, and maintain records of certain other information. The records required under this section shall be maintained for 5 years, be kept onsite and be made available to the Department upon request.

#### G. *Benefits, Costs and Compliance*

##### *Benefits*

Overall, the citizens of this Commonwealth will benefit from this final-form rulemaking because it will result in improved air quality by reducing ozone precursor emissions and will encourage new technologies and practices, which will reduce emissions.

The reductions in NOx emissions from Portland cement kilns will also help protect the public health and welfare from high levels of fine particulate matter (PM2.5) pollution and the formation of regional haze, of which NOx is a precursor component. Reductions in NOx emissions also reduces visibility impairment, soiling and materials damage, and acid deposition.

#### *Compliance Costs*

The final-form rulemaking includes emissions averaging and use of CAIR NOx Ozone Season Trading Program Allowances and CAIR NOx Annual Trading Program Allowances as near term compliance options. This will allow an owner or operator of an affected cement kiln to elect the least-cost compliance alternative, including emissions averaging or the use of CAIR NOx allowances, to demonstrate compliance with the NOx emission limits. Based on 2005 ozone season emissions, implementation of the final-form rulemaking is estimated to result in a reduction of 1,300 tons of NOx. Based on a 2009 average CAIR NOx Ozone Season Trading Program and CAIR NOx Annual Trading Program allowance price of \$500, the cost of 1,300 NOx allowances would be \$650,000 per year.

#### *Compliance Assistance Plan*

The Department plans to educate and assist the public and regulated community in understanding the newly revised requirements and how to comply with them. This will be accomplished through the Department's ongoing compliance assistance program.

#### *Paperwork Requirements*

The final-form rulemaking will not significantly increase the paperwork that is already generated during the normal course of business operations.

#### H. *Pollution Prevention*

The Pollution Prevention Act of 1990 (42 U.S.C.A. §§ 13101—13109) established a National policy that promotes pollution prevention as the preferred means for achieving state environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally friendly materials, more efficient use of raw materials and the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance. This final-form rulemaking provides the owners and operators of cement kilns in this Commonwealth the opportunity to improve the energy efficiency at their operations, which will result in lower NOx emissions.

#### I. *Sunset Review*

This final-form rulemaking will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

#### J. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 7, 2008, the Department submitted a copy of the notice of proposed rulemaking, published at 38 Pa.B. 1838, to the Independent Regulatory Review Commission (IRRC) and to the House and Senate Environmental Resources and Energy Committees (Committees) for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees 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 Department has considered all comments from IRRC, the Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on May 12, 2010, the final-form rulemaking was deemed approved by the Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on May 13, 2010, and approved the final-form rulemaking.

#### K. 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 regulations promulgated thereunder at 1 Pa. Code §§ 7.1 and 7.2.

(2) At least a 60-day public comment period was provided as required by law, and all comments were considered.

(3) These regulations do not enlarge the purpose of the proposal published at 38 Pa.B. 1838.

(4) These regulations are necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this order.

(5) These regulations are reasonably necessary to attain and maintain the ozone and PM<sub>2.5</sub> NAAQS.

#### L. Order

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

(a) The regulations of the Department, 25 Pa. Code Chapter 145, are amended by amending §§ 145.142 and 145.143 and by adding §§ 145.144—145.146 to read as set forth in Annex A.

(b) The Chairperson of the Board shall 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 Chairperson of the Board shall submit this order and Annex A to IRRC and the Committees as required under the Regulatory Review Act (71 P.S. §§ 745.1—745.12).

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

(e) This final-form rulemaking will be submitted to the EPA as an amendment to the Pennsylvania SIP.

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

JOHN HANGER,  
Chairperson

*(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:** Fiscal Note 7-419 remains valid for the final adoption of the subject regulations.

## Annex A

### TITLE 25. ENVIRONMENTAL PROTECTION PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

#### Subpart C. PROTECTION OF NATURAL RESOURCES

#### ARTICLE III. AIR RESOURCES

#### CHAPTER 145. INTERSTATE POLLUTION TRANSPORT REDUCTION

#### Subchapter C. EMISSIONS OF NO<sub>x</sub> FROM CEMENT MANUFACTURING

##### § 145.142. Definitions.

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

*CEMS—Continuous Emission Monitoring System*—The equipment required under this subchapter or Chapter 139 (relating to sampling and testing) to sample, analyze, measure and provide, by readings taken at least every 15 minutes of the measured parameters, a permanent record of NO<sub>x</sub> emissions.

*Calcine*—To heat a substance to a high temperature, but below its melting or fusing point, to bring about thermal decomposition or a phase transition in its physical or chemical constitution.

*Clinker*—The product of a Portland cement kiln from which finished cement is manufactured by milling and grinding.

*Long dry-process cement kiln*—A Portland cement kiln that employs no preheating of the feed. The inlet feed to the kiln is dry.

*Long wet-process cement kiln*—A Portland cement kiln that employs no preheating of the feed. The inlet feed to the kiln is a slurry.

*Portland cement*—A hydraulic cement produced by pulverizing clinker consisting essentially of hydraulic calcium silicates, usually containing one or more of the forms of calcium sulfate as an interground addition.

*Portland cement kiln*—A system, including any solid, gaseous or liquid fuel combustion equipment, used to calcine and fuse raw materials, including limestone and clay, to produce Portland cement clinker.

*Precalciner cement kiln*—A Portland cement kiln where the feed to the kiln system is preheated in cyclone chambers and a second burner is used to calcine material in a separate vessel attached to the preheater prior to the final fusion in a kiln that forms clinker.

*Preheater cement kiln*—A Portland cement kiln where the feed to the kiln system is preheated in cyclone chambers prior to the final fusion in a kiln that forms clinker.

*System-wide*—Two or more Portland cement kilns under the common control of the same owner or operator, or multiple owners, in this Commonwealth.

##### § 145.143. Standard requirements.

(a) By October 31, 2005, and each year thereafter, the owner or operator of a Portland cement kiln shall calculate the difference between the actual emissions from the unit during the period from May 1 through September 30 and the allowable emissions for that period.

(b) The owner or operator of a Portland cement kiln may not operate a Portland cement kiln in a manner that results in NOx emissions in excess of its allowable emissions, except as otherwise specified in this section.

(1) Beginning May 1 through September 30, 2005, and each year thereafter, the owner or operator shall determine allowable emissions by multiplying the tons of clinker produced by the Portland cement kiln for the period by 6 pounds per ton of clinker produced.

(2) Beginning May 1 through September 30, 2011, and each year thereafter, the owner or operator of a Portland cement kiln shall determine allowable emissions of NOx by multiplying the tons of clinker produced by the Portland cement kiln for the period by:

(i) 3.88 pounds of NOx per ton of clinker produced for long wet-process cement kilns.

(ii) 3.44 pounds of NOx per ton of clinker produced for long dry-process cement kilns.

(iii) 2.36 pounds of NOx per ton of clinker produced for:

(A) Preheater cement kilns.

(B) Precalciner cement kilns.

(c) The owner or operator of a Portland cement kiln subject to subsection (b)(1) shall install and operate a CEMS, and shall report CEMS emissions data, in accordance with the CEMS requirements of either Chapter 139 or 145 (relating to sampling and testing; and interstate pollution transport reduction) and calculate actual emissions using the CEMS data reported to the Department. Any data invalidated under Chapter 139 shall be substituted with data calculated using the potential emission rate for the unit or, if approved by the Department in writing, an alternative amount of emissions that is more representative of actual emissions that occurred during the period of invalid data.

(d) The owner or operator of a Portland cement kiln subject to this section shall surrender to the Department one CAIR NOx allowance and one CAIR NOx Ozone Season allowance, as defined in 40 CFR 96.102 and 96.302 (relating to definitions), for each ton of NOx by which the combined actual emissions exceed the allowable emissions of the Portland cement kilns subject to this section at a facility from May 1 through September 30. The surrendered allowances shall be of current year vintage. For the purposes of determining the amount of allowances to surrender, any remaining fraction of a ton equal to or greater than 0.50 ton is deemed to equal 1 ton and any fraction of a ton less than 0.50 ton is deemed to equal zero tons.

(e) If the combined allowable emissions from Portland cement kilns at a facility from May 1 through September 30 exceed the combined actual emissions from Portland cement kilns subject to this section at the facility during the same period, the owner or operator may deduct the difference or any portion of the difference from the amount of actual emissions from Portland cement kilns at the owner or operator's other facilities located in this Commonwealth for that period.

(f) By November 1, 2005, and each year thereafter, an owner or operator subject to this subchapter shall surrender the required NOx allowances to the Department's designated NOx allowance tracking system account, as defined in § 121.1 (relating to definitions), and shall provide in writing to the Department, the following:

(1) The serial number of each NOx allowance surrendered.

(2) The calculations used to determine the quantity of NOx allowances required to be surrendered.

(g) If an owner or operator fails to comply with subsection (f), the owner or operator shall by December 31 surrender three NOx allowances of the current or later year vintage for each NOx allowance that was required to be surrendered by November 1.

(h) The surrender of NOx allowances under subsection (g) does not affect the liability of the owner or operator of the Portland cement kiln for any fine, penalty or assessment, or an obligation to comply with any other remedy for the same violation, under the CAA or the act.

(1) For purposes of determining the number of days of violation, if a facility has excess emissions for the period May 1 through September 30, each day in that period (153 days) constitutes a day in violation unless the owner or operator of the Portland cement kiln demonstrates that a lesser number of days should be considered.

(2) Each ton of excess emissions is a separate violation.

**§ 145.144. Compliance determination.**

(a) By April 15, 2011, the owner or operator of a Portland cement kiln subject to § 145.143(b)(2) (relating to standard requirements) shall:

(1) Install, operate and maintain CEMS for NOx emissions.

(2) Report CEMS emissions data, in accordance with the CEMS requirements of Chapter 139, Subchapter C (relating to requirements for source monitoring for stationary sources), to the Department.

(3) Calculate actual emissions using the CEMS data reported to the Department.

(b) If approved by the Department in writing, data invalidated under Chapter 139, Subchapter C, shall be substituted with one of the following:

(1) The highest valid 1-hour emission value that occurred under similar source operating conditions during the reporting quarter for an invalid data period during that quarter.

(2) If no valid data were collected during the reporting quarter, one of the following shall be reported to the Department:

(i) The highest valid 1-hour emission value that occurred under similar source operating conditions during the most recent quarter for which valid data were collected.

(ii) The highest valid 1-hour emission value that occurred under similar source operating conditions during an alternative reporting period.

(3) An alternative method of data substitution.

(c) The owner or operator of a Portland cement kiln subject to this section shall submit to the Department quarterly reports of CEMS monitoring data in pounds of NOx emitted per hour, in a format approved by the Department, which is in compliance with Chapter 139, Subchapter C.

(d) The CEMS for NOx installed under the requirements of this section must meet the minimum data availability requirements in Chapter 139, Subchapter C.

**§ 145.145. Compliance demonstration and reporting requirements.**

(a) By October 31, 2011, and each year thereafter, the owner or operator of a Portland cement kiln subject to

§ 145.143(b)(2) (relating to standard requirements) shall submit a written report to the Department, in a format approved by the Department, which includes the following:

(1) The difference between the actual NO<sub>x</sub> emissions from the kiln during the interval from May 1 through September 30 and the allowable emissions for that period.

(2) The calculations used to determine the difference in emissions, including the CEMS data and clinker production data used to show compliance with the allowable emission limits in § 145.143(b)(2). The clinker production data must consist of the quantity of clinker, in tons, produced per day for each kiln.

(b) The owner or operator of a Portland cement kiln shall demonstrate compliance with the standard requirements in § 145.143(b)(2) on one of the following:

- (1) A kiln-by-kiln basis.
- (2) A facility-wide basis.
- (3) A system-wide basis.

#### § 145.146. Recordkeeping.

(a) The owner or operator of a Portland cement kiln shall maintain an operating log for each Portland cement kiln. The operating log must include the following on a monthly basis:

- (1) The total hours of operation.
- (2) The type and quantity of fuel used.
- (3) The quantity of clinker produced.

(b) The records maintained by the owner or operator of a Portland cement kiln must include the following:

(1) Source tests and operating parameters established during the initial source test and subsequent testing.

(2) The date, time and duration of any start-up, shutdown or malfunction of a Portland cement kiln or emissions monitoring system.

(3) The date and type of maintenance, repairs or replacements performed on the kilns, control devices and emission monitoring systems.

(c) The owner or operator of a Portland cement kiln shall maintain the records required under this section onsite for 5 years. The records shall be made available to the Department upon request.

[Pa.B. Doc. No. 10-1115. Filed for public inspection June 18, 2010, 9:00 a.m.]

governed by the assessment process in the act of October 18, 2006 (P. L. 1149, No. 119) (Act 119). New § 151.14 reflects the replacement of the Corporate Tax settlement process with an assessment process.

#### *Explanation of Regulatory Requirements*

This final-form rulemaking provides clear instructions for corporate taxpayers filing amended reports. The Department adds § 151.14 to outline the provisions for filing Corporate Tax amended reports. Examples in Chapter 153 (relating to corporate net income tax) have been amended with updated language. Obsolete language has been replaced throughout § 153.54. Specifically, obsolete language was removed in § 153.54(b)(1) regarding the Report of Change Form. Section 153.54(g) has been expanded to explain: (1) Corporate Net Income Tax settled prior to January 1, 2008; and (2) Corporate Net Income Tax not settled prior to January 1, 2008. In addition, an “applicability” section is added in § 153.66 to clarify that §§ 153.61—153.65 apply to taxes settled prior to January 1, 2008.

In the final-form rulemaking, § 153.54(a) has been amended to remove the obsolete term “corrected report” and replace it with “Report of Change.” Also, a new sentence has been added to clarify the Department’s long-standing policy regarding changes in Federal losses. In addition, examples have been added to § 153.54(h) to address changes initiated by the taxpayer.

#### *Affected Parties*

The Commonwealth’s corporate taxpayers and tax practitioners may be affected by this final-form rulemaking. The final-form rulemaking adds a fourth leg to what the Department has already accomplished for the education of the tax community on the changes to Amended Reports under Act 119. The Department has done the following: (1) added detailed language in the Instruction Booklet for Form RCT 101; (2) published a notice on the Department’s web site entitled “Notice to Pennsylvania Taxpayers Regarding Amended Corporate Tax Reports;” and (3) participated in numerous seminars in the tax community on this subject.

#### *Comment and Response Summary*

Notice of proposed rulemaking was published at 39 Pa.B. 1207 (March 7, 2009). The proposed rulemaking is being adopted with amendments to read as set forth in Annex A.

The Department prepared a comment and response document that is available to interested parties by contacting Mary R. Sprunk, Office of Chief Counsel, Department of Revenue, P. O. Box 281061, Harrisburg, PA 17128-1061.

The Department received one comment from the public during the public comment period. No comments were received from either the House Finance Committee or the Senate Finance Committee (Committees). The Independent Regulatory Review Commission (IRRC) submitted comments on the proposed rulemaking. The following is a summary of the Department’s responses to the key issues referenced in the comments.

The Department added clarifying language in § 151.14(b) and (c) to address comments requesting time frames and examples of changes for the amended report process.

The Department added clarifying language in § 151.14(e) for taxpayers to understand that the Depart-

## Title 61—REVENUE

### DEPARTMENT OF REVENUE

#### [ 61 PA. CODE CHS. 151 AND 153 ]

#### Amended Report—Corporation Taxes

The Department of Revenue (Department), under section 6 of The Fiscal Code (72 P. S. § 6), amends § 153.54 (relating to changes made by Federal government) and adds §§ 151.14 and 153.66 (relating to amended report; and applicability) to read as set forth in Annex A.

#### *Purpose of this Final-Form Rulemaking*

This final-form rulemaking provides a procedure for the filing of amended Corporate Tax reports for tax reports

ment's failure to revise the tax due the Commonwealth is not an appealable action and will not change existing appeal rights.

New § 153.54(h) has added a "Report of Change" provision to address amended Federal Income Tax returns, which include any document allowed or authorized by the IRS for a taxpayer to adjust their Federal taxable income. Examples of "proof of acceptance by the Federal government" have been added to § 153.54(h).

*Fiscal Impact*

The Department has determined that the final-form rulemaking will have minimal fiscal impact on the Commonwealth.

*Paperwork*

The final-form rulemaking will not create additional paperwork for the public or the Commonwealth.

*Effectiveness/Sunset Date*

The final-form rulemaking will become effective upon final publication in the *Pennsylvania Bulletin*. The final-form rulemaking is scheduled for review within 5 years of publication. A sunset date has not been assigned.

*Contact Person*

The contact person for an explanation of the final-form rulemaking is Mary R. Sprunk, Office of Chief Counsel, Department of Revenue, Dept. 281061, Harrisburg, PA 17128-1061.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 20, 2009, the Department submitted a copy of the notice of proposed rulemaking, published at 39 Pa.B. 1207, to IRRC and to the Committees on Finance for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees 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 Department has considered all comments from IRRC, the Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on May 12, 2010, the final-form rulemaking was deemed approved by the Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on May 13, 2010, and approved the final-form rulemaking.

*Findings*

The Department finds that:

(1) Public notice of intention to amend the regulations has been 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 thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The amendments are necessary and appropriate for the administration and enforcement of the authorizing statute.

*Order*

The Department, acting under the authorizing statute, orders that:

(a) The regulations of the Department, 61 Pa. Code Chapters 151 and 153, are amended by adding §§ 151.14 and 153.66 and by amending § 153.54 to read as set forth in Annex A.

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

(c) The Secretary of the Department 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 upon publication in the *Pennsylvania Bulletin*.

C. DANIEL HASSELL,  
*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:** Fiscal Note 15-445 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 61. REVENUE**

**PART I. DEPARTMENT OF REVENUE**

**Subpart B. GENERAL FUND REVENUES**

**ARTICLE VI. CORPORATION TAXES**

**CHAPTER 151. GENERAL PROVISIONS**

**REPORTING**

**§ 151.14. Amended report.**

(a) *Applicability.* This section applies to taxes imposed under Articles IV, VI, VII, VIII, IX, XI and XV of the Tax Reform Code of 1971 and not settled prior to January 1, 2008, along with the following:

(1) Corporate Loans Tax imposed under sections 19–24 of the State Personal Property Tax Act (72 P. S. §§ 3250-10–3250-15).

(2) Co-operative Agricultural Corporate Net Income Tax Act imposed under the Co-operative Agricultural Association Corporate Net Income Tax (72 P. S. §§ 3420-21–3420-30).

(3) The electric co-op corporation membership fee imposed under 15 Pa.C.S. § 7333 (relating to license fee; exemption from excise taxes).

(4) Gross Receipts Tax on private bankers imposed under section 1 of the act of May 16, 1861 (P. L. 708, No. 660) (72 P. S. § 2221).

(b) *General.*

(1) An amended report may be filed by a taxpayer, on a form prescribed by the Department under oath or affirmation of an authorized officer, within 3 years after filing of the original report. An amended report may be filed for the purpose of bringing to the attention of the Department a correction to the original report or to provide additional information which the taxpayer requests the Department to consider.

(2) The Department will only consider additional information if it is submitted with an amended report. The taxpayer may submit any information it believes is relevant to the determination of its tax. The filing of an amended report is not a new report.

(3) The Department will not accept an amended report that challenges the Department's policy, its interpretation of the statutes or the constitutionality of the Commonwealth's statutes. Any challenges of the Department's policy, its interpretation of the statutes or the constitutionality of the Commonwealth's statutes shall be made by filing a petition for reassessment or a petition for refund.

(c) *Prerequisite.* An amended report will not be considered by the Department unless the taxpayer consents in writing, on a form prescribed by the Department, to the extension of the assessment period for the tax year to 1 year from the date of the filing of the amended report or 3 years from the filing of the original report, whichever period last expires. See section 407.4 of the TRC (72 P. S. § 7407.4). In addition, the taxpayer is required to maintain records until the end of the extended assessment period.

(d) *Petition rights.*

(1) An amended report does not replace the filing of a Petition for Reassessment or a Petition for Refund.

(2) The filing of an amended report does not extend the time limits for a taxpayer to file a Petition for Reassessment or a Petition for Refund.

(e) *Review of amended report.*

(1) The Department is not obligated to revise the tax due the Commonwealth upon review of an amended report. Its failure to revise the tax due the Commonwealth is not an appealable action and will not change any existing appeal rights of the taxpayer.

(2) If the Department determines an adjustment of the taxpayer's account is appropriate, it will adjust the corporation's tax on the Department's records to conform to the revised tax as determined and will credit the taxpayer's account to the extent of any overpayment resulting from the adjustment or assess the taxpayer's unpaid tax and unreported liability for tax, interest or penalty due the Commonwealth, whichever is applicable.

(f) *Amended report filed when tax liability is under appeal.*

(1) An amended report involving issues under appeal will be forwarded to the appropriate administrative appeal board or to the Office of the Attorney General, to be included in the appeal.

(2) If the amended report involves issues other than those under appeal, the Department may review the amended report. The review of a report does not obligate the Department to change the tax due the Commonwealth and will not change any existing appeal rights of the taxpayer. If the Department determines that a change to the tax liability is appropriate, it will adjust the corporation's tax on the Department's records to conform to the revised tax as reported. The Department will credit the taxpayer's account to the extent of any overpayment resulting from the adjustment or assess the taxpayer's unpaid tax and unreported liability for tax, interest or penalty due the Commonwealth, whichever is applicable.

(g) *Additional information required to be provided with an amended report.* An amended report filed with the Department must contain the following:

(1) An agreement to the extension of the assessment period as described in subsection (c).

(2) The calculation of the amended tax liability.

(3) Revised Pennsylvania supporting schedules, if applicable.

(4) A complete explanation of the changes being made and the reason for those changes.

(5) Other information required by the Department to support the calculation of the amended tax liability.

#### CHAPTER 153. CORPORATE NET INCOME TAX

##### REPORTS AND PAYMENT OF TAX

#### § 153.54. Changes made by Federal government.

(a) *General.* If the amount of taxable income, as returned by a taxpayer to the Federal government, is finally changed or corrected by the Commissioner of the Internal Revenue or by another agency or court of the United States, the taxpayer, within 30 days after the receipt of the final change or correction, shall make a report of change, under oath or affirmation, to the Department showing the finally changed or corrected taxable income, upon which tax is required to be paid to the United States. See section 406 of the TRC (72 P. S. § 7406). A change or correction of taxable income includes an increase or decrease in Federal taxable income before net operating loss deduction and special deductions.

(b) *What is required to be filed with the Department.* The following are required to be filed with the Department:

(1) A Report of Change as prescribed by the Department.

(2) Where a Federal audit has been conducted a copy of the summary of the Federal agent's report, commonly referred to as an "RAR."

(3) The Department may require the taxpayer to submit additional information or proof as it deems necessary.

(c) *When a Report of Change is required to be filed.* A Report of Change is required to be filed with the Department within 30 days of receipt of the final change or correction in taxable income as returned to the Federal Government. A Report of Change is required to be filed whether the Federal taxable income has been increased or decreased. See section 406(a) of the TRC.

(d) *When a change or correction in Federal taxable income is final and received.* A change or correction will be final and received as follows:

(1) A change or correction which increases the taxable income as returned to the Federal Government is final when a Federal Notice and Demand for Payment is issued to the taxpayer. Such a change or correction is received by the taxpayer on the date the taxpayer receives the Federal Notice and Demand for Payment.

*Example 1.* Taxpayer files a 2003 Report with the Department in conformity with its Federal Return as filed in 2003. In 2004 the Internal Revenue Service audits the taxpayer's Return which results in an increase of the taxpayer's Federal taxable income. Taxpayer does not contest this change. Thirty days after receipt of a Federal Notice and Demand for Payment, the taxpayer is required to file a Report of Change with the Department.

*Example 2.* Taxpayer files a 2003 Report with the Department in conformity with its Federal Return as filed in 2003. In 2004 the Internal Revenue Service audits the taxpayer's Return which results in an increase of taxpayer's Federal taxable income. Taxpayer contests this change and files a petition in the United States Tax Court. The United States Tax Court upholds the Internal

Revenue Service's action. Taxpayer does not appeal the United States Tax Court's decision. Thirty days after receipt of a Federal Notice and Demand for Payment, the taxpayer is required to file a Report of Change with the Department.

*Example 3.* Taxpayer files a 2003 report with the Department in conformity with its Federal return as filed in 2003. In 2004 the Internal Revenue Service audits the taxpayer's return which results in an increase of the taxpayer's Federal taxable income. Taxpayer contests this change and pursues all administrative and judicial remedies available without paying the contested amount of tax. The United States Supreme Court upholds the Internal Revenue Service's action. Thirty days after receipt of a Federal Notice and Demand for Payment, the taxpayer is required to file a Report of Change with the Department.

(2) A change or correction which decreases the taxable income as returned to the Federal Government is "final" when the taxpayer receives a refund or credit. The change or correction is received by the taxpayer on the date the taxpayer receives the refund or credit.

(3) A change or correction which does not increase or decrease the taxpayer's Federal tax is final when the taxpayer receives a notice from the IRS that its return will be adjusted in accordance with the examination report. The change or correction is "received" by the taxpayer on the date the taxpayer receives notice from the IRS that its return will be adjusted in accordance with the examination report.

*Example.* Taxpayer files a 2003 report with the Department in conformity with its Federal return as filed in 2003. In 2005 the Internal Revenue Service audits taxpayer's Federal return. The audit does not result in an increase in the Federal tax, but a change in the Commonwealth taxable income does occur due to the Federal action. Taxpayer is required to file a Report of Change within 30 days of notification by the Internal Revenue Service of its action.

(e) *More than one change or correction in Federal taxable income for a particular tax year.* A taxpayer is required to file a Report of Change for each change or correction by the Commissioner of Internal Revenue or by any other agency or court of the United States in the taxpayer's taxable income as reported to the Federal Government.

*Example.* As a result of a Federal audit of its 2003 Federal return, the taxpayer's Federal taxable income has been increased and the taxpayer has paid the Federal government additional tax. Since the taxpayer's Commonwealth taxable income also increased for 2003, taxpayer has filed a Report of Change with the Department. Thereafter, in a separate and subsequent court action the taxpayer contests the change in its Federal taxable income for 2003 and receives a refund from the Federal Government. Since its Commonwealth taxable income for 2003 has been decreased by this separate and subsequent action, the taxpayer is required to file a second Report of Change with the Department.

(f) *Penalties for failure to file a Report of Change.* Where there has been a final change or correction in the amount of taxable income, as returned by the taxpayer to the Federal government, which results in an increase in the taxable income, the taxpayer is required to file a Report of Change with the Department within 30 days after receipt of the final change or correction. If the taxpayer fails to file a Report of Change within the

30-day period, there shall be added to the tax a penalty of \$5.00 for every day during which the taxpayer is in default, but the Department may abate a penalty in whole or in part. See section 406(a) of the TRC.

(g) *Report of Change required to report Federal change or correction.*

(1) *Corporate Net Income Tax settled prior to January 1, 2008.* When a Federal change or correction in taxable income as reported to the Federal government occurs within 1 year of the date of settlement and, therefore, a Commonwealth amended report could be timely filed as provided in § 153.64 (relating to amended report), the taxpayer nevertheless is required to file a Report of Change. Filing an amended report will not satisfy the requirement of filing a Report of Change.

*Example.* Taxpayer files a Federal Return on March 15, 2003. Based upon that return, the taxpayer files its Commonwealth Report on April 15, 2003. In August of 2003, the IRS discovers an error in the taxpayer's return. Taxpayer shall file a Report of Change even though the final change or correction was received within the period in which the taxpayer could file an amended report. An amended report will not satisfy the requirement of filing a Report of Change.

(2) *Corporate Net Income Tax not settled prior to January 1, 2008.* When a change or correction in taxable income as reported to the Federal government occurs, the taxpayer is required to file a Report of Change regardless of whether or not an amended report could have been timely filed as provided in § 151.14 (relating to amended report). This requirement applies to changes or corrections initiated by either the taxpayer or the Federal government. Filing an amended report will not satisfy the requirement of filing a Report of Change.

*Example.* Taxpayer files a Federal Return on March 15, 2007. Based upon that return, the taxpayer files its Commonwealth Report on April 15, 2007. In August of 2008, the IRS conducts an audit and notifies taxpayer that its Federal taxable income is different than the reported figure. Taxpayer shall file a Report of Change even though the final change or correction was received within the period in which the taxpayer could file an amended report. An amended report will not satisfy the requirement of a Report of Change.

(h) *Changes initiated by the taxpayer.*

(1) A Report of Change shall be filed, and additional tax due paid, within 30 days of the date the amended Federal return is filed, or would have been filed in the case of a corporation participating in the filing of a consolidated Federal return.

(2) The taxpayer shall provide a copy of the amended Federal Income Tax return if the Report of Change is filed due to a change in Federal taxable income based on the filing of an amended Federal Income Tax return. In addition, the Department may also require proof of acceptance of the amended Federal Income Tax return. Examples of proof of acceptance by the Federal government include the following:

- (i) Copy of the IRS refund check.
- (ii) IRS statement of adjustment to your account.
- (iii) IRS account transcript.
- (iv) Other documentation at the discretion of the Department.

(3) Amended Federal Income Tax returns include any document allowed or authorized by the IRS for a taxpayer to adjust the taxpayer's Federal taxable income.

*Example 1.* Taxpayer files a Federal Return on March 15, 2007. Based upon that return, the taxpayer files its Commonwealth Report on April 15, 2007. In August of 2008, the taxpayer discovers taxable income was under-reported and files an amended Federal Income Tax return. Taxpayer shall file a Report of Change even though the final change or correction was received within the period in which the taxpayer could file an amended report. An amended report will not satisfy the requirement of a Report of Change.

*Example 2.* Taxpayer files a Federal Return on March 15, 2007. Based upon that return, the taxpayer files its Commonwealth Report on April 15, 2007. In March 2009, when filing the Federal Income Tax return for 2008, the

taxpayer files Federal Form 1139, Corporation Application for Tentative Refund, adjusting 2006 Federal taxable income for a capital loss carryback for 2008. Taxpayer shall file a Report of Change even though the final change or correction was received within the period in which the taxpayer could file an amended report. An amended report will not satisfy the requirement of a Report of Change.

#### **SETTLEMENT AND RESETTLEMENT**

##### **§ 153.66. Applicability.**

Sections 153.61—153.65, regarding settlement and resettlement, apply to taxes settled prior to January 1, 2008.

[Pa.B. Doc. No. 10-1116. Filed for public inspection June 18, 2010, 9:00 a.m.]

\_\_\_\_\_

# STATEMENTS OF POLICY

## Title 4—ADMINISTRATION

### PART II. EXECUTIVE BOARD

[ 4 PA. CODE CH. 9 ]

#### Reorganization of the Department of Labor and Industry

The Executive Board approved a reorganization of the Department of Labor and Industry effective May 25, 2010.

The organization chart at 40 Pa.B. 3362 (June 19, 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. 10-1117. Filed for public inspection June 18, 2010, 9:00 a.m.]

## Title 4—ADMINISTRATION

### PART II. EXECUTIVE BOARD

[ 4 PA. CODE CH. 9 ]

#### Reorganization of the Office of Inspector General

The Executive Board approved a reorganization of the Office of Inspector General effective May 24, 2010.

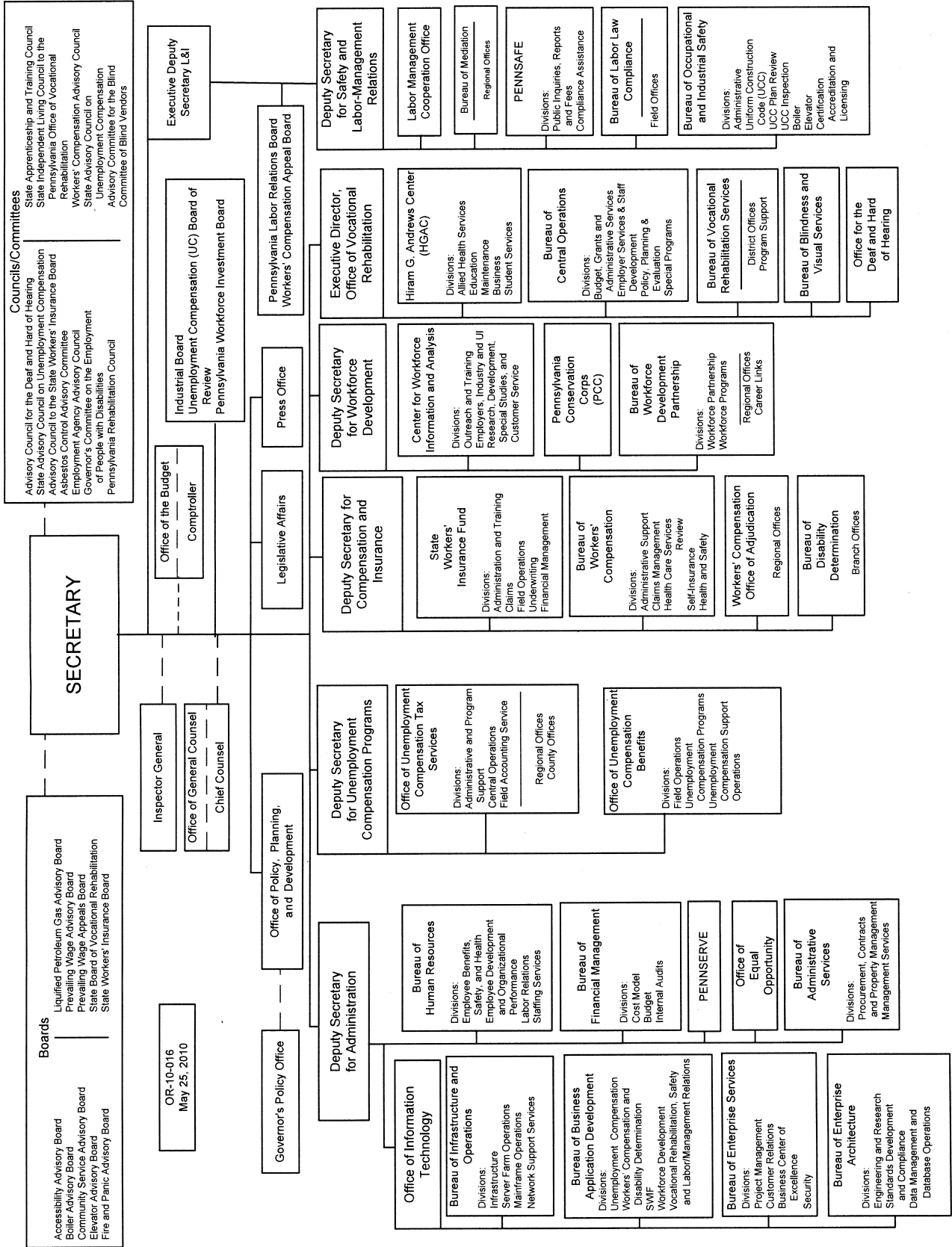
The organization chart at 40 Pa.B. 3363 (June 19, 2010) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

*(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. 10-1118. Filed for public inspection June 18, 2010, 9:00 a.m.]

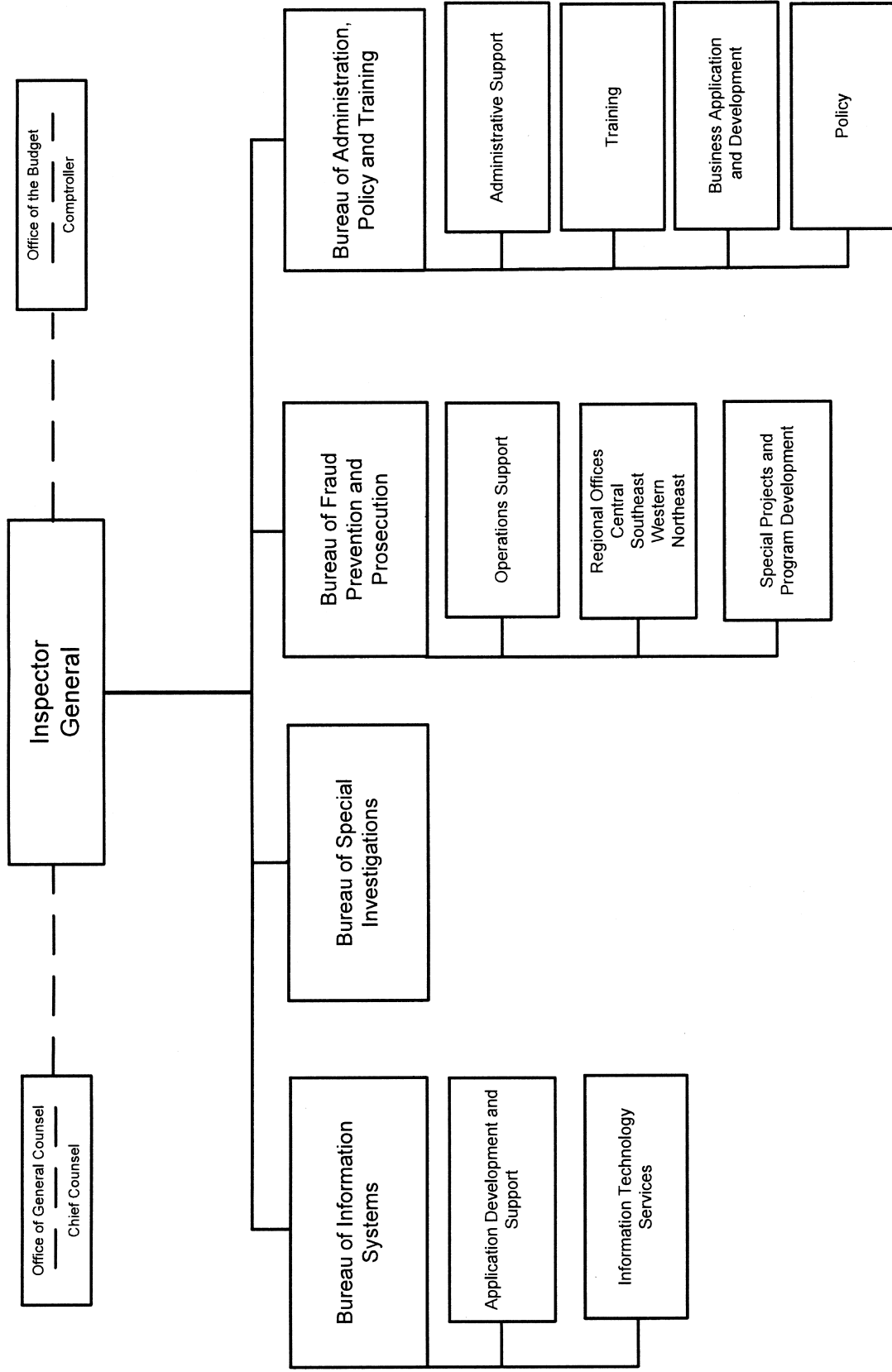


DEPARTMENT OF LABOR AND INDUSTRY



OR-10-015  
May 24, 2010

OFFICE OF INSPECTOR GENERAL



# NOTICES

## DEPARTMENT OF AGRICULTURE

### Fertilizer Nutrient Values

The Secretary of Agriculture, under the authority of 3 Pa.C.S. § 6710 (relating to commercial value), hereby establishes the commercial values per pound of nitrogen, available phosphate and soluble potash.

The values are established as follows:

Nitrogen	\$0.49 per pound
Available phosphate	\$0.52 per pound
Soluble potash	\$0.40 per pound

Further information is available by contacting Erin Bubb, Agronomic Program Specialist, Division of Agronomic and Regional Services, Bureau of Plant Industry, Department of Agriculture, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 772-5216.

These commercial values are effective commencing July 1, 2010, and shall remain effective until further notice.

RUSSELL C. REDDING,  
*Secretary*

[Pa.B. Doc. No. 10-1119. Filed for public inspection June 18, 2010, 9:00 a.m.]

## 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 June 1, 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

#### Branch Applications

##### De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
5-25-2010	Susquehanna Bank Lititz Lancaster County	2343 Oregon Pike Lancaster Lancaster County	Filed
5-26-2010	New Century Bank Phoenixville Chester County	1 South Main Street Yardley Bucks County	Filed

### SAVINGS INSTITUTIONS

No activity.

### CREDIT UNIONS

#### Community Charter Conversions

<i>Date</i>	<i>Name and Location of Institution</i>	<i>Action</i>
5-26-2010	Norristown Bell Credit Union Blue Bell Montgomery County	Approved

The credit union will amend Article 8 of its Articles of Incorporation to provide the following field of membership: "All people who live, work, worship, volunteer, attend school in, and businesses and other legal entities in Montgomery County, in the Commonwealth of Pennsylvania."

The Department's web site at [www.banking.state.pa.us](http://www.banking.state.pa.us) includes public notices for more recently filed applications.

STEVEN KAPLAN,  
*Secretary*

[Pa.B. Doc. No. 10-1120. Filed for public inspection June 18, 2010, 9:00 a.m.]

## DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

### Weatherization Assistance Program's Proposed State Plan

The Department of Community and Economic Development (Department) publishes notice of a public hearing to be held at 9 a.m. on Wednesday, June 30, 2010, in PUC Hearing Room 2, Plaza Level of the Commonwealth Keystone Building, 400 North Street, Harrisburg, PA. The purpose of this hearing is to receive comments on the proposed changes in the Pennsylvania 2010-2011 annually-appropriated United States Department of Energy Weatherization Assistance Program Plan (regular plan) and the 2010-2011 American Recovery and Reinvestment Act State Weatherization Plan (ARRA).

The regular and ARRA plans are to be amended to reduce the allocation awarded to the Community Action Partnership of Mercer County; to add to the list of subgrantees the Housing Authority of the County of Butler; and to reduce the ARRA allocation granted to the Community Action Partnership of Cambria County.

In addition, the Department intends to make the following changes to the Priority List:

A) To require that a low-e storm window be added to any existing single pane window or metal frame clear dual pane window, as well as to any single pane window with an existing deteriorated clear storm window.

B) To require an R-5 window where a window is replaced due to health, safety or structural concerns.

C) To permit the replacement of an existing single pane window or metal frame clear dual pane window with an R-5 window provided the total average installed cost (including any lead-safe practices) is less than \$21.50 per ft<sup>2</sup>.

Copies of the regular and ARRA Weatherization Program Plans may be obtained by contacting the Department of Community and Economic Development, Office of Energy Conservation and Weatherization, 4th Floor, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120, (717) 214-7707 or it can be downloaded from the Department's web site at [www.newpa.com](http://www.newpa.com).

Written comments may be submitted to E. Craig Heim, Executive Director of the Office of Energy Conservation and Weatherization, 4th Floor, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120 until 5 p.m. on June 28, 2010.

Persons with a disability who wish to attend this hearing and require auxiliary aid, services or other accommodations to participate in the proceedings, contact Jacquelyn Allen at (717) 214-7707 to discuss how the Department may accommodate their needs.

Persons wishing to testify at the hearing should contact Jacquelyn Allen at (717) 214-7707 to schedule their presentation.

AUSTIN J. BURKE,  
*Acting Secretary*

[Pa.B. Doc. No. 10-1121. Filed for public inspection June 18, 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

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone: 717-705-4707.*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0086941 Sewage	Stardust Motel Dwayne Kocher 3418 Susquehanna Trail Duncannon, PA 17020-9445	Perry County Watts Township	6C Susquehanna River	Y
PA0247391 Sewage	North Codorus Township Sewer Authority 1986 Stoverstown Road Spring Grove, PA 17362	York County North Codorus Township	7H UNT Codorus Creek	Y
PA0081191 Sewage	MHC PA Dutch Country, LP PA Dutch Country Campground 2 North Riverside Plaza Suite 800 Chicago, IL 60606	Lebanon County West Cornwall Township	7G Chickies Creeek	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 &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0031852 (Sewage)	Central Columbia School District Wastewater Treatment Plant 4777 Old Berwick Road Bloomsburg, PA 17815	Columbia County South Centre Township	Unnamed Tributary to Susquehanna River 5-D	Y
PA0008222 (Industrial Waste)	Graymont PA Bellefonte Plant North Thomas Street Bellefonte, PA 16823	Centre County Spring Township	Buffalo Run 9-C	Y
PA0115088 (POTW)	Benton Municipal Water & Sewer Authority Wastewater Treatment Plant P. O. Box 516 1a West Third Street Benton, PA 17814-0516	Columbia County Benton Borough	Fishing Creek 5-C	Y

*Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0101702 (Sewage)	Castle Haven, Inc. P. O. Box 870 Franklin, PA 16323	Venango County Sandy Creek Township	Unnamed Tributary to Ditzenberger Run 16-G	Y
PA0239763 (Sewage)	Collins Reffner SFTF 406 Keck Road Butler, PA 16001	Butler County Summit Township	Unnamed Tributary to Bonnie Brook 20-C	Y
PA0239569 (Sewage)	Shannon Mills Estates Dick Road Connoquenessing, PA 16053	Butler County Connoquenessing Township	Unnamed Tributary to Little Connoquenessing Creek 20-C	Y
PA0223042 (Sewage)	Farmington Township STP P. O. Box 148 Leeper, PA 16233	Clarion County Farmington Township	Licking Creek 17-B	Y

## II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Applications

*Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

**PA0058769**, Industrial Waste, SIC Code 5411, **Wawa, Inc.**, 260 West Baltimore Pike, Wawa, PA 19063-5699. Facility Name: Wawa Food Market 133. This existing facility is located in Middletown Township, **Delaware County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated Industrial Waste.

The receiving stream(s), Unnamed Tributary to Rocky Run, is located in State Water Plan watershed 3-G and is classified for High Quality Waters-Cold Water Fishes and aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 101 are based on a design flow of 0.003 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Report	Report				
pH (Standard Units)			6.0			9.0
pH (Standard Units) Influent				Report		
Total Suspended Solids Influent				Report		
Total Suspended Solids				10	20	25
Oil and Grease				ND	ND	ND
Oil and Grease Influent				Report		
Dissolved Iron Influent				Report		
Dissolved Iron				0.23	0.35	0.46
Ethylbenzene (µg/L)				ND	ND	ND
Ethylbenzene (µg/L) Influent				Report		
Benzene (µg/L) Influent				Report		
Benzene (µg/L)				ND	ND	ND
Total BTEX (µg/L)				ND	ND	ND
Total BTEX (µg/L) Influent				Report		
Tetrachloroethylene (µg/L) Influent				Report		
Tetrachloroethylene (µg/L)				ND	ND	ND
Toluene (µg/L) Influent				Report		
Toluene (µg/L)				ND	ND	ND

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Trichloroethylene (µg/L) Influent				Report ND	ND	ND
Total Xylenes (µg/L) Influent				Report ND	ND	ND
MTBE (µg/L) Influent				Report ND	ND	ND

In addition, the permit contains the following major special conditions:

1. Remedial Measures.
2. Change of Ownership.
3. Proper Sludge Disposal.
4. TMDL/WLA Analysis.
5. 2/Month Monitoring.
6. Laboratory Certification.
7. Influent Sampling.
8. Non Detectable Effluent Limits.

You may make an appointment to review the Department of Environmental Protection's files on this case by calling the File Review Coordinator at 484-250-5910.

The EPA waiver is in effect.

**PA0058921**, Industrial Waste, SIC Code 3273, **JDM Materials**, 851 County Line Road, Huntingdon Valley, PA 19006-1111. Facility Name: JDM Materials Upper Southampton Plant. This existing facility is located in Upper Southampton Township, **Bucks County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated Industrial Waste.

The receiving stream(s), Unnamed Tributary to Mill Creek and Unnamed Tributary to Southampton Creek, is located in State Water Plan watershed 3-J and 2-F and is classified for Trout Stocking, Migratory Fishes, Warm Water Fishes and Migratory Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on stormwater events flow.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Annual Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
pH (Standard Units)			6.0			9.0
Total Suspended Solids				50	100	100
Oil and Grease				Report		Report

The proposed effluent limits for Outfall 003 are based on stormwater events flow.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Annual Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
pH (Standard Units)			6.0			9.0
Total Suspended Solids				50	100	100
Oil and Grease				Report		Report

In addition, the permit contains the following major special conditions:

1. Remedial Measures.
2. Small Stream Discharge.
3. BAT/ELG Reopener Clause.
4. Change of Ownership.
5. Sludge Disposal.

6. TMDL/WLA Analysis.
7. Laboratory Certification.
8. IMAX limits on DMR.
9. Requirements for stormwater outfalls.

You may make an appointment to review the Department of Environmental Protection's files on this case by calling the File Review Coordinator at 484-250-5910.

The EPA waiver is in effect.

**PA0055395, Amendment 2**, SEW, SIC 6515, **Green Top Management, LLC**, P. O. Box 677, Morgantown, PA 19543. This proposed facility is located in West Rockhill Township, **Bucks County**.

Description of Proposed Activity: Amendment of an NPDES permit to discharge 18,000 gpd of treated sewage into an UNT to Tohickon Creek.

The receiving stream, Tohickon Creek, is in the State Water Plan watershed 2D and is classified for trout stocking fishery. The nearest downstream public water supply intake for PA American Water Company is located on the Delaware River and is 30 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 18,000 GPD:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	50
Suspended Solids	30	60
Ammonia (as N)		
(05-01 to 10-31)	1.7	3.4
(11-01 to 04-30)	3.0	6.0
Phosphorus (as P)	0.5	1.0
Total Residual Chlorine	0.02	0.05
Fecal Coliform	200 #/100 ml	1,000 #/100 ml
Dissolved Oxygen	minimum of 5.0 mg/l at all times	
pH	Within limits of 6.0 to 9.0 Standard Units at all times	
Total Dissolved Solids	1,000	2,000

In addition to the effluent limits, the permit contains the following major special conditions:

1. Designation of Responsible Operator.
2. Abandon STP.
3. Remedial Measures.
4. No Stormwater.
5. Necessary Property Rights.
6. Change in Ownership.
7. TRC Minimization.
8. Sludge Disposal.
9. I-Max Limits.
10. 2/Month Monitoring.
11. Special Protection Waters.
12. I-Max for Fecal Coliform.
13. TRC Limit Below MDL.
14. Lab Certification.

**PA0024376**, Sewage, SIC Code 4952, **Borough of Boyertown**, P100 South Washington Street, Boyertown, PA 19512. Facility Name: Boyertown STP. This existing facility is located in Douglass Township, **Montgomery County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated sewage from the Boyertown STP. The receiving stream, Swamp Creek, is located in State Water Plan watershed 3-E and is classified for trout stocking, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.75 MGD:



Parameters	Mass (lb/day)		Concentration (mg/l)			
	Average Monthly	Weekly Average	Instantaneous Minimum	Average Monthly	Weekly Average	Instantaneous Maximum
Flow (MGD)	Report	Report				
pH (Standard Units)			6.0			9.0
Dissolved Oxygen			5.0			
Total Residual Chlorine				0.34		1.1
CBOD <sub>5</sub>	125	188		20	30	40
Total Suspended Solids	125	188		20	30	40
Total Dissolved Solids	6,255	15,637		1,000	2,000	2,500
		Daily Maximum			Daily Maximum	
Fecal Coliform (CFU/100 ml)				200 Geometric Mean Report		1,000*
Nitrate-Nitrite as N						Report
Ammonia-Nitrogen						
(05-01 to 10-30)	10			1.6		3.2
(11-01 to 04-30)	30			4.8		9.6
Total Phosphorus	9.4			1.5		3.0

\*Shall not exceed in more than 10% of samples taken.

In addition, the permit contains the following major special conditions:

1. Solid management at the plant.
2. You may make an appointment to review the Department of Environmental Protection's files on this case by calling the File Review Coordinator at 484-250-5910.
3. The EPA waiver is in effect.

---

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

**PA0042170-A1**, Sewage, SIC Code 4952, **Schuylkill County Municipal Authority**, 221 South Centre Street, Pottsville, PA 17901. Facility Name: Deer Lake Wastewater Treatment Plant. This existing facility is located in West Brunswick Township, **Schuylkill County**.

Description of Activity: The application is for an amendment of an NPDES permit for a proposed upgrade/expansion of an existing 0.229 MGD sewage treatment plant to a 1.0 MGD plant.

The receiving stream, Pine Creek, is located in State Water Plan watershed 3-A and is classified for Cold Water Fishes, Migratory Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 (effluent from existing plant) based on a design flow of 0.229 MGD are as follows:

Parameters	Mass (lb/day)		Concentration (mg/l)			
	Average Monthly	Weekly Average	Minimum	Average Monthly	Weekly Average	Instantaneous Maximum
Flow (MGD)	Report	Report Daily Maximum				
pH (Standard Units)			6.0			9.0
Dissolved Oxygen			5.0			
Total Residual Chlorine				1.0		2.0
CBOD <sub>5</sub>	48	76		25	40	50
Total Suspended Solids	57	86		30	45	60
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30				200 Geometric Mean		
Oct 1 - Apr 30				2,000 Geometric Mean		
Ammonia-Nitrogen						
May 1 - Oct 31	17			9.0		18.0

The proposed effluent limits for Outfall 002 (effluent from proposed plant) based on a design flow of 1.0 MGD are as follows:

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Weekly Average	Minimum	Average Monthly	Weekly Average	Instantaneous Maximum
Flow (MGD)	Report	Report Daily Maximum				
pH (Standard Units)			6.0			9.0
Dissolved Oxygen			5.0			
CBOD <sub>5</sub>	73	117		8.7	14	17
Total Suspended Solids	83	125		10	15	20
Fecal Coliform (CFU/100 ml)				200		
May 1 - Sep 30				Geometric Mean		
Oct 1 - Apr 30				2,000		
				Geometric Mean		
Ammonia-Nitrogen						
May 1 - Oct 31	22			2.6		5.2
Nov 1 - Apr 30	65			7.8		15

The proposed monitoring requirements for Outfall 003 (site stormwater from proposed plant) are as follows:

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Average Weekly	Minimum	Average Monthly	Daily Maximum	Instantaneous Maximum
pH (Standard Units)					Report	
CBOD <sub>5</sub>					Report	
Chemical Oxygen Demand					Report	
Total Suspended Solids					Report	
Oil and Grease					Report	
Total Kjeldahl Nitrogen					Report	
Total Phosphorus					Report	
Total Iron					Report	

The proposed monitoring requirements for Outfall 004 (site stormwater from proposed plant) are as follows:

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Average Weekly	Minimum	Average Monthly	Daily Maximum	Instantaneous Maximum
pH (Standard Units)					Report	
CBOD <sub>5</sub>					Report	
Chemical Oxygen Demand					Report	
Total Suspended Solids					Report	
Oil and Grease					Report	
Total Kjeldahl Nitrogen					Report	
Total Phosphorus					Report	
Total Iron					Report	

In addition, the permit contains the following major special conditions:

- Requirements applicable to stormwater outfalls.

You may make an appointment to review the Department of Environmental Protection's files on this case by calling the File Review Coordinator at 570-826-5472.

The EPA waiver is in effect.

---

Northcentral Regional Office: Regional Water Management Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.

**PA0028681**, Sewage, SIC Code 4952, **Kelly Township Municipal Authority Union County**, 405 Winter Farm Lane, Lewisburg, PA 17837-6358. Facility Name: Kelly Township Municipal Authority Sewer System. This existing facility is located in Kelly Township, **Union County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated Sewage.

The receiving stream(s), Unnamed Tributary to West Branch Susquehanna River, is located in State Water Plan watershed 10-C and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 3.75 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Minimum</i>	<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum</i>
	<i>Average Monthly</i>	<i>Weekly Average</i>		<i>Average Monthly</i>	<i>Weekly Average</i>	
Flow (MGD)	Report	Report Daily Maximum				
pH (Standard Units)			6.0			9.0
Total Residual Chlorine				0.5		1.6
CBOD <sub>5</sub>	782	1,251		25	40	50
Total Suspended Solids	938	1,407		30	45	60
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30				200		
				Geometric Mean		
Oct 1 - Apr 30				2,000		
				Geometric Mean		

The proposed monitoring requirements and, where appropriate, effluent limits for implementation of the Chesapeake Bay Tributary Strategy are as follows for Outfall 001.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Minimum</i>	<i>Concentration (mg/l)</i>	
	<i>Monthly</i>	<i>Annual</i>		<i>Monthly Average</i>	<i>Maximum</i>
Ammonia-N	Report	Report		Report	
Kjeldahl-N	Report			Report	
Nitrate-Nitrite as N	Report			Report	
Total Nitrogen	Report	Report		Report	
Total Phosphorus	Report	Report		Report	
Net Total Nitrogen (Interim)	Report	Report			
Net Total Nitrogen (Final)	Report	68,492			
Net Total Phosphorus (Interim)	Report	Report			
Net Total Phosphorus (Final)	Report	9,132			

In addition, the permit contains the following major special conditions:

- I. Compliance schedule for PART A I.
- II. Chesapeake Bay Nutrient Requirements.
- III. Other Requirements.
  - A. Requires the permittee to acquire easements to maintain and operate the sanitary sewers.
  - B. The right to require operation and/or construction changes, when necessary, to produce an acceptable discharge.
  - C. Requires proper disposal of sludge.
  - D. Requires no direct discharge of storm water to the sanitary sewers.
  - E. Requires whole effluent toxicity test submission with next renewal application.
- IV. Requires operation and maintenance of a pretreatment program.
- V. Stormwater Requirements.
- VI. Requires management and reporting of biosolids within the treatment process.

The EPA waiver is not in effect.

**PA0209228**, Sewerage (4952), **Lycoming County Water and Sewer Authority**, 216 Old Cement Road, Montoursville, PA 17754. The proposed action is for the renewal of an NPDES permit authorizing the discharge of treated sewage from the Lycoming County Water and Sewer Authority to the West Branch Susquehanna River in Fairfield Township, **Lycoming County**. This receiving stream is classified for Warm Water Fishes, aquatic life, water supply and recreation.

Facility Standard Industrial Classification (SIC): #4952 (Sewerage Systems)

For the purpose of evaluating effluent requirements for Total Dissolved Solids, NO<sub>2</sub>-NO<sub>3</sub> (Nitrate-Nitrite), Fluoride, Phenolics, Sulfates and Chlorides, the existing downstream potable water supply (PWS) considered during the evaluation is near Milton, PA, located approximately 20 river miles downstream from the discharge.

The proposed effluent limits for Outfall (numbered) 001, based on a design flow of 1.5 MGD (million gallons per day), are:

Discharge Parameter	Mass (lb/day)		Limitations			Monitoring		
	Monthly Average	Weekly Average	Minimum	Average Monthly	Average Weekly	Instantaneous Maximum	Minimum Frequency	Sample Type
Flow MGD	Report	Report					Continu- ous	Meter
CBOD <sub>5</sub>	313	500		25	40	50	2/Week	24 Hr. Comp.
TSS	375	563		30	45	60	2/Week	24 Hr. Comp.
TRC				0.5		1.6	1/Shift	Meter
Fecal Coliforms (5/1 - 9/30) (10/1 - 4/30)	200 colonies/100 ml as a Geometric Mean, and not greater than 1,000 colonies/100 ml in more than 10% of the samples tested (2,000 #/100 ml Geometric Mean)						2/Week	Grab
pH (Standard Units)				6.0 to 9.0 at all times			1/Day	Grab

The Chesapeake Bay Tributary Strategy Nutrient Requirements:

Discharge Parameter	Mass Load (lb)		Limitations			Monitoring	
	Monthly	Annual	Minimum	Average Monthly	Maximum	Minimum Frequency	Sample Type
Ammonia-N	Report			Report		1/Week	24 Hr. Comp.
Kjeldahl-N	Report			Report		1/Week	24 Hr. Comp.
Nitrite/Nitrate-N	Report			Report		1/Week	24 Hr. Comp.
Total Nitrogen	Report	Report		Report		1/Month	Calculate
Total Phosphorus	Report	Report		Report		1/Week	24 Hr. Comp.
Net Total Nitrogen	Report	27,397				1/Month	Calculate
Net Total Phosphorus	Report	3,653				1/Month	Calculate

\* This permit contains conditions which authorize the permittee to apply nutrient reduction credits to meet the Net Total Nitrogen and the Net Total Phosphorus effluent mass limits, under the Department of Environmental Protection's (Department) Trading of Nutrients and Sediment Reduction Credits Policy and Guidelines (Document #392-0900-001, December 30, 2006). The condition includes the requirement to report the application of these credits in Supplemental Discharge Monitoring Reports (DMRs) submitted to the Department.

\* The compliance date for Net Total Nitrogen and Net Total Phosphorus will begin on October 1, 2011. Since these reporting requirements are annual loads, the reporting on the compliance with the annual limitations will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2012. This facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until September 30, 2011.

\*\* Total Annual Ammonia Load required to be reported on Supplemental DMR—Annual Nutrient Summary by November 28, 2012.

This permit contains the following other requirements:

VII. Compliance schedule for PART A I Effluent Limitations, Monitoring, Recordkeeping and Reporting Requirements.

VIII. Chesapeake Bay Nutrient Requirements.

IX. Requires no direct discharge of storm water to the sanitary sewers.

X. Requires the permittee to acquire easements to maintain and operate the sanitary sewers.

XI. The right to require operation and/or construction changes, when necessary, to produce an acceptable discharge.

XII. Requires management and reporting of biosolids within the treatment process.

XIII. Stormwater outfall conditions.

XIV. Requires proper disposal of sludge.

The EPA waiver is not in effect.

**PA0034576**, Sewage, SIC Code 4952, **Towanda Borough Municipal Authority Bradford County**, 724 Main Street, Towanda, PA 18848-1616. Facility Name: Towanda Municipal Authority. This existing facility is located in Towanda Borough, **Bradford County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated Sewage.

The receiving stream(s), Unnamed Tributary to Susquehanna River, is located in State Water Plan watershed 4-C and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 1.16 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Weekly Average</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Weekly Average</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Report	Report Daily Maximum				
pH (Standard Units)			6.0			9.0
CBOD <sub>5</sub>	242	387		25	40	50
Total Suspended Solids	290	435		30	45	60
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30				200		
Oct 1 - Apr 30				Geometric Mean 2,000		
UV Intensity (%)			Report			
Total Copper					Report Daily Maximum	

The proposed monitoring requirements and, where appropriate, effluent limits for implementation of the Chesapeake Bay Tributary Strategy are as follows for Outfall 001.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>	
	<i>Monthly</i>	<i>Annual</i>	<i>Minimum</i>	<i>Monthly Average</i>	<i>Maximum</i>
Ammonia-N	Report	Report		Report	
Kjeldahl-N	Report			Report	
Nitrate-Nitrite as N	Report			Report	
Total Nitrogen	Report	Report		Report	
Total Phosphorus	Report	Report		Report	
Net Total Nitrogen (Interim)	Report	Report			
Net Total Nitrogen (Final)	Report	21,187			
Net Total Phosphorus (Interim)	Report	Report			
Net Total Phosphorus (Final)	Report	2,825			

In addition, the permit contains the following major special conditions:

XV. Compliance schedule for PART A I;

XVI. Chesapeake Bay Nutrient Requirements.

XVII. Other Requirements.

A. Requires the permittee to acquire easements to maintain and operate the sanitary sewers.

B. The right to require operation and/or construction changes, when necessary, to produce an acceptable discharge.

C. Requires proper disposal of sludge.

D. Requires no direct discharge of storm water to the sanitary sewers.

E. Requires whole effluent toxicity test submission with next renewal application.

XVIII. Stormwater Requirements.

XIX. Requires management and reporting of biosolids within the treatment process.

You may make an appointment to review the Department of Environmental Protection's files on this case by calling the File Review Coordinator at 570-327-3693.

The EPA waiver is not in effect.

**PA0021881**, Sewage, SIC Code 4952, **Westfield Borough**, 429 East Main Street, Westfield, PA 16950-1610. Facility Name: Westfield Borough Wastewater Treatment Plant. This existing facility is located in Westfield Borough, **Tioga County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated Sewage.

The receiving stream(s), Cowanesque River, is located in State Water Plan watershed 4-A and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on an annual average flow of 0.247 MGD.

Parameters	Mass (lb/day)		Minimum	Concentration (mg/l)		Instantaneous Maximum
	Average Monthly	Weekly Average		Average Monthly	Weekly Average	
Flow (MGD)	Report	Report Daily Maximum				
pH (Standard Units)			6.0			9.0
Total Residual Chlorine				0.5		1.17
CBOD <sub>5</sub>						
Jun 1 - Oct 31	21	31		10	15	20
Nov 1 - May 31	41	62		20	30	40
Total Suspended Solids	62	93		30	45	60
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30			200/100 ml as a Geometric Mean, nor greater than 1,000/100 ml in more than 10% of the samples tested			
Oct 1 - Apr 30			2,000/100 ml as a Geometric Mean			
Ammonia-Nitrogen						
Jun 1 - Oct 31	6.0	9.0		3.0	4.5	6.0
Nov 1 - May 31	19	30		9.0	13.5	18
Total Phosphorus	4.1	6.2		2.0	3.0	4.0

The proposed effluent limits, identified below, are based on a design flow of 0.46 MGD. The proposed monitoring requirements and effluent limits for implementation of the Chesapeake Bay Tributary Strategy are as follows:

Parameters	Mass (lb/day)		Minimum	Concentration (mg/l)	
	Monthly	Annual		Monthly Average	Maximum
Ammonia-N	Report	Report		Report	
Kjeldahl-N	Report			Report	
Nitrate-Nitrite as N	Report			Report	
Total Nitrogen	Report	Report		Report	
Total Phosphorus	Report	Report		Report	
Net Total Nitrogen (Interim)	Report	Report			
Net Total Nitrogen (Final)	Report	8,402			
Net Total Phosphorus (Interim)	Report	Report			
Net Total Phosphorus (Final)	Report	1,120			

In addition, the permit contains the following major special conditions:

- Chesapeake Bay Schedule.
- Chesapeake Bay Nutrient Requirements.
- Other Requirements.
- Solids Management.

You may make an appointment to review the Department of Environmental Protection's files on this case by calling the File Review Coordinator at 570-327-3693.

The EPA waiver is not in effect.

Southwest Regional Office: Regional Manager, Water Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; 412-442-4000.

**PA0002062-A3**, Industrial Waste, SIC 4911, **RRI Energy Northeast Management Company**, 121 Champion Way, Canonsburg, PA 15317.

The Department of Environmental Protection is amending the NPDES permit to include outfalls from two new storm water runoff settling basins.

The following effluent limitations are proposed for discharges to the receiving waters Crooked Creek, classified as warm water fisheries, with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is Buffalo Township Municipal Authority located in Freeport, PA, approximately 40 miles below the discharge point on the Allegheny River.

*Internal Outfall 106*: New discharge to Crooked Creek, maximum discharge flow of 0.18 MGD.

Parameter	Mass (lb/day)		Average Monthly	Maximum Daily	Instantaneous Maximum
	Average Monthly	Maximum Daily			
Flow (MGD)	Monitor and Report				
Suspended Solids			30		60
Oil and Grease			15	20	30

## NOTICES

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Iron			Monitor and Report		
Aluminum			Monitor and Report		
Manganese			Monitor and Report		
Chromium			Monitor and Report		
Nickel			Monitor and Report		
Titanium			Monitor and Report		
Zinc			Monitor and Report		
pH	not less than 6.0 nor greater than 9.0 Standard Units				

*Internal Outfall 206:* New discharge to Crooked Creek, variable flow.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (MGD)	Monitor and Report				
Suspended Solids			30		60
Oil and Grease			15	20	30
Iron			Monitor and Report		
Aluminum			Monitor and Report		
Manganese			Monitor and Report		
Chromium			Monitor and Report		
Nickel			Monitor and Report		

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Titanium			Monitor and Report		
Zinc			Monitor and Report		
pH	not less than 6.0 nor greater than 9.0 Standard Units				

*Internal Outfall 993:* New storm water discharge to Crooked Creek by means of existing Outfall 003, maximum discharge flow of 0.2 MGD.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (MGD)	Monitor and Report				
Suspended Solids			30		60
pH	not less than 6.0 nor greater than 9.0 Standard Units				

*Internal Outfall 983:* New storm water discharge to Crooked Creek via existing Outfall 003, variable flow.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (MGD)	Monitor and Report				
Suspended Solids			30		60
pH	not less than 6.0 nor greater than 9.0 Standard Units				

Discharge will occur only during a 100-year 24-hour or greater storm event.

*Outfall 021:* New discharge to Crooked Creek, maximum discharge flow of 0.30 MGD.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (MGD)	Monitor and Report				
Suspended Solids			30		60
Oil and Grease			15		30
pH	not less than 6.0 nor greater than 9.0 Standard Units				

Outfall 022: New discharge to Crooked Creek, variable flow.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (MGD)	Monitor and Report				
Suspended Solids			30		60
Oil and Grease			15		30
pH	not less than 6.0 nor greater than 9.0 Standard Units				

Discharge will occur only during a 10-year 24-hour or greater storm event.

Other Conditions: Internal Outfall 603 is amended to include Internal Outfalls 993 and 983 as well as a newly installed groundwater drainage system as authorized sources of wastewater.

The EPA waiver is not in effect.

**PA0205044**, Industrial Waste, SIC 4953, **Allied Waste Systems of PA, LLC, Imperial Landfill**. This application is for a renewal and modification of an NPDES permit to discharge treated storm water runoff from the Imperial Landfill in Findlay Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, Unnamed Tributaries to the South and North Forks of Montour Run, classified as a trout stocked fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is the Robinson Township Municipal Authority, located at 9.0 miles below the discharge point.

Outfalls 001—003 (emergency overflow), and 004 (emergency overflow): existing storm water discharges, design flow of 13 mgd for a 25-year, 24-hour storm (Outfall 001), Interim Effluent Limits (from effective date through 3 years after effective date).

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow			Monitor and Report		
Chemical Oxygen Demand			Monitor and Report		
Oil and Grease			Monitor and Report		
Dissolved Solids			Monitor and Report		
Total Organic Carbon			Monitor and Report		
Suspended Solids			35.0		70.0
Barium			Monitor and Report		
Chromium			Monitor and Report		
Lead			Monitor and Report		
Magnesium			Monitor and Report		
Iron			3.5		7.0
Aluminum			Monitor and Report		
Manganese			2.0		4.0
Zinc			Monitor and Report		
Phenols			Monitor and Report		
pH	not less than 6.0 nor greater than 9.0 Standard Units				

Other Conditions: Implementation of the Montour Run TMDL. The Department of Environmental Protection intends to modify the Montour Run TMDL to include these existing and proposed discharges.

Outfall 001—004: Final Effluent Limitations (from 3 years after effective date through expiration)

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow			Monitor and Report		
Chemical Oxygen Demand			Monitor and Report		
Oil and Grease			Monitor and Report		
Dissolved Solids			Monitor and Report		
Total Organic Carbon			Monitor and Report		
Suspended Solids			35.0		70.0
Barium			Monitor and Report		
Chromium			Monitor and Report		
Lead			Monitor and Report		
Magnesium			Monitor and Report		
Iron			3.5		7.0
Aluminum			0.5		0.75
Manganese			2.0		4.0



Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Zinc			Monitor and Report		
Phenols			Monitor and Report		
pH	not less than 6.0 nor greater than 9.0 Standard Units				

Outfall 005—007 (emergency overflow), and 008 (emergency overflow): new storm water discharges, design flow of 12 MGD (Outfall 005) and 12.3 MGD (Outfall 006) for the 25-year, 24-hour storm.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow			Monitor and Report		
Chemical Oxygen Demand			Monitor and Report		
Oil and Grease			Monitor and Report		
Dissolved Solids			Monitor and Report		
Total Organic Carbon			Monitor and Report		
Suspended Solids			35.0		70.0
Barium			Monitor and Report		
Chromium			Monitor and Report		
Lead			Monitor and Report		
Magnesium			Monitor and Report		
Iron			3.5		7.0
Aluminum			0.5		0.75
Manganese			2.0		4.0
Zinc			Monitor and Report		
Phenols			Monitor and Report		
pH	not less than 6.0 nor greater than 9.0 Standard Units				

The EPA waiver is not in effect.

**PA0098558**, Sewage, **Mr. Wilson Fox, Fox Den Acres Campground**, 390 Wilson Fox Road, New Stanton, PA 15672-9801. This application is for renewal of an NPDES permit to discharge treated sewage from Fox Den Acres Campground STP in Hempfield 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 McKeesport Municipal Water Authority.

Outfall 001 and 002: existing discharge, design flow of 0.064 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen	7.0			14.0
Fecal Coliform				
Jan 1 to Apr 30	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	1.4			3.3
pH	not less than 6.0 nor greater than 9.0			

Other Conditions: The permittee is only permitted to discharge from Outfalls 001 and 002 from January 1 to April 30 on an annual basis.

The EPA waiver is in effect.

*Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**PA0103896, Amendment No. 1**, Industrial Waste, SIC Code 4953, **County Landfill, Inc.**, 5600 Niagara Falls Boulevard, Niagara Falls, NY 14304-1532. Facility Name: County Landfill. This existing facility is located in Farmington Township, **Clarion County**.

Description of Proposed Activity: an amendment of an NPDES permit for an existing discharge of treated industrial waste (leachate, non-hazardous).

The receiving stream(s) an unnamed tributary to Walley Run, is in State Water Plan watershed 16-F and is classified for the following uses: cold water fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 based on a design flow of 0.015 MGD.

Parameters	Loadings		Concentrations		
	Average Monthly (lb/day)	Maximum Daily (lb/day)	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
Flow	XX				
CBOD <sub>5</sub>	XX	XX	37	140	140
Total Suspended Solids	XX	XX	27	88	88
NH <sub>3</sub> -N	XX	XX	4.9	10	12.3
Fecal Coliform (05/01 - 09/30) (10/01 - 04/30)			200/100 ml as a Geometric Average 2,000/100 ml as a Geometric Average		
Oil and Grease			15		30
Benzoic Acid	XX	XX	0.071	0.12	0.18
Phenol	XX	XX	0.015	0.026	0.038
Zinc	XX	XX	0.11	0.20	0.28
A-Terpineol	XX	XX	0.016	0.033	0.04
p-Cresol	XX	XX	0.014	0.025	0.035
Cobalt	XX	XX	0.05	0.1	0.125
Aluminum	0.025	0.05			
Total Iron	0.321	0.462			
Manganese	0.092	0.183			
Free Cyanide	0.026	0.053	0.21	0.42	0.53
Copper		XX		XX	XX
pH			6.0 to 9.0 Standard Units at all times		

XX—Monitor and report

Outfalls 002—005 are stormwater outfalls.

The proposed effluent limits for Outfall 002 based on a design flow of n/a MGD.

The proposed effluent limits for Outfall 003 based on a design flow of n/a MGD.

The proposed effluent limits for Outfall 004 based on a design flow of n/a MGD.

The proposed effluent limits for Outfall 005 based on a design flow of n/a MGD.

Parameter	Loadings		Concentrations		
	Average Monthly (lb/day)	Maximum Daily (lb/day)	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
Total Suspended Solids			XX		
Total Organic Carbon			XX		
Cadmium (Total)			XX		
Magnesium (Total)			XX		
Iron (Total)			XX		
pH			XX		

XX—Monitor and report.

In addition, the permit contains the following major special conditions:

- Requirements Applicable to Stormwater Discharges

You may make an appointment to review the Department of Environmental Protection's files on this case by calling the File Review Coordinator at 814-332-6340.

The EPA waiver is not in effect.

### III. WQM Industrial Waste and Sewerage Applications 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. 3509403**, Sewerage, **Borough of Archbald**, 400 Church Street, Archbald, PA 18403. This proposed facility is located in the Boroughs of Archbald and Jessup, **Lackawanna County**.

Description of Proposed Action/Activity: Construction and operation of a gravity sanitary sewer extension to serve Valley View Business Park, Phase II. The system will connect to an existing manhole on the north side of PEI Power Park and the sewage will be conveyed to the Lackawanna River Basin Sewer Authority's treatment plant in Throop.

*Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

**WQM Permit No. 0987403**, Sewerage, **Amendment, The Municipal Authority of the Borough of Morrisville**, 35 Union Street, Morrisville, PA 19067. This proposed facility is located in Morrisville Township, **Bucks County**.

Description of Action/Activity: To organically re-rate (increase) the permitted influent capacity of the Morrisville Wastewater Treatment Plant.

**WQM Permit No. 4610403**, Sewerage, **Upper Merion Municipal Utility Authority**, 175 West Valley Forge Road, King of Prussia, PA 19406. This proposed facility is located in Upper Merion Township, **Montgomery County**.

Description of Action/Activity: The extension of a proposed force main to serve Village Valley Forge.

**WQM Permit No. 1503401**, Sewerage, **Amendment, Easttown Municipal Authority**, 566 Beaumont Road, Devon, PA 19333. This proposed facility is located in Easttown Township, **Chester County**.

Description of Action/Activity: Replace the existing 8' AC pipe with a 12' PVC pipe.

**WQM Permit No. 4600421**, Sewerage, **Renewal, Montgomery County SPCA**, 19 East Ridge Pike, P. O. Box 222, Conshohocken, PA 19428. This proposed facility is located in Upper Frederick Township, **Montgomery County**.

Description of Action/Activity: Permit Renewal of the spray irrigation system.

**WQM Permit No. 4610404**, Sewerage, **Upper Moreland-Hatboro Joint Sewer Authority**, P. O. Box 535, 2875 Terwood Road, Willow Grove, PA 19090. This proposed facility is located in Upper Moreland Township, **Montgomery County**.

Description of Action/Activity: Construction of physical/chemical treatment of nutrient reduction using ballasted clarification after the secondary clarification.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**WQM Permit No. 02491001**, Sewerage, SIC 4952, **Delaware Township Municipal Authority**, P. O. Box 80, Dewart, PA 17730. This proposed facility is located in Delaware Township, **Northumberland County**.

Description of Proposed Action/Activity: The Township is seeking coverage under a general WQM permit for a proposed sewer extension from the existing sanitary manhole at the intersection of Seagraves Drive (SR 1005) and Fisher Drive, to Eighth Street and then east along Eighth Street approximately 2,000 LF to the new Watsonstown United Methodist Church.

**WQM Permit No. 4110404**, 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.

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**WQM Permit No. 6569426-T3A1**, Sewerage, **Bruno Family Trust**, 71 East Pine Avenue, Washington, PA 15301. This existing facility is located in Donegal Township, **Westmoreland County**.

Description of Proposed Action/Activity: Application for permit amendment to replace existing STP.

**WQM Permit No. WQG016182**, Sewerage, **Telford Paul**, 7732 Lincoln Highway, Central City, PA 15926. This proposed facility is located in Shade Township, **Somerset County**.

Description of Proposed Action/Activity: Application for the construction and operation of a single residence sewage treatment facility.

**WQM Permit No. 0210405**, Sewerage, **Robert and Lisa Hohman**, 340 Pointview Road, Pittsburgh, PA 15227. This proposed facility is located in Franklin Park Borough, **Allegheny County**.

Description of Proposed Action/Activity: Application for the construction and operation of a single residence sewage treatment facility.

**WQM Permit No. 5610404**, Sewerage, **Robert D. Weitzel, Jr.**, 435 Comanche Lane, Stoystown, PA 15563. This proposed facility is located in Indian Lake Borough, **Somerset County**.

Description of Proposed Action/Activity: Application for the construction and operation of a single residence sewage treatment facility.

*Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**WQM Permit No. 2510401**, Sewerage, **Jacquelyn D. and Ty A. Sornberger**, 7321 West Lake Road, Fairview, PA 16415-1401. This proposed facility is located in Fairview Township, **Erie County**.

Description of Proposed Action/Activity: This permit is for construction of a small flow sewage treatment plant to serve the Avonia Tavern. It replaces a malfunctioning onlot system.

**WQM Permit No. 4306403**, Sewerage, **Amendment No. 1, Skyline Development, Inc.**, 114 Tower Road, Saxonburg, PA 16056. This existing facility is located in West Salem Township, **Mercer County**.

Description of Proposed Action/Activity: This is a proposed modification of Sewerage Facilities at the Summit Estates Mobile Home Park, to construct disinfection system upgrades to address effluent limit violations at this 30 unit facility. These improvements should help abate fecal coliform, CBOD & TSS limit violations.

**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**

*Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 1506096-A1	West Brandywine Township Municipal Authority 198 Lafayette Road Coatesville, PA 19320	Chester	West Brandywine Township	West Branch Brandywine Creek HQ Beaver Creek TSF-MF
PAI01 151009	Veterans Affairs Medical Center 1400 Blackhorse Hill Road Coatesville, PA 19320	Chester	Caln Township	Unnamed Tributary West Branch Brandywine Creek HQ-TSF-MF
PAI01 151010	Custom Woodworking 3400 Horseshoe Pike Honey Brook, PA 19344	Chester	Honey Brook Township	West Branch Brandywine Creek HQ-TSF-MF
PAI01 151011	Stroud Water Research Center, Inc. 970 Spencer Road Avondale, PA 19311	Chester	West Marlborough Township	White Clay Creek EV
PAI01 151012	West Grove Hospital Corporation P. O. Box 25627 Overland Parks, KS 66225	Chester	Penn Township	East Branch Big Elk Creek HQ-TSF-MF
PAI01 151013	Paul A. Kavanagh 148 Webb Road Lincoln University, PA 19352	Chester	Upper Oxford Township	Unnamed Tributary East Branch Big Elk Creek HQ-TSF-MF
PAI01 511002	Wal-Mart Real Estate Business Trust A Delaware Statutory Trust 2001 SE 10th Street Bentonville, AR 72716-0550	Philadelphia	City of Philadelphia	Delaware River WWF

*Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

*Monroe County Conservation District: 8050 Running Valley Road, Stroudsburg, PA 18360, 570-629-3060.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024510006	Minsi Trails Council, Inc. P. O. Box 20624 Lehigh Valley, PA 18002	Monroe	Tobyhanna Township	Upper Tunkhannock Creek HQ-CWF, MF
PAI024510005	Lowe's Home Centers, Inc. P. O. Box 1111 North Wilkesboro, NC 28656	Monroe	Mt. Pocono Borough Coolbaugh Township	Upper Tunkhannock Creek HQ-CWF, MF
PAI024510007	Wal-Mart Stores, Inc. 2001 S.E. 10th Street Bentonville, AR 72716-0550	Monroe	Coolbaugh Township	Pollys Run HQ-CWF, MF

*Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

*Clinton County Conservation District: 45 Cooperation Lane, Mill Hall, PA 17751, (570) 726-3798.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041810001	High Street Rentals, LLC 772 Ridge Road Mill Hall, PA 17751	Clinton	Porter Township	UNT to Fishing Creek HQ-CWF

*Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

*Westmoreland County Conservation District, 218 Donohoe Road, Greensburg, PA 15601, (724-837-5271).*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056510002	Municipality of Murrysville 4100 Sardis Road Murrysville, PA 15668	Westmoreland	Murrysville	Trib. to Steels Run HQ-CWF

#### 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](http://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) or Breeches—HQ</i>	<i>Renewal/New</i>
Mains Dairy 473 Mount Rock Road Newville, PA 17241	Cumberland	1,391.6	938.4	Dairy	Yellow Breeches—HQ	Renewal
Nathan Ebersole 44 Kline Road Shippensburg, PA 17257	Cumberland	132.75	155.6	Duck/ Dairy	N/A	New
Dale Frank 3167 Bossler Road Elizabethtown, PA 17022	Lancaster	357.5	767.9	Swine/ Broiler/ Steer	NA	R
J. Kevin Rohrer 2115 Rohrer Road Manheim, PA 17545	Lancaster	400	627.19	Swine/ Beef	HQ	R

**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.

**SAFE DRINKING WATER**

**Applications Received under the Pennsylvania Safe Drinking Water Act**

*Northeast Region: Water Supply Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Application No. 4810503, Public Water Supply.**

Applicant **Portland Borough Authority**  
 Township or Borough Upper Mount Bethel Township  
**Northampton County**  
 Responsible Official Lance Prator, Chairperson  
 Portland Borough Authority  
 P. O. Box 572  
 Portland, PA 18351  
 Type of Facility Community Water System  
 Consulting Engineer Russell D. Scott, IV, P. E.  
 RKR Hess Associates  
 112 North Courtland Street  
 East Stroudsburg, PA 18301  
 570-421-1550  
 Application Received Date May 24, 2010  
 Description of Action Application for construction of a new well with associated well house and conveyance main.

*Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Permit No. 0610502, Public Water Supply.**

Applicant **Bradley Management Group, Inc.**  
 Municipality Maiden creek Township  
 County **Berks**  
 Responsible Official 1—Not Available PA  
 Type of Facility Public Water Supply  
 Consulting Engineer James P. Cinelli, P. E.  
 Liberty Environmental, Inc.  
 10 North 5th Street  
 Reading, PA 19601  
 Application Received: 1/8/2010  
 Description of Action Expansion of existing Village at Summit Crest water system. Project includes addition of two new well sources, associated treatment, finished water storage and expansion of the distribution system.

**Permit No. 3610517, Public Water Supply.**

Applicant **Farmersville Mennonite School**  
 Municipality West Earl Township  
 County **Lancaster**  
 Responsible Official David L. Seibel  
 Head Maintenance  
 65 East Farmersville Road  
 Ephrata, PA 17522  
 Type of Facility Public Water Supply  
 Consulting Engineer Charles A. Kehew II, P. E.  
 James R. Holley & Assoc., Inc.  
 18 South George Street  
 York, PA 17401  
 Application Received: 5/26/2010  
 Description of Action New Community Water System and demonstration of 4-log treatment of viruses.

**MINOR AMENDMENT**

*Northeast Region: Water Supply Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Application No. 5210504MA.**

Applicant **Twin Lakes Utilities, Inc.**  
 Township or Borough Shohola Township  
**Pike County**  
 Responsible Official Robert K. Fullagar, P. E.  
 Director of Operations  
 Twin Lakes Utilities, Inc.  
 c/o Middlesex Water Company  
 1500 Ronson Road  
 Iselin, NJ 08830  
 Type of Facility Community Water System  
 Consulting Engineer Same as above  
 Application Received Date May 26, 2010

Description of Action Application for installation of a second booster pump and elimination of the currently approved variable speed drive.

*Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Application No. 0410506MA, Minor Amendment.**

Applicant **Borough of Ambridge Water Authority**  
P. O. Box 257  
600 Eleventh Street  
Ambridge, PA 15003-2377

Township or Borough Ambridge Borough

Responsible Official Mary Hrotic, General Manager  
Borough of Ambridge Water Authority  
P. O. Box 257  
600 Eleventh Street  
Ambridge, PA 15003-2377

Type of Facility Water treatment plant

Consulting Engineer NIRA Consulting Engineers, Inc.  
950 Fifth Avenue  
Coraopolis, PA 15108

Application Received Date June 7, 2010

Description of Action Installation of new static mixers.

**Application No. 0410507MA, Minor Amendment.**

Applicant **Borough of Ambridge Water Authority**  
P. O. Box 257  
600 Eleventh Street  
Ambridge, PA 15003-2377

Township or Borough Ambridge Borough

Responsible Official Mary Hrotic, General Manager  
Borough of Ambridge Water Authority  
P. O. Box 257  
600 Eleventh Street  
Ambridge, PA 15003-2377

Type of Facility Water treatment plant

Consulting Engineer NIRA Consulting Engineers, Inc.  
950 Fifth Avenue  
Coraopolis, PA 15108

Application Received Date June 7, 2010

Description of Action Installation of a new pump at the Service Creek reservoir pump station.

## 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.*

**10 East Moreland Site**, City of Philadelphia, **Philadelphia County**. Michael Welsh, Welsh Environmental, Inc., 131 Clearview Drive, Downingtown, PA 19355 on behalf of Eli Kahn, Free Range Associates, 55 County Club Drive, Downingtown, PA 19335 has submitted a Notice of Intent to Remediate. Groundwater and soil at the site has been impacted with the release of No. 2 fuel oil. The intended use of the property is commercial.

**Brown Partnership Property**, Lower Oxford Township, **Chester County**. Richard D. Trimpi, Trimpi Associate, Inc., 1635 Old Plains Road, Pennsburg, PA 18073,

Frank Lynch, Envrio Lin, Inc., 165 Daleville Road, Cochranville, PA 19330 on behalf of Joel Brown, Brown Partnership, 125 Limestone Road, Oxford, PA 19363 has submitted a Notice of Intent to Remediate. Groundwater and soil at the site has been impacted with the release of unleaded gasoline. The intended future use of the property is nonresidential (commercial retail). A summary of the Notice of Intent to Remediate was reported to have been published in the *Chester County Press* on May 12, 2010.

**2501 South Street**, City of Philadelphia, **Philadelphia County**. Jeremy Bolyn, Environmental Maintenance Company, 1420 East Mermaid Lance, Glenside, PA 19038 on behalf of Charles Loomis, The Philadelphia School, 2501 Lombard Street, Philadelphia, PA 19146 has submitted a Notice of Intent to Remediate. Groundwater and soil at the site has been impacted with the leaded gasoline. At this time, the property owner has indicated that the proposed future use would be in association with the Philadelphia School Campus.

*Northeast Region: Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**UGI East Northampton Street (UGI-PNG Empire Garage)**, 511 East Northampton Street, Wilkes-Barre City, **Luzerne County**. Jeffrey Thomas, EPSYS, LLC, 1414 North Cameron Street, Harrisburg, PA 17103 has submitted a Notice of Intent to Remediate (on behalf of his client, UGI Penn Natural Gas, Inc., One UGI Center, Wilkes-Barre, PA 18711), concerning the remediation of soil found to have been impacted by used motor oil as a result of over spills from a 300-gallon waste oil aboveground storage tank. The applicant proposes to remediate the site to meet the Statewide Health Standard. The proposed future use of the property is intended to be similar to the current and past use: a nonresidential property for use as a gas utility office and service facility. A summary of the Notice of Intent to Remediate is expected to be published in a local newspaper serving the general area sometime in the near future.

**Snisky Property**, 819 Center Avenue, Jim Thorpe Borough, **Carbon County**. Jacqueline Beck, HDR Engineering, Inc., 1720 Spillman Drive, Suite 280, Bethlehem, PA 18015-2165 has submitted a Notice of Intent to Remediate (on behalf of her client, Michael Snisky, 819 Center Avenue, Jim Thorpe, PA 18229), concerning the remediation of soil found to have been impacted by home heating oil as a result of a release a home heating oil delivery. The applicant proposes to remediate the site to meet the Residential Statewide Health Standard for soil. A summary of the Notice of Intent to Remediate is expected to be published in a local newspaper serving the general area sometime in the near future.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**G & B Specialties Berwick Plant**, Berwick Borough, **Columbia County**. Manko, Gold, Katcher & Fox, LLP, 401 City Avenue, Suite 500, Bala Cynwyd, PA 19004 on behalf G&B Specialties, Inc., P. O. Box 305, 535 West Third Street, Berwick, PA 18603 has submitted a Notice of Intent to Remediate soil and groundwater contaminated with VOCs, PAHs and metals. The applicant proposes to remediate the site to meet the Site-Specific Standard. The future use of the property will continue to be nonresidential for the manufacturing of railroad equipment.

*Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**Trinity Industries, Inc.—South Plant**, Borough of Greenville and Hempfield Township, **Mercer County**. Golder Associates, Inc., 200 Century Parkway, Suite C, Mt. Laurel, NJ 08054 on behalf of Trinity Industries, Inc., 2525 Stemmons Freeway, Dallas, TX 75207 has submitted a Notice of Intent to Remediate. Lead is the primary chemical of concern in soil and manganese is the primary chemical of concern in groundwater. The property is currently zoned industrial and the proposed future use of the site will be industrial. The Notice of Intent to Remediate was published in the *The Herald* on April 19, 2010. The site is to be remediated to meet the Site-Specific Standard.

#### DETERMINATION FOR APPLICABILITY FOR RESIDUAL WASTE GENERAL PERMITS

**Application(s) received for Determination of Applicability 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 Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and/or the Beneficial Use of Residual Waste Other Than Coal Ash.**

*Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, telephone 412-442-4000.*

**General Permit No. WMGR028SW001C. Lane Construction Corporation**, 2 Prestley Road, Bridgeville, PA 15017. Crafton Plant, 1601 Chartiers Valley Lane, Pittsburgh, PA 15205. Application for Determination of Applicability beneficial use of baghouse fines in City of Pittsburgh, **Allegheny County** was received in the Regional Office on May 13, 2010.

**General Permit No. WMGR028SW001D. Lane Construction Corporation**, 2 Prestley Road, Bridgeville, PA 15017. Springdale Plant, 1000 Sherosky Way, Springdale, PA 15144. Application for Determination of Applicability beneficial use of baghouse fines in Springdale Borough, **Allegheny County** was received in the Regional Office on May 13, 2010.

Comments concerning the application should be directed to Diane McDaniel, Environmental Engineering Manager, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Persons interested in obtaining more information about the general permit application may contact the Department of Environmental Protection, Southwest Regional Office, Regional Files at 412-442-4000. TDD users may contact the Department of Environmental Protection through the Pennsylvania Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

**General Permit No. WMGR121SW001. Reserved Environmental Services, LLC**, 1119 Old Route 119 S, Mt. Pleasant, PA 15666. Registration for a general permit for processing and beneficial use of gas well wastewater from hydraulic fracturing and extraction of natural gas from the Marcellus shale geologic formation was received in the Regional Office on May 27, 2010.



**OPERATE WASTE PROCESSING OR DISPOSAL  
AREA OR SITE**

**Application Received 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 Application No. 101703. Aramingo Rail Transfer, LP**, 2580 Church Street, Philadelphia, PA 19148-5605, City of Philadelphia, **Philadelphia County**. This application proposes to construct and operate of a new waste transfer facility receiving a maximum of 2,500 tons per day (TPD) of Municipal Solid Waste (MSW) and Construction and Demolition (C&D) Waste then transferring by rail to a permitted disposal facility. The application was received by the Southeast Regional Office on June 3, 2010.

**Application(s) accepted 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.**

*Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701.*

**Permit Application No. 101578. Northern Tier Solid Waste Authority**, P. O. Box 10, Burlington, PA 1884, Hamilton Township, **Tioga County**. Renewal of a municipal waste permit for an existing transfer station. The application was accepted by Northcentral Regional Office on May 28, 2010.

**Permit Application No. 10702. PA Waste Transfer, LLC**, R. R. 3, Box 1, Coal Township, PA 17866, Coal Township, **Northumberland County**. The application is for a new municipal waste transfer facility with an average daily volume of 350 tons per day and a peak volume of 500 tons per day. A Local Municipal Involvement Process was held on June 3, 2010.

Comments concerning the application should be directed to Lisa D. Houser, P.E., Facilities Manager, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Persons interested in obtaining more information about the permit application may contact the Northcentral Regional Office, (570) 327-3740. TDD users may contact the Department of Environmental Protection through the Pennsylvania Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

## 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.**

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.*

**47-00001D: PPL Montour, LLC** (P. O. Box 128, Washingtonville, PA 17884-0128) for the installation of a dry injection system on Units 1 and 2 at the Montour SES facility. The respective facility is a major facility, under section 302(j) of the Clean Air Act and is currently operating under Title V Operating Permit 47-00001. The Department of Environmental Protection's (Department) review of the information contained in the application indicates that the installation of the dry injection system will comply with all applicable air quality regulatory requirements. The installation of the dry injection system includes construction of four silos to store the dry-injection sorbent, material. The silos and sorbent han-

ding operations should comply with all applicable air quality regulatory requirements for air contaminant sources including the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12. Based on these findings, the Department intends to issue a plan approval for the installation of the dry injection system. Additionally, if the Department determines that the dry injection system is operating in compliance with all plan approval conditions, the conditions established in the plan approval will be incorporated into Title V operating permit #47-00001 by means of an administrative amendment under 25 Pa. Code § 127.450.

All applicable regulatory requirements relating to fugitive, visible, and malodorous emissions standards and additional requirements regarding malfunctions, testing, monitoring, recordkeeping, and reporting have been included in the proposed plan approval. In addition to the previous requirements, the following is a list of conditions that the Department proposes to place in the plan approval to ensure compliance with applicable Federal and State regulations:

1. (a) Under best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, The concentration of particulate matter (including particulate matter with an aerodynamic diameter of 10 microns or less, also known as PM-10) in the exhaust of each bin vent filter of C110 shall not be in excess of 0.005 grain per dry standard cubic foot of effluent gas volume at any time and a total, combined 0.53 ton in any 12-consecutive month period.

(b) The emission of particulate matter with an aerodynamic diameter of 2.5 microns or less, also known as PM-2.5 from C110 into the outdoor atmosphere shall not be in excess of 0.16 ton in any 12-consecutive month period.

2. Under best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, no person shall allow the emission of fugitive particulate matter including PM-10 during the period of time when unloading of sorbent is occurring at the unloading areas associated with the four (4) sorbent silos of Source P110.

3. No later than 180 days from the commencement date of operation for C031D and C032D, the permittee shall perform EPA reference method testing for total particulate matter (filterable and condensable) emissions from the Source IDs 031 and 032 to verify an increase in emissions did not occur from the construction and operation of C031D and C032D.

4. Each bin vent filter of C110 shall be equipped with instrumentation to accurately and continuously monitor the differential pressure across the filters of each bin vent filter of C110.

5. (a) The monitored differential pressure readings across the filters of C110 shall be recorded by the data collection system at least once per operating shift.

(b) The information generated to maintain these records shall be kept onsite for a minimum of 5 years and shall be made available to the Department upon request.

6. (a) The permittee shall keep accurate and comprehensive records of the number of sorbent truck deliveries to Source P110 each month.

(b) The information generated to maintain these records shall be kept onsite for a minimum of 5 years and shall be made available to the Department upon request.

7. (a) The permittee shall maintain the following records of each occurrence of a malfunction of C031D/

C032D or a maintenance activity performed on C031D/C032D which causes C031D/C032D to be removed from service.

(1) date and time malfunction discovered or C031D/C032D removed from service

(2) date and time C031D/C032D returned to service

(3) nature of malfunction or reason for removal of C031D/C032D from service

(4) corrective action taken

(b) The information generated to maintain these records shall be kept onsite for a minimum of 5 years and shall be made available to the Department upon request.

8. (a) The permittee shall submit to the Department on an annual basis a report which identifies the number of sorbent truck deliveries to Source P110 each month.

(b) The annual report shall be submitted to the Department by no later than March 1 of each year for the immediately preceding period from January 1 through December 31.

9. A sufficient quantity of spare fabric filters for C110 shall be kept on hand at all times in order to immediately replace any worn or damaged filters due to deterioration resulting from routine operation of silos associated with Source P110 and C110.

10. There shall be a high alarm set for the monitored pressure drop across the filters of C110.

11. C031D and C032D shall be operated at any time that the respective SCR01 and SCR02 is also being operated, except during periods of C031D/C032D malfunction.

12. When SCR01 and/or SCR02 are not being used, the operation of the respective C031D and C032D shall be at the discretion of the permittee.

13. The air compressor(s) supplying air to C031D and C032D associated with Source P110 shall be equipped with air dryer and oil trap

14. Source P110 includes four dry injection system sorbent silos each with a capacity to store 80 tons of sorbent, and the associated delivery, storage, and handling operations and equipment associated with the dry injection systems (C031D/C032D) as specified in Plan Approval 47-00001D application and supplementary documentation.

15. Under best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the particulate matter/PM-10/PM-2.5 emissions from each silo of Source P110 shall be controlled by a bin vent filter. C110 includes four bin vent filters.

16. Within 15 days of the selection of four specific bin vent filters (C110) to control the particulate matter/PM-10/PM-2.5 from the silos associated with Source P110, the permittee shall submit vendor-supplied specifications to the Department for C110 which shall include the guaranteed maximum concentration of particulate matter/PM-10/PM2.5 in the exhaust of C110 in units of grains per dry standard cubic foot of effluent gas volume and the high alarm pressure differential value recommend by the vendor.

17. Under best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, all sorbent from the silos associated with Source P110 shall be discharged into an enclosed system.

18. If, at any time, Source P110, or any piece of equipment incorporated in Source P110, is determined by the Department to be causing the emission of fugitive particulate matter and/or fugitive PM10 emissions in excess of the limitations herein, applicable limitations specified in 25 Pa. Code §§ 123.1 and 123.2, or in excess of the level which the Department considers to be the "minimum attainable through the use of the best available technology," the permittee shall, upon notification by the Department, immediately employ control measures as are necessary to reduce the fugitive particulate matter and/or fugitive PM10 emissions to within the level deemed acceptable by the Department.

19. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall not operate any non-vacuum-type road sweepers on the roadways associated with Source P110.

20. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, an operable water truck shall be available at all times that Source P110 is in operation and shall be used, as needed, for the control of fugitive particulate matter and fugitive PM10 emissions from roadways associated Source P110. The water truck shall be equipped with a pressurized water spray bar as well as with a pressurized spray gun or hose connection and shall be kept onsite and filled with water at all times Source P110 is in operation (except during the truck's transit to the refilling station). The permittee shall implement any effective winterization measures necessary to render this water truck capable of use under cold weather conditions.

21. All conditions contained in Title V Operating Permit 47-00001 remain in effect unless superseded or amended by conditions contained herein. If there is a conflict between a condition or requirement contained in the plan approval and a condition contained in Title V Operating Permit 47-00001, 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 47-00001.

A copy of the plan approval application and the Department's review are 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, 570-327-3648.

**47-00001E: PPL Montour, LLC** (P. O. Box 128, Washingtonville, PA 17884-0128) for the construction of an auxiliary boiler at the Montour SES facility. The respective facility is a major facility, under section 302(j) of the Clean Air Act and is currently operating under Title V Operating Permit 47-00001. The Department of Environmental Protection's (Department) review of the information contained in the application indicates that the construction of the auxiliary boiler will comply with all applicable air quality regulatory requirements including the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12. Based on these findings, the Department intends to issue a plan approval for the construction of an auxiliary boiler. Additionally, if the Department determines that the auxiliary boiler is operating in compliance with all plan approval conditions, the

conditions established in the plan approval will be incorporated into Title V operating permit #47-00001 by means of an administrative amendment under 25 Pa. Code § 127.450.

All applicable regulatory requirements relating to fugitive, visible, and malodorous emissions standards and additional requirements regarding malfunctions, testing, monitoring, recordkeeping, and reporting have been included in the proposed plan approval. In addition to the previous requirements, the following is a list of conditions that the Department proposes to place in the plan approval to ensure compliance with applicable Federal and State regulations:

1. Under best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the total emissions from Source P033A shall not exceed any of the following limitations:

- i) 0.10 lb/mmBtu heat input and 32.8 tons of nitrogen oxides in any 12-consecutive month period;
- ii) 0.10 lb/mmBtu heat input and 32.8 tons of carbon monoxide in any 12-consecutive month period;
- iii) 0.051 lb/mmBtu heat input and 16.7 tons of sulfur dioxide in any 12-consecutive month period;
- iv) 0.030 lb/mmBtu heat input and 9.9 tons of total particulate matter (condensable and filterable), including particulate matter having an aerodynamic diameter equal to or less than 10 micrometers (PM-10) in any 12-consecutive month period;
- v) 0.020 lb/mmBtu heat input and 6.6 tons of PM-2.5;
- vi) 0.014 lb/mmBtu heat input and 4.6 tons of volatile organic compounds in any 12-consecutive month period.

2. Under 40 CFR 60.44b, the permittee shall comply with the applicable standard for nitrogen oxides specified in 40 CFR 60.44b(a)(1).

3. Under 40 CFR 60.43b, the permittee shall comply with the applicable standard for nitrogen oxides specified in 40 CFR 60.43b.

4. [Compliance with this streamlined permit condition will assure compliance with the provisions of 40 CFR 60.43b(f)] Under best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall not permit the emission into the outdoor atmosphere of visible air contaminants in a manner that the opacity of the emission is equal to or greater than 10% at any time except during periods of start-up

5. During periods of start-up, the permittee shall comply with the limitations specified in 25 Pa. Code § 123.41.

6. [Compliance with this streamline permit condition will assure compliance with the provisions of 25 Pa. Code § 123.22] Under best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall only use No. 2 oil which has a sulfur content no greater than 500 ppm (by weight) as fuel for Source 033A. No waste oil, waste-derived oil, or other waste materials shall be added to the No. 2 oil used by Source 033A

7. [Additional authority for this permit condition is derived from the permittee's election to limit the capacity factor of Source 033A] The permittee shall only operate Source 033A with an annual capacity factor equal to 0.30.

*Annual capacity factor* included herein shall be determined by dividing the actual heat input to Source 033A for any consecutive 12 month period from the combustion of No. 2 oil by the potential heat input to Source 033A if Source 033A had been operated for 8,760 hours at the maximum heat input capacity.

8. At least 60 days prior to the performance of any testing required herein, the permittee shall submit two (2) copies of a pretest protocol to the Department for review in accordance with the provisions of 25 Pa. Code Chapter 139. The protocol shall describe the test methods and procedure to be used in the performance of testing, and shall include dimensioned sketches of the exhaust system showing the locations of all proposed sampling ports. The protocol shall also describe how the process rate and heat input will be determined during each test run, and also identify all other process data which will be monitored and recorded during testing including the percentage of oxygen in the flue gas, and any other process data using the continuous system for monitoring NOx required by 40 CFR 60.48(b). The frequency of recording the process data shall also be proposed in the pretest protocol.

The Department shall be given at least 15 days advance notice of the scheduled dates for the performance of any testing required herein. The Department is under no obligation to accept the results of any testing performed without receipt of proper notification.

Within 60 days of the completion of any stack testing required herein, two (2) copies of a test report shall be submitted to the Department in accordance with the provision of 25 Pa. Code Chapter 139. This test report shall contain the results of the testing, a description of the test methods and procedures actually used in the performance of the tests, copies of all process data collected during the testing, copies of all raw test data and copies of all calculations generated during data analysis. The results of the testing shall be expressed in units which allow for a direct comparison and determination of compliance, with the air contaminant emissions limitations contained herein. Additionally, the permittee shall propose process data ranges that will assure Source 033A is not exceeding the NOx emissions limitations specified herein.

9. [Additional authority for this permit condition is also derived from 40 CFR 60.46b] Under 25 Pa. Code § 127.12b, within 180 days of commencement of operation of Source 033A, the permittee shall conduct stack testing to determine the nitrogen oxides, particulate matter (filterable and condensable), carbon monoxide and volatile organic compounds emission rates. All testing shall be performed using test methods and procedures which are acceptable to the Department. NOx testing, in addition to the acceptable Department methods, shall be performed in accordance with 40 CFR 60.46b(e). The testing shall be performed while Source 033A is operating at routine, maximum operating conditions.

10. [Additional authority for this permit condition is also derived from 40 CFR 60.46b] The permittee shall upon request determine compliance with the NOx standards in 40 CFR 60.44b through the use of a 30-day performance test.

During periods when performance tests are not requested, the permittee shall follow the provisions of 40 CFR 60.46b(e)(1).

11. [Additional authority for this permit condition is also derived from 40 CFR 60.48b(a)] The permittee shall conduct a performance test using Method 9 of Appendix A-4 of Part 60 and the procedures in 40 CFR 60.11 to demonstrate compliance with the opacity emissions limitations herein.

The permittee shall comply with all applicable requirements specified in 40 CFR 60.48b(a)(1)—(3).

The 6-minute averages referenced in 40 CFR 60.48b(a) shall be replaced by 3-minute averages.

12. The shall comply with the monitoring requirements specified in 40 CFR 60.48b(g)(2).

13. [Additional authority for this permit condition is also derived from 40 CFR 60.49b] The permittee shall keep accurate and comprehensive records of the following information for Source 033A:

i) A copy of the stack test reports for any testing performed on the source.

ii) The amount of No. 2 oil combusted in the source during each day (each day must have a value for the amount of fuel, that is, if Source 033A is not operated for each day of non-operation 0 would be the recorded value).

iii) Annual capacity factor of the source (the annual capacity factor is determined on a 12-month rolling average basis with a new annual capacity factor calculated at the end of each calendar month).

iv) All information specified in the provisions of 40 CFR 60.49b(g)(1)—(10).

v) Fuel receipts from the fuel supplier that certify the oil used as fuel in source meets the definition of distillate oil in American Society of Testing Materials (ASTM D396) and the sulfur limit herein. (ASTM D396 is included herein by reference by the authority of 40 CFR 60.17 and 25 Pa. Code § 122.3.)

vi) Daily inspections for gun leaks; shape, smoke and color of flame-pattern including description of corrective actions needed as specified in the plan approval application; name of individual conducting inspection; date and time of inspection; and the heat input of boiler during the inspection.

vii) Description of annual maintenance performed including date and time of annual maintenance, and name of individual(s) who performed the inspection.

These records shall be kept on-site for a minimum of 5 years and shall be made available to the Department upon request.

14. The permittee shall comply with the provisions of 40 CFR 60.49b(a) (relating to initial notification).

15. The permittee shall comply with the provisions of 40 CFR 60.49b(b) (relating to initial performance test submittal).

16. The permittee shall comply with the provisions of 40 CFR 60.49b(c) (relating to steam generating unit operating conditions monitoring plan).

17. The permittee shall comply with the provisions of 40 CFR 60.49b(h) (relating to excess emissions reporting).

18. The permittee shall comply with the provisions of 40 CFR 60.49b(i) (relating to submittal of recorded data from the continuous NOx monitoring system).

19. The permittee shall submit the emissions of nitrogen oxides, carbon monoxide, sulfur oxides, and total particulate matter (filterable and condensable), and volatile organic compound from Source 033A with the supporting calculations/documentation for each month in the reporting period on a semi-annual basis (includes total emissions tons per year based on a 12-consecutive month rolling total for each month in that reporting period).

Semi-annual reports shall be submitted to the Department by March 1 (for the July 1 through December 31

reporting period of the preceding year) and September 1 (for the January 1 through June 30 reporting period of the concurrent year).

20. [Additional authority for this permit condition is also derived from the provision of 40 CFR 60.49b(r)] The shall submit a semi-annual report a statement certifying that only oil meeting the definition and limitation herein was combusted in Source 033A during the reporting period

Semi-annual reports shall be submitted to the Department by March 1 (for the July 1 through December 31 reporting period of the preceding year) and September 1 (for the January 1 through June 30 reporting period of the concurrent year).

21. Under best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall operate and maintain Source ID 033A in a manner consistent with good air pollution control practices for minimizing emissions at all times including during startup, shut-down, and malfunction events.

22. Under best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall perform daily inspections and annual maintenance on Source 033A as described in Plan Approval Application 47-00001E. Daily inspections will include inspection of gun for leaks, and observation of flame-pattern for smoke, color and shape. Annual maintenance will include inspections of gun assembly, burner tip, refractory, spinners, burner throat, and dampers associated with flue gas recirculation. Any irregularities, repairs, replacement parts, corrective actions, and the like needed as a result of daily inspections and annual maintenance shall be performed as expeditiously as possible.

For every Source 033A start-up and operation, each daily inspection shall occur no more than 30-consecutive minutes after start-up, and at least every 24-consecutive hours from the previous inspection. The initial annual maintenance shall be performed between the first 1,800 hours and 2,628 hours of operation. Subsequent maintenance shall be performed on an approximate annual basis, but in each case, no less than 1,800 hours of operation and no more than 2,628 hours of operation following the previous maintenance.

23. Source 033A consists of distillate oil-fired, steam generating unit which nominally produces 200K lbs/hr of steam used for Unit 1 and 2 start-up purposes. Source 033A shall incorporate a Coen-model, low-NO<sub>x</sub> burner rated at maximum, manufacturer, heat input equal to 249.9 mmBtu/hr and flue gas recirculation.

24. Source ID 033A is subject to Title 40 Part 60 Subpart Db (Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units). The permittee shall comply with all applicable provisions specified in 40 CFR 60.40b—60.49b.

25. Upon initial start-up of Source 033A, Source 033 of Title V Operating Permit 47-00001E shall be permanently shut-down. Upon shut-down of Source 033 the permittee may submit an ERC application in accordance with the provisions of 25 Pa. Code §§ 127.206 and 127.207.

A copy of the plan approval application and the Department's review are 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, 570-327-3648.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: B. Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226.*

**56-00257B: Department of Corrections** (P. O. Box 631, 5706 Glades Pike, Somerset, PA 15501) to authorize construction of a cogeneration facility in replacement of three coal-fired boilers at the Laurel Highlands State Correctional Institute located in Somerset Township, **Somerset County**.

Notice is hereby given in accordance with 25 Pa. Code §§ 127.44—127.46 that the Department of Environmental Protection (Department) intends to issue Air Quality Plan Approval: PA-56-00257B to authorize construction of a cogeneration facility in replacement of three coal-fired boilers at the Laurel Highlands State Correctional Institute located in Somerset Township, Somerset County. Three Riley coal-fired stoker boilers rated at 27.1 mmBtu/hr each are to be permanently deactivated and their purpose replaced by landfill gas and natural gas-fired sources. Landfill gas collected from Mostoller Landfill is to be piped directly to SCI LH where it will be treated and combusted in one Solar Centaur 44.4 mmBtu/hr turbine, two Caterpillar 2,233 bhp engines, and one Johnston Boiler Co. 20.3 mmBtu/hr dual-fuel boiler. Natural gas is to be used as an auxiliary fuel combusted in the same Johnston Boiler Co. 20.3 mmBtu/hr dual-fuel boiler and two Miura 9.85 mmBtu/hr boilers. A small John Zink purge gas flare is to be used to control purge gas from the landfill gas treatment system. Additionally, allowable hours of operation of the existing group of two Kohler 2,235 bhp and one Onan 268 bhp emergency generators have been reduced to 400 hours per year each.

Facility-wide emissions are limited by plan approval condition to 229.4 tons of carbon monoxide (CO), 94.7 tons of nitrogen oxides (NO<sub>x</sub>), 43.2 tons of volatile organic compounds (VOCs), and 6.9 tons of formaldehyde per year. Best Available Technology (BAT) for the new sources is combusting only treated landfill gas and pipeline natural gas; good combustion practices including the use of low NO<sub>x</sub> burners, air to fuel ratio controllers, and combustion chamber temperature control; and proper maintenance and operation. The authorization is subject to State regulations and Federal New Source Performance Standards (NSPS) including 40 CFR Part 60, Subparts Dc, JJJJ and KKKK for; small industrial-commercial-institutional steam generating units, spark ignition internal combustion engines, and stationary combustion turbines. Federal requirements for Mandatory Greenhouse Gas Reporting from 40 CFR Part 98 have also been included in this plan approval. Compliance with emission limitations will be demonstrated through stack testing, fuel use monitoring, and source parameter monitoring. Plan Approval has been conditioned to ensure compliance with all applicable rules. The facility currently operates under a Title V Operating Permit No. TV-56-00257. Once compliance with the Plan Approval is demonstrated, the provisions of this Plan Approval will subsequently be incorporated into the Title V Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

Those who wish to provide the Department with additional written information that they believe should be considered prior to the issuance of the Plan Approval may submit the information to Alan Binder, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222. Each written comment must contain the following:

Name, address and telephone number of the person submitting the comments.

Identification of the proposed Plan Approval (specify the Plan Approval number).

Concise statements regarding the relevancy of the information or objections to issuance of the Plan Approval.

All comments must be received prior to the close of business 30 days after the date of this publication. For additional information you may contact Alan Binder at 412-442-4168.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940.*

**33-055C: Glen Gery Corporation** (P. O. Box 68, Summerville, PA 15864) to issue an Air Quality Plan Approval (33-055C) for their Hanley Plant in Summerville Borough, **Jefferson County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(B) that the Department of Environmental Protection (Department) intends to issue an Air Quality Plan Approval (33-055C) for their Hanley Plant located in Summerville Borough, Jefferson County. The facility currently has a Title V Operating Permit No. TV-33-00055. The provisions of this plan approval will subsequently be incorporated into the Title V Operating Permit through an amendment in accordance with 25 Pa. Code § 127.450.

Plan Approval 33-055C deals solely with the modification of allowable emission rates for CO and VOC for the Ceric Tunnel Kiln based on the results of the facility's June 2008 emission tests, current restrictions for all other pollutants remain in effect. The Ceric Tunnel Kiln is equipped with 210 natural gas burners with a total maximum theoretical heat input of 72,324 mmBtu/hr. Exhaust gas from the Ceric Tunnel Kiln is ducted to a spray tower absorber with mist eliminators to minimize emissions of particulate matter, sulfur dioxide, sulfur trioxide, and acid gases such as hydrogen fluoride, hydrogen chloride and sulfuric acid mist. The system was manufactured by CECO Filters, Inc and designed to handle a gas volume of 48,200 acfm @ 500° F. The proposed modification is subject to the applicable requirements of 25 Pa. Code Chapter 127 (relating to construction, modification, reactivation and operation of sources).

Plan Approval 33-055C contains emission restrictions, testing requirements, recordkeeping requirements, and work practice requirements which the Department believes will demonstrate compliance with 25 Pa. Code § 127 and 25 Pa. Code, Subchapter E requirements, 40 CFR Part 52 requirements, and 40 CFR Part 63, Subpart JJJJ requirements.

Proposed allowable emission rates from the Ceric Tunnel Kiln authorized by 33-055C for CO are 2.40 lb/ton, 38.2 lb/hr, and 168.2 ton/yr and for VOC are 0.27 lb/ton, 4.32 lb/hr, and 18.9 ton/yr. The proposed potential to emit from the facility authorized by PA-33-00055C for CO is 193.1 ton/yr and for VOC is 28.4 ton/yr.

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 230 Chestnut Street, Meadville, PA 16335.

Interested persons may submit written comments, suggestions or objections concerning the proposed Plan Approval to the regional office within 30 days of publication of this notice. Written comments submitted to the Department during the 30-day public comment period shall include the following:

Name, address and telephone number of the commentator.

Identification of the proposed Plan Approval No. 33-055C.

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 a notification is sufficient. Written comments or requests for a public hearing should be directed to Mark R. Gorog, Department of Environmental Protection, Air Quality Program, 230 Chestnut Street, Meadville, PA 16335, 814-332-6636.

**42-028B: Saint-Gobain** (1 Glass Place, Port Allegany, PA 16743-1611) to issue an air quality plan approval for the container glass manufacturing facility in Port Allegany Borough, **McKean County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), that the Department of Environmental Protection (Department) intends to issue an air quality plan approval for the container glass manufacturing facility in Port Allegany Borough, McKean County. This Plan Approval includes the installation of new gas burners, an oxygen enriched air staging (OEAS) system, a NO<sub>x</sub> and SO<sub>x</sub> CEMS, and a COMS on Furnace No.1. This is a Title V facility, Permit #42-00028.

This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date.

The total future potential emissions from Furnace No. 1:

1. Total Particulate Matter (PM) 37.23 tons per year
2. Filterable Particulate Matter < 10 $\mu$  (PM10) 35.37 tons per year
3. Filterable Particulate Matter < 2.5 $\mu$  (PM2.5) 33.88 tons per year
4. Sulfur Dioxide (SO<sub>2</sub>) 93.08 tons per year
5. Nitrous Oxides (NO<sub>x</sub>) 141.47 tons per year
6. Carbon Monoxide (CO) 7.45 tons per year
7. Volatile Organic Compounds (VOC) 7.45 tons per year

This plan approval is potentially subject to the following Federal and State Regulations:

*40 CFR Parts 51 and 52: Prevention of Significant Deterioration (PSD) and 25 Pa. Code, Subchapter E Nonattainment New Source Review (NNSR).* This project does not result in either a significant emission increase or

a significant net emission increase. Therefore, neither 40 CFR Parts 51 and 52 PSD or 5 Pa. Code, Subchapter E NNSR apply.

*40 CFR Part 60, Subpart CC: Standards of Performance for Glass Manufacturing Plants.* This facility is subject to 40 CFR Part 60, Subpart CC: Standards of Performance for Glass Manufacturing Plants. The Consent Decree lists Port Allegany's Furnace No. 1 as an affected source and subject to 40 CFR Part 60, Subpart CC effective December 31, 2009.

*25 Pa. Code § 127.12(a)(5).* Since the OEAS project does not meet the definition of a new source as per 25 Pa. Code § 121.1, this project is not subject to Best Available Technology (BAT) analysis. Per 25 Pa. Code § 127.11, Plan Approval is required to allow the modification of an air contamination source.

*40 CFR 64.5(a)(2) CAM.* Furnace #1 is not equipped with a control device. Therefore, CAM is not applicable to the proposed project.

*25 Pa. Code § 123.13.* The proposed modification to Furnace No.1 is subject to Chapter 123.13—Particulate Matter Emissions—Processes. However, 40 CFR 60, Subpart CC particulate limits are more stringent and as such will apply.

*25 Pa. Code § 123.21.* The proposed modification to Furnace No. 1 is subject to Chapter 123.21—Sulfur Compound Emissions.

*25 Pa. Code § 123.41.* The proposed modification to Furnace No. 1 is subject to Chapter 123.41—Visible Emission Limitations.

*40 CFR 63, Subpart SSSSSS National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area Sources.* MACT Regulations were published December 26, 2007. Furnace No. 1 is not subject to the emission standards of 40 CFR, Subpart SSSSSS because the raw material used in this furnace does not contain a listed HAP.

*25 Pa. Code § 127.92-RACT.* The Department issued a revised RACT approval on March 31, 1999 to the original RACT approval issued July 7, 1995 to Ball-Foster Glass Container Co., the previous owner of the Port Allegany glass plant, now owned by SGCI. The existing RACT conditions applicable to Furnace No. 1 will be incorporated into this Plan Approval.

*Global Consent Decree, between US EPA, PA DEP & SGCI Port Allegany Plant.* Furnace No. 1 is subject to the emission limits and conditions specified in the Consent Decree finalized May 7, 2010.

The Plan Approval will include conditions that require performance testing, monitoring, recordkeeping, reporting, work practice standards and additional requirements for Furnace No. 1, the Forming and Finishing Lines, and the Emergency Generator 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:

Department of Environmental Protection  
Air Quality Program  
230 Chestnut Street  
Meadville, PA 16335.

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. The Department will consider any written comments received within 30 days of the publication of this notice.

Each written comment must contain the following:

(i) Name, address and telephone number of the person submitting the comments.

(ii) Identification of the proposed permit No. 42-028B.

(iii) 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:

New Source Review Section, Air Quality Program  
Department of Environmental Protection  
230 Chestnut Street  
Meadville, PA 16335  
Phone: 814-332-6940

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so should by calling 814-332-6940, or the Pennsylvania AT&T Relay Service at 1-800-654-5984 (TDD) to discuss how the Department may accommodate their needs.

---

**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.*

**46-00157: DANA Driveshaft Products, LLC** (1040 Center Avenue, Pottstown, PA 19464-6007) for operation of a metal machining operation in Pottstown Borough, **Montgomery County**. The renewal permit is for a non-Title V (State-only) facility. The major source of air emissions are: spray and dip coating operations, and parts washers. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**09-00183: Donaldson Company, Inc.** (85 Railroad Drive, Ivyland, PA 18974) for a State-only, Synthetic Minor Operating Permit in North Hampton Township, **Bucks County**. The company has one polytetrafluoroethylene (PTFE) extrusion line controlled by a Regenerative Thermal Oxidizer. The pollutant of concern is volatile organic compounds (VOC). The estimated VOC emissions after control are less than 4.4 tons per year. The permit will include monitoring, record keeping and reporting requirements designed to address all applicable air quality requirements.

**23-00098: SAP America, Inc.** (3999 West Chester Pike, Newtown Square, PA 19073) to operate boilers, emergency generators, and a water heater at the Newtown Square office building in Newtown Township, **Delaware County**. The renewal permit is for a non-Title V (State-only) facility. NOx emissions are electively

capped to less than 25 tons per year; therefore the facility is a Synthetic Minor. The renewal incorporates the applicable requirements of New Source Performance Standards 40 CFR Part 60, Subpart IIII for the 600-kW emergency generator (Source ID 102) and also updates the permit contact to Mr. James Dodd, Facilities Manager (from Mr. James Clark, VO Global Facility Management). The renewal permit will include 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.*

**17-00021: West Branch Area School District** (516 Allport Cutoff, Morrisdale, PA 16858-9725) for the West Branch Area School District located in Morris Township, **Clearfield County**. The facility's main sources include four No. 2 fuel oil-fired boilers, two No. 2 fuel oil-fired hot water heaters and one diesel fuel-fired emergency generator. The facility has the potential to emit particulate matter (PM<sub>10</sub>), nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO), volatile organic compounds (VOCs), hazardous air pollutants (HAPs) and sulfur oxides (SO<sub>x</sub>) below the major emission thresholds. The proposed operating permit contains requirements including monitoring, recordkeeping and reporting conditions to ensure compliance with applicable Federal and State regulations.

**17-00059: Energy Link/Corman Coal Loading** (840 Philadelphia Street, Suite 305, Indiana, PA 15701-3922) for the Energy Link/Corman Coal Loading Yard in Lawrence Township, **Clearfield County**. The facility's main sources include coal stockpiles and haul roads. The facility has the potential to emit only particulate matter (PM<sub>10</sub>) below the major emission threshold. The proposed operating permit contains requirements including monitoring, recordkeeping, and reporting conditions to ensure compliance with applicable Federal and State regulations.

**17-00027: Muncy Valley Hospital** (1100 Grampian Boulevard, Williamsport, PA 17701) for the Muncy Valley Hospital in Muncy Creek Township, **Lycoming County**. The facility's main sources include three natural gas/No. 2 fuel oil-fired boilers and four No. 2 fuel oil-fired emergency generators. The facility has the potential to emit particulate matter (PM<sub>10</sub>), nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO), volatile organic compounds (VOCs), hazardous air pollutants (HAPs) and sulfur oxides (SO<sub>x</sub>) below the major emission thresholds. The proposed operating permit contains requirements including monitoring, recordkeeping, and reporting conditions to ensure compliance with applicable Federal and State regulations.

**41-00024: Divine Providence Hospital** (1100 Grampian Boulevard, Williamsport, PA 17701) for the Divine Providence Hospital in the City of Williamsport, **Lycoming County**. The facility's main sources include three natural gas/No. 2 fuel oil-fired boilers, two No. 2 fuel oil-fired boilers and five No. 2 fuel oil-fired emergency generators. The facility has the potential to emit particulate matter (PM<sub>10</sub>), nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO), volatile organic compounds (VOC), and combined and individual hazardous air pollutants (HAP) emissions below the major thresholds. The facility has taken a synthetic minor restriction to limit the sulfur oxides (SO<sub>x</sub>) emissions below the major threshold. The proposed operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

**08-00032: Talisman Energy USA, Inc.** (337 Daniel Zenker Drive, Horseheads, NY 14845) for issuance of a State-only (synthetic minor) operating permit for operation of its Thomas Compressor Station located in Troy Township, **Bradford County**.

The facility incorporates twelve natural gas-fired ultra lean burn compression engines each rated at 1,380 bhp equipped with air fuel ratio control and three natural gas dehydration units each rated at 35 million standard cubic feet per day. The facility has the potential to emit up to 6.40 tons of HAPs, 80.28 tons of NO<sub>x</sub>, 39.88 tons of VOCs and 38.68 tons of CO per year. The facility is a State-only facility. The operating permit contains all monitoring, recordkeeping and reporting conditions to ensure compliance with all applicable Federal and State regulatory requirements.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Matthew Williams, New Source Review Chief—Telephone: 814-332-6940.*

**37-00290: Ferrotech Corp.** (526 South Jefferson Street, New Castle, PA 16101) for re-issuance of a Natural Minor Operating Permit to operate a scrap metal processing facility in New Castle City, **Lawrence County**. The facility's primary emission sources are the cutting torches used to sever large pieces of scrap.

**43-00286: RW Sidley, Inc.** (3401 New Castle Road, West Middlesex, PA 16159) for re-issuance of a Natural Minor Permit to operate a concrete products manufacturing facility at Shenango Township, **Mercer County**. The facility included a portable concrete batch plant and Silo-Vents (2) as emitting sources. The emissions of pollutants from the facility are less than Title V threshold limits. Thus, the facility is natural minor.

**61-00208: Specialty Fabrications & Powder Coating, LLC** (455 Allegheny Boulevard, Franklin, PA 16323-0790) for re-issuance of a Natural Minor Permit to operate a sheet metal fabrication facility at Sugarcreek Borough, **Venango County**. The significant sources are miscellaneous natural gas usage, a paint line, drying/curing powder coating, laser cutters (2), and a burn off oven. The emissions of pollutants from the facility are less than Title V threshold limits. Thus, the facility became natural minor.

**62-00035: IA Construction Corp.** (81 Railcar Road, Warren, PA 16365) for issuance of a Synthetic Minor Operating Permit to operate a batch asphalt plant in Conewango Township, **Warren County**. The facility's primary emission sources include a batch asphalt plant and fugitives from transfer points.

## 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, telephone 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:

Table 1

Parameter	30-Day Average	Daily Maximum	Instantaneous Maximum
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 <sup>1</sup>		greater than 6.0; less than 9.0	
Alkalinity greater than acidity <sup>1</sup>			

<sup>1</sup>The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 mg/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.*

**32841303 and NPDES Permit # PA0001775, Helvetia Coal Company**, (P. O. Box 219, 400 Overview Drive, Shelocta, PA 15774), to renew the permit for the Lucerne Mine No. 6 in Center and Black Lick Townships, **Indiana County** and related NPDES permit for reclamation only. No additional discharges. Application received: April 7, 2010.

**56950702 and NPDES Permit # PA0214914**, (PBS Coals, Inc., P. O. Box 260, Friedens, PA 15541-0260), to revise the permit for the Cambria Refuse Disposal Area in Stonycreek Township, **Somerset County** to add acreage for a haul road and add a NPDES discharge point. Application also includes a request for a Section 401 Water Quality Certification. Written comments or objection on the permit application and the request for Section 401 Water Quality application may be submitted to the Department of Environmental Protection. Coal Refuse Disposal Support Acres Proposed 17.6. Receiving stream; Schrock Run, classified for the following use: CWF. Application received: November 9, 2009.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.*

**11990103 and NPDES No. PA0235091. Paul F. Becker Coal Company**, 1593 Old Route 22, Duncansville, PA 16635, permit renewal for reclamation only of a bituminous surface mine in Elder Township, **Cambria County**, affecting 21.2 acres. Receiving stream(s): unnamed tributary to Brubaker Run classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: May 24, 2010.

**56100102 and NPDES No. PA0263010. PBS Coals, Inc.**, P. O. Box 260, Friedens, PA 15541, commencement, operation and restoration of a bituminous surface and auger mine in Stonycreek and Somerset Townships, **Somerset County**, affecting 448.0 acres. Receiving stream(s): unnamed tributaries to Stonycreek and Wells Creek classified for the following use(s): cold water fishery. The first downstream potable water supply intake from the point of discharge is Hoovers Borough intake. Application received: May 14, 2010.

**56090109 and NPDES No. PA0262838. Godin Brothers, Inc.**, 196 East Philadelphia Street, P. O. Box 216, Armagh, PA 15920, transfer of an existing bituminous surface and auger mine from Godin Mining, Inc., 128 Colton Drive, Stoystown, PA 15563, located in Lincoln Township, **Somerset County**, affecting 22.6 acres. Receiving stream(s): UNTs to Quemahoning Creek classified for the following use(s): cold water fishery. The first

downstream potable water supply intake from the point of discharge is Cambria Somerset Authority. Application received: May 25, 2010.

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500.*

**03000106 and NPDES Permit No. PA0202843. P & N Coal Company, Inc.** (240 West Mahoning Street, P. O. Box 332, Punxsutawney, PA 15767). Renewal application for reclamation only of a bituminous surface mine, located in Plumcreek Township, **Armstrong County**, affecting 82.1 acres. Receiving streams: unnamed tributary "A" to Cherry Run and to Cherry Run, classified for the following use: CWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received: May 28, 2010.

**03990105 and NPDES Permit No. PA0202592. Seven Sisters Mining Co., Inc.** (6608 US Route 22, P. O. Box 300, Delmont, PA 15626). Renewal application for reclamation only of a bituminous surface mine, located in South Bend and Burrell Townships, **Armstrong County**, affecting 206.2 acres. Receiving streams: unnamed tributary to Fagley Run and Fagley Run, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received: June 2, 2010.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**17980104 and NPDES No. PA0237922. Swisher Contracting, Inc.** (P. O. Box 1223, Clearfield, PA 16830). Renewal of an existing bituminous surface mine operation located in Lawrence Township, **Clearfield County** affecting 84.0 acres. Receiving streams: unnamed tributary to Moose Creek, Moose Creek and Orr's Run classified for Cold Water Fisheries. There are no potable water supply intakes within 10 miles downstream. Application received: May 14, 2010.

**17040107 and NPDES No. PA0243817. AMFIRE Mining Co., LLC** (One Energy Place, Latrobe, PA 15650). Renewal of an existing bituminous surface mine operation located in Girard Township, **Clearfield County** affecting 155 acres. Receiving streams: unnamed tributaries to Deer Creek and Deer Creek classified for Cold Water Fisheries. There are no potable water supply intakes within 10 miles downstream. Application received: May 14, 2010

**Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.**

49803202R5 and NPDES Permit No. PA0592960. Reading Anthracite Company, (P. O. Box 1200, Pottsville, PA 17901), renewal of an existing anthracite coal refuse reprocessing and disposal operation in Zerbe Township, **Northumberland County** affecting 45.0 acres, receiving stream: Zerbe Run. Application received: May 27, 2010.

*Noncoal Applications Received*

*Effluent Limits*—The following effluent limits will apply to NPDES permits issued in conjunction with a noncoal mining permit:

Parameter	Table 2		
	30-day Average	Daily Maximum	Instantaneous Maximum
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
pH*		greater than 6.0; less than 9.0	

\* The parameter is applicable at all times.  
Alkalinity exceeding acidity\*

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.*

**08910302 and NPDES No. PA0206822. Bishop Brothers Construction, Inc.,** (P. O. Box 289, Ulster, PA 18850). Renewal of the NPDES Permit. There are no discharges from this sand and gravel operation located in Sheshequin Township, **Bradford County**. Application received: May 10, 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

*Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, Telephone 570-826-2511.*

**E35-428. Lackawanna County, Administration Building,** 6th Floor, Scranton, PA 18503, in City of Scranton, **Lackawanna County**, U.S. Army Corps of Engineers, Baltimore District.

To construct and maintain a stream restoration project in 1,200 linear feet of Lucky Run (CWF) with work consisting of a series of closely spaced large boulder weirs which will step the channel down in manageable increments. The project begins approximately 700 feet upstream from where Lucky Run (CWF) intersects with the McDade Park Road (Scranton, PA Quadrangle Lat: 41° 25' 03"; Long: -75° 42' 52") and extends downstream from McDade Park Road for approximately 300 feet (Scranton, PA Quadrangle Latitude: 41° 24' 58"; Longitude: -75° 42' 42") in the City of Scranton, Lackawanna County.

**E40-710. Ms. Jill Schwartz,** 315 Simpson Street, Harveys Lake, PA 18704, in Harveys Lake Borough, **Luzerne County**, U.S. Army Corps of Engineers, Baltimore District.

To demolish an existing 430 sq ft dock and to construct and maintain a 735 sq ft, pile-supported dock structure and a 3,455 sq ft, pile-supported boathouse structure extending approximately 52-foot from the shoreline of Harveys Lake (HQ-CWF). The project is located at Pole # 226, along the east side of SR 415 (Benbal Drive) adjacent to Anderson Road, approximately 1.8 miles south of the intersection of SR 415 and SR 29 (Harveys Lake, PA Quadrangle Latitude: 41° 21' 53"; Longitude: -76° 2' 37") in Harveys Lake Borough, Luzerne County.

**E45-554. Stroud Township Supervisors,** 1211 North 5th Street, Stroudsburg, PA 18360, in Stroud Township, **Monroe County**, U.S. Army Corps of Engineers, Philadelphia District.

To authorize and maintain an after-the-fact permit consisting of a 36-inch diameter corrugated plastic stormwater outfall with a concrete headwall and 75-foot long by 15-foot wide R-7 riprap apron in the floodway of Pocono Creek (HQ-CWF, MF) for the purpose of discharging stormwater from a 17-lot subdivision. The project is located on the south side of Park Street, approximately 0.3 mile north of the intersection of I-80 and U.S. Route 209 (West Main Street) (Stroudsburg, PA Quadrangle Latitude: 40° 59' 10"; Longitude: -75° 12' 45") in Stroud Township, Monroe County.

**E58-290. Thomas J. Simrell,** 514 North Blakely Street, Dunmore, PA 18512, in Clifford Township, **Susquehanna County**, U.S. Army Corps of Engineers, Baltimore District.

To construct and maintain an 18-inch intake structure with an associated pond; a 15-inch intake structure with an associated pond; a twin 6'-4" by 4'-9" aluminized steel corrugated pipe arch culvert crossing of Tinker Creek; 5 30-inch temporary crossings of Tinker Creek; and 4,350 square feet of wetland impacts, 2,285 square feet which will be temporary and 2,065 square feet which will be mitigated. The project is located on the southeast side of Tinkerbrook Road approximately 0.10 mile from its intersection with SR 2012 (Clifford, PA Quadrangle Latitude: 41° 40' 23"; Longitude: -75° 31' 08") in Clifford Township, Susquehanna County.

**E35-429. Oakwood Homes of Scranton, LP,** RR3, Box 155-1, Dalton, PA 18414, in City of Scranton, **Lackawanna County**, U.S. Army Corps of Engineers, Baltimore District.

To relocate approximately 500 feet of a tributary to Keyser Creek (CWF, MF) with work consisting of the

construction and maintenance of approximately 575 feet of trapezoidal channel lined with permanent turf reinforcement matting, having a 4-foot bottom width and 2:1 side slopes for the purpose of constructing Phase II of Oakwood Estates Residential Development. The project is located approximately 0.6 mile northwest of the intersection of Oakwood Drive and Keyser Avenue (Scranton, PA Quadrangle Latitude: 41° 26' 39"; Longitude: -75° 41' 30") in the City of Scranton, Lackawanna County.

**E45-555. Monroe County Conservation District**, 8050 Running Valley Road, Stroudsburg, PA 18360-0917, in Hamilton Township, **Monroe County**, U.S. Army Corps of Engineers, Philadelphia District.

To construct and maintain a 6-inch diameter, 25-L.F. dry hydrant structure with an 8-inch diameter intake strainer within a pond located along a tributary to Kettle Creek (HQ-CWF) for the purpose of fire suppression for local fire departments. The project is located along the south side of Running Valley Road, approximately 1.2 miles west of the intersection of I-80 and SR 33 (Saylorsburg, PA Quadrangle Latitude: 40° 59' 24"; Longitude: -75° 17' 39") in Hamilton Township, Monroe County.

**E39-507. City of Allentown**, 3000 Parkway Boulevard, Allentown, PA 18104, in City of Allentown, **Lehigh County**, U.S. Army Corps of Engineers, Philadelphia District.

To construct and maintain a 9-foot wide wooden pedestrian bridge, having a 13-foot span and a 4-foot underclearance, across a tributary to Little Lehigh Creek, locally known as Briarwood Spring. The project is located in the Queen City Trout Nursery on the north side of Fish Hatchery Road (SR 2010) (Allentown West, PA Quadrangle Latitude: 40° 33' 49"; Longitude: -75° 30' 45").

*Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**E20-580, Department of Transportation, District 1-0**, 255 Elm Street, P. O. Box 398, Oil City, PA 16301. SR 1016-B00 Millers Station Bridge Replacement, in Rockdale Township, **Crawford County**, ACOE Pittsburgh District (Millers Station, PA Quadrangle N: 41° 48' 37"; W: -79° 59' 02").

To conduct the following activities associated with the replacement of the SR 1016 Millers Station Bridge:

1. To remove the existing structure and to construct and maintain on a new alignment north of the existing structure, a two span, prestressed spread box beam bridge having a clear span of 168.27 feet and an underclearance of 10.2 feet on a 60° skew across French Creek on SR 1016, Section B00.
2. To construct a temporary causeway and cofferdams within the channel of French Creek for the construction of the new bridge.
3. To replace an existing 42-foot long, 24-inch reinforced concrete pipe with a 60-foot long, 36-inch reinforced concrete pipe within an unnamed tributary to French Creek.

French Creek is a perennial stream classified as a Warm Water Fishery.

**E20-581, Department of Transportation, District 1-0**, 255 Elm Street, P. O. Box 398, Oil City, PA 16301. SR 1002-B00/B01 Venango Veterans Memorial Bridge Removal, in Venango Borough and Cambridge Township, **Crawford County**, ACOE Pittsburgh District (Cambridge Springs, PA Quadrangle N: 41° 46' 19"; W: -80° 06' 33").

To conduct the following activities associated with the removal of the Venango Veterans Memorial Bridge, SR 1002 Section B00, across French Creek:

1. Removal of the Venango Veterans Memorial Bridge, a two span steel through Pratt Truss. Each span is approximately 128'-8" long and is supported on full height stone masonry abutments and a single stone masonry center pier. The bridge is about 28'-6" wide and is about 15' above normal pool elevation. The center pier will be removed to at least one stone below stream elevation and a partial removal of the west abutment. The east abutment will remain.

2. To construct a temporary stream diversion within French Creek for the removal of the center pier and east span of the bridge. The temporary stream diversion will consist of sandbags and a concrete barrier approximately 245 feet in length. The diversion of the stream will be approximately 90 feet in length along French Creek. French Creek will be diverted to the west side of the pier to allow access from the east bank.

3. To place temporary fill within the 100 year flood plain of French Creek for construction of a temporary access road for removal of center pier and east span of the bridge. The temporary fill will be approximately 150 feet in length along the east bank of French Creek, downstream of the existing bridge. The temporary fill varies in width from 7 feet to 20 feet. Upon completion of the project, the temporary fill will be removed and the original flood plain contours restored and replanted.

French Creek is a perennial stream classified as a Warm Water Fishery.

#### ENVIRONMENTAL ASSESSMENTS

*Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.*

**D32-016EA. Mr. James Hitchings**, 407 Savan Road, Rochester Mills, PA 15771. Grant and Canoe Townships, **Indiana County**, ACOE Pittsburgh District. Project proposes to breach and remove Savan No. 3 Dam across Little Mahoning Creek (HQ-CWF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The project will restore approximately 500 feet of stream channel. The dam is located approximately 650 feet northwest of the intersection of Savan (T820) and Ryen Roads (T793) (Rochester Mills, PA Quadrangle Latitude: 40° 49' 15"; Longitude: -78° 59' 39").

---

## 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**

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
NPDES Permit No. PA0228851	Van Blarcom Farms and Country View Family Farms, LLC R. D. 2 Box 54A Columbia Cross Road, PA 16914	Bradford County Columbia Township	Wolfe Creek, named tributary to North Branch Sugar Creek Sugar and Towanda Creeks State Water Plan 4C	N
PA0113221 (Sewage) Renewal	Youth Challenge International 1798 Snyderstown Road Sunbury, PA 17801	Northumberland County Upper Augusta Township	Shamokin Creek 6-B	Y

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0095362 Sewage	Laurelville Mennonite Church Center Association 941 Laurelville Lane Mount Pleasant, PA 15666-8908	Westmoreland County Mount Pleasant Township	UNT of Jacobs Creek	Y

*Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0100676 (Sewage)	Temple Grove Campground 347 Hamburg Road Transfer, PA 16154	Mercer County Delaware Township	Shenango River 20-A	Y
PA0100927 (Sewage)	Town Terrance Inn 7860 West Ridge Road Fairview, PA 16415	Fairview Township Erie County	Trout Run 15	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. PAG050086**, Industrial Waste, **Sunoco SS 0004-7969**, 1452 Paoli Pike, West Chester, PA 19380. This proposed facility is located in East Goshen Township, **Chester County**.

Description of Proposed Action/Activity: Approval to discharge treated groundwater from Sunoco SS 0004-7969 (Paoli Pike Sunoco) to an Unnamed Tributary to East Branch Chester Creek.

**NPDES Permit No. PAG040151**, Sewage, **Mary Louise Rockel, Executrix, Rockel Estate**, 1506 Hilltown Pike Hilltown, PA 18927. This proposed facility is located in Hilltown Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge 500 gpd of treated sewage into a Dry Swale Tributary to Neshaminy Creek in Watershed Neshaminy—F.

**NPDES Permit No. PA0044474**, Sewage, **Brinton Manor, Inc.**, 549 Baltimore Pike, Glen Mills, PA 19342-1020. This proposed facility is located in Concord Township, **Delaware County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge 13,000 gpd of treated sewage to West Branch Chester Creek Watershed 3-G.

*Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**NPDES Permit No. PA0070254-A-1**, Sewage, SIC Code 4952, **Lynn Township Sewer Authority**, P. O. Box 208, New Tripoli, PA 18066-0208. This existing facility is located in Lynn Township, **Lehigh County**.

Description of Existing Action/Activity: Issuance of an NPDES Permit Amendment for an existing discharge of treated Sewage to increase the permitted flow from 0.08 MGD to 0.16 MGD.

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, Phone: 717-705-4707.*

**NPDES Permit No. PA0028746**, Sewage, **Hampden Township**, 230 South Sporting Hill Road, Mechanicsburg, PA 17050-3097. This proposed facility is located in Hampden Township, **Cumberland County**.

Description of Proposed Action/Activity: Termination of Permit.

**NPDES Permit No. PA0248002, Amendment No. 3**, CAFO, **Mr. John Hess, Jobo Holstein Farms, LLC**, 200 Tall Oaks Road, Gettysburg, PA 17325. This proposed facility is located in Mount Pleasant Township, **Adams County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization for operation of a 1,548-AEU dairy operation in Watershed 7-F.

**NPDES Permit No. PA0088846**, CAFO, **Brent Hershey, Hershey Ag**, 138 Airport Road, Marietta, PA 17547. This proposed facility is located in Oliver Township, **Perry County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization to operate a 1,725-AEU swine operation with discharge to watershed 12-B.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**PA0233889**, CAFO, SIC 0213, **Troester Dairy**, 175 Cannon Road, Mifflinburg, PA 17844. This proposed facility is located in Buffalo Township, **Union County**.

Description of Proposed Activity: 1,070.25 AEU Dairy Operation and Beef Farm.

The receiving stream, UNTs of Buffalo Creek, is in the State Water Plan Buffalo Creek Watershed 10C and is classified for: Cold Water Fishery (CWF).

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. Certification requirements for manure storage facilities.

7. Requirements for storage of feed and other raw materials.
8. Best Management Practices requirements.

The EPA waiver is not in effect.

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**NPDES Permit No. PA0254282**, Sewage, **Donald and Joyce Wise**, 290 Sanitarium Road, Washington, PA 15301. This proposed facility is located in Amwell Township, **Washington County**.

Description of Proposed Action/Activity: Permit issuance for the discharge of sewage from a single residence home.

*Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**NPDES Permit No. PA0263672**, Sewage, **Jacquelyn D. and Ty A. Sornberger**, 7321 West Lake Road, Fairview, PA 16415-1401. This proposed facility is located in Fairview Township, **Erie County**.

Description of Proposed Action/Activity: Issuance of a new NPDES permit to discharge treated sewage from a proposed small flow sewage treatment plant serving the Avonia Tavern.

### **III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)**

*Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA.*

**WQM Permit No. 0907401**, Sewerage, Transfer, **Chad A. Fultz**, 190 Lonely Road, Sellersville, PA 18960-1322. This proposed facility is located in West Rockhill Township, **Bucks County**.

Description of Action/Activity: Permit transferred from Villa Building Company, Inc., to Mr. Chad A. Fultz.

**WQM Permit No. WQG02511007**, Sewerage, **Philadelphia Water Department, The Aramark Tower**, 1101 Market Street, Philadelphia, PA 19107. This proposed facility is located in the City of Philadelphia, **Philadelphia County**.

Description of Action/Activity: 5 residential towers with 951 units, building service facility, recreation center, 3 retail facilities and a parking structure to service the units.

**WQM Permit No. 1597405**, Sewerage, **Renewal, Landis and Graham Partnership**, 310 North High Street, West Chester, PA 19480. This proposed facility is located in West Vincent Township, **Chester County**.

Description of Action/Activity: Renewal of authorization to operate the Ludwig's Village Shoppes STP.

**WQM Permit No. 1509411**, Sewerage, **West Vincent Township**, 729 St. Matthews Road, Chester Springs, PA 19425-3301. This proposed facility is located in West Vincent Township, **Chester County**.

Description of Action/Activity: Construction and operation of the Hankin Wastewater Treatment Plant design to treat 50,000 gallons of sewerage per day.

**WQM Permit No. 0910401**, Sewerage, **Warwick Township Water and Sewer Authority**, 1733 Township Greene, Jamison, PA 18929. This proposed facility is located in Warwick Township, **Bucks County**.

Description of Action/Activity: Construction of a new sanitary pump station to serve the Ivyland Industrial Park.

**WQM Permit No. 1588442, Amendment No. 2**, Sewerage, **East Vincent Municipal Authority**, 262 Ridge Road, Spring City, PA 19475. This proposed facility is located in East Vincent Township, **Chester County**.

Description of Action/Activity: Increase disposal capacity from 48,800 gpd to 53,000 gpd.

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, Phone: 717-705-4707.*

**WQM Permit No. 6710402**, Sewerage, **Exelon Generation Company, LLC**, 1848 Lay Road, Delta, PA 17314. This proposed facility is located in Peach Bottom Township, **York County**.

Description of Proposed Action/Activity: Permit approval for the installation of bypass around equalization tank and additional aeration added to post aeration tank.

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**WQM Permit No. 6310402**, Sewerage, **Donald and Joyce Wise**, 290 Sanitarium Road, Washington, PA 15301. This proposed facility is located in Amwell Township, **Washington County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a single residence sewage treatment facility.

**WQM Permit No. 6309405**, Sewerage, **Consol PA Coal Company, LLC**, 1525 Pleasant Grove Road, Claysville, PA 15323. This proposed facility is located in East Finley Township, **Washington County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a 24,000 GPD package sewage treatment plant.

*Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**WQM Permit No. WQG018751**, Sewerage, **Derek Hedglin**, 337 Irishtown Road, Grove City, PA 16127. This proposed/existing facility is located in Pine Township, **Mercer County**.

Description of Proposed Action/Activity: A Single Residence Sewage Treatment Plant.

**WQM Permit No. 2510401**, Sewerage, **Jacquelyn D. and Ty A. Sornberger**, 7321 West Lake Road, Fairview, PA 16415-1401. This proposed facility is located in Fairview Township, **Erie County**.

Description of Proposed Action/Activity: Issuance of a new permit for construction of a small flow sewage treatment plant to serve the Avonia Tavern. It replaces a malfunctioning onlot system.

**WQM Permit No. WQG018753**, Sewerage, **Joshua Smock**, 8608 Smith Road, Meadville, PA 16335. This proposed/existing facility is located in Hayfield Township, **Crawford County**.

Description of Proposed Action/Activity: A Single Residence Sewage Treatment Plant.

---

#### 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

---

*Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 1505008-R1	Department of Transportation District 6-0 7000 Geerdes Boulevard King of Prussia, PA 19406	Chester	East Whiteland and Tredyffrin Townships	Valley Creek EV
PAI01 1508027	D&H Ventures, LP 977 East Schuylkill Road Pottstown, PA 19465	Chester	North Coventry Township	Unnamed Tributary Schuylkill River HQ-TSF
PAS10 G444-RA-1	West Vincent Associates, Ltd. 707 Eagleview Boulevard Exton, PA 19341-1159	Chester	West Vincent Township	Unnamed Tributary Birch Run EV

*Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024509011	Verizon Wireless 4642 Jonestown Road Harrisburg, PA 17109	Monroe	Price Township	Brodhead Creek HQ-CWF, MF
PAI023910001	Department of Transportation Engineering District 5-0 1002 Hamilton Street Allentown, PA 18101-1013	Lehigh	Upper Saucon Township	South Branch Saucon Creek CWF, MF

*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 &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10F073R	Perry Desiato, President Village of Nittany Glen, LP 1490 Durham Road New Hope, PA 18938	Centre	Benner Township	UNT to Buffalo Run HQ-CWF

---

#### 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:*

<i>Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Falls Township Bucks County	PAG0200 091015	USS Real Estate One Ben Fairless Drive Fairless Hills, PA 19030	Delaware River Pidcock Mill and Common Creeks WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Milford Township Bucks County	PAG200 0905023-R	Stream Crossing Associates, LP 1574 Easton Road Suite 100 Warrington, PA 18976	Morgan Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
West Goshen Township Chester County	PAG0200 151004	Glenn M. White Land Company 4 Zackary Drive West Chester, PA 19382	East Branch Goose Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Whitpain Township Montgomery County	PAG0200 461031	Parec Phipps' Station Associates 731 Skippack Pike Blue Bell, PA 19422	Willow Run TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
New Hanover Township Montgomery County	PAG0200 4603219R	TH Properties 345 Main Street Harleysville, PA 19438	West Branch Swamp Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Limerick Township Montgomery County	PAG0200 4609103	DC Electric, Inc. 3036 Taft Road Norristown, PA 19403	Hartenstine Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Trappe Borough Montgomery County	PAG200 4609040	The DeMutis Group 347 Bridge Street Suite 301 Phoenixville, PA 19460	Schoolhouse Run TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Limerick Township Montgomery County	PAG200 4609078	Girish Sheth 2200 Stacy Drive Reading, PA 19605	Schuylkill River WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Lower Gwynedd Township Montgomery County	PAG0200 4610017	Gwynedd Valley Reserve, LLC 545 West Germantown Pike Plymouth Meeting, PA 19462	Wissahickon Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
City of Philadelphia Philadelphia County	PAG0201 511001	ARD Grant, LP 1536 Warner Road Meadowbrook, PA 19046	Wood Bridge Run—Pennypack Creek Watershed TSF-MF-WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
City of Philadelphia Philadelphia County	PAG0201 511009	DP Partners PJP, LLC 200 North 3rd Street Suite 1402 Harrisburg, PA 17101	Wood Bridge— Pennypack Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
City of Philadelphia Philadelphia County	PAG0201 511021	JPC Group, Inc. 228 Blackwood- Barnsboro Road Blackwood, NJ 08012	Tributary to Pennypack and Poquessing Creeks WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
City of Carbondale Lackawanna County	PAG2003510008	Richard Huhn 851 Commerce Boulevard Suite 207 Dickson City, PA 18519	Tributary to Lackawanna River CWF, MF	Lackawanna County Conservation District 570-281-9495
Old Forge Borough Lackawanna County	PAG2003510007	Edward Casey Walter Ermolovich 100 East Dunn Avenue Old Forge, PA 18518	St. John's Creek CWF, MF	Lackawanna County Conservation District 570-281-9495
Athens Township Bradford County	PAG2000810010	Powersecure, Inc. 1609 Heritage Commerce Court Wake Forest, NC 27587	Chemung River WWF	Bradford County Conservation District Stoll Natural Resource Center R. R. 5 Box 5030C Towanda, PA 18848 (570) 265-5539 Ext. 6
Fayette County Redstone and Luzerne Townships	PAG2002605024-R	Frank Kempf Turnpike Commission P. O. Box 67676 Harrisburg, PA 17106	Dunlap Creek WWF	Fayette County Conservation District 10 Nickman Plaza Lemont Furnace, PA 15456 724-438-4497
Fayette County Georges Township	PAG2002610006	Marcia Martin Darr Explortation Co., Inc. 28 West Elm Street Fairchance, PA 15436	UNT to Georges Creek WWF	Fayette County Conservation District 10 Nickman Plaza Lemont Furnace, PA 15456 724-438-4497
Washington County West Brownsville Borough	PAG2006309022-1	Croftcheck Family, LLP P. O. Box 433 Allison, PA 15413	UNT to Monongahela River WWF	Washington County Conservation District 602 Courthouse Square Washington, PA 15301 724-228-6774
Washington County Chartiers Township	PAG2006310011	Chartiers-Houston School District 2020 West Pike Street Houston, PA 15342	UNT to Chartiers Creek WWF	Washington County Conservation District 602 Courthouse Square Washington, PA 15301 724-228-6774
Washington County East and West Finley Townships	PAG2006310012	Consol Pennsylvania Coal Company, LLC 1000 Consol Energy Drive Canonsburg, PA 15317	Templeton Fork TSF	Washington County Conservation District 602 Courthouse Square Washington, PA 15301 724-228-6774

*General Permit Type—PAG-3*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Blair County Logan Township	PAR803509	Ward Trucking, LLC P. O. Box 1553 Altoona, PA 16603-1553	Kettle Creek and Little Juniata River WWF	DEP—SCRO—WQ 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
Berks County Amity Township	PAR233507	CEI—Douglassville 447 Old Swede Road Douglassville, PA 19518-1239	UNT Schuylkill River WWF 3D	DEP—SCRO—WQ 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Blair County Altoona City	PAR203516	Cookson Electronics 4100 6th Avenue Altoona, PA 16602	UNT Mill Run WWF 11-A	DEP—SCRO—WQ 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
Smithbauer Residence SFTF Harris Township Centre County	PAG045268	Karyn J. Smithbauer P. O. Box 618 Boalsburg, PA 16827	Unnamed Tributary to Spring Creek CWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3664
Hempfield Township Westmoreland County	PAR116139	ABB, Inc. 201B Avenue B Buncher Industrial Park Youngwood, PA 15697	Jacks Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 412-442-4000
Hanover Township Washington County	PAR606118	Grubbs Auto Wrecking 1279 Route 18 Burgettstown, PA 15021	Kings Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 412-442-4000
Portage Borough Cambria County	PAR606163	Portage Auto Wreckers 3740 Portage Street Portage, PA 15946-6541	Little Conemaugh River	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 412-442-4000
Jackson Township Cambria County	PAR506109	Laurel Highlands Landfill, Inc. 260 Laurel Ridge Road Johnstown, PA 15909	UNT to Rummel Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 412-442-4000

*General Permit Type—PAG-4*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Perry County Greenwood Township	PAG0643660	Donald Campbell, Sr. 237 West Juniata Parkway Millerstown, PA 17062	Unt Juniata River WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
Pine Township Mercer County	PAG049582	Derek Hedglin 337 Irishtown Road Grove City, PA 16127	Unnamed tributary of Wolf Creek 20-C	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 814/332-6942
Hayfield Township Crawford County	PAG049584	Joshua Smock 8608 Smith Road Meadville, PA 16335	Cussewago Creek 16-D	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 814/332-6942

*Facility Location:  
Municipality &  
County*Punxsutawney  
Borough  
Jefferson County

Permit No.

PAG058387

*Applicant Name &  
Address*Thomas E. Ball  
295 Calvary Lane  
Punxsutawney, PA 15767*Receiving  
Water / Use*

Sawmill Run

*Contact Office &  
Phone No.*DEP—NWRO  
Water Management  
230 Chestnut Street  
Meadville, PA 16335-3481  
814/332-6942*General Permit Type—PAG-8**Facility Location:  
Municipality &  
County*Port Royal Borough  
Juniata County

Permit No.

PAG083594

*Applicant Name &  
Address*Port Royal  
Municipal Authority  
P. O. Box 236  
Port Royal, PA 17082*Site Name &  
Location*Port Royal Municipal  
Authority Wastewater  
Treatment Plant  
First Street Extended  
Port Royal, PA 17082*Contact Office &  
Phone No.*DEP—SCRO  
909 Elmerton Avenue  
Harrisburg, PA  
17110-8200  
717-705-4707Penn Township  
Lancaster County

Permit No.

PAG083551

*Applicant Name &  
Address*  
Manheim Borough  
Authority  
15 East Main Street  
Manheim, PA 17545*Site Name &  
Location*  
Manheim Borough  
Wastewater  
Treatment Plant  
135 Rettew Lane  
Manheim, PA 17545*Contact Office &  
Phone No.*  
DEP—SCRO  
909 Elmerton Avenue  
Harrisburg, PA  
17110-8200  
717-705-4707Frenchcreek  
Township  
Polk Borough

Permit No.

PAG088313

*Applicant Name &  
Address*  
Frenchcreek Township  
4507 Georgetown Road  
Franklin, PA 16323*Site Name &  
Location*  
Frenchcreek  
Township WWTP  
226 Pine School Road  
Franklin, PA 16323*Contact Office &  
Phone No.*  
DEP—NWRO  
Water Management  
230 Chestnut Street  
Meadville, PA 16335-3481  
814/332-6942*General Permit Type—PAG-8 (SSN)**Facility Location:  
Municipality &  
County*Fulton Township  
Lancaster County

Permit No.

PAG083597

*Applicant Name &  
Address*Harrisburg Authority  
1662 South  
Cameron Street  
Harrisburg, PA 17104*Site Name &  
Location*

Kirk Farm

*Contact Office &  
Phone No.*DEP—SCRO  
909 Elmerton Avenue  
Harrisburg, PA  
17110-8200  
717-705-4707Fulton Township  
Lancaster County

Permit No.

PAG083597

*Applicant Name &  
Address*  
Mobile Dredging and  
Pumping Company  
3100 Bethel Road  
Chester, PA 17110*Site Name &  
Location*  
Kirk Farm  
Fulton Township  
Lancaster County*Contact Office &  
Phone No.*  
DEP—SCRO  
909 Elmerton Avenue  
Harrisburg, PA  
17110-8200  
717-705-4707**STATE CONSERVATION COMMISSION****NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR  
NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES)  
PERMITS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFO)**

The State Conservation Commission has taken the following actions on previously received applications for nutrient management plans under the act of July 6, 2005 (Act 38 of 2005, 3 Pa.C.S. §§ 501—522) (hereinafter referred to as Act 38), for agricultural operations that have or anticipate submitting applications for new, amended or renewed NPDES permits, or Notices of Intent 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.

Persons aggrieved by any action may appeal under section 517 of Act 38, section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) to the Environmental Hearing Board, Second Floor, Rachael 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 at (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*. 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 of the Board at (717) 787-3483 for more information.

**CAFO PUBLIC NOTICE SPREADSHEET—ACTIONS**

<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>Approved or Disapproved</i>
Woodland View Farm 133 Woodland Road Oxford, PA 19363	Chester	204	268.39	Ducks/Dairy	NA	Approved
Glennville Farms 2391 Glennville Road Cochranville, PA 19330	Chester	3,071.4	311.5	Dairy	HQ	Approved
Lincoln Dairy 1141 State Road Lincoln University, PA 19352	Chester	69.8	1,180.45	Dairy	HQ	Approved
Walmoore Holsteins, Inc. 1826 Howell-Moore Road West Grove, PA 19390	Chester	1,120	1,295.6	Dairy	NA	Approved

*General Permit Type—PAG-13*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>DEP Protocol (Y/N)</i>
PAG133709	South Heidelberg Township 68 A North Galen Hall Road Wernersville, PA 19565	Berks	South Heidelberg Township	Tulpehocken Creek TSF Tulpehocken Creek CWF Spring Creek CWF Hospital Creek TSF Cacoosing Creek CWF Little Cacoosing Creek CWF	Y

**CAFO PUBLIC NOTICE SPREADSHEET—ACTIONS**

<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>Approved or Disapproved</i>
Duane Martin 46 Refton Road Willow Street, PA 17584	Lancaster	0.00	274.8	Pullets/Steers	NA	A
Jodie Brubaker 1908 Valley Road Manheim, PA 17545	Lancaster	0.00	451.2	Broilers	NA	A
Kerek Musser 2604 Hossler Road Manheim, PA 17545	Lancaster	162.8	2.66	Layers/Heifers	NA	A
Robert Hess 686 Rock Point Road Mount Joy, PA 17552	Lancaster	289.1	2.19	Swine/Steer	NA	A
Robert L. Brubaker, Sr. 1601 Old Line Road Manheim, PA 17545	Lancaster	104.6	3.75	Broilers	NA	A
Robert Shearer 806 Anderson Ferry Road Mount Joy, PA 17552	Lancaster	300	1.29	Swine/Beef	NA	A

## 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

*Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Permit No. 0110503 MA**, Minor Amendment, Public Water Supply.

Applicant	<b>Gettysburg Municipal Authority</b>
Municipality	Cumberland Township
County	<b>Adams</b>
Responsible Official	Mark Guise, Manager 601 East Middle Street Gettysburg, PA 17325-3307
Type of Facility	Repainting of the filter backwash water tank.
Consulting Engineer	Diana Young, P. E. Buchart-Horn, Inc. P. O. Box 15040 York, PA 17405-7040
Permit to Construct Issued:	5/24/2010

**Permit No. 6710504 MA**, Minor Amendment, Public Water Supply.

Applicant	<b>Dover Township</b>
-----------	-----------------------

Municipality	Dover Township
County	<b>York</b>
Responsible Official	Charles G. Farley Public Works Director 2480 West Canal Road Dover, PA 17315
Type of Facility	Interior repainting of the Staunton Tank.
Consulting Engineer	Kirt L. Ervin, P. E. US Engineering, LLC 13742 Mary Lane Aviston, IL 62216
Permit to Construct Issued:	6/3/2010

**Permit No. 3810502 MA**, Minor Amendment, Public Water Supply.

Applicant	<b>City of Lebanon Authority</b>
Municipality	Swatara Township
County	<b>Lebanon</b>
Responsible Official	Jonathan Beers Executive Director 2311 Ridgeview Road Lebanon, PA 17042
Type of Facility	Repainting of a 250,000-gallon wash water storage tank.
Consulting Engineer	Kirt L. Ervin, P. E. US Engineering, LLC 13742 Mary Lane Aviston, IL 62216
Permit to Construct Issued:	5/28/2010

**Permit No. 0610506 MA**, Minor Amendment, Public Water Supply.

Applicant	<b>Aqua Pennsylvania, Inc.</b>
Municipality	Cumru Township
County	<b>Berks</b>
Responsible Official	Joseph G. Thurwanger Manager-Capital Planning and Engineering 762 West Lancaster Avenue Bryn Mawr, PA 19010
Type of Facility	Approves the repainting of the existing 500,000-gallon finished water storage tank.
Consulting Engineer	Joseph G. Thurwanger, P. E. Aqua Pennsylvania 762 West Lancaster Avenue Bryn Mawr, PA 19010
Permit to Construct Issued:	5/28/2010

**Permit No. 6710506 MA**, Minor Amendment, Public Water Supply.

Applicant	<b>Dover Township</b>
Municipality	Dover Township
County	<b>York</b>

Responsible Official Charles G. Farley  
Public Works Director  
2480 West Canal Road  
Dover, PA 17315

Type of Facility Installation of chlorine contact  
tanks for Wells No. 2 and 8.

Consulting Engineer Kent A. Bitting, P. E.  
C S Davidson, Inc.  
38 North Duke Street  
York, PA 17401

Permit to Construct 6/3/2010  
Issued:

**Permit No. 6710507 MA**, Minor Amendment, Public  
Water Supply.

Applicant **The York Water Company**

Municipality Manheim Township

County **York**

Responsible Official Mark S. Snyder  
Engineering Manager  
130 East Market Street  
P. O. Box 15089  
York, PA 17405-7089

Type of Facility Pleasant Hill Reservoir  
Repainting.

Consulting Engineer Mark S. Snyder, P. E.  
The York Water Company  
130 East Market Street  
P. O. Box 15089  
York, PA 17405-7089

Permit to Construct 5/28/2010  
Issued:

**Permit No. 6710508 MA**, Minor Amendment, Public  
Water Supply.

Applicant **The York Water Company**

Municipality York Township

County **York**

Responsible Official Mark S. Snyder  
Engineering Manager  
130 East Market Street  
P. O. Box 15089  
York, PA 17405-7089

Type of Facility Leaders Heights Standpipe  
Repainting.

Consulting Engineer Mark S. Snyder, P. E.  
The York Water Company  
130 East Market Street  
P. O. Box 15089  
York, PA 17405-7089

Permit to Construct 5/28/2010  
Issued:

**Operations Permit** issued to **Country Acres MHP,  
LP**, 7380026, Jackson Township, **Lebanon County** on  
5/24/2010 for the operation of facilities approved under  
Construction Permit No. 3808502.

**Operations Permit** issued to **Liverpool Municipal  
Authority**, 7500014, Liverpool Borough, **Perry County**  
on 6/1/2010 for the operation of facilities approved under  
Construction Permit No. 5008504.

**Operations Permit** issued to **Crossroads Partners/  
Smoker Properties**, 7360740, Leacock Township,

**Lancaster County** on 5/28/2010 for the operation of  
facilities approved under Construction Permit No.  
7360740.

**Operations Permit** issued to **Watson Run Water  
System**, 7360053, Leacock Township, **Lancaster County**  
on 6/4/2010 for the operation of facilities approved under  
Construction Permit No. 3609525 MA.

**Operations Permit** issued to **Summit View Chris-  
tian School**, 7360974, Leacock Township, **Lancaster  
County** on 6/4/2010 for the operation of facilities ap-  
proved under Construction Permit No. 7360974.

**Operations Permit** issued to **Warriors Mark Gen-  
eral Authority**, 4310031, Warriors Mark Township,  
**Huntingdon County** on 6/4/2010 for the operation of  
facilities approved under Construction Permit No.  
3110503 MA.

*Northcentral Region: Water Supply Management Pro-  
gram Manager, 208 West Third Street, Williamsport, PA  
17701.*

**Permit No. 4909502—Operation**, Public Water Sup-  
ply.

Applicant **Aqua Pennsylvania—  
Roaring Creek Division**

Township or Borough Coal Township

County **Northumberland**

Responsible Official Mr. Patrick R. Burke  
Regional Manager of Northeast  
and Central Pennsylvania  
Aqua Pennsylvania—Roaring  
Creek Division  
204 East Sunbury Street  
Shamokin, PA 17872

Type of Facility Public Water Supply—Operation

Consulting Engineer Andrew R. Glitzer, P. E.  
Project Engineer CET  
Engineering Services  
321 Washington Street  
Huntingdon, PA 16652

Permit Issued Date June 8, 2010

Description of Action Operation of the 200,000 gallon  
welded steel, Trevorton water  
storage tank.

*Southwest Region: Water Supply Management Program  
Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-  
4745.*

**Permit No. 6507503A2**, Public Water Supply.

Applicant **Latrobe Municipal Authority**  
207 Waterworks Road  
Latrobe, PA 15650

Borough or Township Derry Township

County **Westmoreland**

Type of Facility Water treatment plant

Consulting Engineer Gibson-Thomas  
Engineering Co., Inc.  
1004 Ligonier Street  
P. O. Box 853  
Latrobe, PA 15650

Permit to Construct June 7, 2010  
Issued

**Operations Permit** issued to **GW Services, Inc.,  
d/b/a Glacier Water**, 1385 Park Center Drive, Vista, CA  
92081, (PWSID No. 5026467) **Beaver County** on June 7,

2010, for the operation of facilities approved under Construction Permit No. 5026467-163.

## 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.*

**2501 South Street**, City of Philadelphia, **Philadelphia County**. Jeremy Bolyn, Environmental Maintenance Company, Inc., 1420 East Mermaid Lane, Glenside, PA 19038 on behalf of Charles Loomis, The Philadelphia School, 2501 Lombard Street, Philadelphia, PA 19146 has submitted a Final Report concerning remediation of site soil contaminated with unleaded gasoline. The Report is intended to document remediation of the site to meet the Statewide Health Standard.

**Dreshertown Plaza**, Upper Dublin Township, **Montgomery County**. Craig Herr, RT Environmental Services, Inc., 215 West Church Road, King of Prussia, PA

19406, Harry Watts, Brandolini Property Management, Inc., 1301 Lancaster Avenue, Berwyn, PA 19312 has submitted a Final Report concerning remediation of site groundwater and soil contaminated with chlorinated solvents. The Report is intended to document remediation of the site to meet the Statewide Health and Site-Specific Standards.

**Sharon Hill Apartments**, Sharon Hill Borough, **Delaware County**. Richard S. Werner, Environmental Consulting, Inc., 500 East Washington Street, Suite 375, Norristown, PA 19401 on behalf of John Gilseman, Woodland Investments, LLC, 911 Ormond Road, Drexel Hill, PA 19026 has submitted a 90 day Final Report concerning remediation of site soil contaminated with diesel fuel and No. 2 fuel oil. The Report is intended to document remediation of the site to meet the Statewide Health Standard.

*Northeast Region: Ronald S. Brezinski, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Wenner Property**, 824-826 Washington Street, Freeland Borough, **Luzerne County**. John C. Lydzinski, P. G., Marshall Miller & Associates, Inc., 3913 Hartzdale Drive, Suite 1306, Camp Hill, PA 17011 has submitted a Final Report (on behalf of his client, Ken Wenner, 588 Pond Creek Road, White Haven, PA 18224), concerning the remediation of soil found to have been impacted by No. 2 fuel oil as a result of a release from a toppled over 275-gallon aboveground storage tank. The Report was submitted to document attainment of the Statewide Health Standard. A public notice regarding the submission of the Final Report was published in *The Standard Speaker* on May 29, 2010.

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Corning Frequency Control Plant 1**, Mount Holly Springs Borough, **Cumberland County**. Weston Solutions, Inc., 1400 Weston Way, P. O. Box 2653, West Chester, PA 19380, on behalf of Corning Incorporated, HP-ME-03-079, Corning, NY 14831, submitted a Final Report concerning remediation of groundwater contaminated with solvents. The Report is intended to document remediation of the site to meet the Site-Specific Standard.

**Durrett Sheppard Steel Company/Antietam Road Diesel Fuel Release**, Alsace Township, **Berks County**. Marshall Geoscience, Inc., 170 East First Avenue, Collegeville, PA 19426, on behalf of Durrett Sheppard Steel Company, Inc., 6800 East Baltimore Street, Baltimore, MD 21224, submitted a Final Report concerning remediation of site soils and surface water contaminated with diesel fuel released in a tractor-trailer accident. The Report, which was submitted within 90 days of the release, is intended to document remediation of the site to meet the Residential Statewide Health Standard.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Metso Minerals Industries, Inc.—Kennedy Van Saun Facility**, Danville Borough, **Montour County**. ELM Consulting, LLC, 111 East Kilbourn Avenue, Suite 1750, Milwaukee, WI 53202 on behalf of Metso Minerals Industries, Inc., 20965 Crossroads Circle, Waukesha, WI 53202 has submitted a Risk Assessment and Remedial Investigation Report to Remediate groundwater contaminated with chlorinated volatile organic compounds, petroleum volatile organic compounds and metals constituents. The Report is intended to document remediation of the site to meet the Site-Specific Standard.



*Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**Wolf's Head Prop South Parcel OLD (Former Wolf's Head Refinery South Parcel)**, Sugar creek Borough, **Venango County**. URS Corporation, Foster Plaza 4, 501 Holiday Drive, Suite 300, Pittsburgh, PA 15220 has submitted a Remedial Investigation/Risk Assessment Report concerning remediation of site soil contaminated with arsenic, boron, lead, mercury, dibenzofuran, bis[2-chloroethyl]ether, isophorone; site groundwater contaminated with arsenic, barium, mercury, iron, lead, manganese, benzene, 1,2,4-trimethylbenzene, 1,3,5-trimethylbenzene, cyclohexane, benzo[a]anthracene, bis[2-ethylhexyl]phthalate, chrysene, dibenzo[a,h]anthracene, isophorone, pyrene, benzo[a]pyrene, benzo[k]fluoranthene, benzo[b]fluoranthene, benzo[g,h,i]perylene; site surface water contaminated with carbon disulfide, benzo[a]anthracene, benzo[a]pyrene, benzo[k]fluoranthene, benzo[b]fluoranthene, chrysene, copper, iron, and mercury. The Remedial Investigation/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 in-

clude 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.*

**5500 Germantown Avenue**, City of Philadelphia, **Philadelphia County**. Bill Schmidt, Pennoni Associates, Inc., 3001 Market Street, Philadelphia, PA 19104 on behalf of Marc Guerin, Citizen Bank of Pennsylvania, 1701 JFK Boulevard, Philadelphia, PA 19103 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 26, 2010.

**Johnson & Johnson**, Lower Gwynedd Township **Montgomery County**. Heath A. Brown, Environmental Standards, 1140 Valley Forge Road, Valley Forge, PA 19482, Steven Ohrwaschel, Lewis Environmental Group, 155 Railroad Plaza, Royersford, PA 19468 on behalf of David G. Link, Johnson & Johnson PRD, LLC, Welsh and McKean Roads, Spring House, PA 19477 has submitted a 90 day Final Report concerning the remediation of site soil contaminated with unleaded gasoline. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on May 12, 2010.

*Northeast Region: Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Kapp Property (Estate of Robert P. Kapp Property)**, 128 Belmont Terrace, Scranton City, **Lackawanna County**. Martin Gilgallon, Pennsylvania Tectonics, Inc., 826 Main Street, Peckville, PA 18452 submitted a Final Report (on behalf of his client, Robert D. Kapp, 104 Woodlawn Avenue, Mountaintop, PA 18707), concerning the remediation of soil found to have been impacted by No. 2 fuel oil as a result of a release from a ruptured 175-gallon aboveground storage tank. The Report documented attainment of the Statewide Health Standard and was approved on June 2, 2010.

**Mayfield Elementary School**, 501 Linden Street, Mayfield Borough, **Lackawanna County**. Richard H. Doran and Martha Macklin, Dorson Environmental Management, 45 Knollwood Road, Elmsford, NY 10523 submitted a Final Report (on behalf of their client, Lakeland School District, 1355 Lakeland Drive, Scott Township, PA 18433), concerning the remediation of soil found to have been impacted by No. 2 fuel oil as a result of an overflow from a delivery of heating oil to a 3,000-gallon underground storage tank. The Report documented attainment of the Statewide Health Standard for soil and was approved on June 4, 2010.

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Westminster Place at Stewartstown (former Fypon Manufacturing Site)**, Stewartstown Borough, York County. GTA Environmental Services, Inc., 3445 Box Hill Corporate Center Drive, Abingdon, MD 21009, on behalf of Central PA Equities 12, LLC, 146 Pine Grove Circle, Suite 200, York, PA 17403, submitted a Final Report concerning remediation of site soils contaminated with tetrachloroethene (PCE). Soils had previously been remediated to a Site-Specific Standard; however, redevelopment plans include an adult residential community. This Final Report demonstrated attainment of the Residential Statewide Health Standard, and was approved by the Department of Environmental Protection on June 2, 2010.

**Sauder Fuel/William Witmer Property**, Brecknock Township, Lancaster County. Environmental Maintenance Company, Inc., 1420 East Mermaid Lane, Glenside, PA 19038, on behalf of Mr. and Mrs. William Witmer, c/o J.G. Forney, P. O. Box 275, Brownstown, PA 17508 and Sauder Fuel, Inc., P. O. Box 518, Adamstown, PA 19501 submitted a Final Report concerning remediation of site soils contaminated with No. 2 fuel oil. This Final Report demonstrated attainment of the Residential Statewide Health Standard, and was approved by the Department of Environmental Protection on June 4, 2010.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Fortuna Energy, Inc. Phinney Road Release**, Troy Township, Bradford County. URS Corp., 4507 North Front Street, Suite 200, Harrisburg, PA 17110 on behalf of Fortuna Energy, Inc., 337 Daniel Zenker Drive, Horseheads, NY 14845 has submitted a Final Report within 90 days of the release 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 June 1, 2010.

**Bolton Metal Products formerly Cerro Metal Products—Plant**, 1 Spring Township, Centre County. Chambers Environmental Group, Inc., 629 East Rolling Ridge Drive, Bellefonte, PA 16823 on behalf of The Marmon Group, LLC, 181 West Madison Street, Chicago, IL 60602 has submitted a Remedial Investigation Report concerning remediation of site soil and groundwater contaminated with trichloroethylene (TCE) that contained polychlorinated biphenyls (PCBs) Aroclor 1248. The Remedial Investigation Report was approved by the Department of Environmental Protection on June 2, 2010.

**Bolton Metal Products formerly Cerro Metal Products—North Yard**, Spring Township, Centre County. Chambers Environmental Group, Inc., 629 East Rolling Ridge Drive, Bellefonte, PA 16823 on behalf of The Marmon Group, LLC, 181 West Madison Street, Chicago, IL 60602 has submitted a Remedial Investigation Report concerning remediation of site soil and groundwater contaminated with trichloroethylene (TCE). The Remedial Investigation Report was approved by the Department of Environmental Protection on June 2, 2010.

**Bolton Metal Products formerly Cerro Metal Products—Plant 4**, Spring Township, Centre County. Chambers Environmental Group, Inc., 629 East Rolling Ridge Drive, Bellefonte, PA 16823 on behalf of The Marmon Group, LLC, 181 West Madison Street, Chicago, IL 60602 has submitted a Remedial Investigation Report concerning remediation of site groundwater contaminated

with hydraulic oil that contained polychlorinated biphenyls (PCBs) Aroclor 1248. The Remedial Investigation Report was approved by the Department of Environmental Protection on June 2, 2010.

**Bolton Metal Products formerly Cerro Metal Products—South Spring, Eastern Hillside and South Yard**, Spring Township, Centre County. Chambers Environmental Group, Inc., 629 East Rolling Ridge Drive, Bellefonte, PA 16823 on behalf of The Marmon Group, LLC, 181 West Madison Street, Chicago, IL 60602 has submitted a Remedial Investigation Report concerning site soil contaminated with metals. The Remedial Investigation Report was approved by the Department of Environmental Protection on June 2, 2010.

**Scullin Oil Co. Flood Zone Carwash**, City of Sunbury, Northumberland County. Molesevich Environmental, LLC, P. O. Box 654, Lewisburg, PA 17837 on behalf of Scullin Oil Co., 900 Spruce Street, Sunbury, PA 17801 has submitted a combined Remedial Investigation/Final Report concerning remediation of site soil and groundwater contaminated with leaded and unleaded gasoline. The Remedial Investigation/Final Report demonstrated attainment of the Site-Specific Standard and was approved by the Department of Environmental Protection on June 3, 2010.

**Barry L. Kuhns Accident**, Penn Township, Snyder County. Northridge Group, Inc., 1172 Ridge Road, Northumberland, PA 17857 on behalf of Charles and Ruth Knouse, 2242 SR 204, Selinsgrove, PA 17870 has submitted a Final Report concerning remediation of site soil contaminated with diesel fuel. The Final Report demonstrated attainment of Statewide Health Standard and was approved by the Department of Environmental Protection on June 1, 2010.

*Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**US Bronze Foundry & Machine (South Parking Lot)**, Woodcock Township, Crawford County. Geosyntec Consultants, 10220 Old Columbia Road, Suite A, Columbia, MD 21046, on behalf of U.S. Bronze Foundry & Machine, Inc., 18649 Brake Shoe Road, P. O. Box 458, Meadville, PA 16335 has submitted a Final Report concerning the remediation of site soil contaminated with lead. The Final Report demonstrated attainment of the Site-Specific Standard and was approved by the Department of Environmental Protection on June 1, 2010.

#### **DETERMINATION FOR APPLICABILITY FOR MUNICIPAL WASTE GENERAL PERMITS**

**Determination of Applicability for General Permit issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); and Municipal Waste Regulations for a General Permit To Operate Municipal Waste Processing Facilities (25 Pa. Code § 271.811 relating to authorization for general permit).**

*Southcentral Regional Office: Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200.*

**General Permit No. WMGM039-SC001. ICM of Pennsylvania, Inc.**, Cedar Hill Quarry, 636 Lancaster Avenue, Malvern, PA 19355. The Department of Environmental Protection (Department) has issued a determination of applicability under General Permit WMGM039 to ICM of Pennsylvania for their plant located at Cedar Hill

Quarry, 219 Quarry Road, Peach Bottom, PA 17563 in Fulton Township, **Lancaster County**. Permit was issued June 2, 2010.

Persons interested in reviewing the general permit may contact John Oren, Facilities Manager, Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4706. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

**OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE**

**Application(s) 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 Regulations to Operate Solid Waste Processing or Disposal Area or Site.**

*Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Permit Application No. 101587. North Schuylkill Transfer Station, LLC**, North Schuylkill Transfer Station, LLC, 10 Gilberton Road, Gilberton, PA 17934. A Permit Transfer and Renewal application to continue operation of this municipal waste transfer station, located in West Mahanoy Township, **Schuylkill County**. The permit was issued on May 26, 2010.

Persons interested in reviewing the permit may contact William Tomayko, Program Manager, Waste Management Program, Northeast Regional Office, 2 Public Square, Wilkes-Barre, PA 18711-0790, 570-826-2511. TDD users may contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service, (800) 654-5984.

**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.*

**GP3-09-0094: Contract Crushing Construction, Inc.** (432 Quarry Road, Elysburg, PA 17824) on June 8, 2010, to operate a portable nonmetallic processing plant in Wrightstown Township, **Bucks County**.

**GP9-09-0024: Contract Crushing Construction, Inc.** (432 Quarry Road, Elysburg, PA 17824) on June 8, 2010, to operate 2 (two) diesel-fired combustion engines in Wrightstown Township, **Bucks County**.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507.*

**35-310-051GP3: Kenneth Powell** (740 Justus Boulevard, Scott Township, PA 18411) on May 28, 2010, for construction and operation of a Portable Crushing Operation with watersprays at their site in Archbald Borough, **Lackawanna County**.

**35-329-006GP9: Kenneth Powell** (740 Justus Boulevard, Scott Township, PA 18411) on May 28, 2010, for

installation and operation of a Diesel I/C engine at their site in Archbald Borough, **Lackawanna County**.

**58-310-029GP3: Meshoppen Stone, Inc.** (P. O. Box 127, Frantz Road, Meshoppen, PA 18630) on May 27, 2010, for construction and operation of a Portable Crushing Operation with watersprays in Auburn Township, **Susquehanna County**.

**58-329-020GP9: Meshoppen Stone, Inc.** (P. O. Box 127, Frantz Road, Meshoppen, PA 18630) on May 27, 2010, for installation and operation of a Diesel I/C engine in Auburn Township, **Susquehanna County**.

**39-310-037GP3: HB Mellott Estate, Inc.** (100 Mellott Drive, Suite 100, Warfordsburg, PA 17267) on May 27, 2010, for construction and operation of a Portable Crushing Operation with watersprays at their site at Eastern Industries Whitehall Quarry in Whitehall Township, **Lehigh County**.

**58-310-030GP3: F.S. Lopke Contracting, Inc.** (3430 SR 434, Apalachin, NY 13732) on May 28, 2010, for construction and operation of a Portable Crushing Operation with watersprays at their site in New Milford Township, **Susquehanna County**.

**58-329-021GP9: F.S. Lopke Contracting, Inc.** (3430 SR 434, Apalachin, NY 13732) on May 28, 2010, for installation and operation of a Diesel I/C Engine at their site in New Milford Township, **Susquehanna 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.*

**GP1-36-05002: Armstrong World Industries, Inc.** (1067 Dillerville Road, P. O. Box 3001, Lancaster, PA 17604) on June 3, 2010, for three 25 mmBtu, natural gas/No. 2 oil-fired boilers at the vinyl flooring manufacturing facility located in the **Lancaster City**, Lancaster County. This is a renewal of the general permit.

**GP3-21-03097: John. W. Gleim Jr., Inc.** (625 Hamilton Street, Carlisle, PA 17013) on June 2, 2010, to relocate a crusher, screen and two conveyors to the Hempt Brothers, Inc. Locust Point Quarry in the Silver Spring Township, **Cumberland County**.

**GP11-21-03097: John. W. Gleim Jr., Inc.** (625 Hamilton Street, Carlisle, PA 17013) on June 2, 2010, to relocate two non-road engines to the Hempt Brothers, Inc. Locust Point Quarry in the Silver Spring Township, **Cumberland County**.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.*

**GP5-08-311: Talisman Energy USA, Inc.** (337 Daniel Zenker Drive, Horseheads, NY 14845) on May 24, 2010, for construction and operation of one natural gas-fired compressor engines rated at 1,150 brake-horsepower and one 200,000 Btu per hour glycol dehydrator under the General Plan Approval and/or General Operating Permit for Natural Gas, Coal Bed Methane or Gob Gas Production or Recovery Facilities (BAQ-GPA/GP-5) at the Bense Well Site in Troy Township, **Bradford County**.

**GP9-08-312: DeCristo, Inc.** (R. R. 1, Box 1600, Canton, PA 17724) on May 26, 2010, to construct and operate one Caterpillar Model C-9 DITA diesel-fired engine with a rating of 275 brake horsepower (bhp) under the General Plan Approval and/or General Operating Permit BAQ-

GPA/GP-9: Diesel or No. 2 fuel-fired Internal Combustion Engines, at a facility located in LeRoy Township, **Bradford County**.

**GP3-08-309: Glenn O. Hawbaker, Inc.** (P. O. Box 794, Wyalusing, PA 18853) on May 28, 2010, to construct and operate a portable non-metallic mineral jaw crusher with associated water spray dust suppression systems pursuant to the General Plan Approval and/or General Operating Permit For Portable Nonmetallic Mineral Processing Plants (BAQ-PGPA/GP-3) at their facility in Wyalusing Township, **Bradford County**.

**GP11-08-309: Glenn O. Hawbaker, Inc.** (P. O. Box 794, Wyalusing, PA 18853) on May 28, 2010, to construct and operate one Caterpillar model C-12 DITA diesel-fired engine with a rating of 425 brake horsepower (bhp) pursuant to the General Plan Approval and/or General Operating Permit (BAQ-GPA/GP-11): Nonroad Engines at their facility in Wyalusing Township, **Bradford County**.

**GP3-59-203: Siri Sand & Stone, LLC** (782 Antrim Road, Wellsboro, PA 16901) on May 28, 2010, to construct and operate a portable non-metallic mineral jaw crusher with associated water spray dust suppression systems pursuant to the General Plan Approval and/or General Operating Permit For Portable Nonmetallic Mineral Processing Plants (BAQ-PGPA/GP-3) at a facility in Duncan Township, **Tioga County**.

**GP9-59-203: Siri Sand & Stone, LLC** (782 Antrim Road, Wellsboro, PA 16901) on May 28, 2010, to construct and operate one Caterpillar Model C-9 diesel-fired engine with a rating of 350 brake horsepower (bhp) under the General Plan Approval and/or General Operating Permit BAQ-GPA/GP-9: Diesel or No. 2 fuel-fired Internal Combustion Engines, at a facility located in Duncan Township, **Tioga County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: Barb Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226.*

**GP5-32-000381B: XTO Energy, Inc.**, 810 Houston Street, Fort Worth, TX 76102, on June 1, 2010, to construct and operate one natural gas compressor engine at their Pineton Station located in White Township, **Indiana County**.

**GP9-63-00942A: MarkWest Liberty Midstream & Resources, LLC** (1515 Arapahoe Street, Tower 2, Suite 700, Denver, CO 80202) on May 28, 2010, for a general operating permit for the construction and operation of a Whisper Watt generator set powered with a John Deere 6068 HF285 197 bhp engine at their Dryer Compressor Station located at Independence Township, **Washington County**.

**GP9-63-00938A: MarkWest Liberty Midstream & Resources, LLC** 1515 Arapahoe Street, Tower 2, Suite 700, Denver, CO 80202) on May 28, 2010, for a general operating permit for the construction and operation of a Whisper Watt generator set powered with a John Deere 6068 HF285 197 bhp engine at for their Hoskins Compressor Station located at Donegal Township, **Washington County**.

**GP9-63-00947A: MarkWest Liberty Midstream & Resources, LLC** (1515 Arapahoe Street, Tower 2, Suite 700, Denver, CO 80202) on May 28, 2010, for a general operating permit for the construction and operation of a Whisper Watt generator set powered with a John Deere 6068 HF285 197 bhp engine at their Lowry Compressor Station located at Hopewell Township, **Washington County**.

**GP9-63-00235: Alcoa, Inc.** (100 Technical Drive, Alcoa Center, PA 15069-0001) on June 7, 2010, for a general operating permit for the construction and operation of a Caterpillar XQ400 Model C15DITA 563 bhp engine at their Alcoa Technical Center located at Upper Burrell Township, **Westmoreland 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.*

**46-0020G: Superior Tube Co., Inc.** (3900 Germantown Pike, Collegetown, PA 19426) on June 4, 2010, for replacement of an existing pickling and passivation operation with new a pickling and passivation operation controlled by a mist eliminator in Lower Providence Township, **Montgomery County**. This modification will increase the potential to emit Nitrogen Oxides (NO<sub>x</sub>) by 10.90 tons per year. This facility is a Title V Facility. The Plan approval will contain record keeping and operating restriction designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

**09-0189B: Eureka Stone Quarry, Inc.** (P. O. Box 249, Chalfont, PA 18914) on June 4, 2010, for construction of Phase II of an existing stone crushing plant at the Warrington Quarry, in Warrington Township, **Bucks County**. The project will include installation of a secondary and tertiary crushers, associated screens and conveyors. Plan Approval 09-0189A, which authorized a primary crusher, associated screens and conveyors (Phase I), will be modified and incorporated in Plan Approval 09-0189B. Fugitive dust emissions will be controlled by a wet (water spray) dust suppression system. The facility will be subject to the New Source Performance Standard for Nonmetallic Mineral Processing Plants (Subpart 000). The company will comply with good air pollution control practices, monitoring and recordkeeping procedures 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.*

**48-309-133: Greenstar Allentown, LLC** (799 Smith Lane, Northampton, PA 18067-1500) on May 24, 2010, for installation and operation of new baghouses at their site in Northampton Borough, **Northampton 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.*

**36-05136C: Granger Energy of Honeybrook, LLC** (P. O. Box 27185, 16980 Wood Road, Lansing, MI 48909-7185) on June 4, 2010, for construction of a second landfill gas (LFG) engine generator set and modification

to the existing LFG engine generator set at its facility at the Lanchester Landfill, located in Caernarvon Township, **Lancaster County**.

**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.*

**46-0270: Timberlane, Inc.** (150 Domorah Drive, Montgomeryville, PA 18936) on June 2, 2010, to operate two spray booths in Montgomery Township, **Montgomery County**.

**09-0122C: Arkema Inc.** (100 PA Route 413, Bristol, PA 19007) on June 4, 2010, to operate a new compounding line in Bristol Township, **Bucks County**.

**15-0027I: Johnson Matthey, Inc.** (456 Devon Park Drive, Wayne, PA 19087) on June 4, 2010, to operate a new diesel catalysts production line No. 1 in Tredyffrin Township, **Chester County**.

**46-0266: Hanson Pipe & Products, Inc.** (201 South Keim Street, Pottstown, PA 19464) on June 4, 2010, to operate a concrete, sealing, and coating operation in Pottstown Borough, **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.*

**08-00003H: CraftMaster Manufacturing, Inc.** (P. O. Box 311, Shiner Road, Towanda, PA 18848) on May 26, 2010, to extend the deadline for the required VOC stack test of the Line 2 Refiners and First Stage Dryers/Felter Operations and Line 2 Press. The required testing shall be completed on or before August 20, 2010, at the facility in Wysox Township, **Bradford County**.

**14-328-002: Dominion Transmission, Inc.** (P. O. Box 2450, Clarksburg, WV 26302-2450), on May 24, 2010, to authorize insignificant increase in the total combined volatile hazardous air pollutant emission limitation for Source ID P102.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: M. Gorog and B. Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226.*

**26-00562A: Coastal Lumber Co.** (3302 Lobban Place, Charlottesville, VA 22903) on June 3, 2010 to extend the period of temporary operation of sources and controls covered under plan approval PA-26-00562A at their Hopwood Sawmill in South Union Township, **Fayette County**. This plan approval extension is effective June 4, 2010, with an expiration date of December 4, 2010.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940.*

**62-032C: Ellwood National Forge—Irvine Plant** (One Front Street, Irvine, PA 16329) on May 31, 2010, to install two new gas neutralizer emissions control devices on the existing four nitride furnaces in Brokenheart Township, **Warren County**. This is a Title V facility.

**Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.**

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Matthew Williams, Facilities Permitting Chief—Telephone: 814-332-6940.*

**10-00062: PA State System of Higher Education—Slippery Rock University, SRU** (1 Morrow Way, Maintenance Center, Slippery Rock, PA 16057-1313) on June 2, 2010, to re-issue the Title V Operating Permit for their facility in the Borough of Slippery Rock, **Butler County**. SRU air emission sources are as followed: three 35.5 mmBtu/hr co-fired natural gas and coal boilers, 26 mmBtu/hr natural gas fired boiler and approximately 17 IC Engines. The facility, by rulemaking, is a Title V facility and is therefore subject to the Title V Operating Permit requirements adopted in 25 Pa. Code Chapter 127, Subchapter G.

**20-00123: Lord Corp.—Cambridge Springs** (124 Grant Street, Cambridge Springs, PA 16403) on May 3, 2010, issued an administrative amendment to the Title V Operating Permit to incorporate the plan approval conditions for 20-123C and 20-123D for their facility in Cambridge Springs Borough, **Crawford 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.*

**36-05136C: Granger Energy of Honeybrook, LLC** (P. O. Box 27185, 16980 Wood Road, Lansing, MI 48909-7185) on June 4, 2010, for construction of a second landfill gas (LFG) engine generator set and modification to the existing LFG engine generator set at its facility at the Lanchester Landfill, located in Caernarvon Township, **Lancaster 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.*

**54-00077: Northeast Prestressed Products, LLC** (121 River Street, Cressona, PA 17972) on June 8, 2010, to operate a concrete block and brick manufacturing facility in Cressona Borough, **Schuylkill County**. This is a new State-only Operating Permit.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: Barbara Hatch, Facilities Permitting Chief—Telephone: 412-442-4174.*

**03-00093: Keystone Coal Mining Corp.—Keystone Cleaning Plant** (1000 Consol Energy Drive, Canonsburg, PA 15317) on June 7, 2010, for the facility's major sources of emissions which include truck dumping into coal hopper, vertical and radial coal stackers, coal conveyors, plant roadways, storage piles and emissions from air pollution control devices, 10 in Plumcreek Township, **Armstrong County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Matthew Williams, Facilities Permitting Chief—Telephone: 814-332-6940.*

**24-00145: GE Thermometrics, Inc.** (967 Windfall Road, St. Marys, PA 15857) on June 2, 2010, to issue a Synthetic Minor Operating Permit to operate an electronic resistor manufacturing facility in the City of St. Marys, **Elk County**. This facility had previously been permitted as a Title V Operating Permit but has reduced emissions sufficiently to no longer be classified as a major source of emissions.

**33-00159: Brookville Mining Equipment Corp.** (175 Evans Street, P. O. Box 130, Brookville, PA 15825), on June 2, 2010, to issue a renewal State-only Operating Permit for their facility in Pine Creek Township, **Jefferson County**. The facility is a Natural Minor. The facility manufactures and restores mining and railroad cars and other equipment. The primary sources at the facility include a spray booth for coating and a heater for the booth and a parts cleaner. The facility uses some coatings that contain the Target HAP so the requirements for 40 CFR 63, Subpart HHHHHH have been included in the renewal permit. The renewal permit also contains emission restrictions, recordkeeping, work practice, and additional requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act.

**37-00307: PSC Metals, Inc.—New Castle Plant** (P. O. Box 310, Slippery Rock, PA 16057-0310) on June 2, 2010, to re-issue the Natural Minor Operating Permit for this scrap metal processing facility at 214 Gardner Avenue, New Castle City, **Lawrence County**.

**28-05037: Jerr Dan Corp.** (1080 Hykes Road, Greencastle, PA 17225-9647) on May 28, 2010, for a vehicle manufacturing and surface coating facility located in Antrim Township, **Franklin County**. This is a renewal of the State-only operating permit.

**22-03028: Linda B. Corson.** (885 Allegheny Street, Dauphin, PA 17018-8905) on June 1, 2010, for an animal crematorium located in Middle Paxton Township, **Dauphin County**. This is a renewal of the State-only operating permit.

---

**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.*

**46-00018: Brown Printing Co.** (668 Gravel Pike, East Greenville, PA 18041) on June 3, 2010, for a minor modification of TVOP No. 46-00081 for their facility in Upper Hanover Township, **Montgomery County**. The minor modification adds a limit on single hazardous air pollutants of less than 10 tons per year on a 12-month rolling sum basis and a limit on all hazardous air pollutants combined of 25 tons per year on a 12-month rolling sum basis. The modified TVOP includes monitoring, recordkeeping, reporting and work practice requirements designed to keep the facility operating within all applicable air quality requirements.

Minor modification of TVOP No. 46-00018 is issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.462.

**09-00015: Rohm and Haas Co.—Bristol Facility** (200 Route 413, Bristol Township, Bucks County, PA 19007) on June 3, 2010, for an administrative amendment to the Title V Operating Permit at their Bristol facility in Bristol Township, **Bucks County**. The facility is a diverse chemical manufacturing plant with a variety of continuous and batch-type processes. In general, the plant specializes in various acrylate polymerization reactions to produce products such as emulsions, plastics, coatings and resins.

The permit is being amended to incorporate the following General Plan Approvals/General Operating Permits in the existing Title V Operating Permit:

(i) 09-323-007GP for the pyrolytic oven at the Croydon area of the facility.

(ii) 09-329-004GP for a diesel fuel-fired internal combustion engine at the Central Engineering Division of the facility.

In addition, the Responsible Official at the facility has been changed. The Responsible Official is now Jeffrey L. Blatt, Site Leader (Bristol Site).

**46-00013: Hatfield Quality Meats, Inc.—A Subsidiary of The Clemens Family** (2700 Funks Road, P. O. Box 902, Hatfield, PA 19440-0902) on June 3, 2010, to administratively amend this Title V Operating Permit to incorporate language change for Johnston Boiler, Source Id 036 located at 2700 Funks Road, Hatfield Township, **Montgomery County**. The conditions of Title V Operating Permit were amended for all facility NOx sources. This Title V Operating Permit was administratively amended to incorporate language change for Johnston Boiler, Source Id 036.

**15-00115: QVC, Inc.** (1200 Wilson Drive, West Chester, PA 19380) on June 4, 2010, for a Minor Operating Permit Modification of a Non-Title V Facility, State-only, Synthetic Minor Operating Permit in West Goshen Township, **Chester County**. QVC, Inc. has been approved for the removal of conditions that previously allowed them participate in an interruptible load for reliability agreement with PECO. QVC no longer participates in this program. This change in permit conditions does not result in any emission increases. The permit will continue to contain monitoring, recordkeeping, reporting and work practice standards designed to keep the facility operating within all applicable air quality requirements.

**09-00037: CMS Gilbreth Packaging Systems, Inc.** (3001 State Road, Croydon, PA 19021) on June 8, 2010, this graphic arts packaging and labeling company is a Title V Facility, currently operating under TVOP-09-00037 in Bristol Township, **Bucks County**. The facility is major for VOC emissions and an area source for HAP emissions. Administrative Amendment of Title V Operating Permit issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450. The amendment incorporates terms and conditions from Plan Approval No. 09-0037G, which allows for the modification of a new ten (10) color Rotomec Rotogravure Printing Press (Source ID 204A); emissions from the press are controlled by the existing Regenerative Thermal Oxidizer. With this amendment, Source ID 202 Tecmo-8 Press will be removed from the permit. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility within all applicable air quality requirements.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Matthew Williams, Facilities Permitting Chief—Telephone: 814-332-6940.*

**20-00017: Morgan AM&T** (441 Hall Avenue, Saint Marys, PA 15857) on May 27, 2010, to issue an administrative amendment to the State-only Operating Permit to incorporate the plan approval conditions for 20-017B for their facility in Saint Marys City, **Elk County**.

**36-05008: Tyson Foods, Inc.** (P. O. Box 1156, 403 South Custer Avenue, New Holland, PA 17557-0901) on June 1, 2010, for a poultry processing facility in Earl Township, **Lancaster County**. This State-only operating permit was administratively amended to incorporate the provisions of Plan Approvals 36-05008E and 36-05008F. This is revision 2 of the permit.

## 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.*

**03961301 and NPDES Permit No. PA03961301, Rosebud Mining Company**, (301 Market Street, Kittanning, PA 16201), to revise the permit for the Tracy Lynne Mine in Kiskiminetas Township, **Armstrong County** and related NPDES permit to construct mine water treatment ponds and a new NPDES discharge point. Surface Acres Proposed 15.5. Receiving Stream: Tributary 9 to Roaring Run, classified for the following use: CWF. Application received: January 22, 2009. Permit issued: June 2, 2010.

**30831303, Cumberland Coal Resources, LP**, (158 Portal Road, P. O. Box 1020, Waynesburg, PA 15370), to revise the permit for the Cumberland Mine in Whiteley Township, **Greene County**, ACOE Pittsburgh (Garards Fork and Oak Forest, PA Quadrangle) N: 9.45 inches; W: 15.43 inches to N: 9.98 inches; W: 12.74 inches, and N: 11.05 inches; W: 12.40 inches to N: 10.71 inches; W: 12.30 inches, and N: 11.35 inches; W: 13.72 inches to N: 10.92 inches; W: 13.52 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 resto-

ration for pooling or flow loss due to longwall mining to four areas of Whiteley Creek, one area of Dutch Run, and one area of Dyers Fork. Application received: April 7, 2008. Permit issued: June 3, 2010.

**30841307 and NPDES Permit No. PA0213438, Emerald Coal Resources, LP**, (P. O. Box 1020, 158 Portal Road, Waynesburg, PA 15370), to review the permit for the Emerald Mine No. 1 in Franklin Township, **Greene County** to add acreage to the subsidence control plan permit area for longwall mining. Subsidence Control Plan Acres Proposed 932.0. No additional discharges. Application received: October 29, 2008. Permit issued: June 3, 2010.

**30080701 and NPDES Permit No. PA0235806, Consol PA Coal Company, LLC**, (1525 Pleasant Grove Road, P. O. Box J, Claysville, PA 15243), to operate the Bailey Central Mine Complex Coal Refuse Disposal Area No. 5 in Richhill Township, **Greene County** a new coal refuse disposal area and related NPDES permit for sediment pond development. In conjunction with this approval, the Department of Environmental Protection is granting 401 Water Quality Certification certifying that the approval activities will comply with the applicable provisions of Sections 301—303, 306, and 307 of the Federal Water Pollution Control Act (33 USCA and 1431) and will not violate applicable Federal and State Water Quality standards. Coal Refuse Disposal Support Acres Proposed 91.5. Receiving stream: Unnamed tributary to Owens Run, classified for the following use: WWF. Application received: September 9, 2010. Permit issued: June 7, 2010.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.*

**56070101 and NPDES No. PA0262277. Hoffman Mining, Inc.**, P. O. Box 130, Friedens, PA 15541, revision of an existing bituminous surface mine to change the land use from woodland to unmanaged natural habitat, in Paint Township, **Somerset County**, affecting 223.3 acres. Receiving stream(s): unnamed tributaries to Shade Creek classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: January 29, 2010. Permit issued: May 26, 2010.

**56080107 and NPDES No. PA0262684. Fieg Brothers**, 3070 Stoystown Road, Stoystown, PA 15563 commencement, operation and restoration of a bituminous surface mine in Southampton Township, **Somerset County**, affecting 162.1 acres. Receiving stream(s): Powder Run to Gladdens Run to Wills Creek, unnamed tributaries to Wills Creek classified for the following use(s): high quality cold water fishery. There will be no discharge of treated wastewater to the receiving stream; non discharge alternatives will be employed. There are no potable water supply intakes within 10 miles downstream. Application received: July 31, 2008. Permit issued: June 3, 2010.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**14080102 and NPDES No. PA0256854. AMFIRE Mining Co., LLC** (One Energy Place, Latrobe, PA 15650). Revision to add auger mining to an existing bituminous surface mine located in Rush Township, **Centre County** affecting 173.4 acres. Receiving streams: unnamed tributaries to Moshannon Creek classified for Trout Stocked Fishery. There are no potable water supply intakes within 10 miles downstream. Application received: March 24, 2010. Permit issued: May 27, 2010.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**54783205R5. RJBB Coal Company**, (144 Trenton, Mahanoy City, PA 17948), renewal of an existing anthracite coal refuse reprocessing operation in Delano Township, **Schuylkill County** affecting 4.0 acres, receiving stream: none. Application received: December 2, 2009. Renewal issued: June 2, 2010.

*Noncoal Permits Actions*

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**08090303 and NPDES No. PA0257192. DeCristo, Inc.** (R. R. 1, Box 1600, Canton, PA 17724). Commencement, operation and restoration of a shale and sand and gravel operation in LeRoy Township, **Bradford County** affecting 59.6 acres. Receiving streams: unnamed tributary to Towanda Creek classified for Cold Water Fishery. There are no potable water supply intakes within 10 miles downstream. Application received: June 29, 2009. Permit issued: June 1, 2010.

**59020302 and NPDES No. PA0243272. Fred J. Robbins** (R. R. 2, Box 25A, Tioga, PA 16946). Renewal of the NPDES Permit, there are no discharges from this gravel pit operation located in Lawrence Township, **Tioga County**. Application received: January 28, 2010. Permit issued: May 25, 2010.

**08090801 Kevin E. Johnson** (R. R. 1, Box 157-A, Sugar Run, PA 18846), commencement, operation and restoration of a Bluestone operation in Wilmot Township, **Bradford County** affecting 1.0 acre. Receiving stream(s): Unnamed Tributary and North Branch of the Susquehanna. Application received: February 23, 2009. Permit issued: May 12, 2010.

**08102802 B. C. Crushing, Inc.** (R. R. 3, Box 3394, Laceyville, PA 18623), commencement, operation and restoration of a Bluestone operation in Stevens Township, **Bradford County** affecting 3.0 acres. Receiving stream(s): Unnamed Tributary, Wolf Creek, and Wyalusing Creek. Application received: February 17, 2010. Permit issued: May 17, 2010.

**53040802. Blackbird Meadow Farm, LLC** (169 Musto Hollow Road, Ulysses, PA 16948). Transfer of an existing small noncoal flagstone operation from James M. Kiefer in Bingham Township, **Potter County** affecting 1.0 acre. Receiving stream(s): Turner Creek and East Branch Genessee River. Application received: November 18, 2009. Permit issued: May 24, 2010.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**4873SM3C3 and NPDES Permit No. PA0595021. Kinsley Construction, Inc.**, (P. O. Box 2886, York, PA 17405), renewal of NPDES Permit for discharge of treated mine drainage in Springettsbury Township, **York County**, receiving stream: unnamed tributary to Codorus Creek. Application received: April 8, 2010. Renewal issued: June 2, 2010.

**6277SM1A1C8 and NPDES Permit No. PA0595080. Compass Quarries, Inc., d/b/a Independence Construction Materials**, (47 McIlvaine Road, Paradise, PA 17562), renewal of NPDES Permit for discharge of treated mine drainage in Paradise Township, **Lancaster County**, receiving stream: Londonland Run. Application received: April 8, 2010. Renewal issued: June 2, 2010.

**7474SM1A1C11 and NPDES Permit No. PA0119253. Eastern Industries, Inc.**, (4401 Camp Meeting Road, Suite 200, Center Valley, PA 18034), renewal of NPDES Permit for discharge of treated mine drainage in Lower Nazareth Township, **Northampton County**, receiving stream: unnamed tributary to Schoeneck Creek. Application received: April 14, 2010. Renewal issued: June 2, 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*

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**08104010. Brainard Explosives, LLC** (3978 SR 2073, Kingsley, PA 18826). Construction blasting for the Pauliny well site located in Terry Township, **Bradford County**. Permit issued: May 27, 2010. Permit expires: July 30, 2010.

**08104011. Geokinetics** (R. R. 6, Box 6176, Towanda, PA 18848). Seismic exploration blasting located in Athens, Ulster, Sheshequin, Litchfield, Windham, Rome, Orwell, Warren and Pike Townships, **Bradford County**. Permit issued: June 3, 2010. Permit expires: June 1, 2011.

**08104012. Brainard Explosives, LLC** (3978 SR 2073, Kingsley, PA 18826). Construction blasting for a well pad—Church Road—located in Wilmot Township, **Bradford County**. Permit issued: May 27, 2010. Permit expires: July 30, 2010.

**08104013. Brainard Explosives, LLC** (3978 SR 2073, Kingsley, PA 18826). Construction blasting for a well pad—Therm well pad, Red Rock Road—located in Standing Stone Township, **Bradford County**. Permit issued: June 1, 2010. Permit expires: July 30, 2010.

**14104003. CGG Veritas Land (US), Inc.** (10300 Town Park Drive, Houston, TX 77072). Test holes blasting—Centre 3D—located in Burnside and Snow Shoe Townships, **Centre County**. Permit issued: June 4, 2010. Permit expires: July 31, 2010.

**17104005. CGG Veritas Land (US), Inc.** (10300 Town Park Drive, Houston, TX 77072). Test holes blasting—Centre 3D—located in Karthaus, Covington and Cooper Townships, **Clearfield County**. Permit issued: June 4, 2010. Permit expires: July 31, 2010.

**41104004. Tidelands Geophysical Co.** (101 East Park Boulevard, Plano, TX 75074). Seismic exploration blasting—Muncy Creek 3D—located in Laporte, Davidson, Shrewsburg, Penn, Wolf, Mill Creek Townships and Picutre Rocks Borough, **Lycoming and Sullivan Counties**. Permit issued: May 27, 2010. Permit expires: April 1, 2011.

**59104102. M & J Explosives, Inc.** (P. O. Box 608, Carlisle, PA 17013). Construction blasting for a pipeline—Hemlock Line—located in Ward Township, **Tioga County**. Permit issued: June 3, 2010. Permit expires: June 30, 2011.



*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**09094104. Austin Powder Northeast, LLC**, (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for ECMS 47395 SR 202 Sec 721 in Warwick and Warrington Townships, **Bucks County** with an expiration date of May 24, 2011. Permit issued: June 1, 2010.

**64104003. National Quarry Service, Inc.**, (4570 Frye Bridge Road, Clemmons, NC 27012), construction blasting for the Prompton Dam/Emergency Spillway in Prompton Borough, **Wayne County** with an expiration date of March 31, 2011. Permit issued: June 3, 2010.

**58104020. Geokinetics**, (R. R. 6, Box 6176, Towanda, PA 18848), construction blasting for the Susquehanna PA Phase 1 in Lathrop, Lenox, Harford, Gibson and Clifford Townships, **Susquehanna County** with an expiration date of June 30, 2011. Permit issued: June 4, 2010.

**40104001. Franzosa Trucking**, (1037 Peace Street, Hazleton, PA 18201) and Bernard J. Hasara Drilling & Blasting, (1125 East Mahanoy Avenue, Mahanoy City, PA 17948), construction blasting for the Foster Township Sewer Job in Foster Township, **Luzerne County** with an expiration date of August 31, 2010. Permit issued: June 7, 2010.

**35104002. Geokinetics**, (R. R. 6, Box 6176, Towanda, PA 18848), construction blasting for the Susquehanna PA Phase 1 in Benton and Greenfield Townships, **Lackawanna County** with an expiration date of June 30, 2011. Permit issued: June 7, 2010.

**66104001. Geokinetics**, (R. R. 6, Box 6176, Towanda, PA 19948), construction blasting for the Susquehanna PA Phase 1 in Nicholson and Clinton Townships, **Wyoming County** with an expiration date of June 30, 2011. Permit issued: June 7, 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

*Northeast Regional Office: Watershed Management Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**E39-502. Department of Transportation Engineering District 5-0**, 1002 Hamilton Street Allentown, PA 18101-1013. Upper Saucon Township, **Lehigh County**, Army Corps of Engineers Philadelphia District.

To place fill in 0.25 acre of EV wetland; remove the existing structure; to construct and maintain a single-span, pre-stressed concrete, spread box beam bridge having a normal span of 63.5 feet and a minimum underclearance of 5.3 feet; and to construct and maintain 3 outfall structures within South Branch Saucon Creek (CWF, MF). The permittee is required to provide 0.49 acre of replacement wetlands. The proposed bridge will be located approximately 45 feet downstream of the current bridge location. The project is located along SR 2045 (Center Valley Road), Segment 0050, Offset 0516, approximately 520 feet north of the SR 2045/SR 2028 intersection (Allentown East, PA Quadrangle Latitude: 40° 31' 29"; Longitude: 75° 23' 27") in Upper Saucon Township, Lehigh County.

*Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636.*

**E41-603. Borough of Duboistown**, 2651 Euclid Avenue, Duboistown, PA 17702-6754. Small Projects Water Obstruction and Encroachment Joint Permit, in Borough of Duboistown, **Lycoming County**, ACOE Susquehanna River Basin District (Williamsport, PA Quadrangle N: 41° 13' 25"; W: 77° 2' 22").

To construct and maintain a circular, flow equalization tank measuring 80 feet in diameter and 28 feet high in the delineated floodway of Mosquito Creek, 90 feet of 8-inch diameter force main under Mosquito Creek, all of which is located south of the intersection of SR 3006 and Arch Street in the Borough of Duboistown, Lycoming County. There are no proposed wetland impacts. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E49-304. Northeastern ITS**, 6779 Engle Road, Middleburg Heights, OH 44130. Wilderness Fiber Optic Project, in various Municipalities, **Northumberland County**, ACOE Baltimore District.

To construct, operate and maintain a conduit fiber optic system across Pennsylvania along roadway right-of-ways. The project originates in Cleveland, OH and terminates in New Jersey running approximately 450 miles. A total

of 28.4 miles of Northumberland County will be traversed by the project beginning at the Snyder County/Northumberland County border on SR 0061 and ending at the Northumberland County/Columbia County border on SR 0054. The project will cross a total of 28 streams in Northumberland County via boring. There are no wetland crossings Authorized with this permit. The proposed crossings are listed as follows:

Table 2. Northumberland 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>
Sunbury Borough	S-NO-001	40° 51' 32.86"	76° 46' 32.28"	175	attach/bore	Shamokin Creek	Perennial	WWF, MF	N	N
Upper Augusta Township	S-NO-002	40° 51' 31.44"	76° 45' 58.82"	200	attach/bore	Little Shamokin Creek	Perennial	CWF, MF	N	N
Shamokin Township	S-NO-003	40° 51' 31.10"	76° 41' 23.69"	7	bore	Tributary to Plum Creek	Perennial	CWF, MF	N	N
Shamokin Township	S-NO-004	40° 51' 07.49"	76° 40' 19.32"	7	bore/trench	Tributary to Shamokin Creek	Intermittent	CWF, MF	N	N
Shamokin Township	S-NO-005	40° 51' 07.67"	76° 40' 17.52"	70	bore	Tributary to Shamokin Creek	Perennial	CWF, MF	N	N
Shamokin Township	S-NO-006	40° 51' 08.24"	76° 39' 27.29"	3	bore/trench	Tributary to Shamokin Creek	Seasonal	CWF, MF	N	N
Shamokin Township	S-NO-007	40° 51' 08.28"	76° 39' 07.37"	50	bore/trench	Tributary to Shamokin Creek	Intermittent	CWF, MF	N	N
Shamokin Township	S-NO-008	40° 51' 06.24"	76° 38' 49.99"	50	bore/trench	Tributary to Shamokin Creek	Intermittent	CWF, MF	N	N
Shamokin Township	S-NO-009	40° 51' 03.13"	76° 38' 14.19"	35	bore	Tributary to Shamokin Creek	Intermittent	CWF, MF	N	N
Shamokin Township	S-NO-010	40° 51' 02.53"	76° 38' 06.99"	5	bore/trench	Tributary to Shamokin Creek	Intermittent	CWF, MF	N	N
Shamokin Township	S-NO-011	40° 51' 01.18"	76° 37' 50.33"	8	bore/trench	Tributary to Shamokin Creek	Intermittent	CWF, MF	N	N
Shamokin Township	S-NO-012	40° 51' 01.00"	76° 37' 47.87"	3	bore/trench	Tributary to Shamokin Creek	Intermittent	CWF, MF	N	N
Shamokin Township	S-NO-013	40° 50' 59.72"	76° 37' 32.13"	5	bore/trench	Tributary to Shamokin Creek	Intermittent	CWF, MF	N	N
Shamokin Township	S-NO-014	40° 50' 59.32"	76° 37' 26.98"	4	bore/trench	Tributary to Shamokin Creek	Intermittent	CWF, MF	N	N

Table 2. Northumberland 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)
Shamokin Township	S-NO-015	40° 50' 58.82"	76° 37' 20.25"	10	bore	Tributary to Shamokin Creek	Intermittent	CWF, MF	N	N
Shamokin Township	S-NO-016	40° 50' 57.51"	76° 37' 05.53"	4	bore	Tributary to Lick Creek	Intermittent	CWF, MF	N	N
Shamokin/Ralphe Townships	S-NO-017	40° 50' 21.91"	76° 35' 02.97"	150	attach/bore	Shamokin Creek	Perennial	WWF, MF	N	N
Ralphe Township	S-NO-018	40° 50' 20.94"	76° 34' 53.13"	80	bore	Millers Run	Perennial	CWF, MF	N	N
Ralphe Township	S-NO-019	40° 50' 25.13"	76° 34' 30.17"	55	bore	Millers Run	Perennial	CWF, MF	N	N
Ralphe Township	S-NO-020	40° 49' 54.43"	76° 33' 24.75"	10	bore	Tributary to Millers Run	Intermittent	CWF, MF	N	N
Ralphe Township	S-NO-021	40° 49' 51.63"	76° 32' 39.22"	10	bore	Millers Run	Perennial	CWF, MF	N	N
Ralphe Township	S-NO-022	40° 49' 51.86"	76° 32' 03.80"	9	bore	Millers Run	Perennial	CWF, MF	N	N
Coal Township	S-NO-023	40° 49' 18.55"	76° 29' 45.30"	8	bore	Tributary to South Branch Roaring Creek	Perennial	HQ-CWF, MF	N	N
Mt. Carmel Township	S-NO-024	40° 47' 42.01"	76° 26' 01.11"	100	bore	North Branch Shamokin Creek	Perennial	CWF, MF	N	N
Mt. Carmel Township	S-NO-025	40° 47' 28.98"	76° 26' 26.82"	100	bore	North Branch Shamokin Creek	Perennial	CWF, MF	N	N
Mt. Carmel Township	S-NO-026	40° 46' 05.59"	76° 25' 53.21"	12	bore/trench	Tributary to North Branch Shamokin Creek	Perennial	CWF, MF	N	N
Mt. Carmel Township	S-NO-027	40° 46' 44.68"	76° 26' 47.29"	10	bore	Tributary to North Branch Shamokin Creek	Seasonal	CWF, MF	N	N
		40.8346	-76.564							
			<b>Sum</b>	<b>578</b>						

(Mount Carmel, Shamokin, Trevorton, Sunbury, Northumberland, Lewisburg, PA Quadrangles, with previously referenced coordinates) Upper Augusta, Rockefeller, Shamokin, Ralpho, Coal and Mt. Carmel Townships; Sunbury Borough, Northumberland County. This permit also includes 401 Water Quality Certification.

#### **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.*

5/21/10  
ESCGP-1 No.: ESG10-059-0001  
Applicant Name: Chief Gathering, LLC  
Contact Person: Ted Wurfel  
Address: 6051 Wallace Road Ext, Suite 210  
City: Wexford State: PA Zip Code: 15090  
County: Greene Township(s): Gilmore  
Receiving Stream(s) and Classifications: Hennen Run; Garrison Fork, other

5/4/10  
ESCGP-1 No.: ESX10-125-0035  
Applicant Name: Rice Drilling B, LLC  
Contact Person: John Lavelle  
Address: 171 Hillpointe Drive, Suite 301  
City: Canonsburg State: PA Zip Code: 15317  
County: Washington Township(s): Amwell  
Receiving Stream(s) and Classifications: Little Tenmile Creek, other

5/4/10  
ESCGP-1 No.: ESX10-007-0001  
Applicant Name: Ramge Resources—Appalachia, LLC  
Contact Person: Carla Suszkowski  
Address: 380 Southpointe Boulevard, Suite 300  
City: Canonsburg State: PA Zip Code: 15317  
County: Beaver Township(s): Independence  
Receiving Stream(s) and Classifications: UNT to Raccoon Creek, other

5/13/10  
ESCGP-1 No.: ESX10-129-0011  
Applicant Name: Atlas Resources, LLC  
Contact Person: Jeremy Hirtz  
Address: 800 Mountain View Drive  
City: Smithfield State: PA Zip Code: 15473  
County: Westmoreland Township(s): Sewickley  
Receiving Stream(s) and Classifications: Tributary of Sewickley Creek, other

4/29/10  
ESCGP-1 No.: ESX10-059-0028  
Applicant Name: Ab Resources PA, LLC  
Contact Person: Mark Deal  
Address: 6802 West Snowville Road, Suite E  
City: Brecksville State: OH Zip Code: 44141  
County: Greene Township(s): Richhill

5/7/10  
ESCGP-1 No.: ESX10-063-0004  
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): Grant  
Receiving Stream(s) and Classifications: Little Mahoning Creek (HQ-CWF); Mahoning Creek, HQ

5/13/10  
ESCGP-1 No.: ESX10-125-0037  
Applicant Name: EQT Production Company  
Applicant Name: Todd Klaner  
Address: 455 Racetrack Drive, Suite 101  
City: Washington State: PA Zip Code: 15301  
County: Washington Township(s): Amwell  
Receiving Stream(s) and Classifications: Tenmile Creek, Smith Run, other

5/19/10  
ESCGP-1 No.: ESX10-063-0005  
Applicant Name: Chief Oil and Gas, LLC  
Contact Person: Michael Hirtz  
Address: 6051 Wallace Road Ext, Suite 210  
City: Wexford State: PA Zip Code: 15090  
County: Indiana Township(s): Brush Valley  
Receiving Stream(s) and Classifications: Brush Creek, other

5/12/10  
ESCGP-1 No.: ESX10-125-0039  
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): Donegal  
Receiving Stream(s) and Classifications: UNT to Dutch Fork, HQ

5/10/10  
ESCGP-1 No.: Esx10-059-0022  
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): Cumberland  
Receiving Stream(s) and Classifications: UNTs to Muddy Creek, other

ESCGP-1 No.: ESX10-059-0034  
Applicant Name: Alpha Shale Resources, LP  
Contact Person: Toby Rice  
Address: 171 Hillpointe Drive, Suite 301  
City: Canonsburg State: PA Zip Code: 15317

County: Greene Township(s): Center and Wayne  
Receiving Stream(s) and Classifications: UNT Hargus  
Creek, HQ

5/7/10

ESCGP-1 No.: ESX10-125-0040  
Applicant Name: Atlas Resources, LLC  
Contact: Jeremy Hirtz  
Address: 800 Mountain View Drive  
City: Smithfield State: PA Zip Code: 15478  
County: Washington Township(s): West Bethlehem  
Receiving Stream(s) and Classifications: UNT to Plum  
Run, other

5/11/10 Major Rev.

ESCGP-1 No.: ESX09-059-0056  
Applicant Name: Chesapeake Appalachia, LLC  
Contact Person: Tal Oden  
Address: P. O. Box 18496  
City: Oklahoma City State: OK Zip Code: 73154-0496  
County: Greene Township(s): Aleppo  
Receiving Stream(s) and Classifications: UNT—Dunkard  
Fork (WWF)—Sorth Fork (TSF)—Dunkard Fork  
(WWF)—Cross Creek (WWF)—WV Border Ohio River,  
other

5/11/10 Major Rev.

ESCGP-1 No.: ESX10-059-0002  
Applicant Name: Chesapeake Appalachia, LLC  
Contact: Tal Oden  
Address: P. O. Box 18496  
City: Oklahoma City State: OK Zip Code: 73154-0496  
County: Greene Township(s): Aleppo  
Receiving Stream(s) and Classifications: UNT Hart's  
Run—WV Border—Pennsylvania, Other

5/14/10

ESCGP-1 No.: ESX10-125-0038  
Applicant Name: EQT Production Company  
Contact: Todd Klaner  
Address: 455 Racetrack Road, Suite 101  
City: Washington State: PA Zip Code: 15301  
County: Washington Township(s): Fallowfield  
Receiving Stream(s) and Classifications: Sawmill and  
Pigeon Creeks (Warm Water Fishery), other

5/18/10

ESCGP-1 No.: ESX10-125-0042  
Applicant Name: Markwest Liberty Midstream &  
Resources, LLC  
Contact: Robert Mchale  
Address: 100 Plaza Drive, Suite 102  
City: Atlasburg State: PA Zip Code: 15004  
County: Washington Township(s): Chartiers  
Receiving Stream(s) and Classifications: Plum Run and  
two UNTs to Plum Run, other

5/17/10 Major Rev.

ESCGP-1 No.: ESX09-059-0067  
Applicant Name: EQT Production Company  
Contact Person: Todd Klaner  
Address: 455 Racetrack Road, Suite 101  
City: Washington State: PA Zip Code: 15301  
County: Greene Township(s): Morgan  
Receiving Stream(s) and Classifications: Tributary to the  
South Fork of Tenmile Creek, Btowns Creek to the  
Mouth—WWF Brown Creek/Bear Lakes, other

2/23/10

ESCGP-1 No.: ESX10-051-0005  
Applicant Name: Phillips Exploration, Inc.  
Contact: Samuel Fragale  
Address: 502 Keystone Drive  
City: Indiana State: PA Zip Code: 15701

County: Fayette Township(s): Franklin and Dunbar  
Receiving Stream(s) and Classifications: Virgin Run and  
Redstone Creek, HQ/other

5/12/10 Major Rev.

ESCGP-1 No.: ESX09-059-0018  
Applicant Name: EQT Production Company  
Contact Person: Todd Klaner  
Address: 455 Racetrack Road, Suite 101  
City: Washington State: PA Zip Code: 15301  
County: Greene Township(s): Morgan  
Receiving Stream(s) and Classifications: Castile Run—  
Warm Water Fishery (WWF), other

5/31/10

ESCGP-1 No.: ESX10-059-0038  
Applicant Name: Coal Gas Recovery, LLC  
Contact: Joanne Reilly  
Address: 158 Portal Road  
City: Waynesburg State: PA Zip Code: 15370  
County: Greene Township(s): Center  
Receiving Stream(s) and Classifications: UNT to Pursley  
Creek/South Fork Tenmile Creek, HQ

6/1/10

ESCGP-1 No.: ESX10-059-0041  
Applicant Name: Alpha Shale Resources, LP  
Contact: Toby Rice  
Address: 171 Hillpointe Drive, Suite 301  
City: Canonsburg State: PA Zip Code: 15317  
County: Greene Township(s): Center  
Receiving Stream(s) and Classifications: UNT to Pursley  
Creek/Monongahela River, HQ

5/19/10

ESCGO-1 No.: ESX10-129-0012  
Applicant Name: Atlas Resources, LLC  
Contact: Jeremy Hirtz  
Address: 800 Mountain View Drive  
City: Smithfield State: PA Zip Code: 15478  
County: Westmoreland Township(s): Salem  
Receiving Stream(s) and Classifications: UNT to Crabtree  
Creek, other

5/18/10

ESCGP-1 No.: ESX10-125-0041  
Applicant Name: Rice Drilling B, LLC  
Contact: John Lavelle  
Address: 171 Hillpointe Drive, Suite 301  
City: Canonsburg State: PA Zip Code: 15317  
County: Washington Township(s): Amwell  
Receiving Stream(s) and Classifications: Little Tenmile  
Creek, other

*Northcentral Region: Oil and Gas Management Pro-  
gram Manager, 208 West Third Street, Williamsport, PA  
17701.*

ESCGP-1 # ESX10-015-0133

Applicant Name Chesapeake Appalachia, LLC  
Contact Person Eric Haskins  
Address 101 North Main Street  
City, State, Zip Athens, PA 18810  
County Bradford  
Township(s) Litchfield Township  
Receiving Stream(s) and Classification(s) UNT to Bullard  
Creek

Secondary—Bullard Creek

ESCGP-1 # ESX10-115-0018

Applicant Name Appalachia Midstream Services, LLC  
Contact Person Patrick Myers  
Address 100 1st Center  
City, State, Zip Horseheads, NY 14845-1015  
County Susquehanna  
Township(s) Auburn Township

Receiving Stream(s) and Classification(s) Benninger  
Creek/Susquehanna River Watershed

ESCGP-1 # ESX10-113-0002

Applicant Name Chesapeake Appalachia, LLC

Contact Person Eric Haskins

Address 101 North Main Street

City, State, Zip Athens, PA 18810

County Sullivan

Township(s) Cherry Township

Receiving Stream(s) and Classification(s) UNT of Lick  
Creek or Existing use stream

Secondary—Lick and Black Creeks

ESCGP-1 # ESX10-015-0132

Applicant Name Chesapeake Appalachia, LLC

Contact Person Eric Haskins

Address 101 North Main Street

City, State, Zip Athens, PA 18810

County Bradford

Township(s) Wysox Township

Receiving Stream(s) and Classification(s) UNT to Johnson  
Creek/UNT of Rummerfield Creek

Secondary—Johnson and Rummerfield Creeks

ESCGP-1 # ESX10-115-0017

Applicant Name Chesapeake Appalachia, LLC

Contact Person Eric Haskins

Address 101 North Main Street

City, State, Zip Athens, PA 18810

County Susquehanna

Township(s) Auburn Township

Receiving Stream(s) and Classification(s) UNT Deer Lick  
Creek

Secondary—Deer Lick Creek

ESCGP-1 # ESX10-131-0012

Applicant Name Chesapeake Appalachia, LLC

Contact Person Eric Haskins

Address 101 North Main Street

City, State, Zip Athens, PA 18810

County Wyoming

Township(s) Meshoppen Township

Receiving Stream(s) and Classification(s) UNT to  
Susquehanna River

Secondary—Susquehanna River

ESCGP-1 # ESX10-015-0134

Applicant Name Chesapeake Appalachia, LLC

Contact Person Eric Haskins

Address 101 North Main Street

City, State, Zip Athens, PA 18810

County Bradford

Township(s) Litchfield Township

Receiving Stream(s) and Classification(s) Bullard Creek

ESCGP-1 # ESX10-117-0113

Applicant Name East Resources, Inc.

Contact Person Jefferson Long

Address 301 Brush Creek Road

City, State, Zip Warrendale, PA 15086

County Union

Township(s) Tioga Township

Receiving Stream(s) and Classification(s) UNT to French  
Lick Run/West Branch Susquehanna River Basin

Secondary—Roaring Branch

ESCGP-1 # ESX10-131-0010

Applicant Name Citrus Energy Corp.

Contact Person Jeffrey Searfoss

Address 36 Hazelton Street

City, State, Zip Ashley, PA 18706

County Wyoming

Township(s) Meshoppen Township

Receiving Stream(s) and Classification(s) UNT to  
Susquehanna River

ESCGP-1 # ESX10-015-0130

Applicant Name Appalachia Midstream Services, LLC

Contact Person Patrick Myers

Address 100 1st Center

City, State, Zip Horseheads, NY 14845-1015

County Bradford

Township(s) Terry Township

Receiving Stream(s) and Classification(s) UNT to  
Susquehanna River

Secondary—Susquehanna River

ESCGP-1 # ESX10-015-0019

Applicant Name Appalachia Midstream Services, LLC

Contact Person Patrick Myers

Address 100 1st Center

City, State, Zip Horseheads, NY 14845-1015

County Bradford

Township(s) Tuscarora Township

Receiving Stream(s) and Classification(s) Susquehanna  
River Watershed

[Pa.B. Doc. No. 10-1122. Filed for public inspection June 18, 2010, 9:00 a.m.]

### Chesapeake Bay Advisory Committee Meeting Cancellation

The Chesapeake Bay Advisory Committee (Committee) meeting scheduled for July 7, 2010, has been cancelled. The next meeting of the Committee is scheduled for October 4, 2010, at the Department of Environmental Protection's Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA 17110 at 10 a.m. For more information, contact Marjorie Hughes at (717) 772-5660, or mahughes@state.pa.us.

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 10-1123. Filed for public inspection June 18, 2010, 9:00 a.m.]

### Nutrient and Sediment Reduction Credit Trading Program; Notice of Proposals

The Department of Environmental Protection (Department) provides notice of the following proposals that have been submitted under the Nutrient and Sediment Reduction Credit Trading Program (Trading Program). These proposals were submitted under The Clean Streams Law (35 P. S. §§ 691.1—691.1001), and the Final Trading of Nutrient and Sediment Reduction Credits—Policy and Guidelines (Policy) (DEP ID# 392-0900-001) (see 36 Pa.B. 7999 (December 30, 2006)). The Policy calls for a transparent system of credit reviews and approvals.

Trading is a market-based program that provides incentives for entities to create nutrient reduction credits by going beyond statutory, regulatory or voluntary obligations and goals by removing nutrients from a watershed. The credits can be traded to help others more cost-effectively meet their obligations or goals. The primary purpose of the Trading Program is to provide for more efficient ways for National Pollutant Discharge Elimination System (NPDES) permittees to meet their effluent

limits for nutrients and sediment. Currently, the focus of the program is on the Chesapeake Bay Watershed.

The proposals described in this notice relate to the submitted proposals through June 4, 2010.

*Background*

Before a credit can be used by an NPDES permittee, a three-step process is followed: (1) the credit or offset proposal must be approved; (2) it must be verified; and (3) it must be registered.

Approval is also known as certification, which is a written approval by the Department for the use of proposed or implemented activities to generate credits (in some cases the person generating the credits is not permitted to transfer them to another person, in which case they are called "offsets"). Certifications are based on at least: (1) a credit or offset proposal describing the qualifying activities that will reduce the nutrient loadings delivered to the applicable watershed; (2) the calculation to quantify the pounds of reductions expected; and (3) a verification plan that, when implemented, ensures that the qualifying nutrient reduction activities have taken place. The proposals described in this Notice apply to the Chesapeake Bay Watershed.

Once the credits or offsets are certified, they must be verified. Verification means implementation of the verification plan contained in a certification, as required by the Department. Verification plans require annual submittal of documentation to the Department that demonstrates that the qualifying nutrient reduction activities have taken place for the applicable compliance year.

The credits or offsets also need to be registered by the Department before they can be used to meet effluent limits in an NPDES permit. Registration occurs only after credits or offsets have been certified and verified and a trading contract for credits has been submitted to the Department. For the Chesapeake Bay Watershed, the Department will register credits on an annual basis for use during the compliance year in which the qualifying nutrient reduction activities have taken place and will provide such credits with an annual registry number for reporting and tracking purposes.

The Department has received 90 proposals that have been submitted for review to generate nutrient reduction credits in the Chesapeake Bay Watershed. Of those, 59 have been approved, one has been withdrawn and the remaining need additional clarification prior to qualifying for certification.

*New Proposals Under Review*

The following new proposals are being reviewed by the Department. The Department will accept written comments on these proposed projects for 30 days.

<i>Proposal Applicant</i>	<i>Proposal Description</i>
AET Consulting	Nitrogen credits to be generated by the implementation of barnyard improvements, fencing and a grazing plan, Susquehanna County.
CDM on behalf of the Elizabethtown Borough Wastewater Treatment Plant	Nitrogen and Phosphorous credits to be generated by the operation of the Wastewater Treatment Plant, Lancaster County.

For further information about this proposal or the Trading Program, or to submit comments, contact Ann Roda, Water Planning Office, Department of Environmental Protection, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 787-4726, annsmith@state.pa.us or visit the Department's web site at www.depweb.state.pa.us (DEP Keywords: "Nutrient Trading").

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 10-1124. Filed for public inspection June 18, 2010, 9:00 a.m.]

**Removal of a Site from the Pennsylvania Priority List of Hazardous Sites for Remedial Response**

*1. Purpose*

The Department of Environmental Protection (Department) is removing the F.E. Cooper Lumber Company Site (Site) from the Pennsylvania Priority List of Hazardous Sites for Remedial Response (PAPL). The Site is located in Broad Top Township, Bedford County. The Department has completed a remedial response at the Site and has determined that the actions taken are adequate to protect human health and the environment.

*2. Background*

The Hazardous Sites Cleanup Act (HSCA) (35 P. S. §§ 6020.101—6020.1305) was enacted in 1988 to provide for the cleanup of Pennsylvania sites that are releasing or threatening the release of hazardous substances. Section 502(a) of HSCA requires that the Department publish in the *Pennsylvania Bulletin* a priority list of sites with releases or threatened releases for the purpose of taking remedial response. This list is the PAPL.

*3. Placement of Sites on the List*

The Department places sites on the PAPL when the Department has determined through investigation that there are releases or threatened releases of hazardous substances, or releases or substantial threatened releases of contaminants which present a substantial danger to the public health, safety or the environment. In accordance with the requirements of section 502(a) of HSCA, the Hazard Ranking System (HRS; 40 CFR Part 300, Appendix A), established under the Federal Superfund Act is utilized to rank the sites for placement on the PAPL. The HRS uses mathematical formulas that reflect the relative importance and interrelationships of the various human health and environmental factors to arrive at a final score on a scale of 0 to 100. The values are assigned using information obtained from site investigations. Section 502(a) of HSCA also directs the Department to consider its administrative, enforcement and financial capabilities when placing sites on the PAPL.

Placement of a site on the PAPL is used to identify sites which require a remedial response to address threats to the public health, safety or the environment. The Department will decide on a case-by-case basis whether to take enforcement or other actions under HSCA or other authorities, or to proceed directly with HSCA-funded remedial response actions and seek cost recovery after the cleanup. Remedial response actions will not necessarily be taken in the same order as a site's ranking on the PAPL. The investigation conducted to place a site on the PAPL may not be sufficient to determine either the extent of contamination or the



appropriate response actions for a site. The Department may undertake further investigations to determine appropriate response actions. The length of time needed to complete these studies will vary due to the complexity of a site. The Department may decide not to immediately proceed with a HSCA remedial action or that no remedial action is necessary.

#### 4. Removal of Sites from the List

Sites are removed from the PAPL in accordance with the requirements of section 502(d) of HSCA. Section 502(d) requires that sites shall be removed from the list upon determination by the Department that the remedial response has been initiated. In cases where a responsible person will be conducting the remedial response under the terms of a settlement with the Department, section 502(d) of HSCA states that the site "shall be removed upon the determination by the Department that the responsible person has complied with the terms of the settlement and has initiated a cleanup."

#### 5. Statutory Authority

The Pennsylvania Priority List of Hazardous Sites for Remedial Response is published under the authority of section 502(a) of the HSCA. Under section 502(b) of HSCA, a decision to place a site on the list or to remove a site from the list is not a final action subject to review under the act of April 28, 1978 (P. L. 202, No. 53), 2 Pa.C.S. (relating to administrative law and procedure) or the Environmental Hearing Board Act (35 P. S. §§ 7511—7516), nor shall it confer a right or duty upon the Department or any person.

#### 6. Review and Public Comment

HSCA provides for a 30-day public comment period subsequent to publication of the PAPL. Comments concerning the removal of the F.E. Cooper Lumber Company Site from the PAPL should be directed to Arthur L. Dalla Piazza, Hazardous Sites Cleanup Program, Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA 17110, or adallapiaz@state.pa.us. Comments received by facsimile will not be accepted. Public comments must be received by the Department by July 19, 2010.

The regional office Site file contains the information considered by the Department in removing the F.E. Cooper Lumber Company Site from the PAPL. Persons interested in reviewing the Site file should contact the Southcentral Regional Office at (717) 705-4700. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

All written comments and the Department's responses will be placed into the Site file and will later be incorporated into the Administrative Record.

#### 7. Contents of List

Table 1 lists the sites remaining on the PAPL. The names of the sites, HRS scores, municipalities, counties and the Department regions are included in this table. The sites are listed in decreasing order of HRS score.

#### 8. Site Summary

The F.E. Cooper Lumber Company Site is located 2 miles south southwest of Hopewell Borough along Plank Road in Broad Top Township, Bedford County. A 10-acre contaminated area was part of an approximately 81 acre property adjacent to the Raystown Branch of the Juniata River, which forms the western and northern boundaries of the Site. The eastern and southern boundaries are formed by land owned by the Pennsylvania State Game Commission. The Site was used as a saw mill and wood preserving facility. Creosote releases occurred from the pressure treatment of wood products with a waste trough and lagoon as the main sources of contamination. The contaminants of concern at the Site included semivolatile organic compounds, principally benzo(a)pyrene and naphthalene, the chemicals associated with creosote. Site soil down into the bedrock was impacted with creosote migrating near or along the top of the bedrock surface in the overburden system and within the shallow bedrock fracture system to the river. The Site received an HRS score of 33.62 and was placed on the PAPL on May 4, 1991. The Department initiated a remedial response action at the Site in October 1998. The response action to address the contaminated soil involved the excavation, separation, and onsite treatment of approximately 84,000 tons of creosote-contaminated soil using low temperature thermal desorption. Excavation was performed to the top of bedrock, and the mostly fractured bedrock was cleaned of visible creosote contamination. In addition, approximately 662 tons of hazardous debris and 528 tons of non-hazardous debris were removed from the Site. The project also included access road installation, building demolition, clearing and grubbing, treatment of any water generated during construction, river shoreline stone revetment installation, and disturbed area revegetation. The remediation project was completed in June 2003.

As reimbursement for response costs, the property owner, R. F. Cooper, transferred ownership of the property to the Southern Alleghenies Conservancy (SAC) while cleanup was proceeding. SAC transferred ownership of the property to Broad Top Township for use as a public recreation area. At that time, use restrictions on groundwater and access to the river in the remediation area of the Site were placed on the property deed.

Further investigation has determined that the response actions implemented at the Site are adequate to protect human health and the environment. Surface wastes have been removed from the Site and soil has been treated to residential cleanup standards. While creosote contamination remains in the groundwater underlying the Site, the existing groundwater use restriction will prevent exposure to the contaminated groundwater. Groundwater at the Site does not contribute contamination to the Raystown Branch of the Juniata River and sediments do not pose an unacceptable risk to recreational users of the Site. The land use restriction regarding access to the river is no longer needed to protect human health and may be removed. Continuing operation, maintenance and monitoring actions are not required.

**Table 1**  
**Pennsylvania Priority List for Remedial Response**

<i>Site</i>	<i>HRS</i>	<i>Municipality</i>	<i>County</i>	<i>DEP Region</i>
Dupont/New Castle	54.75	New Castle	Lawrence	Northwest
Intercourse TCE	50	Leacock Township	Lancaster	Southcentral
Tomstown TCE	50	Quincy Township	Franklin	Southcentral

<i>Site</i>	<i>HRS</i>	<i>Municipality</i>	<i>County</i>	<i>DEP Region</i>
Chem Fab HSCA Site	39	Doylestown Borough and Township	Bucks	Southeast
Gettysburg Foundry	38.20	Cumberland Township	Adams	Southcentral
Bear Creek Area Chemical	28.46	Fairview, Parker, Concord Township, Petrolia, Fairview, Karns City, Bruin Borough, Butler County; Perry Township, Armstrong County	Butler, Armstrong	Northwest
Schiller	24.65	Richmond Township	Crawford	Northwest
Municipal and Industrial Disposal	19.58	Elizabeth Township	Allegheny	Southwest

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 10-1125. Filed for public inspection June 18, 2010, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Draft Title V Maternal and Child Health Services Block Grant 2009 Report and 2011 Application; Public Comment Period

During the period of June 14, 2010, to July 14, 2010, the Bureau of Family Health is accepting public comment about the Commonwealth's draft Title V Maternal and Child Health Services Block Grant 2009 Report and 2011 Application. A draft of this document is electronically accessible through the Department of Health's web site at <http://www.health.state.pa.us>. Comments must be submitted in writing to Kelly Holland at [kholland@state.pa.us](mailto:kholland@state.pa.us) or in hard copy to the address listed as follows.

Persons wishing to review the Commonwealth's draft Title V Maternal and Child Health Services Block Grant 2009 Report and 2011 Application in alternative formats (for example, hard copy, larger print, audio tape, Braille) should contact the Bureau of Family Health in writing or electronically using the following contact information, Title V Block Grant Coordinator, Bureau of Family Health, Health and Welfare Building, 7th Floor East, 625 Forster Street, Harrisburg, PA 17108, (717) 787-7192, TDD (717) 783-6514, fax (717) 772-0323, [kholland@state.pa.us](mailto:kholland@state.pa.us).

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1126. Filed for public inspection June 18, 2010, 9:00 a.m.]

### Human Immunodeficiency Virus (HIV) Community Prevention Planning Committee; Public Meetings

The Statewide HIV Community Prevention Planning Committee, established by the Department of Health (Department) under sections 301(a) and 317 of the Public Health Service Act (42 U.S.C.A. §§ 241(a) and 247b), will hold a public meeting on Wednesday, July 21, 2010, and Thursday, July 22, 2010, from 9 a.m. until 4 p.m. each day at the Harrisburg Holiday Inn West, 5401 Carlisle Pike, Mechanicsburg, PA 17050.

For additional information, contact Kenneth McGarvey, Department of Health, Bureau of Communicable Dis-

eases, Room 1010, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-0572.

Persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so, should contact Joseph Pease at the previously listed number, or at V/TT (717) 783-6514 for speech and/or hearing impaired persons, or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

The Department reserves the right to cancel this meeting without prior notice.

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1127. Filed for public inspection June 18, 2010, 9:00 a.m.]

### Integrated Human Immunodeficiency Virus (HIV) Integrated Council; Public Meeting

The Statewide Integrated HIV Planning Council, established by the Department of Health (Department) under sections 301(a) and 317 of the Public Health Service Act (42 U.S.C.A. §§ 241(a) and 247b), will hold a public meeting on Tuesday, July 13, 2010, from 9 a.m. to 2 p.m. at the Harrisburg Holiday Inn West, 5401 Carlisle Pike, Mechanicsburg, PA 17050.

For additional information, contact Joseph Pease, Department of Health, Bureau of Communicable Diseases, Division of HIV/AIDS, 625 Forster Street, Room 1010, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-0572.

Persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so, should contact Joseph Pease at the previously listed number, or at V/TT (717) 783-6514 for speech and/or hearing impaired persons, or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

The Department reserves the right to cancel this meeting without prior notice.

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1128. Filed for public inspection June 18, 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 § 205.26 (a) (relating to laundry).

Brookline Manor and Rehabilitative Services  
R. D. 1  
Box 463  
Mifflintown, PA 17059

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.67(k) (relating to electric requirements for existing and new construction).

Peter Becker Community  
800 Maple Avenue  
Harleysville, PA 19438

These requests are 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 an 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 require an alternative format of this document or who wish to comment in an alternative format (for example, large print, audiotope, Braille), should contact the Division of Nursing Care Facilities at the address listed previously, or for speech and/or hearing impaired persons V/TT (717) 783-6514, or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1129. Filed for public inspection June 18, 2010, 9:00 a.m.]

## DEPARTMENT OF LABOR AND INDUSTRY

### Current Prevailing Wage Act Debarments

The following contractors have been determined to have intentionally violated the Pennsylvania Prevailing Wage Act (act) (43 P. S. §§ 165-1—165-17). This notice is published for the information and convenience of public bodies subject to the act. Under section 11(e) of the act (43 P. S. § 165-11(e)), these contractors, or either one of them, or any firms, corporations or partnerships in which either one of these contractors has an interest, shall be awarded no contract for 3 years after the date listed.

<i>Contractor</i>	<i>Address</i>	<i>Date of Debarment</i>
Kenneth Hoff, d/b/a Complete Building Services	3181 Sumneytown Pike P. O. Box 250 Sumneytown, PA 18084	6/7/2010

<i>Contractor</i>	<i>Address</i>	<i>Date of Debarment</i>
C&C Contracting & Michael Costulas, Individually	509 Rear Lawrence Avenue Ellwood, PA 16117	6/7/2010
Magnum Services, LLC and Kenneth Hoff, Individually	3220 Deep Creek Road P. O. Box 26 Perkiomenville, PA 18074	6/7/2010

SANDI VITO,  
*Secretary*

[Pa.B. Doc. No. 10-1130. Filed for public inspection June 18, 2010, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Pennsylvania Platinum Cro\$\$word Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Platinum Cro\$\$word.

2. *Price:* The price of a Pennsylvania Platinum Cro\$\$word instant lottery game ticket is \$5.

3. *Play Symbols:* Each Pennsylvania Platinum Cro\$\$word instant lottery game ticket will feature a "YOUR LETTERS" area and two crossword puzzle play grids for the "Platinum Cro\$\$word" game known as "Grid 1" and "Grid 2" respectively. Each Pennsylvania Platinum Cro\$\$word instant lottery game ticket will also contain a "BONUS" play area. "Grid 1," "Grid 2" and the "BONUS" play area are played separately. The play symbols and their captions located in the "YOUR LETTERS" area are: the letters A through and including Z. The play symbols located in "Grid 1" and "Grid 2" of the "Platinum Cro\$\$word" game are: the letters A through and including Z. The play symbols and their captions located in the "BONUS" play area are: Cash symbol (CASH), Chest symbol (CHEST), Gift symbol (GIFT), Moneybag symbol (MNYBAG), Money symbol (MONEY), Golden nugget symbol (GLDNGT), Ring symbol (RING) and a Bar symbol (BAR).

4. *Prizes:* The prizes that can be won in "Grid 1" of the "Platinum Cro\$\$word" game are: \$5, \$10, \$20, \$40, \$100, \$400, \$1,000, \$10,000 and \$50,000. The prizes that can be won in "Grid 2" of the "Platinum Cro\$\$word" game are: \$5, \$10, \$20, \$50, \$100, \$500, \$1,000, \$10,000 and \$100,000. The prizes that can be won in the "BONUS" area are: \$20 and \$500. A player can win up to 7 times on a ticket.

5. *Approximate Number of Tickets Printed For the Game:* Approximately 10,800,000 tickets will be printed for the Pennsylvania Platinum Cro\$\$word instant lottery game.

6. *Determination of Prize Winners:*

(a) The determination of the prize winners for "Grid 1" of the "Platinum Cro\$\$word" game are:

(1) Holders of tickets where the player completely uncovers 10 words in "Grid 1" of the "Platinum Cro\$\$word" game, using only the letters found in the "YOUR LETTERS" area, on a single ticket, shall be entitled to a prize of \$50,000.

(2) Holders of tickets where the player completely uncovers 9 words in "Grid 1" of the "Platinum Cro\$\$word" game, using only the letters found in the "YOUR LETTERS" area, on a single ticket, shall be entitled to a prize of \$10,000.

(3) Holders of tickets where the player completely uncovers 8 words in "Grid 1" of the "Platinum Cro\$\$word" game, using only the letters found in the "YOUR LETTERS" area, on a single ticket, shall be entitled to a prize of \$1,000.

(4) Holders of tickets where the player completely uncovers 7 words in "Grid 1" of the "Platinum Cro\$\$word" game, using only the letters found in the "YOUR LETTERS" area, on a single ticket, shall be entitled to a prize of \$400.

(5) Holders of tickets where the player completely uncovers 6 words in "Grid 1" of the "Platinum Cro\$\$word" game, using only the letters found in the "YOUR LETTERS" area, on a single ticket, shall be entitled to a prize of \$100.

(6) Holders of tickets where the player completely uncovers 5 words in "Grid 1" of the "Platinum Cro\$\$word" game, using only the letters found in the "YOUR LETTERS" area, on a single ticket, shall be entitled to a prize of \$40.

(7) Holders of tickets where the player completely uncovers 4 words in "Grid 1" of the "Platinum Cro\$\$word" game, using only the letters found in the "YOUR LETTERS" area, on a single ticket, shall be entitled to a prize of \$20.

(8) Holders of tickets where the player completely uncovers 3 words in "Grid 1" of the "Platinum Cro\$\$word" game, using only the letters found in the "YOUR LETTERS" area, on a single ticket, shall be entitled to a prize of \$10.

(9) Holders of tickets where the player completely uncovers 2 words in "Grid 1" of the "Platinum Cro\$\$word" game, using only the letters found in the "YOUR LETTERS" area, on a single ticket, shall be entitled to a prize of \$5.

(b) The determination of the prize winners for "Grid 2" of the "Platinum Cro\$\$word" game are:

(1) Holders of tickets where the player completely uncovers 10 words in "Grid 2" of the "Platinum Cro\$\$word" game, using only the letters found in the "YOUR LETTERS" area, on a single ticket, shall be entitled to a prize of \$100,000.

(2) Holders of tickets where the player completely uncovers 9 words in "Grid 2" of the "Platinum Cro\$\$word" game, using only the letters found in the "YOUR LETTERS" area, on a single ticket, shall be entitled to a prize of \$10,000.

(3) Holders of tickets where the player completely uncovers 8 words in "Grid 2" of the "Platinum Cro\$\$word" game, using only the letters found in the "YOUR LETTERS" area, on a single ticket, shall be entitled to a prize of \$1,000.

(4) Holders of tickets where the player completely uncovers 7 words in "Grid 2" of the "Platinum Cro\$\$word"

game, using only the letters found in the "YOUR LETTERS" area, on a single ticket, shall be entitled to a prize of \$500.

(5) Holders of tickets where the player completely uncovers 6 words in "Grid 2" of the "Platinum Cro\$\$word" game, using only the letters found in the "YOUR LETTERS" area, on a single ticket, shall be entitled to a prize of \$100.

(6) Holders of tickets where the player completely uncovers 5 words in "Grid 2" of the "Platinum Cro\$\$word" game, using only the letters found in the "YOUR LETTERS" area, on a single ticket, shall be entitled to a prize of \$50.

(7) Holders of tickets where the player completely uncovers 4 words in "Grid 2" of the "Platinum Cro\$\$word" game, using only the letters found in the "YOUR LETTERS" area, on a single ticket, shall be entitled to a prize of \$20.

(8) Holders of tickets where the player completely uncovers 3 words in "Grid 2" of the "Platinum Cro\$\$word" game, using only the letters found in the "YOUR LETTERS" area, on a single ticket, shall be entitled to a prize of \$10.

(9) Holders of tickets where the player completely uncovers 2 words in "Grid 2" of the "Platinum Cro\$\$word" game, using only the letters found in the "YOUR LETTERS" area, on a single ticket, shall be entitled to a prize of \$5.

(c) The determination of the prize winners for the "BONUS" area are:

(1) Holders of tickets with a Ring (RING) play symbol in any "BONUS" spot, on a single ticket, shall be entitled to a prize of \$20.

(2) Holders of tickets with a Bar (BAR) play symbol in any "BONUS" spot, on a single ticket, shall be entitled to a prize of \$500.

*7. Game Play Instructions for the "Platinum Cro\$\$word" game are:*

(a) The player shall scratch the "YOUR LETTERS" area to reveal 18 letters. For each of the 18 letters revealed in the "YOUR LETTERS" area, the player shall rub the same letter each time it is found in either of the "Platinum Cro\$\$word" puzzle play grids.

(b) When a player reveals two or more entire words in the same "Platinum Cro\$\$word" puzzle play grid, the player is entitled to win a prize as described in Section 6(a) and 6(b).

(c) Only the highest prize won in each "Platinum Cro\$\$word" puzzle play grid and the highest prize won in the "BONUS" area will be paid if the ticket meets the criteria established in 61 Pa. Code § 819.213 (relating to ticket validation and requirements).

(d) For purposes of this game, a word must contain at least three letters and cannot be formed by linking letters diagonally or by reading the letters from the bottom to the top.

(e) Letters combined to form a word must appear in an unbroken horizontal or vertical string of letters in the same "Platinum Cro\$\$word" puzzle play grid. An unbroken string of letters cannot be interrupted by a black space and must contain every single letter square between two black spaces.

(f) Every single letter in the unbroken string must be revealed in the "YOUR LETTERS" area and be included to form a word.

(g) The possible complete words for each ticket in the game are shown on each "Platinum Cro\$\$word" puzzle play grid of the ticket. The player must match all of the

letters in a possible complete word in order to complete the word.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>GRID 1</i>	<i>GRID 2</i>	<i>BONUS</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 10,800,000 Tickets:</i>
2 WORDS			\$5	15	720,000
	2 WORDS		\$5	15	720,000
3 WORDS			\$10	30	360,000
	3 WORDS		\$10	30	360,000
4 WORDS			\$20	75	144,000
	4 WORDS		\$20	75	144,000
		\$20 w/ONE RING	\$20	150	72,000
5 WORDS			\$40	600	18,000
4 WORDS		\$20 w/ONE RING	\$40	600	18,000
4 WORDS			\$40	600	18,000
	4 WORDS	\$20 w/ONE RING	\$40	600	18,000
	4 WORDS	\$40 w/TWO RINGS	\$40	600	18,000
	5 WORDS		\$50	200	54,000
4 WORDS		\$20 w/ONE RING	\$50	600	18,000
3 WORDS		\$20 w/ONE RING	\$50	600	18,000
	4 WORDS	\$60 w/THREE RINGS	\$60	4,800	2,250
4 WORDS		\$20 w/ONE RING	\$60	6,000	1,800
5 WORDS		\$20 w/ONE RING	\$60	6,000	1,800
	4 WORDS	\$80 w/FOUR RINGS	\$80	6,000	1,800
5 WORDS		\$40 w/TWO RINGS	\$80	6,000	1,800
4 WORDS		\$40 w/TWO RINGS	\$80	6,000	1,800
6 WORDS			\$100	1,000	10,800
	6 WORDS		\$100	1,000	10,800
		\$100 w/FIVE RINGS	\$100	4,800	2,250
4 WORDS		\$80 w/FOUR RINGS	\$100	4,800	2,250
	4 WORDS	\$80 w/FOUR RINGS	\$100	4,800	2,250
5 WORDS		\$60 w/THREE RINGS	\$100	4,800	2,250
5 WORDS		\$40 w/TWO RINGS	\$100	4,800	2,250
6 WORDS		\$100 w/FIVE RINGS	\$200	12,000	900
	6 WORDS	\$100 w/FIVE RINGS	\$200	12,000	900
7 WORDS			\$400	6,000	1,800
	7 WORDS		\$500	12,000	900
		\$500 w/ONE BAR	\$500	12,000	900
8 WORDS			\$1,000	40,000	270
	8 WORDS		\$1,000	40,000	270
		\$1,000 w/TWO BARS	\$1,000	40,000	270
7 WORDS		\$100 w/FIVE RINGS	\$1,000	40,000	270
	7 WORDS	\$1,500 w/THREE BARS	\$1,500	540,000	20
8 WORDS		\$2,000 w/FOUR BARS	\$2,000	540,000	20
	8 WORDS	\$2,000 w/FOUR BARS	\$2,000	540,000	20
8 WORDS		\$500 w/ONE BAR	\$2,500	540,000	20
	8 WORDS	\$500 w/ONE BAR	\$2,500	540,000	20

GRID 1	GRID 2	BONUS	Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 10,800,000 Tickets:
		\$2,500 w/FIVE BARS	\$2,500	540,000	20
9 WORDS			\$10,000	1,080,000	10
	9 WORDS		\$10,000	1,080,000	10
10 WORDS			\$50,000	1,080,000	10
	10 WORDS		\$100,000	1,080,000	10

BONUS = Win \$20 each time you get a "RING" (RING) symbol.  
 BONUS = Win \$500 each time you get a "BAR" (BAR) symbol.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Platinum Crossword instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentive).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Platinum Crossword, prize money from winning Pennsylvania Platinum Crossword instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Platinum Crossword instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and

the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Platinum Crossword or through normal communications methods.

C. DANIEL HASSELL,  
Secretary

[Pa.B. Doc. No. 10-1131. Filed for public inspection June 18, 2010, 9:00 a.m.]

## GOVERNOR'S OFFICE

### Regulatory Agenda

Executive Order 1996-1, requires all agencies under the jurisdiction of the Governor to submit for publication an agenda of regulations under development or consideration. The following is the 29th publication of the Administration's regulatory agenda, grouped by agency. Subsequent agendas will be published on the first Saturdays in February and July.

The agendas are compiled to provide members of the regulated community advanced notice of regulatory activity. It is the intention of the Administration that these agendas will serve to increase public participation in the regulatory process.

Agency contacts should be contacted for more information regarding the regulation and the procedure for submitting comments.

This Agenda represents the Administration's present intentions regarding future regulations. The nature and complexity of an individual regulation obviously will determine whether and when any particular regulation listed below (as well as any considered subsequent to publication of this Agenda) is published.

Regulation Being Considered	Proposed Date of Promulgation	Need and Legal Basis for Action	Agency Contact
<b>ADMINISTRATION</b>			
No regulations being developed or considered at this time.			
<b>AGING</b>			
Pa. Code Title VI Chapter 15 Protective Services for Older Adults	December 2010, as proposed.	The Older Adults Protective Services Act is under review in light of the decision of the PA Supreme Court in <i>Nixon et al. v. Commonwealth, et al.</i> , which found the current protective services law to be unconstitutional. Regulations are routinely being reviewed as numerous pieces of pending legislation are being considered.	Bob McNamara (717) 772-2541
Pa. Code Title VI Chapter 23 Long-Term Care Ombudsman Program	December 2010, as proposed.	The Department wishes to promulgate regulations for the Long-Term Care Ombudsman program in order to bring it into conformity with national standards.	Wilmarie Gonzalez 783-7096

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<b>AGRICULTURE</b>			
Domestic Animal 7 Pa. Code Chapter 2, 3 and 16	January 2011, as proposed.	The long-term project is intended to update the Department's Regulatory authority to make it more consistent with the provisions of the Domestic Animal Law (3 Pa.C.S. §§ 2301—2389).	Craig E. Shultz, DVM Director (717) 772-2852
Cervidae 7 Pa. Code Chapter 18	November 2010, as proposed.	Act 190 of 2002 amended the Domestic Animal Law to require the Department to license and regulate Cervidae livestock operations. Act 51 of 2006 further amended the requirements for Cervidae livestock operations. (3 Pa.C.S. §§ 2303—2380.9).	Craig E. Shultz, DVM Director (717) 772-2852
Animal Exhibition Sanitation 7 Pa. Code Chapter 20a	January 2011, as proposed.	Act 211 of 2002 requires the Department to enforce sanitation requirements at animal exhibitions, and to regulate as necessary to meet this requirement. (3 Pa.C.S. §§ 2501—2504).	Craig E. Shultz, DVM Director (717) 772-2852
Biofuels 70 Pa. Code Chapter 11	August 2010, as proposed.	This regulation will satisfy the requirements of Act 78 of 2008 (the Biofuel Development and In-State Production Incentive Act).	John Dillabaugh (717) 787-6772
Weights and Measures Regulations 70 Pa. Code Chapters 1—101	December 2011, as proposed.	This long-term project is intended to update the Department's regulations authorized by the Consolidated Weights and Measures Act.	John Dillabaugh (717) 787-6772
Harness Racing Commission 58 Pa. Code Chapters 181, 183, 185 and 186—190	September 2010, as proposed.	This regulation is necessary to update current regulations, make them more user-friendly and address conditions which exist in harness racing that did not exist when the current regulations were originally promulgated. This regulation is a long-term project and would amend 58 Pa. Code Chapters 181, 183, 185 and 186—190, including the general authority of the Commission and provisions relating to associations licensed to conduct pari-mutuel wagering, individual licensing, licensing of officials, rules of the conduct of races, veterinary practices, equine health, and medication, wagering, due process and disciplinary action.	Jorge Augusto (717) 787-8744
Horse Racing Commission 58 Pa. Code Chapters 161, 163, 165, 167, 169, 171 and 173	September 2010, as proposed.	This regulation is necessary to update current regulations, make them more user-friendly and address conditions which exist in thoroughbred horse racing that did not exist when the current regulations were originally promulgated. This regulation is a long-term project and would amend 58 Pa. Code Chapters 161, 163, 165, 167, 169, 171, and 173 including the general authority of the Commission and provisions relating to associations licensed to conduct pari-mutuel wagering, individual licensing, licensing of officials, rules of the conduct of races, veterinary practices, equine health and medication, wagering, due process and disciplinary action.	Jorge Augusto (717) 787-8744
Pesticide Regulations 7 Pa. Code Chapter 128	July 2010, as final.	This regulation will amend 7 Pa. Code Chapter 128 and is necessary to update current regulations, to make them more user friendly, address pesticide security issues, set minimum certification age requirements, dealer licensing, and changes in federal pesticide registration changes. This regulation will also increase the pesticide product registration fee.	David Scott (717) 772-5214
Commercial Feed Rules and Regulations 7 Pa. Code Chapter 71	August 2010, as proposed.	This regulation will replace 7 Pa. Code Chapter 71 and implement provisions of 3 Pa.C.S.A. §§ 5101—5115 (Commercial Feed Act).	John Breitsman (717) 772-5215

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Pet Food Rules and Regulations 7 Pa. Code Chapter 72	August 2010, as proposed.	This regulation will replace 7 Pa. Code Chapter 72 and implement provisions of 3 Pa.C.S.A. §§ 5101—5115 (Commercial Feed Act).	John Breitsman (717) 772-5215
Fertilizer Regulations 7 Pa. Code Chapter 73	June 2011, as proposed.	This regulation will replace 7 Pa. Code Chapter 73 and implement provisions of 3 Pa.C.S.A. §§ 6701—6725 (Fertilizer Act).	John Breitsman (717) 772-5215
Soil and Plant Amendment Regulations 7 Pa. Code Chapter 130a	June 2011, as proposed.	This regulation will replace 7 Pa. Code Chapter 130a and implement provisions of 3 Pa.C.S.A. §§ 6901—6921 (Soil and Plant Amendment Act).	John Breitsman (717) 772-5215
Clean and Green Regulations 7 Pa. Code Chapter 137b	January 2011, as proposed.	This regulation will address statutory changes made by Act 235 of 2004, and will otherwise update the current regulations.	Douglas Wolfgang (717) 783-3167
Agricultural Conservation Easement Purchase Program Regulations 7 Pa. Code Chapter 138e	December 2010, as proposed.	This regulation will address statutory changes made by Act 61 of 2005 and Act 46 of 2006, and will otherwise update the current regulations.	Douglas Wolfgang (717) 783-3167
PA Food Code 7 Pa. Code Chapter 46	November 2010, as proposed.	This regulation will amend 7 Pa. Code Chapter 46 and implement legislative changes that may occur during the promulgation process.	William Chirdon (717) 787-4315
Milk Sanitation 7 Pa. Code Chapter 59a	September 2010, as final.	This regulation will replace 7 Pa. Code Chapter 59 and implement the provisions of the Milk Sanitation Law.	William Chirdon (717) 787-4315
Commercial Kennel Canine Health Regulations 7 Pa. Code Chapter 28a	August 2010, as final.	This regulation sets standards for humidity, ammonia, and ventilation levels, as well as, lighting and flooring standards in commercial kennels.	Sue West (717) 787-3062
<b><i>BANKING</i></b>			
Annual Assessment Regulation	Mid 2011.	Required pursuant to 17 Pa.C.S. § 503(a) and 71 P. S. § 733-204.A.	Robert C. Lopez Deputy Chief Counsel (717) 787-9573
Regulation governing the conduct of debt settlement services pursuant to the Debt Management Services Act.	Mid 2011.	Required pursuant to 63 P. S. § 2403(b).	Robert C. Lopez Deputy Chief Counsel (717) 787-9573
Repeal of regulations at 10 Pa. Code Chapters 3 and 44.	June 5, 2010.	These regulations are no longer necessary in light of Section 503.E of the Department of Banking Code, 71 P. S. § 733-503.E and the repeal of Chapter 3 of the Mortgage Bankers and Brokers and Consumer Equity Protection Act.	Robert C. Lopez Deputy Chief Counsel (717) 787-9573
Regulation governing pleading procedures for Department administrative actions.	Mid 2011.	Regulation to create simplified and clear filing and pleading procedures specific to Department administrative proceedings and the statutes under the Department's jurisdiction.	Robert C. Lopez Deputy Chief Counsel (717) 787-9573
Regulation governing continuing education under the Debt Management Services Act.	Early 2011.	Required pursuant to 63 P. S. § 2409.	Robert C. Lopez Deputy Chief Counsel (717) 787-9573
<b><i>BOARD OF PARDONS</i></b>			
No regulations being developed or considered at this date.			



<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<b>COMMUNITY &amp; ECONOMIC DEVELOPMENT</b>			
Film Production Tax Credit Program (Proposed Regulation)	Summer of 2010.	The purpose of the proposed regulation is to implement the provisions of the Tax Reform Code of 1971 relating to Film Production Tax Credits.	Matthew Speicher (717) 783-8452
<b>COMMISSION ON CRIME AND DELINQUENCY</b>			
37 Pa. Code Chapter 431 Constables' Education and Training Board	December 2010 proposed.	The purpose of this regulation is to eliminate any waivers of the firearms portion of the basic training course, preclude any constable under the age of 21 from participating in the firearms portion of the basic training course and to require a constable who fails a first and second examination in the basic training course bear the financial responsibility for a second or third basic training. Recent statutory changes have necessitated additional updates to the regulations.	John Pfau 265-8546
<b>CONSERVATION &amp; NATURAL RESOURCES</b>			
State Forests (Chapter 21)	Publish proposed rulemaking September 2010.	A number of provisions in this chapter need to be clarified and updated. The State Forest Picnic Area chapter (23) will be incorporated into this chapter to eliminate duplication and for ease of reference. Legal basis: Sections 302, 313, 502 of the Conservation & Natural Resources Act (71 P. S. §§ 1340.302, 1340.313 and 1340.502).	Matt Beaver, (717) 783-0379 Susan Wood, Esq. (717) 772-4171
State Forest Picnic Areas (Chapter 23)	Publish proposed rulemaking September 2010.	The provisions of this chapter will be incorporated into Chapter 21 (State Forests) for purposes of simplification and ease of reference. Legal basis: Sections 302, 313, 502 of the Conservation & Natural Resources Act (71 P. S. §§ 1340.302, 1340.313 and 1340.502).	Matt Beaver, (717) 783-0379 Susan Wood, Esq. (717) 772-4171
Conservation of Pennsylvania Native Wild Plants (Chapter 45)	Publish proposed rulemaking November 2010.	Major purpose of rulemaking is to establish a more workable procedure for updating the classifications of native wild plants by removing the classifications from the regulatory process. The classifications would be established by publication in the <i>Pa. Bulletin</i> . Legal basis: Section 7 of the Wild Resource Conservation Act (32 P. S. § 5307); and Section 313 of the Conservation and Natural Resources Act (71 P. S. § 1340.313).	Chris Firestone 570-724-8149 Susan Wood, Esq. (717) 772-4171
<b>CORRECTIONS</b>			
Revisions to 37 Pa. Code Chapter 94	June 2010, as proposed.	The regulation will eliminate the requirement that an offender serve 9 months in a state correctional institution before placement in a community corrections center.	Randall N. Sears (717) 731-0444
Revisions to 37 Pa. Code Chapter 93	July 2010, as proposed.	The Motivational Boot Camp regulations are being revised to eliminate unnecessary staffing provisions.	Timothy Holmes (717) 731-0444
Amendments to 37 Pa. Code § 94.4	July 2010, as proposed.	The amendment will restrict the ability of individuals to purchase items from outside the institution for inmates.	Theron Perez (717) 731-0444
<b>EDUCATION</b>			
Standards for Approved Private Schools 22 Pa. Code Chapter 171 Subchapter C	Spring 2011, as final.	These standards define the elements of Approved Private Schools and the Chartered Schools (schools for the deaf and blind). These standards contain general provisions and allowable expenses and costs. The standards are promulgated under the Authority of the Public School Code of 1949, as amended, P. L. 30, No. 14, March 16, 1949, P. S. Section 1-101, et. Seq.	John Tommasini (717) 783-6134

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Regulations of the State Board of Private Academic Schools 22 Pa. Code Chapters 51, 53, 55, 57, 61 and 63	Fall 2010, as proposed.	These regulations define the requirements for obtaining licensure as a Private Academic School. The Board plans to update the regulations, which were promulgated in 1988. The regulations are promulgated under the Authority of the Private Academic Schools Act (24 P. S. section 6701 et. Seq.).	Linda Rhen (717) 705-5014 or Parker Martin (717) 783-9280
Higher Education—College and University Security. 22 Pa. Code Chapter 33	July 2010, as proposed.	This chapter governs the responsibility of institutions of higher education to comply with the College and University Security Information Act. The chapter applies to independent institutions of higher education, community colleges, member institutions of the State System and State-related institutions.	Adam Schott (717) 787-3787
<b>EMERGENCY MANAGEMENT AGENCY</b>			
No regulations being developed or considered at this time.			
<b>ENVIRONMENTAL HEARING BOARD</b>			
25 Pa. Code Chapter 1021 Practice and Procedure	The Environmental Hearing Board does not plan to propose or adopt new rulemaking for the remainder of 2010.	The Board's Rules Committee will meet on July 8, 2010 and review whether any rulemaking should be proposed in 2011.	Maryanne Wesdock (412) 565-5245
<b>ENVIRONMENTAL PROTECTION</b>			
Noncoal Program Noncoal Surface Mining Conservation and Reclamation Act 25 Pa. Code Chapter 77	FY 10-11.	Revisions to Chapter 77 (Noncoal Mining) that govern the licensing of mine operators and permitting of mines for minerals other than coal. Specific areas for revision include clarification of permit application requirements including hydrologic data requirements and updates to permit application fees to support program activities.	Bill Allen (717) 783-9580 wallen@state.pa.us
Remining Financial Guarantees and Federal OSM Consistency Rule Surface Mining Conservation and Reclamation Act 25 Pa. Code Chapters 86, 87 and 88	FY 10-11.	Revisions to Chapter 86—88 to include remining financial guarantees proposal, and revisions to address program conditions that are currently inconsistent with federal OSM rules, including self-bonding, decisions on incidental coal extraction, coal exploration on areas unsuitable for mining, impoundment design criteria, and disposal of noncoal waste and NPDES permit-by-rule for abandoned mine discharges.	Bill Allen (717) 783-9580 wallen@state.pa.us
Water Supply Replacement Surface Mining Conservation & Reclamation Act 25 Pa. Code Chapters 87 and 88	FY 10-11.	Revisions to Chapters 87 and 88, which will clarify what is necessary to meet the coal mine operator's obligation to permanently pay the operation and maintenance costs for replacement water supplies.	Keith Brady (717) 787-4814 kbrady@state.pa.us
Noncoal Mining Fees Noncoal Surface Mining Conservations & Reclamation Act 25 Pa. Code Chapter 77	FY 10-11	Amendments to 25 Pa. Code Chapter 77 in order to implement fees to support the Noncoal Mining Program.	Bill Allen (717) 783-9580 wallen@state.pa.us
Mining Fees Surface Mining Conservation and Reclamation Act 25 Pa. Code Chapter 86	FY 10-11.	Increase permit application fees to support program activities.	Bill Allen (717) 783-9580 wallen@state.pa.us

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Areas Unsuitable for Surface Mining Surface Mining Conservation and Reclamation Act 25 Pa. Code Chapter 86	FY 10-11.	Amendments to 25 Pa. Code Section 86.130 to add subsection (b)(18) to designate the Lower Kittanning, Clarion, Brookville and Mercer coals within the upper portion of the Muddy Run watershed, Reade Township, Cambria County, as unsuitable for surface mining operations. The regulation is the result of a comprehensive technical evaluation conducted in response to a petition submitted to the EQB by the Reade Township Municipal Authority, which requested that an area within the Muddy Run drainage be designated as unsuitable for surface mining operations.	Geoff Lincoln (717) 783-9582 glincoln@state.pa.us
Oil & Gas Well Program Oil and Gas Act 25 Pa. Code Chapter 78	FY 10-11.	Revisions to Chapter 78 (Oil and Gas Wells) that govern the drilling, operation and plugging of oil and gas wells. Includes plugging procedures to attain a more effective seal and alternate requirements for casing and cementing. Includes amendments pertaining to the quantity and quality for replacement water supplies as well as requirements for adequate operation and maintenance of oil and gas wells.	Scott Perry (717) 772-2199 scperry@state.pa.us
Oil & Gas Well Program Oil and Gas Act 25 Pa. Code Chapter 78	FY 10-11.	Revisions to Chapter 78 (Oil and Gas Wells) that governs the drilling, operation and plugging of oil and gas wells. Includes changes to the quantity and quality for replacement water supplies as well as their adequate operation and maintenance; alternate requirements for drilling through mineable coal seams and the recovery of coal bed methane prior to mining.	Scott Perry (717) 772-2199 scperry@state.pa.us
Oil & Gas Well Program Oil and Gas Act 25 Pa. Code Chapter 78	FY 10-11.	This rulemaking will include changes to bond amounts.	Scott Perry (717) 772-2199 scperry@state.pa.us
Underground Coal Mine Safety Bituminous Coal Mine Safety Act 25 Pa. Code Chapter 208	FY 10-11.	The rulemaking adopts by reference the MSHA regulations with a few minor edits. The regulation addresses belt flammability standards and maintenance requirements, seal design, construction and maintenance requirements, emergency response requirements, self-contained rescue devices and refuge chambers communication.	Joseph Sbaffoni (724) 439-7469 jsbaffoni@state.pa.us
Underground Coal Mine Safety Automated External Defibrillators Bituminous Coal Mine Safety Act 25 Pa. Code Chapter 208	FY 10-11.	This regulation establishes safety standards relating to Automated External Defibrillators in underground bituminous coal mines.	Joseph Sbaffoni (724) 439-7469 jsbaffoni@state.pa.us
Underground Coal Mine Safety Accident Reporting Bituminous Coal Mine Safety Act 25 Pa. Code Chapter 208	FY 10-11.	This rulemaking expands the list of accidents in underground bituminous coal mines that must be reported to the Department within 15 minutes of discovery.	Joseph Sbaffoni (724) 439-7469 jsbaffoni@state.pa.us

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
National Pollution Discharge Elimination System Permitting, Monitoring and Compliance—NPDES Clean Water Act Clean Streams Law 25 Pa. Code Chapter 92	FY 10-11.	Comprehensive reorganization and revision to replace Chapter 92 with Chapter 92a, organized similarly to 40 CFR 122. Major revisions include provisions for a new fee structure.	Tom Starosta (717) 787-8184 tstarosta@state.pa.us
Erosion and Sediment Control and Stormwater Management Clean Streams Law 25 Pa. Code Chapter 102	FY 10-11.	The major provisions of the Chapter 102 final rulemaking include: incorporation of federal Clean Water Act "Phase II" National Pollutant Discharge Elimination System (NPDES) permit requirements for stormwater discharges associated with construction activities; codification of post construction stormwater management (PCSM) requirements, including long-term operation and maintenance requirements of PCSM BMPs; specific antidegradation implementation provisions; updates to agricultural planning and implementation requirements; updates to erosion and sediment (E&S) control requirements; and the establishment of riparian buffer and riparian forest buffer provisions.	Ken Murin (717) 772-5975 kmurin@state.pa.us
Wastewater Treatment Requirements Clean Streams Law 25 Pa. Code Chapter 95	FY 10-11.	Add section with effluent standards for TDS, chlorides, barium and strontium for new and expanded wastewaters from natural gas wells; and effluent standards and variance provisions for TDS from new and expanded loads and other industries using a watershed-based approach.	Ron Furlan (717) 787-8184 rfurlan@state.pa.us
Water Quality Standards for Chloride Clean Streams Law 25 Pa. Code Chapter 93	FY 10-11.	This rulemaking will add statewide water quality criterion in Chapter 93 for chloride, a substance that is documented to have toxic effects on aquatic life at certain concentrations.	Tom Barron (717) 787-9637 tbarron@state.pa.us
Operator Certification Program Water and Wastewater Systems Operators' Certification Act 25 Pa. Code Chapter 302	FY 10-11.	These regulations formalize requirements for certification of drinking water and wastewater system operators.	Veronica Kasi (717) 772-4053 vbkasi@state.pa.us
Water Quality Standards Implementation Clean Streams Law 25 Pa. Code Chapter 96	FY 10-11.	Adds provisions for nutrient and sediment credit trading in Pennsylvania.	Ann (Smith) Roda (717) 787-4726 annsmith@state.pa.us
Lead and Copper Short Term Revisions Safe Drinking Water Act 25 Pa. Code Chapter 109	FY 10-11.	Amendments to incorporate the Federal lead and copper short term revisions into Chapter 109. This Rule will strengthen the implementation of the LCR in the following areas: monitoring, treatment processes, public education, customer awareness, and lead service line replacement.	Lisa Daniels (717) 772-2189 ldaniels@state.pa.us
Drinking Water Fees Safe Drinking Water Act 25 Pa. Code Chapter 109	FY 10-11.	Amendments to update drinking water program fees.	Kevin McLeary (717) 783-1820 kmcleary@state.pa.us

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Dam Safety and Waterways Management Dam Safety and Encroachments Act and Clean Streams Law 25 Pa. Code Chapter 105	FY 10-11.	This rulemaking package will amend existing regulations at 25 Pa. Code, Chapter 105 to address concerns raised by the Auditor General and to incorporate amendments to strengthen the program. It will clarify and make existing regulations easier to understand and amend outdated sections.	Patricia McSparran (717) 787-3411 pmcsparran@state.pa.us
Dam Safety and Waterways Management Dam Safety and Encroachments Act and Clean Streams Law 25 Pa. Code Chapter 105	FY 10-11.	The purpose of the rulemaking package is to amend existing regulations at 25 Pa. Code, Chapter 105 to update existing fees and include additional fees for activities performed by the Department. The fees have not been increased since 1991.	Sidney Freyermuth (717) 772-5977 sfreyermuth@state.pa.us
Clarks Creek, et al. Stream Redesignations Package Clean Streams Law 25 Pa. Code Chapter 93	FY 10-11.	This rulemaking identifies the six following streams that should be redesignated to provide the correct aquatic life use designation in the water quality standards: UNT Lackawanna River "Clarks Creek" (Wayne County), Pine Creek (Schuylkill County), UNT Conestoga River (Lancaster County), Hammer Creek, (Lebanon & Lancaster Counties), UNT Schuylkill River "Spring Mill Run" (Montgomery County), and Cacoosing River (Berks County).	Rodney McAllister (717) 787-9637 romcallist@state.pa.us
Fishing Creek, et al. Stream Redesignations Package Clean Streams Law 25 Pa. Code Chapter 93	FY 10-11.	This proposal identifies the seven following stream segments that should be redesignated to provide the correct aquatic life use designation in the water quality standards: Buck Hill Creek (Monroe County); Upper Lehigh River (Lackawanna, Monroe, Wayne & Luzerne Counties); Little Lehigh Creek (Lehigh & Berks Counties); Gallows Run (Bucks County); French Creek & Beaver Run (Chester County); Tannery Hollow Run (Cameron County); Fishing Creek (Lancaster County); and Deer Creek & Little Falls (York County).	Rodney McAllister (717) 787-9637 romcallist@state.pa.us
Adhesives and Sealants Air Pollution Control Act 25 Pa. Code Chapters 129 and 130	FY 10-11.	The final-form rulemaking would adopt volatile organic compound content limits for 37 categories of adhesives, adhesive primers, sealants, sealant primers, and adhesives applied to certain substrates. The proposed rulemaking would also add requirements for the control of emissions from the use or application of adhesives, sealants and primers by the owners or operators of stationary sources. This proposed rulemaking would be consistent with regulatory initiatives recommended by the Ozone Transport Commission to address regional transport of ozone precursor emissions.	Randy Bordner (717) 772-3921 ranbordner@state.pa.us

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Air Quality Plan Approval and Operating Permit Fees Air Pollution Control Act 25 Pa. Code Chapters 127 and 139	FY 10-11.	The proposed rulemaking will amend existing requirements and fees codified in 25 Pa. Code Chapter 127, Subchapter I (relating to plan approval and operating permit fees), and add new categories of fees to Chapter 127, Subchapter I, to address modifications of existing plan approvals and requests for determination of whether a plan approval is required. The proposed rulemaking also adds a new section to address fees for risk assessment applications. The proposed rulemaking will amend the existing emission fee paid by the owner or operator of a Title V facility. The proposed rulemaking will also add Subchapter D (relating to testing, auditing and monitoring fees) to Chapter 139 to add new categories of fees and to establish a fee schedule to address Department-performed source testing and auditing and monitoring activities for continuous emission monitoring systems (CEMS).	Dean Van Orden (717) 783-9264 dvanorden@state.pa.us
Nonattainment New Source Review Particulate Matter 2.5 (NNSR PM2.5) Air Pollution Control Act 25 Pa. Code Chapters 121 and 127	FY 10-11.	The proposed rulemaking would amend the existing nonattainment new source review (NSR) requirements in 25 Pa. Code Chapter 127, Subchapter E (relating to new source review), §§ 127.201—127.218, to incorporate recently promulgated Federal requirements for particulate matter equal to and less than 2.5 micrometers in diameter (PM2.5) and PM2.5 precursors. The proposed amendments would limit the emissions of PM2.5 and PM2.5 precursors for new major sources or major sources being modified in certain counties and portions of counties of this Commonwealth that are designated as nonattainment for the PM2.5 National Ambient Air Quality Standard. The Federal regulation requires a state with PM2.5 nonattainment areas to submit revised nonattainment NSR PM2.5 requirements to the U.S. Environmental Protection Agency (EPA) for State Implementation Plan (SIP) approval within three years of publication of the final rule. Therefore, the Commonwealth needs to amend its NSR regulations and submit a SIP revision to the EPA by May 16, 2011.	Virendra Trivedi (717) 772-3979 vtrivedi@state.pa.us
Large Appliance and Metal Furniture Coating Processes (LA/MF CTG) Air Pollution Control Act 25 Pa. Code Chapter 129	FY 10-11.	The proposed rulemaking would amend the existing surface coating regulations under 25 Pa. Code Chapter 129 to further reduce the emissions of volatile organic compounds (VOCs) from large appliance and metal furniture coating processes to meet the Clean Air Act “reasonably available control measures” requirement for ozone nonattainment areas. The proposal would add 25 Pa. Code § 129.52a (relating to large appliance and metal furniture coating processes) to adopt emission limits and work practice standards for large appliance and metal furniture surface coating operations.  The proposed rulemaking would also amend 25 Pa. Code § 129.52, which limits VOC emissions from surface coating processes, to terminate applicability of 25 Pa. Code § 129.52 to large appliance and metal furniture surface coating operations, including the current VOC content limits for large appliance and metal furniture coatings listed in Table 1, as of the date of applicability of the requirements of the proposed 25 Pa. Code § 129.52a.	Susan Hoyle (717) 772-2329 shoyle@state.pa.us

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Paper, Film and Foil Coating Processes (PFF CTG) Air Pollution Control Act 25 Pa. Code Chapter 129	FY 10-11.	The proposed rulemaking would amend the existing surface coating regulations to further reduce the emissions of volatile organic compounds (VOCs) from paper, film and foil coating processes to meet the Clean Air Act "reasonably available control measures" requirement for ozone nonattainment areas. The proposal would add 25 Pa. Code § 129.52b (relating to paper, film and foil coating processes) to adopt emission limits and work practice standards for paper, film and foil surface coating operations. The proposed rulemaking would also amend 25 Pa. Code § 129.52, which limits VOC emissions from surface coating processes, to terminate applicability of 25 Pa. Code § 129.52 to paper, film and foil surface coating operations, including the current VOC content limits for paper coatings listed in Table 1, as of the date of applicability of the requirements of the proposed 25 Pa. Code § 129.52b.	Susan Hoyle (717) 772-2329 shoyle@state.pa.us
Flat Wood Paneling Coating Processes (FWP CTG) Air Pollution Control Act 25 Pa. Code Chapter 129	FY 10-11.	The proposed rulemaking would amend 25 Pa. Code § 121.1 (relating to definitions) and Chapter 129 (relating to standards for sources) to add requirements to reduce the emissions of volatile organic compounds (VOCs) from flat wood paneling coating processes to meet the Clean Air Act "reasonably available control measures" requirement for ozone nonattainment areas. The proposal would add 25 Pa. Code § 129.52c (relating to control of VOC emissions from flat wood paneling coating processes) to adopt emission limits and work practice standards for flat wood paneling coating operations.	Susan Hoyle (717) 772-2329 shoyle@state.pa.us
Outdoor Wood-fired Boilers (OWB) Air Pollution Control Act 25 Pa. Code Chapter 123	FY 10-11.	The proposed rulemaking would add 25 Pa. Code § 123.14 (relating to outdoor wood-fired boilers) to 25 Pa. Code Chapter 123 (relating to standards for contaminants). The proposed rulemaking would also add new and revise certain existing definitions in 25 Pa. Code § 121.1 (relating to definitions). The proposed rulemaking would set emission standards for outdoor wood-fired boilers (OWBs) sold, distributed or newly installed in the Commonwealth of Pennsylvania. This proposed rulemaking would limit emissions of particulate matter (PM), largely including emissions of fine particulates equal to and less than 2.5 micrometers in diameter (PM <sub>2.5</sub> ). The proposed rulemaking would establish setback requirements for newly installed OWBs and establish fuel and stack height requirements, and seasonal prohibitions, for all OWBs operated in this Commonwealth whether existing or newly-installed.	Jane Greber (717) 772-2328 jgreber@state.pa.us
Repeal of the Mercury Rule Air Pollution Control Act 25 Pa. Code Chapter 123	FY 10-11.	The final-omitted rulemaking would repeal all changes to 25 Pa. Code 123 (relating to standards for contaminants) made by the final-form rulemaking of February 17, 2007 (37 Pa.B. 883), entitled "standards for contaminants: mercury". The Pennsylvania Mercury Rule is invalid and unenforceable because the Pennsylvania Supreme Court upheld the Commonwealth Court's decision enjoining the Department from implementing and enforcing the rule. Omission of notice of proposed rulemaking is appropriate under Sections 201 and 202 of the Commonwealth Documents Law (45 P. S. §§ 1201 and 1202).	Robert Reiley (717) 787-7060 rreiley@state.pa.us

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<p>HEDD—High Electric Demand Days Air Pollution Control Act 25 Pa. Code Chapter 145, Subchapter E</p>	FY 10-11.	<p>The proposed rulemaking would limit emissions of nitrogen oxides (NOx) from electric generating units (EGUs) and emergency generator sets used during nonemergency periods that operate less than 1200 hours per Ozone Season and generate electricity during periods of peak electric demand, including high electric demand days (HEDD). This class of units produces aggregate HEDD emissions of NOx on peak electric demand days that are great enough to reduce or eliminate the environmental benefit of NOx emission reductions achieved on peak electric demand days by the larger EGUs currently regulated under the Commonwealth's Clean Air Interstate Rule (CAIR) and previously under the NOx Budget Trading Program.</p>	<p>Susan Hoyle (717) 772-2329 shoyle@state.pa.us</p>
<p>Sulfur Limits in Commercial Fuel Oil Air Pollution Control Act 25 Pa. Code Chapters 121 and 123</p>	FY 10-11.	<p>The proposed rulemaking would amend 25 Pa. Code § 123.22 (relating to combustion units) to revise downward the maximum allowed percent sulfur content in commercial fuel oil sold for and used in combustion units in this Commonwealth, to further limit the emissions of sulfur dioxide (SO<sub>2</sub>) from these sources. Amendments to 25 Pa. Code § 121.1 (relating to definitions) may also be necessary to support the proposed amendments to § 123.22. Emissions of sulfur dioxide (SO<sub>2</sub>) contribute to the formation of regional haze, which degrades visibility in many American cities and scenic areas. Regional haze is visibility impairment caused by cumulative air pollutant emissions from numerous sources over a wide geographic area. The proposed rulemaking would be consistent with the Statement of the Mid-Atlantic/Northeast Visibility Union (MANE-VU) Regional Planning Organization (RPO).</p>	<p>Susan Hoyle (717) 772-2329 shoyle@state.pa.us</p>
<p>Lithographic and Letterpress Printing Processes, Flexible Package Printing, Processes and Industrial Cleaning Solvents Air Pollution Control Act 25 Pa. Code Chapter 129</p>	FY 10-11.	<p>The proposed rulemaking would amend 25 Pa. Code Chapter 129 (relating to standards for sources) to add requirements to reduce the emissions of volatile organic compounds (VOCs) from lithographic and letterpress printing processes, flexible package printing processes and industrial cleaning solvents to meet the Clean Air Act's "reasonably available control measures" requirement for ozone nonattainment areas. The proposal would also add 25 Pa. Code § 129.67a (relating to control of VOC emissions from lithographic and letterpress printing processes) to adopt emission limits and work practice standards for lithographic and letterpress printing operations, amend § 129.67 (relating to graphic arts systems) and add 25 Pa. Code § 129.79 (relating to control of VOC emissions from industrial cleaning solvents) to add emission limits and work practice standards.</p>	<p>Susan Hoyle (717) 772-2329 shoyle@state.pa.us</p>
<p>Municipal and Residual Waste Amendments Solid Waste Management Act and Waste Transportation Safety Act 25 Pa. Code Chapters 271—285 and 287—299</p>	FY 10-11.	<p>These proposed revisions are comprehensive modifications to the Municipal and Residual Waste Regulations, including: consolidating similar chapters and standardizing provisions, where applicable, between the two volumes; revising and clarifying definitions, including the definition of "waste"; developing additional permits-by-rule; incorporating commodity disposal bans; revising the local and municipal involvement process for waste disposal and processing facility applications; and revising the environmental assessment and harms/benefits test. The package will also include regulations to implement the Waste Transportation Safety Program as authorized by Act 90 of 2002.</p>	<p>Steve Socash (717) 787-7381 ssicash@state.pa.us</p>



<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Beneficial Use of Coal Ash Solid Waste Management Act Clean Streams Law Surface Mining and Reclamation Act Administrative Code of 1929 25 Pa. Code Chapters 287 and 290	FY 10-11.	This rulemaking adds a new definition and revises definitions in Chapter 287 and moves coal ash beneficial use provisions to a new chapter 290. Incorporates technical guidance provisions for use of coal ash at mine sites into regulations. Sets maximum leachate concentrations for coal ash, physical properties for use, storage requirements, water quality monitoring and assessment and abatement requirements and coal ash qualification (certification) standards and procedures.	Steve Socash (717) 787-7381 ssicash@state.pa.us
Municipal Waste Regulated Medical Amendments Solid Waste Management Act 25 Pa. Code Chapter 284	FY 10-11.	This rulemaking will amend the existing Chapter 284. This will include some definitions in Chapter 271 that will be added or amended. The term infectious waste will be replaced with the term "regulated medical waste". This terminology change will be a global change. Besides definitional changes, this proposal also includes changes to storage, transporter licensing, and manifesting requirements for regulated medical waste.	Steve Socash (717) 787-7381 ssicash@state.pa.us
Residual Waste Generator Amendments Solid Waste Management Act and Waste Transportation Safety Act 25 Pa. Code Chapter 287	FY 10-11.	These proposed revisions streamline and update biennial reporting requirements, reduce the number of generators subject to biennial reporting and annual chemical analyses requirements, and eliminate submission of annual chemical analyses. The requirement for source reduction strategies is proposed for elimination.	Steve Socash (717) 787-7381 ssicash@state.pa.us
Hazardous Waste Delisting Solid Waste Management Act and section 1920-A of The Administrative Code of 1929 25 Pa. Code Chapter 261a	FY 10-11.	The rulemaking modifies an existing hazardous waste delisting previously granted to Geological Reclamation Operations and Waste Systems, Inc. (GROWS), whose successor by merger, Waste Management Disposal Services of Pennsylvania, Inc. (WMDSPA), petitioned the Board to amend Chapter 261a of PA's Hazardous Waste Regulations in order to increase the annual volume of filter cake that it may dispose of in a Subtitle D landfill from 2,000 cubic yards to 4,000 cubic yards.	Dwayne Womer (717) 787-6239 dwomer@state.pa.us
Radiological Health 25 Pa. Code Chapters 215—240	FY 10-11.	This rulemaking will amend 25 Pa. Code Chapters 215—240 in order to incorporate by reference federal regulations pertaining to the security of certain radioactive material.	Joe Melnic (717) 783-9730 jmelnic@state.pa.us
Radiological Health 25 Pa. Code Chapters 215—240	FY 10-11.	This rulemaking will include amendments to address new x-ray technology that is not addressed in current regulations.	Joe Melnic (717) 783-9730 jmelnic@state.pa.us
Administration of the Land Recycling Program (Act 2) Land Recycling and Environmental Remediation Standards Act 25 Pa. Code Chapter 250	FY 10-11.	Revisions to Chapter 250 (Administration of the Land Recycling Program). This proposal includes a number of miscellaneous revisions to the regulations and an update of the Statewide Health Standards Tables based on new toxicological information.	Dave Crownover (717) 783-7502 dcrownover@state.pa.us
Administration of the Uniform Environmental Covenant Act Uniform Environmental Covenant Act 25 Pa. Code Chapter 253	FY 10-11.	This rulemaking will establish regulations for the implementation of the Uniform Environmental Covenant Act.	Troy Conrad (717) 783-9480 tconrad@state.pa.us

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<b>GENERAL SERVICES</b>			
Responsibility 4 Pa. Code Chapter 60	Fall 2010, as proposed.	This chapter will be amended to be consistent with the Procurement Code and to provide for uniform debarment and suspension procedures.	Michael C. Barrett (717) 346-9781
Committee on Construction Contract Documents 4 Pa. Code Chapter 62	Summer 2010, as final omitted.	The Procurement Code repealed the legislation creating this committee, which no longer exists.	Michael C. Barrett (717) 346-9781
Selections Committee 4 Pa. Code Chapter 64	Summer 2010, as final omitted.	These regulations should be rescinded since they have been superseded by the Commonwealth Procurement Code.	Michael C. Barrett (717) 346-9781
Emergency Construction Repairs 4 Pa. Code Chapter 67	Summer 2010, as final omitted.	These regulations should be rescinded since they have been superseded by the Commonwealth Procurement Code.	Michael C. Barrett (717) 346-9781
Contract Compliance 4 Pa. Code Chapter 68, Subchapter A Prequalification of Vendors and Non-construction Contractors	Summer 2010, as final omitted.	These regulations should be rescinded since the subject matter of these rules is now covered by the directives management system.	Michael C. Barrett (717) 346-9781
Methods of Awarding Contracts 4 Pa. Code Chapter 69	Summer 2010, as final omitted.	These regulations should be rescinded since they have been superseded by the Commonwealth Procurement Code.	Michael C. Barrett (717) 346-9781
Use of the Forum 4 Pa. Code Chapter 87	Summer 2010, as final omitted.	The regulations will be amended to reflect the Department's current use of a rental agreement instead of a permit and to reflect the current organizational structure.	Michael C. Barrett (717) 346-9781
State Metrology Laboratory Fee Schedule 70 Pa. Code Chapter 110.2	Spring 2010, as final.	The fee schedule will be updated.	Michael C. Barrett (717) 346-9781
<b>HEALTH</b>			
Health Facility Licensure—General Administrative Chapter & General and Special Hospitals 28 Pa. Code Chapter 52	August 2010, as proposed.	This new chapter will address governing body and quality assurance requirements for hospitals and other health care facilities. Pursuant to the Health Care Facilities Act, 35 P. S. §§ 448.101—448.904b.	James T. Steele (717) 783-2500
Communicable and Non-Communicable Diseases 28 Pa. Code § 27.1 et seq.	June 2010, as proposed.	The amendments to existing regulations will clarify the Department's authority to perform disease surveillance and investigation and revise language pertaining to reportable diseases. Pursuant to the Disease Prevention and Control Law of 1955, 35 P. S. §§ 521.1—521.21.	Jalene Kolb (717) 783-2500
School Immunization Requirements 28 Pa. Code §§ 23.83 and 23.86	Final published June, 2010.	The amendments to existing regulations will revise immunization requirements for school entry and attendance, add a grace period for the provision of vaccinations in order for them to be considered valid, and change school reporting requirements to require reporting of doses of vaccine given. Pursuant to the Disease Prevention and Control Law of 1955 35 P. S. § 521.1 et seq.; the Administrative Code of 1921 (71 P. S. § 541(c.1)) and the Public School Code of 1949 (24 P. S. § 13-1303a).	Yvette M. Kostelac (717) 783-2500

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<p>Outpatient Integrated Treatment for Persons with Co-Occurring Psychiatric and Substance Use Disorders 28 Pa. Code Chapter 719</p>	<p>December 2010, as proposed.</p>	<p>These new regulations would be promulgated, simultaneously with identical regulations from the Department of Public Welfare, to permit providers of drug &amp; alcohol treatment services and mental health treatment services to obtain licenses from the Departments of Health and Public Welfare authorizing them to deliver integrated treatment on an outpatient basis to persons suffering from co-occurring psychiatric and substance use disorders. The proposed regulations would establish minimum requirements for licensure, including staffing, training, records, and other aspects required for appropriate treatment delivery. There are currently no regulations which provide for licensure of providers of integrated treatment for co-occurring disorders. Instead, facilities that wish to provide integrated treatment currently must meet all the requirements to obtain separate licenses for drug and alcohol and mental health treatment. The proposed regulations would simplify the survey and licensure process for providers. These regulations would be published pursuant to the Department's authority under Articles IX and X of the Public Welfare Code (62 P. S. §§ 901—922, 1001—1031 and 1051—1059), as transferred to the Department under Reorganization Plan No. 2 of 1977 (71 P. S. § 751-25) and Reorganization Plan No. 4 (71 P. S. § 751-31), and the Drug and Alcohol Abuse Control Act (71 P. S. §§ 1690.101—1690.114).</p>	<p>Robert T. Datorre (717) 783-2500</p>
<p>Nursing home regulations 28 Pa. Code §§ 201.3 and 211.6</p>	<p>December 2010, as proposed.</p>	<p>Recent amendments made by Act 68 of 2008 to the Social Workers, Marriage and Family Therapists and Professional Counselors Act (63 P. S. §§ 1901—1922) include a definition for the term “social worker” and prohibits individuals from holding themselves out as social workers, using the title of “social worker” or using the abbreviation of “S.W.” without meeting Act 68’s definition of “social worker.” Act 68 also prohibits “advertising as a social worker and adopting or using any title or description of services incorporating the term “social worker” and their related abbreviations, which implies directly or indirectly that the individual is a social worker.” The new statutory definition of a “social worker” conflicts with the definition in the Department’s nursing home regulations. In order to resolve this conflict and allow facilities to continue to employ the individuals they currently employ in these positions (and who do not meet the new statutory definition of a social worker) the Department would propose to amend the term “social worker” in the regulations to “social services coordinator.” This will continue to allow nursing homes to hire individuals who meet the qualifications in the Department’s nursing home regulations and in federal nursing home regulations, thereby giving facilities a larger pool of potential employees and controlling health care costs. The amendments would be promulgated pursuant to the Health Care Facilities Act, 35 P. S. §§ 448.101—448.904b, and Act 68.</p>	<p>Robert T. Datorre (717) 783-2500</p>

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Nursing home regulations 28 Pa. Code § 211.7(c)	August 2010, as final omit.	This regulation will remove the requirement in the nursing home regulations that entries made by certified registered nurse practitioners (CRNPs) on residents' records must be countersigned by a physician within 7 days. The passage of Act 2007-48 and the adoption of regulations by the State Board of Nursing have insured that the collaborative agreement between a CRNP and a physician will address issues surrounding the CRNP's treatment of a resident.	Chris Dutton Robert Datorre (717) 783-2500
Hospice Regulations	November 2010, as proposed.	These regulations will establish and enforce minimum standards for the licensure of hospice services and residential facilities. The regulations are based on federal CMS regulations for Medicare certified providers. The regulations govern the construction, maintenance and operation of inpatient and residential hospice facilities to ensure safe, adequate and efficient provision of hospice services.	Karin Simpson (717) 783-2500
Emergency Medical Services System Regulations	October 2010 As proposed.	These new regulations will facilitate the Department's administration of the Emergency Medical Services System Act (Act) chapter of Act 37 (2009), 35 Pa.C.S. §§ 8101—8157. The Act repeals and replaces the Emergency Medical Services Act. However, many of the provisions of the Emergency Medical Services Act will remain in effect for 180 after final regulations are promulgated under the Act. The Act is designed to update the existing emergency medical services system by ensuring higher quality and better coordinated emergency medical services are provided in a system that is fully integrated with the overall health care system and, in particular, with the public health system.	Kenneth E. Brody (717) 783-2500

**HOUSING FINANCE AGENCY**

No regulations being developed or considered at this date.

**INFRASTRUCTURE INVESTMENT AUTHORITY**

25 Pa. Code §§ 963.12(a)(6) and (7), 963.13(b) 2, 963.13(c), 963.14(a), 963.15(a), 963(15)(c), 25 Pa. Code § 965.4(9), and 25 Pa. Code § 965.7	Fall 2010.	<p>PENNVEST recommends the following revisions:</p> <p>(1) Delete 25 Pa. Code § 963.12(a)(6) in its entirety and the second sentence of 25 Pa. Code § 963.13(b)(2) thereby allowing PENNVEST to provide financial assistance (loan or grant) for costs associated with the development of an approvable official sewage plan under the Sewage Facilities Act, 35 P. S. § 750.1 et seq.</p> <p>(2) Delete 25 Pa. Code § 963.12(a)(7) thereby allowing PENNVEST to provide financial assistance (loan and grant) for costs associated with the extraction for profit of minerals or other resources from wastewater or sludge whether the project is sponsored by a public or private actor.</p> <p>(3) Amend 25 Pa. Code § 963.13(c) by revising the section to provide for an amortization of advance funding loans with a term of 59 months of interest only and repayment on principal and interest on the 60th month.</p> <p>(4) Amend 25 Pa. Code § 963.14(a) by revising the section to clarify when the use of an affordability analysis for the award of grants is necessary.</p> <p>(5) Amend 25 Pa. Code § 963.15(a) by revising the first sentence to provide for a change in the normal loan term to allow 3 years of interest only prior to principal amortization.</p>	Shawn W. Weis (717)-783-6776
--	------------	---	---------------------------------

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
		(6) Amend 25 Pa. Code § 963.15(c)(5) to provide that maximum interest rates on loans shall be determined based upon the unemployment rate for the applicable county in the most recent calendar year for which data has been finalized as of the application cutoff date. (7) Amend 25 Pa. Code § 965.4(9) to allow for eligible land costs under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. (8) Amend 25 Pa. Code § 965.7 to eliminate the requirement for a second opinion project review if the applicant is able to prove to the satisfaction of PENNVEST that no alternative methodologies are available to reduce project costs for projects with construction costs plus contingency in excess of \$10 million.	
<b>INSURANCE</b>			
Continuing Education for Insurance Agents and Brokers 39 Pa. Code §§ 39a.1—39a.13	Fall 2010, as final.	Act 147 of 2002 sets new standards for Producers in the Commonwealth. This chapter will be repealed and replaced with new regulation consistent with the statute. This regulation will be updated to reflect education and training of producers.	Peter J. Salvatore, Regulatory Coordinator (717) 787-4429
Property and Casualty Actuarial Opinion 31 Pa. Code §§ 118a.1—118a.7 (NEW)	Fall 2010, as proposed	New regulation to require property & casualty insurers to annually submit an Actuarial Opinion Summary of the Actuarial Report on loss and loss adjustment expense reserves, including information on the opining actuary's best estimate and/or range of reasonable estimates.	Peter J. Salvatore, Regulatory Coordinator (717) 787-4429
Standards to Define Insurers Deemed to be in Hazardous Financial Condition 31 Pa. Code Chapter 160	Winter 2010, as proposed.	Amend consistent with updates adopted in 2008 to NAIC Model 385.	Peter J. Salvatore, Regulatory Coordinator (717) 787-4429
Viatical Regulations (NEW chapter)	Fall/Winter 2010, as proposed.	New regulation addressing issues pertaining to the Licensing of Viatical Brokers. WAITING FOR NAIC MODEL TO BE FINALIZED.	Peter J. Salvatore, Regulatory Coordinator (717) 787-4429
<b>LABOR AND INDUSTRY</b>			
Liquefied Petroleum Gas, Title 34, Chapter Bureau of Occupational and Industrial Safety	Submit final rulemaking in Spring 2010.	Enact the Propane and Liquefied Petroleum Gas Act passed in June 2002 and govern the design, installation and construction of containers and equipment for storage and handling of liquefied petroleum gas, specify the odorization of the gases and establish guidelines for the processing and technologies that are not covered by industry standards.	Edward Leister (717) 783-6304
Uniform Construction Code, Title 34, Part XIV, Bureau of Occupational and Industrial Safety	Submit proposed rulemaking in Winter 2011.	Update and improve existing regulations for administration and enforcement of the UCC.	Edward Leister (717) 783-6304
Flammable and Combustible Liquids, Title 37, Part I, Bureau of Occupational and Industrial Safety	Submit proposed rulemaking in Winter 2011.	Update the requirements for unattended self-service stations and adopt requirements for storage and dispensing of compress natural gas as vehicular fuel.	Edward Leister (717) 783-6304

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Boilers and Unfired Pressure Vessels, Title 34, Chapter 3a, Bureau of Occupational and Industrial Safety	Submit proposed rulemaking in Fall 2010.	Update the codes adopted to the current editions.	Edward Leister (717) 783-6304
Business Enterprise Program, Title 34, Bureau of Blindness and Visual Services	Submit proposed rulemaking in Winter 2011.	Concerns operation of snack bars and similar operations in Commonwealth facilities under the Federal Randolph-Sheppard Act and related Pennsylvania laws.	David DeNotaris (717) 783-3784
Unemployment Compensation, Title 34, Chapter 61, Bureau of Unemployment Compensation Tax Services and Office of Unemployment Compensation Benefits	Proposed rulemaking published Spring 2010.	Update Unemployment Compensation administration regulation.	Scott Miedrich (717) 787-2097
Unemployment Compensation, Title 34, Chapter 63, Bureau of Unemployment Compensation Tax Services	Submit proposed rulemaking in Summer 2010.	Update Unemployment Compensation tax and employer regulations.	Scott Miedrich (717) 787-2097
Unemployment Compensation, Title 34, Chapter 65, Office of Unemployment Compensation Benefits	Proposed rulemaking published Spring, 2010.	Update Unemployment Compensation benefits and claimant regulations.	Craig Pontz (717) 783-0605
Unemployment Compensation Title 34, Chapter 101, Board of Review	Submit proposed rulemaking in Fall 2010.	Update appeal and hearing procedures to reflect evolving procedures and statutory changes.	Edward Rawlings (717) 787-1620
Bureau of Workers' Compensation, Title 34, Chapter 125A, Self-Insurance	Submit final rulemaking in Summer 2010.	Clarify standards and security requirements for individual self-insured employees.	George Knehr (717) 783-4476
Bureau of Labor Law Compliance, Title 34, Chapter 231, Minimum Wage	Submit proposed rulemaking in Fall 2010.	Update provisions and rescind expired Food-Service Employee Incentive Program.	James A. Holzman (717) 787-4186
Bureau of Labor Law Compliance, Title 34, Part XII, Chapter 225 Prohibition of Excessive Overtime in Health Care Act	Submit proposed rulemaking in Spring 2010.	Regulations to implement this law.	James A. Holzman (717) 787-4186
Bureau of Labor Law Compliance, Title 34, Chapter 83, Welfare of Apprentices	Submit proposed rulemaking in Fall 2010.	Amend provisions to reflect federal requirements.	Jason Anderson (717) 787-4186
Bureau of PENNSAFE Title 34, Chapters 301—323, Worker and Community Right to Know	Submit proposed rulemaking in Spring 2011.	Amend the PA Hazardous Substance List.	Thomas J. Ward, Jr. (717) 783-1826

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Bureau of Labor Law Compliance, Title 34, Chapter 31 Seasonal Farm Labor	Submit proposed rulemaking in Summer 2010.	Update regulations and clarify jurisdiction.	Kathryn McDermott Speaks (717) 787-4186
<b>MILITARY AND VETERANS AFFAIRS</b>			
State Veterans' Homes 43 Pa. Code § 7.1 et. Seq.	October 2008 as proposed.	This regulation is necessary to update current regulations, make them more user-friendly. This regulation is a long-term project and would amend 43 Pa. Code Chapter 7.	Dennis T. Guise (717) 861-8503
<b>MUNICIPAL POLICE OFFICERS' EDUCATION AND TRAINING COMMISSION</b>			
No regulations being developed or considered at this time.			
<b>PENNSYLVANIA MUNICIPAL RETIREMENT SYSTEM</b>			
No regulations being developed or considered at this time.			
<b>PROBATION AND PAROLE</b>			
Revision to 37 Pa. Code §§ 61, 63, 65, 67, 68, 69, 71, 73, 75 and 77 "Board of Probation and Parole"	To be worked on in FY 2010.	Updates to incorporate recent changes to Title 61 and emphasis on evidence based practices.	Linda Laub Acting Chief Counsel (717) 787-8126
Addition of a section to 37 Pa. Code Part II "Board of Probation and Parole"	To be worked on in FY 2010.	Addition to address urinalysis collection as mandated by 61 Pa.C.S. § 6137(e)(2).	Colleen Fickel Director Central Services PBPP (717) 787-5699 Ext. 292
37 Pa. Code Chapter 79 The County Probation and Parole Officers Firearms Education and Training Law 61 P. S. § 332.5(13) requires the Commission to "make rules and regulations and to perform other duties as may be reasonably necessary or appropriate to implement the training program for county probation and parole officers."	To be worked on in FY 2010.	Add new sections relating to "Accidental Discharge," "Break in Service," and "Weapons Change."	Todd Burns Executive Director FETC (717) 787-5699 Ext. 389
<b>PUBLIC SCHOOL EMPLOYEES' RETIREMENT SYSTEM</b>			
No regulations being developed or considered at this time.			
<b>PUBLIC WELFARE</b>			
Administration of County Children and Youth Programs 55 Pa. Code Chapter 3130	December 2010, as proposed.	This regulation incorporates the amendments to the Juvenile Act as a result of Act 126 of 1998 and the federal regulations (effective March 27, 2000) for Title IV-B and Title IV-E funding for child welfare services for children in their own homes and for children receiving placement services. Major changes include permanency hearings and the matters to be determined, requirements related to reasonable efforts including aggravated circumstances contrary to the welfare and best interests and redefining permanency goals for children.	Ruth O'Brien (717) 783-2800

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Administration and Operation of a Children and Youth Social Services Agency 55 Pa. Code Chapter 3680	June 2011, as proposed.	This regulation incorporates the changes identified in the Child and Family Services Review, including requirements for visitation with fathers and non-custodial parents and between siblings; concurrent planning; improving permanency outcomes for children; and preserving connections with family and community for children placed out of the home.	Ruth O'Brien (717) 783-2800
Revisions to Special Allowances for Supportive Services 55 Pa. Code Chapter 165	January 2011 as final-form.	The purpose of this regulation is to ensure adequate and consistent availability and distribution of special allowances. These special allowances are for supportive services to recipients of cash assistance who are engaged or intend to engage in employment and training activities approved by the Department.	Ruth O'Brien (717) 783-2800
Deficit Reduction Act of 2005 (TANF Reauthorization) 55 Pa. Code Chapter 165	August 2011 as proposed.	The purpose of this proposed regulation is to incorporate revised policies for work participation according to Federal statutes and regulations.	Ruth O'Brien (717) 783-2800
Early and Periodic Screening Diagnosis Treatment (EPSDT) 55 Pa. Code Chapters 1101, 1121, 1123, 1147 and 1241	December 2011, as proposed.	This regulation relating to services provided as a follow-up to an EPSDT visit or encounter that are not currently recognized under the approved Medical Assistance State Plan. This regulation will be reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
Medical Assistance Case Management Services 55 Pa. Code Chapter 1239	July 2011, as proposed.	This regulation codifies payment for medically necessary case management services as mandated by Omnibus Budget Reconciliation Act '89 to Medical Assistance recipients under the age of 21. This regulation will be reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
OMNIBUS Pharmacy 55 Pa. Code Chapters 1121, 1126, 1129, 1141, 1163, 1221, 1225 and 1243	December 2011, as final-omitted.	This final regulation codifies Act 1994-49 provisions that discontinue payment for all drugs, devices, products, services and procedures that are used or related to treating infertility, including surrogacy services, effective September 1, 1994. This regulation also provides that the medical assistance program provides drug coverage to medically needy only recipients receiving nursing facility services. This includes medically needy only recipients who reside in nursing facilities and intermediate care facilities/mental retardation (ICF/MR). This regulation was reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
Physician Assistant/Midwife 55 Pa. Code Chapter 1141	July 2011, as final-omitted.	This final regulation codifies revised supervision requirements for physician assistants and midwives. This regulation will be reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
Discontinuance of the Mandatory Second Opinion Program 55 Pa. Code Chapter 1150	July 2011, as final-omitted.	This final regulation removes the mandatory second opinion program requirement for certain surgical procedures. This regulation will be reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
New Definition of "Emergency Medical Condition" 55 Pa. Code Chapters 1101, 1141, 1150 and 1221	July 2011, as proposed.	This regulation codifies the revised definition of "emergency medical condition" contained in the Balanced Budget Act of 1997, effective July 1, 1998. This regulation will be reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800



<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Tobacco Cessation and Nutritional Supplements 55 Pa. Code Chapter 1121	December 2011, as final-omitted.	This final regulation will provide coverage under the Medical Assistance Program for tobacco cessation products and counseling services and will extend coverage for nutritional supplements to eligible Medical Assistance recipients 21 years of age and older. This regulation will be reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
Dental Services 55 Pa. Code Chapter 1149	June 2011, as final-omitted.	This final regulation will provide coverage for crown core build-up and will revise the Medical Assistance Orthodontia Program. This regulation will be reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
Civil Rights Requirements for Nursing Facilities 55 Pa. Code Chapter 1187	January 2011, as proposed.	This regulation will require nursing facilities to request and maintain a file of civil rights compliance information on each applicant. Through review of the civil rights information, the Department may better ensure that the MA program is operated in conformity with applicable laws that prohibit discrimination on race, color, national origin and disability.	Ruth O'Brien (717) 783-2800
Assisted Living Residence 55 Pa. Code Chapter 2800	July 2010, as final-form.	This rulemaking will provide a system of licensure and regulation of assisted living residences to ensure accountability and a balance of availability between institutional and home- and community-based long term care. This will help Pennsylvanians to age in place, maintain their independence and exercise decision making and personal choice.	Ruth O'Brien (717) 783-2800
Phase-Out of County Costs in Rate Setting and Phase-In of Minimum Occupancy Requirements for Bed Hold Payments 55 Pa. Code Chapters 1187 and 1189	November 2010, as final-form.	Act 44 of 2008 requires the Department to promulgate regulations that create minimum occupancy requirements for nursing facility bed hold payments and phases out the use of county nursing facility costs in the establishment of peer group prices for nonpublic nursing facility rates.	Ruth O'Brien (717) 783-2800
Participation Review Process 55 Pa. Code Chapter 1187	November 2010, as proposed.	Act 16 of 2007 requires the Department to promulgate regulations that establish the process and criteria to be used to review and respond to requests for increases in Medical Assistance certified nursing facility beds.	Ruth O'Brien (717) 783-2800
Medical Assistance Copayment Changes 55 Pa. Code Chapter 1101	June 2011, as final-omitted.	This regulation will codify new MA copayment exclusions mandated by the Federal Deficit Reduction Act (DRA) of 2005, and reduce the copayment for brand name drugs identified as preferred on the Department's Preferred Drug List (PDL) as authorized under the DRA. This regulation will be reviewed by the Medical Assistance Advisory Committee (MAAC).	Ruth O'Brien (717) 783-2800
Nursing Facility Rate Setting Changes to the Resident Assessment Instrument 55 Pa. Code Chapter 1187	February 2011, as proposed.	This regulation will use 5.12 34 Grouper as a result of CMS's final rule (CMS 1410-F) directing states to transition from MDS 2.0 to MDS 3.0 on October 1, 2020.	Ruth O'Brien (717) 783-2800
Nursing Facility Cost Reporting Change to Major Moveable Rentals 55 Pa. Code Chapter 1187	March 2011, as proposed.	Reduction of paperwork requirement.	Ruth O'Brien (717) 783-2800

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Nursing Facility Reconfiguration/Rightsizing 55 Pa. Code Chapter 1187	March 2011, as proposed.	Transitioning Medical Assistance certified nursing facility beds to meet consumer demands	Ruth O'Brien (717) 783-2800
Exceptional Nursing Facility Payment 55 Pa. Code Chapter 1187	March 2011, as proposed.	This regulation will eliminate the current Peer Group 13 (Special Rehabilitation Nursing Facilities) in the current nursing facility rate setting methodology and replace it, for certain qualified facilities with a blended rate payment system design. A portion of the blended rate will continue to be based upon the current case-mix payment methodology and a portion will be based upon an established price for certain exceptional nursing facility residents.	Ruth O'Brien (717) 783-2800
Third Party Liability Programs 55 Pa. Code Chapter 259	July 2011, as proposed.	Section 1902(a)(25) of the Social Security Act (42 U.S.C. § 1396a(a)(25)) requires the Department to develop and implement a TPL program to ensure that Medicaid is the payor of last resort. Section 1906 of the Social Security Act (42 U.S.C. § 1396(e)) authorizes the Department to have a special program to enroll certain MA recipients into group health insurance. Both the general TPL program and the special group health insurance program have been in operation in Pennsylvania for a number of years. During this period of operation, questions have arisen as to interpretation and procedures under the Federal and state's statutes. This proposed regulation is needed to supply guidance with respect to issues not directly addressed by the Federal and state statutes, to resolve ambiguities and to fill gaps in the state statutory language.	Ruth O'Brien (717) 783-2800
Medical Assistance Estate Recovery Changes 55 Pa. Code Chapter 258	July 2011, as proposed.	This regulation will incorporate additions and changes to the estate recovery program regulation that was codified in February 2003. The changes reflect modification and additions identified since implementation. These include additional and clarified definitions; inclusion of language regarding the Long Term Care Partnership; modification of the Department's priority of claim based on a change to 20 Pa.C.S. § 3392 relating to classification and order of payment; and clarifications regarding undue hardship waivers, postponement of collection and computation of claim.	Ruth O'Brien (717) 783-2800
Family-Based Mental Health Service Providers 55 Pa. Code Chapter 5260	January 2011, as proposed.	This proposed regulation would establish requirements for the delivery of services, and payment of family-based mental health services for children and adolescents.	Ruth O'Brien (717) 783-2800
Residential Treatment Facilities (RTF) for Mental Health Services 55 Pa. Code Chapters 31, 1157 and 1165	October 2010, as proposed.	This regulation codifies coverage for mental health services to children under 21 years of age that are provided in a residential treatment facility. This regulation was reviewed by the Medical Assistance Advisory Committee (MAAC) on 3/28/02 and again to the MAAC as well as other interested stakeholders on 4/20/06. The comments and revised regulations are under review by the Department.	Ruth O'Brien (717) 783-2800

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Psychiatric Rehabilitation Services 55 Pa. Code Chapters	October 2010, as proposed.	The Office of Mental Health and Substance Abuse Services is in the process of amending the Commonwealth's Title XIX Medicaid State Plan to add Psychiatric Rehabilitation Services to the Rehabilitation option. This service is being added under the provision of 42 CFR 44.130(d) "Rehabilitation Services." Psychiatric rehabilitation is a therapeutic rehabilitation service for individuals with mental illness designed to increase competence in normal life activities and allows individuals to pursue life goals with the greatest amount of independence. The proposed regulation will promulgate the minimum standards for the delivery of Psychiatric Rehabilitation Services (PRS).	Ruth O'Brien (717) 783-2800
Integrated Treatment for Outpatient Clinics (formerly referred to as "Psychiatric Outpatient Clinics") 55 Pa. Code Chapter 5200	December 2010, as proposed.	These regulations would be promulgated, simultaneously with identical regulations from the Department of Health, to permit providers of drug and alcohol treatment services and mental health treatment services to obtain licenses from the Departments of Health and Public Welfare authorizing them to deliver integrated treatment on an outpatient basis to persons suffering from co-occurring psychiatric and substance use disorders. The proposed regulations would establish minimum requirements for licensure, including staffing, training, records, and other aspects required for appropriate treatment delivery. There are currently no regulations which provide for licensure of providers of integrated treatment for co-occurring disorders. Instead, facilities that wish to provide integrated treatment currently must meet all the requirements to obtain separate licenses for drug and alcohol and mental health treatment. The proposed regulations would simplify the survey and licensure process for providers. These regulations would be published pursuant to the Department's authority under Articles IX and X of the Public Welfare Code (62 P. S. §§ 901—922, 1001—1031, and 1051—1059).	Ruth O'Brien (717) 783-2800
Intermediate Care Facilities for the Mentally Retarded 55 Pa. Code Chapter 6650	March 2011, as proposed.	This regulation applies to private and public residential facilities receiving monies for intermediate care facilities for the mentally retarded (ICFs/MR) or intermediate care facilities for persons with other related conditions (ICFs/ORC). This regulation will include facility capacity, facility expansion, new ICF/MR development, restraints, incident management, conversion of existing ICF/MR to the Medicaid Consolidated Waiver program, medication administration, medication administration training, self-administration of medications and medication log.	Ruth O'Brien (717) 783-2800
Individual Support Plans 55 Pa. Code Chapters 2380, 2390, 6400 and 6500	August 2010, as final-form.	This rulemaking amends the current Individual Program Plan/Individual Written Program Plan regulations to reflect current practices and requirements related to Individual Support Plans.	Ruth O'Brien (717) 783-2800

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Requirements for Waiver Services for Individuals with Mental Retardation 55 Pa. Code Chapter 1253	November 2010, as proposed.	This regulation will include fiscal and programmatic requirements for individuals and providers relating to receipt and provision of Medical Assistance services funded through the Consolidated and Person/Family Directed Support (P/FDS) Waivers.	Ruth O'Brien (717) 783-2800
Child Care Facilities 55 Pa. Code Chapters 3270, 3280 and 3290	July 2010, as proposed.	The proposed amendments to the child care facility regulations relating to professional development requirements for all child care practitioners will strengthen the child care work force and provide practitioners with the knowledge and competencies needed to provide safe and healthy care to children. The changes will increase the minimum standards for annual training hours, require minimum standards for entities that offer professional development, establish a core curriculum for practitioners and ensure that practitioners meet the professional development requirements through submission of documentation at the time of registration renewal.	Ruth O'Brien (717) 783-2800
<b>REVENUE</b>			
Support Offset and Other Personal Income Tax Provisions	March, 2011, as proposed	This regulatory change will amend certain regulatory provisions to provide for the intercept of income tax refunds from individuals who are delinquent in support payments and redirect the funds accordingly. Other amendments are proposed to update and/or clarify personal income tax provisions.	Douglas Berguson (717) 346-4633
Amendments to Chapter 117. Return and Payment of Tax	July, 2010, as proposed.	The proposed regulation will amend § 117.9 and add § 117.9b to reflect the Department's policy regarding the form of Pennsylvania Personal Income Tax returns. In addition, the regulation will provide clear instructions for taxpayers regarding reporting requirements.	Douglas Berguson (717) 346-4633
Pennsylvania Subchapter S Corporations— Election Language 61 Pa. Code Chapter 107a	March, 2011, as proposed.	The Department is promulgating a new rulemaking as a result of Act 2006-67, which made significant changes to how S corporations are taxed under Pennsylvania Personal Income Tax.	Douglas Berguson (717) 346-4633
Corporate Net Income Tax 61 Pa. Code §§ 151.14, 153.54 and 153.66— Amended Report	July, 2010, as final.	The proposed regulation provides a procedure for the filing of amended corporate tax reports for tax reports governed by the assessment process enacted in Act 119 of 2006. Obsolete language will be replaced.	Douglas Berguson (717) 346-4633
Pennsylvania Sales and Use Tax Amendments to 61 Pa. Code § 53.1 Clothing	Final regulation published at 40 Pa.B. 1746 (April 3, 2010).	The proposed regulation will amend § 53.1 to conform with the statute, as well as amend definitions and clarify examples.	Douglas Berguson (717) 346-4633
§ 119.30 Innocent Spouse Relief	Proposed regulation published at 40 Pa.B. 1916 (April 10, 2010); March, 2011, as final.	The Department is promulgating a new rulemaking to clarify the Department's policy on Innocent Spouse Relief for Pennsylvania Personal Income Tax as enacted under Act 87 of 2002.	Douglas Berguson (717) 346-4633
<b>SECURITIES COMMISSION</b>			
No regulations being developed or considered at this time.			

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<b>STATE</b>			
<p>Bureau of Professional and Occupational Affairs</p> <p>—Schedule of Civil Penalties for violations of the Clean Indoor Air Act— 49 Pa. Code Chapter 43b (16-46)</p> <p>—Telephonic Testimony— 49 Pa. Code Chapter 43b. (number not yet assigned)</p>	<p>Fall 2010, as proposed.</p>	<p>This regulation would create a schedule of civil penalties for violations of the Act of June 13, 2008 (P. L. 182, No. 27), known as the Clean Indoor Air Act. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a), authorizes the Commissioner to set forth schedules of civil penalties. Section 5(b)(1)(ii) of the Clean Indoor Air Act, 35 P. S. § 637.5(b)(1)(ii), authorizes the Bureau to enforce the act.</p> <p>This regulation would provide rules for the admission of testimony received by telephone at hearings conducted by boards/commissions or hearing examiners. Statutory Authority: Section 3(b) of the act of July 2, 1993 (P. L. 345, No. 48), 63 P. S. § 2203(b), authorizes the Commissioner of Professional and Occupational Affairs to promulgate regulations setting forth the procedural rules to be followed in the conduct of hearings in disciplinary matters before a licensing board or commission.</p>	<p>Cynthia K. Montgomery (717) 783-7200</p>
<p>State Board of Accountancy</p> <p>—Continuing Education— 49 Pa. Code §§ 11.61—11.69a (16A-5511)</p> <p>—General Revisions— 49 Pa. Code Chapter 11 (number not yet assigned)</p> <p>—Civil Penalty Schedule— Accountants— 49 Pa. Code § 43b.10a. (16-48)</p>	<p>Summer 2010, as proposed.</p> <p>Spring 2011, as proposed.</p> <p>Summer 2010, as proposed.</p>	<p>The regulation would amend continuing professional education requirements for licensed certified public accountants and public accountants. Statutory Authority: Section 3 of the C.P.A. Law, 63 P. S. § 9.3.</p> <p>This proposed rulemaking would implement the amendments to the CPA Law made by the Act of July 9, 2008 (P. L. 954, No. 73). Statutory Authority: Section 3 of the C.P.A. Law, 63 P. S. § 9.3.</p> <p>This proposed regulation would adopt a schedule of civil penalties for violation of the continuing education regulations of the Board. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a), authorizes the Commissioner of Professional and Occupational Affairs to set forth schedules of civil penalties, with the approval of the Board.</p>	<p>Sara Fox (717) 783-1404</p>
<p>State Architects Licensure Board</p> <p>—General Revisions— 49 Pa. Code Chapter 9 (number not yet assigned)</p> <p>—Experience Requirement— 49 Pa. Code § 9.46 (16A-4120)</p>	<p>Spring 2011, as Proposed.</p> <p>Fall 2010, as proposed.</p>	<p>This regulation would provide a general update of the regulations of the State Architects Licensure Board. Statutory Authority: Section 6(a) and (d) of the Architects Licensing Law, 63 P. S. § 34.6(a) and (d).</p> <p>This regulation would clarify the amount of experience a candidate must have as a prerequisite to being admitted to the license examination. Statutory Authority: Section 6(a) of the Architects Licensure Law, 63 P. S. § 34.6(a).</p>	<p>Penny Walker (717) 783-3397</p>

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
State Board of Barber Examiners  —Student Records and Curriculum— 49 Pa. Code Chapter 3 (16A-427)  —Fee— 49 Pa. Code § 3.103 (16A-428)	Summer 2010, as final.  Summer 2010, as proposed.	This regulation would amend the current regulations to allow for part-time attendance at barber schools; to allow for transfer of hours between a barber shop and a barber school or between barber shops regardless of whether the shop or school is in-state or out-of-state; to require shop owners and schools to submit a quarterly report of student hours to the Board; to require a shop owner, or a shop owner's designee, to notify the Board of each student to be trained in the shop. Statutory Authority: Section 15-A.4(b) of the Barbers' License Law, 63 P. S. § 566.4(b).  The proposed rulemaking would increase biennial renewal fees and fees for other board services. Statutory Authority: Section 14 of the Barbers License Law, 63 P. S. § 564.	Kelly Diller (717) 783-3402
State Board of Chiropractic  —Chiropractic specialties— 49 Pa. Code Chapter 5 (16A-4312)  Review of Chiropractic Treatment— 49 Pa. Code Chapter 5 (16A-4315)  —Assistance of Unlicensed Supportive Personnel— 49 Pa. Code Chapter 5 (16A-4316)  —Continuing Education Violations— 49 Pa. Code § 5.77 (16A-4318)  —Schedule of Civil Penalties— Chiropractors 49 Pa. Code Chapter 43b (16-44)  —Volunteer license— 49 Pa. Code § 5.20 (number not yet assigned)	Fall 2010, as proposed.  Spring 2011, as final.  Spring 2011, as final.  Fall 2010, as final.  Fall 2010, as final.  Fall 2010, as final (proposed-omitted).	The Chiropractic Practice Act prohibits licensees from holding themselves out as specialists unless they possess a post-graduate certification in that specialty. This regulation would identify the certifications acceptable to the Board. Statutory Authority: Section 302(3) of the Chiropractic Practice Act, 63 P. S. § 625.302(3).  This proposed rulemaking would establish standards for chiropractors that engage in chiropractic peer review. Statutory Authority: Section 302(3) of the Chiropractic Practice Act, 63 P. S. § 625.302(3).  This proposed rulemaking would establish standards for the delegation of tasks to unlicensed supportive personnel. Statutory Authority: Sections 302(3) and 601 of the Chiropractic Practice Act, 63 P. S. §§ 624.302(3) and 625.601.  This regulation would adopt a requirement that continuing education deficiencies be made up within 6 months and provides for disciplinary action under the Act 48 citation process. Statutory Authority: Sections 302(3), 506(a)(9) and 507(a) of the Chiropractic Practice Act, 63 P. S. §§ 625.302(3), 625.506(a)(9) and 625.507(a).  This regulation would adopt a schedule of civil penalties for violation of the continuing education regulations of the Board. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a), authorizes the Commissioner of Professional and Occupational Affairs to set forth schedules of civil penalties with the approval of the Board.  This regulation would conform the volunteer license regulations to the amendments to the Volunteer Health Services Act under Act 58 of 2002. Statutory Authority: Section 302 of the Chiropractic Practice Act, 63 P. S. § 625.302.	Deborah Smith (717) 783-7155

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Corporation Bureau  —UCC Revised Article 9— (16-35)	Fall 2010, as proposed.	This regulation would adopt (with some revisions) the Model rules promulgated by the International Association of Corporate Administrators, which call for the delivery of filings by electronic means and acceptance of credit card payments. Statutory Authority: Section 9526 of the Uniform Commercial Code Modernization Act of 2001, 13 Pa.C.S. § 9526.	Martha Brown (717) 787-6802
State Board of Cosmetology  —Fees— 49 Pa. Code § 7.2 (16A-4515)  —Sanitation— 49 Pa. Code Chapter 7 (16A-4516)  —Schedule of Civil Penalties— 49 Pa. Code Chapter 43b, § 43b.5. (number not yet assigned)	Fall 2010, as proposed.  Fall 2010, as proposed.  Fall 2010, as proposed.	The proposed regulation would increase biennial renewal fees for all licensee classifications and would increase certain application fees where the current fees have been determined to be inadequate. Statutory Authority: Section 16(d) of the Beauty Culture Law, 63 P. S. § 522(d), requires the Board to increase fees by regulation to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to match expenditures over a 2-year period.  This regulation would update the Board's regulations on sanitation to conform to modern standards within the profession. Statutory Authority: Sections 11 and 14 of the Act of May 3, 1933 (P. L. 242, No. 86), commonly referred to as the Beauty Culture Law, 63 P. S. §§ 517 and 520.  This regulation would amend the schedule of civil penalties for the State Board of Cosmetology to implement Act 48 civil penalties for failure of a school to submit quarterly reports. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	Kelly Diller (717) 783-7130
State Board of Crane Operators  —Implementation of the Crane Operator Licensure Act— 49 Pa. Code Chapter 36 (16A-7101)	Summer 2010, as proposed.	This proposed regulation would implement the Crane Operator Licensure Act, Act 100 of 2008. Statutory Authority: Section 2102 of the act of October 9, 2008, (P. L. 1363, No. 100), 63 P. S. § 2400.2102.	Penny Walker (717) 783-3397
State Board of Dentistry  —EFDA Program Approval— 49 Pa. Code Chapter 33 (16A-4616)  —Anesthesia Update— 49 Pa. Code, Subchapter E, §§ 33.331—33.342 (16A-4621)	Fall 2010, as final.  Fall 2010, as proposed.	This regulation would establish criteria for Board approval of education programs for expanded function dental assistants. Statutory Authority: Section 3(a) of the Dental Law, 63 P. S. § 122(a).  This regulation would update the standards for the administration of general anesthesia, deep sedation, moderate sedation, minimal sedation and nitrous oxide/oxygen analgesia in dental offices. Statutory Authority: Sections 3(o) and 11.2 of the Dental Law, 63 P. S. §§ 122(o) and 130c.	Lisa Burns (717) 783-7162

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<p>—EFDA Scope of Practice— 49 Pa. Code § 33.205a. (16A-4624)</p> <p>—Volunteer License— 49 Pa. Code § 33.110 (Number not yet assigned)</p>	<p>Fall 2010, as proposed.</p> <p>Spring 2010, as final (proposed-omitted).</p>	<p>This proposed rulemaking implements the act of April 29, 2010 (P. L. ___, No. 19), which amended the Dental Law to expand the scope of practice for expanded function dental assistants. Statutory Authority: The proposed rulemaking is authorized by section 4 of the act of April 29, 2010 (P. L. ___, No. 19), which requires the Board to promulgate regulations within 18 months of its effective date (June 28, 2010); and by section 3(d.1) and (o) of the Dental Law (act), 63 P. S. § 122(d.1) and (o).</p> <p>This regulation would amend the current volunteer license regulations to conform to amendments to the Volunteer Health Services Act made by Act 58 of 2002. Statutory Authority: Section 3(o) of the Dental Law, 63 P. S. § 122(o).</p>	
<p>State Registration Board for Professional Engineers, Land Surveyors and Geologists</p> <p>—General Revisions— 49 Pa. Code Chapter 37 (16A-479)</p> <p>—Continuing Education— 49 Pa. Code Chapter 37 (16A-4710)</p> <p>—Schedule of Civil Penalties— Engineers, Geologists and Land Surveyors 49 Pa. Code Chapter 43b (16-43)</p>	<p>Fall 2010, as proposed.</p> <p>Fall 2010, as final.</p> <p>Fall 2010, as final.</p>	<p>The regulation would clarify education and experience requirements for regular and “grandfathered” candidates for examination and licensure; revise categories of acceptable professional references for candidates; update the branches of engineering for which license examinations are offered; prescribe standards relating to the use of an electronic seal and signature; clarify criteria for approval of fictitious and corporate names that use variations of professional titles; eliminate unnecessary administrative requirements; and make editorial changes. Statutory Authority: Section 4 of the Engineer, Land Surveyor and Geologist Registration Law, 63 P. S. § 151.</p> <p>The regulation would set forth continuing education requirements for professional engineers, geologists and land surveyors. Statutory Authority: Sections 4(1) and 4.5(a) of the Engineer, Land Surveyor and Geologist Registration Law, 63 P. S. §§ 151.4(1) and 151.4.5(a).</p> <p>This regulation would adopt a schedule of civil penalties for violations of the continuing education regulations being promulgated by the State Board of Engineers, Land Surveyors and Geologists (16A-4710). Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a), authorizes the Commissioner of Professional and Occupational Affairs to set forth schedules of civil penalties, with the approval of the Board.</p>	<p>Terrie Kocher (717) 783-7049</p>



<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<p>State Board of Funeral Directors</p> <p>—Continuing education enforcement— 49 Pa. Code Chapter 13, §§ 13.231 and 13.401 (16A-4818)</p> <p>—Schedule of Civil Penalties— continuing education violations— 49 Pa. Code Chapter 43, § 43b.6 (16-47)</p> <p>—Supervision at Funeral Services— 49 Pa. Code § 13.215 (number not yet assigned)</p>	<p>Fall 2010, as final.</p> <p>Fall 2010, as final.</p> <p>Summer 2010, as proposed.</p>	<p>This regulation would provide for the enforcement of continuing education violations through the Act 48 citation process. Statutory authority: Sections 10(b) and 16(a) of the Funeral Director Law, 63 P. S. §§ 479.10(b) and 479.16(a).</p> <p>This regulation would establish the civil penalty schedule for violations of the Funeral Board's continuing education violations. Statutory Authority: Section 5(a) of the act of July 2, 1993 (P. L. 345, No. 48), 63 P. S. § 2205(a); and sections 11(a)(6) and 17(b) of the Funeral Director Law, 63 P. S. §§ 479.11(a)(6) and 479.17(b).</p> <p>The proposed rulemaking would update the Board's regulations to address current practice. Statutory Authority: Sections 11(a)(5) and 16(a) of the Funeral Director Law, 63 P. S. §§ 479.11(a)(5) and 479.16(a).</p>	<p>Heidy Weirich (717) 783-3397</p>
<p>State Board of Landscape Architects</p> <p>—Biennial Renewal Fees— 49 Pa. Code § 15.12 (16A-619)</p> <p>—Licensure Requirements and Continuing Education— 49 Pa. Code Chapter 15 (16A-6110)</p> <p>—Schedule of Civil Penalties— Landscape Architects 49 Pa. Code Chapter 43b (number not yet assigned)</p>	<p>Fall 2010, as final.</p> <p>Fall 2010, as proposed.</p> <p>Spring 2011, as proposed.</p>	<p>This proposed regulation would increase the biennial registration fee for landscape architects from \$125 to \$194. Statutory Authority: Section 5 of the Landscape Architects' Registration Law, 63 P. S. § 905.</p> <p>This proposed regulation would implement the act of July 17, 2009 (P. L. 94, No. 24). Statutory Authority: Section 4(9) of the Landscape Architects' Registration law, 63 P. S. § 904(9).</p> <p>This proposed regulation would adopt a schedule of civil penalties for unlicensed practice and other violations of the Landscape Architects Registration Law. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a), authorizes the Commissioner of Professional and Occupational Affairs to set forth schedules of civil penalties, with the approval of the Board.</p>	<p>Terrie Kocher (717) 783-7049</p>
<p>State Board of Massage Therapy</p> <p>—Implementation of the Massage Therapy Law— 49 Pa. Code Chapter 20 (16A-7201)</p>	<p>Fall 2010, as final.</p>	<p>This regulation is required to implement the Massage Therapy Law, act of October 9, 2008 (P. L. 1438, No. 118). Statutory Authority: Section 50 of the Massage Therapy Law, 63 P. S. § 627.50, requires the Board to promulgate regulations within 18 months.</p>	<p>Judy Harner (717) 783-7155</p>

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
State Board of Medicine  —General Revisions— 49 Pa. Code Chapters 16, 17 and 18 (16A-4925)  —Clarification of Medicine and Surgery— 49 Pa. Code Chapters 16 and 17 (16A-4927)  —Behavior Specialists— 49 Pa. Code Chapter 18 (16A-4929)  —Licensure of Respiratory Therapists and Physician Assistants— 49 Pa. Code Chapter 18 (16A-4930)	Fall 2010, as proposed.  Fall 2010, as proposed.  Fall 2010, as final.  Fall 2010, as proposed.	This proposed rulemaking would implement Acts 29, 46 and 48 of 2007, and would generally update the regulations of the Board relating to physicians, physician assistants, certified registered nurse practitioners, respiratory care practitioners, and volunteer licensees. Statutory Authority: Acts 29, 46 and 49 of 2007 direct the Board to adopt, promulgate and enforce regulations to effectuate the amendments adopted in the respective Acts. In addition, Section 8 of the Medical Practice Act of 1985, 63 P. S. § 422.8, authorizes the Board to promulgate regulations that are reasonably necessary to carry out the purposes of the Act.  This rulemaking would amend basic definitions and establish minimum standards of practice relating to examinations preceding treatment and relating to certain medical procedures. Statutory Authority: Section 8 of the Medical Practice Act of 1985, 63 P. S. § 422.8.  The proposed rulemaking implements the licensure or certification of behavior specialists as required by the Act of July 9, 2008 (P. L. 885, No. 62). Statutory Authority: Section 3(g) of the Act of July 9, 2008 (P. L. 885, No. 62) requires the Board, in consultation with the Department of Public Welfare, to promulgate regulations providing for the licensure or certification of behavior specialists.  The proposed rulemaking would implement the amendments made to the Medical Practice Act by the Act of July 4, 2008 (P. L. 580, No. 45) relating to licensure of respiratory therapists and physician assistants. Statutory authority: Section 8 of the Act of July 4, 2008 (P. L. 580, No. 45) requires the Board and the State Board of Osteopathic Medicine to jointly promulgate regulations to implement the amendments within 18 months.	Tammy Radel (717) 783-1400
—Perfusionists— 49 Pa. Code Chapter 18, Subchapter J (16A-4931)  —Schedule of Civil Penalties— 49 Pa. Code Chapter 43b, § 43b.20. (number not yet assigned)	Spring 2011, as final.  Fall 2010, as proposed.	The proposed rulemaking would set forth the requirements for licensure of perfusionists. Statutory Authority: Section 4 of the Act of June 11, 2008 (P. L. 154, No. 19) requires the Board to promulgate regulations to implement licensure of perfusionists within 18 months of the effective date. The act was effective on August 10, 2008.  This regulation would amend the schedule of civil penalties for the State Board of Medicine to implement Act 48 civil penalties for practicing on a lapsed license and for continuing education violations. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	Tammy Radel (717) 783-1400

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
State Board of Nursing  —LPN/IV Therapy— 49 Pa. Code § 21.145 (16A-5122)  —Updated Applications— 49 Pa. Code § 21.151 (16A-5134)  —Reactivation/ Re-licensure after Lapse— 49 Pa. Code Chapter 21 (16A-5135)	Spring 2011, as final.  Fall 2010, as proposed.  Fall 2010, as proposed	This regulation addresses the LPN's role in working with peripherally inserted central catheters (PICC lines). Statutory Authority: Section 17.6 of the Practical Nurse Law, 63 P. S. § 667.6.  The proposed rulemaking would provide for admission to the practical nurse exam for applicants who have graduated from a foreign practical nursing program that is equivalent to an LPN education program of study required in this Commonwealth at the time the program was completed as determined by the Commission on Graduate of Foreign Nursing Schools (CGFNS). Statutory Authority: Sections 5 and 17.6 of the Practical Nurse Law, 63 P. S. §§ 655 and 667.6.  This regulation would set standards for the reactivation/re-licensure of nurses whose licenses have lapsed for a significant period of time. Statutory Authority: Sections 2.1 and 11 of the Professional Nursing Law, 63 P. S. §§ 212.1 and 221; and sections 13.1 and 17.6 of the Practical Nurse Law, 63 P. S. §§ 663.1 and 667.6, authorize the Board to regulate the renewal of expired or inactive licenses and to promulgate regulations generally.	Ann Steffanic (717) 783-7142
—Biennial Renewal Fee— 49 Pa. Code Chapter 21 (16A-5136)  —Out of State Nursing Education Programs using Pennsylvania Clinical Sites— 49 Pa. Code Chapter 21 (16A-5137)  —Fees for Nursing Education Programs— 49 Pa. Code Chapter 21 (number not yet assigned)	Fall 2010, as final.  Spring 2011, as proposed.  Fall 2010, as proposed.	This regulation is needed to increase the biennial renewal fees for nurses. Statutory authority: Section 11.2 of the Professional Nursing Law, 63 P. S. § 221.2, and Section 17.5 of the Practical Nurse Law, 63 P. S. § 667.5, set forth the authority to set fees by regulation.  This regulation will require out of state educational programs that intend to place nursing students in Pennsylvania facilities for clinical education with a Pennsylvania licensed nurse preceptor to apply to the Board for permission to utilize the clinical site. This same requirement is placed on Pennsylvania nursing education programs. Statutory Authority: Section 6.1 of the Professional Nursing Law, 63 P. S. § 216.1 and Section 9 of the Practical Nurse Law, 63 P. S. § 659.  This regulation is necessary to set fees for the approval of nursing education programs. Statutory Authority: Section 11.2 of the Professional Nursing Law, 63 P. S. § 221.2, and Section 17.5 of the Practical Nursing Law, 63 P. S. § 667.5, set forth the authority to the setting of fees by regulation. Section 6.2 of the Professional Nursing Law, 63 P. S. § 216.2, provides the Board's authority to approve nursing education programs. Sections 2.1(k) of the Professional Nursing Law, 63 P. S. § 212.1(k) and 17.6 of the Practical Nursing Law, 63 P. S. § 667.6, provide the general rulemaking authority of the Board.	Ann Steffanic (717) 783-7142

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
—Volunteer License— 49 Pa. Code Chapter 21, Subchapter F, §§ 21.601—21.607 (number not yet assigned)	Fall 2010, as final (proposed- omitted).	This regulation would amend the volunteer license regulations to conform to amendments to the Volunteer Health Services Act made by Act 58 of 2002. Statutory Authority: Section 2.1(k) of the Professional Nursing Law, 63 P. S. § 212.1(k).	
State Board of Examiners of Nursing Home Administrators			
—Sexual Misconduct— 49 Pa. Code §§ 39.1 and 39.9 (16A-6211)	Fall 2010, as proposed.	This regulation would add sexual abuse, sexual misconduct and sexual harassment as offenses for which a nursing home administrator's license may be disciplined. Statutory Authority: Sections 4(c) and 6(g) of the Nursing Home Administrators Licensure Act, 63 P. S. §§ 1104(c) and 1106(g).	Chris Stuckey (717) 783-7155
—Continued Competence— 49 Pa. Code Chapter 39 (16A-6213)	Fall 2010, as proposed	This regulation would provide the requirements for demonstrating continued competence when reactivating a license that has been inactive for more than 5 years. Statutory Authority: Section 4(a)(4), (9) and (c) of the Nursing Home Administrators Licensure Act, 63 P. S. § 1104(a)(4),(9) and (c).	
Schedule of Civil Penalties— 49 Pa. Code Chapter 43b, § 43b.17 (number not yet assigned)	Fall 2010, as proposed.	This regulation would amend the schedule of civil penalties for the State Board of Examiners of Nursing Home Administrators to implement Act 48 civil penalties for continuing education violations. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	
State Board of Occupational Therapy Education and Licensure			
—Continued Competency— 49 Pa. Code §§ 42.50—42.58 (16A-677)	Summer 2010, as proposed.	The proposed rulemaking would implement section 15(a) of the Occupational Therapy Practice Act, 63 P. S. § 1515(a), which authorizes the board to establish additional requirements for the license renewal designed to assure continued competency. Statutory Authority: Section 5(b) of the Occupational Therapy Practice Act, 63 P. S. § 1505(b).	Chris Stuckey (717) 783-1389
State Board of Optometry			
—Continuing Education— 49 Pa. Code §§ 23.81 and 23.82. (16A-5212)	Fall 2010, as final (proposed- omitted).	This regulation would amend the continuing education requirements to clarify the need for a licensee to complete the licensee's continuing education as a prerequisite to renew a lapsed or inactive license within the two years immediately preceding renewal or reactivation. Statutory Authority: Sections 3(b)(14) and 5 of the Optometric Practice and Licensure Act (63 P. S. §§ 244.3(b)(14) and 244.5).	Deborah Smith (717) 783-7155

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Schedule of Civil Penalties— Optometrists 49 Pa. Code Chapter 43b (number not yet assigned)	Fall 2010, as proposed.	This proposed regulation would adopt a schedule of civil penalties for continuing education violations. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a), authorizes the Commissioner to set forth schedules of civil penalties.	
—Volunteer License— 49 Pa. Code § 23.26 (number not yet assigned)	Fall 2010, as final (proposed-omitted).	This regulation would amend the Board's volunteer license regulations to conform to amendments to the Volunteer Health Services Act made by Act 58 of 2002. Statutory Authority: Section 3(b)(14) of the Optometric Practice and Licensure Act, 63 P. S. § 244.3(b)(14).	
State Board of Osteopathic Medicine			
—Miscellaneous Provisions— 49 Pa. Code Chapter 25 (16A-5319)	Fall 2010, as proposed.	This regulation would implement Acts 29 and 46 of 2007 pertaining to supervision of physician assistants and continuing medical education for volunteer license holders. Statutory Authority: Section 10(h) of the Osteopathic Medical Practice Act (Act), 63 P. S. § 271.10(h), authorizes the Board to establish rules and regulations relating to physician assistants; and section 16 of the Act, 63 P. S. § 271.16, authorizes the Board to adopt regulations as are reasonably necessary to carry out the purposes of the Act.	Gina Bittner (717) 783-4858
—Licensure of Respiratory Therapists and Physician Assistants— 49 Pa. Code Chapter 25 (16A-5320)	Fall 2010, as proposed.	The proposed rulemaking implements the amendments made to the Osteopathic Medical Practice Act by the Act of July 4, 2008 (P. L. 589, No. 46) relating to licensure of respiratory therapists and physician assistants. Statutory authority: Section 8 of the Act of July 4, 2008 (P. L. 589, No. 46) requires the Board and the State Board of Medicine to jointly promulgate regulations to implement the amendments within 18 months.	
—Perfusionists— 49 Pa. Code Chapter 25 (16A-5321)	Spring 2011, as final.	The proposed rulemaking would set forth the requirements for licensure of perfusionists. Statutory Authority: Section 4 of the Act of June 11, 2008 (P. L. 161, No. 20) requires the Board to promulgate regulations to implement licensure of perfusionists within 18 months of the effective date. The act was effective on August 10, 2008.	
—Volunteer License— 49 Pa. Code Chapter 25, Subchapter L, §§ 25.601—25.607 (number not yet assigned)	Fall 2010, as final (proposed-omitted).	This regulation would amend the Board's volunteer license regulations to conform to amendments to the Volunteer Health Services Act made by Act 58 of 2002. Statutory Authority: Section 16 of the Osteopathic Medicine Act, 63 P. S. § 271.16.	
—Schedule of Civil Penalties— 49 Pa. Code Chapter 43b (number not yet assigned)	Fall 2010, as proposed.	This regulation would establish a schedule of civil penalties for the State Board of Osteopathic Medicine to implement Act 48 civil penalties for failure to report complaints filed against an osteopathic physician in a medical professional liability action. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
State Board of Pharmacy  —Compounding Practices— 49 Pa. Code Chapter 27 (16A-5419)  —Cancer Drug Repository Program— 49 Pa. Code Chapter 27 (16A-5423)  —Pharmacy Internship— 49 Pa. Code Chapter 27 (16A-5424)  —Schedule of Civil Penalties— 49 Pa. Code Chapter 43b, § 43b.7 (number not yet assigned)	Spring 2011, as proposed.  Summer 2010, as proposed.  Fall 2010, as proposed.  Fall 2010, as proposed.	This rulemaking would establish standards for the compounding of drugs by pharmacists. Statutory Authority: Section 6(k)(9) of the Pharmacy Act, 63 P. S. § 390-6(k)(9) grants the authority to promulgate rules and regulations to effectuate the purposes of the act. Section 2 of the Pharmacy Act, 63 P. S. § 390-2(11) defines the practice of pharmacy to include the compounding of drugs.  The proposed rulemaking would establish the eligibility criteria, standards and procedures for the administration of a cancer drug repository program. Statutory authority: Section 7 of the Act of May 13, 2008 (P. L. 139, No. 14), known as the Cancer Drug Repository Program Act, requires the Board to promulgate regulations to carry out the purposes of the act within 90 days of the effective date. The effective date was July 12, 2008.  This rulemaking would update the Board's regulations relating to the pharmacy internship required under section 3 of the Pharmacy Act. Statutory Authority: Section 3 of the Pharmacy Act, 63 P. S. § 390-3(c) requires the Board to establish by regulation the internship requirements which must be satisfactorily completed prior to issuance of a pharmacist license.  This regulation would amend the schedule of civil penalties for the State Board of Pharmacy to implement Act 48 civil penalties for continuing education violations. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	Melanie Zimmerman (717) 783-7156
State Board of Physical Therapy  —Continuing Education Providers— 49 Pa. Code § 40.63 (16A-6513)  —Act 38 Revisions— 49 Pa. Code Chapter 40 (16A-6514)  —Schedule of Civil Penalties— 49 Pa. Code Chapter 43b (number not yet assigned)	Fall 2010, as final.  Fall 2010, as proposed.  Fall 2010, as proposed.	This proposed rulemaking would clarify and update the continuing education requirements relating to approved providers of continuing education. Statutory authority: Sections 3(a) and 9(c)(2) of the Physical Therapy Practice Act, 63 P. S. §§ 1303(a) and 1303(c)(2).  The proposed rulemaking would implement the amendments to the Physical Therapy Practice Act made by the Act of July 4, 2008 (P. L. 293, No. 38). Statutory authority: Section 16 of the Act of July 4, 2008 (P. L. 293, No. 38) requires the Board to promulgate regulations to implement the amendments and additions of that act within 18 months of the effective date. The act is effective on October 2, 2008.  This regulation would establish a schedule of civil penalties for the State Board of Physical Therapy to implement Act 48 civil penalties for practicing on a lapsed license. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	Michelle Roberts (717) 783-7134

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<p>State Board of Podiatry</p> <p>—Certificate of Authority to Perform Acupuncture— 49 Pa. Code Chapter 29 (16A-449)</p> <p>—Continuing Education— 49 Pa. Code §§ 29.61 and 29.63 (16A-4410)</p> <p>—Schedule of Civil Penalties— Podiatrists 49 Pa. Code Chapter 43b (Number not yet assigned)</p> <p>—Volunteer License— 49 Pa. Code § 29.55 (number not yet assigned)</p>	<p>Fall 2010, as proposed.</p> <p>Fall 2010, as final.</p> <p>Fall 2010, as proposed.</p> <p>Fall 2010, as final (proposed-omitted).</p>	<p>This regulation would establish the fees and regulate the practice of acupuncture by podiatrists under the Acupuncture Registration Act. Statutory Authority: Section 3 of the Acupuncture Registration Act, 63 P. S. § 1803.</p> <p>This regulation would increase the biennial continuing education requirement from 30 hours to 50 hours and expand the categories of approved continuing education providers. Statutory Authority: Section 9.1 of the Podiatry Practice Act, 63 P. S. § 42.9a.</p> <p>This proposed regulation would adopt a schedule of civil penalties for continuing education violations. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a), authorizes the Commissioner to set forth schedules of civil penalties.</p> <p>This regulation would amend the Board's volunteer license regulations to conform to amendments to the Volunteer Health Services Act made by Act 58 of 2002. Statutory Authority: Section 15 of the Podiatry Practice Act, 63 P. S. § 42.15.</p>	<p>Gina Bittner (717) 783-4858</p>
<p>State Board of Psychology</p> <p>—Continuing Education— 49 Pa. Code § 41.59 (16A-6317)</p> <p>—Code of Conduct— 49 Pa. Code § 41.61 (16A-6318)</p> <p>—Schedule of Civil Penalties— 49 Pa. Code Chapter 43b (number not yet assigned)</p>	<p>Fall 2010, as proposed.</p> <p>Fall 2010, as proposed.</p> <p>Fall 2010, as proposed.</p>	<p>This regulation would amend the Board's continuing education requirements regarding home study, instruction and carry over. Statutory Authority: Section 15 of the Professional Psychologists Practice Act, 63 P. S. § 1215.</p> <p>This regulation would update the Board's Code of Conduct so that it would be in line with changes to the American Psychological Association and the Association of State and Provincial Psychology Boards. Statutory Authority: Section 3.2(2) of the Professional Psychologists Practice Act, 63 P. S. § 1203.2(2).</p> <p>This regulation would establish a schedule of civil penalties for the State Board of Psychology to implement Act 48 civil penalties for continuing education violations. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).</p>	<p>Chris Stuckey (717) 783-7155</p>
<p>State Board of Certified Real Estate Appraisers</p> <p>Continuing Education Enforcement— 49 Pa. Code §§ 36.41 and 36.241 (16A-7016)</p>	<p>Fall 2010, as proposed.</p>	<p>The proposed rulemaking establishes procedures for the enforcement of noncompliance with continuing education requirements. Statutory Authority: Section 5(2) of the Real Estate Appraisers Certification Act, 63 P. S. § 457.5(2).</p>	<p>Heidy Weirich (717) 783-3397</p>

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Schedule of Civil Penalties— Real Estate Appraisers— 49 Pa. Code § 43b.15a (16-49)	Fall 2010, as proposed.	The proposed rulemaking will codify and amend the Board's current schedule of civil penalties statement of policy. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a), authorizes the Commissioner to set forth schedules of civil penalties, with the approval of the Board.	
State Real Estate Commission			Patricia Ridley (717) 783-3658
—Education— 49 Pa. Code § 35.384 and 35.385 (16A-5613)	Fall 2010, as proposed.	This proposed regulation would require new licensees to complete a mandatory 14-hour post-licensure course in lieu of their continuing education. Statutory Authority: Sections 404 and 404.1 of the Real Estate Licensing and Registration Act, 63 P. S. §§ 455.404 and 455.404a.	
—Initial Licensure Fees— 49 Pa. Code § 35.203 (16A-5615)	Fall 2010, as final.	The regulation would amend current fees by consolidating the initial licensure fee charged to new applicants from a two-tiered structure to a single fee in order to allow the Commission to establish an online application in that the current system cannot accommodate a two-tiered fee structure. Statutory Authority: Sections 404 and 407 of the Real Estate Licensing and Registration Act, 63 P. S. §§ 455.404 and 455.407.	
—Seller's Property Disclosure Statement— 49 Pa. Code § 33.335a (16A-5618)	Fall 2010, as final.	This regulation would adopt a form "seller's property disclosure statement" as required by Act 114 of 2000. Statutory Authority: Section 7304(a) of the Residential Real Estate Transfers Law, 63 P. S. § 7304(a).	
—Property Management— 49 Pa. Code Chapter 35 (16A-5619)	Fall 2010, as proposed.	The proposed regulation would establish standards for licensees who engage in property management. Statutory Authority: Section 404 of the Real Estate Licensing and Registration Act, 63 P. S. § 455.404.	
—Advertising and Solicitation— 49 Pa. Code § 35.305 (16A-5620)	Fall 2010, as proposed.	The proposed regulation would require licensees to advertise or otherwise hold themselves out to the public only under the name listed on their licenses. Statutory Authority: Section 404 of the Real Estate Licensing and Registration Act, 63 P. S. § 455.404.	
—Schedule of Civil Penalties— 49 Pa. Code Chapter 43b, § 43b.8 (number not yet assigned)	Fall 2010, as proposed.	This regulation would amend the schedule of civil penalties for the State Real Estate Commission to implement Act 48 civil penalties for continuing education violations. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	



<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<p>State Board of Social Workers, Marriage and Family Therapists and Professional Counselors</p> <p>—Standards of Professional Conduct— 49 Pa. Code Chapters 47, 48 and 49 (16A-6911)</p> <p>—Implementation of Act 68 of 2008; Hours of Supervised Clinical Experience and Licensure by Endorsement— 49 Pa. Code Chapters 47, 48 and 19 (16A-6916)</p> <p>—Schedule of Civil Penalties— 49 Pa. Code Chapter 43b (number not yet assigned)</p>	<p>Fall 2010, as final.</p> <p>Fall 2010, as final.</p> <p>Fall 2010, as proposed.</p>	<p>The regulation would establish a code of ethics and standards of professional conduct for social workers, clinical social workers, marriage and family therapists, and professional counselors licensed by the board. Statutory Authority: Section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act, 63 P. S. § 1906(2).</p> <p>This proposed rulemaking would implement the reduction in the number of required hours of supervised clinical experience from 3,600 to 3,000 and provide for licensure by endorsement as required by the Act of July 9, 2008 (P. L. 929, No. 68). Statutory Authority: Section 4 of the Act of July 9, 2008 (P. L. 929, No. 68) provides that the Board shall promulgate regulations to implement the amendments within three years of the effective date of the act. Act 68 is effective on September 7, 2008</p> <p>This regulation would establish a schedule of civil penalties for the State Board of Social Workers, Marriage and Family Therapists and Professional Counselors to implement Act 48 civil penalties for practicing without a license or practicing on a lapsed license. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).</p>	<p>Sandra Matter (717) 783-1389</p>
<p>State Board of Examiners in Speech-Language and Hearing</p> <p>—General Revisions— 49 Pa. Code Chapter 45 (number not yet assigned)</p> <p>—Schedule of Civil Penalties— 49 Pa. Code Chapter 43b (number not yet assigned)</p>	<p>Fall 2010, as proposed.</p> <p>Fall 2010, as final.</p>	<p>This regulation would update of the regulations of the Board to delete or amend outdated regulations. Statutory Authority: Section 5(2) of the Speech-Language and Hearing Licensure Act, 63 P. S. § 1705(2).</p> <p>This regulation would amend the schedule of civil penalties for the State Board of Speech-Language and Hearing to implement Act 48 civil penalties for continuing education violations. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).</p>	<p>Sandra Matter (717) 783-1389</p>

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<p>State Board of Vehicle Manufacturers, Dealers and Salespersons</p> <p>—Salesperson License— 49 Pa. Code Chapter 19 (16A-609)</p> <p>—Fee for Out-of-state RV Dealer Participating in a Show— 49 Pa. Code § 19.4 (number not yet assigned)</p>	<p>Fall 2010, as proposed.</p> <p>Fall 2010, as proposed.</p>	<p>This regulation would clarify and update the requirements for salespersons in order to permit salespersons to sell at other locations of the same dealer. Statutory Authority: Section 4(9) of the Board of Vehicles Act, 63 P. S. § 818.4(9).</p> <p>This regulation would establish a fee for processing applications under section 32.1(c) of the act, 63 P. S. § 818.32a(c), for out-of-state RV dealers to register with the Board in order to participate in an RV show in this Commonwealth. Statutory Authority: Sections 4(9) and 32.1(c) of the Board of Vehicles Act, 63 P. S. §§ 818.4(9) and 818.32.1(c).</p>	<p>Janice Cline (717) 783-1697</p>
<p>State Board of Veterinary Medicine</p> <p>—Veterinary Dentistry— 49 Pa. Code Chapter 31 (16A-5718)</p> <p>—Facilities— 49 Pa. Code Chapter 31 (16A-5720)</p> <p>—Licensure, Continuing Education— 49 Pa. Code Chapter 31 (16A-5724)</p> <p>—Schedule of Civil Penalties— Veterinarians and Veterinary Technicians— 49 Pa. Code § 43b.21a (16A-51)</p>	<p>Fall 2010, as proposed.</p> <p>Fall 2010, as proposed.</p> <p>Summer 2010, as proposed.</p> <p>Spring 2010, as proposed.</p>	<p>This regulation would address issues relating to veterinary dentistry. Statutory Authority: Section 5 of the Veterinary Medicine Practice Act, 63 P. S. § 485.5.</p> <p>This regulation would establish standards for and require registration of veterinary facilities. Statutory Authority: Sections 5 and 27 of the Veterinary Medicine Practice Act, 63 P. S. §§ 485.5 and 485.27.</p> <p>The proposed regulation would update the Board's regulations with regard to original licensure, temporary permits, license renewal and continuing education. Statutory Authority: Sections 5(2), 8, 11 and 18 of the Veterinary Medicine Practice Act (act) (63 P. S. §§ 485.5(2), 485.8, 485.11 and 485.18).</p> <p>This proposed regulation would adopt a schedule of civil penalties for continuing education violations. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a), authorizes the Commissioner to set forth schedules of civil penalties, with the approval of the Board.</p>	<p>Michelle Roberts (717) 783-7134</p>
<b>STATE EMPLOYEES' RETIREMENT SYSTEM</b>			
<p>4 Pa. Code § 247.11. Priority of forfeitures, attachments and assignments of funds. (This proposed regulation will clarify the priority of payments to be made from the members' accounts by SERS pursuant to 71 Pa.C.S. § 5953.)</p>	<p>The final rulemaking package is proceeding consistent with the CDL.</p>	<p>The statute does not set priorities among conflicting demands on members' accounts. A recent court decision has offered partial guidance in this area. A regulation would enable consistent application of the statute and would reduce litigation of priority issues. This is also being considered as a statutory amendment.</p>	<p>Brian McDonough, Esq. (717) 787-7317</p> <p>Robert Gentzel (717) 787-9657</p> <p>David Durbin (717) 783-7210</p>

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
4 Pa. Code § 249.53. Exemption from execution; assignment of rights. (This proposed regulation amendment would delete State Employees' Credit Union payment language.)	The proposed rulemaking package is proceeding consistent with the CDL and the requirements of 4 Pa. Code § 247.11.	The language is obsolete. No credit union currently meets the statutory requirements and it is unlikely that any new ones will. A corresponding statutory amendment is also being considered.	Brian McDonough, Esq. (717) 787-7317  Robert Gentzel (717) 787-9657  David Durbin (717) 783-7210
4 Pa. Code § 247.51. Time for Recomputation of Annuity. (The proposed language would impose a time limit for annuitants to change the optional payment plan authorized by the second to the last sentence of 71 Pa.C.S. § 5907(j).)	2010	This new regulation would provide guidance on when an annuitant is permitted to change their optional payment plan. There is no time frame in the statute for this election to occur causing administrative difficulties including permitting anti-selection of death benefits, requiring members to make a declaration under discontinued disability benefits and negating an option change absent another qualifying event.	Brian McDonough, Esq. (717) 787-7317  Robert Gentzel (717) 787-9657  David Durbin (717) 783-7210
4 Pa. Code § 247.4(c). Disability Annuities. (This proposed regulation will clarify: 1) the methodology used to determine the employer-funded offset credit; 2) the service-connected disability supplement; and 3) the rights of terminated members to apply for a disability.)	2011	The statute does not expressly determine the methodology, the effects of these formulas and when terminated members can apply. Recent court and administrative decisions have offered partial guidance in this area. A regulation would enable consistent application of the statute and would reduce litigation of disability and supplement issues. This is also being considered as a statutory amendment.	M. Catherine Nolan, Esq. (717) 787-7317  Robert Gentzel (717) 787-9657  David Durbin (717) 783-7210
4 Pa. Code § 243.8. Membership rules for educational employees.	2011	This new regulation would clarify the requirements for membership and final average salary calculations for educational employees.	Brian McDonough, Esq. (717) 787-7317  Robert Gentzel (717) 787-9657  David Durbin (717) 783-7210
4 Pa. Code § 245.4. Member contributions for the purchase of credit for previous State service or to become a full coverage member. (The regulation would be amended to specify the effects of a service purchase or reinstatement.)	2011	This regulation would be amended to clarify the effects of the reinstatement or purchase of previous State service.  A recent administrative decision has offered partial guidance in this area. A regulation would enable consistent application of the statute and would reduce litigation of purchase of service issues. This is also being considered as a statutory amendment.	Brian McDonough, Esq. (717) 787-7317  Robert Gentzel (717) 787-9657  David Durbin (717) 783-7210

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<b>STATE POLICE</b>			
DNA Detection of Sexual and Violent Offenders. 37 Pa. Code Chapter 58	June 2011, as proposed.	Act 185 of 2004 repealed Chapter 47 of Title 42 of the Pennsylvania Consolidated Statutes and amended Title 44 to add Chapter 23, DNA Data and Testing. The act requires the State Police to promulgate rules and regulations to carry out its provisions.	Syndi L. Guido Policy Director (717) 772-0905
Administration of Megan's Law—Neighbor Notification 37 Pa. Code Chapter 55	June 2011, as proposed.	Act 18 of 2000, known as Megan's Law, provides for the registration of sexual offenders and community notification for sexually violent predators. The act requires the Department to promulgate guidelines for the general administration of the act in consultation with the Department of Corrections, the Office of Attorney General, the Pennsylvania Board of Probation and Parole, and the chairperson and minority chairperson of the Senate and House Judiciary Committees. The act also requires the Department to write regulations regarding neighbor notification of sexually violent predators' residence, school, or employer. See 42 Pa.C.S. § 9799.1 Although the requisite guidelines and regulations have been promulgated, the Department is in the process of updating them in light of subsequent and anticipated amendments Megan's Law.	Syndi L. Guido Policy Director (717) 772-0905
<b>STATE SYSTEM OF HIGHER EDUCATION</b>			
No regulations being developed or considered at this date.			
<b>TRANSPORTATION</b>			
43—Temporary Registration Cards and Plates  67 Pa. Code Chapter 43	December 2010.	Act 152 of 2002 enacted legislation (requiring contracts for all messenger and agent services) that supersedes several facets of this regulation. Based on the legislation, any reference to bond, hearings, written warnings, suspensions, revocations or fines will be removed from the regulation, as these items are now addressed in the required contracts.	Andy Cleaver (717) 787-2171
175—Vehicle Equipment and Inspection  67 Pa. Code Chapter 175	December 2010.	Many changes are needed to bring the regulations in line with changes in the Vehicle Code. Other changes are being proposed to add convenience for customers, to update forms and processes, to accommodate changes in vehicle technology and to implement an initiative to update recertification requirements for safety inspectors and electronic recordkeeping of vehicle safety inspection findings. The regulation revisions also propose to eliminate the issuance of refunds for unused inspection stickers, which would be a savings to the Commonwealth.	John Munafò (717) 787-2171
21—Odometer Read Disclosure Statements  67 Pa. Code Chapter 21	December 2010.	Changes are needed to bring the regulation current with the Vehicle Code to specify the age at which a vehicle becomes exempt from odometer disclosure.	Andy Cleaver (717) 787-2171
23—Delivery of Certificates of Title  67 Pa. Code Chapter 23	December 2010.	The method of title delivery has changed due to the electronic lien and title program (75 Pa.C.S. § 1151). This Chapter needs to be updated to reflect the ability to transmit titles with liens electronically, rather than by mail.	Andy Cleaver (717) 787-2171
17—Authorization to Verify ID Numbers  67 Pa. Code Chapter 17	December 2010.	Changes are needed to document the Vehicle Identification Number (VIN) verification process. The VIN verification process is not currently documented in either the Vehicle Code or in regulations.	Andy Cleaver (717) 787-2171

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
71—School Bus Drivers  67 Pa. Code Chapter 71	July 2010.	The regulations will be updated and published for the second and final time, which will clarify the requirements for diabetic drivers.	Scott Shenk (717) 783-5958
83—Physical & Mental Criteria—Including Vision Standards Relating to the Licensing of Drivers  67 Pa. Code Chapter 83	July 2010.	The regulation will be updated and published for the second and final time, which will update the requirements for diabetic drivers. This change will also incorporate the change required by HB1912, Act 756, passed July 15, 2004, that allows chiropractors to conduct exams for learner's permits.	Scott Shenk (717) 783-5958
84—Dual Control Learner's Permit  67 Pa. Code Chapter 84	September 2010.	The regulation is being updated to clarify the requirements for issuing a dual control learner's permit.	Scott Shenk (717) 783-5958
105—Mechanical Electrical and Electronic Speed Timing Devices  67 Pa. Code Chapter 105	August 2010.	The regulations are being updated to reflect changes in equipment technology relating to calibration and maintenance of speed timing devices used for law enforcement purposes and to delete references to obsolete equipment and calibration procedures.	John Munafo (717) 787-2171
255—Messenger Services  67 Pa. Code Chapter 255	December 2010.	Act 152 of 2002 enacted legislation (requiring contracts for all messenger and agent services) that supersedes several facets of this regulation. Based on the legislation, any reference to bond, hearings, written warnings, suspensions, revocations, or fines will be removed from the regulation as these items are now addressed in the required contracts.	Andy Cleaver (717) 787-2171
471—Airport Rating & Licensing; 47—Aviation Development Grants; 477—Local Real Estate Tax Reimbursement Grants; 479—Obstructions to Aircraft  67 Pa. Code Chapters 471, 473, 477 and 479	July 2010.	The various chapters of the regulation need to be updated as described as follows.  The purpose of the amendments to Chapter 471 is to provide clarification of requirements and provide greater flexibility in the licensing of various categories and types of landing facilities. The amendments provide the flexibility to accommodate various levels of airport operations and advances in technology that were not envisioned or available at the time the regulation was originally adopted.  The purpose of the amendments to Chapter 473 is to allow for increased flexibility for the Department in providing a higher state share for granted projects and allow for a more efficient use of the Aviation Development grant funds available. The purpose of the amendments to Chapters 477 and 479 is to simplify and better organize these Chapters in relation to the Chapters 471 and 473. There were no substantive changes to these chapters.	Brian Gearhart (717) 705-1250

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Chapter 427—Public Transportation (Act 44 of 2008)	October 2010.	Act 44 of 2008, Chapter 15, Sustainable Mobility Options, authorizes almost all public transportation funding programs for the Commonwealth. The legislation requires the Department to develop regulations for several sections of the legislation. The temporary regulations were published in the <i>Pennsylvania Bulletin</i> on July 18, 2009. Permanent regulations must be published by July 18, 2011. Additional sections will be added to the temporary regulations and some sections in the temporary regulations will be revised/updated.	LaVerne Collins (717) 787-1214
Chapter 175.96—Vehicle Equipment and Inspection Regulations	September 2010.	The motor vehicle code does not allow for the utilization of laser guided systems which is an innovative technology that could be used to increase quality, efficiency, and safety associated with snow plow and line painting operations. We are seeking approval to insert the language “Laser guided systems for use during plowing operations are authorized” into the Medium and Heavy Trucks and Buses section of Pub 45, Vehicle Equipment and Inspection Regulations, Chapter 175.96(h) as it pertains to Department operations.	James Smith (717) 787-4299
Chapter 233 Automated Red Light Enforcement	September 2010.	Section 3116 of the Pennsylvania Vehicle Code provides the legal authority for the establishment of a pilot automated red light enforcement (ARLE) program within the City of Philadelphia. Section 3116(l)(2) says that the revenues remaining from ARLE fines, after deducting the system administrator’s operation and maintenance costs, shall be deposited into the Motor License Fund and shall be used by the Department to develop, by regulation, a Transportation Enhancements Grant Program. Therefore, a completely new regulation is needed to establish the provisions of this new Transportation Enhancements Grant Program.	Glenn Rowe (717) 787-3620

[Pa.B. Doc. No. 10-1132. Filed for public inspection June 18, 2010, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Action Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10 a.m., Thursday, June 3, 2010, and announced the following:

*Action Taken—Regulations Approved:*

State Board of Veterinary Medicine #16A-5722: Responsibility to Clients and Patients (amends 49 Pa. Code Chapter 31)

State Board of Nursing #16A-5133: Clinical Nurse Specialists (amends 49 Pa. Code Chapter 21)

State Board of Certified Real Estate Appraisers #16A-7015: Appraiser Trainees; Initial and Continuing Education; Supervised Experience; Practice Standards (amends 49 Pa. Code Chapter 36)

Department of State #16-50: Biennial Filing Fee (amends 51 Pa. Code § 53.1)

Department of Public Welfare #14-514: Assisted Living Residences (adds Chapter 2800 to 55 Pa. Code)

### Approval Order

Public Meeting held  
June 3, 2010

*Commissioners Voting:* Arthur Coccodrilli, Chairperson; George D. Bedwick, Vice Chairperson; S. David Fine-man, Esq., by Phone; Silvan B. Lutkewitte, III; John F. Mizner, Esq., by Phone

*State Board of Veterinary Medicine—  
Responsibility to Clients and Patients;  
Regulation No. 16A-5722 (#2787)*

On September 2, 2009, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Veterinary Medicine (Board). This rulemaking amends 49 Pa. Code Chapter 31. The proposed regulation was published in the September 19, 2009 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on April 19, 2010.

The regulation updates the Rules of Professional Conduct for Veterinarians, including those rules relating to veterinarians and their responsibility to clients and patients.

We have determined this regulation is consistent with the statutory authority of the Board (63 P.S. §§ 485.5 2(2) and 485.21(11)) and the intention of the General

Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

---

**Approval Order**

Public Meeting held  
June 3, 2010

*Commissioners Voting:* Arthur Coccodrilli, Chairperson; George D. Bedwick, Vice Chairperson; S. David Fine- man, Esq., by Phone; Silvan B. Lutkewitte, III; John F. Mizner, Esq., by Phone

*State Board of Nursing—Clinical Nurse Specialists;  
Regulation No. 16A-5133 (#2700)*

On June 4, 2008, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Nursing (Board). This rulemaking amends 49 Pa. Code Chapter 21. The proposed regulation was published in the June 14, 2008 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on April 19, 2010.

This regulation establishes the classification of clinical nurse specialist, as authorized by Act 49 of 2007.

We have determined this regulation is consistent with the statutory authority of the Board (63 P. S. §§ 212.1(k) and 218.5) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

---

**Approval Order**

Public Meeting held  
June 3, 2010

*Commissioners Voting:* Arthur Coccodrilli, Chairperson; George D. Bedwick, Vice Chairperson; S. David Fine- man, Esq., by Phone; Silvan B. Lutkewitte, III; John F. Mizner, Esq., by Phone

*State Board of Certified Real Estate Appraisers—  
Appraiser Trainees; Initial and Continuing Education;  
Supervised Experience; Practice Standards;  
Regulation No. 16A-7015 (#2789)*

On September 9, 2009, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Certified Real Estate Appraisers (Board). This rulemaking amends 49 Pa. Code Chapter 36. The proposed regulation was published in the September 19, 2009 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on April 19, 2010.

This regulation implements portions of Acts 59 and 103 of 2008, which established the position of “appraiser trainee license” in the Pennsylvania Real Estate Appraisers Certification Act. It sets forth the qualifications and education requirements and supervised experience options for the appraiser trainee licensee. It also revises and updates existing rules and standards relating to education and experience for other professionals certified by the Board.

We have determined this regulation is consistent with the statutory authority of the Board (63 P. S. §§ 457.5(2), 457.9(a) and 458.3) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

---

**Approval Order**

Public Meeting held  
June 3, 2010

*Commissioners Voting:* Arthur Coccodrilli, Chairperson; George D. Bedwick, Vice Chairperson; S. David Fine- man, Esq., by Phone; Silvan B. Lutkewitte, III; John F. Mizner, Esq., by Phone

*Department of State—Biennial Filing Fee;  
Regulation No. 16-50 (#2799)*

On October 6, 2009, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of State (Department). This rulemaking amends 51 Pa. Code § 53.1. The proposed regulation was published in the October 17, 2009 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on April 13, 2010.

This regulation amends the biennial registration fee from \$100 to \$200 for principals, lobbying firms and lobbyists required to register under the Lobbying Disclosure Act.

We have determined this regulation is consistent with the statutory authority of the Department (66 Pa.C.S.A. § 13A08(j)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

---

**Approval Order**

Public Meeting held  
June 3, 2010

*Commissioners Voting:* Arthur Coccodrilli, Chairperson; George D. Bedwick, Vice Chairperson; S. David Fine- man, Esq., by Phone; Silvan B. Lutkewitte, III; John F. Mizner, Esq., by Phone

*Department of Public Welfare—  
Assisted Living Residences;  
Regulation No. 14-514 (#2712)*

On July 28, 2008, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Public Welfare (Department). This rulemaking adds Chapter 2800 to 55 Pa. Code. The proposed regulation was published in the August 9, 2008 *Pennsylvania Bulletin* and there was a 37-day public comment period. The final-form regulation was submitted to the Commission on May 3, 2010.

This regulation implements Act 56 of 2007 which establishes licensure and operating standards for Assisted Living Residences. The goal of these residences is to provide an opportunity for residents to “age in place” with support and supplemental health care services.

We have determined this regulation is consistent with the statutory authority of the Department (62 P.S. § 1021) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

ARTHUR COCCODRILLI,  
Chairperson

[Pa.B. Doc. No. 10-1133. Filed for public inspection June 18, 2010, 9:00 a.m.]

**Notice of Comments Issued**

Section 5(g) of the Regulatory Review Act (71 P.S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b).

The Commission has issued comments on the following proposed regulation. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
15-448	Department of Revenue Personal Income Tax— Innocent Spouse Relief 40 Pa.B. 1916 (April 10, 2010)	5/10/10	6/9/10

**Department of Revenue  
Regulation #15-448 (IRRC #2829)**

**Personal Income Tax—  
Innocent Spouse Relief**

**June 9, 2010**

We submit for your consideration the following comments on the proposed rulemaking published in the April 10, 2010 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Department of Revenue (Department) to respond to all comments received from us or any other source.

**Implementation Procedures.**

In a letter dated April 19, 2010, Representative Samuel Rohrer, Republican Chairman of the House Finance Committee, commented with two concerns. First, he requests further clarification from the Department regarding the seven year delay of these regulations relating to Act 87 of 2002. Second, he asks for further explanation regarding how often the Department chooses to utilize policies rather than regulations via the regulatory process. We request that the Department provide a detailed response

to these concerns with the submittal of the final-form regulation.

ARTHUR COCCODRILLI,  
Chairperson

[Pa.B. Doc. No. 10-1134. Filed for public inspection June 18, 2010, 9:00 a.m.]

**Notice of Filing of Final Rulemakings**

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>
3-7	State Employees' Retirement Board Priority of Taxation, Attachment and Assignment of Funds	6/2/10	7/15/10
16A-5723	State Board of Veterinary Medicine Biennial Renewal Fees	6/7/10	7/15/10
12-76	Department of Labor and Industry Propane and Liquefied Petroleum Gas	6/8/10	7/15/10

ARTHUR COCCODRILLI,  
Chairperson

[Pa.B. Doc. No. 10-1135. Filed for public inspection June 18, 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—3225).

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 7 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. 10-1136. Filed for public inspection June 18, 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—3225).

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 7 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. 10-1137. Filed for public inspection June 18, 2010, 9:00 a.m.]

### **Application and Request for a Certificate of Authority to Provide a Continuing Care Retirement Community by Seton Manor, Inc.**

Seton Manor, Inc. has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at Seton Place in Orwigsburg, PA. The initial filing was received on June 9, 2010, and was made under the Continuing-Care Provider Registration and Disclosure Act (40 P. S. §§ 3201—3225).

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 7 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, Insur-

ance 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. 10-1138. Filed for public inspection June 18, 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—3225).

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 7 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. 10-1139. Filed for public inspection June 18, 2010, 9:00 a.m.]

### **Application and Request for Plan Approval of a Mutual-to-Stock Conversion**

Lebanon Mutual Insurance Company (Lebanon Mutual), a Commonwealth domiciled mutual property insurance company, submitted a Plan of Reorganization which provides for conversion from a mutual insurance company to a stock insurance company. The filing, received on June 7, 2010, was made under the Insurance Company Mutual-to-Stock Conversion Act (40 P. S. §§ 911-A—929-A).

Persons wishing to comment on the grounds of public or private interest are invited to submit a written statement to the Insurance Department (Department) within 45 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include the 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 and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Robert Brackbill, Chief, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, rbrackbill@state.pa.us.

Be advised that all comments received will be part of the public record regarding the filing.

A copy of the Plan of Reorganization is available on Lebanon Mutual's web site at [www.lebins.com](http://www.lebins.com). Individuals may obtain a copy of the Plan of Reorganization, by submitting a request addressed to Jay W. Chadwick, President and Chief Executive Officer, Lebanon Mutual Insurance Company, c/o Tuscarora Wayne Group of Companies, P. O. Box 7, Wyalusing, PA 18853, fax (570) 746-9020.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 10-1140. Filed for public inspection June 18, 2010, 9:00 a.m.]

### **Blue Cross of Northeastern Pennsylvania; BlueCare Senior Hospital; Rate Filing**

By filing No. 1570-PRAG-5-RATE, Blue Cross of Northeastern Pennsylvania requests approval to increase rates for its group BlueCare Senior Hospital Rate. The filing requests a rate increase of 5.9%. This will affect about 2,900 projected members and will produce additional revenue of about \$168,000 annually. The requested effective date of the change is January 1, 2011.

Unless formal administrative action is taken prior to September 1, 2010, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) web site at [www.insurance.pa.gov](http://www.insurance.pa.gov). To access the filing, under the tab "How to Find . . ." click on the link "Current Rate Filings."

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's Harrisburg Office.

Interested parties are invited to submit written comments, suggestions or objections to Cherri Sanders-Jones, Insurance Department, Insurance Product Regulation and Administration, Room 1311, Strawberry Square, Harrisburg, PA 17120, [csandersjo@state.pa.us](mailto:csandersjo@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 10-1141. Filed for public inspection June 18, 2010, 9:00 a.m.]

### **Blue Cross of Northeastern Pennsylvania; BlueCare Senior Pharmacy Rider; Rate Filing**

By filing No. 1571-PRAG-5-RX, Blue Cross of Northeastern Pennsylvania requests approval to increase rates for its group BlueCare Senior Pharmacy Rider rate. The filing requests a rate increase of 36.1%. This will affect about 2,600 projected members and will produce additional revenue of about \$2.5 million annually. The requested effective date of the change is January 1, 2011.

Unless formal administrative action is taken prior to September 1, 2010, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) web site at [www.insurance.pa.gov](http://www.insurance.pa.gov). To access the filing, under the tab "How to Find . . ." click on the link "Current Rate Filings."

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's Harrisburg Office.

Interested parties are invited to submit written comments, suggestions or objections to Cherri Sanders-Jones, Insurance Department, Insurance Product Regulation and Administration, Room 1311, Strawberry Square, Harrisburg, PA 17120, [csandersjo@state.pa.us](mailto:csandersjo@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 10-1142. Filed for public inspection June 18, 2010, 9:00 a.m.]

### **Per Diem Charges for Financial Examinations; Notice No. 2010-04**

Under the authority contained in section 907 of The Insurance Department Act of 1921 (40 P. S. § 323.7) and under 31 Pa. Code § 12.4 (relating to per diem charges). An updated schedule of per diem charges for financial examinations conducted by the Insurance Department (Department) is adopted.

The new schedule of charges is as follows:

Examiner Trainee	\$326 per day
Actuarial Associate 2	\$444 per day
Actuary 2	\$787 per day
Examiner 1	\$424 per day
Examiner 2	\$514 per day
Examiner 3	\$623 per day
Examination Manager	\$689 per day

As prescribed in 31 Pa. Code § 12.4(c), the Department will calculate and bill per diem charges for financial examination costs in 1/2 hour units.

This schedule is effective July 1, 2010.

This document supersedes the notice published at 39 Pa.B. 3145 (June 20, 2009) and shall remain in effect until a subsequent notice is published in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 10-1143. Filed for public inspection June 18, 2010, 9:00 a.m.]

### **Per Diem Charges for Market Conduct Examinations of Insurance Companies; Notice No. 2010-05**

Each year, the Insurance Department (Department) updates its schedule of per diem charges or market conduct examinations conducted by the Department. These charges are authorized by section 907 of The Insurance Department Act of 1921 (40 P. S. § 323.7) and 31 Pa. Code § 12.4 (relating to per diem charges).

The new schedule of charges is as follows:

Examiner Trainee:	\$285 per day
Examiner 1	\$379 per day
Examiner 2	\$506 per day
Examiner 3	\$490 per day
Examiner Manager	\$627 per day

As prescribed in 31 Pa. Code § 12.4(c), the Department will calculate and bill per diem charges for examination costs in 1/2 hour units.

This schedule is effective July 1, 2010.

This notice supersedes the schedule of per diem charges published at 39 Pa.B. 3146 (June 20, 2009), which prior notice is repealed. These new charges shall remain in effect until a subsequent notice is published in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 10-1144. Filed for public inspection June 18, 2010, 9:00 a.m.]

### WJ Enterprises, Inc.; Prehearing

#### Appeal of WJ Enterprises, Inc. under the Storage Tank and Spill Prevention Act; Underground Storage Tank Indemnification Fund; USTIF File No. 2008-0067(M); Doc. No. UT10-06-005

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law); 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure); and any other relevant procedure provisions of law.

On or before June 29, 2010, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with USTIF's February 5, 2010, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages.

A prehearing telephone conference shall be held on July 29, 2010, at 10 a.m. Motions preliminary to those at hearing, protests, petitions to intervene, notices of appearance or notices of intervention, if any, must be filed with the Hearings Administrator, at the Administrative Hearings Office, Room 200, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA 17102, on or before July 14, 2010. Answers to petitions to intervene, if any, shall be filed on or before July 28, 2010.

A date for a hearing shall be determined, if necessary, at the prehearing/settlement telephone conference.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Donna R. Fleischauer, Human Resources Director at (717) 705-4194.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 10-1145. Filed for public inspection June 18, 2010, 9:00 a.m.]

## LEGISLATIVE REFERENCE BUREAU

### Documents Filed But Not Published

The Legislative Reference Bureau (Bureau) accepted the following documents during the preceding calendar month for filing without publication under 1 Pa. Code § 3.13(b) (relating to contents of *Bulletin*). The Bureau will continue to publish on a monthly basis either a summary table identifying the documents accepted during the preceding calendar month under this subsection or a statement that no documents have been received. For questions concerning or copies of documents filed, but not published, call (717) 783-1530.

#### *Executive Board*

Resolution No. CB-10-001, Dated May 10, 2010. Authorizes the side letter with AFSCME regarding the development of the PRN Nurse Aide Program designed to reduce the Department of Military and Veterans Affairs' (Department) reliance on contracted agency staff and increase the Department's ability to attract Nurse Aides who may not be available for full-time or regular part-time employment.

#### *Governor's Office*

Manual 210.1—The Commonwealth of Pennsylvania Employee Records Management Manual, Amended May 20, 2010.

Management Directive No. 210.5—The Commonwealth of Pennsylvania State Records Management Program, Amended May 20, 2010.

Administrative Circular No. 10-06—Approval of 2010-11 Advancement Accounts and Completion of Form STD-133, Request for Approval of Advancement Account, Dated May 3, 2010.

Administrative Circular No. 10-07—Commonwealth Contractor Responsibility File—Services and Supplies for \$5,000 or Less, Dated May 12, 2010.

MARY JANE PHELPS,  
*Director*  
*Pennsylvania Code and Bulletin*

[Pa.B. Doc. No. 10-1146. Filed for public inspection June 18, 2010, 9:00 a.m.]

## LIQUOR CONTROL BOARD

### Expiration of Leases

The Liquor Control Board seeks the following new site:

Indiana County, Wine & Spirits Store #3205 (Relocation), Indiana, PA

*Lease expiration date:* 90-day status since September 30, 2009

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 5,000 net useable square feet of new or existing retail commercial space on the western side of Indiana, PA. Location must be easily accessible to serve Indiana and surrounding areas. Must have sufficient

paved, free, off-street parking and allow for tractor-trailer deliveries. A shopping center environment is preferred.

*Proposals due:* July 2, 2010, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, 158 Purity Road,  
 Suite B, Pittsburgh, PA 15235-4441  
**Contact:** Bruce VanDyke, Jr., (412) 723-0124

PATRICK J. STAPLETON, III,  
 Chairperson

[Pa.B. Doc. No. 10-1147. Filed for public inspection June 18, 2010, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Implementation Order

*Implementation of the Alternative Energy Portfolio Standards Act of 2004: Standards for the Participation of Demand Side Management Resources—Technical Reference Manual Update; Doc. No. M-00051865*

The Pennsylvania Public Utility Commission (Commission) adopted an Order, at its June 3, 2010 public meeting, that adopted the 2010 version of the *Energy-Efficiency and DSM Rules for Pennsylvania's Alternative Energy Portfolio Standard, Technical Reference Manual (TRM)* as contained in the Annex to the Order entered on June 8, 2010. A copy of the Order can be found on the Commission's web site at <http://www.puc.state.pa.us/pdocs/1081658.docx>. A copy of the 2010 version of the TRM can be found on the Commission's web site at [http://www.puc.state.pa.us/electric/docs/Act129/Act129\\_TRM-2010.doc](http://www.puc.state.pa.us/electric/docs/Act129/Act129_TRM-2010.doc).

In implementing the Alternative Energy Portfolio Standards Act, 73 P.S. §§ 1648.1—1648.8, the Commission had previously adopted an *Energy-Efficiency and DSM Rules for Pennsylvania's Alternative Energy Portfolio Standard, Technical Reference Manual (TRM)*, entered October 3, 2005. In adopting the original version of the TRM, the Commission directed the Bureau of Conservation, Economics and Energy Planning (CEEP) to oversee the implementation, maintenance and periodic updating of the TRM.

Subsequently, in the Energy Efficiency and Conservation (EE&C) Program Implementation Order, entered on January 16, 2009 at Docket No. M-2008-2069887, the Commission adopted the TRM as a component of the EE&C Program evaluation process. In that Implementation Order, the Commission also noted that the TRM will need to be updated and expanded to fulfill the requirements of the EE&C Program.

In the Order entered June 1, 2009, at Docket No. M-00051865, the Commission directed CEEP to update the TRM on an annual basis. The Commission's adoption of the 2010 TRM concludes the current annual update to the TRM.

ROSEMARY CHIAVETTA,  
 Secretary

[Pa.B. Doc. No. 10-1148. Filed for public inspection June 18, 2010, 9:00 a.m.]

### Mandatory Thousands-Block Number Pooling

Public Meeting held  
 June 3, 2010

*Commissioners Present:* James H. Cawley, Chairperson;  
 Tyrone J. Christy, Vice Chairperson; Wayne E. Gardner;  
 Robert F. Powelson

*Implementation of Additional Delegated Authority  
 Granted to Pennsylvania by the Federal Communications  
 Commission in its Order Released May 18, 2010—  
 Mandatory Thousands-Block Number Pooling in the  
 215/267, 570, 610/484, 717 and 814 NPAs;  
 M-2010-2178173*

*By the Commission:*

Because of the rapid depletion of telephone numbers in the area codes in Pennsylvania,<sup>1</sup> the Commission has been actively monitoring the need for area code relief while simultaneously investigating and seeking authority to implement needed number conservation measures. One number conservation measure that the Commission has been consistently pursuing since 1997 is thousands-block number pooling. "Pooling" refers to sharing spare numbering resources, and thousands-block pooling (1K pooling) is a method of assigning these spare numbers. In number pooling, there is an inventory of telephone numbers that participating service providers share and use in blocks of 1,000 numbers in contrast to obtaining 10,000 numbers to use where 1K number pooling has not been implemented.<sup>2</sup> Accordingly, the Commission believes that the full deployment of "mandatory" 1K number pooling in all rate centers in Pennsylvania will be a major steppingstone in continuing to enhance numbering resource conservation.

#### Background

In March of 2000, the FCC determined that the implementation of number pooling was essential to extending the life of the North American Numbering Plan (NANP) by making assignment and use of NXX codes more efficient. Therefore, the FCC adopted 1K number pooling as a mandatory nationwide numbering resource optimization and required 1K pooling only in the largest 100 Metropolitan Statistical Areas (MSAs). The FCC further determined that national rollout of pooling would occur nine months after the selection of a national pooling administrator.<sup>3</sup> While the FCC selected bids from companies interested in serving as the national pooling administrator, the FCC continued to delegate to states the authority to implement mandatory 1K pooling.

Meanwhile, on July 20, 2000, in the *FCC's Delegation Order*, the FCC granted Pennsylvania's request to implement an interim 1K pooling trial within certain limita-

<sup>1</sup> Pennsylvania is in the midst of area code relief efforts in the 570, 814 and 717 NPAs, respectively. See *Relief Plan for the 570 NPA*, Docket No. P-2009-2117193 (Order entered July 29, 2009); *Relief Plan for the 814 NPA*, Docket No. P-2009-2112925 (Order entered July 29, 2009); *Relief Plan for 717 NPA*, Docket No. P-2009-2136951 (Order entered December 17, 2009). Area code relief becomes necessary when an area code is forecast to exhaust its share of "NXX codes" (which are the three digits following the area code in a 10-digit telephone number). Each NXX code contains 10,000 numbers and each area code contains approximately 792 NXX codes.

<sup>2</sup> To be able to participate in 1K pooling a carrier must be Local Number Portability (LNP)-capable. 47 CFR 52.20. See *Report and Order and Further Notice of Proposed Rulemaking in the Matter of Numbering Resource Optimization*, CC Docket No. 99-200, 15 FCC Red 7574, ¶ 116 (2000). ("FCC's Numbering Order"). LNP enables the switch-specific restriction of telephone number assignments to be removed, any telephone number can be assigned to any switch offering service in the telephone number's rate center. Consequently, all LNP-capable providers who service a particular rate area can share all telephone number resources. Conversely, service providers who cannot participate in the pool would continue to receive NXX codes from the code administrator in 10,000 blocks.

<sup>3</sup> *FCC's Numbering Order*, supra note 3 at ¶¶ 122 and 156.

tions.<sup>4</sup> Using this delegated authority, we implemented our first 1K number pooling trial on April 27, 2001, in Southeastern Pennsylvania in the 610/484 NPA<sup>5</sup> and the second 1K number pooling commenced in October 2001 in Western Pennsylvania in the 412/724/878 NPA.<sup>6</sup> Both of these interim 1K numbering pools that had been implemented pursuant to delegated authority from the FCC were subsequently included as a part of the national rollout of 1K number pooling that had been established by the FCC. In accordance with the FCC's national pooling schedule, the pooling for the 215/267 NPA began in August 2002.<sup>7</sup>

In the meantime, in the course of our investigation of rate center consolidation,<sup>8</sup> the industry asked the Commission to consider implementing accelerated voluntary 1K number pooling in the 570 and 717 NPAs. Accordingly, pursuant to previously delegated authority,<sup>9</sup> the Commission, by an Order entered August 9, 2001,<sup>10</sup> directed that an accelerated voluntary 1K numbering pool be implemented on February 28, 2002, in the 570 NPA and on March 14, 2002, in the 717 NPA. The Commission directed the pooling administrator to establish the 717 and 570 voluntary 1K pooling trials as "mandatory" pools under the national 1K number pooling program established by the FCC and to include those pools as a part of the national 1K block mandatory pooling roll-out schedule developed by Neustar.<sup>11</sup> Thus, the 570 and 717 pools were included as part of the initial rollout of nationwide 1K number pooling in the 100 MSAs.

Furthermore, in April 2002, the 814 NPA was also included as a part of the national 1K block pooling roll-out schedule developed by Neustar.<sup>12</sup> The 814 numbering pool was implemented in November 2002 in accordance with the FCC's national rollout of thousands-block pooling. Therefore, to date, all area codes within Pennsylvania are under a pooling regime.

However, we were advised by Neustar that some of the rate centers within our pooling NPAs had been marked "optional" for 1K number pooling purposes because those rate centers do not reside within one of the 100 MSAs. As mentioned previously, the pooling trial in the 570 NPA

was initially a voluntary pool, but then its designation was changed by this Commission to a mandatory pool and included in the national 1K pooling roll-out. However, 61 out of the 180 rate centers in the 570 NPA are considered "optional" for pooling purposes. Moreover, although the 814 NPA was included as a part of the national roll-out of mandatory 1K number pooling, 169 of the 178 rate centers are considered optional for pooling purposes. In addition, the 610/484 1K numbering pool, which was the first that the Commission implemented via delegated authority has six optional rate out of 90 rate centers. The 412/724/878 1K numbering pool, which was the second 1K pool implemented via delegated authority, has twelve optional rate centers out of 162. The 717 1K numbering pool has seventeen optional rate centers out of 107. Thus, out of the 776 total rate centers in Pennsylvania, 265 are optional rate centers.

While the Commission enjoyed relative success with voluntary pooling via optional rate centers, we believe that requiring mandatory pooling in all rate centers would maximize the benefits of 1K number pooling as a numbering conservation measure. Thus, the Commission was determined to implement mandatory 1K number pooling in all rate centers throughout the Commonwealth.

The FCC stated that it would continue to consider state petitions for delegated authority to implement pooling outside the top 100 MSAs on a case-by-case basis. Consequently, the Commission filed a petition with the FCC seeking delegated authority so that it could direct Neustar to mark all rate centers in Pennsylvania mandatory for 1K block number pooling purposes.

The FCC had outlined the criteria that a state must satisfy in order to have the authority to implement mandatory number pooling. The Commission stated that a state commission seeking 1K block number pooling authority must demonstrate that: (1) the NPA is in jeopardy; (2) the NPA in question has a remaining life span of at least a year; and (3) that the NPA is in one of the largest 100 metropolitan statistical areas (MSAs), or alternatively, the majority of wireline carriers in the NPA are local number portability (LNP) capable.<sup>13</sup> Additionally, the FCC recognized that "special circumstances" may exist in which pooling would be beneficial in the NPAs that do not meet the specific criteria and stated that it may authorize mandatory pooling in such a NPA upon the satisfactory showing by a state commission of special circumstances.

By Order dated May 18, 2010 (*Mandatory Pooling Order*), the FCC determined that special circumstances existed that warranted the delegation of additional authority to the Commission to implement mandatory 1K number pooling for NPAs forecasted to exhaust within the next 5 years. Accordingly, the Commission was delegated additional authority from the FCC to implement mandatory 1K number pooling in only the 215/267, 570, 610/484, 717 and 814 NPAs. However, as mandated by the FCC, rural, non LNP-capable carriers are exempt from mandatory 1K number pooling.<sup>14</sup>

### Discussion

Due to the projected exhaust dates forecasted by Neustar for our NPAs, the Commission is anxious to implement its additional delegated authority set forth in the *Mandatory Pooling Order* in an expeditious manner

<sup>4</sup> In the *Matter of Numbering Resource Optimization*, CC Docket Nos. 99-200, 96-98, NSD File No. L-99-101. (*FCC's Delegation Order*). Pursuant to paragraphs 45 and 46 of the *FCC's Delegation Order*, the Commission can only implement 1K pooling in either the Philadelphia or the Pittsburgh Metropolitan Statistical Area ("MSA" refers to the geographic areas designated by the Bureau of Census that are widely recognized as indications of metropolitan character). Further, the Commission can implement 1K pooling in any new NPA implemented in these two NPAs. However, the Commission must first implement 1K pooling in a single MSA and may not expand to another MSA until pooling has been fully implemented in the initial one.

<sup>5</sup> See *Implementation of Number Conservation Measures Granted to Pennsylvania by the Federal Communications Commission in its Order released July 20, 2000—Thousands-Block Number Pooling*, Opinion and Order Regarding the Petition of Verizon Pennsylvania, Inc. For Expedited Reconsideration, Docket Numbers M-00001427 and P-00961061F0002 (Order entered February 9, 2001).

<sup>6</sup> See *Implementation of Number Conservation Measures Granted to Pennsylvania by the Federal Communications Commission in its Order released July 20, 2000—1K Pooling*, Docket No. M-00001427 and P-00961027F0002 (Order entered May 31, 2001).

<sup>7</sup> The national rollout of 1K number pooling had commenced on March 15, 2002, in the 100 MSAs in accordance with the schedule adopted by the FCC.

<sup>8</sup> On February 8, 2001, we adopted an order directing that a rate center consolidation subcommittee be formed to develop and submit to the Commission a plan for rate center consolidation in any and all NPAs in Pennsylvania on or before August 1, 2001. *Rate Center Consolidation*, Docket No. M-00011452 (Order entered February 9, 2001). On July 26, 2001, we adopted an order suspending the August 1, 2001 deadline for submission of a implementation plan consolidating any and all rate centers in Pennsylvania's area codes. *Rate Center Consolidation*, Docket No. M-00011452 (Order entered July 26, 2001).

<sup>9</sup> *Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215 and 717*, Memorandum Opinion and Order and Order on Reconsideration, 13 F.C.C. Red at 19027 (*Pennsylvania Numbering Order*).

<sup>10</sup> See *Implementation of Accelerated Voluntary Thousands-Block in the 570 and 717 Area Codes*, Docket No. M-00001427 (Order entered August 9, 2001).

<sup>11</sup> In the *Matter of Petition of Representative Keith R. McCall and Members of the Northeast Delegation of the Pennsylvania House of Representatives Requesting that Additional Authority be Delegated to the Pennsylvania Public Utility Commission to Implement Additional Number Conservation Measures*, Order, CC Docket No. 99-200 (December 28, 2001).

<sup>12</sup> See *Pooling Rollout Order*.

<sup>13</sup> *Numbering Resource Optimization First Report and Order*, 15 F.C.C. Red at 7651-52, ¶ 170. These three criteria were adopted before the implementation of nationwide 1K block number pooling and before the Commission recognized that full LNP capability is not necessary for participation in pooling.

<sup>14</sup> Id. at ¶ 116.

with the goal of lengthening the lives of our area codes. However, the Commission will not suspend our pending area code relief efforts in 570, 717 and 814 in order to institute this delegated authority. The Commission notes that we cannot institute number conservation measures in place of timely area code relief.<sup>15</sup> Therefore, the current relief planning efforts for the 570, 814 and 717 area codes will continue to move forward to ensure that adequate numbering resources are available on an equitable and timely basis to all telecommunications providers in those areas. Moreover, by using our authority to implement mandatory 1K number pooling in all rate centers in these area codes now, the Commission is looking beyond the current situation to ensure that additional area codes are not necessary in the immediate future.

Since the *Mandatory Pooling Order* does not mandate a prioritization regarding where to implement this additional delegated authority, the Commission will make that determination in this order.<sup>16</sup> Nevertheless, the Commission will immediately initiate mandatory 1K number pooling in the other area codes subject to the *Mandatory Pooling Order*, especially those area codes in the midst of relief planning efforts, as soon as the implementation phase is completed in the first NPA in which we choose to implement this delegated authority.

#### **I. Mandatory Pooling in All Rate Centers Will Be First Implemented In The 570 NPA.**

Pennsylvania has three area codes, 570, 717 and 814, that are simultaneously undergoing area code relief planning efforts. However, based upon the projected exhaust dates set forth by Neustar for these area codes, the Commission has concluded that the 570 NPA is best suited for the first initiation of the implementation of mandatory 1K number pooling in all of its rate centers. The Commission has chosen to implement mandatory 1K number pooling in all the rate centers of the 570 NPA because the crisis situation in the 570 NPA is growing more rapidly than in the other two area codes undergoing relief efforts as demonstrated by the history of relief planning in each area. The April 2010 number resource utilization and forecast (NRUF) report continues to project the 570 NPA will exhaust in the 3Q 2011. The other two NPAs are projected to exhaust at later dates.

Also, the 570 NPA was declared to be in jeopardy on April 1, 2009, indicating that the increase in the demand for NXX codes would exceed the supply of NXX codes and result in the exhaustion of the NPA before timely area relief code could be provided. Additionally, based upon the jeopardy procedures, there are currently twelve uncontaminated NXX codes in the 570 NPA which are available for pooling that were set aside by the industry at the Jeopardy Review Conference on May 27, 2010. The consideration of these factors has led the Commission to determine that first instituting mandatory 1K number pooling in the 61 optional rate centers in the 570 NPA is the best use of the authority given to the Commission in the *FCC's Delegation Order*.<sup>17</sup>

Regardless of this first choice of the 570 NPA in which to implement our delegated authority, the Commission wants to acknowledge the fact that we are aware of the numbering crisis in all of our NPAs that are subject to relief planning efforts. We fully intend to implement

mandatory 1K number pooling in all of the rate centers of these NPAs as soon as possible after implementation of mandatory 1K number pooling in the 570 NPA. Thus, we shall set an implementation schedule for mandatory 1K number pooling in remaining rate centers of the 814 and the 717 NPAs.

A First Implementation Meeting should be convened no later than June 30, 2010, to develop a work plan and implementation schedule for the 570 NPA that is in accordance with the *Thousands-Block Number (NXX-X) Pooling Administration Guidelines*. This meeting will be scheduled by the Pooling Administrator. All LNP-carriers operating in the 570 NPA will be required to participate in mandatory 1K number pooling and should be included in the industry meeting. Further, the Commission intends to attend and monitor any pooling meetings. Because the Commission is concerned about the current availability and usage of numbering resources and the impact of proliferating new area codes on consumers as well as telecommunications carriers, the Commission intends to implement its delegated authority to implement mandatory 1K number pooling in all rate centers in the 570 NPA no more than 60 days after the initial Implementation Meeting date.

The Implementation Meeting date for the remaining area codes subject to FCC's order, which are the 717, 814 and 484/610 NPAs, will be July 30, 2010. The activation date for mandatory pooling in optional rate centers within these NPAs is no later than 60 days after the implementation meeting.

At the respective Implementation Meetings, the Pooling Administrator will set the following dates for the tasks by the participants in the area codes:

- Block Protection Date
- Forecast/Utilization Report Date
- Block Donation Identification Date
- Administrator Assessment of Industry Inventory
- Block Donation Date
- Pool Starts/Allocation Date

The Commission acknowledges that the timeline it has proposed for the implementation of mandatory 1K number pooling in all rate centers, except the 12 optional rate centers residing within the 412/724 NPA, overlaps with the compilation and submission of NRUF data to the NANPA and the PA on August 1. However, with that in mind, the Commission directs all code holders to take 1K number pooling into account when compiling their NRUF and pooling forecast data. This will assist the NANPA in projecting area code exhaust to the Commission.

#### **II. Requirements of Both Pooling and Non-Pooling Carriers**

Under Federal rules effective July 17, 2000, all service providers are required to assign all available telephone numbers within an opened thousands-block before assigning telephone numbers from an uncontaminated thousands-block. 47 CFR 52.15(j)(1). This requirement applies to a service provider's existing numbering resources as well as to any new numbering resources it obtains in the future. With respect to utilization thresholds, non-pooling carriers are required to meet a utilization threshold of 75% before they can receive a growth code.<sup>18</sup> Carriers participating in the 1K pooling are not required to meet a utilization threshold to receive growth

<sup>15</sup> See *FCC's Pennsylvania Order* supra note 4; *FCC's Numbering Order* supra note 3 at ¶ 7, and *FCC's Delegation Order* supra note 5 at ¶ 11.

<sup>16</sup> At the time of the implementation of the 215/267 NPA 1K block number pooling in 2002, all of its rate centers were designated mandatory because they all were located within a top 100 MSA. Thus, this order will not address the 215/267 NPA.

<sup>17</sup> See *FCC's Delegation Order* supra note 5.

<sup>18</sup> INC Central Office Code (NXX) Assignment Guidelines, May 28, 2010.

codes,<sup>19</sup> but they are required to donate thousands-blocks with less than 10% contamination<sup>20</sup> to the pool. 47 CFR 52.20(c)(1). They may maintain at least one thousands-block per rate center as an initial block or footprint even if the block is less than 10% contaminated. 47 CFR 52.20(c)(2). Furthermore, any telephone numbers assigned to customers from a donated block that is contaminated shall be ported back to the donating service provider. 47 CFR 52.20(c).

We also will establish various pre-implementation guidelines for LNP-capable code holders in all of the NPAs subject to this order in advance of their respective implementation dates for mandatory 1K number pooling. These measures are to ensure that remaining numbering resources in these NPAs are not consumed inefficiently while mandatory number pooling is being developed and implemented. By this order we will require expressly that:

1. All code holders administer their codes in blocks of thousand numbers on a rate center basis.
2. All code holders set aside (i.e. restrict from assignment in their telephone administration systems) all unopened thousand blocks currently assigned to them, unless no other numbers are available.
3. All code holders refrain from assigning numbers from any thousands block in an NXX with 100 or fewer numbers currently in use unless no other numbers are available.

By taking these steps to conserve and more efficiently use valuable numbering resources, the Commission will better ensure that telecommunications carriers have adequate numbering resources to operate in Pennsylvania; *Therefore,*

*It is Ordered That:*

1. The Implementation Meeting for mandatory 1K number pooling in all of the optional rate centers in the 570 NPA will be held on June 30, 2010.
2. The activation date for mandatory 1K number pooling in the now optional rate centers in the 570 NPA is no later than 60 days after the June 30, 2010 implementation meeting.
3. The Implementation Meeting for mandatory 1K number pooling in all of the optional rate centers in the 610/484, 717 and 814 NPAs will be held on July 30, 2010.
4. The activation date for mandatory 1K number pooling in the now optional rate centers in the 610/484, 717 and 814 NPAs is no later than 60 days after the July 30, 2010 implementation meeting.
5. The respective First Implementation Meeting for the subject area codes shall be via conference call, and all LNP-capable carriers with NXX codes in the 570, 610/484, 717 and 814 area codes are directed to participate.
6. The North American Numbering Plan Administrator (NANPA) shall notify the Commission if it receives any NXX code applications from LNP-capable carriers for numbers from the 570, 610/484, 717 and 814 NPAs.
7. A copy of this order shall be served to all NXX code holders in Pennsylvania, the Office of Consumer Advocate, the Office of Small Business Advocate, the Pennsyl-

<sup>19</sup> FCC's Numbering Order *supra* note 3 ¶ 142.

<sup>20</sup> Contamination occurs when at least one telephone number within a block of telephone numbers is not available for assignment to end users or customers. 47 CFR 52.7(h). Numbers not available for assignment include administrative, aging, assigned, intermediate, or reserved numbers as defined in 47 CFR 52.15(1).

vania Telephone Association, Neustar-NANPA, and Linda Hymans of Neustar Pooling Administration.

8. A copy of this order shall be published in the *Pennsylvania Bulletin* and published on the Commission's web site at <http://www.puc.state.pa.us>.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1149. Filed for public inspection June 18, 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 July 6, 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.

### **Applications of the following for approval to *begin operating as common carriers for transportation of persons as described under each application.***

**A-2010-2179620. Eagle Chauffeured Services, Inc.** (77 McCullough Drive, Suite 5, New Castle, DE 19720), a corporation of the Commonwealth, for the right to begin to transport, as a common carrier, by motor vehicle, persons in limousine service, between points in Pennsylvania, and return, excluding service that is under the jurisdiction of the Philadelphia Parking Authority. *Attorney:* James W. Patterson, Esquire, Reger, Rizzo & Darnall, LLP, Circa Centre, 13th Floor, 2929 Arch Street, Philadelphia, PA 19104-2899.

**A-2010-2180207. John J. Snyder** (202 Martindale Road, Ephrata, Lancaster County, PA 17522)—for the right to begin to transport, as a common carrier, by motor vehicle, persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in Lancaster County, to points in Pennsylvania, and return.

**A-2010-2180402. Robert M. Zusinas** (1814 Fairland Street, Pittsburgh, Allegheny County, PA 15210)—persons, in limousine service, between points in the Counties of Allegheny, Washington, Westmoreland, Beaver, Butler, excluding Slippery Rock and Lawrence. *Attorney:* Robert G. Boyle, Esquire, GBU Building, Suite 348, 4232 Brownsville Road, Pittsburgh, PA 15227-3330.

### **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-2010-2168219. Brandon Ryan Sterner, t/a Sterner's Moving and Transportation** (10 Valley Road, Jacobus, York County, PA 17407)—household goods

in use, from points in Adams, Dauphin, Lancaster and York Counties, to points in Pennsylvania, and vice versa.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1150. Filed for public inspection June 18, 2010, 9:00 a.m.]

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1152. Filed for public inspection June 18, 2010, 9:00 a.m.]

### Telecommunications

**A-2010-2179400. Verizon North, Inc. and NTELOS of West Virginia, Inc., d/b/a NTELOS.** Joint petition of Verizon North, Inc. and NTELOS of West Virginia, Inc., d/b/a NTELOS for approval of an adoption of an interconnection agreement under section 252(i) of the Telecommunications Act of 1996.

Verizon North, Inc. and NTELOS of West Virginia, Inc., d/b/a NTELOS, by its counsel, filed on June 2, 2010, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an adoption of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon North, Inc. and NTELOS of West Virginia, Inc., d/b/a NTELOS joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1151. Filed for public inspection June 18, 2010, 9:00 a.m.]

### Telecommunications

**A-2010-2180157. Verizon Pennsylvania, Inc. and RCN Telecom Services, Inc.** Joint petition of Verizon Pennsylvania, Inc. and RCN Telecom Services, Inc. for approval of amendment No. 8 to the interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania, Inc. and RCN Telecom Services, Inc., by its counsel, filed on June 4, 2010, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of amendment No. 8 to the interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania, Inc. and RCN Telecom Services, Inc. joint petition are on file with the Commission and are available for public inspection.

### Telecommunications

**A-2010-2180146. Verizon Pennsylvania, Inc. and RCN Telecom Services of Philadelphia, Inc.** Joint petition of Verizon Pennsylvania, Inc. and RCN Telecom Services of Philadelphia, Inc. for approval of amendment No. 8 to the interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania, Inc. and RCN Telecom Services of Philadelphia, Inc., by its counsel, filed on June 4, 2010, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of amendment No. 8 to the interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania, Inc. and RCN Telecom Services of Philadelphia, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1153. Filed for public inspection June 18, 2010, 9:00 a.m.]

### Telecommunications

**A-2010-2179393. Verizon Pennsylvania, Inc. and NTELOS of West Virginia, Inc., d/b/a NTELOS.** Joint petition of Verizon Pennsylvania, Inc. and NTELOS of West Virginia, Inc., d/b/a NTELOS for approval of an adoption of an interconnection agreement under section 252(i) of the Telecommunications Act of 1996.

Verizon Pennsylvania, Inc. and NTELOS of West Virginia, Inc., d/b/a NTELOS, by its counsel, filed on June 2, 2010, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an adoption of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania, Inc. and NTELOS of West Virginia, Inc., d/b/a NTELOS joint petition are on file with the Commission and are available for public inspection.



The contact person is Cheryl Walker Davis, Director,  
Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1154. Filed for public inspection June 18, 2010, 9:00 a.m.]

---

### Transfer by Sale

**A-2010-2180381. UGI Central Penn Gas, Inc.** Application of UGI Central Penn Gas, Inc. for approval of the transfer by sale of approximately .86 acre of property located in Pittston, PA.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utili-

ties). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before July 6, 2010. The documents filed in support of the application 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 applicant's business address.

*Applicant:* UGI Central Penn Gas, Inc.

*Through and By Counsel:* Thomas M. Jackal, Esquire, Melanie J. Tambolas, Esquire, P. O. Box 858, Valley Forge, PA 19482-0858

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1155. Filed for public inspection June 18, 2010, 9:00 a.m.]

---