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# PENNSYLVANIA BULLETIN

Volume 40

Number 26

Saturday, June 26, 2010 • Harrisburg, PA

Pages 3483—3648

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Department of Environmental Protection

Department of Health

Department of Public Welfare

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Environmental Hearing Board

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Governor's Office of Health Care Reform

Independent Regulatory Review Commission

Liquor Control Board

Pennsylvania Gaming Control Board

Pennsylvania Infrastructure Investment

Authority

Pennsylvania Public Utility Commission

State Employees' Retirement Board

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(Master Transmittal Sheets):**

**No. 427, June 2010**

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# 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.

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### Printing Format

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

### Fiscal Notes

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

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

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# List of Pa. Code Chapters Affected

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

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# THE COURTS

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

[ 231 PA. CODE CH. 1915 ]

#### Amendments to the Rules of Civil Procedure Relating to Domestic Relations Matters; Recommendation 103

The Domestic Relations Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend the Rules of Civil Procedure relating to domestic relations matters as set forth herein. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

Notes and explanatory comments which appear with proposed amendments have been inserted by the committee for the convenience of those using the rules. Reports, notes and comments will not constitute part of the rules and will not officially be adopted or promulgated by the Supreme Court.

The committee solicits and welcomes comments and suggestions from all interested persons prior to submission of this proposal to the Supreme Court of Pennsylvania. Submit written comments no later than Friday, September 24, 2010, directed to:

Patricia A. Miles, Esquire  
Counsel, Domestic Relations Procedural Rules Committee  
Pennsylvania Judicial Center  
601 Commonwealth Avenue, Suite 6200  
P. O. Box 62635  
Harrisburg, PA 17106-2635

Fax to 717 231-9531  
E-mail to domesticrulespacourts.us

Deleted material is bold and bracketed. New material is bold.

*By the Domestic Relations  
Procedural Rules Committee*

CAROL A. BEHERS, Esq.,  
*Chair*

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 1915. ACTIONS FOR CUSTODY, PARTIAL CUSTODY AND VISITATION OF MINOR CHILDREN

#### Rule 1915.11. Appointment of Attorney for Child. Interrogation of Child. Attendance of Child at Hearing or Conference.

(a) The court may on its own motion, or the motion of a party, appoint an attorney to represent the child in the action. The court may assess the cost upon the parties or any of them or as otherwise provided by law. **The order appointing an attorney to represent the child shall be in substantially the form set forth in Rule 1915.19.**

\* \* \* \* \*

**Official Note:** A party may bring a child to a conference or hearing but, in the absence of an order of court, is not required to do so.

#### Explanatory Comment—1981

Rule 1915.11 does not address the question of the right of the child to separate counsel. It merely recognizes that if the circumstances of a particular case warrant counsel for the child, the court may appoint an attorney on its own motion or on the motion of a party.

The Superior Court has prescribed a procedure for the interrogation of a child who is the subject of a custody action. In *Gerald G. v. Theresa G.*, 284 Pa. Super. 498, 426 A.2d 157 (1981), the court stated that: "when a hearing judge interviews a child in a custody case, certain procedures must be generally met: (1) counsel must be present; (2) counsel must have the opportunity to question the child; and (3) the testimony must be transcribed and made a part of the record." Subdivision (b) incorporates this procedure.

There may be cases in which it is appropriate to interrogate the child in open court or in the presence of the parties. To accommodate these occasions, subdivision (b) leaves these matters to the discretion of the trial judge.

#### Explanatory Comment—1991

Rule 1915.15(b) provides a form of order to appear at a conference or hearing in an action for custody, partial custody or visitation of minor children. Prior to its recent amendment, the form required that one or more children who are the subject of the action attend the hearing or conference.

However, the presence of a child in court is not always necessary or desirable. The experience may be traumatic and disruptive. Consequently, the child should not be required to attend a hearing or conference in every case. When the presence of a child is required and the custodial party does not voluntarily bring the child, the court may issue an order for the child's attendance.

New subdivision (c) has been added to Rule 1915.11 to provide that, in the absence of an order of court, a child who is the subject of the action need not be brought to a conference or a hearing before the court. The form of order to appear provided by Rule 1915.15(b) has been revised to implement this policy.

Rule 1915.19. Form of Order Appointing Counsel for the Child.

The order appointing an attorney to represent a child in a child custody action pursuant to Rule 1915.11 shall be in substantially the following form:

(Caption)

#### ORDER OF COURT

AND NOW, THIS \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, it is hereby ordered as follows:

Pursuant to Pa.R.C.P. 1915.11, \_\_\_\_\_ is appointed as attorney for the minor child \_\_\_\_\_

(D.O.B. \_\_\_\_\_) in connection with the civil proceedings related to the custody of the minor child.

The child's attorney shall not be called to testify and communications between the child's attorney and the child shall be privileged, consistent with the attorney-client relationship.

It is ordered and decreed that the relevant schools, the police department, all hospitals and all social service agencies including home and school agencies who have records, reports and/or information pertaining to the child relevant to the custody of the child, shall allow the child's attorney access to all files and records in its possession, custody or control and shall cooperate in responding to all relevant inquires. These files/records may include but are not limited to medical, psychological or psychiatric charts including evaluations and progress notes and records, X-rays, photographs, tests, test evaluations, intake and discharge summaries, police records, and school records including report cards, educational assessments and educational plans, relevant to this custody dispute and/or relevant to any special needs or requirements of the child. The child's attorney shall have the right to copy any part of the files and records maintained in connection with the child.

It is further ordered and decreed that the child's attorney shall be permitted to see and speak with the child, and family, medical and/or social service providers connected with this case, and take all steps appropriate to and consonant with this order.

The fees for the child's attorney shall be paid as follows: \_\_\_\_\_

This appointment shall terminate upon the entry of a final order resolving the petition pending as of the date of this order or as provided in subsequent order of court.

BY THE COURT:

\_\_\_\_\_ J.

#### Explanatory Comment—2010

An attorney representing a child in a child custody case is not a guardian ad litem or a best interests attorney. Counsel for the child shall zealously represent the child as any other client in an attorney-client relationship.

[Pa.B. Doc. No. 10-1156. Filed for public inspection June 25, 2010, 9:00 a.m.]

## Title 25—LOCAL COURT RULES

### CENTRE COUNTY

#### Centre County Rules of Civil Procedure No. 1303

##### Order

And Now, this 16th day of June, 2010, it is hereby Ordered that new Centre County Rule of Civil Procedure No. 1303 is adopted as set forth as follows:

The Court Administrator is directed to:

1. File one (1) certified copy of this Order and Rule with the administrative Office of Pennsylvania Courts.

2. File two (2) certified paper copies and one (1) diskette or CD-ROM containing this Order and Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. Publish a copy of this Order and Rule on the Unified Judicial System's web site at <http://ujportal.pacourts.us/localrules/ruleselection.aspx>.

4. Keep continuously available for public inspection copies of the Order and Rule in the Prothonotary and Clerk of Courts Office.

This Order shall become effective 30 days after publication in the *Pennsylvania Bulletin*.

By the Court

DAVID E. GRINE,  
*President Judge*

#### Proposed Centre County Local Rule of Civil Procedure No. 1303

##### Rule 1303. Notice. Hearing. Attendance. Willful Absence. Continuance Request.

(a) *Notice*—Pursuant to Pa.R.Civ.P. 1303, Court Administration, or its designee, shall give to the parties or their attorneys of record and the assigned judge at least thirty (30) days notice in writing of the date, time and place of the arbitration hearing.

(1) The written notice of hearing shall include the following statement:

This matter will be heard by a board of arbitrators at the time, date and place specified but, if one or more of the parties is not present at the hearing, the matter may be heard at the same time and date before a judge of the court without the absent party or parties. There is no right to a trial *de novo* on appeal from a decision entered by a judge.

A hearing under the provision of this notice shall be heard by a Judge if his/her schedule so permits.

(b) *Hearing*—When the board of arbitrators is convened for the hearing, if one or more of the parties is not present or is not ready, the case shall proceed and the arbitrators shall make an award unless the Court:

(1) orders a continuance, or;

(2) hears the matter if the notice of arbitration contains the statement required by subsection (a)(1) of this provision and all parties present consent.

(c) *Attendance*—A party is "present" if the party or an attorney who has entered an appearance on behalf of the party attends the hearing.

(d) *Willful Absence*—A party who willfully fails to appear at any appropriately scheduled arbitration hearing may be held in Contempt of Court. Such finding and any appropriate sanction shall be in the discretion of the assigned judge.

(e) *Continuance Request*—A party moving for a continuance shall notify in writing all parties, the assigned Judge and Court Administration, or its designee, of the continuance request.

[Pa.B. Doc. No. 10-1157. Filed for public inspection June 25, 2010, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 40—LIQUOR

### LIQUOR CONTROL BOARD

#### [ 40 PA. CODE CH. 5 ]

#### Responsible Alcohol Management Program

The Liquor Control Board (Board), under section 207(i) of the Liquor Code (47 P.S. § 2-207(i)), amends Chapter 5 (relating to duties and rights of licensees).

#### Summary

This final-form rulemaking implements section 471.1 of the Liquor Code (47 P.S. § 4-471.1). Under the act of December 20, 2000 (P.L. 992, No. 141) (Act 141), the General Assembly authorized the Board to establish a training program for licensees. The Commonwealth expects holders of its liquor and beer licenses to meet demanding standards of operation or face fines and other penalties that can culminate in the loss of the license. Training of licensees was seen to be one of the best ways to prevent these problems and the legislation was the means to implement training. The legislation was entitled "Responsible Alcohol Management." From this, the implementing program took its name: the Responsible Alcohol Management Program (RAMP). RAMP has been established in the Board's Bureau of Alcohol Education (BAE) since 2001. RAMP has developed training materials, authorized instructors and provided a certification process for licensed establishments. It is expected that this final-form rulemaking will serve the public interest by: (1) providing the public and the licensees with greater awareness of RAMP's resources; (2) providing the licensed community with a clear statement of the licensee, manager and server training standards that implement the legislation's intent; and (3) clarifying how the certification and decertification process for licensees is being implemented.

The following is a summary of the four main sections of this final-form rulemaking:

- Explains how instructors are approved to train retail licensees to manage their alcohol service more responsibly.
- Defines qualifications for certifying and decertifying instructors.
- Explains training of managers and owners and how managers shall train new employees for a licensee to be RAMP-certified.
- Effect of RAMP certification is explained as are the requirements for signs to be posted in the licensed premises.

Further, under section 471.1(f) of the Liquor Code, licensees are to obtain certification upon the completion of a certified alcohol service personnel program or the Board's owner/manager training program. Certification is valid for 2 years.

Originally, RAMP was primarily a voluntary program. Act 141 also created incentives for licensees to become RAMP certified. If a licensee was RAMP certified and was adjudicated to have violated two of the more serious violations of the Liquor Code (sales to minors or sales to visibly intoxicated persons) and if the licensee did not have similar violations in the previous 4 years, the range of penalties to which the licensee would be subject would

be reduced to a fine in the range of \$50 to \$1,000. Without RAMP certification, the range of penalties would be \$1,000 to \$5,000.

By the act of April 13, 2006 (P.L. 78, No. 26), administrative law judges were enabled to make RAMP certification mandatory for licensees adjudicated to have sold alcohol to minors or to visibly intoxicated persons. A citation may be issued if the licensee fails to comply with an administrative law judge's order to complete RAMP training. Further, the Board's Bureau of Licensing may object to a license renewal application on the basis that a licensee has failed to comply with the terms of an administrative law judge's order.

Moreover, a licensee may be required to participate in RAMP training because it agreed to undergo training under the terms of a conditional licensing agreement entered into between the Board and the licensee. A licensee's failure to undergo the training under the terms of a conditional licensing agreement may result in the issuance of a citation. Further, the Board's Bureau of Licensing may object to a license renewal application on the basis that a licensee has failed to comply with the terms of a conditional licensing agreement.

Finally, a licensee may voluntarily choose to undergo RAMP training and certification to allow its owners, managers, servers, sellers and other employees to benefit from the Board's BAE instruction on the responsible service of alcoholic beverages.

Before Act 141, employees of the Board were the instructors, providing server/seller training. After the passage of Act 141, the decision was made by the Board to have approved independent instructors provide server/seller training. The Board planned to approve both the instructors and the training curriculum they would use. As the number of instructors increased, the administrative burden of approving a training curriculum for each one also increased and became almost unmanageable. When this rulemaking was proposed, to deal with the increasing administrative workload, it was planned that instructors would receive a standardized, preapproved training curriculum from a "provider." Providers would develop the training curriculum, have the Board approve it and then provide administrative and clerical support to the instructors. However, this plan did not develop as originally intended.

The BAE's principal connection has been, and continues to be, with the individual instructors. The instructors prepare and present their curricula to the BAE for approval. Of the 33 currently certified instructors, nine have presented curricula that incorporate the National training program prepared by Training for Intervention Procedures (TIPS). Five instructors have presented curricula that incorporate the training program prepared by the Tavern Association and two have presented curricula that incorporate the National training program prepared by ServSafe. The remaining 17 instructors have written their own curricula that are identified by various names of their own choosing.

As a result, there has been widespread confusion among licensees that are trying to obtain training with the aim of becoming RAMP certified. Employees of the BAE are called by licensees to clarify the compliance of these training curricula with the requirements of RAMP. In the years since RAMP began operating, only two entities have developed their own curricula and have

provided administrative and clerical support to instructors—the Tavern Association and Tara Paster, who is also a certified instructor. As a result, between the time of the proposed rulemaking, published at 38 Pa.B. 499 (January 26, 2008), and the present, the procedure for training licensees and their servers/sellers has changed.

Since the proposed rulemaking was published, the BAE developed a standard training curriculum for use by instructors, thereby eliminating the reliance on providers to develop curricula for instructors. It should be noted that most instructors currently provide training without having a relationship with a particular provider. Further, nothing in the Liquor Code requires both “providers” and “instructors”; rather, section 471.1(b) of the Liquor Code merely provides that the Board is authorized to certify and decertify entities that wish to offer training for alcohol service personnel. In recognition of these policy changes, proposed §§ 5.221 and 5.222 (relating to providers) dealing with the qualifications of providers and the Board’s certification of providers have been withdrawn in the final-form rulemaking as no longer relevant. As required under section 471.1(c) of the Liquor Code, the BAE will continue to train managers and owners.

The final-form rulemaking provides that an instructor who fails to satisfactorily carry out the instructor’s responsibilities, as provided in § 5.232 (relating to instructor responsibilities), or fails to meet the minimum standards of training, as provided in § 5.233 (relating to minimum standards of training), would receive an “unacceptable evaluation” under § 5.251(a)(9) (relating to prohibited conduct). Examples of conduct which would warrant an unacceptable evaluation include, but are not limited to, failing to provide students with current and accurate information, failing to provide accurate records of attendance and course completion to the BAE, failing to conduct at least 2 1/2 hours of instructional time in each training, exceeding the ratio of students per instructor and failing to properly administer the standardized test prepared by the BAE.

It should be noted that the proposed rulemaking contained the term “unsatisfactory,” which has been changed in the final-form rulemaking to the term “unacceptable.” This change was made to reflect the terminology used in BAE’s current evaluation form, which contains the following categories: Outstanding; Acceptable; Needs Improvement; and Unacceptable.

Further, it should be noted that, whereas in the proposed rulemaking, the Board has the discretion to decertify instructors who received three unsatisfactory evaluations, the final-form rulemaking provides that the Board has the discretion to decertify instructors who receive one or more unacceptable evaluations. This was changed in light of the fact that the final-form rulemaking, as previously noted, clearly puts instructors on notice of the type of conduct which would warrant an unacceptable evaluation from the BAE. Accordingly, the Board believes that an instructor having at least one unacceptable evaluation is sufficient to allow the Board to evaluate whether that instructor should be decertified.

Finally, it should be noted that the duration of an instructor’s certification has been modified in the final-form rulemaking from 2 years to 1 year in § 5.231(3) (relating to instructor certification). This has been changed to reflect the BAE’s current practice of annually evaluating instructors since the proposed rulemaking was published. This modification is also referenced in the preamble.

### *Affected Parties*

The final-form rulemaking will affect retail and wholesale licensees and applicants for certification as instructors. As an active, ongoing program, many in this Commonwealth have already had experience with RAMP. There are about 15,000 licenses active in this Commonwealth that authorize the sale and service of alcohol for on-premises consumption. As of January 15, 2010, 2,300 licensees are certified under RAMP; since the inception of RAMP, 3,861 licensees have been RAMP-certified. A total of 7,559 licensees have participated in the owner/manager trainings since the inception of RAMP; a total of 17,769 individuals have received instruction under the owner/manager trainings. A total of 8,200 licensees have participated in the server/seller trainings since the inception of RAMP; a total of 111,348 individuals have been instructed under the server/seller trainings.

There are currently 33 certified instructors who provide server/seller training. Owner/manager trainings are conducted only by designated staff of the BAE, as mandated under section 471.1(c) of the Liquor Code. Only the Tavern Association and Tara Paster have functioned as providers, providing both curricula and administrative support to instructors. These entities may be adversely affected to the extent that they will not be eligible for certification by the Board as a provider. Both parties have been notified about the development of the standardized curriculum and the anticipated change in the regulations.

TIPS is a National provider of training curricula, but not administrative support, to instructors. TIPS is a program of Health Communications, Inc., located in Arlington, VA. TIPS has been advised that the BAE plans to implement its own standard training curriculum. TIPS may be adversely affected by this final-form rulemaking to the extent that TIPS will not be eligible for certification by the Board as a provider.

### *Paperwork Requirements*

Because this final-form rulemaking codifies an ongoing program, the final-form rulemaking will not significantly increase paperwork for the Board or the regulated community.

### *Fiscal Impact*

RAMP training and certification has been in effect under section 471.1 of the Liquor Code since 2001. The current annual cost of RAMP to the Board is \$1,011,551.37. Like all of the Board’s operating costs, it is funded fully from the proceeds of selling liquor, not from a General Fund appropriation. Because RAMP is mandated by law, its costs cannot be avoided completely. Balanced against the cost of RAMP to the Board is the unquantifiable benefit to the public from licensees and server/sellers that receive training in the practical and legal aspects of alcohol management.

The regulated community (licensees authorized to sell alcohol to the public, including restaurant, hotel, club, eating place retail dispenser, distributor and importing distributor licensees) would not incur costs or savings unless they use RAMP. Because certified instructors, and not the Board, provide seller/server training, the Board can only estimate the cost of training. The Board estimates that the server/seller training would typically cost the retail licensee \$25—\$40 per employee, based on a review of training fees across the country. Cost for owner/manager training is being borne by the Board. Therefore, the cost is measured in time spent in training, which is approximately 6 hours. Savings to the regulated community could be the reduction in administrative

sanctions by an administrative law judge in terms of reduced fines, that is, from \$1,000—\$5,000 to \$50—\$1,000. In cases when an administrative law judge requires a licensee to take responsible alcohol management training as part of an adjudication in a citation proceeding, the owner/manager training cost would be borne by the Board and the licensee would bear other costs of compliance.

As previously explained, the final-form rulemaking deletes the provisions for providers and the annual provider certification fee of \$500. The provider certification fees and instructor certification fees were never expected to significantly offset the costs of RAMP. However, they were expected to help defray some of the Board's administrative costs associated with the certification process.

The final-form rulemaking increases the annual instructor certification fee from \$100 in the proposed rulemaking to \$250. Further, the duration of an instructor's certification has been modified in the final-form rulemaking from 2 years to 1 year. This has been changed to reflect the BAE's current practice of annually evaluating instructors since the proposed rulemaking was published. While it is impossible to know how many entities or individuals will apply for certification as an instructor, as previously noted, there are currently 33 instructors approved by the Board. Assuming that all 33 instructors apply for certification under the final-form rulemaking, the total cost to instructors would be \$8,250 per year. The Board does not believe that these costs will unduly burden future certified instructors.

This final-form rulemaking is not expected to result in costs or savings to local governments.

#### *Effective Date*

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

#### *Contact Person*

Further information is available by contacting Christopher L. Herrington, Deputy Chief Counsel, Office of Chief Counsel, Liquor Control Board, Room 401, Northwest Office Building, Harrisburg, PA 17124-0001.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on December 28, 2007, the Board submitted a copy of the notice of proposed rulemaking, published at 38 Pa.B. 499, to the Independent Regulatory Review Commission (IRRC) and to the House Committee on Liquor Control and Senate Committee on Law and Justice (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 Board 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 12, 2010, and approved the final-form rulemaking.

#### *Findings*

The Board finds that:

(1) Public notice of intention to adopt the administrative regulations adopted by this order 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 to the Board's regulations in the manner provided in this order are necessary and appropriate for the administration of the Liquor Code.

#### *Order*

The Board, acting under authorizing statute, orders that:

(a) The regulations of the Board, 40 Pa. Code Chapter 5, are amended by adding §§ 5.201, 5.202, 5.211, 5.231—5.233, 5.241—5.243, 5.251, 5.261 and 5.271 to read as set forth in Annex A.

(*Editor's Note:* The proposal to add §§ 5.221 and 5.222 has been withdrawn by the Board.)

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

(c) This order shall become effective upon publication in the *Pennsylvania Bulletin*.

PATRICK J. STAPLETON, III,  
*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 54-60 remains valid for the final adoption of the subject regulations.

### **Annex A**

#### **TITLE 40. LIQUOR**

#### **PART I. LIQUOR CONTROL BOARD**

#### **CHAPTER 5. DUTIES AND RIGHTS OF LICENSEES**

#### **Subchapter I. RESPONSIBLE ALCOHOL MANAGEMENT PROGRAM**

#### **GENERAL**

Sec.	
5.201.	Purpose.
5.202.	Definitions.

#### **COURSE OF STUDY**

5.211.	Course of study for alcohol service personnel.
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#### **INSTRUCTORS**

5.231.	Instructor certification.
5.232.	Instructor responsibilities.
5.233.	Minimum standards of training.

#### **TRAINING/ORIENTATION**

5.241.	Manager/owner training.
5.242.	New employee orientation.
5.243.	Records.

#### **PROHIBITED CONDUCT**

5.251.	Prohibited conduct.
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#### **SIGNS**

5.261.	Signs.
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#### **CERTIFICATION**

5.271.	Premises certification.
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**GENERAL**

**§ 5.201. Purpose.**

(a) This subchapter implements the program authorized under section 471.1 of the Liquor Code (47 P.S. § 4-471.1), regarding responsible alcohol management. This provision authorizes the Board to establish a four-part program including:

- (1) New employee orientation.
- (2) Training for alcohol service personnel.
- (3) Manager/owner training.
- (4) Display of responsible alcohol service signage.

(b) Under section 471.1(f) of the Liquor Code, licensees are to obtain certification upon the completion of a certified alcohol service personnel program or the Board's owner/manager training program. Certification will be valid for 2 years.

(c) Licensees and their managers and employees may enter the Responsible Alcohol Management Program voluntarily, may commit to participation as part of a conditional licensing agreement entered into with the Board or may be required to participate by order of one of the Board's administrative law judges. This subchapter also establishes standards for the Board to certify compliance with this program.

**§ 5.202. Definitions.**

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

*BAE—Bureau of Alcohol Education*—The office in the Board that is responsible for administering the Responsible Alcohol Management Program.

*Certify*—To approve and confirm the approval in writing.

*Instructor*—An individual who is certified by the Board to instruct students, including licensees, owners, managers, servers, sellers and members of the public, in responsible server practices.

*Licensee*—An individual, person or entity that holds a license issued by the Board.

*Manager/owner training*—Training conducted by the Board or its employees for individuals who manage or own licensed premises.

*New employee*—An individual who has not been employed at the licensed premises seeking certification in any capacity during the preceding year.

*Responsible server practices*—Procedures and practices used by alcohol service personnel to prevent the furnishing or selling of alcoholic beverages to minors and visibly intoxicated persons.

**COURSE OF STUDY**

**§ 5.211. Course of study for alcohol service personnel.**

A standard curriculum for the course of study will be provided by the BAE.

**INSTRUCTORS**

**§ 5.231. Instructor certification.**

The BAE will have a procedure, as set forth in this section, to confirm a person's competency to begin and continue working as an instructor. Part of this procedure

will include observation of an instructor's training sessions by representatives of the BAE at least twice per year.

(1) A person desiring certification as an instructor shall submit an application on forms issued by the Board and pay a \$250 nonrefundable application fee.

(2) The minimum qualifications of an instructor include the following:

- (i) Possessing a high school diploma or GED.
- (ii) Possessing a minimum of 2 years of experience, full-time, in the field of education, law, law enforcement, substance abuse prevention, hospitality or alcohol service training.
- (iii) Being 21 years of age or older.
- (iv) Having no arrests that are related to alcohol, narcotics or other controlled substances in the previous 10 years.

(v) Attending manager/owner training once in the year preceding the date the application for instructor certification is filed.

(3) If a person who has submitted a completed application meets the minimum requirements for certification, the Board will issue to the instructor a Notice of Certification. The period of certification shall be 1 year from the date of issuance of the Notice of Certification.

(4) Renewal of certification shall be submitted to the BAE at least 30 days prior to the expiration of the instructor's current certification. The same forms, provided by the BAE, shall be used for renewals as for initial certification. A \$250 fee must accompany an application for renewal.

**§ 5.232. Instructor responsibilities.**

Instructors have the responsibility to do the following:

(1) Using the standard curriculum provided by the BAE, provide students with information regarding the current status of the law on issues regarding the sale or service of alcoholic beverages by licensees.

(2) Schedule training sessions in locations throughout this Commonwealth.

(3) Conduct at least two training sessions per quarter and train at least 225 students per year. Instructors may request a waiver of the minimum requirements in this paragraph by sending a letter or e-mail to the BAE. The BAE will waive the requirements for minimum training activity for instructors due to temporary, nonrecurrent exigencies, such as instructor illness or family emergency, bad weather or other circumstances beyond the instructor's control.

(4) Provide accurate records of attendance and course completion, as required under § 5.233(c) (relating to minimum standards of training), to the BAE within 7 calendar days following each training session through the BAE's web site. Original attendance sheets shall be submitted to the BAE by first class United States mail, other delivery or express service, transmission by facsimile or by e-mail.

(5) Attend instructor meetings twice per year as scheduled by the BAE.

(6) Attend manager/owner training at least once per year.



**§ 5.233. Minimum standards of training.**

(a) Instructors shall conduct training sessions conforming to the BAE's standard curriculum.

(1) Each training session must consist of at least 2 1/2 hours of instructional time.

(2) The ratio of students per instructor may not exceed 40 to 1.

(b) Instructors shall notify the BAE of the following:

(1) At least 7 calendar days in advance of scheduling any training session. Instructors shall provide notification to the BAE through the BAE's web site.

(2) Immediately of any training session cancellation. Instructors shall provide notification to the BAE by first class United States mail, other delivery or express service, transmission by facsimile or by e-mail.

(3) Immediately of any changes to the training schedule. Instructors shall provide notification to the BAE by first class United States mail, other delivery or express service, transmission by facsimile or by e-mail.

(c) Instructors shall obtain the student information indicated in paragraphs (1)—(3) at the beginning of the training session. An instructor shall send a completed attendance sheet to the BAE within 7 days of the end of the training session, including the following information from each student:

(1) Name.

(2) Home address.

(3) Home telephone number.

(4) Student identification number issued by the BAE.

(5) Pass/fail score on the test.

(6) Licensed establishment name, address and licensee identification.

(7) Time and location of training.

(d) At the conclusion of the training, the instructor shall administer a standardized test prepared by the BAE, insuring that students complete the examination as a closed book exam, without access to references to aid in the completion of the examination.

(e) The instructor shall grade examinations and notify students of their grades. A test score of 80% or better is required to pass. A student who does not pass may, at the first opportunity, schedule training and take the test again.

**TRAINING/ORIENTATION****§ 5.241. Manager/owner training.**

(a) Manager/owner training will be conducted by the BAE.

(b) Training must include instruction on proper service of alcohol, developing an alcohol service policy and establishing house rules and policies aimed at preventing sales of alcoholic beverages to minors or visibly intoxicated persons. Instruction shall also be provided on identification checks and signs of visible intoxication. Instruction shall be provided on techniques to assure that employees are complying with house rules and policies, including the orientation of new and current employees and the documentation of incidents occurring in the workplace.

(c) For 2 years, the Board will maintain records establishing the names of individuals who have successfully undergone manager/owner training.

**§ 5.242. New employee orientation.**

(a) Licensees applying for certification of compliance under section 471.1 of the Liquor Code (47 P. S. § 4-471.1) shall conduct new employee orientation within 30 days of the employee's hire, in accordance with a checklist of responsible server practices provided by the BAE including:

(1) Penalties for furnishing or selling alcohol to minors.

(2) Acceptable forms of identification as defined in section 495(a) of the Liquor Code (47 P. S. § 4-495(a)).

(3) Practices for checking identification to prevent the service of alcohol to minors, which is prohibited under section 493(1) of the Liquor Code (47 P. S. § 4-493(1)).

(4) Penalties for furnishing or selling alcohol to visibly intoxicated persons.

(5) Practices for refusing service of alcohol to visibly intoxicated persons.

(6) Procedures for handling situations where criminal activity, such as drug activity, assaults or fights, loitering and prostitution, is occurring in or about the premises.

(b) The licensee is responsible for ensuring that the owner or manager conducts the new employee orientation.

**§ 5.243. Records.**

(a) The licensee shall keep the following records:

(1) Certification status of its employees, managers and owners, consisting of the name of the employee, manager or owner, date of hire, date of training and the name of the trainer.

(2) Date of premises certification.

(3) Records of its new employee orientation program.

(4) Responsible alcohol service signs it posted, where and when the signs were posted, revised and reposted.

(b) These records shall be maintained as part of the licensee's operating records required to be kept for 2 years in accordance with section 493(12) of the Liquor Code (47 P. S. § 4-493(12)).

**PROHIBITED CONDUCT****§ 5.251. Prohibited conduct.**

(a) The Board may decertify instructors for violating any of the provisions of this subchapter or engaging in the following conduct:

(1) Discrimination or harassment based on age, race, sex, disability, national origin or religion.

(2) An act that is in violation of the Liquor Code or this title.

(3) An act resulting in a misdemeanor or felony conviction.

(4) An act resulting in admittance into an Accelerated Rehabilitative Disposition (ARD) program if the underlying activity is related to alcoholic beverages, narcotics or controlled substances.

(5) Being under the influence of alcoholic beverages, narcotics or controlled substances during training presentations, examinations or breaks.

(6) Knowingly permitting students to be under the influence of alcoholic beverages, narcotics or controlled substances during training presentations, examinations or breaks.

- (7) Cheating or condoning cheating by students.
- (8) Knowingly providing false information on reports submitted to the Board.
- (9) Having an unacceptable evaluation regarding the presentation of the course of study from class observations conducted by the BAE. An unacceptable evaluation will result from conduct including, but not limited to, the following:
  - (i) Failing to satisfactorily carry out the instructor's responsibilities in § 5.232 (relating to instructor responsibilities).
  - (ii) Failing to meet the minimum standards of training in § 5.211 (relating to course of study for alcohol service personnel).
  - (iii) Failing to provide students with current and accurate information.
  - (iv) Failing to provide accurate records of attendance and course completion to the BAE.
  - (v) Failing to conduct at least 2 1/2 hours of instructional time in each training.
  - (vi) Exceeding the ratio of students per instructor.
  - (vii) Failing to properly administer the standardized test prepared by the BAE.
- (b) The Board will send a Notice of Decertification to an instructor by certified United States mail. An appeal of the Board's decision to decertify an instructor shall be as set forth in 2 Pa.C.S. § 702 (relating to appeals).

(c) The Board will not consider an instructor's application for recertification until 1 year after the date of decertification.

**SIGNS**

**§ 5.261. Signs.**

- (a) Signs for posting in the licensed premises will be provided by the Board. A licensee may use its own signs provided that they are equivalent in size and content to the Board's signs.
- (b) The following signs must be posted, notifying patrons about:
  - (1) Acceptable forms of identification as described in section 495(a) of the Liquor Code (47 P. S. § 4-495(a)).
  - (2) The licensee's duty to refuse service to minors and visibly intoxicated persons under section 493(1) of the Liquor Code (47 P. S. § 4-493(1)).
- (c) The design of the signs must be that they are legible from a distance of 10 feet. Signs must be located where patrons will easily see them.
- (d) The licensee is responsible for the posting and maintenance of signs.

**CERTIFICATION**

**§ 5.271. Premises certification.**

- (a) A licensee may request that the Board certify that it complies with section 471.1 of the Liquor Code (47 P. S. § 4-471.1). The request may be made by personal contact, telephone or written communication to the BAE. Written communication includes first class United States mail, other delivery or express service, transmission by facsimile or by e-mail.
- (b) Certification or recertification will be issued by the Board after investigation and approval of the licensed premises.

- (c) There is no fee for certification or recertification.
- (d) If the Board finds that a licensee has met the requirements under section 471.1 of the Liquor Code, the licensee will be issued a certificate of compliance valid for 2 years.
- (e) If the Board finds that a licensee has not met the requirements of section 471.1 of the Liquor Code or this subchapter, and the licensee's compliance with section 471.1 of the Liquor Code or this subchapter was not mandated by the Office of Administrative Law Judge, by statute, by regulation or by a conditional licensing agreement, the Board will refuse certification or decertify the licensee.
- (f) If the Board finds that a licensee has not met the requirements under section 471.1 of the Liquor Code or this subchapter and the licensee's compliance with section 471.1 of the Liquor Code or this subchapter was required by the Office of Administrative Law Judge, by statute, by regulation or by a conditional licensing agreement, the Board will refuse the application for certification or decertify the licensee and refer the matter to the Pennsylvania State Police, Bureau of Liquor Control Enforcement.
- (g) The Board will send a Notice of Decertification to the licensee by certified United States mail. Appeal of the Board's decision to decertify a licensee shall be as set forth in 2 Pa.C.S. § 702 (relating to appeals).
- (h) A licensee may apply for recertification at any time after the date of decertification.
- (i) The Office of Administrative Law Judge will take official notice of the Board's records with regard to the licensee's certification.

[Pa.B. Doc. No. 10-1158. Filed for public inspection June 25, 2010, 9:00 a.m.]

**Title 52—PUBLIC UTILITIES**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION  
[ 52 PA. CODE CH. 64 ]**

[L-00060179/57-251]

**Provision of Bundled Service Package Plans at a Single Monthly Rate by Local Exchange Carriers**

The Pennsylvania Public Utility Commission (Commission), on December 17, 2009, adopted a final rulemaking order which eliminates the need for administrative review and approval of a waiver of Chapter 64 (relating to standards and billing practices for residential telephone service) separate billing requirements and preserves consumer protections in place for basic local service provided in a bundled service pricing plan.

*Executive Summary*

By Order entered July 3, 2006, at Docket No. L-00060179, the Commission adopted a Proposed Rulemaking Order to amend Chapter 64 of Commission regulations, 52 Pa. Code §§ 64.2, 64.14, 64.17, 64.18, 64.21, 64.24, 64.72, 64.74 and 64.123. By order entered March 27, 2009, the Commission approved final-form regulations to amend Chapter 64 to both: 1) expand Chapter 64 billing provisions so as to authorize competitive local exchange carriers to offer and bill on one bill bundled packages of telecommunications services in the same manner that incumbent local exchange carriers

(ILECs) were authorized under 66 Pa.C.S. § 3016(e)(2) (relating to pricing flexibility and bundling); and 2) clarify that consumer protections remain in place for the suspension, termination and restoration of protected basic service, when included in a bundled service pricing plan.

Upon reconsideration, the Commission revised the final-form regulations to avoid imposing unnecessary and burdensome regulatory obligations on the offering of bundled service packages. The Commission has revised § 64.24 (relating to provisions of bundled service packages) to closely track the previously granted waivers from consumer protection regulations and has revised the remaining sections so that § 64.24 is a stand-alone section dealing with provision of basic service in bundled service packages.

The now final-form regulations codify the existing waivers previously granted to Local Exchange Carriers (LECs) that provide bundled service packages and, at the same time, ensure that residential telephone customers are protected from an abrupt termination of basic service if the customer fails to make full payment for the bundled service package. The revised final-form regulations strike an appropriate and lawful balance between the LECs' right to offer bundled service packages at a single rate and consumer protection in regard to access to basic service. Access to "basic service" for residential telecommunications customers is essential for emergency services, for contact with schools, doctors, hospitals and family, and for Telecommunications Relay Services.

Under the current language of Chapter 64, the Commission is required to review and approve or deny a request for waiver from Chapter 64's separate billing requirements. The amendment to Chapter 64 contained in our final rulemaking eliminates the need for administrative review and approval of a waiver from separate billing requirements, provided certain consumer safe guards are met, while preserving the Commission's oversight authority. Specifically, the need for administrative hours devoted to review of applications for waiver from Chapter 64 separate billing requirements will be eliminated.

Public Meeting held  
December 17, 2009

*Commissioners Present:* James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Kim Pizzingrilli; Wayne E. Gardner; Robert F. Powelson

*Provision of Basic Service in Bundled Service Package Plans by Local Exchange Carriers; Doc. No. L-00060179*

### **Final Rulemaking Order on Reconsideration**

*By the Commission:*

By order entered March 27, 2009, the Commission adopted final form regulations regarding Chapter 64, Standards and Billing Practices for Residential Services, and, in particular, the issues raised by the pricing flexibility granted to LECs, by Chapter 30 of the Public Utility Code, to offer bundled service packages at a single price pursuant to Section 3016(e)(1). 66 Pa.C.S. § 3016(e)(1). This rulemaking was initiated to codify the various waivers of otherwise applicable Chapter 64 regulations that the Commission had granted to LECs over time, so as to avoid repetitive petitions for waiver of those regulations.

On April 13, 2009, Verizon Pennsylvania, Inc. (Verizon) filed a petition for reconsideration and/or clarification regarding the final rulemaking order. The petition argues, inter alia, that the final form regulation would "impose

burdensome, unnecessary, confusing and costly billing requirements" on LECs that offer bundled service packages by a requirement to separately display an amount attributable to "basic" local service on the bill, contrary to the terms of the waivers previously granted by the Commission, and that the regulations appear to preclude Verizon's existing practice of converting a non-paying bundled service package customer to a zero-balance basic account. Verizon Petition at 2.

The Office of Consumer Advocate (OCA) filed an answer in support of Verizon's Petition for Reconsideration, submitting that the Petition should be adopted to the extent that it allows LECs that currently convert non-paying customers to a zero-balance basic service account to continue to do so. OCA Answer at 5.

Also, on May 11, 2009, the Broadband Cable Association of Pennsylvania (BCAP) filed a petition for reconsideration and clarification. The BCAP petition argues, inter alia, that the final form regulation should not apply to Competitive Local Exchange Carriers (CLECs) and the bundled service package offered by those telecommunications companies due to (a) the enactment of Act 183, which altered certain definitions within Chapter 30, and (b) the passage of the Voice-Over-Internet Protocol Freedom Act, 73 P.S. § 2251.1—2251.6, which exempts VoIP services or IP-enabled services from regulation by the Commission.

The standards for granting a petition for reconsideration provide that such a petition may raise any matters designed to convince the Commission that it should exercise its discretion to rescind or amend a prior order in whole or in part, and should raise new and novel arguments, not previously heard, or considerations which appear to have been overlooked by the Commission. *Duick v. Pa. Gas and Water Co.*, Docket No. C-R0597001, et al., 56 Pa. P.U.C. 553, 1982 Pa. PUC LEXIS 4 (December 17, 1982). Upon review of the matters raised in the petitions for reconsideration and/or clarification filed by Verizon and BCAP, we find that the petitions raise legal and operational issues regarding this rulemaking that require further consideration by the Commission and, on that basis, we shall grant reconsideration for the purpose of considering those legal and operational issues.

In the context of our review of these petitions for reconsideration and/or clarification, it appears that the scope of this rulemaking has expanded beyond its original purpose, that is, to codify the existing waivers previously granted to LECs that provide bundled service packages and, at the same time, to ensure that residential telephone customers are protected from an abrupt termination of basic service if the customer fails to make full payment for the bundled service package. Access to "basic service" for residential telecommunications customers is essential for emergency services, for contact with schools, doctors, hospitals and family, and for Telecommunications Relay Services. Customers should have the opportunity to maintain basic service to maintain these essential contacts so long as they meet their payment obligations for basic service.

Upon reconsideration, it appears that the final form regulations previously adopted by the Commission appear to place regulatory obligations on the offering of bundled service packages that are unnecessary and burdensome, and that are beyond the scope of the waivers previously granted by the Commission. Therefore, the Commission has revised § 64.24 to closely track the previously granted waivers and has revised the remaining sections

so that § 64.24 is a stand-alone section dealing with bundled service packages. In the Commission's judgment, these revised final form regulations strike an appropriate and lawful balance between the LECs' right to offer bundled service packages at a single rate and consumer protection in regard to access to basic service.

#### *Discussion*

#### **§ 64.2. Definitions.**

The definitions in Chapter 64 have been amended to add a definition for "bundled service package" in order to describe in more detail the type of service offering addressed in section 3016(e) of the Public Utility Code and in § 64.24 of these regulations.

#### **§ 64.14. Billing Information.**

Subsection (a)(4), regarding the categories of service that must be displayed on a customer bill, has been revised to require customer bills to display two categories of services: basic and non-basic, as well as taxes and applicable surcharges. The former category of "equipment" has been deleted because it is a subset of non-basic service. However, per § 64.24(b) of the revised final form regulation, the obligation to separately display these categories on a customer bill will not apply to bundled service packages.

Subsection (a)(5), regarding an itemized list of toll charges, has been revised to make clear that the requirement to provide an itemized list of toll charges on a customer bill does not apply if the customer subscribes to an unlimited toll service plan or if an unlimited toll service plan is included in the customer's bundled service package.

Finally, subsection (a)(11), has been amended to use the word "contacting" instead of "calling" to recognize and permit other reasonable means by which a customer may get in touch with the LEC to obtain a rate schedule, verify the accuracy of a bill, or get explanations of various charges on the bill.

#### **§ 64.17. Partial Payments for Current Bills.**

Subsection (a) has been re-worded to make clear that, if the customer's payment is insufficient to cover the entire amount currently due, the partial payment must be applied first to the customer's amount due for "basic services," provided there is no past amount due. The purpose of this regulation is to maintain access to basic service, to the extent possible, in situations where the customer's failure to pay the full amount currently due places the customer in jeopardy of service termination. The policy goal is to maintain universal service and customer access to emergency service, to doctors, hospitals and family, and to TRS service, provided the customer's partial payment is adequate to pay the basic service portion of the current bill. Per § 64.24(b), this allocation of partial payments for current bills is not mandated for bundled service packages.

In addition, this section has been revised to allow both oral and written instructions by the customer as to how a partial payment is to be applied. Thus, as revised, the customer may supply written instruction or the customer may supply oral instructions so long as those oral instructions are noted by the LEC's customer service representative and documented in the normal course of business on the customer's account. This will allow electronic notation of the customer's preference which, in turn, is likely to be less costly and more efficient.

#### **§ 64.18. Application of Partial Payment Between Past and Current Bills.**

This section also relates to the policy goal of maintaining universal service and, to that end, the obligation to apply partial payments first to the basic service portion of customer bills. Here, this section requires that when customer payments are insufficient to pay a balance due for past and current bills, the partial payment must be first applied to the basic service portion of the past due bill. However, again, per § 64.24(b), this required allocation of partial payments between past and current bills is not applicable to bundled service packages. Also, consistent with § 64.17, this section has been revised to allow electronic notation as to the customer's preference regarding the application of partial payments.

#### **§ 64.21. Separate Billing for Basic Service.**

This section has been deleted as superfluous. The requirement for separate charges on the bill for basic service is already covered by § 64.14(a) for separately purchased services, and the protection of access to basic service in the case of partial payments is covered in §§ 64.17 and 64.18.

#### **§ 64.24. Bundled Service Packages Containing Basic Services.**

This rulemaking was initiated to codify the existing waivers previously granted to LECs that provide bundled service packages and, at the same time, to ensure that residential telephone customers are protected from an abrupt suspension and termination of basic service if the customer fails to make full payment for the bundled service package. In Act 183 the General Assembly, recognizing the increased competition in the telecommunications industry and the benefits of such competition to consumers, specifically allowed ILECs to offer bundled service packages at a single rate to compete with the bundled services offered by their competitors. 66 Pa.C.S. § 3016(e). However, Section 3016(e) does not go so far as to categorically exempt all aspects of bundled service, especially basic service, from regulation. Indeed, the Commission was permitted to retain regulatory authority regarding the "suspension, termination and restoration of any telecommunications service." 66 Pa.C.S. § 3019(b).

While ILECs are now authorized by law to offer bundled service packages, the regulation will explicitly permit CLECs to have the authority to offer bundled service packages without filing repetitive petitions with the Commission for Chapter 64 waivers. In developing the regulations to accomplish this objective, the Commission is required to carefully balance the LEC's legitimate business interest in having the pricing and service offering flexibility needed to respond to competition with the consumer's countervailing interest in maintaining access to basic service, so long as timely payments are made.

The Commission believes that the revised final form regulation is lawful and has struck the appropriate balance between these important interests. Moreover, the Commission has struck this balance, in these revised final form regulations, by codifying the waivers previously granted to LECs that sought to offer bundled service packages and the associated customer disclosure notices and conversion of non-paying customers to basic service. In that fashion, customers who are delinquent on their bundled service package will have an opportunity to maintain access to basic service, in lieu of termination from the network.

*Right to Offer Bundled Service Package*

Subsection (a) applies to all LECs and parallels the general rule in Section 3016(e) that permits ILECs to offer bundled services at a single price. This regulation makes no rule regarding the pricing of bundled services and contains no requirement that the billing for bundled services be disaggregated on a customer's bill. Independent Regulatory Review Commission (IRRC) comments had questioned whether the proposed form regulations attempted to regulate bundled service packages as a whole and wording that LECs "may offer bundled packages of service . . . under the following conditions. . . ." IRRC Comments at 1-2. The IRRC comments also questioned language in the proposed form regulation that addressed payment arrangements on past due amounts for bundled service packages. IRRC Comments at 2.

In response to these IRRC concerns and the parties' comments to this rulemaking, this subsection was revised to delete the "under the following conditions" language in order to make clear the right of all LECs to offer bundled service packages; moreover, in regard to bundled service packages, there are no conditions on the ability of LECs to offer bundled service packages, no limitation on the services that can be bundled, no regulation of the rates for bundled service packages, no requirements on allocation of partial payments, no disaggregation obligations as to billing or tariffs, and no obligation to offer payment arrangements for past due amounts. However, the regulation does impose notice obligations relating to consumer protection and an after-the-fact obligation to offer an opportunity to obtain "basic service," or its nearest equivalent, to customers whose bundled service packages are to be terminated.

*Exemption from Certain Chapter 64 Regulations*

Subsection (b) provides that LECs that offer bundled service packages are exempt from certain regulations in Chapter 64 regarding itemized charges, allocation of partial payments between basic and non-basic charges, allocation of partial payments between current and past bills, and suspension notices covering basic and non-basic services. However, this subsection also continues previously adopted consumer protection requirements for bundled service packages, as set forth in subsection (c), regarding customer notice and the opportunity for delinquent customers to maintain access to basic service, so long as payment for basic service remains current.

*Consumer Protection Requirements*

Subsection (c) sets forth the consumer protection rules associated with the offering of bundled service packages. First, the failure to pay the single-rate bundled service package price will not result in the potential for immediate termination of a residential customer's access to basic service; rather, if and when the LEC determines that the bundled service package will be terminated for non-payment or other appropriate reason, the account will be converted, reduced or otherwise changed to a "basic service" account subject to future suspension and termination in accordance with Chapter 64. Thereafter, if the customer fails to make timely payments relating to basic service charge, the customer will be subject to termination under Chapter 64. In this fashion, a customer who falls behind on payments for a bundled service package that contains services in addition to basic service will not face the prospect of an immediate loss of access to basic service and the associated ability to make 911 emergency calls, and to contact doctors, hospitals and family members.

Under these rules, the delinquent customer will have the opportunity to maintain access to basic service so long as the customer remains current on the amounts due for basic service. The Commission recognizes that unregulated cable, wireless and VoIP carriers would not operate under this same consumer protection obligation. However, these carriers are not subject to any universal service obligations under state law. Given Chapter 30's policy goal to maintain universal service, the special consumer protections provided within Chapter 30 for so-called "protected services" (which include basic service), and the Commission's long-standing policy to protect consumers' access to basic service for carriers subject to the Commission's jurisdiction, the promulgation of this regulation, consistent with existing waivers and billing practices, is a reasonable exercise of our authority under Chapters 13, 15 and 30 of the Public Utility Code.

Second, the LEC is required to provide a disclosure statement to all new bundled service package customers that notifies these customers of the LEC's billing and suspension practices for the bundled service package, discloses that failure to pay the amount due for bundled services will not result in an immediate loss of access to basic service, and complies with the Commission's plain language guidelines in § 69.251.

These disclosure requirements are generally consistent with those previously required by the Commission in granting bundled billing waivers, as well as the Commission's Secretarial Letter issued September 23, 2003 to all CLECs. The disclosure requirements are intended to make clear to the customer that if the customer falls behind on the amounts due for the bundled service package, while the LEC may lawfully terminate the bundled service package (or, at its discretion, work out a payment arrangement or otherwise work with the customer to maintain service), the delinquent customer will have an opportunity to maintain access to basic service so long as the customer remains current on the amounts due for basic service. The revised Annex A, however, deletes the requirements to disclose the current tariff charge for basic service and the notice that Chapter 64 rules will govern the suspension of basic service. Upon further consideration, these notices are unnecessary at the time the customer initiates a bundled service package since, if the customer subsequently becomes delinquent, the LEC is obligated to provide these notices pursuant to § 64.72 before any suspension of basic service can take place.

The disclosure requirements set forth in revised Annex A herein represent consumer protection measures that the Commission deems necessary and in the public interest. At the same time, we have also minimized the burdens on LECs. For example, there is no obligation in these rules to place this customer notice in monthly billing inserts, no Commission review of other unrelated customer communications, no rules on the allocation of partial payments, and no obligation to separately display, on customer bills, elements of the basic service package. Also, we do not require any re-notification to existing bundled service package customers. LECs operating under waivers previously granted by the Commission are not required to re-notify their existing bundled service package customers.

Lastly, the applicable basic service rate for a customer that is converted to basic service will be the LEC's current tariff rate at the time of the conversion. For LECs with no tariff rate for a stand-alone basic service option, the LEC may convert or step-down the customer to the nearest basic service equivalent in its tariff. The Commis-

sion does not intend that this regulation, in and of itself, obligate LECs to offer stand-alone basic service. That is a subject matter that is not within the scope of this rulemaking.

#### *IRRC Comments*

While recognizing the Commission's interest in protecting basic service, the IRRC comments indicated a concern that the regulation regarding customer notice was overbroad in that it appeared to address all aspects of bundled service packages and, further, that the proposed form regulation would require Commission review of "other communications" regarding bundled service packages. IRRC Comments at 2. In response to these comments, the Commission would point out that the notice that is subject to Commission review is only that portion of the LEC's communication that deals with consumer protection of access to basic service. The regulation does not purport to control all communications regarding bundled service packages. In addition, the phrase "other communications" has been deleted to make this clear.

IRRC also noted a concern, under the proposed form regulations, that the LEC would be required to convert the customer to basic service without the discretion for the LEC and customer to "resolve any issues that may have led to failure to make payment." IRRC Comments at 2. As noted herein, under the revised final form regulations, the LEC retains the discretion as to when the bundled service package is to be terminated for non-payment, as well as the discretion to offer a step-down service or payment arrangement to the customer. The obligation set forth in § 64.24(c)(1) to convert the customer to basic service commences only at that point when the LEC determines that the bundled service package is to be terminated.

In regard to the concern expressed by IRRC that the existing waivers may be inconsistent with the proposed form regulations, IRRC Comments at 3, the Commission has re-drafted the regulation to clarify that the Chapter 64 regulations, 52 Pa. Code §§ 64.14(a)(4) and (5), 64.17, 64.18, and 64.63(1) and (2) are not applicable to bundled service packages because they are unnecessary and inconsistent with the concept of a competitive bundled service package. However, at the same time, for consumer protection purposes, the Commission's revised final form regulation imposes separate requirements to provide customers with notice and the opportunity to maintain basic service connectivity to the telephone network if they are to be terminated by the LEC from a bundled service package. Moreover, providing customers with an opportunity to maintain basic service promotes universal service, a key goal of Chapter 30. 66 Pa.C.S. § 3011(2). Accordingly, under these rules, there are no longer any waivers from the above-referenced Chapter 64 regulations for bundled service packages; rather, bundled service packages are simply exempt from those regulations.

#### *VZ Petition for Reconsideration*

As noted initially in this order, Verizon filed a petition for reconsideration and/or clarification arguing that the final form regulation would "impose burdensome, unnecessary, confusing and costly billing requirements" on LECs that offer bundled service packages by a requirement to separately display an amount attributable to "basic" local service on the bill, contrary to the terms of the waivers previously granted by the Commission, and that the regulations appear to preclude Verizon's existing practice of converting a non-paying bundled service package customer to a zero-balance basic account.

The Commission believes that these concerns have been addressed in this reconsideration order and revised Annex A. The revised final form regulations contain no obligation on LECs to separately display an amount attributable to the "basic service" portion of a bundled service package. The package rate is a single-rate for multiple services; it would be inconsistent with that concept and the ability to offer bundled services at a single rate granted in 66 Pa.C.S. § 3016(e) to mandate a disaggregated "basic service" rate on the customer's bill or in the tariff.

Also, nothing in the final-form regulation was intended to prohibit the so-called "zero balance" approach to conversion of a customer's bundled service package to a basic service account. To make this clear, Annex A has been revised to describe and permit this approach in § 64.24(c)(1)(i). In the "zero balance" approach, used by Verizon and some other LECs, when the conversion to basic service is accomplished, there is no past due balance associated with the basic service account. Any past due amounts associated with the bundled service package are pursued by normal collection means, at the discretion of the LEC. Thereafter, if the customer becomes delinquent on the basic service account, the LEC may issue a suspension notice in accordance with § 64.72, which provides notice to the customer that suspension is imminent and identifies the amount past due for basic service that must be paid by that customer to avoid suspension of basic service.

At the same time, however, the Commission is aware that some LEC billing systems are able to track, internally, the amounts associated with the basic service portion of a customer's bundled service package account. For LECs whose billing systems allow tracking of amounts associated with basic service, those carriers would: (1) list the amount past due for basic service separately (from the total due for the bundled package) on the suspension notice and termination notice; (2) apply any partial payments first to basic service; and (3) suspend for non-payment of basic service pursuant to intervals set by Chapter 64 rules. See FSN Additional Comments at 1. This alternate billing approach is now described and permitted in § 64.24(c)(1)(ii). Accordingly, if a customer's partial payment is insufficient to pay even the basic service portion of the bundled bill, the LEC may issue a suspension notice, in accordance with § 64.72, at that time.

The regulation does not prohibit these approaches, nor does it require any internal tracking of the basic service portion of a bundled service package. However, in any suspension and termination proceeding for basic service under Chapter 64, it would be the LEC's burden of proof to demonstrate the accuracy of its stated past due amounts for basic service.

#### *BCAP Petition for Reconsideration*

In regard to the petition for reconsideration filed by BCAP, the petition argues that the final-form regulation should not apply to competitive LECs and the bundled service packages offered by those telecommunications companies due to (a) the enactment of Act 183, which altered certain definitions within Chapter 30, and (b) the passage of the Voice-over-Internet Protocol Freedom Act, 73 P. S. § 2251.1—2251.6, which exempts VoIP services or IP-enabled services from regulation by the Commission.

As previously stated in our order adopted March 27, 2009 at this docket, nothing in the language of Chapter 30 establishing the right to offer and bill competitive, non-competitive and protected services on one bill expressed any limitation on the Commission's regulatory authority regarding the suspension, termination and restoration of the basic services included in the single-priced bundle of services. Indeed, Section 3016(e)(2) deals with "pricing flexibility and bundling" for LECs. It does not purport to address suspension, termination, and restoration of service issues as general matter which, pursuant to Section 3019(b)(2), is an area of regulation that is retained by the Commission as to "any telecommunications service." 66 Pa.C.S. § 3019(b). Nor does Section 3016(e)(2) negate the Commission's authority under Section 3019(b)(3) to establish requirements deemed necessary and in the public interest by the Commission "to ensure the protection of customers." 66 Pa.C.S. § 3019(b)(3). Accordingly, the Commission rejects the position that CLECs are categorically exempt from Chapter 64 and its consumer protection provisions, particularly with respect to consumers' access to basic services.

The essential argument made by BCAP is that because the General Assembly modified the definition of "protected services" to be associated with "a local exchange telecommunications company" in Section 3012, and because the definition of "local exchange telecommunications company" is now defined, in Section 3012, in relation to an "incumbent carrier," none of the rules and protections associated with "protected services" are applicable to non-incumbent carriers, i.e., CLECs and other forms of competitive telecommunications service providers. BCAP Petition at 3-4. Basic service is a subset of the several so-called "protected services" identified by the General Assembly for special protections under Chapter 30 as to rates, terms and conditions of service, unless deemed competitive by the Commission. See 66 Pa.C.S. § 3012.

What this statutory analysis overlooks, however, is that pursuant to Section 3019(b)(2), the Commission retains regulatory authority over the suspension, termination and restoration of "any telecommunications service." 66 Pa.C.S. § 3019(b)(2) (emphasis added). This authority is not limited to incumbent LECs. CLECs are a subset of "all telecommunications carriers" and, therefore, CLECs are within the scope of this section. Indeed, Chapter 30's description of the powers and duties retained by the Commission provides clearly that the Commission "shall retain the following powers and duties relating to the regulation of all telecommunications carriers and interexchange telecommunications carriers. . ." 66 Pa.C.S. § 3019(b) (emphasis added). There is no exemption for CLECs.

Moreover, in the Commission's judgment, the opportunity for customers to retain access to basic service at the CLEC's tariff rates, provided that the customer remains current on the amounts due, is a necessary and critical consumer protection measure within our authority to require under Section 3019(b)(3), as well as Sections 1301 (rates must be just and reasonable) and 1501 (obligation to provide adequate, efficient, safe and reasonable service). 66 Pa.C.S. §§ 3019(b), 1301, and 1501. Subsection (b)(3) provides that the Commission may "establish such additional requirements as are consistent with this chapter as the Commission determines to be necessary to ensure the protection of customers." The consumer protection measures adopted herein provide consumers with an

opportunity to maintain access to basic service in the event that they become delinquent on bundled service packages, provide connectivity to the telephone network for basic communications needs (including local calls and medical emergencies), and serve to promote universal service. In the Commission's judgment, these measures are necessary to protect consumers and are in the public interest.

BCAP also argues that pursuant to the VoIP Freedom Act, services offered by CLECs by means of IP-enabled or VoIP networks are exempt from regulation by the Commission because the exemption for "protected service" at 73 P. S. § 2251.6 only applies to protected services offered by incumbent LECs.

Upon further review of this section, it is clear that the General Assembly intended to exempt, from regulation, any services offered by means of IP-enabled or VoIP networks, subject to five specific exceptions: access to and fees for 911 service, access to TRS service, obligations to Universal Service Fund fees, obligations to pay applicable access charges, and rates, terms and conditions for protected services offered under tariffs "which are subject to approval by the Pennsylvania Public Utility Commission." As noted earlier, the definition of "protected services" in Chapter 30 has been narrowed to refer to ILEC-provided services, and this then raises the statutory interpretation issue of whether the exemption for protected services in the VoIP Freedom Act applies to both ILECs and CLECs.

The rules of statutory construction provide that the object of all interpretation and construction of a statute is to ascertain and effectuate the intention of the General Assembly, that the plain words of the statutory language control, and that if an ambiguity does exist the intention of the General Assembly is to be ascertained by considering, inter alia, the occasion and necessity of the statute, the object to be attained, and the consequences of a particular interpretation. 1 Pa.C.S. § 1921(c).

The clear purpose of the statute is to encourage the proliferation and rapid expansion of IP-enabled and VoIP services by minimizing regulatory burdens. However, it is equally clear that the General Assembly desired to carve out certain exceptions related to 911 service, TRS service, Universal Service Fund fees, access charges, and the "rates, terms and conditions for protected services offered under tariffs which are subject to approval by the Pennsylvania Public Utility Commission." Because four of the five exceptions relate to consumer protection that is to be provided regardless of the use of IP-enabled technology, we interpret the fundamental purpose and object of this exemption portion of the legislation to be consumer protection, especially as to "protected services" offered under tariffs filed with and approved by the Commission.

Because there is no definition of "protected services" in the VoIP Freedom Act, the act is ambiguous as to the extent of this exemption. BCAP reasons that since the term "protected services" is defined in Chapter 30 with reference to ILECs, the term has no meaning and thus no application to CLECs who provide protected services using IP-technology. Adoption of BCAP's reasoning would preclude consumer protection before the Commission for basic services offered by CLECs who use IP-technology. This would be a substantial diminution of consumer protection rights regarding access to the network and,

further, would treat ILEC and CLEC customers differently whenever IP-technology is used to provide the service. It is not clear that the General Assembly intended that there be disparate treatment for such similarly situated customers.

However, we also note that the term “protected services” is further limited by the phrase “under tariffs subject to approval by the [Commission].” Given that certain VoIP providers may not be obligated to file tariffs for their retail services with the Commission, we conclude that non-ILECs who provide telecommunications services, including basic services, by means of IP-technology as defined in the VoIP Freedom Act, and have never filed tariffs with the Commission, or have filed petitions, and obtained Commission approval, to cancel or discontinue their tariffs on that basis, are exempt from the requirements of this regulation regarding bundled billing, customer disclosures, and conversion to basic service.

#### § 64.72. Suspension Notice Information.

This section sets forth the information that must be included in the suspension notices sent to delinquent customers. The section has been amended to require a statement of the amount due to avoid the suspension of basic service. The revised language set forth in Annex A is consistent with the minor revisions proposed by PTA. PTA Further Comments at 8-9.

#### § 64.74. Procedures Upon Customer Contact Before Suspension.

This section sets forth the procedures to be followed when the customer contacts the LEC regarding a suspension notice before the suspension has occurred. The section lists the information that the LEC is obligated to provide to the customers that are in jeopardy of suspension. The minor revisions in this section are intended to clarify that all of the listed information must be provided to the customer and to preclude the practice of requiring the immediate payment of both past due and current amounts due in order for a customer to retain basic service.

#### § 64.123. Termination Notice.

This section sets forth the information that must be included in the termination notice sent to customers after service is suspended and, in particular, explains the steps the customer must take for service to be restored. The Commission has adopted the minor revision proposed by PTA for clarity regarding the elements of the termination notice. PTA Further Comments at 9.

#### Conclusion

The revised final-form regulations set forth in Annex A will, in the Commission’s judgment, strike the appropriate balance between the interests of LECs to offer bundled service packages in a competitive environment and the interests of consumers in maintaining access to basic services. The Commission has balanced these interests while giving consideration to the policy goals of Chapter 30 and, in particular, the ability to offer a diversity of new and existing telecommunications services (by imposing no limits on the services that can be bundled), promoting the provision of competitive services on equal terms (by establishing equal obligations on ILECs and CLECs), and maintaining universal service at affordable rates (by providing customers with the opportunity to maintain access to basic service). See 66 Pa.C.S. § 3011(2), (5), (6), (8) and (13).

Access to basic service is important not only to universal service, which benefits all citizens, but to the individual customer who can maintain access to 911 emergency services, access to hospitals, doctors, schools and family, and access to TRS (for hearing-impaired customers). At the same time, the Commission has, in these revised final form regulations, eliminated language that could have been read as an attempt to regulate bundled service packages as a whole, to mandate the format of billing displays for bundled service packages or to control the application of partial payments for bundled service packages.

Rather, these revised final form regulations, drafted to be consistent with the waivers previously granted on a case by case basis, permit ILECs and CLECs to offer bundled service packages on equal terms, subject only to the consumer protection obligations to offer delinquent customers the opportunity to maintain access to basic service and to provide a disclosure notice to communicate the availability of that opportunity to maintain basic service.

Accordingly, under sections 501 and 1501 of the Public Utility Code, 66 Pa.C.S. § 501 and 1501; section 204 of the act of July 31, 1968 (P. L. 769 No. 240) (CDL) 45 P. S. § 1204, and the regulations promulgated thereunder 1 Pa. Code §§ 7.1, 7.2, and 7.5; the Commission adopts the regulations set forth in Annex A; *Therefore,*

#### *It Is Ordered That:*

1. On reconsideration, the Commission hereby adopts amendments to 52 Pa. Code Chapter 64 by amending §§ 64.2, 64.14, 64.17, 64.18, 64.72, 64.74 and 64.123; by deleting § 64.21; and by adding § 64.24 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

2. The petitions for reconsideration and clarification filed by Verizon Pennsylvania, Inc. and Broadband Cable Association of Pennsylvania are granted in part and denied in part, consistent with the text of this order.

3. The Secretary shall serve this order and Annex A on the Office of Consumer Advocate, Office of Small Business Advocate, all parties that submitted comments to the proposed regulation and all Local Exchange Carriers.

4. The Secretary shall submit this order and Annex A to the Office of Attorney General for approval as to legality.

5. The Secretary shall submit this order and Annex A to the Governor’s Budget Office for review of fiscal impact.

6. The Secretary shall submit this order and Annex A for review by the designated standing committees of both houses of the General Assembly, and for review and approval by IRRC.

7. The Secretary shall deposit this order and Annex A with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

8. The regulations in Annex A shall become effective upon publication in the *Pennsylvania Bulletin*.

9. The contact persons related to this rulemaking are Elizabeth Lion Januzzi, Assistant Counsel, Law Bureau (717) 772-0696, elionjanuz@state.pa.us; and Tawana Dean, Policy Analyst, Bureau of Consumer Services, (717) 772-0806, tadean@state.pa.us. Alternate formats of this document are available to persons with disabilities and



may be obtained by contacting Sherri Delbiondo, Regulatory Coordinator, Law Bureau, (717) 772-4597, [sdelbiondo@state.pa.us](mailto:sdelbiondo@state.pa.us).

JAMES J. McNULTY,  
*Secretary*

Public Meeting held  
April 15, 2010

*Commissioners Present:* James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Wayne E. Gardner; Robert F. Powelson

*Rulemaking Re: Provision of Basic Service in Bundled Service Package Plans by Local Exchange Carriers; Doc. No. L-00060179*

### Amended Final Rulemaking Order

*By the Commission:*

By Order entered December 23, 2009, the Commission amended on reconsideration, its March 27, 2009 Order wherein it adopted final form regulations regarding Chapter 64, Standards and Billing Practices for Residential Services. Those regulations codified various waivers of applicable Chapter 64 regulations that had been granted to LECs, so as to avoid future repetitive petitions for waiver of those regulations. The final form regulations were then submitted to IRRC and Legislative Committees on February 18, 2010.

Upon review, IRRC recommended a revision to the final-form regulations. At IRRC's recommendation, the Commission requested tolling of IRRC's regulatory review period pursuant to 71 P.S. § 745.5a(g)(1) (on agency tolling of regulatory review), by letter dated March 20, 2010. By letter dated March 22, 2010, IRRC consented to toll its review in order that the Commission might revise its final-form rulemaking to delete § 64.24(c)(2)(iii).

Section 64.24(c)(2)(iii) requires the local exchange telecommunications company to send a disclosure statement that "complies with the plain language guidelines at § 69.251 (relating to plain language)." Since § 69.251 is a statement of policy, the language in the regulation would improperly require compliance with, and allow enforcement of, a statement of policy. A statement of policy is not subject to review by the Legislature, IRRC and the public, and can be changed by an agency at any time.

Because the provision of § 64.24(c)(2)(iii), if enacted, effectively circumvents the regulatory review provisions of the CDL (45 P.S. §§ 1201—1208), and the Regulatory Review Act (71 P.S. §§ 745.1—745.15), the Commission determined that the rulemaking should be revised to delete the provision. The Commission notified all interested parties of the intent to amend the rulemaking on March 22, 2010, and advised interested parties to file written comments within 10-days of the date of the notice.

Comments were submitted by the Office of Consumer Advocate (OCA), on April 1, 2010. The OCA does not object to the revised regulation, but, noted that as a matter of good business practices, all utilities should communicate clearly with their residential customers, along the lines suggested in the existing Commission policy statement on plain language guidelines. No other comments were received.

We agree with OCA that the issue of clear communication between utilities and residential customers should be a priority for all utilities as a matter of good business practices. We hope that the Commission policy statement on plain language guidelines will continue to be a useful

reference source to that end. However, we also conclude that the requirement of compliance with our policy statement on plain language guidelines contained in § 64.24(c)(2)(iii) is inappropriate and should be deleted from the final regulation.

Based upon IRRC's recommendation and upon consideration of the comments and lack of objection to the change, we amend the final-form rulemaking to delete § 64.24(c)(2)(iii).

### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on February 15, 2010, the Commission submitted a copy of the notice of proposed rulemaking, published at 37 Pa.B. 1032 (March 3, 2007), to IRRC and to the House Committee on Consumer Affairs, the Senate Committee on Consumer Protection and Professional Licensure (Committees) for review and comment.

Under section 5(b.1) 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.

The final-form rulemaking was deemed approved by the Committees on May 12, 2010. Under section 5(c) of the Regulatory Review Act, IRRC met on May 13, 2010, and approved the final-form rulemaking.

### *Conclusion*

The final-form rulemaking in Annex A is amended to delete § 64.24(c)(2)(iii).

These amended final-form regulations, drafted to be consistent with the waivers previously granted on a case by case basis, permit ILECs and CLECs to offer bundled service packages on equal terms, subject only to the consumer protection obligations to offer delinquent customers the opportunity to maintain access to basic service and to provide a disclosure notice to communicate the availability of that opportunity to maintain basic service.

Accordingly, under sections 501 and 1501 of the Public Utility Code, 66 Pa.C.S. §§ 501 and 1501; section 204 of the CDL, and the regulations promulgated thereunder in 1 Pa. Code §§ 7.1, 7.2, and 7.5; the Commission adopts the regulations set forth in Annex A; *Therefore,*

### *It Is Ordered That:*

1. The Commission hereby adopts amendments to 52 Pa. Code Chapter 64 by amending §§ 64.2, 64.14, 64.17, 64.18, 64.72, 64.74 and 64.123; by deleting § 64.21; and by adding § 64.24 to set forth in Annex A, with ellipses referring to the existing text of the regulations.

2. The Secretary shall serve this order and Annex A on the Office of Consumer Advocate, Office of Small Business Advocate, all parties that submitted comments to the proposed rulemaking and all LECs.

3. The Secretary shall submit this order and Annex A to the Office of Attorney General for approval as to legality.

4. The Secretary shall submit this order and Annex A to the Governor's Budget Office for review of fiscal impact.

5. The Secretary shall submit this order and Annex A for review by the designated standing committees of both houses of the General Assembly, and for review and approval by IRRC.

6. The Secretary shall deposit this order and Annex A with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

7. The regulations embodied in Annex A shall become effective upon publication in the *Pennsylvania Bulletin*.

8. The contact persons related to this rulemaking are Elizabeth Lion Januzzi, Assistant Counsel, Law Bureau (717) 772-0696, elionjanuz@state.pa.us; and Tawana Dean, Policy Analyst, Bureau of Consumer Services, (717) 772-0806, tadean@state.pa.us. Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Sherri Delbiondo, Regulatory Coordinator, Law Bureau, (717) 772-4597, sdelbiondo@state.pa.us.

JAMES J. McNULTY,  
Secretary

*(Editor's Note: The amendments to §§ 64.2, 64.14, 64.17, 64.18, 64.72, 64.74 and 64.123 and the rescission of § 64.21 were not included in the proposed rulemaking published at 37 Pa.B. 1032.)*

*(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 57-251 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 52. PUBLIC UTILITIES**

**PART I. PUBLIC UTILITY COMMISSION**

**Subpart C. FIXED SERVICE UTILITIES**

**CHAPTER 64. STANDARDS AND BILLING PRACTICES FOR RESIDENTIAL TELEPHONE SERVICE**

**Subchapter A. PRELIMINARY PROVISIONS**

**§ 64.2. Definitions.**

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

\* \* \* \* \*

*Bundled service package*—A package of services offered and billed on one bill by an LEC, as defined in this section, which includes nontariffed, competitive, noncompetitive or protected services, including services of an affiliate, in combinations and at a single price selected by the LEC.

\* \* \* \* \*

**Subchapter B. PAYMENT AND BILLING STANDARDS**

**§ 64.14. Billing information.**

(a) Every bill rendered must state clearly the following information:

- (1) The date of the bill.
- (2) The due date on or before which payment shall be received to avoid an account being considered delinquent.
- (3) The beginning and ending dates of the billing period for service, excluding toll usage and equipment.
- (4) The amount due for basic service, nonbasic service, and taxes and applicable surcharges, during the current billing period.
- (5) An itemized statement of toll charges listing the date, time, destination, duration and rate period for each

toll call unless the customer subscribes to an unlimited toll service plan or toll service is included as part of the customer's bundled service package.

(6) The amounts for security deposits owed by or credited to existing customers. This amount shall be separately stated on each bill if a security deposit remains unpaid.

(7) The total amount of payments and other credits made to the account during the current billing period.

(8) The amount of late payment charges

(9) The total amount due.

(10) A statement directing the customer to register a question or complaint about the bill prior to the due date, with the address and telephone number where the customer may direct questions or complaints.

(11) A statement that a rate schedule, an explanation of how to verify the accuracy of a bill, and an explanation of the various charges, if applicable, can be obtained by contacting the business office of the LEC.

(b) At least annually, and upon request of the customer, the LEC shall provide an itemization of all service equipment and other recurring charges.

(c) Upon request for new or additional services, the LEC shall inform the customer of the monthly recurring charge for service and each item of equipment ordered by the customer and shall provide a minimum and maximum estimate of applicable nonrecurring charges. The LEC shall maintain a record of the estimates given for 90 days. The LEC shall have available a printed explanation of alternative rates and services.

(d) Every final bill must contain a statement that a subsequent bill will be rendered if needed to collect charges, such as additional tolls or lost equipment.

**§ 64.17. Partial payments for current bills.**

(a) Payments received by an LEC which are insufficient to pay the total amount due for the current bill, when there is no past due balance, shall first be applied to basic service.

(b) This section does not apply when the customer supplies instructions specifying how a partial payment should be applied.

**§ 64.18. Application of partial payments between past and current bills.**

In the absence of instructions from a customer, or a disputed bill or a payment arrangement, payments received by the LEC which are insufficient to pay a balance due for both past and current bills shall first be applied to the balance due for past due basic service, then to other past due charges, including late payment charges.

**§ 64.21. (Reserved).**

**§ 64.24. Provision of bundled service packages.**

(a) *Right to offer bundled services.* Nothing in this chapter prohibits an LEC from offering bundled service packages, as defined in § 64.2 (relating to definitions), at a single price selected by the LEC.

(b) *Exemption from certain regulations.* An LEC that offers a single-rate bundled service package shall be exempt from certain sections of this chapter regarding payment and billing standards. The sections subject to exemption for bundled service packages are:

- (1) Section 64.14(a)(4) and (5) (relating to billing information).

(2) Section 64.17 (relating to partial payments for current bills).

(3) Section 64.18 (relating to application of partial payments between past and current bills).

(4) Section 64.63(1) and (2) (relating to unauthorized suspension of service).

(c) *Consumer protection requirements.* An LEC that offers bundled service packages is subject to the following consumer protection requirements:

(1) *Conversion to basic service.* A residential customer's failure to pay the single-rate bundled service package price may not result in immediate suspension or termination of basic service to the residential customer.

(i) When an LEC determines that a bundled service package shall be terminated for nonpayment, the account shall be converted to a basic service account subject to future suspension and termination in accordance with this chapter if the customer fails to make timely payments.

(ii) For an LEC which tracks the basic service portion of a bundled service package, when a customer fails to make payment sufficient to pay the basic service charges in the package, the LEC may suspend and terminate basic service for nonpayment in accordance with this Chapter.

(2) *Disclosure statement.* An LEC shall send a disclosure statement to new bundled service package customers that:

(i) Notifies the customer of the LEC's billing practices that shall be implemented in the event of the customer's failure to pay the bundled service package charge in full.

(ii) Notifies the customer that failure to pay the bundled service package charge may not result in immediate suspension of basic service.

#### **Subchapter E. SUSPENSION OF SERVICE**

##### **NOTICE PROCEDURES PRIOR TO SUSPENSION**

##### **§ 64.72. Suspension notice information.**

A notice of suspension must clearly and fully include the following information, when applicable, in conspicuous print:

- (1) The reason for the proposed suspension.
- (2) A statement of amounts past due, and of a required deposit. The suspension notice must identify the amount past due for basic service which the customer shall pay to avoid the suspension of basic service.
- (3) A statement that a specific reconnection fee will be required to have service restored after it has been suspended if the reconnection fee is a part of the approved tariff of the LEC.
- (4) The date on or after which service will be suspended unless one of the following occurs:
  - (i) Payment in full is received.
  - (ii) The grounds for suspension are otherwise eliminated.
  - (iii) A payment agreement is entered into.
  - (iv) A dispute is filed with the LEC.
- (5) A statement that the customer should immediately contact the LEC to attempt to resolve the matter, including the mailing address and telephone number where questions may be filed and payment agreements entered into with the LEC.

(6) A medical emergency notice substantially in compliance with the form as set forth in Appendix A (relating to Medical Emergency Notice).

##### **§ 64.74. Procedures upon customer contact before suspension.**

(a) If, at a time after the issuance of the suspension notice and before the suspension of service, a customer contacts the LEC concerning the proposed suspension, an authorized LEC employee shall fully explain, when applicable, the following:

- (1) The reasons for the proposed suspension.
- (2) The available methods of avoiding a suspension including:
  - (i) Tendering the past due amount as specified on the suspension notice or otherwise eliminating the grounds for suspension.
  - (ii) Entering a payment agreement.
  - (iii) The right of the customer to file a dispute with the telephone company and, thereafter, an informal complaint with the Commission.

(3) The procedures for resolving disputes relating to charges on the notice other than IXC toll charges and the procedures for filing informal complaints to request payment terms on the basic service portion of the account, including the address and the telephone number of the nearest regional Commission office.

(4) The duty of the customer to pay a portion of a bill not honestly disputed.

(5) The duty of the customer to restrict toll usage to 150% of average normal toll usage.

(6) The medical emergency procedures.

(7) That upon failure to timely appeal from or comply with a telephone company report, as defined in § 64.142 (relating to contents of written summary by the LEC), an informal complaint report, or an order from a formal complaint—the LEC is not required to give further written notice before suspension so long as the LEC makes a reasonable attempt to contact the customer personally at least 24 hours prior to suspension.

(b) The LEC, through its employees, shall exercise good faith and fair judgment in attempting to enter into a reasonable payment agreement regarding undisputed amounts or to otherwise equitably resolve the matter. Factors to be taken into account when attempting to make a reasonable payment agreement include, but are not limited to, the size of the unpaid balance, the payment history of the customer and the length of time over which the bill accumulated. When the customer breaches a payment agreement for toll or nonbasic service, or both, the LEC may suspend the toll or nonbasic, or both, service after complying with § 64.81 (relating to limited notice upon noncompliance with report or order). At the time a payment agreement is entered into, the LEC shall explain to the customer the consequences of breaching the payment agreement, including the possible suspension of toll or nonbasic service, or both, without further written notice. The LEC may not suspend service for an undisputed delinquent bill under either of the following circumstances:

- (1) While it is negotiating a payment agreement with the customer.
- (2) Within 24 hours after negotiating fails, except where toll usage increases by \$25 or more after the initial customer or customer designee contact.

**Subchapter F. TERMINATION OF SERVICE**

**GROUNDS FOR TERMINATION**

**§ 64.123. Termination notice.**

Immediately after service is suspended, a termination notice which conforms substantially to the suspension notice and which indicates how the customer may arrange to have service restored shall be mailed to the customer's billing address. The termination notice must include:

(1) The amount past due for basic service which the customer shall pay to avoid the termination of basic service.

(2) A medical emergency restoration notice substantially in the form set forth in Appendix B (relating to Medical Emergency Restoration Notice).

(3) A statement that service will be terminated on or after a specified date and a clear explanation that the customer shall request service as a new applicant, subject to additional charges, if termination occurs.

[Pa.B. Doc. No. 10-1159. Filed for public inspection June 25, 2010, 9:00 a.m.]

**Title 58—RECREATION**

**PENNSYLVANIA GAMING CONTROL BOARD**

**[ 58 PA. CODE CH. 521 ]**

**Table Game Taxes and Gross Table Game Revenue; Temporary Regulations**

The Pennsylvania Gaming Control Board (Board), under its general authority in 4 Pa.C.S. § 1303A (relating to temporary table game regulations) enacted by the act of January 7, 2010 (P.L. 1, No. 1) (Act 1) and the specific authority in 4 Pa.C.S. §§ 1103 and 1362A (relating to definitions; and table game taxes), adopts a temporary regulation in § 521.10 (relating to table game taxes and gross table game revenue) to read as set forth in Annex A. The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board) as part of Subpart K (relating to table games).

*Purpose of the Temporary Rulemaking*

This temporary rulemaking adds provisions regarding the weekly payment of the tax on table game revenues to the Department of Revenue (Department) and the calculation of gross table game revenue.

*Explanation of Amendments to Chapter 521*

Section 521.10 echoes the requirement in Act 1 which requires certificate holders to pay the tax on table game revenue to the Department on a weekly basis on forms prescribed by the Department.

In addition, it sets forth the procedures for calculating gross table game revenue for the following: all banking table games including electronic gaming tables which are not fully automated electronic table games; nonbanking table games (that is, Poker); fully automated electronic table games; and contests or tournaments.

It also repeats the items that a certificate holder may deduct from the calculation of gross table game revenue that are included in Act 1.

*Affected Parties*

Act 1 prescribes what taxes a certificate holder is required to pay on table game revenue. Because this temporary rulemaking is consistent with the requirements of Act 1, this temporary rulemaking will not have additional fiscal impact on certificate holders.

*Fiscal Impact*

*Commonwealth*

The Board expects that this temporary rulemaking will not have direct impact on the Board or other Commonwealth agencies.

*Political subdivisions*

This temporary rulemaking will not have direct fiscal impact on political subdivisions of this Commonwealth. Eventually, host municipalities and counties will benefit from the local share funding that is mandated by Act 1.

*Private sector*

Because this temporary rulemaking is consistent with the requirements of Act 1, it will not impose additional costs on certificate holders beyond those imposed by Act 1.

*General public*

This temporary rulemaking will not have direct fiscal impact on the general public.

*Paperwork Requirements*

This temporary rulemaking and Act 1 require certificate holders to submit supporting documentation on forms prescribed by the Department with their weekly remittance of the tax on table game revenue.

*Effective Date*

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

*Public Comments*

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

*Contact Person*

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

*Regulatory Review*

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

*Findings*

The Board finds that:

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

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

*Order*

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

(1) The temporary regulations of the Board, 58 Pa. Code Chapter 521, are amended by adding § 521.10 to read as set forth in Annex A.

(2) The temporary regulation is effective June 26, 2010.

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

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

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

GREGORY C. FAJT,  
*Chairperson*

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

**Annex A****Title 58. RECREATION****PART VII. GAMING CONTROL BOARD****Subpart K. TABLE GAMES****CHAPTER 521. GENERAL PROVISIONS****§ 521.10. Table game taxes and gross table game revenue.**

(a) The tax on table game revenue shall be payable to the Department on a weekly basis and must be based upon the gross table game revenue derived during the previous week reported on forms and in the manner prescribed by the Department.

(b) Gross table game revenue includes the following:

(1) The net revenue from all banking table games including electronic gaming tables which are not fully automated electronic table games.

(2) The net revenue from nonbanking table games.

(3) The net revenue from fully automated electronic table games.

(4) The net revenue from contests or tournaments.

(c) Net revenue from banking table games, including electronic gaming tables which are not fully automated electronic table games, must be the sum of the net revenue determined for each banking table game, which is not a fully automated electronic table game, individually. The net revenue for an individual banking table game which is not a fully automated electronic table game must be equal to:

(1) The ending inventory of gaming chips at the gaming table as reported on the Table Inventory Slip prepared in accordance with § 525.13 (relating to procedures for drops at open table games) for a table game that

remained open for gaming activity when the table was being dropped at the end of the gaming day or the Table Inventory Slip prepared in accordance with § 525.14 (relating to procedures for closing table games) for a table game that was closed prior to the end of the gaming day, plus.

(2) The sum of all Credit Slips for the gaming table for that gaming day, plus.

(3) The total of the currency and Counter Checks collected from the drop box for that gaming table, minus.

(4) The inventory of gaming chips at the gaming table as reported on the Table Inventory Slip prepared in accordance with § 525.13 for a table game that remained open for gaming activity when the table was being dropped at the end of the previous gaming day or the Table Inventory Slip prepared in accordance with § 525.8 (relating to procedures for opening table games) for a table game that was opened during the gaming day, minus.

(5) The sum of all Fill Slips for the gaming table for that gaming day.

(d) Net revenue from nonbanking table games must be the sum of the net revenue determined for each nonbanking table game individually. The net revenue for an individual nonbanking table game must be equal to the Poker rake recorded in accordance with § 525.19 or § 525.20 (relating to procedures for opening, counting and recording the contents of table game drop boxes; and alternate procedures for collecting, distributing, opening, counting and recording the contents of nonbanking table game drop boxes).

(e) Net revenue from fully automated electronic table games must be the sum of the net revenue determined for each fully automated electronic table game individually. The net revenue for an individual fully automated electronic table game must be equal to:

(1) The amount recorded on the bill in meter for that gaming day, plus.

(2) The amount recorded on the voucher in-cashable/value meter for that gaming day, minus.

(3) The amount recorded on the coin out meter for that gaming day, minus.

(4) The amount recorded on the fully automated electronic gaming table paid progressive payout meter for that gaming day, minus.

(5) The amount recorded on the attendant paid progressive payout meter for that gaming day, minus.

(6) The amount recorded on the attendant paid jackpots meter for that gaming day, minus.

(7) The amount recorded on the attendant paid cancelled credits meter for that gaming day, minus.

(8) The amount recorded on the voucher out-cashable/value meter for that gaming day.

(f) Net revenue from contests or tournaments must be the sum of the net revenue determined for each contest or tournament individually. The net revenue for an individual contest or tournament must be equal to:

(1) The sum of all entry fees, buy-ins, re-buy-ins and administrative fees imposed by the certificate holder on the contest or tournament participants, minus.

(2) The cash paid by the certificate holder to the contest or tournament winners as prizes, minus.

(3) The actual cost paid by the certificate holder for noncash prizes awarded to the contest or tournament winners.

(g) If the net revenue from a contest or tournament results in a loss, that loss may not be deducted from the calculation of gross table game revenue.

(h) Gross table game revenue may not include:

(1) Counterfeit cash or counterfeit value chips.

(2) Coins or currency of other countries that is not readily convertible to cash.

(3) Cash taken in a fraudulent act perpetrated against a certificate holder for which the certificate holder is not reimbursed.

[Pa.B. Doc. No. 10-1160. Filed for public inspection June 25, 2010, 9:00 a.m.]

**PENNSYLVANIA GAMING CONTROL BOARD**  
**[ 58 PA. CODE CH. 526 ]**  
**Credit; Temporary Regulations**

The Pennsylvania Gaming Control Board (Board), under its general authority in 4 Pa.C.S. § 1303A (relating to temporary table game regulations) enacted by the act of January 7, 2010 (P. L. 1, No. 1) (Act 1) and the specific authority in 4 Pa.C.S. §§ 1302A(9) and 1327A (relating to regulatory authority; and other financial transactions), adopts temporary regulations in Chapter 526 (relating to credit) to read as set forth in Annex A. The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board) as part of Subpart K (relating to table games).

*Purpose of the Temporary Rulemaking*

This temporary rulemaking adds provisions regarding the application for, issuance of, and administration and recordkeeping regarding credit given to a patron by a certificate holder.

*Explanation of Chapter 526*

Section 526.1 (relating to definitions) contains definitions for terms that are used in this chapter.

Section 526.2 (relating to internal control requirements) requires certificate holders who elect to offer credit to patrons to include the procedures that the certificate holders will use as part of their internal controls submissions to the Board. This will allow the Board to review the procedures to verify that they comply with this chapter.

Section 526.3 (relating to application and verification procedures for granting credit) contains the information that must be included in an application for credit filed by a patron and the procedures that the certificate holder shall follow to verify the information submitted by the patron and to insure that the patron is not on the voluntary credit suspension list, the self-exclusion list and the list of persons required to be excluded.

Section 526.4 (relating to approval of credit limits) sets forth the requirements regarding the approval of credit including: who is authorized to approve credit; what information must be included in the patron's credit file

regarding the approval; and the procedures to be followed when a patron requests an increase in their credit limit.

Section 526.5 (relating to derogatory information; reduction or suspension of credit) permits a certificate holder to reduce or suspend a patron's credit limit at any time. It also addresses a certificate holder's obligations concerning the receipt and reporting of derogatory information; requires the suspension of credit if a patron's check is returned; and the procedures that shall be followed before a patron's credit may be reinstated.

Section 526.6 (relating to additional reverification requirements) requires a certificate holder to reverify a patron's credit information if the patron has not used credit within the last 24 months or whenever the certificate holder has reason to believe that some of the information may have changed.

Section 526.7 (relating to patron credit transactions) requires that all credit transactions be recorded in the patron's credit file and lists the specific information regarding each transaction that must be included.

Section 526.8 (relating to recordkeeping requirements) sets forth the recordkeeping requirements certificate holders will have to meet regarding Counter Checks and personal checks received to redeem or in substitution for Counter Checks. Certificate holders will be required to keep a log of all Counter Checks and related personal checks to keep track of the issuance, redemption and substitution for Counter Checks.

Section 526.9 (relating to voluntary credit suspension list) states that the Board will maintain and distribute to certificate holders a voluntary credit suspension list. This list is required by Act 1 and will contain the names and other relevant identifying information regarding individuals who have elected to be put on the list which will prohibit a certificate holder from extending credit to the individual.

Section 526.10 (relating to request for voluntary credit suspension) sets forth the procedure an individual shall follow to be placed on the voluntary credit suspension list. To be put on the list, an individual will be required to fill out an application form (Request for Voluntary Credit Suspension) and present government-issued photo identification.

Section 526.11 (relating to reinstatement of credit and removal from the voluntary credit suspension list) sets forth the procedure an individual shall follow to be removed from the voluntary credit suspension list. To be removed from the list, an individual will be required to fill out a form requesting removal (Request for Removal From the Voluntary Credit Suspension List) and present government-issued photo identification. While requests to be placed on the list may be filed at a licensed facility or one of the Board's offices, a request for removal from the list may only be submitted at one of the Board's offices.

Section 526.12 (relating to duties of certificate holders) lists the obligations of certificate holders regarding the voluntary credit suspension list. Certificate holders will be required to do the following: maintain a current copy of the list; suspend the credit of an individual who is placed on the list; record the placement on or removal from the voluntary credit suspension list in a patron's credit file; and disseminate information about the voluntary credit suspension list program to patrons.

Section 526.13 (relating to requirements for Counter Checks; issuance of Counter Checks) establishes the specification for Counter Checks, which are the forms

that are used to effectuate the issuance of credit. It also sets forth the procedures that shall be followed when issuing a Counter Check and the distribution of the copies of a Counter Check.

Section 526.14 (relating to redemption of Counter Checks) specifies the processes that can be used to redeem or partially redeem an outstanding Counter Check (either in person or through the mail) and requires a redemption or partial redemption to be recorded in the patron's credit file.

Section 526.15 (relating to substitution of Counter Checks) sets forth the provisions governing the substitution of a personal check for a Counter Check.

Section 526.16 (relating to deposit of Counter Checks and personal checks substituted for Counter Checks) establishes the time frames within which an unredeemed Counter Check or personal check that has been substituted for a Counter Check shall be deposited.

Section 526.17 (relating to collection of returned checks) sets forth the procedures that shall be met regarding a certificate holder's attempts to collect on a Counter Check or personal check that has been returned by the patron's bank.

#### *Affected Parties*

This temporary rulemaking will affect certificate holders who elect to offer credit and patrons who apply for and receive credit.

#### *Fiscal Impact*

##### *Commonwealth*

The Board expects that this temporary rulemaking will not have direct impact on the Board or other Commonwealth agencies. Internal controls submitted by certificate holders related to credit will be reviewed by existing Board staff.

##### *Political subdivisions*

This temporary rulemaking will not have direct fiscal impact on political subdivisions of this Commonwealth. Eventually, host municipalities and counties will benefit from the local share funding that is mandated by Act 1.

##### *Private sector*

Certificate holders who elect to offer credit to patrons will have to develop procedures governing the credit application process and procedures for administering credit and the use of Counter Checks. These procedures will be part of the certificate holder's internal controls which shall be submitted to the Board for approval. Because credit must be interest free, the certificate holder will have to absorb costs regarding the issuance of credit.

#### *General public*

This temporary rulemaking will not have direct fiscal impact on the general public.

#### *Paperwork Requirements*

If a certificate holder elects to offer credit, the certificate holder will have to develop forms and recordkeeping systems to keep track of the issuance and redemption of credit.

#### *Effective Date*

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

#### *Public Comments*

While this temporary rulemaking will be effective upon publication, the Board is seeking comments from the public and affected parties as to how this temporary regulation might be improved. Interested persons are invited to submit written comments, suggestions or objections regarding this temporary rulemaking within 30 days after the date of publication in the *Pennsylvania Bulletin* to Richard Sandusky, Director of Regulatory Review, Pennsylvania Gaming Control Board, P. O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation #125-123.

#### *Contact Person*

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

#### *Regulatory Review*

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

#### *Findings*

The Board finds that:

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

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

#### *Order*

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

(a) The temporary regulations of the Board, 58 Pa. Code Chapter 526, are amended by adding §§ 526.1—526.17 to read as set forth in Annex A.

(b) The temporary regulations are effective June 26, 2010.

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

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

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

GREGORY C. FAJT,  
Chairperson

**Fiscal Note:** 125-123. No fiscal impact; (8) recommends adoption.

**Annex A**  
**TITLE 58. RECREATION**  
**PART VII. GAMING CONTROL BOARD**  
**Subpart K. TABLE GAMES**  
**CHAPTER 526. CREDIT**

Sec.	
526.1.	Definitions.
526.2.	Internal control requirements.
526.3.	Application and verification procedures for granting credit.
526.4.	Approval of credit limits.
526.5.	Derogatory information; reduction or suspension of credit.
526.6.	Additional reverification requirements.
526.7.	Patron credit transactions.
526.8.	Recordkeeping requirements.
526.9.	Voluntary credit suspension list.
526.10.	Request for voluntary credit suspension.
526.11.	Reinstatement of credit and removal from the voluntary credit suspension list.
526.12.	Duties of certificate holders.
526.13.	Requirements for Counter Checks; issuance of Counter Checks.
526.14.	Redemption of Counter Checks.
526.15.	Substitution of Counter Checks.
526.16.	Deposit of Counter Checks and personal checks substituted for Counter Checks.
526.17.	Collection of returned checks.

**§ 526.1. Definitions.**

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

*Counter Check*—A form provided to a patron who receives a credit advance which contains the account information for the personal checking account designated in the patron’s application for credit under § 526.3(a)(4) (relating to application and verification procedures for granting credit).

*Credit clerk*—An employee of the cage or credit department who is responsible for receiving, processing and verifying the information in credit applications from patrons and who does not have authority to grant credit or credit limit increases.

*Derogatory information*—Information regarding a patron’s credit accounts that are partially or completely uncollectible, checks returned unpaid by a patron’s bank, settlements, liens, judgments or any other credit problems of a patron.

**§ 526.2. Internal control requirements.**

Each certificate holder who issues credit shall include procedures in the certificate holder’s internal controls to implement the requirements in this chapter.

**§ 526.3. Application and verification procedures for granting credit.**

(a) A patron who wants to obtain credit from a certificate holder shall file a credit application with the certificate holder which contains, at a minimum, the following information:

- (1) The patron’s name.
- (2) The address of the patron’s residence.
- (3) The patron’s telephone number.
- (4) Bank account information including:
  - (i) The name and location of the patron’s bank.
  - (ii) The account number of the patron’s personal checking account upon which the patron is individually authorized to draw and upon which all Counter Checks will be drawn. Checking accounts of sole proprietorships shall be

considered as personal checking accounts. Partnership or corporate checking accounts will not be considered personal checking accounts.

(5) The credit limit requested by the patron.

(6) The approximate amount of the patron’s current indebtedness.

(7) The amount and source of income in support of the requested credit limit.

(8) The patron’s signature indicating acknowledgement of the following statement, which must be included at the bottom of the credit application form containing the information required to be submitted under this subsection: “I certify that I have read and understand this application and its terms and I execute this document voluntarily and with full knowledge of its significance. I authorize (insert the name of the certificate holder) to conduct any investigations necessary for the approval of my credit limit. I am aware that this application is required by the regulations of the Pennsylvania Gaming Control Board. I understand that a Counter Check issued by (insert name of certificate holder) is identical to a personal check and may be deposited in or presented for payment to my bank or other financial institution. I acknowledge that willfully drawing or passing a credit instrument with the intent to defraud, including knowing there are insufficient funds in my account, is a crime in this Commonwealth that may result in criminal prosecution. I am also aware that providing false or misleading statements or omitting information on this application may subject me to civil or criminal penalties.”

(b) Upon receipt of an application for credit, a confidential credit file for that patron containing all of the information required under subsection (a) shall be prepared by a credit clerk either manually or by computer prior to the certificate holder’s approval of a patron’s credit limit. Patron credit limits including changes to the credit limit must be supported by the information contained in the patron’s credit file.

(c) Prior to a certificate holder’s approval of a patron’s credit limit, a credit clerk shall:

(1) Verify the address of the patron’s residence. Verification of the address of the patron’s residence shall be satisfied by confirming the patron’s address with a credit bureau or bank. If neither of these sources has the patron’s address on file or will not provide the information, the credit clerk may use an alternative source which shall not include any identification credentials or other documentation presented by the patron at the licensed facility. The credit clerk shall record the source of verification and the method by which the verification was performed in the patron’s credit file. Verification of the patron’s address may be performed telephonically.

(2) Verify the patron’s current casino credit limits and outstanding balances, which includes the following:

- (i) The date each of the patron’s casino credit accounts was established.
- (ii) The amount of the current approved credit limits at any other casinos.
- (iii) The current balance and status of the patron’s credit account at each casino including checks deposited by a casino that have not yet cleared the bank and any derogatory information.

(iv) Verification of information required under subparagraphs (i)—(iii) must be performed through a casino credit bureau and, if appropriate, through direct contact



with other casinos. The credit clerk shall record the source of verification and the method by which the verification was performed in the patron's credit file. If casino credit information regarding the patron is not available from these sources, this fact shall be noted in the patron's credit file. The verification may be performed telephonically prior to the credit approval provided the credit clerk requests written documentation of the information as soon as possible and includes written documentation of the request in the patron's credit file. Requests for written documentation shall be maintained in the patron's credit file until the documentation is obtained.

(3) Verify the patron's outstanding indebtedness. Verification of the patron's outstanding indebtedness shall be performed by contacting a consumer credit bureau, which is reasonably likely to possess information concerning the patron, and a casino credit bureau to determine if the applicant has any liabilities or if there is any derogatory information concerning the patron's credit history. If contact with a consumer and casino credit bureau is not immediately possible, the credit clerk may use an alternative source which has made the required contact. The credit clerk shall record the source of verification and the method by which the verification was performed in the patron's credit file. If either one or both of these credit bureaus do not have information regarding a patron's outstanding indebtedness, this fact shall be recorded in the patron's credit file. The verification may be performed telephonically prior to the credit approval provided the credit clerk requests written documentation of the information obtained as soon as possible and includes written documentation of the request in the patron's credit file. Requests for written documentation shall be maintained in the patron's credit file until the documentation is obtained.

(4) Verify the patron's personal checking account information which includes, but not be limited to, the following:

- (i) Type of account (personal or sole proprietorship).
- (ii) Account number.
- (iii) Date the account was opened.
- (iv) Average balance of the account for the last 12 months.
- (v) Current balance in the account.
- (vi) Whether the patron can sign individually on the account.
- (vii) Name and title of the person supplying the information.
- (viii) Verification of information required under subparagraphs (i)—(vii) shall be performed by the credit clerk or a bank verification service directly with the patron's bank. A bank verification service utilized by a certificate holder may make use of another bank verification service to make direct communication with the patron's bank. If the information is not immediately available, the credit clerk may use an alternative source. The credit clerk shall record the source of verification and the method by which the verification was performed in the patron's credit file. The verification may be performed telephonically prior to the credit approval provided the credit clerk or bank verification service requests written documentation of all information obtained as soon as possible and the request for written documentation is included in the patron's credit file. Requests for written documentation shall be maintained in the patron's credit file until the documentation is obtained. If a bank

verification service is used as a primary source of verification, either directly by a certificate holder or by another bank verification service, each service and the certificate holder shall record the date that the patron's personal checking account information was obtained from the bank by the service.

(5) Verify that the patron's name is not on:

(i) The master list of individuals who have voluntarily requested suspension of credit privileges under § 526.9 (relating to voluntary credit suspension list).

(ii) The list of individuals who have voluntarily placed themselves on the self-exclusion list under Chapter 503a (relating to self-exclusion).

(iii) The list of individuals who have been placed on the exclusion list under Chapter 511a (relating to persons required to be excluded).

(d) Verifications performed by a credit clerk under subsection (c), which are required to be recorded in the patron's credit file, must be accompanied by the signature of the credit clerk who performed the required verifications or filed the relevant information. The date and time of the signature of the credit clerk shall be recorded either electronically or manually contemporaneously with the verification.

(e) A certificate holder may only request credit information concerning a patron from another certificate holder if the patron has credit or has applied for credit with the certificate holder. When requesting credit information on a patron from another certificate holder, the requesting certificate holder shall provide the patron's name, address of the patron's residence and the name and location of the patron's bank with the request. Upon receipt of this information, the certificate holder receiving the request shall furnish to the requesting certificate holder any credit information in its possession concerning the patron.

(f) Unless a patron has already established a patron signature file under § 465a.20(c) (relating to personal check cashing), a patron who has been approved for credit may not be issued a Counter Check until the certificate holder has established a signature file for the patron in accordance with § 465a.20(c).

#### § 526.4. Approval of credit limits.

(a) A credit limit, and any changes thereto, shall be approved by either:

(1) Two or more employees holding the job positions of credit manager, assistant credit manager, credit shift manager, credit executive or other key employee in a direct reporting line above the credit manager.

(2) A credit committee composed of at least two of the employees in paragraph (1) which may approve credit as a group.

(b) The approval of credit shall be recorded in the patron's credit file and include:

(1) Other information used to support the credit limit and changes thereto, including the source of the information, if the information is not otherwise required to be recorded under this section.

(2) A brief summary of the key factors relied upon in approving or reducing the requested credit limit and any changes thereto.

(3) If derogatory information was obtained during the verification process, the reason credit was approved.

(4) The signatures of the employees approving the credit limit, together with the date and time of the authorization, shall be recorded before any actual extension of credit.

(c) Prior to approving a credit limit increase, an employee of the certificate holder's credit department shall:

(1) Obtain a written request from the patron which includes:

- (i) The date and time of the patron's request.
- (ii) The amount of credit limit increase requested by the patron.
- (iii) The signature of the patron.

(2) Reverify the patron information required under § 526.3(c) (relating to application and verification procedures for granting credit).

(3) Consider the patron's player rating based on a continuing evaluation of the amount and frequency of play subsequent to the patron's initial receipt of credit.

(4) Include the information and documentation required under paragraphs (1)—(3) in the patron's credit file.

**§ 526.5. Derogatory information; reduction or suspension of credit.**

(a) A certificate holder may reduce or suspend a patron's credit limit at any time.

(b) Derogatory information concerning a patron's credit account shall be reported by each certificate holder on a daily basis to the casino credit bureau used by the certificate holders. Each certificate holder shall request written documentation of any derogatory information pertaining to its patrons to be reported to that certificate holder on a daily basis by the casino credit bureau used by the certificate holders. Documentation obtained from the casino credit bureau shall be maintained in the patron's credit file.

(c) Whenever derogatory information is received by a certificate holder's credit department regarding the patron's continued creditworthiness other than a returned check, the certificate holder's credit department shall reverify the patron's address, current casino credit limits and outstanding balances, outstanding indebtedness, and personal checking account information, as required under § 526.3(c)(1)—(4) (relating to application and verification procedures for granting credit).

(d) A patron having a check returned to any certificate holder unpaid by the patron's bank shall have credit privileges suspended at all licensed facilities until the returned check has been paid in full.

(e) If a patron's credit privileges have been suspended, the certificate holder's credit department shall reverify the patron's address, current casino credit limits and outstanding balances, outstanding indebtedness, and personal checking account information, as required under § 526.3(c)(1)—(4), before that patron's credit privileges are reinstated.

**§ 526.6. Additional reverification requirements.**

(a) Prior to the issuance of credit to a patron whose credit file has been inactive for a 24-month period, the certificate holder's credit department shall:

(1) Reverify the patron's address, current casino credit limits and outstanding balances at other casinos, outstanding indebtedness, personal checking account infor-

mation, as required under § 526.3(c)(1)—(5) (relating to application and verification procedures for granting credit).

(2) Verify that the patron is not on the list of patrons who have requested suspension of their credit privileges.

(3) Verify that the patron is not on the list of individuals who are on the self-exclusion list under Chapter 503a (relating to self-exclusion).

(4) Verify that the patron is not on the exclusion list under Chapter 511a (relating to persons required to be excluded).

(b) The certificate holder's credit department shall reverify the information required under § 526.3(a)(2) and (4), in accordance with the procedures in § 526.3(c)(1) and (4), whenever the certificate holder has reason to believe that this information has changed.

**§ 526.7. Patron credit transactions.**

(a) Transactions affecting a patron's outstanding indebtedness to the certificate holder shall be recorded in chronological order in the patron's credit file. Credit transactions shall be recorded separately from transactions regarding customer deposits under § 465a.23 (relating to customer deposits). The following information shall be included:

(1) The date, amount and check number of each Counter Check accepted from the patron.

(2) The date, method, amount and, if applicable, the personal check number of each redemption transaction and the check number of the Counter Check returned to the patron.

(3) The date, amount and check number of each personal check used for a substitution transaction and the check number of the Counter Check returned to the patron.

(4) The date, amount and check number of each Counter Check deposited.

(5) The date, amount and check number of each personal check or Counter Check returned to the certificate holder by the patron's bank and the reason for its return.

(6) The outstanding balance after each transaction.

(7) The date, amount and check number of any Counter Checks or personal checks that have been partially or completely written off by the certificate holder, and a brief explanation of the reason for the write off.

**§ 526.8. Recordkeeping requirements.**

(a) A log of Counter Checks exchanged and of personal checks received for redemption or substitution shall be prepared, manually or by computer, on a daily basis. The log must include, at a minimum, the following:

(1) The balance of the Counter Checks on hand in the cashier's cage at the beginning of each shift.

(2) For Counter Checks initially accepted and for personal checks received for redemption or substitution:

- (i) The date of the check.
- (ii) The name of the drawer of the check.
- (iii) The amount of the check.
- (iv) The serial number for each Counter Check received.
- (v) An indication as to whether the check was initially accepted or received in a redemption or substitution.

(3) For Counter Checks deposited, redeemed by patrons with cash, cash equivalents, gaming chips and plaques, or any combination thereof, or substituted:

(i) The date on which the Counter Check was deposited, redeemed or substituted.

(ii) The name of the drawer of the Counter Check.

(iii) The amount of the Counter Check.

(iv) The serial number for each Counter Check deposited, redeemed or substituted.

(v) An indication as to whether the Counter Check was deposited, redeemed or substituted.

(4) The balance of the Counter Checks on hand at the end of each shift.

(b) A list of all Counter Checks on hand, and of all personal checks received for redemption or substitution shall be prepared, manually or by computer, on a monthly basis and include the following:

(1) The date of the check.

(2) The name of the drawer of the check.

(3) The amount of the check.

(4) The serial number for each Counter Check received.

(c) At the end of each gaming day, the following procedures shall be performed:

(1) The daily total of the amounts of Counter Checks initially recorded as described in subsection (a)(2) shall be reconciled to the daily total of Counter Checks issued.

(2) The daily total of the checks indicated as deposited on a log required by subsection (a)(3) shall be reconciled to the bank deposit slips corresponding to the checks by employees with no incompatible functions.

(3) The balance required under subsection (a)(4) shall be reconciled to the total of the Counter Checks on hand in the cashiers' cage.

#### **§ 526.9. Voluntary credit suspension list.**

(a) The Board will maintain a voluntary credit suspension list of all individuals who have requested suspension of credit privileges and will provide a current list of these individuals to the credit department of each certificate holder.

(b) The list provided to certificate holders must contain the following information for each individual on the list:

(1) The individual's name, including any aliases or nicknames.

(2) The individual's address.

(3) The individual's date of birth.

(c) Information furnished to or obtained by the Board or a certificate holder under this chapter will be deemed confidential and may not be disclosed except in accordance with this chapter.

#### **§ 526.10. Request for voluntary credit suspension.**

(a) An individual may request the suspension of the individual's credit privileges at all licensed facilities by submitting, in person, a completed Request for Voluntary Credit Suspension Form to the credit department of a certificate holder or to the Board. A submission to the Board may be made at the Board's office at a licensed facility, at the Board's Harrisburg office or one of the Board's regional offices. A Request for Voluntary Credit Suspension Form submitted to the credit department of a

certificate holder shall be forwarded to the Bureau of Casino Compliance within 24 hours.

(b) The Request for Voluntary Credit Suspension Form must also include the following statement: "I certify that I have read and understand this request to be placed on the voluntary credit suspension list and that I knowingly and voluntarily execute this document. I am aware that my signature below authorizes the Pennsylvania Gaming Control Board to direct all Pennsylvania certificate holders to suspend my credit privileges until such time as I submit a written request to the Board for the reinstatement of my credit privileges. I also understand that under § 1327A(i) of the Pennsylvania Race Horse Development and Gaming Act, all certificate holders shall not be liable for any claims, damages, losses, expenses or for any harm, monetary or otherwise, that may arise as a result of the failure of a certificate holder to restore credit privileges to me or otherwise permit me to engage in gaming activity in the licensed facility while on the voluntary credit suspension list."

(c) An individual requesting to be placed on the voluntary credit suspension list shall be required to present a government-issued photo identification containing the person's signature and photograph when the individual submits the Request for Voluntary Credit Suspension form.

#### **§ 526.11. Reinstatement of credit and removal from the voluntary credit suspension list.**

(a) An individual on the voluntary credit suspension list may, at any time, request removal from the voluntary credit suspension list by submitting a Request for Removal From the Voluntary Credit Suspension List form to the Board. The request may be made at the Board's office at a licensed facility, at the Board's Harrisburg office or one of the Board's regional offices.

(b) The Request for Removal From the Voluntary Credit Suspension List Form must also include the following statement: "I certify that I have read and understand this request to be removed from the voluntary credit suspension list and that I knowingly and voluntarily execute this document. I am aware that my signature below will result in the Pennsylvania Gaming Control Board notifying all Pennsylvania certificate holders that I have been removed from the voluntary credit suspension list."

(c) An individual requesting to be removed from the voluntary credit suspension list shall be required to present a government-issued photo identification containing the person's signature and photograph when the individual submits the Request for Removal From the Voluntary Credit Suspension List form.

(d) Within 3 business days after the Request for Removal From the Voluntary Credit Suspension List form is signed, the Board will delete the name of the individual from the voluntary credit suspension list and will notify each certificate holder of the removal.

#### **§ 526.12. Duties of certificate holders.**

(a) A certificate holder shall maintain a copy of the voluntary credit suspension list and ensure that the copy of the list is updated within 24 hours after the certificate holder receives an updated list from the Board.

(b) A certificate holder shall immediately suspend the credit privileges of any individual upon receipt of notice that the individual has been added to the voluntary credit suspension list.

(c) If an individual has an existing credit file, the certificate holder shall note any voluntary credit suspension or removal from the voluntary credit suspension list in the credit file. A copy of the applicable Board notice of the voluntary suspension or removal from the voluntary credit suspension list and the date, time and signature of the credit department representative making the suspension or removal entry shall be included in the individual's credit file.

(d) Upon receipt of notice that an individual's name has been removed from the voluntary credit suspension list, the certificate holder may reinstate the individual's credit after reverifying the information as required under § 526.3(c) (relating to application and verification procedures for granting credit).

(e) A certificate holder shall establish procedures to ensure that an individual who is on the voluntary credit suspension list is not granted casino credit.

(f) Certificate holders shall disseminate written materials to patrons explaining the voluntary credit suspension program.

**§ 526.13. Requirements for Counter Checks; issuance of Counter Checks.**

(a) Counter Checks must be serially prenumbered forms. Each series of Counter Checks shall be used in sequential order and the series numbers of all Counter Checks received by a certificate holder shall be accounted for by employees with no incompatible functions.

(b) The original and all copies of void Counter Checks shall be marked "VOID" and require the signature of the individual who marked the Counter Check as void.

(c) For Counter Checks that are manually prepared:

(1) The Counter Checks must be a five-part form which consists of an original, a redemption copy, an accounting copy, an issuance copy and an acknowledgement copy.

(2) Counter Checks must be attached in a book that will:

(i) Permit an individual to write on the original copy of the Counter Check and all of the other copies simultaneously, while still contained in the book.

(ii) Allow the removal of the original and all duplicate copies.

(3) Access to the Counter Checks shall be maintained and controlled at all times by the finance department employees responsible for the control of and accounting for the unused supply of Counter Checks, and the table games department employees responsible for the preparation of Counter Checks for a patron's signature.

(d) For Counter Checks that are prepared by computer:

(1) The Counter Checks must be a four-part form which consists of an original, a redemption copy, an issuance copy and an accounting copy.

(2) The Counter Checks shall be inserted in a printer that will simultaneously print an original and the other copies.

(3) The information printed on the original Counter Check and the other copies shall be stored in machine-readable form. The stored data must not be susceptible to change or removal by any personnel after preparation of a Counter Check.

(e) For a Counter Check exchanged at a gaming table, a pit clerk or above shall:

(1) Verify the patron's identity by either:

(i) Obtaining the patron's signature, on a form, which shall be compared to the signature contained within a patron signature file. The pit clerk or above shall sign the form indicating that the signature of the patron on the form appears to agree with the signature in the patron signature file. The form shall be attached to the accounting copy of the Counter Check exchanged by the patron prior to forwarding it to the accounting department. After the patron's identity has been verified by the pit clerk or above, the requirements for subsequent verification of the patron's identity during the same shift and in the same gaming pit may be satisfied by the employee who performed the initial verification signing a form attesting to the patron's identity before each subsequent Counter Check is exchanged. The form must include the patron's name and the serial number of the initial Counter Check exchanged by the patron. The form shall be attached to the accounting copy of the subsequent Counter Check prior to forwarding the accounting copy to the accounting department.

(ii) Obtaining the attestation of a floorperson or above as to the identity of the patron. The floorperson or above shall record his Board credential number and sign a form attesting to the patron's identity. The form shall be attached to the accounting copy of the Counter Check exchanged by the patron prior to forwarding it to the accounting department.

(2) Determine the patron's remaining credit limit from the cashier's cage.

(3) Prepare the Counter Check for the patron's signature by recording or by electronically inputting, the following information:

(i) The name of the patron exchanging the Counter Check.

(ii) The current date and time.

(iii) The amount of the Counter Check expressed in numerals.

(iv) The game and table number.

(v) The signature of the floorperson or above authorizing acceptance of the check.

(vi) The signature of the preparer or, if computer prepared, the identification code of the preparer.

(4) Place an impression on the back of the original Counter Check a restrictive endorsement "for deposit only" to the certificate holder's bank account.

(5) Present the original and all duplicate copies of the Counter Check to the patron for signature. However, a certificate holder may, in accordance with its approved internal controls, require the patron to sign the original Counter Check only and have a computer generated facsimile of the signature exemplar obtained from the patron's signature file preprinted on the redemption, issuance and accounting copies of a computer prepared Counter Check if:

(i) The patron's signature has previously been recorded in a patron signature file in conformance with § 465a.20 (relating to personal check cashing).

(ii) A legible copy of the signed original Counter Check is made by the certificate holder prior to the presentment of the original Counter Check for collection or payment in accordance with this chapter. The copy shall be maintained by the certificate holder and be available for inspection by representatives of the Board upon request.

(6) Receive the signed Counter Check directly from the patron. The issuance copy of the Counter Check shall then be immediately given to the dealer or boxperson to be exchanged for value chips or gaming plaques. A certificate holder may allow a dealer or boxperson to give the patron value chips or gaming plaques before the patron has signed the Counter Check if the certificate holder includes procedures in the certificate holder's internal controls to verify the patron's identity and available credit limit prior to giving the patron the value chips or gaming plaques.

(i) The original, redemption and, if applicable, the acknowledgement copies of the Counter Check shall be expeditiously transported to the cashiers' cage where the original and redemption copies shall be maintained and controlled by the cage cashier designated to act as the check bank cashier.

(ii) The accounting copy of the Counter Check shall be maintained and controlled by the pit clerk or above until forwarded to the accounting department as required under subsection (h).

(iii) The issuance copy of the Counter Check shall be deposited by the dealer or boxperson in the drop box.

(f) The cage cashier designated to act as the check bank cashier shall sign and time stamp the acknowledgement copy of the Counter Check and expeditiously return it to the pit clerk or above by means of a security department member.

(g) The acknowledgement copy of the Counter Check returned to the pit clerk or above shall be reconciled with the accounting copy and maintained and controlled by the pit clerk or above until forwarded to the accounting department as required under subsection (h).

(h) At the end of each gaming day the following procedures and requirements shall be observed:

(1) The original and all copies of voided Counter Checks shall be forwarded to the accounting department.

(2) The accounting and acknowledgement copies of Counter Checks retained by the pit clerk or above shall be forwarded to the accounting department for agreement with the issuance copy of the Counter Check removed from the drop box or stored data.

(3) The redemption copy of a Counter Check shall be forwarded to the accounting department subsequent to the redemption or deposit of the original Counter Check for agreement with the accounting and issuance copies of the Counter Check or stored data.

#### § 526.14. Redemption of Counter Checks.

(a) A patron may redeem or partially redeem a Counter Check that has not been deposited by exchanging cash, cash equivalents, a check issued by the slot machine licensee to the patron, value chips, gaming plaques or any combination thereof, in an amount less than or equal to the amount of the Counter Check being redeemed.

(b) When a patron elects to redeem or partially redeem a Counter Check that has not been deposited by exchanging a personal check for the Counter Check being redeemed, the personal check must meet one of the following conditions:

(1) The personal check must be drawn on the bank account in patron's credit file upon which all Counter Checks are to be drawn.

(2) The validity of the personal check shall be verified directly with the financial institution upon which the personal check is drawn.

(3) An authorization and guarantee of the personal check shall be obtained from a check verification and warranty service that is a registered or certified gaming service provider.

(c) The \$2,500 per day limitation on acceptance of personal checks in § 465a.20(b)(6) (relating to personal check cashing) does not apply to the redemption or partial redemption of Counter Checks.

(d) If a patron has more than one unredeemed Counter Check, the most recently dated Counter Check shall be redeemed or partially redeemed first.

(e) Except as provided in subsection (h), a patron shall initiate all redemptions or partial redemptions at the cashier's cage.

(f) When a patron redeems a Counter Check at the cashiers' cage, the cage cashier shall verify the identity of the patron and, after receiving the cash, cash equivalents, a check issued by the slot machine licensee to the patron, value chips, gaming plaques or any combination thereof, shall return the original Counter Check to the patron.

(g) When a patron partially redeems a Counter Check at the cashiers' cage, the cage cashier shall verify the identity of the patron and, after receiving the cash, cash equivalents, a check issued by the slot machine licensee to the patron, value chips, gaming plaques or any combination thereof, shall prepare a replacement Counter Check for the unredeemed balance. The replacement Counter Check shall be dated with the date of the Counter Check being redeemed. After the replacement Counter Check has been completed, the Counter Check being redeemed shall be returned to the patron.

(h) A patron may redeem a Counter Check by mail by sending a written request and cash equivalents, a check issued by the slot machine licensee to the patron, value chips, gaming plaques or any combination thereof, to the certificate holder. When a patron uses a personal check to redeem a Counter Check by mail, the personal check must meet one of the conditions in subsection (b).

(i) When a patron redeems a Counter Check by mail, the identity of the patron shall be verified by comparing the signature on the patron's written redemption request to the signature in the patron's signature file created under § 465a.20(c) or § 526.3(f) (relating to application and verification procedures for granting credit) and, after receiving the cash, cash equivalents, a check issued by the slot machine licensee to the patron, value chips, gaming plaques or any combination thereof, shall mark the original Counter Check "void" and mail it to the address in the patron's credit file.

(j) Any redemption or partial redemption of a Counter Check shall be recorded in the patron's credit file.

#### § 526.15. Substitution of Counter Checks.

(a) A patron may substitute a personal check for a Counter Check if any of the following apply:

(1) The personal check is drawn on the bank account in patron's credit file upon which all Counter Checks are to be drawn.

(2) The validity of the personal check is verified directly with the financial institution upon which the personal check is drawn.

(3) An authorization and guarantee of the personal check is obtained from a check verification and warranty service that is a registered or certified gaming service provider.

(b) The \$2,500 per day limitation on acceptance of personal checks in § 465a.20(b)(6) (relating to personal check cashing) does not apply to the substitution of Counter Checks.

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**Ultimate Texas Hold 'Em Poker; Temporary Regulations**

(c) A patron shall initiate all substitutions at the cashier's cage.

(d) When a patron substitutes a personal check for a Counter Check, the cage cashier shall verify the identity of the patron and, after receiving the patron's personal check, shall return the original Counter Check to the patron.

(e) A personal check that is being substituted for a Counter Check shall be dated with the same date as the Counter Check for which it is being substituted.

(f) Any substitution of a Counter Check shall be recorded in the patron's credit file.

**§ 526.16. Deposit of Counter Checks and personal checks substituted for Counter Checks.**

(a) Counter Checks and personal checks that have been substituted for Counter Checks shall be deposited in accordance with the time periods established in the certificate holder's internal controls. The time periods established by a certificate holder may not exceed:

(1) Fifteen days after the date of the Counter Check or the date on the personal check that has been substituted for the Counter Check if the amount of the check is less than \$5,000.

(2) Thirty days after the date of the Counter Check or the date on the personal check that has been substituted for the Counter Check if the amount of the check is \$5,000 or more.

(b) If the last day of a time period specified in subsection (a) falls on a Saturday, Sunday or Federal or State holiday, the time period runs until the next business day.

(c) Notwithstanding subsection (a)(2), a certificate holder may extend the deposit date up to an additional 15 days beyond the date specified in the certificate holder's internal controls for checks of \$5,000 or more for good cause. The length of the extension and the reason for the extension shall be recorded in the patron's credit file.

**§ 526.17. Collection of returned checks.**

(a) A certificate holder may designate specific employees with no incompatible functions, including the certificate holder's general counsel or an outside attorney, to engage in efforts to collect Counter Checks or personal checks returned by a patron's bank.

(b) The certificate holder, and any outside attorney acting on behalf of the certificate holder, that is engaged in efforts to collect returned checks shall comply with applicable Federal and State laws pertaining to debt collection including, but not limited to, the Fair Debt Collection Practices Act (15 U.S.C.A. §§ 1692—1692p), the Fair Credit Extension Uniformity Act (73 P.S. §§ 2270.1—2270.5) and the Unfair Trade Practices and Consumer Protection Law (73 P.S. §§ 201-1—210-6).

(c) The certificate holder shall include in the patron's credit file copies of all statements and other documents supporting collection efforts.

(d) The certificate holder shall maintain records, for the Board's inspection, that describe credit collection arrangements and any written contracts entered into with an outside attorney engaged in efforts to collect Counter Checks or personal checks returned by a patron's bank on behalf of the certificate holder.

[Pa.B. Doc. No. 10-1161. Filed for public inspection June 25, 2010, 9:00 a.m.]

The Pennsylvania Gaming Control Board (Board), under its general authority in 4 Pa.C.S. § 1303A (relating to temporary table game regulations) enacted by the act of January 7, 2010 (P.L. 1, No. 1) (Act 1) and the specific authority in 4 Pa.C.S. § 1302A(1) and (2) (relating to regulatory authority), adopts temporary regulations in Chapter 569 (relating to Ultimate Texas Hold 'Em Poker) to read as set forth in Annex A. The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board) as part of Subpart K (relating to table games).

*Purpose of the Temporary Rulemaking*

This temporary rulemaking contains the rules for conducting the game of Ultimate Texas Hold 'Em Poker.

*Explanation of Chapter 569*

Chapter 569 contains the rules for the game of Ultimate Texas Hold 'Em Poker. Included are provisions governing the following: the layout of the table; the decks of cards to be used; the opening of table; the procedures for shuffling and cutting the cards; the ranking of hands; the different wagers that may be made; the procedures for dealing the cards; the procedures for the actual play of each round of the game; the collection of losing wagers and payment of winning wagers; the minimum payout odds and paytables that may be used; and how irregularities in play are to be handled.

*Affected Parties*

Certificate holders who elect to offer Ultimate Texas Hold 'Em Poker will be required to hire and train dealers for this game and purchase the equipment necessary to conduct the game.

While the Board will generally experience increased regulatory demands resulting from the hiring of additional casino compliance agents to oversee the operation of the table games at the licensed facilities and the increased number of license and occupation permit applications that will have to be processed by the Bureau of Licensing, the impact of adding this new game should be insignificant.

*Fiscal Impact*

*Commonwealth*

The Board expects that it will experience increased costs regarding adding additional staff at the licensed facilities and at its offices to handle the increased licensing and oversight requirements that will result from the introduction of table games. However, the Board does not expect these increased costs to exceed the additional funding provided to the Board under Act 1. Additionally, the direct costs from the addition of this game to the games a certificate holder may offer are anticipated to be insignificant.

*Political subdivisions*

This temporary rulemaking will not have direct fiscal impact on political subdivisions of this Commonwealth. Eventually, host municipalities and counties will benefit from the local share funding that is mandated by Act 1.

*Private sector*

This temporary rulemaking will result in additional costs for certificate holders who elect to offer Ultimate Texas Hold 'Em Poker. More specifically, certificate holders will be required to meet the requirements in these temporary regulations, to purchase equipment to conduct this game and to hire and train dealers for this game. It is anticipated that these costs will be offset by the revenues generated from the play of the game.

*General public*

This temporary rulemaking will not have direct fiscal impact on the general public.

*Paperwork Requirements*

This temporary rulemaking will require a certificate holder to file a Rules Submissions to indicate which paytables they will use for this game. The Board has developed standardized checklist Rules Submissions for all of the table games. Therefore, the Rules Submission should be relatively simple to fill out.

*Effective Date*

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

*Public Comments*

While this temporary rulemaking will be effective upon publication, the Board is seeking comments from the public and affected parties as to how this temporary regulation might be improved. Interested persons are invited to submit written comments, suggestions or objections regarding this temporary rulemaking within 30 days after the date of publication in the *Pennsylvania Bulletin* to Richard Sandusky, Director of Regulatory Review, Pennsylvania Gaming Control Board, P. O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation #125-124.

*Contact Person*

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

*Regulatory Review*

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

*Findings*

The Board finds that:

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

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

*Order*

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

(1) The temporary regulations of the Board, 58 Pa. Code Chapter 569, are amended by adding §§ 569.1—569.13 to read as set forth in Annex A.

(2) The temporary regulations are effective June 26, 2010.

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

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

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

GREGORY C. FAJT,  
Chairperson

**Fiscal Note:** 125-124. No fiscal impact; (8) recommends adoption.

**Annex A****Title 58. RECREATION****PART VII. GAMING CONTROL BOARD****Subpart K. TABLE GAMES****CHAPTER 569. ULTIMATE TEXAS HOLD 'EM POKER**

Sec.	Definitions.
569.1.	Ultimate Texas Hold 'Em Poker table; physical characteristics.
569.2.	Cards; number of decks.
569.3.	Opening of the table for gaming.
569.4.	Shuffle and cut of the cards.
569.5.	Ultimate Texas Hold 'Em Poker hand rankings.
569.6.	Wagers.
569.7.	Procedure for dealing the cards from a manual dealing shoe.
569.8.	Procedure for dealing the cards from the hand.
569.9.	Procedures for dealing the cards from an automated dealing shoe.
569.10.	Procedures for completion of each round of play; collection and payment of wagers.
569.11.	Payout odds.
569.12.	Irregularities.
569.13.	

**§ 569.1. Definitions.**

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

*Ante Wager*—An initial wager required to be made prior to any cards being dealt to participate in the round of play.

*Blind Wager*—An initial wager required to be made prior to any cards being dealt to participate in the round of play.

*Burn*—To remove the top or next card from the deck and place it face down in the discard rack without revealing it to anyone.

*Check*—Waiving the right to place a Play Wager but remaining in the round of play.

*Community card*—Any of the five cards dealt face up in the center of the table, all of which may be used by each player and the dealer together with the player's or dealer's own two cards to form the best possible five-card poker hand.

*Flop*—The first three community cards dealt face up in the area designated for the placement of the community cards.

*Fold*—The withdrawal of a player from a round of play by not making a Play Wager.

*Hand*—Five-cards formed from any combination of the five community cards and the two cards dealt to a player or the dealer.

*Play Wager*—A wager made after two cards have been dealt to each player and the dealer, and before the dealer reveals his two cards.

*Rank or ranking*—The relative position of a card or group of cards as set forth in § 569.6 (relating to Ultimate Texas Hold 'Em Poker hand rankings).

*Round of play or round*—One complete cycle of play during which all players playing at the table have been dealt cards, have wagered or folded, and have had their wagers paid or collected in accordance with this chapter.

*Trips Wager*—An optional wager that a player may make prior to any cards being dealt, that the player's best five-card hand will be a three-of-a-kind or better.

**§ 569.2. Ultimate Texas Hold 'Em Poker table; physical characteristics.**

(a) Ultimate Texas Hold 'Em Poker shall be played on a table having positions for six players on one side of the table and a place for the dealer on the opposite side.

(b) The layout for an Ultimate Texas Hold 'Em Poker table shall be approved by the Bureau of Gaming Operations and contain, at a minimum:

- (1) The name or logo of the certificate holder.
- (2) Four separate designated betting areas at each player position for the placement of Ante, Blind, Play and Trips Wagers, configured with the Trips Wager area closest to the dealer, the Play Wager area farthest from the dealer, the Ante Wager area arrayed between the Trips Wager area and the Play Wager area, and the Blind Wager area to the right of the Ante Wager area and separated from the Ante Wager area by an "=" symbol.
- (3) A separate designated area for the placement of the five community cards, located in the center of the table between the table inventory container and the player betting areas.
- (4) A separate designated area for the placement of the dealer's two cards, located between the table inventory container and the designated area for the five community cards.

(5) An inscription indicating that an Ante Wager must tie if the dealer has less than a pair.

(6) Except as permitted under subsection (c), an inscription at each player position describing the following:

- (i) The payout odds for Blind and Trips Wagers.
- (ii) A Blind Wager may not be paid unless the player's hand ranks higher than the dealer's hand.
- (iii) The rules governing the required amount of a Play Wager as a multiple of the player's Ante Wager.

(c) If the information required under subsection (b) is not inscribed on the layout, a sign shall be posted at the Ultimate Texas Hold 'Em Poker table that sets forth the required information.

(d) Each Ultimate Texas Hold 'Em Poker table must have a drop box and a tip box attached to it on the same side of the table as, but on opposite sides of, the dealer, in locations approved by the Bureau of Gaming Operations.

(e) Each Ultimate Texas Hold 'Em Poker table must have a discard rack securely attached to the top of the

dealer's side of the table in a location approved by the Bureau of Gaming Operations.

**§ 569.3. Cards; number of decks.**

(a) Except as provided in subsection (b), the game of Ultimate Texas Hold 'Em Poker shall be played with one deck of 52 cards and 2 additional cover cards.

(b) If an automated card shuffling device is used, a certificate holder may use a second deck of cards to play the game, provided that:

- (1) Each deck of cards complies with subsection (a).
- (2) The backs of the cards in the two decks are different colors.
- (3) One deck is being shuffled by the automated card shuffling device while the other deck is being dealt or used to play the game.
- (4) Both decks are continually alternated in and out of play, with each deck being used for every other round of play.

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

(c) The decks of cards used in Ultimate Texas Hold 'Em Poker shall be changed at least:

- (1) Every 4 hours if the cards are dealt by hand.
- (2) Every 8 hours if the cards are dealt from a manual or automated dealing shoe.

**§ 569.4. Opening of the table for gaming.**

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

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

(c) After the first player arriving at the table is afforded an opportunity to visually inspect the cards, the cards shall be turned face down on the table, mixed thoroughly by a washing of the cards and stacked. Once the cards have been stacked, they shall be shuffled in accordance with § 569.5 (relating to shuffle and cut of the cards).

(d) If a certificate holder uses an automated card shuffling device to play the game and two decks of cards are received at the table as permitted under § 569.3 (relating to cards; numbers of decks), each deck of cards shall be separately spread, inspected, verified, spread, inspected, mixed, stacked and shuffled in accordance with subsections (a), (b) and (c).

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

**§ 569.5. Shuffle and cut of the cards.**

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



the shuffle, the dealer or device shall place the deck of cards in a single stack, provided, however, that nothing in this section prohibits the use of an automated card shuffling device which, upon completion of the shuffling of the cards, inserts the stack of cards directly into a dealing shoe.

(b) If an automated card shuffling device that counts the number of cards in the deck after the completion of each shuffle and indicates whether 52 cards are present is being used and reveals that an incorrect number of cards are present, the deck shall be removed from the table.

(c) After the cards have been shuffled and stacked, the dealer shall do the following:

(1) If the cards were shuffled using an automated card shuffling device, deal or deliver the cards in accordance with § 569.8, § 569.9 or § 569.10 (relating to procedure for dealing the cards from a manual dealing shoe; procedure for dealing the cards from the hand; and procedures for dealing the cards from an automated dealing shoe).

(2) If the cards were shuffled manually or were reshuffled, cut the cards in accordance with subsection (d).

(d) If a cut of the cards is required, the dealer shall:

(1) Cut the deck, using one hand, by:

(i) Placing a cover card on the table in front of the deck of cards.

(ii) Taking a stack of at least ten cards from the top of the deck and placing them on top of the cover card.

(iii) Placing the cards remaining in the deck on top of the stack of cards that were cut and placed on the cover card.

(2) Deal the cards in accordance with § 569.8, § 569.9 or § 569.10.

(e) Notwithstanding subsection (d), after the cards have been cut and before any cards have been dealt, a floorperson or above may require the cards to be recut if he determines that the cut was performed improperly or in any way that might affect the integrity or fairness of the game.

(f) Whenever there is no gaming activity at an Ultimate Texas Hold 'Em Poker table that is open for gaming, the cards shall be spread out on the table either face up or face down. If the cards are spread face down, the cards shall be turned face up once a player arrives at the table. After the first player arriving at the table is afforded an opportunity to visually inspect the cards, the procedures in § 569.4(c) (relating to opening of the table for gaming) and this section shall be completed.

**§ 569.6. Ultimate Texas Hold 'Em Poker hand rankings.**

(a) The rank of the cards used in Ultimate Texas Hold 'Em Poker, for the determination of winning hands, in order of highest to lowest rank, must be: ace, king, queen, jack, 10, 9, 8, 7, 6, 5, 4, 3 and 2. Notwithstanding the foregoing, an ace may be used to complete a straight flush or a straight formed with a 2, 3, 4 and 5.

(b) The permissible five-card poker hands at the game of Ultimate Texas Hold 'Em Poker, in order of highest to lowest rank, must be:

(1) A royal flush, which is a hand consisting of an ace, king, queen, jack and 10 of the same suit.

(2) A straight flush, which is a hand consisting of five cards of the same suit in consecutive ranking, with king, queen, jack, 10 and 9 being the highest ranking straight flush and ace, 2, 3, 4 and 5 being the lowest ranking straight flush.

(3) A four-of-a-kind, which is a hand consisting of four cards of the same rank, with four aces being the highest ranking four-of-a-kind and four 2's being the lowest ranking four-of-a-kind.

(4) A full house, which is a hand consisting of a three-of-a-kind and a pair, with three aces and two kings being the highest ranking full house and three 2's and two 3's being the lowest ranking full house.

(5) A flush, which is a hand consisting of five cards of the same suit, not in consecutive order, with ace, king, queen, jack and 9 being the highest ranking flush and 2, 3, 4, 5 and 7 being the lowest ranking flush.

(6) A straight, which is a hand consisting of five cards of more than one suit and of consecutive rank, with an ace, king, queen, jack and 10 being the highest ranking straight and an ace, 2, 3, 4 and 5 being the lowest ranking straight; provided however, that an ace may not be combined with any other sequence of cards for purposes of determining a winning hand (for example, queen, king, ace, two and three).

(7) A three-of-a-kind, which is a hand consisting of three cards of the same rank, with three aces being the highest ranking three-of-a-kind and three 2's being the lowest ranking three-of-a-kind.

(8) Two pairs, which is a hand consisting of two pairs, with two aces and two kings being the highest ranking two pair and two 3's and two 2's being the lowest ranking two pair.

(9) One pair, which is a hand consisting of two cards of the same rank, with two aces being the highest ranking pair and two 2's being the lowest ranking pair.

(c) When comparing two hands which are of identical poker rank under subsection (b), or which contain none of the hands in subsection (b), the hand that contains the highest ranking card under subsection (a), which is not contained in the other hand shall be considered the higher ranking hand. If the hands are of identical rank after the application of this subsection, the hands shall be considered a tie.

**§ 569.7. Wagers.**

(a) Wagers at Ultimate Texas Hold 'Em Poker shall be made by placing value chips or gaming plaques on the appropriate betting areas of the table layout. A verbal wager accompanied by cash may not be accepted.

(b) Ante, Blind and Trips Wagers shall be placed prior to the dealer announcing "no more bets" in accordance with the dealing procedure in § 569.8, § 569.9 or § 569.10 (relating to procedure for dealing cards from a manual dealing shoe; procedure for dealing cards from the hand; and procedures for dealing the cards from an automated dealing shoe). Except as provided in § 569.11 (relating to procedures for completion of each round of play; collection and payment of wagers), no wager shall be made, increased, or withdrawn after the dealer has announced "no more bets."

(c) To participate in a round of play, a player shall be required to make both an Ante Wager and a Blind Wager. The amounts of the Ante Wager and the Blind Wager must be the same.

(d) A player may also place a Trips Wager by placing a wager on the Trips Wager betting area of the layout. The outcome of the Trips Wager shall have no bearing on any other wager made by the player at the game of Ultimate Texas Hold 'Em Poker.

(e) Play Wagers shall be made in accordance with § 569.11.

(f) Only players who are seated at the Ultimate Texas Hold 'Em Poker table may place a wager at the game. Once a player has placed a wager and received cards, that player shall remain seated until the completion of the round of play.

(g) A player may not simultaneously play and wager on more than one player position at an Ultimate Texas Hold 'Em Poker table.

**§ 569.8. Procedure for dealing the cards from a manual dealing shoe.**

(a) If a manual dealing shoe is used, the dealing shoe must be located on the table in a location approved by the Bureau of Gaming Operations. Once the procedures required under § 569.5 (relating to shuffle and cut of the cards) have been completed, the stacked deck of cards shall be placed in the dealing shoe either by the dealer or by the automated card shuffling device.

(b) Prior to dealing the cards and after all Ante, Blind and Trips Wagers are placed, the dealer shall announce "no more bets."

(c) Each card shall be removed from the dealing shoe with the hand of the dealer that is the closest to the dealing shoe and placed on the appropriate area of the layout with the opposite hand.

(d) The dealer shall, starting with the player farthest to the dealer's left who has placed an Ante and Blind Wager and continuing around the table in a clockwise manner, deal the cards as follows:

- (1) One card face down to each player.
- (2) One card face down to the area designated for the dealer's hand under a cover card.
- (3) A second card face down to each player.
- (4) A second card face down to an area designated for the dealer's hand under a cover card.

(e) After two cards have been dealt to each player and to the area designated for the dealer's hand, and after all community cards have been dealt in accordance with § 569.11 (relating to procedures for completion of each round of play; collection and payment of wagers), the dealer shall remove the stub from the manual dealing shoe and, except as provided in subsection (f), place the stub in the discard rack without exposing the cards.

(f) If an automated card shuffling device that counts the number of cards in the deck after the completion of each shuffle and indicates whether 52 cards are present is not being used, the dealer shall count the stub at least once every 5 rounds of play to determine that the correct number of cards are still present in the deck. The dealer shall determine the number of cards in the stub by counting the cards face down on the layout.

(g) If the count of the stub indicates that 52 cards are in the deck, the dealer shall place the stub in the discard rack without exposing the cards.

(h) If the count of the stub indicates that the number of cards in the deck is incorrect, the dealer shall determine if the cards were misdealt. If the cards have been

misdealt but 52 cards remain in the deck, all hands shall be void and all wagers shall be returned to the players. If the cards have not been misdealt, all hands shall be considered void, all wagers shall be returned to the players and the entire deck of cards shall be removed from the table.

**§ 569.9. Procedure for dealing the cards from the hand.**

(a) If the cards are dealt from the dealer's hand, the following requirements shall be observed:

(1) An automated shuffling device shall be used to shuffle the cards.

(2) After the procedures required under § 569.5 (relating to shuffle and cut of the cards) have been completed, the dealer shall place the stacked deck of cards in either hand.

(i) After the dealer has chosen the hand in which he will hold the cards, the dealer shall continue to use that hand whenever holding the cards during that round of play.

(ii) The cards held by the dealer shall at all times be kept in front of the dealer and over the table inventory container.

(3) The dealer shall announce "no more bets" and then deal each card by holding the deck of cards in the chosen hand and using the other hand to remove the top card of the deck and place it face down on the appropriate area of the layout.

(b) The dealer shall, starting with the player farthest to his left who has placed an Ante and Blind Wager and continuing around the table in a clockwise manner, deal the cards as follows:

- (1) One card face down to each player.
- (2) One card face down to the area designated for the dealer's hand under a cover card.
- (3) A second card face down to each player.
- (4) A second card face down to the area designated for the dealer's hand under a cover card.

(c) After two cards have been dealt to each player and the area designated for the hand of the dealer and all community cards have been dealt in accordance with § 569.11 (relating to procedures for completion of each round of play; collection and payment of wagers), the dealer shall, except as provided in subsection (d), place the stub in the discard rack without exposing the cards.

(d) If an automated card shuffling device that counts the number of cards in the deck after the completion of each shuffle and indicates whether 52 cards are present is not being used, the dealer shall count the stub at least once every 5 rounds of play to determine that the correct number of cards are still present in the deck. The dealer shall determine the number of cards in the stub by counting the cards face down on the layout.

(e) If the count of the stub indicates that 52 cards are in the deck, the dealer shall place the stub in the discard rack without exposing the cards.

(f) If the count of the stub indicates that the number of cards in the deck is incorrect, the dealer shall determine if the cards were misdealt. If the cards have been misdealt but 52 cards remain in the deck, all hands shall be void and all wagers shall be returned to the players. If the cards have not been misdealt, all hands shall be

considered void, all wagers shall be returned to the players and the entire deck of cards shall be removed from the table.

**§ 569.10. Procedures for dealing the cards from an automated dealing shoe.**

(a) If the cards are dealt from an automated dealing shoe, the following requirements shall be observed:

(1) After the procedures required under § 569.5 (relating to shuffle and cut of the cards) have been completed, the cards shall be placed in the automated dealing shoe.

(2) The dealer shall then announce "no more bets" prior to dispensing any stacks of cards.

(b) The dealer shall deal the first stack of two cards dispensed by the automated dealing shoe face down to the player farthest to the dealer's left who has placed an Ante and Blind Wager. As the remaining stacks are dispensed to the dealer by the automated dealing shoe, the dealer shall, moving clockwise around the table, deliver a stack face down to each of the other players who has placed an Ante and Blind Wager. The dealer shall then deliver a stack of two cards face down under a cover card to the area designated for the dealer's hand.

(c) After each stack of two cards has been dispensed and delivered in accordance with this section, the dealer shall remove the remaining cards from the automated dealing shoe and, following the procedures in § 569.9(a)(2) and (3) (relating to procedure for dealing cards from the hand), deal from his hand the five community cards in accordance with § 569.11 (relating to procedures for completion of each round of play; collection and payment of wagers). After all community cards have been dealt, the dealer shall, except as provided in subsection (d), place the stub in the discard rack without exposing the cards.

(d) If an automated card shuffling device that counts the number of cards in the deck after the completion of each shuffle and indicates whether 52 cards are present is not being used, the dealer shall count the stub at least once every 5 rounds of play to determine that the correct number of cards are still present in the deck. The dealer shall determine the number of cards in the stub by counting the cards face down on the layout.

(e) If the count of the stub indicates that 52 cards are in the deck, the dealer shall place the stub in the discard rack without exposing the cards.

(f) If the count of the stub indicates that the number of cards in the deck is incorrect, the dealer shall determine if the cards were misdealt. If the cards have been misdealt but 52 cards remain in the deck, all hands shall be void and all wagers shall be returned to the players. If the cards have not been misdealt, all hands shall be considered void, all wagers shall be returned to the players and the entire deck of cards shall be removed from the table.

**§ 569.11. Procedures for completion of each round of play; collection and payment of wagers.**

(a) After the dealing procedures required under § 569.8, § 569.9 or § 569.10 (relating to procedure for dealing cards from a manual dealing shoe; procedure for dealing cards from the hand; and procedures for dealing the cards from an automated dealing shoe) have been completed, each player shall examine his cards without exposing them to any other person and replace the cards face down on the layout. The dealer shall then, starting with the player farthest to his left and proceeding in a

clockwise manner around the table, ask each player if the player wishes to place a Play Wager prior to the dealing of the Flop. The player may either check or place a Play Wager in an amount equal to four times the amount of the player's Ante Wager.

(1) If a player places a Play Wager, the wager shall be placed in the designated Play Wager betting area.

(2) If a player checks, the player shall remain in the game and defer his decision to place a Play Wager to the next betting opportunity.

(b) Once all players have either placed a Play Wager or checked, the dealer shall burn the next card. The dealer shall then deal the Flop face up to the designated area for the community cards.

(c) After the Flop has been dealt, the dealer shall, starting with the player farthest to his left and proceeding in a clockwise manner around the table, ask each player who has not placed a Play Wager if he wishes to place a Play Wager prior to the dealing of the final two community cards. The player may either check or place a Play Wager in an amount equal to two times the amount of the player's Ante Wager.

(1) If a player places a Play Wager, the wager shall be placed in the designated Play Wager betting area.

(2) If a player checks, the player shall remain in the game and defer his decision to place a Play Wager to the next betting opportunity.

(d) Once all players have either placed a Play Wager or checked, the dealer shall burn the next card. The dealer shall then deal the next two cards in the deck face up to the designated area for the community cards.

(e) After the final two community cards have been dealt, the dealer shall, starting with the player farthest to his left and proceeding in a clockwise manner around the table, ask each player who has not yet placed a Play Wager whether he wishes to fold or place a Play Wager equal in amount to his Ante Wager.

(1) If a player places a Play Wager, the wager shall be placed in the designated Play Wager betting area.

(2) If a player folds, the Ante and Blind Wagers of the player shall be collected by the dealer and placed in the table inventory container.

(i) If the player has also placed a Trips Wager, the dealer shall place the cards of the player face down underneath the player's Trips Wager pending its resolution at the conclusion of the round of play.

(ii) If the player has not placed a Trips Wager, the dealer shall immediately spread the cards of the folded hand face down and then place them in the discard rack.

(f) After each player has either folded or placed a Play Wager, the dealer shall remove the cover card from the top of the dealer's cards and place it on the table layout. The dealer shall then turn his two cards face up, position the combination of the dealer's cards and either three, four or five of the community cards that can be used to form the best possible five-card hand and announce the dealer's hand to the players.

(g) If the dealer's best possible five-card hand is lower than a pair, the dealer shall, starting with the player farthest to the dealer's right who has placed a Play Wager and proceeding in a counterclockwise manner around the table, return each player's Ante Wager and resolve all other wagers in accordance with subsection (h).

(h) If the dealer's best possible five-card hand is a pair or above, the dealer shall, starting with the player farthest to the dealer's right who has placed a Play Wager and proceeding in a counterclockwise manner around the table, turn the two cards of each player who has placed a Play Wager face up and announce the best possible five-card poker hand that can be formed using the player's two cards and the five community cards. The wagers of each player shall be resolved one player at a time regardless of outcome. After all wagers placed by a player are settled, the player's cards shall then be immediately collected by the dealer and placed in the discard rack.

(1) If the player's five-card hand is ranked lower than the dealer's five-card hand, the player shall lose and the dealer shall immediately collect the Ante, Blind and Play Wagers made by the player and place the wagers in the table inventory container.

(2) If the player's five-card hand is ranked higher than the dealer's five-card hand, the player shall win and the dealer shall pay the Ante, Blind and Play Wagers made by the player in accordance with the payout odds in § 569.12 (relating to payout odds); provided, however, that the Blind Wager may not be paid unless the player's winning hand has a rank of straight or higher.

(3) If the player's five-card hand and the dealer's five-card hand are of equal rank, the hand shall be a tie. In this case, the dealer may not collect or pay the player's Ante, Blind or Play Wagers.

(4) After settling a player's Ante, Blind and Play Wagers, the dealer shall settle any Trips Wager made by the player by determining whether the player's five-card hand qualifies for a payout in accordance with § 569.12(d). A winning Trips Wager shall be paid without regard to the outcome of any other wager made by the player.

<i>Hand</i>	<i>Paytable A</i>	<i>Paytable B</i>
Royal flush	50 to 1	50 to 1
Straight flush	40 to 1	40 to 1
Four-of-a-kind	30 to 1	30 to 1
Full house	9 to 1	8 to 1
Flush	7 to 1	6 to 1
Straight	4 to 1	5 to 1
Three-of-a-kind	3 to 1	3 to 1

(e) Notwithstanding the payout odds in subsections (b), (c) and (d), the aggregate payout limit on all winning Ante, Play, Blind and Trips Wagers for any hand may not exceed \$50,000 or the maximum amount that one patron could win per round when betting the minimum wager, whichever is greater.

**§ 569.13. Irregularities.**

(a) If any card dealt to the dealer in Ultimate Texas Hold 'Em Poker is exposed prior to each player having either folded or placed a Play Wager as provided for under § 569.11 (relating to procedures for completion of each round of play; collection and payment of wagers), all hands shall be void and all Ante, Blind and Play Wagers shall be returned to the players. Notwithstanding the foregoing, if a player has placed a Trips Wager, the community cards shall be dealt and each Trips Wager

(i) All cards collected by the dealer shall be picked up in order and placed in the discard rack in a way that the cards can be readily arranged to reconstruct each hand in the event of a question or dispute.

**§ 569.12. Payout odds.**

(a) The payout odds for winning wagers at Ultimate Texas Hold 'Em Poker printed on any sign or in any brochure or other publication distributed by a certificate holder shall be stated through the use of the word "to" and odds may not be stated through the use of the word "for."

(b) A certificate holder shall pay each winning Ante and Play Wager at odds of 1 to 1.

(c) If a player's five-card hand ranks higher than the dealer's five-card hand, a certificate holder shall pay the player's Blind Wager in accordance with the following odds:

<i>Player's Five-Card Hand</i>	<i>Payout Odds</i>
Royal flush	500 to 1
Straight flush	50 to 1
Four-of-a-kind	10 to 1
Full house	3 to 1
Flush	3 to 2
Straight	1 to 1
Less than a straight	Return the player's Blind Wager

(d) A certificate holder shall pay each winning Trips Wager at the game of Ultimate Texas Hold 'Em Poker at the odds from one of the following paytables designated in the certificate holder's Rule Submission under § 521.2 (relating to table games Rules Submissions):

<i>Paytable C</i>	<i>Paytable D</i>
50 to 1	50 to 1
40 to 1	40 to 1
30 to 1	20 to 1
8 to 1	7 to 1
7 to 1	6 to 1
4 to 1	5 to 1
3 to 1	3 to 1

shall be settled in accordance with the payout odds in § 569.12(d) (relating to payout odds).

(b) A card that is found face up in the shoe or the deck while the cards are being dealt may not be used in the game and shall be placed in the discard rack. If more than one card is found face up in the shoe or the deck during the dealing of the cards, all hands shall be void, all wagers shall be returned to the players and the cards shall be reshuffled. Notwithstanding the foregoing, if the cards are found face up after each player and the dealer has received their initial two cards, the community cards shall be dealt and any Trips Wager shall be settled in accordance with the payout odds in § 569.12(d).

(c) A card drawn in error without its face being exposed shall be used as though it was the next card from the shoe or the deck.

(d) If a player or the dealer is dealt an incorrect number of cards, the round of play shall be void, all wagers shall be returned to the players and the cards shall be reshuffled.

(e) If an automated card shuffling device is being used and the device jams, stops shuffling during a shuffle or fails to complete a shuffle cycle, the cards shall be reshuffled.

(f) If an automated dealing shoe is being used and the device jams, stops dealing cards or fails to deal cards during a round of play, the round of play shall be void, all wagers shall be returned to the players and the cards

shall be removed from the device and reshuffled with any cards already dealt.

(g) If an automated card shuffling device or automated dealing shoe malfunctions and can not be used, the automated card shuffling device or automated dealing shoe shall be covered or have a sign indicating that the automated card shuffling device or automated dealing shoe is out of order placed on the device before any other method of shuffling or dealing may be utilized at that table.

[Pa.B. Doc. No. 10-1162. Filed for public inspection June 25, 2010, 9:00 a.m.]

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# PROPOSED RULEMAKING

## DEPARTMENT OF PUBLIC WELFARE

[ 55 PA. CODE CHS. 3270, 3280 AND 3290 ]

### Child Care Facilities

The Department of Public Welfare (Department), under the authority of Articles IX and X of the Public Welfare Code (62 P. S. §§ 901—922 and 1001—1087) proposes to amend Chapter 3270, 3280 and 3290 (relating to child day care centers; group child day care homes; and family child day care homes) to read set forth in Annex A.

#### *Purpose of Proposed Rulemaking*

The child care facility regulations in Chapters 3270, 3280 and 3290 provide standards to aid in protecting the health, safety and rights of children and to reduce risks to children in child day care centers, group child day care homes and family child day care homes. The regulations identify the minimum level of compliance necessary to obtain the Department's certificate of compliance to operate a child care center or group child day care home or certificate of registration to operate a family child day care home.

The purpose of this proposed rulemaking is to amend the child care facility regulations regarding professional development for facility staff to strengthen the child care work force and provide staff with the knowledge and competencies needed to provide safe and healthy care to children.

#### *Requirements*

##### *§§ 3270.4, 3280.4 and 3290.4 (relating to definitions)*

The proposed rulemaking adds the following definitions regarding professional development: "distance education;" "inclusive practices;" PDR—professional development record;" and "PQAS—Pennsylvania Quality Assurance System."

"Distance education" is defined because it represents the newest and most rapidly developing method of providing and receiving professional development. "Distance education" is defined as a formal learning activity which occurs when the learner and instructor are separated by geographic distance or by time, including activity supported by communications technology.

"Inclusive practices" are identified as a required professional development topic in the proposed rulemaking. The definition is provided to give clarity regarding the scope of the topic and is as follows: working with children, with and without special needs, and their families to ensure access, participation and supports to children and families in a broad range of activities and contexts.

The Pennsylvania Key works with the Office of Child Development and Early Learning to provide Statewide leadership in the development of an integrated and coordinated system of program quality improvements and professional development supports for early childhood education. In this role, the Pennsylvania Key manages Statewide professional development initiatives. The professional development record (PDR) and Pennsylvania Quality Assurance System (PQAS) are two components of the Statewide professional development initiatives and are well known to many child care providers. The PDR is

a tool available through the Pennsylvania Key for developing and tracking a staff person's professional development plan. PQAS is a system administered through the Pennsylvania Key to identify organizations and individuals who have the expertise and the background to provide professional development in specific subject areas.

##### *§ 3290.11 (relating to application for and issuance of a certification of compliance)*

The proposed rulemaking requires a family child day care home operator to submit along with an application to renew a certificate of registration proof of compliance with the requirements for annual professional development. The family child day care home registration system is a self-certification system and provides for inspections on a random sample basis, upon complaint and at the request of the operator (see 62 P. S. § 1074, regarding visitation and inspection). The Department's certification staff find upon inspection that a significant number of family child day care home operators do not obtain the minimum hours of professional development required under the regulation. In most family child day care homes, the operator is the only caregiver working in the facility. While family child day care home operators come from a wide variety of educational backgrounds and experience levels, the minimum qualifications for a family child day care home operator are not as stringent as those for a child care center director or a group child care home primary staff person. The Department proposes to ensure that family child day care home operators obtain ongoing professional development to support the knowledge and skills needed to provide healthy and safe care to children.

##### *§§ 3270.31 and 3280.31 (relating to age)*

The proposed rulemaking deletes the professional development requirements that appear in these sections and moves those requirements to new sections. The remaining requirements deal specifically with the age of facility persons and require renaming the section headings.

##### *§ 3290.31 (relating to qualifications)*

The proposed rulemaking deletes the professional development requirements that appear in this section and moves those requirements to new sections. The remaining requirements deal specifically with qualifications of facility persons and require renaming the section heading.

##### *§§ 3270.38 and 3280.36 (relating to credential equivalency)*

The proposed rulemaking moves current §§ 3270.31(d) and 3280.31(d) to new sections. The information relates to how a Child Development Associate credential, a Certified Childcare Professional or Pennsylvania school-age professional credential translate to education and experience with children. This information is no longer suited to §§ 3270.31 and 3280.31, which the proposed rulemaking amends to focus on the minimum age of staff persons in child day care centers and group child day care homes.

##### *§§ 3270.39, 3280.37 and 3290.33 (relating to professional development plan)*

To assist staff in complying with the professional development requirements, the proposed rulemaking requires that each staff person have an individual professional development plan. The purpose of the professional development plan is to guide selection of professional development based on the minimum standards in regulation and the staff person's individual needs for profes-

sional development. The individual professional development plan may be developed using the PDR, a document which many child care facilities and staff already use, or a form that will be developed by the Department.

§§ 3270.40, 3280.38 and 3290.34 (relating to orientation for new director and staff person; orientation for new staff persons; and orientation for new operator)

The proposed rulemaking requires orientation training for persons newly hired to work in child day care centers and group child day care homes and for persons newly hired to work in positions managing all three types of child care facilities. The Department will designate the curriculum to be used for orientation training. The proposed rulemaking establishes time lines for completing the orientation training.

§§ 3270.41, 3280.39 and 3290.35 (relating to acceptable professional development)

The acceptable professional development topic areas listed in the proposed rulemaking include topic areas identified in the PDR. The topic areas are core professional development areas regarding the knowledge and skill areas which staff persons who work in early childhood and school-age facilities need to know and do when caring for children.

Acceptable professional development settings include classes, training, workshops, events or distance education conducted by an accredited college or university, by an organization or individual that has PQAS approval or by an organization or individual providing professional development that is being offered for continuing education credits for professional educators, often referred to as "Act 48" training. See section 1205.2 of the Public School Code of 1949 (24 P. S. § 12-1205.2).

§§ 3270.42, 3280.40 and 3290.36 (relating to annual professional development requirement for director; annual professional development requirement for primary staff person; and annual professional development requirement for operator)

§§ 3270.43, 3280.41 and 3290.37 (relating to annual professional development requirement for staff persons)

The proposed rulemaking specifies the minimum number of professional development hours required each calendar year. The annual professional development requirement for child day care center and group child day care home staff increases from the current 6 hours per year to 24 hours per year over 5 years. The hours are increased each calendar year as follows: year 1—9 hours; year 2—12 hours; year 3—18 hours; year 4—21 hours; and year 5 and every year thereafter—24 hours. The professional development requirement for family child day care home staff changes from 12 hours every 2 years to an annual professional development requirement of 6 hours and increases over a 5-year period as previously described.

The proposed rulemaking designates specific areas in which staff shall receive professional development. The number of designated topic areas expands as the number of hours per year increases. The topic areas are based on National health and safety guidelines plus input from the regulation work group members including child care providers, child care advocates, early learning professional organization representatives, Pennsylvania Key and Regional Key staff, Department of Education representatives and Department representatives. The Department's goal in specifying professional development topic areas is to ensure that staff persons gain the basic

knowledge and skills across a variety of topic areas that are needed to provide safe and healthy care to children.

§§ 3270.44, 3280.42 and 3290.38 (relating to exemption from annual professional development requirement)

The proposed rulemaking also addresses when staff persons are pursuing higher education. Staff persons who are obtaining professional development for the purpose of pursuing degrees or college credits regarding early education and child care meet the annual professional development requirements. The time required to pursue higher education exceeds the number of annual professional development hours in the proposed rulemaking. The Department does not want to discourage staff persons from seeking higher education by requiring them to obtain additional professional development to meet the annual requirement.

Additionally, staff persons who attend professional development or classes required to obtain or renew early learning professional credentials recognized by the Department also meet the annual professional development requirements. The time required to pursue credentials generally exceeds the number of professional development hours required in the proposed rulemaking. If the hours required to pursue a credential do not meet the annual required number of professional hours, the staff person will have to take additional professional development that meets the requirement of the regulations.

§§ 3270.45, 3280.43 and 3290.39 (relating to professional development for specific staff persons)

§§ 3270.235, 3280.217 and 3290.214 (relating to pediatric first-aid training)

The Department proposes to amend the requirement for general first-aid training to require pediatric first-aid training. Pediatric first-aid is geared to the specific health needs of children. The American Academy of Pediatrics recommends pediatric first-aid training for persons who care for children. The amendment to pediatric first-aid training will be phased in as staff persons' current general first-aid certifications expire. This will ensure that a staff person is not required to take additional training prior to the end of the first-aid certification period. A grandfathering provision regarding first-aid training is included in §§ 3270.235, 3280.217 and 3290.214.

§§ 3270.47, 3280.45 and 3290.41 (relating to portability of professional development)

The proposed rulemaking provides for the portability of a staff person's professional development record when changing employment. These sections are intended to promote the purposeful building of knowledge and skills over time by retaining the staff person's professional development history at a new place of employment.

#### *Affected Individuals and Organizations*

Children are directly impacted by the proposed rulemaking. The minimum health and safety standards in Chapters 3270, 3280 and 3290 protect children who attend approximately 8,500 certified and registered child care facilities in this Commonwealth. Parents also are impacted by the proposed rulemaking. Parents want their children to be safe in child care facilities.

Child care facilities and staff are most directly affected by the proposed rulemaking. The proposed rulemaking will increase costs to facilities. The Department provides for a phased increase in the minimum annual professional development requirements over a 5-year period.

The phased increase will permit time for further building of professional development opportunities for child care facility staff.

#### *Accomplishments and Benefits*

The current child care facility regulations regarding professional development were published in 1992 and represent the first time that staff professional development was required by the child care facility regulations. The regulations require 6 hours of professional development annually for staff in a child day care center and a group child day care home and 12 hours of professional development biennially for family child day care home staff.

Since 1992, many changes have occurred regarding professional development of child care staff. Nationwide, additional emphasis has been placed on staff professional development as a means of ensuring health and safety in child care settings. The Commonwealth now has a program called Pennsylvania Keys to Professional Development, a seamless system designed to enhance and promote for each staff person professional development that is substantive and promotes growth as an early childhood education practitioner. Pennsylvania Keys to Professional Development administers the PQAS to approve organizations and individuals who provide instruction and technical assistance to early learning and school-age programs. PQAS helps ensure that professional development activities are conducted by qualified individuals and meet quality standards.

A survey of other states revealed that 14 states require 10 or fewer hours of annual professional development for full-time child care employees and 35 states require 11 to 20 hours of annual professional development for full-time child care employees. Four states could not be reached to obtain information about minimum professional development requirements.

Only four states require 6 or fewer hours of annual professional development for child care staff as follows: Iowa requires 10 hours for directors and 6 hours for other staff; Tennessee requires 8 hours for group child care home staff and 4 hours for family child care home staff; Michigan requires 5 hours for family child care home staff; and Virginia requires 6 hours for family child care home staff.

In the states contiguous to this Commonwealth, three states require 11 to 20 hours of annual professional development, one state requires 24 hours of annual professional development for directors and 8 hours of annual professional development for other staff and two states could not be reached.

The Commonwealth's child care staff professional development requirement of 6 hours per year lags behind all but four other states. The proposed rulemaking will boost the Commonwealth's requirement and place this Commonwealth in the forefront at the end of the 5-year phase in period.

The leading pediatric health and safety best practice standards and recommendations are found in *Caring for Our Children*, published by the American Academy of Pediatrics, American Public Health Association and National Resource Center for Health and Safety in Child Care and Early Education. This publication includes the following recommendations:

- Facility staff should have preservice orientation training at initial employment with prescribed topic areas.

- Child day care center and group child day care home staff should have 30 clock hours of continuing education in the first year of employment. In the second and following years of employment, staff should have at least 24 clock hours of continuing education based on individual competency needs and any special needs of the children in their care.

- Family child care home providers should have at least 24 clock hours of continuing education annually in areas determined by self-assessment.

The National Association of Child Care Resource & Referral Agencies (NACCRA) is a National organization that leads projects to increase the quality and availability of child care professionals, undertakes research and advocates child care policies that positively impact the lives of children and families. NACCRA recommends that child care staff receive 40 hours of preservice training and 24 hours of training annually on an ongoing basis.

Research supports the case for improved professional development requirements for child care staff. Trained child care staff are more likely to facilitate the physical and mental health, safety and development of children in their care. Child care providers should have professional development in basic health and safety and in child development. Staff members who are better trained are better able to prevent, recognize and correct health and safety problems. Research shows a positive relationship between the professional development of child care providers and the quality of care children receive. Trained child care providers are more likely to provide responsive care, be more sensitive, play with children and show positive emotion in front of and toward children. Because 90% of a child's brain develops by 5 years of age, the quality of care a child receives matters.

Research also supports minimum standards that guide staff in selecting professional development that enables them to build on the knowledge and competencies needed to provide safe and health care to children. In the absence of minimum standards guiding the selection and amount of professional development required, staff are allowed to complete any assortment of professional development as long as they meet the minimum number of hours required. It is possible that a staff person could take the same class repeatedly and count it each time toward the required professional development hours. Too often, staff members make professional development choices based on what they like to learn about and not the areas in which their performance should be improved.

The Department's proposed rulemaking requires additional hours of professional development, purposeful selection of professional development and ensure the quality of professional development for child care staff persons. This will benefit children and parents by increasing the availability of safe and healthy child care.

#### *Fiscal Impact*

For the purpose of determining fiscal impact, the calculations were based on an average child day care center with a capacity of 60 children with 14 total staff, a group child day care home with a capacity of 12 children with three total staff and a family child day care home with one staff person, the operator.

#### *Cost of preparing the annual professional development plan*

Keystone STARS is an Office of Child Development and Early Learning initiative to improve, support and recognize the continuous quality improvement efforts of early



learning programs in this Commonwealth. The Keystone STARS performance standards are quality standards based on best practice to promote quality early learning environments and positive child outcomes. The standards address staff qualifications and professional development, the early learning program, partnerships with family and community and leadership and management. The performance standards are grouped into four levels: STAR 1, STAR 2, STAR 3 and STAR 4. Each level builds on the previous level. As of January 2010, 1,828 child care facilities or 21% of facilities were at a STAR 2 level or higher and as a result are already developing individual professional development plans to meet the STAR standards. The proposed rulemaking requiring an annual individual professional development plan for each staff person will not result in increased costs for those facilities that have STAR 2, STAR 3 and STAR 4 designations.

For the remaining 6,769 child care facilities, development of an individual professional development plan for each staff person will be a new requirement and will take approximately 1 1/2 hours annually for each staff person and the staff person's supervisor. The costs will vary according to the staff person's position and the supervisor's position. The estimated costs by facility type are: child day care center, \$543; group child day care home, \$121; and family child day care home, \$39.

*Cost of orientation for new director in a child day care center or new primary staff person in charge of a group child day care home*

The orientation curriculum for a new director in a child day care center and a new primary staff person in charge of a group child day care home is currently in development. The estimated number of hours required to complete the orientation curriculum is 20 hours. The orientation training is distance education that does not require the employee to attend sessions offsite. This affords flexibility and permits the staff person to complete the orientation training during the work day over a 1-year period. The cost per person is estimated at \$450. The orientation training will count toward the annual required training hours and therefore will be absorbed into the cost of annual professional development for that staff person. Additionally, the cost will be incurred only when an individual is hired for the first time as a director of a child day care center or a primary staff person in charge of a group child day care home.

*Cost of orientation training for a new family child day care home operator*

The family child day care home operator orientation curriculum is currently available through Better Kid Care and requires 6 hours of time to complete the course. The orientation training is distance education training that does not require the operator to attend sessions offsite. The estimated cost is \$186. The orientation training will count toward the annual required professional development hours and therefore will be absorbed into the cost of annual professional development.

*Cost of orientation training for staff new to working in child care*

The proposed requirement for new staff orientation training applies when a new staff person is hired who has never worked in a child day care center or group child day care home. The new staff orientation training is distance education that does not require the staff person to attend sessions offsite. This affords flexibility and permits the training to be accomplished during the work day. The orientation training will count toward the

annual required professional development hours and the costs will be absorbed into the annual professional development costs.

The orientation curriculum for new staff is currently available and consists of 15 hours of training. The purchase of the video portion of the materials represents a onetime cost of \$35 to a child care facility. Because the training has been in use for several years, many facilities have already purchased the videos. Ongoing costs are \$35 per staff person which include purchase of workbook and review of the coursework that is conducted by the training organization.

Costs to a facility will vary and will apply only when hiring a new staff person who has never worked in a child care facility. The estimated costs per position include the salary of the staff person during the hours of professional development. For a child day care center, the cost of new staff orientation training is \$212 for each new group supervisor and assistant group supervisor and \$195 for each new aide. For a group child day care home, the cost of new staff orientation training is \$212 for a primary staff person who is not responsible for operating the facility and \$195 for a secondary staff person.

*Cost of ongoing annual staff professional development*

Facility staff have the option to attend a variety of professional development to fulfill the annual professional development requirement. The costs will vary for those staff who enroll in higher education to pursue degrees or college credits in early childhood education, child development, child care, child health, elementary-middle education, human services, administration, business or professional leadership or who choose to pursue professional credentials as described in the proposed rulemaking. The time spent in those pursuits will count toward fulfilling the annual professional development requirement. The decision to pursue higher education or a professional credential is an individual choice and is not required by regulation.

Most child care staff fulfill the annual professional development requirement through attending PQAS-approved professional development, accessed through classes, workshops, events or distance education. The following figures are intended to provide average costs based on completing PQAS-approved professional development. For the purpose of developing the estimates, professional development costs were figured by estimating that half the annual professional development hours will take place offsite and may result in requiring overtime pay and half the annual professional development will be distance education that occurs during work hours and will not require overtime pay.

The average-PQAS approved noncredit professional development is 2 hours long. The cost of a PQAS-approved professional development class or workshop is generally based on the number of participants and costs an average of \$7.50 per 2-hour training session.

The costs of a variety of PQAS-approved distance education offerings were reviewed. The average cost of a 2-hour distance education training is \$20.

Facilities that have STAR 2, STAR 3 and STAR 4 designations currently comply with higher standards regarding the number of professional development hours per year and exceed the current 6 hours of annual professional development required by regulation. As a result, the estimated additional costs that will be incurred by STAR 2, STAR 3 and STAR 4 facilities were determined separately.

The estimated additional professional development costs that a facility will incur as a result of the proposed rulemaking were determined by comparing the current estimated cost for 6 hours of annual professional development with the estimated cost in each year of the proposed 5-year phase-in period. By using this formula, the average child day care center will incur the following estimated additional costs during each year of the 5-year phase in period: year 1, an increase of \$330 over current costs; year 2, an increase of \$552 over year 1; year 3, an increase of \$1,128 over year 2; year 4, an increase of \$553 over year 3; year 5, an increase of \$564 over year 4.

The average group child day care home will incur the following estimated additional costs during each year of the 5-year phase in period: year 1, increase of \$110 over current costs; year 2, increase of \$107 over year 1; year 3, increase of \$267 over year 2; year 4, increase of \$132 over year 3; year 5, increase of \$133 over year 4.

The average family child day care home will incur the following estimated additional costs during each year of the 5-year phase-in period: year 1, increase of \$65 over current costs; year 2, increase of \$63 over year 1; year 3, increase of \$129 over year 2; year 4, increase of \$64 over year 3; year 5, increase of \$133 over year 4.

Currently, facilities incur the costs of first aid, firesafety and watersafety training in addition to the costs of meeting the annual 6 hour professional development requirement. As of year 4 of the phase-in period, the proposed rulemaking permits staff to count pediatric first-aid training and firesafety training, if required, toward meeting the annual professional development requirement. In year 5 and ongoing, staff will also be able to count watersafety training toward the annual minimum professional development requirement.

Facilities that hold STAR 2, STAR 3 or STAR 4 designations are currently required to obtain more professional development than the annual minimum regulatory requirement of 6 hours. Those facilities will not incur the same amount of additional costs as those facilities that do not hold STAR 2, STAR 3 or STAR 4 designations. The following figures reflect the number of STAR 2, STAR 3 and STAR 4 facilities as of January 2010 and the additional estimated costs those facilities will incur.

STAR 2 child day care centers, 757 facilities, will incur the following estimated additional costs during each year of the 5-year phase-in period: year 1, increase of \$45 over current costs; year 2, increase of \$44 over year 1; year 3, increase of \$891 over year 2; year 4, increase of \$439 over year 3; year 5, increase of \$467 over year 4.

STAR 2 group child day care homes, 77 facilities, will not incur increased costs until the second year of the phase-in. Following are the estimated additional costs during years 2 through 5 of the phase-in period: year 2, increase of \$44 over current costs; year 3, increase of \$219 over year 2; year 4, increase of \$108 over year 3; year 5, increase of \$467 over year 4.

STAR 2 family child day care homes, 110 facilities, will not incur increased costs until the third year of the phase-in. Following are the estimated additional costs during years 3 through 5 of the phase-in period: year 3, increase of \$129 over current costs; year 4, increase of \$64 over year 3; year 5, increase of \$64 over year 4.

STAR 3 child day care centers, 352 facilities, will not incur increased costs until the third year of the phase-in. Following are the estimated additional costs during years

3 through 5 of the phase-in period: year 3, increase of \$90 over year 2; year 4, increase of \$373 over year 3; year 5, increase of \$445 over year 4.

STAR 3 group child day care homes, 26 facilities, will not incur increased costs until the third year of the phase-in. Following are the estimated additional costs during years 3 through 5 of the phase-in period: year 3, increase of \$45 over current costs; year 4, increase of \$108 over year 3; year 5, increase of \$237 over year 4.

STAR 3 family child day care homes, 36 facilities, will not incur increased costs until the third year of the phase-in. Following are the estimated additional costs during years 3 through 5 of the phase-in period: year 3, increase of \$64 over current costs; year 4, increase of \$64 over year 3; year 5, increase of \$64 over year 4.

STAR 4 child day care centers, 383 facilities, will not incur increased costs until the third year of the phase-in. Following are the estimated additional costs during years 3 through 5 of the phase-in period: year 3, increase of \$45 over current costs; year 4, increase of \$44 over year 3; year 5, increase of \$45 over year 4.

STAR 4 group child day care homes, 15 facilities, will not incur increased costs until the fourth year of the phase-in. The estimated additional costs during years 4 and 5 year of the phase-in period are year 4, an increase of \$44 over current costs, and year 5, an increase of \$45 over year 4.

STAR 4 family child day care homes, 62 facilities, will not incur increased costs until the fourth year of the phase-in. The estimated additional costs during years 4 and 5 of the phase-in period are year 4, an increase of \$64 over current costs, and year 5, an increase of \$64 over year 4.

#### *Pediatric first-aid*

The child care regulations currently require that at least one person certified in first-aid must be onsite when children are in care. The proposed rulemaking requires pediatric first-aid training, but grandfathers staff with current first-aid certification until the time their current first-aid certification expires. There is no change regarding the number of staff who shall have pediatric first-aid certification. The cost of first-aid and pediatric first-aid training is similar. The change to pediatric first-aid certification will be phased-in as current first-aid certifications expire. There should not be a significant cost difference to child care facilities.

#### *Paperwork Requirements*

The proposed rulemaking requires each staff person to have an individual professional development plan. This will be a new requirement for facilities that do not participate in the Keystone STARS program. The staff person's immediate supervisor is required to participate in development of the professional development plan. The estimated time to complete an individual professional development plan is 1 1/2 hours. Facilities with STAR 2, STAR 3 and STAR 4 designations already complete annual individual professional development plans for each staff person. The individual professional development plan may be completed using the PDR or a form that the Department will provide.

#### *Effective Date*

This proposed rulemaking will be effective 120 calendar days after final-form publication in the *Pennsylvania Bulletin*.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to Amanda Dorris, Bureau of Certification Services, Office of Child Development and Early Learning, Department of Public Welfare, 333 Market Street, 6th Floor, Harrisburg, PA 17126, adorris@state.pa.us within 30 calendar days after the date of publication of this proposed rulemaking in the Pennsylvania Bulletin. Reference Regulation No. 14-519 when submitting comments.

Persons with a disability who require an auxiliary aid or service may submit comments by using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on June 16, 2010, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the House Committee on Children and Youth and the Senate Committee on Public Health and Welfare. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

HARRIET DICHTER, Secretary

Fiscal Note: 14-519. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 55. PUBLIC WELFARE

PART V. CHILDREN, YOUTH AND FAMILIES MANUAL

Subpart D. NONRESIDENTIAL AGENCIES, FACILITIES AND SERVICES

ARTICLE I. LICENSING/APPROVAL

CHAPTER 3270. CHILD DAY CARE CENTERS

GENERAL PROVISIONS

§ 3270.4. Definitions.

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

\* \* \* \* \*

Distance education—A formal learning activity which occurs when the learner and instructor are separated by geographic distance or by time, including activity supported by communications technology.

\* \* \* \* \*

Inclusive practices—Working with children, with and without special needs, and their families to

ensure access, participation and supports to children and families in a broad range of activities and contexts.

\* \* \* \* \*

PDR—Professional development record—A document used to list a staff person’s employment history, track education and professional development, and prepare annual professional development plans that meet the staff person’s educational needs and the professional development requirements of this chapter.

PQAS—Pennsylvania Quality Assurance System—The Commonwealth’s system for approving individuals and organizations who provide professional development to staff persons who work in early childhood and school-age programs, including child day care centers.

\* \* \* \* \*

GENERAL REQUIREMENTS

§ 3270.11. Application for and issuance of a certificate of compliance.

\* \* \* \* \*

(b) A legal entity or a representative of the legal entity shall participate in an orientation training provided by the Department within 12 months prior to commencing operation of the child day care center. The orientation does not count toward the annual [ minimum of 6 hours of child care training required in § 3270.31(e) (relating to age and training) ] professional development under § 3270.40, § 3270.42 or § 3270.43 (relating to orientation for new director and staff person; annual professional development requirement for director; and annual professional development requirement for staff persons).

\* \* \* \* \*

FACILITY PERSONS

§ 3270.31. Age [ and training ].

\* \* \* \* \*

(c) An individual 16 years of age or older who is enrolled in an approved training curriculum may be used as a staff person, if the following guidelines are met:

\* \* \* \* \*

(2) The curriculum includes acceptable [ training ] professional development topics referenced in [ subsection (e)(2) ] § 3270.41(a) (relating to acceptable professional development).

\* \* \* \* \*

[ (d) Child care professional credentials are equivalent to the staff qualifications:

(1) A Child Development Associate (CDA) credential or a Certified Childcare Professional (CCP) credential is equivalent to 9 credit hours from an accredited college or university in early childhood education or child development and 1 year of experience with children.

(2) A Pennsylvania school-age professional credential is equivalent to 9 credit hours from an accredited college or university in elementary education or child development and 1 year of experience with children.

(e) A staff person shall obtain an annual minimum of 6 clock hours of child care training.

(1) Acceptable training is conducted in one or more of the following settings:

(i) By a secondary or postsecondary institution approved by the Department of Education and accredited by an accrediting agency recognized by the United States Department of Education or the Council of Postsecondary Accreditation and acceptable to the Department of Education.

(ii) By an entity that is licensed or certified professionally competent in the training topic.

(iii) In conferences or workshops.

(iv) With audio-visual materials recognized by child care professionals.

(2) Acceptable training topics include the following:

(i) Child or staff health.

(ii) Child development, early childhood education and special education.

(iii) Supervision, discipline and guidance of children.

(iv) Nutrition for children.

(v) Child care program development.

(vi) Child care staff person or volunteer professional development.

(3) Other training topics may be submitted for the Department's review and approval.

(4) Depending on the provisions of the appropriate regulation, training may be required for certain staff persons. The following constitutes competence in training areas:

(i) *First-aid training.* Competence is the completion of training by a professional in the field of first-aid. First-aid training will be renewed on or before expiration of certification or every 3 years, as applicable.

(ii) *Firesafety training.* Staff persons shall participate, at least annually, in firesafety training conducted by a fire protection professional. Staff persons and volunteers shall receive training in maintenance of smoke detectors, the duties of facility persons during a fire drill and during a fire and the use of the facility's fire extinguishers, not including discharge of the fire suppressant agent.

(iii) *Lifeguard training.* Competence is the completion of lifeguard training, including first-aid training and cardiopulmonary resuscitation (CPR) for child and infant.

(iv) *Water safety instruction.* Competence is the completion of basic instruction in water safety from a certified lifeguard.

(f) Completion of training shall be documented by the signature and title of a representative of the training entity and include the date training was completed. Documentation shall be retained in the facility person's file. ]

§ 3270.33. General requirements for facility persons.

\* \* \* \* \*

(d) One or more facility persons competent in pediatric first-aid techniques shall be at the facility when one or more children are in care.

§ 3270.34. Director qualifications and responsibilities.

(a) A director is responsible for the general management of the facility, including the following minimum duties:

\* \* \* \* \*

(7) Ensuring that an annual individual professional development plan is developed for each staff person employed at the facility.

\* \* \* \* \*

§ 3270.36. Assistant group supervisor qualifications and responsibilities.

\* \* \* \* \*

(b) An assistant group supervisor shall have attained one of the following qualification levels:

\* \* \* \* \*

(2) A high school diploma or a general educational development certificate, including 600 or more hours of secondary training described in § 3270.31(c) (relating to age [ and training ]).

\* \* \* \* \*

§ 3270.37. Aide qualifications and responsibilities.

\* \* \* \* \*

(b) An aide shall have attained one of the following qualification levels:

\* \* \* \* \*

(2) A minimum of an 8th grade education and enrollment in a training curriculum described [ at ] in § 3270.31(c) (relating to age [ and training ]). The classroom training portion of the curriculum shall be completed. Documentation of completion of classroom training and continuing enrollment in the training curriculum shall be included in the staff person's file.

\* \* \* \* \*

(Editor's Note: Sections 3270.38—3270.47 are new and printed in regular type to enhance readability.)

§ 3270.38. Credential equivalency.

(a) A Child Development Associate (CDA) credential or a Certified Childcare Professional (CCP) credential is equivalent to 9 credits from an accredited college or university in early childhood education or child development and 1 year of experience with children.

(b) A Pennsylvania school-age professional credential is equivalent to 9 credits from an accredited college or university in elementary education or child development and 1 year of experience with children.

§ 3270.39. Professional development plan.

(a) A director shall have an individual professional development plan designating the child care professional development that the director will complete each year as described in § 3270.42 (relating to annual professional development requirement for director).

(b) A staff person shall have an individual professional development plan designating the child care professional development that the staff person will complete each year as described in § 3270.43 (relating to annual professional development requirement for staff persons).

(c) The individual professional development plan shall be prepared on the PDR or on a form provided by the Department.

(d) The staff person and staff person's supervisor shall develop and sign the individual professional development plan.

(e) The professional development plan shall be updated as professional development is completed.

**§ 3270.40. Orientation for new director and staff person.**

(a) An individual new to the position of director shall begin the Department's approved orientation curriculum for new directors within 15 days of the first day of work in the position and complete the curriculum coursework within 1 year. Completion of the orientation curriculum counts toward meeting the annual professional development requirement described in § 3270.42 (relating to annual professional development requirement for director).

(b) An individual new to employment as a staff person in a child care center shall complete the coursework for the Department's approved orientation curriculum for new staff within 90 days of the first day of work in a child care center. Completion of the orientation curriculum counts as 15 clock hours toward meeting the minimum annual professional development requirement described in § 3270.43 (relating to annual professional development requirement for staff persons).

**§ 3270.41. Acceptable professional development.**

(a) Acceptable professional development is in a topic area regarding the knowledge and skill areas which staff persons who work in early childhood and school-age facilities need to know and do when caring for children as follows:

- (1) Children's growth and development.
- (2) The environment, curriculum and content.
- (3) Working with families.
- (4) Child assessment.
- (5) Communication.
- (6) Professionalism and leadership.
- (7) Health, safety and nutrition.
- (8) Inclusive practices.
- (9) Program organization and administration is an acceptable topic area for a director.

(b) Acceptable professional development occurs in a class, training, workshop, event or distance education conducted by one of the following:

(1) An organization or individual approved through the PQAS, including an organization or individual with temporary PQAS approval.

(2) A college or university accredited by an organization recognized by the United States Department of Education.

(3) An organization or individual approved to conduct professional development eligible for continuing education credits for professional educators under section 1205.2 of

the Public School Code of 1949 (24 P. S. § 12-1205.2) and the Department of Education's guidance regarding continuing education under the act of November 23, 1999 (P. L. 529, No. 48).

**§ 3270.42. Annual professional development requirement for director.**

(a) A director shall annually complete a minimum of 6 clock hours of acceptable professional development by \_\_\_\_ (*Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.*).

(b) A director shall complete a minimum of 9 clock hours of acceptable professional development during the calendar year beginning January 1, \_\_\_\_ (*Editor's Note: The blank refers to the first full calendar year following the effective date of adoption of this proposed rulemaking.*). The professional development must include the following topic areas:

- (1) Health, safety and nutrition.
- (2) Program organization and administration.

(c) A director shall complete a minimum of 12 clock hours of acceptable professional development during the calendar year beginning January 1, \_\_\_\_ (*Editor's Note: The blank refers to the second full calendar year following the effective date of adoption of this proposed rulemaking.*). The professional development must include the following topic areas:

- (1) Health, safety and nutrition.
- (2) Program organization and administration.

(d) A director shall complete minimum of 18 clock hours of acceptable child care professional development during the calendar year beginning January 1, \_\_\_\_ (*Editor's Note: The blank refers to the third full calendar year following the effective date of adoption of this proposed rulemaking.*). The professional development must include the following topic areas:

- (1) Health, safety and nutrition.
- (2) Program organization and administration.
- (3) Inclusive practices.

(e) A director shall complete a minimum of 21 clock hours of acceptable child care professional development during the calendar year beginning January 1, \_\_\_\_ (*Editor's Note: The blank refers to the fourth full calendar year following the effective date of adoption of this proposed rulemaking.*).

(1) The professional development must include the following topic areas:

- (i) Health, safety and nutrition.
- (ii) Program organization and administration.
- (iii) Inclusive practices.
- (iv) Working with families.

(2) Pediatric first-aid training and firesafety training, if required under § 3270.45 (relating to professional development for specific staff persons), may be counted toward the minimum hours of professional development.

(f) A director shall complete a minimum of 24 clock hours of acceptable child care professional development during the calendar year beginning January 1, \_\_\_\_ (*Editor's Note: The blank refers to the fifth full calendar year following the effective date of adoption of this proposed rulemaking.*) and every calendar year thereafter.

(1) The professional development must include the following topic areas:

- (i) Health, safety and nutrition.
- (ii) Program organization and administration.
- (iii) Inclusive practices.
- (iv) Working with families.

(2) Pediatric first-aid training, firesafety training and watersafety training, if required under § 3270.45, may be counted toward the minimum hours of professional development.

**§ 3270.43. Annual professional development requirement for staff persons.**

(a) The annual professional development requirement for a group supervisor, assistant group supervisor or aide who is counted in the staff:child ratio more than 20 hours per week is as follows:

(1) A minimum of 6 clock hours of child care professional development by \_\_\_\_ (*Editor's Note:* The blank refers to the effective date of adoption of this proposed rulemaking.).

(2) A minimum of 9 clock hours of child care professional development effective during the calendar year beginning January 1, \_\_\_\_ (*Editor's Note:* The blank refers to the first full calendar year following the effective date of adoption of this proposed rulemaking.). The professional development must include the following topic areas:

- (i) Health, safety and nutrition.
- (ii) Children's growth and development relating to the age level of children in the staff person's direct care.
- (3) A minimum of 12 clock hours of acceptable child care professional development during the calendar year beginning January 1, \_\_\_\_ (*Editor's Note:* The blank refers to the second full calendar year following the effective date of adoption of this proposed rulemaking.). The professional development must include the following topic areas:

- (i) Health, safety and nutrition.
- (ii) Children's growth and development relating to the age level of children in the staff person's direct care.
- (4) A minimum of 18 clock hours of acceptable child care professional development during the calendar year beginning January 1, \_\_\_\_ (*Editor's Note:* The blank refers to the third full calendar year following the effective date of adoption of this proposed rulemaking.). The professional development must include the following topic areas:

- (i) Health, safety and nutrition.
- (ii) Children's growth and development relating to the age level of children in the staff person's direct care.
- (iii) Inclusive practices.
- (5) A minimum of 21 clock hours of acceptable child care professional development during the calendar year beginning January 1, \_\_\_\_ (*Editor's Note:* The blank refers to the fourth full calendar year following the effective date of adoption of this proposed rulemaking.).

(i) The professional development must include the following topic areas:

- (A) Health, safety and nutrition.
- (B) Children's growth and development regarding the age level of children in the staff person's direct care.

(C) Inclusive practices.

(D) Working with families.

(ii) Pediatric first-aid training or firesafety training, if required under § 3270.45 (relating to professional development for specific staff persons), may be counted toward the minimum hours of professional development.

(6) A minimum of 24 clock hours of acceptable child care professional development during the calendar year beginning January 1, \_\_\_\_ (*Editor's Note:* The blank refers to the fifth full calendar year following the effective date of adoption of this proposed rulemaking.), and every calendar year thereafter

(i) The professional development must include the following topic areas:

(A) Health, safety and nutrition.

(B) Children's growth and development regarding the age level of children in the staff person's direct care.

(C) Inclusive practices.

(D) Working with families.

(ii) Pediatric first-aid training, firesafety training and water safety training, if required under § 3270.45, may be counted toward the minimum hours of professional development.

(b) The annual professional development requirement for a group supervisor, assistant group supervisor or aide who is counted in the staff:child ratio 20 hours or less per week is half of the annual minimum professional development hours described in subsection (a), but not less than 6 clock hours per year.

**§ 3270.44. Exemption from annual professional development requirement.**

A director or staff person who meets the following criteria meets the annual professional development requirement under § 3270.42 or § 3270.43 (relating to annual professional development requirement for director; and annual professional development requirement for staff persons):

(1) A director or staff person who is enrolled in and attending classes at an accredited college or university to obtain an associate's, bachelor's or master's degree from an accredited college or university in early childhood education, child development, special education, elementary-middle education or the human services field. A director may include classes required to obtain an associate's or bachelor's degree from an accredited college or university in administration, business or professional leadership.

(2) A director or staff person who is attending a class at an accredited college or university for three or more college credits regarding early childhood education, child development, child care, child health, elementary-middle education or human services. A director may include a class regarding administration, business or professional leadership.

(3) A director or staff person who is attending classes or professional development required to obtain or renew a Child Development Associate (CDA) credential, Certified Childcare Professional (CCP) credential, Pennsylvania Director credential, Pennsylvania School-age credential or a Pennsylvania credential recognized by the Department provided those classes or professional development require more than the required minimum number of annual professional development hours as described in § 3270.42 or § 3270.43.

**§ 3270.45. Professional development for specific staff persons.**

Depending on the provisions of the appropriate regulation, specific professional development may be required for certain staff persons. The following constitutes competence in professional development areas:

(1) *Pediatric first-aid training.* Competence is the completion of in-person training by a professional in the field of pediatric first-aid. Pediatric first-aid training conducted by an individual designated as a trainer for a Nationally recognized first-aid training organization is not required to have PQAS approval. Other organizations or individuals conducting pediatric first-aid training are required to have PQAS approval. Pediatric first-aid training will be renewed on or before expiration of certification or every 3 years, as applicable.

(2) *Firesafety training.* Staff persons shall participate, at least annually, in firesafety training conducted by a fire protection professional. The fire protection professional is not required to have PQAS approval. Staff persons and volunteers shall receive training in maintenance of smoke detectors, the duties of facility persons during a fire drill and during a fire and the use of the facility's fire extinguishers, not including discharge of the fire suppressant agent.

(3) *Lifeguard training.* Competence is the completion of lifeguard training, including first-aid training and cardiopulmonary resuscitation for child and infant. The organization or individual conducting the lifeguard training is not required to have PQAS approval.

(4) *Water safety instruction.* Competence is the completion of basic instruction in water safety from a certified lifeguard. The certified lifeguard is not required to have PQAS approval.

**§ 3270.46. Documentation of professional development.**

(a) Documentation of professional development shall be maintained in the facility person's facility record.

(b) Acceptable documentation of professional development includes the following:

(1) Documentation issued by the professional development entity following completion of professional development that includes the title of the professional development, the date of the professional development, the number of hours of professional development and the professional development entity's signature and title.

(2) Documentation printed electronically from a facility person's professional development history record following completion of the professional development that includes the title of the professional development, the date of the professional development, the number of hours of professional development and the professional development entity.

(3) A notice from an accredited college or university confirming the facility person is enrolled in a class and the dates of the class.

(4) A transcript from a college or university documenting completion of a course or class.

**§ 3270.47. Portability of professional development.**

(a) A facility person who transfers to another child care facility or from another child care facility and who has completed professional development will be given credit for those hours and those hours will be applied toward meeting the annual professional development require-

ment. The facility person is required to complete additional professional development to fulfill the annual requirement for the year in which the transfer occurs.

(b) The operator shall provide to the facility person who transfers to another child care facility all documentation of professional development contained in the facility person's facility record.

**PROGRAM**

**§ 3270.115. Water activity.**

(a) *Swimming.*

\* \* \* \* \*

(6) When children are swimming, supervision [ shall ] **must** include one person certified in lifeguard training, as described [ at § 3270.31(e)(4)(iii) (relating to age and training) ] in § 3270.45(3) (relating to professional development for specific staff persons).

\* \* \* \* \*

**ADULT RECORDS**

**§ 3270.192. Content of records.**

A record [ shall ] **must** include a copy of the following information:

\* \* \* \* \*

(2) Verification as follows:

\* \* \* \* \*

(iv) Acceptable verification of experience [ , ] **and** education [ **or training** ] is a transcript or a diploma or a letter signed by a representative of the experiential, educational or training entity.

(v) **Acceptable verification of professional development as described in § 3270.46 (relating to documentation of professional development).**

\* \* \* \* \*

**SPECIAL EXCEPTIONS**

**§ 3270.235. Pediatric first-aid training.**

**An individual who has first-aid certification by \_\_\_\_\_ (Editor's Note: The blank refers to the effective date of adoption of this proposed rule-making.) may be counted to fulfill the requirement under § 3270.33(d) (relating to general requirements for facility persons) and is not required to obtain pediatric first-aid training as described at § 3270.45(1) (relating to professional development for specific staff persons) until the first-aid certification expires.**

**SCHOOL-AGE PROGRAMS**

**§ 3270.241. Requirements specific to school-age programs.**

\* \* \* \* \*

(b) A facility or a space in a facility in which care is provided exclusively to school-age children shall comply only with the following sections:

\* \* \* \* \*

(3) *Staff persons and volunteers.* Sections 3270.31, 3270.32 [ **and** ], 3270.33(a), (b) and (d) [ **(relating to age and training; suitability of persons in the facility; and general requirements for facility persons)** ]

and 3270.39—3270.44. Special requirements for director, group supervisor and assistant group supervisor are set forth in subsection (c).

\* \* \* \* \*

CHAPTER 3280. GROUP CHILD DAY CARE HOMES

GENERAL PROVISIONS

§ 3280.4. Definitions.

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

\* \* \* \* \*

Distance education—A formal learning activity which occurs when the learner and instructor are separated by geographic distance or by time, including activity supported by communications technology.

\* \* \* \* \*

Inclusive practices—Working with children, with and without special needs, and their families to ensure access, participation and supports to children and families in a broad range of activities and contexts.

\* \* \* \* \*

PDR—Professional development record—A document used to list a staff person’s employment history, track education and professional development, and prepare annual professional development plans that meet the staff person’s educational needs and the professional development requirements of this chapter.

PQAS—Pennsylvania Quality Assurance System—The Commonwealth’s system for approving individuals and organizations who provide professional development to staff persons who work in early childhood and school-age programs, including group child day care homes.

\* \* \* \* \*

GENERAL REQUIREMENTS

§ 3280.11. Application for and issuance of a certificate of compliance.

\* \* \* \* \*

(b) A legal entity or a representative of the legal entity shall participate in an orientation training provided by the Department within 12 months prior to commencing operation of the group child day care home. The orientation does not count toward the annual [ minimum of 6 hours of child care training required in § 3280.31(e) (relating to age and training) ] professional development required under §§ 3280.38, 3280.40 and 3280.41 (relating to orientation for new staff persons; annual professional development requirement for primary staff person; and annual professional development requirement for staff persons).

\* \* \* \* \*

FACILITY PERSONS

§ 3280.31. Age [ and training ].

\* \* \* \* \*

(c) An individual 16 years of age or older who is enrolled in an approved training curriculum may be used as a staff person, if the following guidelines are met:

\* \* \* \* \*

(2) The curriculum includes acceptable [ training ] professional development topics referenced in [ subsection (e)(2) ] § 3280.39(a) (relating to acceptable professional development).

\* \* \* \* \*

[ (d) Child care professional credentials are equivalent to the following staff qualifications:

(1) A Child Development Associate (CDA) credential or a Certified Childcare Professional (CCP) credential is equivalent to 9 credit hours from an accredited college or university in early childhood education or child development and 1 year experience with children.

(2) A Pennsylvania school-age professional credential is equivalent to 9 credit hours from an accredited college or university in elementary education or child development and 1 year experience with children.

(e) A staff person shall obtain an annual minimum of 6 clock hours of child care training.

(1) Acceptable training is conducted in one or more of the following settings:

(i) By a secondary or postsecondary institution approved by the Department of Education and accredited by an accrediting agency recognized by the United States Department of Education or the Council on Post-secondary Accreditation and acceptable to the Department of Education.

(ii) By an entity that is licensed or certified professionally competent in the training topic.

(iii) In conferences or workshops.

(iv) With audio-visual materials recognized by child care professionals.

(2) Acceptable training topics include the following:

(i) Child or staff health.

(ii) Child development, early childhood education and special education.

(iii) Supervision, discipline and guidance of children.

(iv) Nutrition for children.

(v) Child care program development.

(vi) Child care staff person or volunteer professional development.

(3) Other training topics may be submitted for the Department’s review and approval.

(4) Depending on the provisions of the appropriate regulation, training may be required for certain staff persons. The following constitutes competence in training areas:

(i) First-aid training. Competence is completion of training by a professional in the field of first-aid. First-aid training shall be renewed on or before the expiration of certification of every 3 years, as applicable.

(ii) Lifeguard training. Competence is completion of lifeguard training, including first-aid training and cardiopulmonary resuscitation (CPR) for child and infant.



(iii) **Water safety instruction. Competence is completion of basic instruction in water safety from a certified lifeguard.**

(f) **Completion of training shall be documented by the signature and title of a representative of the training entity and include the date training was completed. Documentation shall be retained in the facility person's file. ]**

**§ 3280.33. General requirements for facility persons.**

\* \* \* \* \*

(c) One or more facility persons competent in **pediatric** first-aid techniques shall be at the facility when one or more children are in care.

**§ 3280.34. Primary staff person qualifications and responsibilities.**

\* \* \* \* \*

(b) A primary staff person shall have attained one of the following qualification levels:

\* \* \* \* \*

(2) A high school diploma or a general educational development certificate including 600 or more hours of secondary training described in § 3280.31(c) (relating to age **[ and training ]**).

\* \* \* \* \*

**§ 3280.35. Secondary staff person qualifications and responsibilities.**

A secondary staff person shall have attained one of the following qualification levels:

\* \* \* \* \*

(2) A minimum of an 8th grade education and enrollment in a training curriculum described **[ at ]** in § 3280.31(c) (relating to age **[ and training ]**). The classroom training portion of the curriculum shall be completed. Documentation of completion of classroom training and continuing enrollment in the training curriculum shall be included in the staff person's file.

\* \* \* \* \*

*(Editor's Note: Sections 3280.36—3280.45 are new and printed in regular type to enhance readability.)*

**§ 3280.36. Credential equivalency.**

(a) A Child Development Associate (CDA) credential or a Certified Childcare Professional (CCP) credential is equivalent to 9 credits from an accredited college or university in early childhood education or child development and 1 year of experience with children.

(b) A Pennsylvania school-age professional credential is equivalent to 9 credits from an accredited college or university in elementary education or child development and 1 year of experience with children.

**§ 3280.37. Professional development plan.**

(a) A staff person shall have an individual professional development plan designating the child care professional development that the staff person will complete each year as described in §§ 3280.40 and 3280.41 (relating to annual professional development requirement for primary staff person; and annual professional development requirement for staff persons).

(b) The individual professional development plan shall be prepared on the PDR or on a form provided by the Department.

(c) The staff person and staff person's supervisor shall develop and sign the individual professional development plan.

(d) The professional development plan shall be updated as professional development is completed.

**§ 3280.38. Orientation for new staff persons.**

(a) An individual new to the position of primary staff person who is responsible for facility operation shall begin the Department's approved orientation curriculum for new primary staff persons responsible for facility operation within 15 days of the first day of work in the position and complete the curriculum coursework within 1 year. Completion of the orientation curriculum counts toward meeting the annual professional development requirement described in § 3280.40 (relating to annual professional development requirement for primary staff person).

(b) An individual new to employment as a staff person in a group child day care home shall complete the coursework for the Department's approved orientation curriculum for new staff within 90 days of the first day of work in a child care center. Completion of the orientation curriculum counts as 15 clock hours toward meeting the minimum annual professional development requirement described in § 3280.41 (relating to annual professional development requirement for staff persons).

**§ 3280.39. Acceptable professional development.**

(a) Acceptable professional development is in a topic area regarding the knowledge and skill areas which staff persons who work in early childhood and school-age facilities need to know and do when caring for children as follows:

- (1) Children's growth and development.
- (2) The environment, curriculum and content.
- (3) Working with families.
- (4) Child assessment.
- (5) Communication.
- (6) Professionalism and leadership.
- (7) Health, safety and nutrition.
- (8) Inclusive practices.

(9) Program organization and administration is an acceptable topic area for a primary staff person responsible for facility operation.

(b) Acceptable professional development occurs in a class, training, workshop, event or distance education conducted by one of the following:

- (1) An organization or individual approved through the PQAS, including an organization or individual with temporary PQAS approval.
- (2) A college or university accredited by an organization recognized by the United States Department of Education.
- (3) An organization or individual approved to conduct professional development eligible for continuing education credits for professional educators under section 1205.2 of the Public School Code of 1949 (24 P. S. § 12-1205.2) and the Department of Education's guidance regarding continuing education under the act of November 23, 1999 (P. L. 529, No. 48).

**§ 3280.40. Annual professional development requirement for primary staff person.**

(a) A primary staff person who operates the facility shall annually complete a minimum of 6 clock hours of acceptable professional development by \_\_\_\_ (*Editor's Note:* The blank refers to the effective date of adoption of this proposed rulemaking.).

(b) A primary staff person who operates the facility shall complete a minimum of 9 clock hours of acceptable professional development during the calendar year beginning January 1, \_\_\_\_ (*Editor's Note:* The blank refers to the first full calendar year following the effective date of adoption of this proposed rulemaking.). The professional development must include the following topic areas:

- (1) Health, safety and nutrition.
- (2) Program organization and administration.

(c) A primary staff person who operates the facility shall complete a minimum of 12 clock hours of acceptable professional development during the calendar year beginning January 1, \_\_\_\_ (*Editor's Note:* The blank refers to the second full calendar year following the effective date of adoption of this proposed rulemaking.). The professional development must include the following topic areas:

- (1) Health, safety and nutrition.
- (2) Program organization and administration.

(d) A primary staff person who operates the facility shall complete a minimum of 18 clock hours of acceptable child care professional development during the calendar year beginning January 1, \_\_\_\_ (*Editor's Note:* The blank refers to the third full calendar year following the effective date of adoption of this proposed rulemaking.). The professional development must include the following topic areas:

- (1) Health, safety and nutrition.
- (2) Program organization and administration.
- (3) Inclusive practices.

(e) A primary staff person who operates the facility shall complete a minimum of 21 clock hours of acceptable child care professional development during the calendar year beginning January 1, \_\_\_\_ (*Editor's Note:* The blank refers to the fourth full calendar year following the effective date of adoption of this proposed rulemaking.).

(1) The professional development must include the following topic areas:

- (i) Health, safety and nutrition.
- (ii) Program organization and administration.
- (iii) Inclusive practices.
- (iv) Working with families.

(2) Pediatric first-aid training, if required under § 3280.43 (relating to professional development for specific staff persons), may be counted toward the minimum hours of professional development.

(f) A primary staff person who operates the facility shall complete a minimum of 24 clock hours of acceptable child care professional development during the calendar year beginning January 1, \_\_\_\_ (*Editor's Note:* The blank refers to the fifth full calendar year following the effective date of adoption of this proposed rulemaking.), and every calendar year thereafter.

(1) The professional development must include the following topic areas:

- (i) Health, safety and nutrition.
- (ii) Program organization and administration.
- (iii) Inclusive practices.
- (iv) Working with families.

(2) Pediatric first-aid training and watersafety training, if required under § 3280.43, may be counted toward the minimum hours of professional development.

**§ 3280.41. Annual professional development requirement for staff persons.**

(a) The annual professional development requirement for a primary staff person not responsible for facility operation or a secondary staff person who is counted in the staff:child ratio more than 20 hours per week is as follows:

(1) A minimum of 6 clock hours of child care professional development by \_\_\_\_ (*Editor's Note:* The blank refers to the effective date of adoption of this proposed rulemaking.).

(2) A minimum of 9 clock hours of child care professional development effective during the calendar year beginning January 1, \_\_\_\_ (*Editor's Note:* The blank refers to the first full calendar year following the effective date of adoption of this proposed rulemaking.). The professional development must include the following topic areas:

- (i) Health, safety and nutrition.
- (ii) Children's growth and development regarding the age level of children in the staff person's direct care.

(3) A minimum of 12 clock hours of acceptable child care professional development during the calendar year beginning January 1, \_\_\_\_ (*Editor's Note:* The blank refers to the second full calendar year following the effective date of adoption of this proposed rulemaking.). The professional development must include the following topic areas:

- (i) Health, safety and nutrition.
- (ii) Children's growth and development regarding the age level of children in the staff person's direct care.

(4) A minimum of 18 clock hours of acceptable child care professional development during the calendar year beginning January 1, \_\_\_\_ (*Editor's Note:* The blank refers to the third full calendar year following the effective date of adoption of this proposed rulemaking.). The professional development must include the following topic areas:

- (i) Health, safety and nutrition.
- (ii) Children's growth and development regarding the age level of children in the staff person's direct care.
- (iii) Inclusive practices.

(5) A minimum of 21 clock hours of acceptable child care professional development during the calendar year beginning January 1, \_\_\_\_ (*Editor's Note:* The blank refers to the fourth full calendar year following the effective date of adoption of this proposed rulemaking.).

(i) The professional development must include the following topic areas:

- (A) Health, safety and nutrition.
- (B) Children's growth and development regarding the age level of children in the staff person's direct care.
- (C) Inclusive practices.

(D) Working with families.

(ii) Pediatric first-aid training, if required under § 3280.43 (relating to professional development for specific staff persons), may be counted toward the minimum hours of professional development.

(6) A minimum of 24 clock hours of acceptable child care professional development during the calendar year beginning January 1, \_\_\_\_\_ (*Editor's Note:* The blank refers to the fifth full calendar year following the effective date of adoption of this proposed rulemaking.), and every calendar year thereafter

(i) The professional development must include the following topic areas:

(A) Health, safety and nutrition.

(B) Children's growth and development regarding the age level of children in the staff person's direct care.

(C) Inclusive practices.

(D) Working with families.

(ii) Pediatric first-aid training and water safety training, if required under § 3280.43, may be counted toward the minimum hours of professional development.

(b) The annual professional development requirement for a primary staff person not responsible for facility operation and a secondary staff person who are counted in the staff:child ratio 20 hours or less per week is half of the annual minimum professional development hours described in subsection (a), but not less than 6 clock hours per year.

**§ 3280.42. Exemption from annual professional development requirement.**

A staff person who meets the following criteria meets the annual professional development requirement under § 3280.40 or § 3280.41 (relating to annual professional development requirement for primary staff person; and annual professional development requirement for staff persons):

(1) A staff person who is enrolled in and attending classes at an accredited college or university to obtain an associate's, bachelor's or master's degree from an accredited college or university in early childhood education, child development, special education, elementary-middle education or the human services field. A primary staff person responsible for facility operation may include classes required to obtain an associate's or bachelor's degree from an accredited college or university in administration, business or professional leadership.

(2) A staff person who is attending a class at an accredited college or university for three or more college credits regarding early childhood education, child development, child care, child health, elementary-middle education or human services. A primary staff person responsible for facility operation may include a class regarding administration, business or professional leadership.

(3) A staff person who is attending classes or professional development required to obtain or renew a Child Development Associate (CDA) credential, Certified Childcare Professional (CCP) credential, Pennsylvania Director credential, Pennsylvania School-age credential or a Pennsylvania credential recognized by the Department provided those classes or professional development require more than the required minimum number of annual professional development hours as described in § 3280.40 or § 3280.41.

**§ 3280.43. Professional development for specific staff persons.**

Depending on the provisions of the appropriate regulation, specific professional development may be required for certain staff persons. The following constitutes competence in professional development areas:

(1) *Pediatric first-aid training.* Competence is the completion of in-person training by a professional in the field of pediatric first-aid. Pediatric first-aid training conducted by an individual designated as a trainer for a Nationally recognized first-aid training organization is not required to have PQAS approval. Other organizations or individuals conducting pediatric first-aid training are required to have PQAS approval. Pediatric first-aid training will be renewed on or before expiration of certification or every 3 years, as applicable.

(2) *Lifeguard training.* Competence is the completion of lifeguard training, including first-aid training and cardiopulmonary resuscitation for child and infant. The organization or individual conducting the lifeguard training is not required to have PQAS approval.

(3) *Water safety instruction.* Competence is the completion of basic instruction in water safety from a certified lifeguard. The certified lifeguard is not required to have PQAS approval.

**§ 3280.44. Documentation of professional development.**

(a) Documentation of professional development shall be maintained in the facility person's facility record.

(b) Acceptable documentation of professional development includes the following:

(1) Documentation issued by the professional development entity following completion of professional development that includes the title of the professional development, the date of the professional development, the number of hours of professional development and the professional development entity's signature and title.

(2) Documentation printed electronically from a facility person's professional development history record following completion of the professional development that includes the title of the professional development, the date of the professional development, the number of hours of professional development and the professional development entity.

(3) A notice from an accredited college or university confirming the facility person is enrolled in a class and the dates of the class.

(4) A transcript from a college or university documenting completion of a course or class.

**§ 3280.45. Portability of professional development.**

(a) A facility person who transfers to another child care facility or from another child care facility and who has completed professional development will be given credit for those hours and those hours will be applied toward meeting the annual professional development requirement. The facility person is required to complete additional professional development to fulfill the annual requirement for the year in which the transfer occurs.

(b) The operator shall provide to the facility person who transfers to another child care facility all documentation of professional development contained in the facility person's facility record.

PROGRAM

§ 3280.115. Water activity.

(a) *Swimming.*

\* \* \* \* \*

(6) When children are swimming, supervision [ shall ] must include one person certified in lifeguarding training, as described in [ § 3280.31(e)(4)(iii) (relating to age and training) ] § 3280.43(2) (relating to professional development for specific staff persons).

\* \* \* \* \*

ADULT RECORDS

§ 3280.192. Content of records.

A record [ shall ] must include a copy of the following information:

\* \* \* \* \*

(2) Verification as follows:

\* \* \* \* \*

(iv) Acceptable verification of experience[ , ] and education [ or training ] is a transcript or a diploma or a letter signed by a representative of the experiential, educational or training entity.

(v) Acceptable verification of professional development as described in § 3280.44 (relating to documentation of professional development).

\* \* \* \* \*

SPECIAL EXCEPTIONS

§ 3280.217. Pediatric first-aid training.

An individual who has first-aid certification by \_\_\_\_\_ (*Editor's Note: The blank refers to the effective date of adoption of this proposed rule-making.*) may be counted to fulfill the requirement under § 3280.33(c) (relating to general requirements for facility persons) and is not required to obtain pediatric first-aid training as described in § 3280.43(1) (relating to professional development for specific staff persons) until the first-aid certification expires.

SCHOOL-AGE PROGRAMS

§ 3280.221. Requirements specific to school-age programs.

\* \* \* \* \*

(b) A facility or a space in a facility in which care is provided exclusively to school-age children shall comply with the following:

\* \* \* \* \*

(3) *Staff persons and volunteers.* Sections 3280.31— [ 3280.34 ] 3280.45.

\* \* \* \* \*

CHAPTER 3290. FAMILY CHILD DAY CARE HOMES

GENERAL PROVISIONS

§ 3290.4. Definitions.

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

\* \* \* \* \*

*Distance education*—A formal learning activity which occurs when the learner and instructor are separated by geographic distance or by time, including activity supported by communications technology.

\* \* \* \* \*

*Inclusive practices*—Working with children, with and without special needs, and their families to ensure access, participation and supports to children and families in a broad range of activities and contexts.

\* \* \* \* \*

*PDR—Professional development record*—A document used to list a staff person's employment history, track education and professional development, and prepare annual professional development plans that meet the staff person's educational needs and the professional development requirements of this chapter.

*PQAS—Pennsylvania Quality Assurance System*—The Commonwealth's system for approving individuals and organizations who provide professional development to staff persons who work in early childhood and school-age programs, including family child day care homes.

\* \* \* \* \*

GENERAL REQUIREMENTS

§ 3290.11. Application for and issuance of a certificate of registration.

\* \* \* \* \*

(c) A legal entity or a representative of the legal entity shall participate in an orientation training provided by the Department within 12 months prior to issuance of a certificate of registration. The orientation does not count toward the [ biennial minimum of 12 clock hours of child care training required in § 3290.31(f) (relating to age and training) ] professional development required under § 3290.34, § 3290.36 or § 3290.37 (relating to orientation for new operator; annual professional development requirement for operator; and annual professional development requirement for staff persons).

\* \* \* \* \*

(1) A legal entity desiring to renew a certificate of registration shall submit a correct, completed application and other required materials to the appropriate regional office of the Department prior to the expiration of the current certificate of registration. The legal entity shall submit along with the application to renew a certificate of registration documentation of professional development completed by the operator and each staff person during the current registration period as required under §§ 3290.34, 3290.36 and 3290.37.

\* \* \* \* \*

FACILITY PERSONS

§ 3290.31. [ Age and training ] Qualifications.

\* \* \* \* \*

(d) An individual 16 years of age or older who is enrolled in an approved training curriculum may be used as a staff person, if the following guidelines are met:

\* \* \* \* \*

(2) The curriculum includes acceptable [ training ] professional development topics referenced in [ subsection (f)(2) ] § 3290.35(a) (relating to acceptable professional development).

\* \* \* \* \*

(e) Child care professional credentials are equivalent to the following staff qualifications:

(1) A Child Development Associate (CDA) credential or a Certified Childcare Professional (CCP) credential is equivalent to 9 [ credit hours ] credits from an accredited college or university in early childhood education or child development and 1 year of experience with children.

(2) A Pennsylvania school-age professional credential is equivalent to 9 [ credit hours ] credits from an accredited college or university in elementary education or child development and 1 year experience with children.

[ (f) A staff person shall obtain a biennial minimum of 12 clock hours of child care training.

(1) Acceptable training is conducted in one or more of the following settings:

(i) By a secondary or postsecondary institution approved by the Department of Education and accredited by an accrediting agency recognized by the United States Department of Education or the Council on Postsecondary Accreditation and acceptable to the Department of Education.

(ii) By an entity that is licensed or certified professionally competent in the training topic.

(iii) In conferences or workshops.

(iv) With audio-visual materials recognized by child care professionals.

(2) Acceptable training topics include the following:

(i) Child or staff health.

(ii) Child development, early childhood education and special education.

(iii) Supervision, discipline and guidance of children.

(iv) Nutrition for children.

(v) Child care program development.

(vi) Child care staff person or volunteer professional development.

(3) Other training topics may be submitted for the Department's review and approval.

(4) Depending on the provisions of the appropriate regulation, training may be required for certain staff. The following constitutes competence in training areas as follows:

(i) *First-aid training.* Competence is completion of training by a professional in the field of first-aid. First-aid training shall be renewed on or before expiration of certification or every 3 years, as applicable.

(ii) *Lifeguard training.* Competence is completion of lifeguard training, including first-aid training and cardiopulmonary resuscitation (CPR) for child and infant.

(iii) *Water safety instruction.* Competence is completion of basic instruction in water safety from a certified lifeguard.

(g) Completion of training shall be documented by the signature and title of a representative of the training entity and shall include the date training was completed. Documentation shall be retained in the facility person's file. ]

§ 3290.32. Suitability of persons in the facility.

\* \* \* \* \*

(d) One or more persons competent in pediatric first-aid techniques shall be at the facility when day care children are in care.

(Editor's Note: Sections 3290.33—3290.41 are new and printed in regular type to enhance readability.)

§ 3290.33. Professional development plan.

(a) A staff person shall have an individual professional development plan designating the child care professional development that the staff person will complete each year as required by this section.

(b) The individual professional development plan shall be prepared on the PDR or on a form provided by the Department.

(c) When the professional development plan is for a staff person other than the operator, the operator and the staff person shall develop and sign the individual professional development plan.

(d) The professional development plan shall be updated as professional development is completed.

§ 3290.34. Orientation for new operator.

(a) An operator opening a family child day care home for the first time shall complete coursework for the Department's approved orientation training for new family child day care home operators within 90 days of the initial date on the facility's certificate of registration.

(b) Completion of the new family child day care home operator orientation training counts as 6 clock hours toward meeting the annual professional development requirement described in § 3290.36 (relating to annual professional development requirement for operator).

§ 3290.35. Acceptable professional development.

(a) Acceptable professional development is in a topic area regarding the knowledge and skill areas which staff persons who work in early childhood and school-age facilities need to know and do when caring for children as follows:

(1) Children's growth and development.

(2) The environment, curriculum and content.

(3) Working with families.

(4) Child assessment.

(5) Communication.

(6) Professionalism and leadership.

(7) Health, safety and nutrition.

(8) Inclusive practices.

(9) Program organization and administration is an acceptable topic area for family child day care home operators.

(b) Acceptable professional development occurs in a class, training, workshop, event or distance education conducted by one of the following:

(1) An organization or individual approved through the PQAS, including an organization or individual with temporary PQAS approval.

(2) A college or university accredited by an organization recognized by the United States Department of Education.

(3) An organization or individual approved to conduct professional development eligible for continuing education credits for professional educators under section 1205.2 of the Public School Code of 1949 (24 P. S. § 12-1205.2) and the Department of Education's guidance regarding continuing education under the act of November 23, 1999 (P. L. 529, No. 48).

**§ 3290.36. Annual professional development requirement for operator.**

(a) The operator shall complete a minimum of 6 clock hours of acceptable professional development by \_\_\_\_ (*Editor's Note:* The blank refers to the effective date of adoption of this proposed rulemaking.).

(b) The operator shall complete a minimum of 9 clock hours of acceptable child care professional development during the calendar year beginning January 1, \_\_\_\_ (*Editor's Note:* The blank refers to the first full calendar year following the effective date of adoption of this proposed rulemaking.). The professional development must include the following topic areas:

- (1) Health, safety and nutrition.
- (2) Program organization and administration.

(c) The operator shall complete a minimum of 12 clock hours of acceptable child care professional development during the calendar year beginning January 1, \_\_\_\_ (*Editor's Note:* The blank refers to the second full calendar year following the effective date of adoption of this proposed rulemaking.). The professional development must include the following topic areas:

- (1) Health, safety and nutrition.
- (2) Program organization and administration.

(d) The operator shall complete a minimum of 18 clock hours of acceptable child care professional development during the calendar year beginning January 1, \_\_\_\_ (*Editor's Note:* The blank refers to the third full calendar year following the effective date of adoption of this proposed rulemaking.). The professional development must include the following topic areas:

- (1) Health, safety and nutrition.
- (2) Program organization and administration.
- (3) Inclusive practices.

(e) The operator shall complete a minimum of 21 clock hours of acceptable child care professional development during the calendar year beginning January 1, \_\_\_\_ (*Editor's Note:* The blank refers to the fourth full calendar year following the effective date of adoption of this proposed rulemaking.).

(1) The professional development must include the following topic areas:

- (i) Health, safety and nutrition.
- (ii) Program organization and administration.
- (iii) Inclusive practices.

(iv) Working with families.

(2) Pediatric first-aid training, if required under § 3290.39 (relating to professional development for specific staff persons) may be counted toward the minimum hours of professional development.

(f) The operator shall complete a minimum of 24 clock hours of acceptable child care professional development during the calendar year beginning January 1, \_\_\_\_ (*Editor's Note:* The blank refers to the fifth full calendar year following the effective date of adoption of this proposed rulemaking.) and every calendar year thereafter.

(1) The professional development must include the following topic areas:

- (i) Health, safety and nutrition.
- (ii) Program organization and administration.
- (iii) Inclusive practices.
- (iv) Working with families.

(2) Pediatric first-aid training and watersafety training, if required under § 3290.39 may be counted toward the minimum hours of professional development.

**§ 3290.37. Annual professional development requirement for staff persons.**

(a) The annual professional development requirement for a staff person other than the operator who works directly with children more than 20 hours per week in a family child day care home is as follows:

(1) A minimum of 6 clock hours of child care professional development by \_\_\_\_ (*Editor's Note:* The blank refers to the effective date of adoption of this proposed rulemaking.).

(2) A minimum of 9 clock hours of child care professional development effective during the calendar year beginning January 1, \_\_\_\_ (*Editor's Note:* The blank refers to the first full calendar year following the effective date of adoption of this proposed rulemaking.). The professional development must include the following topic areas:

- (i) Health, safety and nutrition.
- (ii) Children's growth and development regarding the age level of children in the staff person's direct care.

(3) A minimum of 12 clock hours of acceptable child care professional development during the calendar year beginning January 1, \_\_\_\_ (*Editor's Note:* The blank refers to the second full calendar year following the effective date of adoption of this proposed rulemaking.). The professional development must include the following topic areas:

- (i) Health, safety and nutrition.
- (ii) Child development regarding the age level of children in the staff person's direct care.

(4) A minimum of 18 clock hours of acceptable child care professional development during the calendar year beginning January 1, \_\_\_\_ (*Editor's Note:* The blank refers to the third full calendar year following the effective date of adoption of this proposed rulemaking.). The professional development must include the following topic areas:

- (i) Health, safety and nutrition.
- (ii) Children's growth and development relating to the age level of children in the staff person's direct care.
- (iii) Inclusive practices.

(5) A minimum of 21 clock hours of acceptable child care professional development during the calendar year beginning January 1, \_\_\_\_ (*Editor's Note:* The blank refers to the fourth full calendar year following the effective date of adoption of this proposed rulemaking.)

(i) The professional development must include the following topic areas:

(A) Health, safety and nutrition.

(B) Children's growth and development regarding the age level of children in the staff person's direct care.

(C) Inclusive practices.

(D) Working with families.

(ii) Pediatric first-aid training, if required under § 3290.39 (relating to professional development for specific staff persons), may be counted toward the minimum hours of professional development.

(6) A minimum of 24 clock hours of acceptable child care professional development during the calendar year beginning January 1, \_\_\_\_ (*Editor's Note:* The blank refers to the fifth full calendar year following the effective date of adoption of this proposed rulemaking.) and every calendar year thereafter.

(i) The professional development must include the following topic areas:

(A) Health, safety and nutrition.

(B) Children's growth and development regarding the age level of children in the staff person's direct care.

(C) Inclusive practices.

(D) Working with families.

(ii) Pediatric first-aid training and water safety training, if required under § 3290.39, may be counted toward the minimum hours of professional development.

(b) The annual professional development requirement for a staff person other than the operator who works directly with children 20 hours or less per week is half of the annual minimum professional development hours described in subsection (a), but not less than 6 clock hours per years.

**§ 3290.38. Exemption from annual professional development requirement.**

A staff person who meets the following criteria meets the annual professional development requirement under § 3290.36 or § 3290.37 (relating to annual professional development requirement for operator; and annual professional development requirement for staff persons).

(1) An operator or staff person who is enrolled in and attending classes at an accredited college or university to obtain an associate's, bachelor's or master's degree from an accredited college or university in early childhood education, child development, special education, elementary-middle education or the human services field. An operator may include classes required to obtain an associate's, bachelor's or master's degree from an accredited college or university in administration, business or professional leadership.

(2) An operator or staff person who is attending a class at an accredited college or university for three or more college credits regarding early childhood education, child development, child care, child health, elementary-middle education or human services. An operator may include a class regarding administration, business or professional leadership.

(3) An operator or staff person who is attending classes or professional development required to obtain or renew a Child Development Associate (CDA) credential, Certified Childcare Professional (CCP) credential, Pennsylvania Director credential, Pennsylvania School-age credential or a Pennsylvania credential recognized by the Department provided those classes or professional development require more than the required minimum number of annual professional development hours as described in § 3290.36 or § 3290.37.

**§ 3290.39. Professional development for specific staff persons.**

Depending on the provisions of the appropriate regulation, specific professional development may be required for certain staff persons. The following constitutes competence in professional development areas:

(1) *Pediatric first-aid training.* Competence is the completion of in-person training by a professional in the field of pediatric first-aid. Pediatric first aid training conducted by an individual designated as a trainer for a Nationally recognized first-aid training organization is not required to have PQAS approval. Other organizations or individuals conducting pediatric first-aid training are required to have PQAS approval. Pediatric first-aid training will be renewed on or before expiration of certification or every 3 years, as applicable.

(2) *Lifeguard training.* Competence is the completion of lifeguard training, including first-aid training and cardiopulmonary resuscitation for child and infant. The organization or individual conducting the lifeguard training is not required to have PQAS approval.

(3) *Water safety instruction.* Competence is the completion of basic instruction in water safety from a certified lifeguard. The certified lifeguard is not required to have PQAS approval.

**§ 3290.40. Documentation of professional development.**

(a) Documentation of professional development shall be maintained in the staff person's facility record.

(b) Acceptable documentation of professional development includes the following:

(1) Documentation issued by the professional development entity following completion of professional development that includes the title of the professional development, the date of the professional development, the number of hours of professional development and the professional development entity's signature and title.

(2) Documentation printed electronically from a staff person's professional development history record following completion of the professional development that includes the title of the professional development, the date of the professional development, the number of hours of professional development and the professional development entity.

(3) A notice from an accredited college or university confirming the staff person is enrolled in a class and the dates of the class.

**§ 3290.41. Portability of professional development.**

(a) A staff person who transfers to another child care facility or from another child care facility and who has completed professional development shall be given credit for those hours and those hours will be applied toward meeting the annual professional development requirement. The staff person is required to complete additional

professional development to fulfill the annual requirement for the year in which the transfer occurs.

(b) The operator shall provide to the staff person who transfers to another child care facility all documentation of professional development contained in the staff person's facility record.

**PROGRAM**

**§ 3290.115. Water activity.**

(a) *Swimming or wading.*

\* \* \* \* \*

(6) When children are swimming, supervision [ shall ] must include at least one person who has completed lifeguard training as described in [ § 3290.31(c)(4)(ii) (relating to age and training) ] § 3290.39(2) (relating to professional development for specific staff persons).

\* \* \* \* \*

**SPECIAL EXCEPTIONS**

**§ 3290.213. [ Age and training ] Qualifications.**

\* \* \* \* \*

**§ 3280.214. Pediatric first-aid training.**

An individual who has first-aid certification by \_\_\_\_\_ (*Editor's Note: The blank refers to the effective date of adoption of this proposed rule-making.*) may be counted to fulfill the requirement under § 3290.32(d) (relating to suitability of persons in the facility) and is not required to obtain pediatric first-aid training as described in § 3290.39(1) (relating to professional development for specific staff persons) until the first-aid certification expires.

[Pa.B. Doc. No. 10-1163. Filed for public inspection June 25, 2010, 9:00 a.m.]

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# NOTICES

## DEPARTMENT OF BANKING

### Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending June 8, 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

#### Consolidations, Mergers, and Absorptions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
6-7-2010	Citizens & Northern Bank Wellsboro Tioga County	Filed
	Application for approval to merge First State Bank, Canisteo, NY, with and into Citizens & Northern Bank, Wellsboro, PA.	

#### Branch Applications

##### De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
5-28-2010	New Century Bank Phoenixville Chester County	73 Old Dublin Pike Doylestown Bucks County	Approved
5-28-2010	New Century Bank Phoenixville Chester County	12 Summit Square Center Route 413 and Doublewoods Road Langhorne Bucks County	Approved
6-1-2010	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	2000 Penny Lane Jeanette Westmoreland County	Approved
6-1-2010	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	2001 Lincoln Way White Oak Allegheny County	Approved
6-1-2010	New Century Bank Phoenixville Chester County	73 Old Dublin Pike Doylestown Bucks County	Opened
6-2-2010	Ambler Savings Bank Ambler Montgomery County	3009 Germantown Pike Fairview Village Montgomery County	Filed

#### Branch Discontinuances

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
6-4-2010	Integrity Bank Camp Hill Cumberland County	100 Senate Avenue Camp Hill Cumberland County	Approved

**SAVINGS INSTITUTIONS**

No activity.

**CREDIT UNIONS**

**Branch Applications**

**Branch Relocations**

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
6-7-2010	Belco Community Credit Union Harrisburg Dauphin County	<i>To:</i> 1063 York Road Gettysburg Adams County  <i>From:</i> 39 North Washington Street Gettysburg Adams County	Effective

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. 10-1164. Filed for public inspection June 25, 2010, 9:00 a.m.]

**Maximum Lawful Rate of Interest for Residential Mortgages for the Month of July 2010**

The Department of Banking (Department), under the authority contained in section 301 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 301), determines that the maximum lawful rate of interest for residential mortgages for the month of July, 2010, is 6 1/4%.

The interest rate limitations under the State's usury statute were preempted to a great extent by Federal law, the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. No. 96-221). Further preemption was instituted with the signing of Pub. L. No. 96-399, which overrode State interest rate limitations on any individual who finances the sale or exchange of residential real property which the individual owns and

which the individual occupies or has occupied as his principal residence.

Each month the Department is required by State law to compute and announce the ceiling rate on residential mortgages in this Commonwealth. This maximum rate is determined by adding 2.50 percentage points to the yield rate on long-term government bonds as published by the Federal Reserve Board and/or the United States Treasury. The latest yield rate on long-term government securities is 3.77 to which was added 2.50 percentage points for a total of 6.27 that by law is rounded off to the nearest quarter at 6 1/4%.

STEVEN KAPLAN,  
*Secretary*

[Pa.B. Doc. No. 10-1165. Filed for public inspection June 25, 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

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

For NPDES renewal applications in Section I, the Department of Environmental Protection (Department) has made a tentative determination to reissue these permits for 5 years, subject to effluent limitations and monitoring and reporting requirements in their current permits, with appropriate and necessary updated requirements to reflect new and changed regulations and other requirements.

For applications for new NPDES permits and renewal applications with major changes in Section II, as well as applications for MS4 individual permits and individual stormwater construction permits in Sections IV and VI, the Department, based upon preliminary reviews, has made a tentative determination of proposed effluent limitations and other terms and conditions for the permit applications. These determinations are published as proposed actions for comments prior to taking final actions.

Unless indicated otherwise, the Environmental Protection Agency (EPA) Region III Administrator has waived the right to review or object to proposed NPDES permit actions under the waiver provision in 40 CFR 123.24(d).

Persons wishing to comment on an NPDES application are invited to submit a statement to the regional office noted before an application within 30 days from the date of this public notice. Persons wishing to comment on a WQM permit application are invited to submit a statement to the regional office noted before the application within 15 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the applications. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests for a public hearing on applications. A public hearing may be held if the responsible office considers the public response significant. If a hearing is scheduled, a notice of the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. The Department will postpone its final determination until after a public hearing is held.

Persons with a disability who require an auxiliary aid, service, including TDD users, or other accommodations to seek additional information should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

## I. NPDES Renewal Applications

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

**PA0013552**, Industrial Waste, SIC Code 3241, **Buzzi Unicem USA Mid Atlantic, Inc.**, 501 Center Street, Stockertown, PA 18083. Facility Name: Hercules Cement Stockertown Plant Quarry. This existing facility is located in Stockertown Borough, **Northampton 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), Bushkill Creek, Shoeneck Creek and Unnamed Tributary to Bushkill Creek, is located in State Water Plan watershed 1-F and is classified for High Quality Waters-Cold Water Fishes and 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 3.0 MGD.

<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>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Report	Report				
pH (S.U.)			6.0			9.0
Temperature Delta (Discharge—Intake) (° C)					3	
Oil and Grease				15.0		30.0

The proposed effluent limits for Outfall 002. Stormwater.

<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>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Report					
pH (S.U.)			6.0			9.0
Total Suspended Solids					50	
Oil and Grease				15.0		30.0

The proposed effluent limits for Outfall 003. Stormwater.

<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>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Report					
pH (S.U.)			6.0			9.0
Total Suspended Solids					50	
Oil and Grease				15.0		30.0

The proposed effluent limits for Outfall 005. Stormwater.

<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>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Report					
pH (S.U.)			6.0			9.0
Total Suspended Solids					50	

The proposed effluent limits for Outfall 006. Stormwater.

<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>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Report					
pH (S.U.)			6.0			9.0
Total Suspended Solids					50	

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

- Stormwater

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.

**PA0064351**, Industrial Waste, SIC Code 2034, **Keystone Potato Products, LLC**, P. O. Box 27, Hegins, PA 17938-0027. Facility Name: Keystone Potato Products. This existing facility is located in Frailey Township, **Schuylkill County**.

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

The receiving stream(s), Middle Creek, is located in State Water Plan watershed 7-D and is classified for 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 are based on a design flow of 0.12 MGD.

<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>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Report	Report				
pH (S.U.)			6.0			9.0
Dissolved Oxygen			5.0			
BOD <sub>5</sub>	64	128				
Total Suspended Solids	220	440				
Ammonia-Nitrogen				Report		
Ammonia-Nitrogen				15.5		31
Total Aluminum				Report	Report	
Total Aluminum				0.75	1.5	
Dissolved Iron				Report	Report	
Dissolved Iron				0.30	0.60	
Total Iron				Report	Report	
Total Iron				1.5	3.0	
Total Manganese				Report	Report	
Total Manganese				1.0	2.0	

The proposed effluent limits for Outfall 003 are stormwater.

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Minimum Report	Daily Maximum	Daily Maximum	Instantaneous Maximum Report
pH (S.U.)			Report			Report
CBOD <sub>5</sub>				Report		
Chemical Oxygen Demand				Report		
Total Suspended Solids				Report		
Oil and Grease				Report		
Total Phosphorus				Report		
Kjeldahl-N				Report		
Total Iron				Report		

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

Parameters	Mass (lb/day)			Concentration (mg/l)	
	Monthly	Annual	Minimum	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	

The proposed monitoring requirements and, where appropriate, effluent limits for implementation of the Chesapeake Bay Tributary Strategy are as follows for Outfall 003.

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

- Stormwater, Chesapeake Bay Strategy

The EPA waiver is in effect.

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

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed #)	EPA Waived Y/N ?
PA0103021 (Sewage)	Ronald V. Schenck, d/b/a Bear Lake Inn P. O. Box 132 Bear Lake, PA 16402	Warren County Bear Lake Borough	Unnamed tributary to Pine Valley Creek 16-B	Y
PA0102717 (Sewage)	Sandy Hill Estate MHP 120 Deer Run Road Middlesex, PA 16059	Butler County Middlesex Township	Glade Run 20-C	Y
PA0033031 (Industrial Waste)	Department of Conservation and Natural Resources— Pymatuning State Park Tuttle Campground 2660 Williamsfield Road Jamestown, PA 16134	Crawford County North Shenango Township	Shenango River Pymatuning Reservoir	Y

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

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

**PA0054950**, Industrial Waste, SIC Code 2013, **Pilgrims Pride Corp.**, P. O. Box 7275, Broadway, VA 22815-7275. Facility Name: Pilgrims Pride Franconia Plant. This existing facility is located in Franconia Township, **Montgomery 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, Unnamed Tributary to Indian 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 following notice reflects changes to the notice published in the 40 Pa.B. 2292 from May 1, 2010, of the *Pennsylvania Bulletin*:

1. Based on Delaware River Basin Committee regulations the effluent limitations for Total Dissolved Solids is changed to 1,000 mg/l as average monthly, 2,000 mg/l as maximum daily and 2,500 mg/l as instantaneous maximum.

2. Based on Nutrient and Sediment Total Maximum Daily Load Report developed by EPA in 2008 for Indian Creek, the effluent limitations for Total Phosphorus are revised as interim limits for 1st and 2nd years: 0.5 mg/l—as average monthly, 1.0 mg/l—as daily maximum and 1.25 mg/l as instantaneous maximum. For 3rd to 5th years: 0.1 mg/l as monthly average, 0.2 mg/l as daily maximum and 0.25 mg/l as instantaneous maximum.

3. Based on in-stream criteria of 50 mOs/kg the Osmotic Pressure limit is revised to 70 mOs/kg as instantaneous maximum.

**PA0011533A2**, Industrial Waste, SIC Code 2911, **Sunoco Inc. R&M**, 3144 West Passyunk Avenue, Philadelphia, PA 19145-5208. Facility Name: Sunoco Girard Point Refinery. This existing facility is located in Philadelphia City, **Philadelphia County**.

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

The receiving stream(s), Schuylkill River, is located in State Water Plan watershed 3-F and is classified for 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 Outfalls 001 and 009 are based on emergency overflow during heavy storm events.

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Instantaneous Minimum	Average Monthly	Daily Maximum	Instantaneous Maximum
Flow (MGD)	Report	Report				
pH (S.U.)			6.0			9.0
BOD <sub>5</sub>				26.4	48.0	66.0
Chemical Oxygen Demand				180	360	450
Total Suspended Solids				21.6	34.0	55.0
Oil and Grease				8.0	15.6	20.0
Hexavalent Chromium				0.028	0.062	0.070
Total Chromium				0.22	0.60	0.75
Total Phenolics				0.17	0.35	0.43

The proposed effluent limits for Outfalls 002 and 014 are based on emergency overflow runoffs.

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Instantaneous Minimum	Average Monthly	Daily Maximum	Instantaneous Maximum
Flow (MGD)	Report	Report				
pH (S.U.)			6.0			9.0
Oil and Grease						15
Total Organic Carbon						110

The proposed effluent limits for Outfall 004 and 011 are based on a design flow of 2.1 MGD and 3.1 MGD respectively.

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Instantaneous Minimum	Average Monthly	Daily Maximum	Instantaneous Maximum
Flow (MGD)	Report	Report				
pH (S.U.)			6.0			9.0
Temperature (° F)						110
Total Organic Carbon Effluent Net						5.0

The proposed effluent limits for Outfalls 005, 010 and 012 are based on roof drain runoffs.

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

The proposed effluent limits for Outfall 011 are based on a design flow of 3.1 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 (S.U.)			6			9
Temperature (° F)						110
Total Organic Carbon Effluent Net						5.0

The proposed effluent limits for Outfall 014 are based on emergency overflow runoffs.

<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 (S.U.)			6			9
Oil and Grease						15
Total Organic Carbon						110

The proposed effluent limits for Outfall 015 are based on a design flow of 7.325 MGD.

<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>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Report	Report				
pH (S.U.)			6.0			9.0
Total Residual Oxidants				Report	0.2	0.5
BOD <sub>5</sub>	1,482	2,964		25	50	70
CBOD <sub>20</sub>	2,170					
BOD <sub>5</sub> % Removal (%)	89.25					
Percent Removal	Minimum % Removal					
Chemical Oxygen Demand Effluent Net	11,861	22,858				
Chemical Oxygen Demand				194	374	485
Total Suspended Solids				22	35	55
Total Suspended Solids Effluent Net	1,359	2,131				
Total Dissolved Solids	151,221	206,204		3,939	4,108	5,212
Oil and Grease				8.10	15.2	20.3
Oil and Grease Effluent Net	494	927				
Ammonia-Nitrogen Effluent Net	927	2,039				
Ammonia-Nitrogen				15.2	33.4	38
Total Phosphorus				Report	Report	
Hexavalent Chromium				0.012	0.028	0.030
Hexavalent Chromium Effluent Net	0.757	1.703				
Total Chromium				0.152	0.436	0.436
Total Chromium Effluent Net	9.276	26.626				
Total Copper				Report	Report	
Fluoride	763	1,527		12.5	25	31.3
Total Lead				Report	Report	
Total Sulfide				0.15	0.33	0.38
Total Sulfide Effluent Net	9.0	20.0				
Total Zinc				Report	Report	
Phenol					2.0	
Benzene				0.001	0.002	0.0025
Total BTEX				0.1	0.2	0.25
1,2-Dichloroethane				Report	Report	
Naphthalene				0.043	0.086	0.110
Total Phenolics				0.13	0.375	0.375
Total Phenolics Effluent Net	7.9	22.9				
Baker Petrolite Y9BH1330				66.6		
Baker Petrolite Y9BH1331				0.01		0.08
Baker Petrolite Y9BH1351				0.02		0.29

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	Instantaneous Maximum
Spectrafloc 680				0.05		0.4
Tetrachloroethylene				Report	Report	
Trichloroethylene				Report	Report	
PCBs					Report	
(Dry Weather) (pg/L)					Report	
(Wet Weather) (pg/L)					Report	
Acute toxicity (Ceriodaphnia) (TUa)					Report	
Chronic toxicity (Ceriodaphnia) (TUc)					Report	
Acute toxicity (Pimephales) (TUa)					Report	
Chronic toxicity (Pimephales) (TUc)					Report	

Permit contains new Delaware River Basin Commission's requirements regarding WET testing.

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 not

**PA0012629A2**, Industrial Waste, SIC Code 2911, **Sunoco Inc. R&M**, 3144 Passyunk Avenue, Philadelphia, PA 19145. Facility Name: Sunoco Point Breeze Processing Area. This existing facility is located in Philadelphia City, **Philadelphia County**.

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

The receiving stream(s), Schuylkill River and Unnamed Tributary of Schuylkill River, is located in State Water Plan watershed 3-F and is classified for 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, 003 and 004 are based on a contaminated stormwater runoffs are as follows:

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Instantaneous Minimum	Average Monthly	Daily Maximum	Instantaneous Maximum
Flow (MGD)	Report					
pH (S.U.)			6.0			9.0
Oil and Grease						15
Total Organic Carbon						110

The proposed effluent limits for Outfall 002 are based on 4.17 MGD of treated industrial wastewater are as follows:

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Instantaneous Minimum	Average Monthly	Daily Maximum	Instantaneous Maximum
Flow (MGD)	Report	Report				
pH (S.U.)			6.0			9.0
Total Residual Oxidants					0.2	0.5
Temperature (° F)						110
BOD <sub>5</sub>				35	62.5	88
BOD <sub>5</sub> Effluent Net	1,208	2,174				
CBOD <sub>20</sub>	2,590					
BOD <sub>5</sub> % Removal (%)	89.25					
Percent Removal	Minimum % Removal					
Chemical Oxygen Demand Effluent Net	8,433	16,251				
Chemical Oxygen Demand				242	467	605
Total Suspended Solids Effluent Net	966	1,515				
Total Suspended Solids				28	44	70
Total Dissolved Solids		69,556			2,000	2,500
Total Dissolved Solids Effluent Net	34,778			1,000		
Oil and Grease Effluent Net	351	659				



<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>
Oil and Grease				10	19	25
Ammonia-Nitrogen				19	42	48
Ammonia-Nitrogen Effluent Net	659	1,449				
Hexavalent Chromium Effluent Net	0.625	1.403				
Hexavalent Chromium Total Chromium				0.018	0.04	0.045
Total Chromium Effluent Net	7.62	21.93		0.22	0.63	0.63
Total Sulfide Effluent Net	6.37	14.27				
Total Sulfide				0.18	0.41	0.45
Total Zinc				0.25	0.5	0.625
Ethylbenzene				Report	Report	
Benzene				0.001	0.002	0.0025
Total BTEX				0.1	0.2	0.25
Total Phenolics				0.19	0.47	0.48
Total Phenolics Effluent Net	6.51	16.25				
Toluene				Report	Report	
Total Xylenes				Report	Report	
Baker Petrolite Y9BH1351				0.03		0.29
PCBs						
(Dry Weather) (pg/L)					Report	
(Wet Weather) (pg/L)					Report	
Acute toxicity (Ceriodaphnia) (TUa)					Report	
Chronic toxicity (Ceriodaphnia) (TUc)					Report	
Acute toxicity (Pimephales) (TUa)					Report	
Chronic toxicity (Pimephales) (TUc)					Report	

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

- I.
  - A. Remedial Measures if creates Public Nuisance.
  - B. Applicable BAT/BCT.
  - C. No sheen or discoloration to the Delaware Estuary.
  - D. Thermal Impact Requirement.
  - E. Approved EPA Test Methods.
  - F. TRO Definition.
  - G. Change of Ownership.
  - H. Proper Sludge Disposal.
  - I. PCB's Minimization Plan.
  - J. I-Max Definition.
  - K. Operation and Maintenance Plan.
  - L. Laboratory Certification.
  - M. TMDL/WLA Analysis.
  - N. Delaware River Basin Commission's Chronic and Acute Toxicity Requirements.
  - O. WET Test for Next Permit Renewal.
  - P. I-MAX for outfall 002.
  - Q. Stormwater Runoff Calculations.
  - R. Intake Credit for Various Wastestream.
  - S. Net Effluent Values Calculations.
  - T. CBOD<sub>20</sub> Allocation.
  - U. BOD<sub>5</sub> Percentage Removal.
  - V. Permit Modification upon Modeling of Estuary.

- W. Contaminated stormwater.
- X. Bypass to Dissolved Air Flotation Unit.
- Y. S-10 sump.
- Z. TDS limitations.
- II. Chemical Additives.
  - A. Approved Chemical Additives.
  - B. Minimize use of Chemical Additives.

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 not in effect.

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

**Application No. PA0021709**, Sewage, **Borough of Birdsboro**, 202 East Main Street, Birdsboro, PA 19508. This facility is located in Birdsboro Borough, **Berks County**.

Description of activity: The application is for renewal of an NPDES permit for an existing discharge of treated sewage.

The receiving stream, Hay Creek, is in Watershed 3-C, and classified for cold water fishery, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Borough of Pottstown Water and Sewer Authority is located on the Schuylkill River, approximately six miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 1.35 MGD are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	40	50
Total Suspended Solids	30	45	60
NH <sub>3</sub> -N			
(5-1 to 10-31)	7		14
(11-1 to 4-30)	20		40
Total Residual Chlorine			
Interim	0.5		1.6
Final	0.16		0.55
Dissolved Oxygen		Minimum of 5.0 at all times	
pH		From 6.0 to 9.0 inclusive	
Fecal Coliform			
(5-1 to 9-30)		200/100 ml as a Geometric Average	
(10-1 to 4-30)		2,000/100 ml as a Geometric Average	

You may make an appointment to review the Department of Environmental Protection's files on this case by calling the File Review Coordinator at 717-705-4732.

The EPA waiver is not in effect.

**PA0029106**, Sewage, SIC Code 4952, **Greenfield Township Municipal Authority Blair County**, 4053 Evergreen Road, Claysburg, PA 16625. Facility Name: Greenfield Township STP. This existing facility is located in Greenfield Township, **Blair 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), Frankstown Branch Juniata River, is located in State Water Plan watershed 11-A 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 0.8 MGD.

<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>Average Monthly</i>	<i>Weekly Average</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
CBOD <sub>5</sub>	167	267 Weekly Average	XXX	25	40	50
BOD <sub>5</sub>						
Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Weekly Average	Instantaneous Maximum
Total Suspended Solids Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
Total Suspended Solids	200	300 Weekly Average	XXX	30	45	60
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30	XXX	XXX	XXX	200 Geometric Mean	XXX	XXX
Oct 1 - Apr 30	XXX	XXX	XXX	2,000 Geometric Mean	XXX	XXX
Ammonia-Nitrogen	55	XXX	XXX	8	XXX	XXX

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

Parameters	Mass (lb/day)			Concentration (mg/l)	
	Monthly	Annual	Minimum	Monthly Average	Maximum
Ammonia-N	Report	Report	XXX	Report	XXX
Kjeldahl-N	Report	XXX	XXX	Report	XXX
Nitrate-Nitrite as N	Report	XXX	XXX	Report	XXX
Total Nitrogen	Report	Report	XXX	Report	XXX
Total Phosphorus	Report	Report	XXX	Report	XXX
Net Total Nitrogen (Interim)	Report	Report	XXX	XXX	XXX
Net Total Nitrogen (Final)	Report	14,612	XXX	XXX	XXX
Net Total Phosphorus (Interim)	Report	Report	XXX	XXX	XXX
Net Total Phosphorus (Final)	Report	1,948	XXX	XXX	XXX

You may make an appointment to review the Department of Environmental Protection's files on this case by calling the File Review Coordinator at 717-705-4732.

The EPA waiver is not in effect.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**PA0228818**, Industrial Waste, SIC 2621 and 2086, **First Quality Tissue, LLC**, 904 Woods Avenue, Lock Haven, PA 17745-3431. This existing facility is located in Castanea Township, **Clinton County**.

Description of Proposed Activity: Draft of NPDES renewal, authorizing the discharge of treated industrial wastewater from the paper making and water purification/bottling operations at the site.

The receiving stream, Bald Eagle Creek, is in the State Water Plan watershed 9C and is classified for: Warm Water Fishes and Migratory Fishes. The nearest downstream public water supply intake is the Pennsylvania-American Water Company, located on the West Branch Susquehanna River and is 60 river miles below the point of discharge.

The proposed effluent limits for Outfall 003, based on a design flow of 4.2 MGD, are:

Discharge Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
BOD <sub>5</sub>	2,474	5,093	74	153	185
TSS	1,892	4,365	57	131	142
Iron, Total	14	29	0.410	0.820	1.025
Aluminum, Total	23	46	0.657	1.314	1.643
Manganese, Total	2.1	4.3	0.061	0.122	0.153
pH			6.0 to 9.0 at all times		

The proposed monitoring requirements for Outfall 003 are:

Discharge Parameter	Mass (lb/day)		Concentration (mg/l)
	Monthly	Annual	
Ammonia-N	Report	Report	Monthly Average
Kjeldahl-N	Report		Report
Nitrate-Nitrite as N	Report		Report
Total Nitrogen	Report	Report	Report
Total Phosphorus	Report	Report	Report

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

1. Management of Chemical Additives.
2. Stormwater No Exposure Certification.
3. Prohibition of Chlorophenolic Compounds.

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

**PAS226103**, Industrial Waste, SIC, **Whetsell Lumber Company**, 118 Academy Drive, Addison, PA 15411. This application is for renewal of an NPDES permit to discharge untreated stormwater from Whetsell Lumber Company in Addison Borough, **Somerset County**.

The following effluent limitations are proposed for discharge to the receiving waters, unnamed tributary to Youghiogheny River, classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is Ohiopyle Borough Municipal Waterworks, located at Ohiopyle, approximately 18 miles below the discharge point.

*Outfall 001: existing discharge, design flow of varied mgd.*

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Suspended Solids			Monitor and Report		
Oil and Grease			Monitor and Report		
Arsenic			Monitor and Report		
Chromium			Monitor and Report		
Copper			Monitor and Report		
NH <sub>3</sub> -N			Monitor and Report		

The EPA waiver is in effect.

**PA0218987**, Sewage, **John A. and Diana M. Vaccarello**, 487 Exton Lake Road, Apollo, PA 15613. This application is for renewal of an NPDES permit to discharge treated sewage from Vaccarello Small Flow STP in Washington Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Site Storm Sewer to Drainage Swale to Poke Run, which are classified as a high-quality cold water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Westmoreland County Municipal Authority on Beaver Run Reservoir.

*Outfall 001: existing discharge, design flow of 0.0004 mgd.*

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	10			20
Suspended Solids	10			20
Ammonia Nitrogen				
May 1 to Oct 31	1.5			3.0
Nov 1 to Apr 30	4.5			9.0
Fecal Coliform				
May 1 to Sep 30	200/100 ml as a Geometric Mean			
Oct 1 to Apr 30	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	1.4			3.3
Dissolved Oxygen	not less than 3.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0203955**, Sewage, **84 Lumber Company**, 1019 Route 519, Building 5, Eighty Four, PA 15339. This application is for renewal of an NPDES permit to discharge treated sewage from 84 Lumber Company Sewage Treatment Plant in North Strabane Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Little Chartiers Creek, which are classified as a high-quality 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 Western Pennsylvania Water Company on Little Chartiers Creek.

*Outfall 001*: existing discharge, design flow of 0.025 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
May 1 to Oct 31	3.0			6.0
Nov 1 to Apr 30	9.0			18.0
Phosphorus	6			12
Fecal Coliform				
May 1 to Sep 30	200/100 ml as a Geometric Mean			
Oct 1 to Apr 30	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	1.4			3.3
Dissolved Oxygen	not less than 6.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0216208**, Sewage, **John F. Kotun**, 319 Anderson Hozak Road, Clinton, PA 15026. This application is for renewal of an NPDES permit to discharge treated sewage from Superior Mobile Home Court STP in Raccoon Township, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Swale to Unnamed Tributary of Service Creek, which are classified as a high-quality cold water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Ambridge Water Authority, Ambridge (Bacon) Reservoir on Service Creek.

*Outfall 001*: existing discharge, design flow of 0.0025 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	10			20
Suspended Solids	10			20
Ammonia Nitrogen				
May 1 to Oct 31	2.0			4.0
Nov 1 to Apr 30	3.2			6.4
Fecal Coliform				
May 1 to Sep 30	200/100 ml as a Geometric Mean			
Oct 1 to Apr 30	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	1.4			3.3
Dissolved Oxygen	not less than 3.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0046116**, Sewage, **Department of Conservation and Natural Resources—Bureau of State Parks, Ohio State Park**, P. O. Box 105, Ohio State Park, PA 15470. This application is for renewal of an NPDES permit to discharge treated sewage from Ohio State Park—Ridge STP in Henry Clay Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Unnamed Tributary of Beaver Creek, which are classified as a high-quality cold water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the North Fayette County Municipal Authority on The Youghiogheny River.

*Outfall 001*: existing discharge, design flow of 0.0045 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	10			20
Suspended Solids	25			50
Ammonia Nitrogen				
May 1 to Oct 31	1.5			3.0
Nov 1 to Apr 30	4.5			9.0
Fecal Coliform				
May 1 to Sep 30	200/100 ml as a Geometric Mean			
Oct 1 to Apr 30	2,000/100 ml as a Geometric Mean			

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
Total Residual Chlorine	1.1			2.7
Dissolved Oxygen	not less than 5.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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

**PA02636729**, Sewerage, **Nilda Flores**, 1970 Mercer Road, Fredonia, PA 16124. This proposed facility is located in Delaware Township, **Mercer County**.

Description of Proposed Activity: replace a malfunctioning onlot system.

The receiving water is the an unnamed tributary to the Shenango River. The receiving stream is in State Water Plan 20-A and is classified for the following uses: warm water fishes, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0004 MGD.

Parameter	Concentrations		
	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
Flow	XX		
CBOD <sub>5</sub>	10		20
Total Suspended Solids	20		40
Fecal Coliform		200/100 ml as a Geometric Average	
UV Light	XXX		
pH	6.0 to 9.0 Standard Units at all times		

XX—Monitor and report.

XXX—Monitor and report on AMR.

The EPA waiver is in effect.

**III. WQM Industrial Waste and Sewerage Applications under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)**

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

**WQM Permit No. 3910402**, Sewerage, **Upper Macungie Township Authority**, 8330 Schantz Road, Breinigsville, PA 18031. This proposed facility is located in Upper Macungie Township, **Lehigh County**.

Description of Proposed Action/Activity: This project involves sanitary sewer improvements to address capacity deficiencies in the Lime and Nursery Streets areas.

**WQM Permit No. 5410401**, Sewerage, **Schuylkill County Municipal Authority**, 221 South Centre Street, Pottsville, PA 17901. This proposed facility is located in Deer Lake Borough and West Brunswick Township, **Schuylkill County**.

Description of Proposed Action/Activity: This project involves construction a new pump station, 1,800 LF of force main and approximately 19,500 LF of gravity sanitary mains and appurtenances in Deer Lake Borough and West Brunswick Township, Schuylkill Country.

**WQM Permit No. 5410403**, Sewerage, **Schuylkill County Municipal Authority**, 221 South Centre Street, Pottsville, PA 17901. This proposed facility is located in Deer Lake Borough and West Brunswick Township, **Schuylkill County**.

Description of Proposed Action/Activity: This project involves expansion and upgrade of the existing Deer Lake sewage treatment plant to increase its capacity from 0.229 MGD to 1.0 MGD.

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

**WQM Permit No. 3604407, Amendment 10-1**, Sewerage, **West Donegal Township Authority**, One Municipal Drive, Elizabethtown, PA 17022. This proposed facility is located in West Donegal Township, **Lancaster County**.

Description of Proposed Action/Activity: Seeking permit approval for the upgrade of 330 gpm submersible pumping station to a 400 gpm submersible pumping station. Project will include the replacement of pumps and controls and the installation of variable frequency drives. No pipe work is proposed.

**WQM Permit No. 6798405, Amendment 10-1**, Sewerage, **Glen Rock Sewer Authority**, 11714 North Main Street Ext., Glen Rock, PA 17327-0205. This proposed facility is located in Glen Rock Borough, **York County**.

Description of Proposed Action/Activity: Seeking permit approval for the upgrade to their existing WWTP to achieve the wasteload allocation for 0.6 MGD design average and associated peak flows (2.88 MGD peak hourly flow rate) (6 mg/l YN and 0.8 mg/L TP basis). This involves the conversion of the existing extended aeration system to a 5-staged activated sludge system.

**WQM Permit No. 0510404**, Sewerage, **Hyndman Borough Municipal Authority**, P. O. Box 445, Hyndman, PA 15545. This proposed facility is located in Hyndman Borough, **Bedford County**.

Description of Proposed Action/Activity: Seeking permit approval to replace 580 linear feet of existing sanitary sewer.

**WQM Permit No. 0788401, Amendment 10-1**, Sewerage, **Altoona Water Authority**, 122 Greenwood Road, Perry, PA 16602-7114. This proposed facility is located in Logan Township, **Blair County**.

Description of Proposed Action/Activity: Seeking permit approval for the addition of a new final clarifier, headworks/pretreatment building, two BNR reactors and two UV disinfection units. The existing activated sludge aerations tanks will be converted into BNR reactors. The project also includes site work, stormwater management facilities and sludge storage and handling system at the Easterly STP.

**WQM Permit No. 3810401**, Sewerage, **North Londonderry Township Authority**, 655 East Ridge Road, Palmyra, PA 17079. This proposed facility is located in South Annville and North Londonderry Townships, **Lebanon County**.

Description of Proposed Action/Activity: Seeking permit approval for the construction/operation of a new wastewater treatment plant and interceptor to serve North Londonderry Township and Palmyra Borough. The existing Palmyra Borough wastewater treatment plant will be abandoned. No pump stations will be constructed. Proposed interceptor is estimated to be 15".

**WQM Permit No. 2998401, Amendment 10-1**, Sewerage, **McConnellsburg Sewerage Authority**, P. O. Box 681, McConnellsburg, PA 17233. This proposed facility is located in Ayr Township, **Fulton County**.

Description of Proposed Action/Activity: Seeking permit approval for the construction of upgrades/re-rating to the existing wastewater treatment facility to comply with the Chesapeake Bay Standards.

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**WQM Permit No. 0210201**, Industrial Waste, **Allied Waste Systems of PA, LLC**, 11 Boggs Road, P. O. Box 47, Imperial, PA 15126-0047. This proposed facility is located in Findlay Township, **Allegheny County**.

Description of Proposed Action/Activity: Application for the construction and operation of a treatment facility.

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

**WQM Permit No. 1610401**, Sewerage, **Borough of East Brady**, 502 Ferry Street, Suite 15, East Brady, PA 16028. This proposed facility is located in East Brady Borough, **Clarion County**.

Description of Proposed Action/Activity: This is a new WQM permit for replacing the existing East Brady STP. The new plant will be located adjacent to the existing STP and is designed for the future flow of 185,000 gallons per day.

**WQM Permit No. 4310402**, Sewerage, **Daniel and Tracy Scott**, 70 Baker Road, Greenville, PA 16125. This proposed facility is located in Perry Township, **Mercer County**.

Description of Proposed Action/Activity: This project is to serve the Rainbow Valley Restaurant with an aeration sewage plant with a design flow of 2,840 gallons per day.

**WQM Permit No. 2710401**, Sewerage, **Jenks Township**, P. O. Box 436, 135 Pine Street, Marienville, PA 16239. This proposed facility is located in Jenks Township, **Forest County**.

Description of Proposed Action/Activity: The project will install grinder pumps at existing residences and businesses and low pressure sewer mains into the Village of Roses and connect to the Marienville Sewage System.

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#### **IV. NPDES Applications for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)**

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#### **V. Applications for NPDES Wavier Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)**

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#### **VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities**

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*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 151014	Kimberton Meadows Development, LLC 110 North Phoenixville Pike Suite 100 Malvern, PA 19355	Chester	East Pikeland Township	Stoney Run HQ-TSF

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

*Lehigh County Conservation District: Lehigh Agriculture Center, Suite 102, 4184 Dorney Park Road, Allentown, PA 18104, 610-391-9583.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023909015(1)	Lehigh County Authority Attn: Aurel Arndt P. O. Box 3348 1053 Spruce Street Allentown, PA 18016	Lehigh	Upper Macungie and South Whitehall Townships City of Allentown	Cedar Creek HQ-CWF, MF
PAI023904011R	Selvaggio Enterprises Attn: Steve Selvaggio 623 Selvaggio Drive Suite 200 Nazareth, PA 18064	Lehigh	Salisbury Township	Trout Creek HQ-CWF, MF

*Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

*Washington County Conservation District, 602 Courthouse Square, Washington, PA 15301, (724-228-6774).*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056310006	JBT Land Ventures 2639 Diane Drive Washington, PA 15301	Washington	Donegal Township	Dutch Fork, Tributary of Buffalo Creek HQ-WWF

**VII. List of NOIs for NPDES and/or Other General Permit Types**

PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

**STATE CONSERVATION COMMISSION**

**NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFO)**

This notice provides information about agricultural operations that have submitted nutrient management plans (NMPs) for approval under the act of July 6, 2005 (Act 38 of 2005, 3 Pa.C.S. §§ 501—522) (hereinafter referred to as Act 38), and that have or anticipate submitting applications for new, amended or renewed NPDES permits, or Notices of Intent (NOIs) for coverage under a general permit, for CAFOs, under 25 Pa. Code Chapter 92. This notice is provided in accordance with 25 Pa. Code Chapter 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

Based upon preliminary reviews, the State Conservation Commission (SCC), or County Conservation Districts (CCD) working under a delegation agreement with the SCC, have completed an administrative review of NMPs described. These NMPs are published as proposed plans for comment prior to taking final actions. The NMPs are available for review at the CCD office for the county where the agricultural operation is located. A list of CCD office locations is available at [www.pacd.org/districts/directory.htm](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)</i>	<i>Renewal/New</i>
Paul Ebersol 4970 Sunset Pike Chambersburg, PA 17202	Franklin	224.2	93.5	Ducks	NA	Renewal



## PUBLIC WATER SUPPLY (PWS) PERMIT

Under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17), the following parties have applied for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on a permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of Environmental Protection (Department) of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

Following the comment period, the Department will make a final determination regarding the proposed permit. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The permit application and any related documents are on file at the office listed before the application and are available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability who require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

### SAFE DRINKING WATER

#### Applications Received under the Pennsylvania Safe Drinking Water Act

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

#### Application No. 4610512, Public Water Supply.

Applicant	<b>Schwenksville Borough Authority</b>
Borough	Schwenksville Borough
County	<b>Montgomery</b>
Responsible Official	Michael Sullivan 298 Main Street P. O. Box 458 Schwenksville, PA 19473
Type of Facility	PWS
Consulting Engineer	Ebert Engineering, Inc. 4092 Skippack Pike P. O. Box 540 Skippack, PA 19474
Application Received Date	April 27, 2010
Description of Action	Modify the existing system by replacing gas chlorination system with liquid sodium hypochlorite system.

#### Application No. 0910515, Public Water Supply.

Applicant	<b>Palisadis School District</b>
Township	Tinicum
County	<b>Bucks</b>
Responsible Official	Dr. Francis Barnes 39 Thomas Free Drive Kitnersville, PA 18930
Type of Facility	PWS
Consulting Engineer	Snyder Hoffman Associates 1005 West Leigh Street Bethlehem, PA 18018
Application Received Date	May 19, 2010
Description of Action	Replacement of existing well pump and the addition of a 1,500 gallon storage tank and 78 feet of retention pipe.

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

#### Permit No. 4310505, Public Water Supply.

Applicant	<b>Aqua Pennsylvania, Inc.</b>
Township or Borough	City of Sharon
County	<b>Mercer</b>
Responsible Official	Marc Lucca Vice President of Production Aqua Pennsylvania, Inc. 762 West Lancaster Avenue Bryn Mawr, PA 19010-3402
Type of Facility	Community Water System
Consulting Engineer	Mark Tompeck, P. E. Hatch Mott MacDonald 27 Bleeker Street Millburn, NJ 07041-1008
Application Received Date	June 4, 2010
Description of Action	Installation of an ultraviolet advanced oxidation system.

### WATER ALLOCATIONS

#### Applications received under the Act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641) relating to the Acquisition of Rights to Divert Waters of the Commonwealth

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

**WA 10-1006, Water Allocations. Municipal Water Authority of Adams Township,** 690 Valencia Road, P. O. Box 807, Mars, PA 16046-3824, Adams Township, **Butler County.** The permittee has requested authorization to upgrade an existing emergency interconnect with Richland Township Municipal Authority from a one way connection to a two way connection

#### Biosolids Individual Permits (PABIG and PABIS)

The following parties have applied for either an Individual Site Permit (PABIS) or an Individual Generator Permit (PABIG) for beneficial use of sewage sludge (biosolids) by land application. Unless otherwise indicated, on the basis of preliminary review and application

of lawful standards and regulations, the Department of Environmental Protection (Department) proposes to issue a permit to land apply biosolids subject to certain requirements set forth in the permit.

Persons wishing to comment on the proposed permit are invited to submit a statement to the responsible Department's Regional Office noted previously the application within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in the formulation of the final determination regarding this application. Responses should include the name, address, and telephone number of the writer and a concise statement of a comment and the relevant facts upon which it is based. A public hearing may be held if the Regional Office considers the public response significant.

Following the 30-day comment period, the Water Management Regional Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The application and related documents, comments received, and other information are on file and may be inspected and arrangements made for copying at the responsible Department's Regional Office indicated in the application.

Persons with a disability that require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the Secretary to the Board at (717) 787-3483. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1-800-654-5984.

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*General Permit Type—PAG-7*

*Facility Location:*

*Municipality & County*

*Permit No.*

*Applicant Name & Address*

*Receiving Stream*

*Body of Water or Site*

*Name & Address*

*Contact Office & Phone #*

Mount Holly, NJ      PAG07-9904

Burlington City  
Board of Freeholders  
Administration Building  
49 Rancocas Road  
Mount Holly, NJ 08060

N/A

BWSFR  
717-787-8184

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## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

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### 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:

*Northeast Region: Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**GEO Specialty Chemicals**, 2409 North Cedar Crest Boulevard, South Whitehall Township, **Lehigh County**. Patrick Crawford, Center Point Tank Services, 536 East Benjamin Franklin Highway, Douglassville, PA 19518 has

submitted a Notice of Intent to Remediate (on behalf of his client, GEO Specialty Chemicals, Inc., 2409 North Cedar Crest Boulevard, Allentown, PA 18014), concerning the remediation of soil found to have been impacted by No. 6 fuel oil as a result of a release from a 300,000-gallon underground storage tank. The applicant proposes to remediate the site to meet the 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.

**PG Energy Former Scranton Green Ridge Gas Holder**, Albright Avenue and Marion Street, Scranton City, **Lackawanna County**. John Roberts, Stantec Consulting Services, Inc., 400 Davis Drive, Suite 400, Plymouth Meeting, PA 19462 has submitted a Notice of Intent to Remediate (on behalf of his client, UGI Penn Natural Gas, Inc., P. O. Box 12677, Reading, PA 19612-2677), concerning the remediation of soil and groundwater found to have been impacted by arsenic and benzo(a)pyrene and the remediation of soil found to have been impacted by lead. The impact is due to the historical operations at a former storage facility of manufactured coal gas. The applicant proposes to remediate the site to meet the Statewide Health Standard for soil and groundwater and the Site-Specific Standard for soil. The intended future use of the site is for nonresidential or residential purposes. 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.

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**US Silica Company/Mapleton Depot Site**, Brady Township, **Huntingdon County**. Mountain Research, LLC, 825 25th Street, Altoona, PA 16601, on behalf of US Silica Company, 106 Sand Mine Road, P. O. Box 187, Berkeley Springs, WV 25411-0187 submitted a Notice of Intent to Remediate site soils and groundwater contaminated with diesel fuel and gasoline. The site will be remediated to the Site-Specific Standard and will remain industrial.

**William Osburn Property/20 Miller Road**, Providence Township, **Lancaster County**. GCI Environmental Services, 1250 East King Street, Lancaster, PA 17602 on behalf of Susan Moore, 20 Miller Road, New Providence, PA 17560 and William Osburn, 7720 Newport Road, Catawba, VA 24070, submitted a Notice of Intent to Remediate groundwater contaminated with No. 2 fuel oil released from an underground storage tank. The site will be remediated to the Residential Statewide Health Standard and will remain residential.

## 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

**Plan Approval Applications Received under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Contact: Sachin Shankar, New Source Review Chief—Telephone: 484-250-5920.*

**09-0009F: Webcraft, LLC** (4371 County Line Road, Chalfont, PA 18914) for the following changes at their facility in New Britain Township, **Bucks County**:

- Installation of a new lithographic printing press to replace an existing lithographic press.
- Replacement of the dryers on two other existing presses.
- Installation of automatic blanket washers on four existing presses.

As a result of potential emissions of VOCs, the facility is a Title V facility. The Plan Approval and Operating Permit will contain recordkeeping requirements and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

**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.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Contact: Sachin Shankar, New Source Review Chief—Telephone: 484-250-5920.*

**09-0028E: Fibermark North America, Inc.** (45 North Fourth Street, Quakertown, PA 18951) for modification of existing Source ID 303: Surface Coater No. 11 at their Quakertown Plant in Quakertown Borough, **Bucks County**. Fibermark proposes to increase the VOC content limit of coatings from 0.05 to 1.81 pound of VOC per gallon of coating solids, as applied, and decrease the source VOC emission limit from 20 tons per year to 10 tons per year. There are no physical changes to the source equipment. Fibermark North America, Inc. is a major source of VOC and HAPs, currently operating under TVOP No. 09-00028. The installation will not trigger New Source Review. The plan approval will include monitoring, testing, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**46-0026F: Global Packaging, Inc.** (209 Brower Avenue, Oaks, PA 19456) for installation of a new flexographic printing press to replace an existing printing press in their Oaks facility in Upper Providence Township, **Montgomery County**. This facility is a minor facility. The facility wide VOC emissions will stay below 25 tons per year. The combined HAP emissions will be below 25 tons per year. Each HAP emissions will stay below 10 tons per year. The Plan Approval and Operating Permit will contain recordkeeping requirements and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

**46-0267A: SmithKline Beecham Research Company, d/b/a GlaxoSmith Kline** (1250 South Collegeville Road, Collegeville, PA 19426) for modification to the fuel usage and emissions limits for eight (8) nominally 2,000 kW No. 2 fuel oil/diesel generators authorized to be constructed under Plan Approval 46-0267 in Upper Providence Township, **Montgomery County**. The facility is a non-Title V. The increase in permitted fuel usage will be 13,990 gallons/year. The increases in carbon monoxide (CO), particulate matter (PM) and volatile organic compounds (VOC) are below de minimis levels for the facility, as defined by 25 Pa. Code § 127.449. The increase in permitted emissions for formaldehyde is equivalent to 0.08 ton per year. The permittee is not authorized to modify the engine nor change any method of operation other than the CO, PM, VOC and formaldehyde emissions rate and the fuel usage as authorized under this Plan Approval modification.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507.*

**48-309-134: ESSROC Cement Corp.** (Route 248 and Easton Road, Nazareth, PA 18064) for installation and operation of a Selective Non-Catalytic Reduction (SNCR) system for the control of NOx emissions from their kiln 1 at their facility in Lower Nazareth Township, **Northampton County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection

(Department) intends to issue a Plan Approval No. 48-309-134 to ESSROC Cement Corporation, (Route 248 and Easton Road, Nazareth, PA 18064), for their plant located in Lower Nazareth Township, Northampton County. The facility currently operates under Title V Operating Permit No. 48-00004. This plan approval will be incorporated into the Title V Operating Permit through an administrative amendment at a later date, and the action will be published as a notice in the *Pennsylvania Bulletin*.

Plan Approval No. 48-309-134 is for the installation and operation of a Selective Non-Catalytic Reduction (SNCR) system for the control of NOx emissions from their kiln 1 at the facility. The proposed changes do not physically alter the kiln in any way, do not impact kiln production capacity, and do not result in an increase in kiln production or emissions. The proposed change will enable the installation of the air pollution control equipment and implement enforceable reductions in nitrogen oxide (NOx) emissions from the kiln. The company will be limited to the following emission limitation after installation of the system.

<i>Pollutant</i>	<i>Kiln No. 1</i>
NOx	2.36 lb/ton of clinker

The proposed SNCR system will be operated to comply with the above emission limitation. The Plan Approval and Operating Permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating in compliance with 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 the Department Environmental Protection, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711.

Any person(s) wishing to provide the Department with additional information which they believe should be considered prior to the issuance of this permit may submit the information to the address shown in the preceding paragraph. Each written comment must contain the following:

Name, address and telephone number of the person submitting the comments.

Identification of the proposed permit No. 48-309-134.

A concise statement regarding the relevancy of the information or objections to the issuance of the permit is required.

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 Raymond Kempa, P. E., Environmental Group Manager, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711, Phone 570-826-2531 within 30 days after publication date.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940.*

**42-028B: Saint-Gobain** (1 Glass Place, Port Allegany, PA 16743-1611) for installation of new gas burners, an oxygen enriched air staging (OEAS) system, a NOx and

SOx CEMS, and a COMS on Furnace No. 1 in Port Allegany Borough, **McKean County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), 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 NOx and SOx 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 (NOx) 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 No. 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 § 123.2.* 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, record keeping, 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.

### OPERATING PERMITS

#### **Intent to Issue Title V Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.**

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 814-949-7935.*

**36-05138: Quality Custom Cabinetry, Inc.** (125 Peters Road, New Holland, PA 17557) for operation of their cabinet manufacturing facility in Earl Township, **Lancaster County**. This is a renewal of the Title V Operating Permit issued in 2005.

**06-05050: Sun Pipe Line—Montello Pump Station** (525 Fritztown Road, Sinking Spring, PA 19608) for their petroleum pumping and storage facility in Spring Township, **Berks County**. This is a renewal of a Title V operating permit issued in 2005.

#### **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.*

**23-00103: Elwyn** (111 Elwyn Road, Elwyn, PA 19063) for a Non-Title V Facility, State-only, Synthetic Minor Permit in Middletown Township, **Delaware County**. Elwyn is a Residential Facility for the Mentally Challenged. The sources of emissions include boilers and emergency generators. The company took an emission limit of 24.9 tons per year of NOx. Monitoring, record keeping and reporting requirements have been added to the permit to address applicable limitations.

**46-00019: Lockheed Martin Corp.** (230 Mall Boulevard, King of Prussia, PA 19406) for issuance of an initial Synthetic Minor Operating Permit in Upper Merion Township, **Montgomery County**. The facility changed status from a Title V facility to a Synthetic Minor and elected to take a 24.9 ton per year limit on NOx emissions. The facility is primarily involved in Computer programming Services. Lockheed Martin operates boilers, generators, and other lab equipment. The permit contains all applicable requirements including monitoring, recordkeeping and reporting.

**46-00270: Timberlane, Inc.** (150 Demorah Drive, Montgomeryville, PA 18936) for operation of a spray booth operation in Montgomeryville Township, **Montgomery County**. The permit is for a non-Title V (State-only) facility. The facility elects to limit VOC emissions to less than 25 tons per year; therefore the facility is considered a Synthetic Minor. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**46-00141: TSG, Inc.—Synfin Industries Division** (1400 Welsh Road, North Wales, PA 19454) for operation of two boilers, several fabric coating lines, and other miscellaneous sources, as well as a carbon adsorber with

a solvent recovery system associated with a fabric spray coating line in Montgomery Township, **Montgomery County**. The State-only Operating Permit (SOOP) replaces Title V Operating Permit No. 46-00141, originally issued on January 13, 2006, for the facility. Trichloroethylene (TCE) is no longer used by the fabric spray coating line; therefore, the facility is no longer major for hazardous air pollutants (HAPs) or subject to 40 CFR 63, Subparts OOOO and DDDDD. The SOOP will contain individual and total HAP emission restrictions of 10 tons/yr and 25 tons/yr, respectively, to comply with the requirements of Clean Air Act Section 112(j) (due to the vacatur of 40 CFR 63, Subpart DDDDD). Based on this, the permit type has been changed from Title V to State-only (Synthetic Minor). The SOOP will include monitoring, recordkeeping, reporting, and work practice requirements designed to keep the facility operating within all applicable air quality requirements.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104. Contact: Edward Brawn, Chief—Telephone: 215-685-9476.*

**S05-002: T.D.P.S. Materials—DePaul Concrete** (2nd Street and Erie Avenue, Philadelphia, PA 19120) for operation of an asphalt and concrete facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include a hot mix asphalt plant, a concrete crushing plant, a gasoline dispenser with Stage II, and fugitive emissions from material handling and vehicle traffic. The hot mix asphalt plant is controlled by baghouse.

The operating permit will be issued under the Pennsylvania Code Title 25, Philadelphia Code Title 3 and Air Management Regulation XIII. Permit copies and other supporting information are available for public inspection at AMS, 321 University Avenue, Philadelphia, PA 19104. For further information, contact Edward Wiener at (215) 685-9426.

Persons wishing to file protest or comments on the previous operating permit must submit the protest or comments within 30 days from the date of this notice. Any protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least 30 days before the hearing.

### PLAN APPROVALS

#### **Receipt of Plan Approval Applications and Intent to Issue Plan Approvals, and Intent to Issue Amended Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B And Subchapter F. These actions may include the administrative amendments of an associated operating permit.**

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507.*

**58-329-016: Cabot Oil & Gas Corp.** (5 Penn Center West, Suite 401, Pittsburgh, PA 15276) for installation of four new compressor engines, one stand-by engine and a hot water boiler at their Lathrop Compressor Station in Springville Township, **Susquehanna County**.

In accordance with 25 Pa. Code §§ 127.44(a) and 127.45(a), the Department of Environmental Protection (Department) has received and intends to issue a Plan Approval to Cabot Oil & Gas Corp. (5 Penn Center West, Suite 401, Pittsburgh, PA 15276) for their facility located in Springville Township, Susquehanna County. This Plan Approval No. 58-329-016 will be incorporated into a Synthetic Minor Permit through an administrative amendment at a later date.

Plan Approval No. 58-329-016 is for the installation of four new compressor engines, one stand-by engine and a hot water boiler at the Lathrop Compressor Station.

Following emissions shall not exceed from the each engine.

1. PM/PM10—0.031 lb/mmBtu.
2. SO<sub>x</sub>—0.002 lb/mmBtu.
3. CO—0.4 g/bhp-hr.
4. NO<sub>x</sub>—0.26 g/bhp-hr.
5. VOC—0.2 g/bhp-hr.

The company is subject to NSPS Subpart JJJJ and 25 Pa. Code § 127.12(a)(5) Best Available Technology (BAT) requirements. The visible emission opacity shall not be equal to or greater than 20% at any time. The company shall be subject to and comply with 25 Pa. Code § 123.31 for malodorous emissions.

Emissions from the engines will meet BAT and NSPS Subpart JJJJ requirements. The Plan Approval and Operating permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

Copies of the application, the Department's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Any person(s) wishing to provide the Department with additional information, which they believe should be considered prior to the issuance of this permit, may submit the information to the address shown in the preceding paragraph. Each written comment must contain the following:

Name, address and telephone number of the person submitting the comments.

Identification of the proposed permit No.: 58-329-016.

A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted based on the comments received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Ray Kempa, Chief, New Source Review Section, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915, Phone 570-826-2511 within 30 days after publication date.

## COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to such applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of the application is available for inspection at the District Mining Office indicated above each application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for the certification.

Written comments or objections, or requests for an informal conference, or a public hearing, as applicable, on a mining permit application may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the address of the district mining office indicated above each application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Written comments or objections related to a mining permit application should contain the name, address and telephone number of persons submitting comments or objections; application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based.

Requests for an informal conference, or a public hearing, as applicable, on a mining permit application, as provided by 25 Pa. Code §§ 77.123 or 86.34, must contain the name, address and telephone number of the requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

When a National Pollutant Discharge Elimination System (NPDES) number is listed, the mining activity permit application was accompanied by an application for an individual NPDES permit. The Department has made a tentative determination to issue the NPDES permit in conjunction with the mining activity permit, but the issuance of the NPDES permit is contingent upon the approval of the associated mining activity permit.

For coal mining activities, NPDES permits, when issued, will contain effluent limits that do not exceed the technology-based effluent limitations. The proposed limits are listed in Table 1.

For noncoal mining activities, the proposed limits are found in Table 2. Discharges from noncoal mines located in some geologic settings (for example, in the coal fields)

may require additional effluent limits. If additional effluent limits are needed for an NPDES permit associated with a noncoal mining permit, then the permit description below specifies the parameters. The limits will be in the ranges specified in Table 1.

More restrictive effluent limitations, restrictions on discharge volume, or restrictions on the extent of mining that may occur, will be incorporated into an NPDES permit when necessary for compliance with water quality standards and antidegradation requirements (in accordance with 25 Pa. Code Chapters 91–96).

The procedures for determining the final effluent limits, using a mass-balance equation or model, are found in Technical Guidance Document 362-0600-001, NPDES Program Implementation—Memorandum of Understanding Concerning Water Quality Management, NPDES Program Implementation and Related Matters. Other specific factors to be considered include public comments and Total Maximum Daily Loads (TMDLs).

Persons wishing to comment on an NPDES permit application should submit a statement to the Department at the address of the district mining office indicated previously each application within 30 days of this public notice. Comments received within the comment period will be considered in the final determinations regarding the NPDES permit applications. Comments must include

the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests or petitions for a public hearing on NPDES permit applications, as provided in 25 Pa. Code § 92.61. The request or petition for a public hearing shall be filed within 30 days of this public notice and shall contain the name, address, 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:

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 ml/l applied to: surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; and mined areas backfilled and revegetated; and drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

*California District Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100.*

**32031301 and NPDES Permit # PA0235580, Rosebud Mining Company**, (301 Market Street, Kittanning, PA 16201-9642), to revise the permit for the Lowry Deep Mine in White Township, **Indiana County** to add acreage to the underground permit boundary and the subsidence control plan area. Underground Acres Proposed 925.5, Subsidence Control Plan Acres Proposed 925.5. No additional discharges. Application received: April 22, 2010.

**32971302 and NPDES Permit # PA0215040, Rosebud Mining Company**, (301 Market Street, Kittanning, PA 16201), to revise the permit for the Dutch Run Mine in Washington Township, **Indiana County** to add surface acreage to install a power borehole to supply electric to Dutch Run Mine. Surface Acres Proposed 1.7. No additional discharges. Application received: March 15, 2010.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.*

**11100103 and NPDES No. PA0263028, E. P. Bender Coal Company, Inc.**, P. O. Box 594, Carrolltown, PA 15722, commencement, operation and restoration of a bituminous surface and auger mine in Reade Township, **Cambria County**, affecting 86.0 acres. Receiving stream(s): unnamed tributaries to/and Clear Creek classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: May 28, 2010.

*Greensburg District Mining Office: Armbrust Professional Center; 8205 Route 819, Greensburg, PA 15601, 724-925-5500.*

**63080103 and NPDES Permit No. PAPA0251445, Amerikohl Mining, Inc.** (1384 SR 711, Stahlstown, PA 15687). Revision application for a land use change from forestland to pastureland and/or land occasionally cut for hay, and add 18.5 additional acres to an existing bituminous surface mine, located in Somerset and Fallowfield Townships, **Washington County**, affecting 224 acres. Receiving streams: unnamed tributaries to North Branch Pigeon Creek and Pigeon Creek, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received: June 9, 2010.



*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.*

**61020102 and NPDES Permit No. PA0242101. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001) Renewal of an existing bituminous surface operation in Scrubgrass Township, **Venango County** affecting 133.0 acres. Receiving streams: Unnamed tributaries to the Allegheny River, classified for the following: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application for reclamation only. Application received: May 28, 2010.

**10040102 and NPDES Permit No. PA0242501. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001) Renewal of an existing bituminous surface operation in Concord Township, **Butler County** affecting 179.0 acres. Receiving streams: Unnamed tributaries to Bear Creek, classified for the following: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application for reclamation only. Application received: June 1, 2010.

**33890119 and NPDES Permit No. PA0207560. Sky Haven Coal, Inc.** (5510 State Park Road, Penfield, PA 15849) Renewal of an existing bituminous surface, auger and sandstone removal operation in Winslow Township, **Jefferson County** affecting 111.7 acres. Receiving streams: McCreight and Trout Runs, classified for the following: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application for reclamation only. Application received: June 3, 2010.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**40940205R3 and NPDES Permit No. PA0223441. Northampton Fuel Supply Co., Inc.**, (1 Horwith Drive, Northampton, PA 18067), renewal of an existing anthracite coal refuse reprocessing operation for reclamation activities only in Hanover Township, **Luzerne County** affecting 124.0 acres, receiving stream: Nanticoke Creek. Application received: June 8, 2010.

#### *Noncoal Applications Returned*

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.*

**25030302. Fiesler Sand & Gravel, LLC** (4500 Greenlee Road, McKean, PA 16426) Transfer of an existing large sand and gravel operation from Walter Kuhl in Greene Township, **Erie County** affecting 50.6 acres. Receiving streams: Unnamed tributary to Fourmile Creek, classified for the following uses: WWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: June 11, 2010.

**2579301 and PA0118354. Fiesler Sand & Gravel, LLC** (4500 Greenlee Road, McKean, PA 16426) Transfer of an existing large sand and gravel operation from Walter Kuhl in Greene Township, **Erie County** affecting 46.0 acres. Receiving streams: Fourmile Creek, classified for the following uses: WWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: June 11, 2010.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**8274SM1C3 and NPDES Permit No. PA0595705. ICM of Pennsylvania, Inc.**, (638 Lancaster Avenue, Malvern, PA 19355), depth correction to an existing quarry operation in Manheim and Upper Leacock Townships, **Lancaster County** affecting 71.75 acres, receiving

stream: Conestoga River, classified for the following use: warm water fishery. Application received: June 3, 2010.

**6575SM2A2C2. Eureka Stone Quarry, Inc.**, (P. O. Box 249, Chalfont, PA 18914), insignificant boundary correction to add 3.6 acres for a total of 118.6 permitted acres in Hamilton Township, **Monroe County**, receiving stream: tributary to McMichael Creek. Application received: June 8, 2010.

**40022801. Dotzel Trucking**, (1898 Slocum Road, Mountaintop, PA 18707), Stages I and II bond release of a quarry operation in Salem Township, **Luzerne County** affecting 5.0 acres, on property owned by PPL. Application received: June 9, 2010.

**40052803. Dotzel Trucking**, (1898 Slocum Road, Mountaintop, PA 18707), Stages I and II bond release of a quarry operation in Salem Township, **Luzerne County** affecting 5.0 acres, on property owned by PPL. Application received: June 9, 2010.

**40072801. Dotzel Trucking**, (1898 Slocum Road, Mountaintop, PA 18707), Stages I and II bond release of a quarry operation in Salem Township, **Luzerne County** affecting 5.0 acres, on property owned by PPL. Application received: June 9, 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.*

**E58-289. Cabot Oil & Gas Corporation**, 5 Penn Center West, Suite 401, Pittsburgh, PA 15276, in Brooklyn, Dimock and Bridgewater Townships, **Susquehanna County**, U.S. Army Corps of Engineers, Baltimore District.

To construct and maintain 69 water obstructions and encroachments in and along Meshoppen Creek (CWF, MF) and Unnamed Tributaries (CWF, MF) thereof, Hop Bot-

tom Creek (CWF, MF) and Unnamed Tributaries (CWF, MF) thereof, and PEM and PFO wetlands. This work is associated with Cabot Oil & Gas Susquehanna Project Zone 3 which includes the installation of 104,020 linear feet of pipeline and access roads for natural gas well drilling pads. The project begins on the west side of SR 0167 approximately 0.50 mile north from its intersection of SR 2055 (Longitude: -75° 48' 17" W; Latitude: 40° 48' 01" N) in Brooklyn Township, Susquehanna County, runs in a westerly direction on the south side of SR 3029 approximately 0.60 mile east of its intersection of SR 0029 (Longitude: -75° 52' 48" W; Latitude: 40° 47' 41" N) in Bridgewater Township, Susquehanna County, then runs in a southerly direction to the west side of SR 2051 approximately 0.10 mile north from its intersection of SR 2024 (Longitude: -75° 52' 04" W; Latitude: 41° 45' 01" N) in Dimock Township, Susquehanna County, then runs in an easterly direction to the west side of SR 2015 approximately 0.20 mile north from its intersection with Bidwell Road (Longitude: -75° 48' 10" W; Latitude: 41° 45' 54" N) in Brooklyn Township, Susquehanna County.

### ACTIONS

## THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT FINAL ACTIONS TAKEN FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal wastes; discharges to groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**I. NPDES Renewal Permit Actions**

*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>
PA0070351— SEW	Amity Township 2004 Weavertown Road Douglassville, PA 19518	Berks County Amity Township	Schuylkill River 3-D	Y
PA0051861— SEW	Penn Sylvan Realty Corporation 5028 Camp Road Mohnton, PA 19540-7723	Berks County Brecknock Township	UNT Rock Run 7-J	Y
PA00880241— SEW	West Perry School District— West Perry High School 2606 Shermans Valley Road Elliottsburg, PA 17024	Perry County Spring Township	Montour Creek 7-A	Y
PA0088528— SEW	Tulpehocken Township— Rehrersburg STP P. O. Box 272 Rehrersburg, PA 19550-0272	Berks County Tulpehocken Township	Swatara Creek 7-D	Y
PA0246816— SEW	Lenker Estates Homeowner's Association P. O. Box 123 Dauphin, PA 17018-0123	Dauphin County Halifax Township	UNT Susquehanna River 6-C	Y

*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>
PA0045969 (SWI)	Sunoco Partners Marketing & Terminals, LP— Northumberland Terminal 1314 Point Township Road Northumberland, PA 19608	Point Township Northumberland County	Unnamed Tributary to Susquehanna River 5-E	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>
PA0030457 Sewage	The Bauman Family Limited Partnership and Lance Remic 100 Forbes Trail Drive Export, PA 15632-9614	Westmoreland County Salem Township	UNT to Thorn Run	Y
PA0217123 Sewage	Indiana County Municipal Service Authority 602 Kolter Drive Indiana, PA 15701	Indiana County South Mahoning Township	North Branch Plum 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>
PA0210056	Mary Russ, d/b/a Amsterdam Estates MHP 39 Amsterdam Road Grove City, PA 16127	Mercer County Liberty Township	Unnamed tributary to Black Run 20-C	Y
PA0029726	Jamestown Municipal Authority 406 Jackson Street P. O. Box 188 Jamestown, PA 16134	Mercer County Jamestown Borough	Shenango River 20-A	Y
PA0045039	Department of Conservation and Natural Resources Oil Creek State Park 305 State Park Road Oil City, PA 16301-9733	Venango County Cornplanter Township	Oil Creek 16-E	Y

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**II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions**


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*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**NPDES Permit No. PA0002879-A1**, Industrial Waste, **Union Electric Steel Corporation**, P. O. Box 465, Carnegie, PA 15106. This existing facility is located in Smith Township, **Washington County**.

Description of Proposed Action/Activity: Permit issuance for discharge to receiving waters named unnamed tributary to Burgetts Fork.

**NPDES Permit No. PA0254223**, Sewage, **Lincoln Township Municipal Authority**, P. O. Box 162, Sipesville, PA 15561-0162. This proposed facility is located in Lincoln Township, **Somerset County**.

Description of Proposed Action/Activity: Permit issuance for the discharge of domestic sewerage.

**NPDES Permit No. PA02540002**, Sewage, **Target Drilling, Inc.**, 1112 Glacier Drive, Smithton, PA 15479. This proposed facility is located in Whiteley Township, **Greene County**.

Description of Proposed Action/Activity: Permit issuance to discharge from a sewage treatment plant for employees at a drill rig manufacturer.

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

**NPDES Permit No. PA0037893**, Sewage, **Amendment No. 1, East Brady Borough**, 502 Ferry Street, East Brady, PA 16028-1238. This existing facility is located in East Brady Borough, **Clarion County**.

Description of Proposed Action/Activity: Issuance of an existing NPDES permit amended to increase the discharge of treated sewage.

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**III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)**


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

**WQM Permit No. 4609409**, Sewerage, **Montgomery County Correctional Facility**, 60 Eagleville Road, Eagleville, PA 19403. This proposed facility is located in Lower Providence Township, **Montgomery County**.

Description of Action/Activity: Construction and operation of a 46,080 gpd pump and associated force main.

**WQM Permit No. WQG02460913**, Sewerage, **Franconia Sewer Authority**, 671 Allentown Road, P. O. Box 128, Franconia, PA 18924. This proposed facility is located in Franconia Township, **Montgomery County**.

Description of Action/Activity: Upgrade of an existing sanitary pump station with new sewage pumps.

**WQM Permit No. WQG02231001**, Sewerage, **Upper Providence Township Sewer Authority**, 935 North Providence Road, Media, PA 19063-1499. This proposed facility is located in Upper Providence Township, **Delaware County**.

Description of Action/Activity: Construction and operation of a low pressure sanitary sewer extension utilizing individual and duplex grinder pumps.

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

**WQM Permit No. 4010402**, Sewerage, **Eagle Rock Community Association, Inc.**, 1031 Valley of Lakes, Hazleton, PA 18202. This proposed facility is located in Hazle Township, **Luzerne County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit for Eagle Rock Resort—Mountain View Phase I and II sewer extensions utilizing low pressure sewer systems and eight pump stations.

**WQM Permit No. 5410402**, Sewerage, **Schuylkill County Municipal Authority**, 221 South Centre Street, Pottsville, PA 17901. This proposed facility is located in West Brunswick Township and Orwigsburg Borough, **Schuylkill County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit for the Lee Development—Sanitary Sewer Collection System and Pump Station/Force Main Project.

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

**WQM Permit No. WQG02221001**, Sewage, **East Hanover Township**, 8848 Jonestown Road, Grantville, PA 17028-8650. This proposed facility is located in East Hanover Township, **Dauphin County**.

Description of Proposed Action/Activity: Construction/Operation of Sewer Extension to serve the existing Partridge Hills and Englewood developments; sewage will be treated at the Dairy Lane WWTF; both are 8" gravity to new pumping stations; Partridge Hills system will connect at existing Bow Creek Interceptor; Englewood system will connect at the Dairy Land WWTF.

**WQM Permit No. WQG02061002**, Sewage, **Perry Township Municipal Authority**, P. O. Box 308, Shoemakersville, PA 19555. This proposed facility is located in Perry Township, **Berks County**.

Description of Proposed Action/Activity: Construction/Operation of a low pressure system to serve approximately 103 equivalent dwelling units consisting of residential, business, commercial and apartment units along Mohrsville Road from Ontelaunee Township Line to the Borough of Shoemakersville. It will connect to the Borough's gravity sewer system.

**WQM Permit No. 2196201, Amendment 10-1**, Industrial Waste, **Mr. John Mulligan, Land O'Lakes, Inc.**, 405 Park Drive, Carlisle, PA 17013. This proposed facility is located in South Middleton Township, **Cumberland County**.

Description of Proposed Action/Activity: Construction/Operation of Phase 1, two equalization tanks, DAF building housing the relocated DAF and new DAF with chemical feed equipment, post equalization tank, effluent pumps and force main to new discharge point to Mountain Creek.

**WQM Permit No. 3683415**, Sewage, **City of Lancaster**, 120 North Duke Street, Lancaster, PA 17608-1599. This proposed facility is located in Lancaster City, **Lancaster County**.

Description of Proposed Action/Activity: Construction/Operation of North Treatment Train—Construction of screenings and grit removal facilities, a biofilter for odor control, and parshal flumes for flow measurement. South Treatment Train—Construction of new grit removal and handling facilities.

**WQM Permit No. 3809401**, Sewage, **South Annville Township Authority**, 829 South Spruce Street, Annville, PA 17003. This proposed facility is located in South Annville Township, **Lebanon County**.

Description of Proposed Action/Activity: Construction/Operation of sewerage facilities consisting of: A pump station and force main to serve the proposed Mayapple Woods development and some existing homes.

**WQM Permit No. 2890201, Amendment 10-1**, Industrial Waste, **Mr. Randall Quinn, Letterkenny Army Depot**, One Overcash Avenue, Building 14, Chambersburg, PA 17201-4150. This proposed facility is located in Greene Township, **Franklin County**.

Description of Proposed Action/Activity: Construction/Operation of Two MBR units normally operated in series, blowers, instrumentation for PLC process control, and nutrient feed systems providing carbon, phosphorus and ammonia for low load operation.

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**WQM Permit No. 6309406**, Sewerage, **California Borough**, 225 Third Street, California, PA 15419. This proposed facility is located in California Borough, **Washington County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of sanitary sewers, two new pump stations and force mains.

**WQM Permit No. 3009401**, Sewerage, **Target Drilling, Inc.**, 1112 Glacier Drive, Smithton, PA 15479. This proposed facility is located in Whiteley Township, **Greene County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a small flow sewage treatment system to serve an employee restroom facility.

**WQM Permit No. 5610401**, Sewerage, **Lincoln Township Municipal Authority**, P. O. Box 162, Sipesville, PA 15561-0162. This proposed facility is located in Lincoln Township, **Somerset County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a sewage treatment plant.

**WQM Permit No. 9280-S-A2**, Sewerage, **Orion Power Midwest, LP**, 121 Champion Way, Suite 200, Canonsburg, PA 15317. This existing facility is located in the City of Pittsburgh, **Allegheny County**.

Description of Proposed Action/Activity: Permit amendment issuance to replace an existing Infilco Aero-Accelator aeration tank with a single-tank continuous flow sequential batch reactor.

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

**WQM Permit No. WQG018757**, Sewerage, **Roy and Sue Griffin**, 301 Central Avenue, Falconer, NY 14733-1205. This proposed/existing facility is located in Farmington Township, **Warren County**.

Description of Proposed Action/Activity: A Single Residence Sewage Treatment Plant.

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#### IV. NPDES Stormwater Discharges from MS4 Permit Actions

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#### V. NPDES Waiver Stormwater Discharges from MS4 Actions

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#### VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions

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*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	Beaver Creek TSF-MF West Branch Brandywine Creek HQ

*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>
PAI024010002	Department of Transportation, Engineering District 4-0 55 Keystone Industrial Park Dunmore, PA 18512	Luzerne	West Hazleton Borough City of Hazleton Hazle Township	Black Creek CWF, MF Cranberry Creek CWF, MF Hazle Creek HQ-CWF, MF Dreck Creek HQ-CWF, MF
PAI025409002	Greater Tamaqua Industrial Development Enterprises 114 West Broad Street Tamaqua, PA 18252	Schuylkill	Rush Township	Nesquehoning Creek CWF, MF
PAI024807009	CMC Development Corp. 4511 Falmer Road Bethlehem, PA 18018	Northampton	Bethlehem and Palmer Townships	Bushkill Creek HQ-CWF, MF

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI032110001	Schreiber Foods, Inc. Cy Hill 502 North Madison Street Green Bay, WI 54301	Cumberland	Shippensburg Borough	Middle Spring Creek HQ
PAI032109003	CHR Corporation Tim Rutter 2295 Susquehanna Trail Suite C York, PA 17404	Cumberland	Monroe Township	Yellow Breeches Creek HQ-CWF
PAI030609003	Forgedale Properties 375 Forgedale Road Bechtelsville, PA 19505-9301	Berks	Hereford Township	UNT to West Branch Perkioment Creek EV

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI 0625 10 001	Dr. Rosanne Palermo Trinity Equestrian Center, LLC 3437 West Lake Road Erie, PA 16505	Erie	Fairview Township	Bear Run CWF; MF

## **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>
Downingtown Borough Chester County	PAG0200 151002	Chester County Technical College High School— Brandywine Campus Chester County School Authority 455 Boot Road Downingtown, PA 19335	Parke Run Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
West Penn Township Schuylkill County	PAG2005409008	Jim Hower 249 School Drive New Ringgold, PA 17960 and Slayton Altenburg 847 Dairy Road Tamaqua, PA 18252	Tributary to Mahoning Creek CWF, MF	Schuylkill County Conservation District 570-622-3742
Shrewsbury Township York County	PAG2006710014	Wayne McMullough Southern York County School District 3280 Fissels Church Road P. O. Box 128 Glen Rock, PA 17327	Centerville Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
Huntingdon Borough Huntingdon County	PAG2003110002	Jill Adams 2400 Cassady Avenue Huntingdon, PA 16652	Muddy Run-UNT to Juniata River WWF-MF	Huntingdon County Conservation District 10605 Raystown Road Suite A Huntingdon, PA 16652-9603 814-627-1627
York Township York County	PAG2006708075	Wellspan Properties, Inc. 2595 South George Street Suite 1 York, PA 17403	UNT to Codorus Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
Shrewsbury Township York County	PAG2006709053	William J. Solomon 14781 Boyer Road New Freedom, PA 17349	UNT to Centerville Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
Manheim Township York County	PAG2006709064	Dennis L. Bosley 1941 Bachman Valley Road Manchester, MD 21102	West Branch Codorus Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
West Manheim Township York County	PAG2006704052-R	Paul Burkentine Stone Ridge Development Corporation 1500 Baltimore Pike Hanover, PA 17331	UNT to West Branch Codorus Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430

## NOTICES

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<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>
Manchester Township York County	PAG2006709010	Themi Sacarellos Round the Clock Diner & Coffee Shop, Inc. 222 Arsenal Road York, PA 17402	Codorus Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
Springettsbury Township York County	PAG2006710003	Harley-Davidson Motor Company Operations, Inc. 1425 Eden Road York, PA 17402-1599	Mill Creek-UNT to Codorus Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
Newberry Township York County	PAG2006709038	Ian Castaneira Sierra's Glen Partners II, LP 320 Rosedale Avenue Highspire, PA 17034	UNT to Fishing Creek TSF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
Windsor Township York County	PAG2006707094	William Bashore Vasland, Inc. 336 West King Street Lancaster, PA 17603	UNT to Pine Creek CWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
Juniata Township Blair County	PAG2000709009	Rick Pope Hollidaysburg Borough Authority 401 Blair Street Hollidaysburg, PA 16648	Blair Gap Run TSF	Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 814-696-0877 Ext. 5
Greenwich Township Berks County	PAG2000610010	Brian Kobularcik Metropolitan Development Group 1030 Reed Avenue Suite 100 Wyomissing, PA 19610	Sacony Creek WWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 610-372-4657 Ext. 201
Bedford Township Bedford County	PAG2000510002	John H. Holbert P. O. Box 244 Bedford, PA 15522	Raystown Branch Juniata River WWF	Bedford County Conservation District 702 West Pitt Street Suite 3 Fairlawn Court Bedford, PA 15522 814-623-0481
Altoona City Blair County	PAG2000710001	Stan Sheetz Sheetz, Inc. 5700 6th Avenue Altoona, PA 16602	Mill Run WWF	Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 814-696-0877 Ext. 5
West Manheim Township York County	PAG2006704043-R	Woodhaven Development 4175 Hanover Pike Manchester, MD 21120	South Branch Conewago—UNT to West Branch Codorus Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
East Manchester Township York County	PAG2006710002	Mark Will JPM Northern, LLC 400 North Cedar Street Lititz, PA 17543	UNT to Susquehanna River WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430



<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>
Millcreek Township Lebanon County	PAG2003810004	Lloyd Newswanger 313 South Millbach Road Newmanstown, PA 17073	Mill Creek CWF-MF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 717-272-3908 Ext. 4
North Lebanon Township Lebanon County	PAG2003804034-R	Landmark Homes c/o Scott Burkholder 1737 West Main Street Ephrata, PA 17522	Tulpehocken Creek TSF-MF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 717-272-3908 Ext. 4
Manheim Township Lancaster County	PAG2003610012	Manheim Township 1840 Municipal Drive Lancaster, PA 17601	UNT to Little Conestoga Creek WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster PA 17601 717-299-5361
Marion Township Berks County	PAG2000609052	Department of Transportation Engineering District 5-0 1002 Hamilton Street Allentown, PA 18101-1013	Tulpehocken Creek TSF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 610-372-4657 Ext. 201
Huntingdon, Reading and Tyrone Townships Adams County	ESCGP10109802-1	William Brett Texas Eastern Transmission, LP 890 Winter Street Suite 300 Waltham, MA 02451-1493	UNT to Conewago Creek—UNT to Mud Run WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 717-334-0636
North Newton Township Cumberland County	PAG2002109006	Robert Zimmerman 406 Long Lane East Earl, PA 17519	Green Spring Creek CWF	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 717-240-7812
Mechanicsburg Borough Cumberland County	PAG2002110004	Mechanicsburg Borough 38 West Allen Street Mechanicsburg, PA 17055	Trindle Spring Run CWF	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 717-240-7812
Reading Township Adams County	PAG2000108011	Alvin Powers Porto Vecchio Properties, LLC 113 Westminster Road Suite 200 Reisterstown, MD 21136	UNT to West Branch Conewago WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 717-334-0636
Germany Township Adams County	PAG2000110010	James Smith Kingsdale Adventure, LLC 201 Ulricktown Road Littlestown, PA 17340	Piney Creek WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 717-334-0636

## NOTICES

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<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>
Manheim Township Lancaster County	PAG2003610012	Manheim Township 1840 Municipal Drive Lancaster, PA 17601	UNT Conestoga River WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 717-299-5361 Ext. 5
East Lampeter Township Lancaster County	PAG2003610013	SAZ LP 11650 Crooked Oak Drive Suite 310 Lancaster, PA 17601	Mill Creek WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 717-299-5361 Ext. 5
Lancaster City Lancaster County	PAG2003610019	Franklin & Marshall College 415 Harrisburg Avenue Lancaster, PA 17603	Conestoga Creek WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 717-299-5361 Ext. 5
East Earl Township Lancaster County	PAG2003610022	Good's Store Limited Partnership 165 Earland Drive New Holland, PA 17557	Conestoga River WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 717-299-5361 Ext. 5
Manor Township Lancaster County	PAG2003610023	Lancaster County Solid Waste Management 1299 Harrisburg Pike Box 4425 Lancaster, PA 17604	Manns and Wisslers Runs Susquehanna River WWF-HQ CWF-WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 717-299-5361 Ext. 5
Woodward Township Clinton County	PAG2001810001	Edward R. Nestlerode, Jr. Nesterode Real Estate, Inc. 145 East Walnut Street Lock Haven, PA 17745	UNT to West Branch Susquehanna River CWF	Clinton County Conservation District 45 Cooperation Lane Mill Hall, PA 17751 (570) 726-3798
Woodward Township Clinton County	PAG2001810002	Edward R. Nestlerode, Jr. Nesterode Real Estate, Inc. 145 East Walnut Street Lock Haven, PA 17745	UNT to West Branch Susquehanna River CWF	Clinton County Conservation District 45 Cooperation Lane Mill Hall, PA 17751 (570) 726-3798
Point Township Northumberland County	PAG2004910008	Eldorado Properties Corp. P. O. Box 2621 Harrisburg, PA 17105	Susquehanna River CWF	Northumberland County Conservation District R. R. 3 Box 238-C Sunbury, PA 17801 (570) 286-7114 Ext. 4
Somerset County Somerset Township	PAG02005609012	Somerset Regional Water Resources 888 Stoystown Road Somerset, PA 15501	UNTB to the East Branch of Coxes Creek TSF	Somerset County Conservation District 6024 Glades Pike Suite 103 Somerset, PA 15501 814-445-4352

*Facility Location:  
Municipality &  
County*

<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>
Somerset County Somerset Township	PAG02005609014	Somerset County Airport 159 Airport Lane Friedens, PA 15541	UNTB to Wells Creek CWF	Somerset County Conservation District 6024 Glades Pike Suite 103 Somerset, PA 15501 814-445-4352
Westmoreland County Redstone and Luzerne Townships	PAG2006510012	City of Monessen Eastgate 8 4th Floor Monessen, PA 15062	Monongahela River WWF	Westmoreland County Conservation District 218 Donohoe Road Greensburg, PA 15601 724-837-5271
Westmoreland County Hempfield Township	PAG2006510015	Mark A. Cuomo Cuomo Development Company, LLC 27 Barri Drive Irwin, PA 15642	Jacks Run WWF	Westmoreland County Conservation District 218 Donohoe Road Greensburg, PA 15601 724-837-5271
Cranberry Township Butler County	PAG02 0010 08 025(1)	Eric Lamm FRA Development Assoc., LP 215 Executive Drive Suite 300 Cranberry, PA 15238	UNT Brush Creek WWF	Butler County Conservation District 724-284-5270
City of Hermitage Mercer County	PAG02 0043 10 002	David George Joy Cone Company 3435 Lamor Road Hermitage, PA 16148	Pine Hollow Run WWF UNT Shenango River WWF	Mercer County Conservation District 724-662-2242

*General Permit Type—PAG-3*

*Facility Location:  
Municipality &  
County*

<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>
Washington Township Lehigh County	PAR602246	Alfred N. Hanna 4163 Best Station Road Slatington, PA 18080	Trout Creek CWF	Department of Environmental Protection Northeast Regional Office 2 Public Square Wilkes-Barre, PA 18701-1915
Washington Township Lehigh County	PAR602247	Alfred N. Hanna Victor N. Hanna 4162 Best Station Road Slatington, PA 18080-3751	Trout Creek CWF	Department of Environmental Protection Northeast Regional Office 2 Public Square Wilkes-Barre, PA 18701-1915
Harford Township Susquehanna County	PAR212231	Harford Stone Co. 1060 Bartholomew Road Kingsley, PA 18826	Nine Partners Creek CWF	Department of Environmental Protection Northeast Regional Office 2 Public Square Wilkes-Barre, PA 18701-1915
Franklin County Antrim Township	PAR803642	Jerr-Dan Corporation/Molly Pitcher Highway Facility 1080 Hykes Road Greencastle, PA 17225-9647	UNT to Conococheague Creek WWF 13-C	DEP—SCRO—WQ 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
Franklin County Antrim Township	PAR803520	Jerr-Dan Corporation/Hykes Road Facility 1080 Hykes Road Greencastle, PA 17225-9647	UNT of Conococheague Creek WWF 13-C	DEP—SCRO—WQ 909 Elmerton Avenue Harrisburg, PA 17110

## NOTICES

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<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>
Spring Township Centre County	PAR604818	Hodes Industries, Inc. 153 Tressler Street P. O. Box 5150 Pleasant Gap, PA 16823	UNT Logan Branch CWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3664
Muncy Creek Township Lycoming County	PAR214821	Keystone Filler & Manufacturing Co. 214 Railroad Street P. O. Box 120 Muncy, PA 17756	Unnamed Tributary of West Branch Susquehanna River 10-D	Northcentral Regional Office Water Management 208 West Third Street Suite 101 Williamsport, PA 17701-6448 570-327-0532
Clinton County Castanea Township	PAR234818	WSP Chemicals & Technology P. O. Box 60 400 West Brown Street Castanea, PA 17726	Bald Eagle Creek WWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3664
Canton Township Washington County	PAR606109	General Alloys, Inc. 135 West Wylie Avenue Washington, PA 15301-2205	Chartiers Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 412-442-4000
Monaca Borough Beaver County	PAR216141	Anchor Acquisition, LLC 400 Ninth Street Monaca, PA 15061-1862	Ohio River	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 412-442-4000
Center Township Beaver County	PAR606151	Jerry's Auto Wrecking 101 Constitution Boulevard Monaca, PA 15061	Ohio River	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 412-442-4000
Shaler Township Allegheny County	PAR216124	Kelman Bottles, LLC 1101 William Flynn Highway Glenshaw, PA 15116-2637	Pine Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 412-442-4000
City of Corry Erie County	PAR238333	Foamex Innovations, Inc. 466 South Shady Avenue Corry, PA 16407	Unnamed tributary to Hare Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 814/332-6942
Farmington Township Warren County	PAG049589	Roy and Sue Griffin 301 Central Avenue Falconer, NY 17433-1205	York Run 16-B	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 814/332-6942

*General Permit Type—PAG-9 (SSN)*

*Facility Location:  
Municipality &  
County*

*Permit No.*

*Applicant Name &  
Address*

*Site Name &  
Location*

*Contact Office &  
Phone No.*

Canal Township  
Venango County

PAG098310

Heffern Septic Service  
668 Buttermilk Hill Road  
Franklin, PA 16323

Heffern Farm  
719 Buttermilk  
Hill Road  
Franklin, PA 16323

DEP—NWRO  
Water Management  
230 Chestnut Street  
Meadville, PA 16335-3481  
814/332-6942

**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>
Royce Heckman 10345 Etter Avenue Mercersburg, PA 17236	Franklin	2	288.41	Swine	NA	Approved
Mercer Vu Farms, Inc. 12275 Mt. Pleasant Road Mercersburg, PA 17236	Franklin	1,527	2,101.88	Dairy	NA	Approved
Marvin Long 4251 Fletcher Drive Greencastle, PA 17225	Franklin	318	402	Dairy, Poultry	NA	Approved
Longacre Farm Mark Bricker Path Valley Road Dry Run, PA 17220	Franklin	65	576.82	Swine	NA	Approved

**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**

*Northcentral Region: Water Supply Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Permit No. 5308502—Operation, Public Water Supply.**

Applicant	<b>Ulysses Municipal Authority</b>
Township or Borough	Ulysses Borough
County	<b>Potter</b>
Responsible Official	Mrs. Betty Jo Hilfiger Ulysses Municipal Authority 518 Main Street Ulysses, PA 16948
Type of Facility	Public Water Supply—Operation
Consulting Engineer	Michael J. Peleschak, P. E. Alfred, Benesch & Company 400 One Norwegian Plaza P. O. Box 1090 Pottsville, PA 17901
Permit Issued Date	June 14, 2010
Description of Action	Addition of potassium phosphate to water from Well No. 3 to sequester iron and manganese, the use of sodium hypochlorite to disinfect water from Big Spring reservoir and Well No. 3, and the use of the related water system improvements that have been constructed.

*Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Permit No. 0410503, Public Water Supply.**

Applicant	<b>Beaver Falls Municipal Authority</b> 1425 8th Avenue P. O. Box 400 Beaver Falls, PA 15010
Borough or Township	Eastvale Borough
County	<b>Beaver</b>

Type of Facility	Eastvale Water Treatment Plant—chloramination
Consulting Engineer	KLH Engineers, Inc. 5173 Campbells Run Road Pittsburgh, PA 15205
Permit to Construct Issued	June 15, 2010

**SEWAGE FACILITIES ACT PLAN APPROVAL**

**Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)**

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

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Bethel Township	P. O. Box 24 Bethel, PA 19507	Berks

*Plan Description:* The approved plan provides for an expansion of the Frystown sewer service area along Camp Swatara Road and Fort Motel Drive and the expansion of the existing 72,400 gpd sewage treatment plant to 223,000 gpd at full build out. This project expands the scope of previously approved planning in Bethel Township. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Bedford Township	P. O. Box 148 Bedford, PA 15522	Bedford

*Plan Description:* The approved plan provides for the Area 2 extension of sanitary sewer collection service to the Sweet Root Road area of Bedford Township. The project will serve 30 existing homes and will produce 7,300 gallons per day of sewage flow. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

**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:

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**DPA Freight/408**, 3rd Street and Norman Avenue, Enola, East Pennsboro Township, **Cumberland County**. Taylor GeoServices, Inc., 38 Bishop Hollow Road, Newtown Square, PA 19073, on behalf of DPA Freight, 6805 Lebanon Road, Suite 1137, Frisco, TX 75034 and Michael Henry, 16 Big Oak Road, Dillsburg, PA 17019, submitted a Final Report concerning remediation of site soils contaminated with diesel fuel released from a leaking saddle tank. 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. The site will remain residential.

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

**Calumet Lubricants Rouseville Plant 1** (PQS Company Former Rouseville Refinery Plant 1), Rouseville Borough, **Venango County**. URS Corporation, 200 Orchard Ridge Drive, Suite 101, Gaithersburg, MD 20878 on behalf of Pennzoil-Quaker State Company, Environmental Services, 910 Louisiana OSP 687, Houston, TX 77002 has submitted a Cleanup Plan concerning remediation of site soil and site groundwater contaminated with diesel fuel, fuel oil, kerosene, lead, motor oil, polynuclear aromatic hydrocarbons and unleaded gasoline. The Plan 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 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. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Northeast Region: Ronald S. Brezinski, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Lakeside Energy** (formerly known as Williams-Hazleton Generation Facility), 10 Maplewood Drive,

Hazle Township, **Luzerne County**. Jeffrey C. Thomas, EPSYS, LLC, 1414 North Cameron Street, Suite A, Harrisburg, PA 17103 submitted a Final Report (on behalf of his client, Lakeside Energy, LLC, 150 North Michigan Avenue, Suite 2930, Chicago, IL 60601), concerning the remediation of soils found to have been impacted by used motor oil when discovered in December 2008. The Report documented attainment of the Statewide Health Standard for soils and was approved on May 26, 2010.

**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 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 documented attainment of the Residential Statewide Health Standard for soils and was approved on June 10, 2010.

#### RESIDUAL WASTE GENERAL PERMITS

**Permits Renewed 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 the Beneficial Use of Residual Waste other than Coal Ash.**

*Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**General Permit No. WMGR121SW001. Reserved Environmental Services, LLC**, 1119 Route 119 S, Mt. Pleasant, PA 15666. Chemical and physical processing of raw gas well flow-back and produced water (“frac” water), generated during hydraulic fracturing and extraction of natural gas from the Marcellus Shale geologic formation to be used as makeup water for further hydraulic fracturing and extraction of natural gas at drilling and production operations in the Marcellus Shale. The permit was issued by the Regional Office on June 10, 2010.

Persons interested in reviewing the general permit may contact Diane McDaniel, Environmental Engineering Manager, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, 412-442-4000. TDD users may contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service at (800) 654-5984.

#### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

**Permits Approved under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.**

*Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.*

**Permit No. 101697. American C&D Logistics, LLC**, 3600 South 26th Street, Philadelphia, PA 19145. This permit is to construct and operate a new municipal solid waste (MSW) transfer facility known as the American C&D Logistics Transfer Facility located on the Pier One Hays Terminal at 3600 South 26th Street in the City of

Philadelphia, **Philadelphia County**. This new facility is permitted to receive a maximum of 1,000 tons per day of Construction and Demolition (C&D) waste by truck and then transferred off-site by barge to permitted facilities. The permit was issued by the Southeast Regional Office on June 9, 2010.

#### AIR QUALITY

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507.*

**48-310-081GP3: Northledge, LLC** (930 East Market Street, Bethlehem, PA 18017) on June 11, 2010, to construct and operate a Portable Crushing Operation with watersprays at their site in Lower Mt. Bethel Township, **Northampton County**.

**48-329-010GP9: Northledge, LLC** (930 East Market Street, Bethlehem, PA 18017) on June 11, 2010, to install and operate a Diesel I/C engine at their site in Lower Mt. Bethel Township, **Northampton County**.

**58-310-031GP3: F.S. Lopke Contracting, Inc.** (3430 SR 434, Apalachin, NY 13732) on June 11, 2010, to construct and operate a Portable Crushing Operation with watersprays at their site in Forest Lake Township, **Susquehanna County**.

**58-329-022GP9: F.S. Lopke Contracting, Inc.** (3430 SR 434, Apalachin, NY 13732) on June 11, 2010, to install and operate a Diesel I/C Engine at their site in Forest Lake 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.*

**GP1-22-03007: Pinnacle Health Hospitals** (218 South Second Street, Harrisburg, PA 17104) on June 14, 2010, for their two boilers in the City of Harrisburg, **Dauphin County**. The general permit was renewed.

**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.*

**46-0200C: John Middleton Co.** (418 West Church Road, King of Prussia, PA 19406) on June 10, 2010, to modify existing sources for a tobacco conditioning and flavoring process, and additions of a new specialty process and a 700 hp (29.0 mmBtu/hr) natural gas-fired boiler, at their facility in Upper Merion Township, **Montgomery County**. As a result of potential emissions of VOCs, the facility is a State-only facility, with restrictions or controls. The Plan Approval and Operating Permit will contain recordkeeping requirements and operating re-



strictions 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.*

**48-399-063: Lamtec Corp.** (P. O. Box 37, Flanders, NJ 07836-0037) on June 11, 2010, to construct and operate a new laminating process and associated mixing operation at their facility to be in Upper Mt. Betel Township, **Northampton County**.

**48-00029: GAF Premium Products—Wind Gap** (P. O. Box 277, Wind Gap, PA 18091-0277) on June 14, 2010, to manufacture fiber cement siding in Wind Gap Borough, **Northampton County**. This is a renewal of a State-only Synthetic Minor operating permit for this facility. The State-only operating permit includes emissions, work practice standards and testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 814-949-7935.*

**67-05004Q: P.H. Glatfelter Co.** (228 South Main Street, Spring Grove, PA 17362-1000) on June 14, 2010, to replace bleach plant pumps, a pine line oxygen delignification reactor pump and a hardwood pulp cross-conveyor at their pulp and paper mill in Spring Grove Borough, **York County**.

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**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.**

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*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Contact: Sachin Shankar, New Source Review Chief—Telephone: 484-250-5920.*

**23-0108B: Barry Callebaut USA, LLC** (903 Industrial Highway, Eddystone, PA 19022) on June 11, 2010, to operate a regenerative thermal oxidizer in Eddystone Borough, **Delaware 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.*

**36-03067A: Covance Research Products, Inc.** (310 Swamp Bridge Road, Denver, PA 17517) on June 14, 2010 to modify the Plan Approval for their animal crematory unit in Exeter Township, **Berks County**. The plan approval was extended.

**06-05069K: East Penn Manufacturing Co., Inc.** (Deka Road, P. O. Box 147, Lyon Station, PA 19536) on June 15, 2010, to modify the Plan Approval for their A4 battery manufacturing plant and lead oxide mills at their lead acid battery assembly facility in Richmond Township, **Berks County**. The plan approval was extended.

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**Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.**

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*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.*

**23-00016: PQ Corp.** (1201 West Front Street, Chester, PA 19013) on June 11, 2010, to renew the Title V Operating Permit PQ to operate a glass manufacturing process in the City of Chester, **Delaware County**. The initial permit was issued July 6, 2000. Under this permit renewal, Source IDs 036 and 104 are being removed and Source ID 037, which was installed under General Plan Approval/General Permit No. 23-302-141GP, is being incorporated into the Title V Operating Permit. Individual limits apply to the various sources at the facility. None of these limits will be changed. The facility is not subject to Compliance Assurance Monitoring (CAM) under 40 CFR Part 64. The Operating Permit will contain requirements to keep the facility operating within all applicable air quality requirements for this source.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Contact: Norman Frederick, Facilities Permitting Chief—Telephone: 570-826-2507.*

**39-00014: Department of Public Welfare—Allentown State Hospital** (1600 Hanover Avenue, Allentown, PA 18109) on July 10, 2010, for psychiatric hospital services in the City of Allentown, **Lehigh County**. This is a renewal of a Title V Operating Permit. As a major source, the facility is subject to the Title V permitting requirements of the Clean Air Act Amendments as adopted by the Commonwealth under 25 Pa. Code Chapter 127, Subchapter G. The Title V Operating Permit includes emission restrictions, work practice standards and testing, monitoring, recordkeeping and reporting requirements to ensure compliance with all applicable Federal and State air quality regulations.

*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.*

**36-05029: High Steel Structures, Inc.** (1853 William Penn Way, P. O. Box 10008, Lancaster, PA 17605-0008) on June 14, 2010, for their bridge girders manufacturing facility in East Lampeter Township, **Lancaster County**. This is a renewal of the operating permit.

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**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.**

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*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507.*

**48-00029: GAF Premium Products—Wind Gap** (P. O. Box 277, Wind Gap, PA 18091-0277) on June 14, 2010, to manufacture fiber cement siding in Wind Gap Borough, **Northampton County**. This is a renewal of a State-only Synthetic Minor operating permit for this facility. The State-only operating permit includes emissions, work practice standards and testing, monitoring,

recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**40-00111: CEI Anthracite, Inc.** (603 South Church Street, Hazleton, PA 18201) on May 28, 2010, to issue a State-only (Natural Minor) Operating Permit for operation of a coal processing operation and associated air cleaning devices at the facility in the City of Hazleton, **Luzerne 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*

**07-05021: Albemarle Corp.** (2858 Back Vail Road, Tyrone, PA 16686-8100) on June 14, 2010, for their specialty chemical plant in Tyrone Township, **Blair County**. This is a renewal of the State-only operating permit.

**28-03023: Valley Quarries, Inc.** (P. O. Box 2009, 169 Quarry Road, Chambersburg, PA 17201-0809) on June 14, 2010, for their Mount Cydonia Sand Plant 2 in Greene Township, **Franklin 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.*

**23-00001: Sunoco, Inc.** (Delaware Avenue and Green Street, Marcus Hook, PA 19061-0426) on June 10, 2010, to modify four items in Marcus Hook Borough, **Delaware County**. This modification addresses the following four items: (1) the incorporation of 40 CFR 60, Subpart J (as required by the Federal Consent Decree, number 05cv02866), as it pertains to the two flares (Sources 104 and 105); (2) the increase of VOC emission limits for several floating roof storage tank to account for heated fluids above ambient temperatures; (3) changes to the CEM monitoring conditions for the following sources: 031, 032, 033, 034, 101, 101a, 045, 060, 099, 705, 706, and the fuel gas mix drum; and (4) address a change in Federal regulations for Source 802. In the October 28, 2009 Federal Register (beginning on 74 FR 55656), it is noted that 40 CFR 63.654 and 63.655 have been redesignated as 40 CFR 63.655 and 63.656, respectively. Minor Operating Permit Modification of Title V Operating Permit issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.462.

**09-00183: Donaldson Company, Inc.** (85 Railroad Drive, Ivyland, PA 18974) on June 11, 2010, to modify the state only permit to incorporate conditions from Plan Approval No. 09-0061B in North Hampton Township, **Bucks County**. The permit will include monitoring, recordkeeping and reporting requirements designed to address all applicable air quality requirements.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 814-949-7935.*

**06-05023: Orograin Bakeries Manufacturing, Inc.** (640 Park Avenue, Reading, PA 19611-1926) on June 14, 2010, for their bakery facility in Reading City, **Berks County**. This State-only operating permit was administratively amended due to a change of ownership.

**De Minimis Emissions Increases Authorized under 25 Pa. Code § 127.449.**

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507.*

**42-00004: American Refining Group** (77 North Kendall Avenue, Bradford, PA 16701) for their facility in Bradford City, **Erie County**. In addition, this source is exempt from plan approval as it complies with 25 Pa. Code § 127.14(a)(8) No.36.

The Department of Environmental Protection approves the *de minimis* emission increase. The following table is a list of the *de minimis* emission increases as required by 25 Pa. Code § 127.449(i). This list includes the *de minimis* emission increases since the Title V Operating Permit issuance on September 1, 2006.

Date	Source	VOC (tons)
5/8/2010	Parts Washer	0.088
3/2/2010	Tanks Project	0.018
11/2/2009	Tank 609—IFR const.	0.28
Total Reported Increases		0.386
Allowable		1 ton/source 5 tons/facility

**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.*

**32850701 and NPDES Permit No. PA0213683, AMFIRE Mining Company, LLC** (1 Energy Place, Latrobe, PA 15650), to revise the permit for the Clymer Refuse Disposal Site in Cherryhill Township, **Indiana County** to expand the refuse disposal area and add

discharges to related NPDES permit. Coal Refuse Disposal Support Acres Proposed 12.7, Coal Refuse Disposal Acres Proposed 51.5. Receiving Streams: Unnamed Tributary to Dixon Run, classified for the following use: CWF and Unnamed Tributary to Buck Run, classified for the following use: CWF. Application received: September 14, 2007. Permit issued: June 8, 2010.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.*

**32000101 and NPDES No. PA023253. Amerikohl Mining, Inc.**, 202 Sunset Drive, Butler, PA 16001, permit renewal for reclamation only of a bituminous surface and auger mine in Rayne Township, **Indiana County**, affecting 159.5 acres. Receiving stream(s): unnamed tributary to/and Crooked Creek to Allegheny River classified for the following use(s): cold water fishery and WWFN. There are no potable water supply intakes within 10 miles downstream. Application received: April 19, 2010. Permit issued: June 11, 2010.

**05070101 and NPDES No. PA0262544. Forcey Coal, Inc.**, P. O. Box 225, Madera, PA 16661 commencement, operation and restoration of a bituminous surface mine in Broad Top Township, **Bedford County**, affecting 110.0 acres. Receiving stream(s): Brewster Hollow Run, East Fork Brewster Hollow Run classified for the following use(s): warm water fisheries. The first downstream potable water supply intake from the point of discharge is Coaldale—Six Mile Run Area Water Corporation infiltration gallery and two wells. The permit includes issuance of a Chapter 105 permit to authorize the relocation of a section of the East Fork Brewster Hollow Run to mitigate the effects of abandoned surface mining. Application received: December 6, 2007. Permit issued: June 10, 2010.

**32030108. P & N Coal Company, Inc.**, P. O. Box 332, Punxsutawney, PA 15767, permit renewal for reclamation only of a bituminous surface mine in Grant Township, **Indiana County**, affecting 69.7 acres. Receiving stream(s): unnamed tributaries to/and Rairigh Run classified for the following use(s): high quality cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: December 10, 2009. Permit issued: June 10, 2010.

**11990101 and NPDES No. PA0235041. Twin Brook Coal, Inc.**, P. O. Box 225, Clymer, PA 15728, permit renewal for the continued operation and restoration of a bituminous surface and auger mine in Barr Township, **Cambria County**, affecting 80.0 acres. Receiving stream(s): unnamed tributaries to/and Hoppel Run and West Branch Susquehanna River classified for the following use(s): cold water fishery, warm water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: January 29, 2010. Permit issued: June 10, 2010.

**32990108 and NPDES No. PA0235130. KMP Associates, Inc.**, 1094 Lantz Road, Avonmore, PA 15618, permit renewal for reclamation only of a bituminous surface mine in Young Township, **Indiana County**, affecting 54.0 acres. Receiving stream(s): unnamed tributaries to Whisky Run classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: April 16, 2010. Permit issued: June 11, 2010.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.*

**16050105 and NPDES No. PA0242659. Ben Hal Mining Company** (389 Irishtown Road, Grove City, PA 16127), Renewal of an existing bituminous strip operation

in Redbank Township, **Clarion County** affecting 57.1 acres. This renewal is issued for reclamation only. Receiving streams: Unnamed tributary to Pine Creek and Town Run. Application received: April 12, 2010. Permit issued: June 2, 2010.

**16940105 and NPDES Permit No. PA0212130. Original Fuels, Inc.** (P. O. Box 343, Punxsutawney, PA 15767) Renewal of an existing bituminous strip operation in Perry Township, **Clarion County** affecting 220.0 acres. Receiving streams: Three unnamed tributaries to the Allegheny River. Application received: April 9, 2010. Permit Issued: June 8, 2010.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**17090103 and NPDES No. PA0257079. Bell Resources, Inc.** (1340 Hoyt Road, Curwensville, PA 16833). Commencement, operation and restoration of a bituminous surface mine located in Boggs and Knox Townships, **Clearfield County** affecting 311.9 acres. Receiving streams: unnamed tributaries to Clearfield Creek classified for Cold Water Fishery. There are no potable water supply intakes within 10 miles downstream. Application received: February 17, 2009 Permit issued: June 7, 2010.

**17040105 and NPDES No. PA0243795. R.B. Contracting** (160 R.B. Contracting Lane, Curwensville, PA 16833). Renewal of an existing bituminous surface mine located in Brady Township, **Clearfield County** affecting 63.9 acres. Receiving streams: unnamed tributaries to East Branch of Mahoning Creek classified for High-Quality Cold Water Fisheries. There are no potable water supply intakes within 10 miles downstream. Application received: March 25, 2010. Permit issued: April 6, 2010.

**17030115 and NPDES No. PA0243612. Hilltop Coal Co.** (12 Dutchtown Road, Houtzdale, PA 16651-9225). Renewal of an existing bituminous surface mine located in Bigler Township, **Clearfield County** affecting 212.6 acres. Receiving streams: Japling Run classified for Cold Water Fishery and unnamed tributaries to Muddy Run classified for Cold Water Fishery. There are no potable water supply intakes within 10 miles downstream. Application received: February 1, 2010. Permit issued: June 1, 2010.

**17990104 and NPDES No. PA0238252. Sky Haven Coal, Inc.** (5510 State Park Road, Penfield, PA 15849). Renewal of an existing bituminous surface mine for reclamation activities only located in Covington Township, **Clearfield County** affecting 66.1 acres. Receiving streams: unnamed tributaries to Grimes Run and Grimes Run classified for High Quality Cold Water Fishery. There are no potable water supply intakes within 10 miles downstream. Application received: April 26, 2010. Permit issued: June 8, 2010.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**54840106R5. City of Philadelphia, Trustee (Girard Estate)**, (21 South 12th Street, Philadelphia, PA 19107), renewal of an existing anthracite surface mine, coal refuse reprocessing and disposal operation in West Mahanoy and Butler Townships, **Schuylkill County** affecting 447.6 acres, receiving stream: none. Application received: June 17, 2009. Renewal issued: June 8, 2010.

**54040202R. Frederick Consulting**, (P. O. Box 524, Minersville, PA 17954), renewal of an existing anthracite coal refuse reprocessing operation in Cass Township, **Schuylkill County** affecting 30.0 acres, receiving

stream: none. Application received: January 27, 2010. Renewal issued: June 8, 2010.

*Noncoal Applications Returned*

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500.*

**63082801. Arthur J. Boyle** (P. O. Box 400, Laughlintown, PA 15655). This small noncoal permit (sandstone quarry), issued on November 25, 2008, affecting 5.0 acres, was cancelled and replaced by issuance of permit number 63090601. Receiving streams: unnamed tributary to Ten Mile Creek. Permit cancelled: June 11, 2010.

*Noncoal Permits Actions*

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.*

**40A77SM12 and NPDES No. PA024985. PBS Coals, Inc.**, 1576 Stoystown Road, P. O. Box 260, Friedens, PA 15541, renewal of NPDES Permit, Brothersvalley Township, **Somerset County**. Receiving stream(s): Piney Run classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: November 20, 2009. Permit issued: June 10, 2010.

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500.*

**63090601 and NPDES Permit No. PA0251712. Arthur J. Boyle** (P. O. Box 400, Laughlintown, PA 15655). Permit issued for commencement, operation and reclamation of a large noncoal surface mining site (sandstone quarry) located in East Bethlehem Township, **Washington County**, affecting 54.8 acres. Receiving streams: unnamed tributaries to Ten Mile Creek and Ten Mile Creek. Application received: July 8, 2009. Permit issued: June 11, 2010.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.*

**37870303. RWE Holding Company** (P. O. Box 144, Portersville, PA 16051), Transfer of an existing slag operation from R.W. Elliott & Sons, Inc. in Taylor Township, **Lawrence County** affecting 46.0 acres. Receiving streams: Shenango River to the Beaver River. Application received: October 30, 2009. Permit issued: June 2, 2010.

**37092801. RWE Holding Company** (P. O. Box 144, Portersville, PA 16051), Transfer of an existing slag operation from R.W. Elliott & Sons, Inc. in Taylor Township, **Lawrence County** affecting 4.9 acres. Receiving stream: Beaver River. Application received: October 30, 2009. Permit issued: June 2, 2010.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**18102801 Benson W. Probst** (668 German Road, Lock Haven, PA 17745), commencement, operation and restoration of a shale operation in Dunnstable Township, **Clinton County** affecting 1.0 acre. Receiving stream(s): Old PA-Canal and Susquehanna River. Application received: March 2, 2010. Permit issued: June 3, 2010.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**48080301. Penn Pig Bed Slate Co., Inc.**, (P. O. Box 184, Slatington, PA 18080), commencement, operation and restoration of a quarry operation in Pen Argyl Borough, **Northampton County** affecting 174.6 acres, receiving

stream: none. Application received: September 2, 2008. Permit issued: June 10, 2010.

**58090828. Ronald A. Sondesky**, (2616 Gage Road, Lawton, PA 18828), commencement, operation and restoration of a quarry operation in Rush Township, **Susquehanna County** affecting 1.0 acre, receiving stream: none. Application received: November 23, 2009. Permit issued: June 10, 2010.

**52980301C4 and NPDES Permit No. PA0223905. ER Linde Construction Corp.**, (9 Collan Park, Honesdale, PA 18431), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Lackawaxen Township, **Lackawanna County**, receiving stream: unnamed tributary to Little Blooming Grove Creek. Application received: April 20, 2010. Renewal issued: June 11, 2010.

**ABANDONED MINE RECLAMATION  
ACT 181 ONLY**

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, Telephone (814) 342-8127.*

Act 181 Bond **PBF 17840105.1**

**Forfeiture Reclamation Project**

Location	Jordan Township Clearfield County Pennsylvania
Description	Act 181 Bond Forfeiture Reclamation Project Benjamin Coal Company SMP No. 17840105 Johnston Sinclair Mine SMP No. 17804004 Ecklund Mine
Contractor	Forcey Coal, Inc. Route 453 P. O. Box 225 Madera, PA 16661-0225
Amount	\$322,120.00
Date of Award	May 28, 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*

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500.*

**02104002. Allied Waste Systems of PA, LLC** (11 Boggs Road, Imperial, PA 15126). Blasting activity permit issued to drill and blast for overburden at the Imperial Landfill, located in Findlay Township, **Allegheny County**. The duration for blasting is expected to be for three months. Permit issued: June 7, 2010.

**30104004. Dyno Nobel, Inc.** (494 Four H Camp Road, Morgantown, WV 26508). Blasting activity permit issued for seismic activity at the well site 8-H Pad B, located in

Aleppo Township, **Greene County**. The duration for blasting is expected to be for 3 months. Permit issued: June 9, 2010.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.*

**16104001. Geokinetics, Inc.** (R. R. 6, Box 676, Towanda, PA 18848). Blasting activity permit for seismic exploration in Ashland, Beaver and Elk Townships, **Clarion County**. This blasting activity permit will expire on July 31, 2010. Application received: May 19, 2010. Permit issued: June 3, 2010.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**35104105. Austin Powder Northeast, LLC**, (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for a home at 826 Froude Avenue, City of Scranton, **Lackawanna County** with an expiration date of June 4, 2011. Permit issued: June 7, 2010.

**36104129. Keystone Blasting Service**, (15 Hopeland Road, Lititz, PA 17543), construction blasting for Earl Martin home in Ephrata Township, **Lancaster County** with an expiration date of December 30, 2010. Permit issued: June 7, 2010.

**38104110. ME Drilling & Blasting**, (P. O. Box 279, Auburn, NH 03032), construction blasting for London Croft in North Londonderry Township, **Lebanon County** with an expiration date of June 8, 2011. Permit issued: June 8, 2010.

**38104111. Keystone Blasting Service**, (15 Hopeland Road, Lititz, PA 17543), construction blasting for Horning Project in Jackson Township, **Lebanon County** with an expiration date of December 31, 2010. Permit issued: June 8, 2010.

**58104021. M & S Blasting LLC**, (943 Gontarski Road, Hallstead, PA 18822), construction blasting at the Silver Lake Saw Shop Stock Pile Area in Silver Lake Township, **Susquehanna County** with an expiration date of May 10, 2011. Permit issued: June 8, 2010.

**58104026. Brainard Explosives, LLC**, (3978 SR 2073, Kingsley, PA 18826), construction blasting for the Laufer 1H/2H Well Pad in Springville Township, **Susquehanna County** with an expiration date of July 30, 2010. Permit issued: June 8, 2010.

**58104027. Brainard Explosives, LLC**, (3978 SR 2073, Kingsley, PA 18826), construction blasting for the Oakley Well Pad in Springville Township, **Susquehanna County** with an expiration date of July 30, 2010. Permit issued: June 8, 2010.

**58104023. Conquest Seismic Services**, (504 IST Center, Horseheads, NY 14845), seismic blasting for Baker 2D in Choconut and Forest Lake Townships, **Susquehanna County** with an expiration date of August 31, 2010. Permit issued: June 9, 2010.

**58104024. Conquest Seismic Services**, (504 IST Center, Horseheads, NY 14845), seismic blasting for Bonnice 2D in Forest Lake, Jessup and Bridgewater Townships, **Susquehanna County** with an expiration date of August 31, 2010. Permit issued: June 9, 2010.

**06104106. J Roy's, Inc.**, (P. O. Box 125, Bowmansville, PA 17507), construction blasting for Weis Market Shilington in Spring Township, **Berks County** with an expiration date of June 8, 2011. Permit issued: June 10, 2010.

**09104001. Doli Construction, Inc.**, (120 Independence Lane, Chalfont, PA 18914-1832) and Bernard J. Hasara Drilling and Blasting Service, (1125 East Mahanoy Avenue, Mahanoy City, PA 17948), construction blasting for the Christ Church-Christ Home Sewer Job in Warminster Township, **Bucks County** with an expiration date of December 30, 2010. Permit issued: June 11, 2010.

**36104132. ME Drilling & Blasting**, (P. O. Box 279, Auburn, NH 03032), construction blasting for Lakeview Country Estates in Mt. Joy Township, **Lancaster County** with an expiration date of June 9, 2010. Permit issued: June 11, 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.*

**E40-709. Department of Transportation, Engineering District 4-0**, 55 Keystone Industrial Park, Dunmore, PA 18512. City of Hazleton and Hazle Township, **Luzerne County**, Army Corps of Engineers Philadelphia District.

To place fill in a *de minimis* area of PEM (EV) wetlands equal to 0.04 acre and to construct and maintain a driveway crossing of a tributary to Dreck Creek (HQ-CWF) consisting of dual, 27-inch reinforced concrete pipe culverts depressed 6 inches below streambed elevation. The project is part of the Broad Street Betterment Project and is located along SR 0093, Segment 0024, just west of the intersection of the SR 0424 (Arthur Gardner Parkway) and SR 0093 (Hazleton, PA Quadrangle Latitude: 41° 56' 27"; Longitude: 75° 56' 55") in the City of Hazleton and Hazle Township, Luzerne County.

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

**E67-879: Penn Township**, 20 Wayne Avenue, Hanover, PA 17331, Penn Township, **York County**, ACOE Baltimore District.

The applicant proposes to remove a wastewater treatment tank and to install and maintain a sanitary sewer line in the 100-year flood plain of Oil Creek (WWF) for the purpose of upgrading the Penn Township Wastewater Treatment Plant. The project is located at 1020 Wilson Avenue, Hanover, PA 17331 (Hanover, PA Quadrangle N: 11.45 inches; W: 11.03 inches, Latitude: 39° 48' 46"; Longitude: 76° 57' 13") in Penn Township, York County.

**E07-431: JoAnne and Matthew Gordon**, 608 East 25th Avenue, Altoona, PA 16601 Spring Run Retaining wall, City of Altoona, **Blair County**, ACOE Baltimore District.

To construct and maintain an approximately 90-foot long by 8-foot high pre-cast block retaining wall along the left bank of Spring Run (WWF, MF) and adjacent to 608 East 25th Avenue. The project is proposed to restore deteriorated portions of the stream channel to prevent structural damage of the property. The project is located at the intersection of East 25th Avenue and Spring Run (Altoona, PA Quadrangle N: 6.74 inches; W: 3.50 inches, Latitude: 40° 32' 13.63"; Longitude: -78° 24' 0.65") in the City of Altoona, Blair County, PA.

**E22-550: Catholic Diocese of Harrisburg, c/o Jeffrey McCauslin**, 4800 Union Deposit Road, P. O. Box 3657, Harrisburg, PA 17105 Lower Paxton Township, **Dauphin County**, ACOE Baltimore District.

To construct and maintain a high school and associated parking and athletic fields impacting 0.036-acre of Palustrine Emergent (PEM) associated with Spring Creek

(CWF) located near the intersection of Spring Creek and Page Roads (Harrisburg East, PA Quadrangle N: 4.58 inches; W: 5.89 inches, Latitude: 40° 16' 33.2"; Longitude: 76° 47' 10.7") in Lower Paxton Township, Dauphin County.

**E22-558: Oak Grove High Street, LLC, Dennis Schmidt**, 1000 North Front Street, Suite 500, Wormleysburg, PA 17043, Oak Grove Subdivision, Middletown Borough, **Dauphin County**, ACOE Baltimore District.

To place and maintain fill in 0.018 acre of PEM wetlands, and to construct and maintain a 3.0-inch diameter and 6.0-inch diameter PVC water line, an 8.0-inch diameter PVC sewer line and seven 4.0-inch diameter SLPP underdrain pipes in the floodway of an unnamed tributary to Swatara Creek (WWF). The project also includes the removal of approximately 6.18 cubic yards of material from the floodway of the unnamed tributary to Swatara Creek (WWF), and the grading and paving of an 8,450.0-square foot area in the floodway of an unnamed tributary to Swatara Creek (WWF). The purpose of the project is to create five apartment buildings and associated access and parking facilities. The project is located immediately north of the intersection of Spruce and East High Streets (Middletown, PA Quadrangle N: 14.0 inches; W: 14.5 inches, Latitude: 40° 12' 8.5" N; Longitude: 76° 43' 39.7" W) in Middletown Borough, Dauphin County. Wetland impacts are *de minimis* and wetland mitigation is not required.

**E28-354: Accent Developers, LLC, Spring Run Estates**, 10764 Buchanan Trail East, Waynesboro, PA 17268, Washington Township, **Franklin County**, ACOE Baltimore District.

To construct and maintain: (1) a 16-foot wide by 36-foot long CONSPAN bridge with wingwalls across an unnamed tributary to East Branch Antietam Creek (CWF); (2) two 15-inch diameter HDPE and two 24-inch diameter HDPE storm water outfalls, which discharges to an unnamed tributary to East Branch Antietam Creek; and (3) remove an existing dual 36-inches diameter Reinforced Concrete Pipe (RCP) Culvert near to the upstream side of the new proposed structure, all to access a proposed housing development located east of the intersection of Gehr (T-384) and Stottlemeyer Roads (T-397) in Washington Township, Franklin County (Waynesboro, PA USGS Quadrangle Latitude: 39° 45' 41.5" N; Longitude: -77° 33' 11.2" W) in Washington Township, Franklin County.

**E06-654: Maxatawny Township Municipal Authority**, 127 Quarry Road, Suite 1, Kutztown, PA 19530, Maxatawny Township, **Berks County**, ACOE Philadelphia District.

To install and maintain a 6.0-inch diameter HDPE sanitary sewer line in and across Sacony Creek (CWF) temporarily impacting 0.0011 acres of PFO wetlands, and to construct and maintain an 8.0-inch HDPE outfall with a rip rap apron along Sacony Creek (CWF) for the construction of a new wastewater treatment facility. The project is located 0.1 mile south of the intersection of Long Dam Road and SR 737 (Kutztown, PA Quadrangle N: 5.95 inches; W: 5.25 inches, Latitude: 40° 31' 58"; Longitude: 75° 47' 16") in Maxatawny Township, Berks County. Wetland impacts are *de minimis*, and wetland replacement is not required.

**E67-878: Harley-Davidson Motor Company Operations, Inc.**, 1425 Eden Road, York, PA 17402, Springettsbury Township, **York County**, ACOE Baltimore District.

The applicant proposes to extend and maintain: (1) three existing 50.0-foot long, 36.0-inch reinforced concrete pipes in kind by 28.0 feet at the downstream end in an unnamed tributary to Codorus Creek (WWF); (2) an existing 56.0-foot long, 34.0-inch by 53.0-inch reinforced concrete pipe in kind by 40.0 feet at the downstream end in an unnamed tributary to Codorus Creek (WWF); (3) an existing 21.0-foot long, 36.0-inch and two 24.0-inch reinforced concrete pipes in kind by 35.0 feet at the upstream end in an unnamed tributary to Codorus Creek (WWF); (4) an existing 31.0-foot long, 36.0-inch reinforced concrete pipe with an 18.0-inch reinforced concrete pipe by 32.0 feet at the upstream end in an unnamed tributary to Codorus Creek (WWF); and (5) an existing 42.0-long, 5.0-foot by 5.0-foot concrete box culvert in kind by 54.0 feet at the downstream end in an unnamed tributary to Codorus Creek (WWF). In addition, the applicant proposes to place and maintain fill in a 0.40-acre fire pond. All activities are for the purpose of site improvements, including the construction of building additions, parking lots and road improvements. The project is located on Eden Road northeast of its intersection with PA Route 30 (York, PA Quadrangle N: 20.6 inches; W: 12.5 inches, Latitude: 39° 59' 18"; Longitude: 76° 42' 52")

**E06-657: Department of Transportation, Engineering District 5-0**, 1002 Hamilton Street, Allentown, PA 18101, Marion Township, **Berks County**, ACOE Philadelphia District.

To: (1) raze an existing three-span masonry arch bridge having a clear span of 85.0 feet, a width of 22.0 feet, a skew of 90.0° and a minimum underclearance of 10.4 feet; and (2) construct and maintain a single-span P/S Bulb-Tee beam bridge having a clear span of 81.3 feet, a width of 29.8 feet, a skew of 75.0° and a minimum underclearance of 9.4 feet carrying Township Road T-503 (William Penn Boulevard) over Tulpehocken Creek (TSF) in Marion Township, Berks County (Womelsdorf, PA Quadrangle N: 22.3 inches; W: 13.0 inches, Latitude: 40° 22' 24"; Longitude: -76° 13' 06") all for the purpose of replacing a structurally deficient bridge (also known as SR 3061) over Tulpehocken Creek. The project will involve the use of a temporary causeway.

*Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636.*

**E19-279. Benton Borough**, P. O. Box 520, 150 Colley Street, Benton, PA 17814. Park Street Improvements, in Benton Borough, **Columbia County**, ACOE Baltimore District (Benton, PA Quadrangle Latitude: 41° 12' 1"; Longitude: 76° 22' 44.4").

To remove the existing roadway to facilitate a full depth roadway reclamation project in the FEMA detailed floodfringe of Fishing Creek. The 600 linear foot re-pave will not increase the existing grades within the floodplain. Driveway aprons, curbs, sidewalks, along with a new stormwater pipe and inlet system, improved stormwater drainage. This project is intended to improve safety of pedestrian and vehicular traffic. The project is located between North Street and SR 487.

*Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**E26-358. James J. Wild**, 1277 Brooklawn Drive, Pittsburgh, PA 15227. To construct a residential bridge in Saltlick Township, **Fayette County**, Pittsburgh ACOE District (Seven Spring, PA Quadrangle N: 7.9 inches; W: 15.7 inches, Latitude: 40° 02' 37"; Longitude: 79° 21'

44"). To construct and maintain a bridge across Back Creek (CWF) to access the property. The bridge will span the stream channel.

**E30-230. United Mine Worker's Association**, 197 Dunn Station Road, Prosperity, PA 15329. To construct wood pedestrian bridge in Washington Township, **Greene County**, Pittsburgh ACOE District (Waynesburg, PA Quadrangle N: 15.75 inches; W: 8.15 inches, Latitude: 39° 57' 41"; Longitude: 80° 10' 59"). To construct and maintain a wooden pedestrian bridge having a span of 12 feet and an underclearance of 5 feet across an unnamed tributary to Ruff Creek (WWF).

#### ENVIRONMENTAL ASSESSMENTS

*Cambria District: Environmental Program Manager, 286 Industrial Pike Road, Ebensburg, PA 15931-4119.*

**EA1009-015. Department of Environmental Protection**, Bureau of Abandoned Mine Reclamation, Division of Mine Hazards, P. O. Box 8476, Harrisburg, PA 17105. Abandoned Mine Land Reclamation Project, in Parker Township, **Butler County**, Pittsburgh ACOE District.

The applicant proposes to backfill an abandoned surface mine, which includes 2,000 linear feet of dangerous highwall. The project will include backfilling 0.83 acre of hazardous open water, POW, and 0.12 acre of PEM wetland, of which 0.09 acre is AMD-impacted, which have developed within the surface mine pits. The project will directly impact 0.03 acre of non-AMD impacted wetland, which is considered *de minimis*, and therefore does not require mitigation. Impacts to the wetland and water body are unavoidable to address the public safety hazards at this site (Parker, PA Quadrangle N: 5.75 inches; W: 15.5 inches).

#### 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.: ESX10-005-0006  
 Applicant Name: EQT Production Company  
 Contact: Todd Klaner  
 Address: 455 Racetrack Road, Suite 101  
 City: Washington State: PA Zip Code: 15301  
 County: Armstrong Township(s): Kittanning  
 Receiving Stream(s) and Classifications: Horney Camp Run and UNT to Horney Camp Run—WWF, other

5/19/10

ESCGP-1 No.: ESX10-125-0043  
 Applicant Name: Chesapeake Appalachia, LLC  
 Contact Person: Tal Oden  
 Address: P. O. Box 18496  
 City: Oklahoma City State: OK Zip Code: 73154-0496  
 County: Washington Township(s): Carroll  
 Receiving Stream(s) and Classifications: Taylor's Run-(WWF)—Pigeon Creek-(WWF)—Monongahela River-(WWF), other

5/21/10

ESCGP-1 No.: ES10-059-0039  
 Applicant Name: Energy Corporation of America  
 Contact Person: Seth Berdette  
 Address: 501 56th  
 City: Charleston State: WV Zip Code: 26304  
 County: Greene Township(s): Cumberland/Jefferson  
 Receiving Stream(s) and Classifications: Muddy Creek/South Branch Muddy Creek, other

5/27/10

ESCGP-1 No.: ESX10-059-0040  
 Applicant Name: CNX Gas Company, LLC  
 Contact Person: Kenneth Kormendy  
 Address: 200 Evergreene Drive  
 City: Waynesburg State: PA Zip Code: 15370  
 County: Greene Township(s): Center/Richhill  
 Receiving Stream(s) and Classifications: Jacobs Run, Claylick Run-High Quality-Warm Water Fishery (HQ-WWF), HQ

5/14/10

ESCGP-1 No.: Esx10-059-0033  
 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): Morris  
 Receiving Stream(s) and Classifications: Bowns Creek/Bear Lakes, HQ

5/24/10 Major Rev.

ESCGP-1 No.: ESX09-125-0027  
 Applicant Name: Range Resources-Appalachia, LLC  
 Contact Person: W. Scott Rusmisl, P. E.  
 Address: 380 Southpointe Boulevard  
 City: Canonsburg State: PA Zip Code: 15317  
 County: Washington Township(s): South Franklin  
 Receiving Stream(s) and Classifications: Bane Creek Secondary Water Fork of Bane Creek, other

6/2/10

ESCGP-1 No.: ESX10-125-0050  
 Applicant Name: Chesapeake Appalachia, LLC  
 Contact Person: Donald P. Boord  
 Address: P. O. Box 18496  
 City: Oklahoma City State: OK Zip Code: 73154-0496  
 County: Washington Township(s): West Bethlehem  
 Receiving Stream(s) and Classifications: Pine Run-(WWF)—Little Ten Mile Creek-(WWF)—Ten Mile Creek-(TSF)—Monongahela River-(WWF), other

5/26/10

ESCGP-1 No.: ESX10-125-0046  
 Applicant Name: Markwest Liberty Midstream & Resources, LLC  
 Contact Person: Robert McHale  
 Address: 100 Plaza Drive, Suite 102  
 City: Atlasburg State: PA Zip Code: 15004  
 County: Washington Township(s): Chartiers  
 Receiving Stream(s) and Classifications: Plum Run Secondary Water, other

5/17/10

ESCGP-1 No.: ESX10-059-0037  
 Applicant Name: CNX Gas Company, LLC  
 Contact Person: Ken Kormendy  
 Address: 200 Evergreene Drive  
 City: Waynesburg State: PA Zip Code: 15370  
 County: Greene Township(s): Washington  
 Receiving Stream(s) and Classifications: Fonner Run, Dillie Run-High Quality-Warm Water Fishery (HQ-WWF)  
 Secondary Water Bates Fork-HQ-WWF

5/27/10

ESCGP-1 No.: ESX10-125-0047  
 Applicant Name: Markwest Liberty Midstream & Resources, LLC  
 Contact Person: Robert McHale  
 Address: 100 Plaza Drive, Suite 102  
 City: Atlasburg State: PA Zip Code: 15004  
 County: Washington Township(s): Hopewell  
 Receiving Stream(s) and Classifications: UNT to Cross Creek and Two UNT Brush Run, HQ

5/25/10 Minor Rev.

ESCGP-1 No.: ESX10-125-0032  
 Applicant Name: Chesapeake Operating Appalachia Midstream SRVS  
 Contact: Eric Stewart  
 Address: 179 Chesapeake Drive, P. O. Box 1300  
 City: Jan Lew State: WV Zip Code: 26378  
 County: Washington Township(s): Independence  
 Receiving Stream(s) and Classifications: Sugar Camp Run, Haynan Creek/Cross Creek, HQ

5/17/10

ESCGP-1 No.: Esx10-059-0037  
 Applicant Name: CNX Gas Company, LLC  
 Contact Person: Kenneth Kormendy  
 Address: 200 Evergreene Drive  
 City: Waynesburg State: PA Zip Code: 15370  
 County: Greene Township(s): Washington  
 Receiving Stream(s) and Classifications: Fonner Run, Dillie Run-HQ-Warm Water Fishery-HQ-WWF

5/28/10 Minor Rev.

ESCGP-1 No.: ESX09-125-0076  
 Applicant Name: Range Resources—Appalachia, LLC  
 Contact Person: Carla Suszkowski  
 Address: 380 Southpointe Boulevard  
 City: Canonsburg State: PA Zip Code: 15317  
 County: Washington Township(s): MT Pleasant  
 Receiving Stream(s) and Classifications: South Fork Cross Creek, HQ

5/25/10

ESCGP-1 No.: ESX10-125-0045  
 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): Amwell  
 Receiving Stream(s) and Classifications: UNT to Redd Run, other



*Northcentral Region: Oil and Gas Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

ESCGP-1 # ESX10-027-0005

Applicant Name EXCO Resources (PA), Inc.

Contact Person Larry Sanders

Address 3000 Ericsson Drive, Suite 200

City, State, Zip Warrendale, PA 15086

County Centre

Township(s) Burnside Township

Receiving Stream(s) and Classification(s) Spruce Run

(HQ-CWF)

Secondary—West Branch Spruce Run

(HQ-CWF)

ESCGP-1 # ESX10-015-0127

Applicant Name Chesapeake Appalachia, LLC

Contact Person Eric Haskins

Address 101 North Main Street

City, State, Zip Athens, PA 18810

County Bradford

Township(s) Smithfield Township

Receiving Stream(s) and Classification(s) Peas Creek

(West) and Browns Creek (East)

Secondary—Tomjack Creek (West) and Sugar Creek East

ESCGP-1 # ESX10-081-0024

Applicant Name XTO Energy, Inc.

Contact Person Bernhardt Kissel

Address 395 Airport Road

City, State, Zip Indiana, PA 15701

County Lycoming

Township(s) Moreland Township

Receiving Stream(s) and Classification(s) Little Muncy Creek, CWF, MF

Secondary—Susquehanna River

ESCGP-1 # ESX10-027-0006

Applicant Name Anadarko Marcellus Midstream, LLC

Contact Person Bertha Nefe

Address P. O. Box 1330

City, State, Zip Houston, TX 77251-1330

County Centre

Township(s) Boggs and Snow Shoe Townships

Receiving Stream(s) and Classification(s) Council Run

Secondary—Beech Creek

ESCGP-1 # ESX10-117-0116

Applicant Name East Resources, Inc.

Contact Person Jefferson Long

Address 301 Brush Creek Road

City, State, Zip Warrendale, PA 15086

County Tioga

Township(s) Farmington Township

Receiving Stream(s) and Classification(s) UNT to Loosy Creek, Tributary to Loosy Creek

Secondary—Loosy Creek, Tributary to Crooked Creek

ESCGP-1 # ESX10-117-0112

Applicant Name East Resources, Inc.

Contact Person Jefferson Long

Address 301 Brush Creek Road

City, State, Zip Warrendale, PA 15086

County Tioga

Township(s) Chatham

Receiving Stream(s) and Classification(s) UNT to Crooked z Creek (Susquehanna River Basin)

Secondary—Crooked Creek

ESCGP-1 # ESX10-081-0028

Applicant Name Anadarko Marcellus Midstream, LLC

Contact Person Bertha Nefe

Address P. O. Box 1330

City, State, Zip Houston, TX 77251-1330

County Lycoming

Township(s) Watson Township

Receiving Stream(s) and Classification(s) North Fork

Tombs Run

Secondary—Tombs Run

ESCGP-1 # ESX10-015-0109

Applicant Name Appalachia Midstream Services, LLC

Contact Person Patrick Myers

Address 100 1st Center

City, State, Zip Horseheads, NY 14845

County Bradford

Township(s) West Burlington Township

Receiving Stream(s) and Classification(s) UNT streams to Sugar Creek

Secondary—Sugar Creek

ESCGP-1 # ESX10-015-0136

Applicant Name Southwestern Energy Production Co.

Contact Person Jeffrey Sherrick

Address 2350 North Sam Houston Parkway East, Suite 125

City, State, Zip Houston, TX 77032

County Bradford

Township(s) Stevens Township

Receiving Stream(s) and Classification(s) UNTs to Cold Creek/Wyalusing Creek Watershed

ESCGP-1 # ESX10-015-0135

Applicant Name Talisman Energy USA, Inc.

Contact Person Eric Potter

Address 337 Daniel Zenker Drive

City, State, Zip Horseheads, NY 14845

County Bradford

Township(s) Columbia Township

Receiving Stream(s) and Classification(s) Tributary to North Branch of Sugar Creek

Secondary—North Branch of Sugar Creek

ESCGP-1 # ESX10-015-0124

Applicant Name Chesapeake Appalachia, LLC

Contact Person Eric Haskins

Address 101 North Main Street

City, State, Zip Athens, PA 18810

County Bradford

Township(s) Leroy Township

Receiving Stream(s) and Classification(s) Towanda Creek

Secondary—Susquehanna River

ESCGP-1 # ESX10-081-0025

Applicant Name XTO Energy, Inc.

Contact Person Bernhardt Kissel

Address 395 Airport Road

City, State, Zip Indiana, PA 157701

County Lycoming

Township(s) Shrewsbury Township

Receiving Stream(s) and Classification(s) Big Run and Fox Run

Secondary—Muncy Creek

ESCGP-1 # ESX09-033-0003(02)

Applicant Name EQT Production Company

Contact Person Todd Klaner

Address 445 Racetrack Road, Suite 101

City, State, Zip Washington, PA 15301

County Clearfield

Township(s) Ferguson Township

Receiving Stream(s) and Classification(s) Snyder, Tuckers, Woods and Barrett Runs, Watts Creek

Secondary—Chest and Little Clearfield Creek

- ESCGP-1 # ESX10-131-0014  
 Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Wyoming  
 Township(s) Windham Township  
 Receiving Stream(s) and Classification(s) Roaring Run,  
 Rocky Forest Creek, Susquehanna River
- ESCGP-1 # ESX10-117-0117  
 Applicant Name East Resources, Inc.  
 Contact Person Jefferson Long  
 Address 301 Brush Creek Road  
 City, State, Zip Warrendale, PA 15086  
 County Tioga  
 Township(s) Delmar Township  
 Receiving Stream(s) and Classification(s) Gee Hollow/  
 West Branch Susquehanna River  
 Secondary—Marsh Creek
- ESCGP-1 # ESX10-015-0108  
 Applicant Name Appalachia Midstream Services, LLC  
 Contact Person Patrick Myers  
 Address 100 1st Center  
 City, State, Zip Horseheads, NY 14845  
 County Bradford  
 Township(s) Asylum and Terry Townships  
 Receiving Stream(s) and Classification(s) Durrell Creek
- ESCGP-1 # 14-08-801(03)  
 Applicant Name RW Gathering, LLC and Williams Prod.  
 Appalachia, LLC  
 Contact Person David Freudenrich  
 Address 1000 Town Center, Suite 130  
 City, State, Zip Canonsburg, PA 15317-5834  
 County Centre  
 Township(s) Snow Shoe Township  
 Receiving Stream(s) and Classification(s) Moshannon  
 Creek, Black Moshannon  
 Secondary—West Branch Susquehanna River
- ESCGP-1 # ESX10-015-0131  
 Applicant Name Talisman Energy USA, Inc.  
 Contact Person Eric Potter  
 Address 337 Daniel Zenker Drive  
 City, State, Zip Horseheads, NY 14845  
 County Bradford  
 Township(s) Canton and Troy Townships  
 Receiving Stream(s) and Classification(s) Alba Creek  
 Secondary—Towanda Creek
- ESCGP-1 # ESX10-113-0004  
 Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Sullivan  
 Township(s) Forks and Cherry Townships  
 Receiving Stream(s) and Classification(s) Tributary of  
 Black Creek  
 Secondary—Black Creek
- ESCGP-1 # ESX10-015-0128  
 Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Bradford  
 Township(s) Troy Township  
 Receiving Stream(s) and Classification(s) Canfield Run  
 (East)/Mud Creek (West)  
 Secondary—Sugar Creek
- ESCGP-1 # ESX10-015-0137  
 Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Bradford  
 Township(s) Albany Township  
 Receiving Stream(s) and Classification(s) French Creek  
 Secondary—South Branch Towanda Creek
- ESCGP-1 # ESX10-015-0142  
 Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Bradford  
 Township(s) Wyalusing Township  
 Receiving Stream(s) and Classification(s) UNT of  
 Susquehanna River  
 Secondary—Susquehanna River
- ESCGP-1 # ESX10-015-0141  
 Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Bradford  
 Township(s) Overton Township  
 Receiving Stream(s) and Classification(s) Lick Run, UNT  
 to Lick Run, UNT to Millstone Creek and Chilson Run  
 Secondary—Schrader Creek, Lake Loyalsock
- ESCGP-1 # ESX10-131-0016  
 Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Bradford  
 Township(s) Meshoppen Township  
 Receiving Stream(s) and Classification(s) Meshoppen  
 Creek  
 Secondary—Susquehanna River
- ESCGP-1 # ESX10-027-0007  
 Applicant Name Superior Appalachian Pipeline, LLC  
 Contact Person  
 Address 1000 Town Center Way, Suite 120  
 City, State, Zip Canonsburg, PA 15317  
 County Centre  
 Township(s) Burnside, Curtin, and Snow Shoe Townships  
 Receiving Stream(s) and Classification(s) UNTs to  
 Boak, Sandy, Logway, Cherry and Contrary  
 Runs; Beech Creek, Sandy Run  
*Southwest Region: Watershed Management Program  
 Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-  
 4745.*  
*Washington County Conservation District: 100 West  
 Beau Street, Suite 105, Washington, PA 15301-4447, (724-  
 228-6774).*

<i>ESCGP-1 No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
63 10 8 002	Mark West Liberty Midstream & Resources, LLC 100 Plaza Drive Suite 102 Atlasburg, PA 15004	Washington	Chartiers Township	Plum Run and UNT to Plum Run WWF

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

<i>ESCP No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
43-10-8-01	National Fuel Gas Supply Corporation	Mercer	Otter Creek and Perry Townships	Little Shenango River Tributaries TSF

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## STORAGE TANKS

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### SITE-SPECIFIC INSTALLATION PERMITS

**The following Storage Tank Site-Specific Installation Permits, under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 6021.504, 6021.1101 and 6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C, have been issued by the Bureau of Waste Management, Director, P. O. Box 8763, Harrisburg, PA 17105-8763.**

<i>SSIP Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
10-39-007	Carpenter Company 57 Olin Way Fogelsville, PA 18031 Attn: Mr. Pat Naidu	Lehigh	Upper Macungie Township	1 AST storing 2,4-Toluene Diisocyanate	113,650 gallons

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## SPECIAL NOTICES

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### Certified Emission Reduction Credits in the Commonwealth's ERC Registry

Emission reduction credits (ERCs) are surplus, permanent, quantified and Federally enforceable emission reductions used to offset emission increases of oxides of nitrogen (NO<sub>x</sub>), volatile organic compounds (VOCs) and the following criteria pollutants: carbon monoxide (CO), lead (Pb), oxides of sulfur (SO<sub>x</sub>), particulate matter (PM), PM-10 and PM-10 precursors.

The Department of Environmental Protection (Department) maintains an ERC registry in accordance with the requirements of 25 Pa. Code § 127.209. The ERC registry system provides for the tracking of the creation, transfer and use of ERCs. Prior to registration of the credits, ERC Registry Applications are reviewed and approved by the Department to confirm that the ERCs meet the requirements of 25 Pa. Code §§ 127.206—127.208. Registration of the credits in the ERC registry system constitutes certification that the ERCs satisfy applicable requirements and that the credits are available for use. The following registered and certified ERCs in the ERC Registry are currently available for use as follows:

- (1) To satisfy new source review (NSR) emission offset ratio requirements;
- (2) To "net-out" of NSR at ERC-generating facilities;
- (3) To sell or trade the ERCs for use as emission offsets at new or modified facilities.

The certified ERCs shown as follows, expressed in tons per year (tpy), satisfy the applicable ERC requirements contained in 25 Pa. Code §§ 127.206—127.208. ERCs created from the curtailment or shutdown of a source or facility expires for use as offsets 10 years after the emission reduction occurs. ERCs generated by the over control of emissions by an existing facility do not expire for use as offsets. However, credits in the registry that are not used in a plan approval will be discounted if new air quality requirements are adopted by the Department or United States Environmental Protection Agency.

For additional information concerning this listing of certified ERCs, contact the Bureau of Air Quality, Division of Permits, Department of Environmental Protection, 12th Floor, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-4325. This Pennsylvania ERC registry report, ERC Registry application and instructions are located at [www.depweb.state.pa.us](http://www.depweb.state.pa.us), select Air, Bureau of Air Quality, Permits, Emission Reduction Credits.

## NOTICES

3597

<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration date</i>	<i>Intended use of ERCs</i>
R. R. Donnelley & Sons Co. County: Lancaster Contact Person: Frederick Shaak, Jr.	VOCs	16.00		Internal Use
Kurz Hastings Inc. County: Philadelphia Contact Person: George Gornick Telephone Number: (215) 632-2300	VOCs	137.45		Trading
Kurz Hastings Inc. County: Philadelphia Contact Person: George Gornick Telephone Number: (215) 632-2300	NOx VOCs	8.01 64.55	Varies from 03/28/2013 to 01/9/2014	Trading
PPG Industries, Inc. Source Location: Springdale Complex County: Allegheny Contact Person: Lori Burgess Telephone Number: (412) 274-3884	VOCs	171.82		Trading
Recipient/Holder of ERC: Coastal Aluminum Rolling Mills, Inc. ERC Generating Facility: Fasson Div. of Avery Dennison Corp. ERC-generating facility location: Quakertown, Bucks Contact Person: Jesse Hackenberg Telephone Number: (570) 323-4430	VOCs	3.62		Internal Use/ Trading
The Procter & Gamble Paper Products Company Source Location: Mehoopany Plant County: Wyoming Contact Person: John Romero Telephone Number: (570) 833-3285	NOx	91.10		Internal Use
Recipient/Holder of ERC: PG&E Energy Trading-Power, LP ERC Generating Facility: Global Packaging, Inc. ERC-generating facility location: Oaks Plant, Montgomery County Contact Person: Sarah M. Barpoulis Telephone Number: (301) 280-6607	VOCs	43.50		Trading
Newcomer Products, Inc. Source Location: Latrobe County: Westmoreland Contact Person: Edward M. Nemeth Telephone Number: (724) 694-8100	VOCs	16.00	07/14/2010	Trading
Scranton-Altoona Terminals Corporation Source Location: Monroe Township County: Cumberland County Contact Person: Thomas M. Carper Telephone Number: (717) 939-0466	VOCs	4.84	09/30/2010	Trading
INDSPEC Chemical Corp. Source: Boiler # 8 Source Location: Petrolia County: Butler Contact Person: Terry Melis Telephone Number: (412) 756-2376	NOx SOx	158.68 1,217.95		Trading
Sun Company, Inc. Source: Wastewater Conveyance System Source Location: Marcus Hook Borough County: Delaware Contact Person: Steve Martini Telephone Number: (610) 859-1000	VOCs	147.93		Trading/ Internal Use

<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration date</i>	<i>Intended use of ERCs</i>
Columbia Gas Transmission Corporation Source Location: Kent Station County: Indiana Contact Person: Gregory Lago Telephone Number: (304) 357-2079	NOx VOCs	44.36 2.66	05/31/2011	Trading
Columbia Gas Transmission Corporation Source Location: Homer Station County: Indiana Contact Person: Gregory Lago Telephone Number: (304) 357-2079	NOx VOCs	45.89 3.79	05/31/2011	Trading
General Electric Transportation System Source: Boiler No. 2 Source Location: East Lake Road County: Erie Contact Person: Mark D. Restifo Telephone Number: (814) 875-5406	NOx VOCs PM SOx CO	280.90 1.70 29.50 2,006.70 111.90	12/31/2010	Trading
3M Minnesota Mining & Manufacturing Source Location: Bristol Plant County: Bucks Contact Person: Jeff Muffat Telephone Number: (651) 778-4450	VOCs VOCs	479.00 279.00	11/30/2011 12/17/2011	Trading
Recipient/Holder of ERC: GMI Land Company, LLC ERC Generating Facility: Kosmos Cement Company, Cemex, Inc. Source Location: Neville Road, Pittsburgh County: Allegheny Contact Person: Michael Carlow Telephone Number: (412) 771-2019	NOx VOCs PM10 SOx CO	910.00 26.00 61.00 442.00 44.00	04/24/2011	Trading
Recipient/Holder of ERC: Maple North America Development Company, LLC ERC Generating Facility: Laclede Steel Corporation Source Location: Fairless County: Bucks Contact Person: Paul D. Jones Telephone Number: (415) 768-2281	NOx VOCs	104.00 45.00	11/29/2011	Trading
Recipient/Holder of ERC: Natsource Emissions Brokers ERC Generating Facility: Laclede Steel Corporation Source Location: Fairless County: Bucks Contact Person: David Oppenheimer Telephone Number: (212) 232-5305	NOx VOCs	0.27 1.50	11/29/2011	Trading
Trinity Industries, Inc. Source Location: Greenville County: Mercer County Contact Person: Dennis Lencioni Telephone Number: (214) 589-8141	VOCs	61.65	10/31/2010	Trading
Rohm and Haas Company Source Location: Bristol Township County: Bucks Contact Person: Lloyd Davis Telephone Number: (215) 785-8871	VOCs VOCs	1.15 0.32	10/30/2010 01/30/2011	Trading

<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration date</i>	<i>Intended use of ERCs</i>
Recipient/Holder of ERC: Waste Management Disposal Services of Pennsylvania ERC Generating Facility: The Worthington Steel Company Source Location: Malvern, East Whiteland County: Chester Contact Person: Eli Brill Telephone Number: (215) 269-2111	VOCs	43.00	01/31/2012	Traded
Recipient/Holder of ERC: Waste Management of Pennsylvania, Inc. ERC Generating Facility: The Worthington Steel Company Source Location: Malvern, East Whiteland County: Chester Contact Person: Eli Brill Telephone Number: (215) 269-2111	VOCs	70.00	01/31/2012	Traded
Recipient/Holder of ERC: Elements Markets, LLC ERC Generating Facility: The Quaker Oats Company Source Location: Shiremanstown Plant County: Cumberland Contact Person: Mike Taylor Telephone Number: (281) 207-7207	PM2.5	1.16 4.25 1.01 2.45 12.53 0.24	8/4/2010 10/30/2010 12/26/2010 4/15/2011 7/15/2011 7/27/2011	Trading
The Quaker Oats Company Source Location: Shiremanstown Plant County: Cumberland Contact Person: Richard C. Pitzer Telephone Number: (717) 731-3334	NOx NOx NOx	0.27 0.34 3.19	08/04/2010 10/30/2010 7/15/2011	Trading
Glasgow, Inc. Source Location: Plymouth Meeting County: Montgomery Contact Person: Brian Chabak Telephone Number: (215) 884-8800	NOx VOCs NOx VOCs	2.72 0.21 6.54 0.52	12/31/2010 12/31/2010 06/01/2010 06/01/2010	Trading
SLI Lighting, Inc. Source Location: Ellwood City County: Lawrence Contact Person: Tim Haubach Telephone Number: (724) 752-6493	VOCs	5.70	06/3/2010	Trading
Harvard Industries, Inc. Plant name: Pottstown Precision Casting, Inc. Source Location: West Pottsgrove Township County: Montgomery Contact Person: Allan B. Currie, Jr. Telephone Number: (517) 740-2991 or (517) 592-3706	NOx VOCs	28.25 8.70	11/12/2011	Trading
Alcoa, Inc. Source Location: Lebanon Township County: Lebanon Contact Person: Kevin S. Barnett Telephone Number: (412) 553-2094	VOCs VOCs VOCs VOCs VOCs	8.33 59.30 7.80 0.6 121.40	09/29/2010 03/11/2012 04/01/2012 04/05/2012 05/01/2012	Trading
American Color Graphics, Inc. Formerly Flexi-Tech Graphics, Inc. Source Location: Barnhart Drive, Hanover County: York Contact Person: Glenn Shaffer Telephone Number: (717) 792-8104	VOCs	9.60	01/15/2012	Trading

<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration date</i>	<i>Intended use of ERCs</i>
Allegro Microsystems, Inc. Source Location: Upper Moreland Township County: Montgomery Contact Person: Wendy Cooper Telephone Number: (610) 286-7434	VOCs	42.61	03/29/2012	Trading
Calumet Lubricants Company Source Location: Rouseville Plant County: Venango Contact Person: Harry Klodowski Telephone Number: (724) 940-4000	NOx VOCs SOx	89.80 2.38 87.70	05/21/2012	Trading
Avery Dennison Corporation Source Location: Dungan Road County: Philadelphia Contact Person: Frank J. Brandauer Telephone Number: (626) 398-2773	VOCs	3.13	06/30/2012	Trading
Penco Products, Inc. Source Location: Lower Providence Township County: Montgomery Contact Person: Allan J. Goss Telephone Number: (610) 666-0500	NOx VOCs	3.11 29.48	10/1/2011	Trading
Norfolk Southern Railway Co. Source Location: Hollidaysburg Car Shop County: Blair Contact Person: Carl Russo Telephone Number: (814) 949-1479	NOx VOCs	4.35 69.80	07/19/2012	Trading
World Kitchen, Inc. Source Location: Charleroi Plant County: Washington Contact Person: James Rowlett Telephone Number: (724) 489-2288	NOx	251.43		Trading
Pittsburgh Glass Works, LLC Source Location: Meadville Works 8, Greenwood Township County: Crawford Contact Person: David Vogt Telephone Number: (814) 336-8326	NOx	1,118.50		Trading
Sentry Paint Technologies, Inc. Source Location: Mill Street, Darby County: Delaware Contact Person: Benjamin Breskman Telephone Number: (610) 522-1900	VOCs	3.56	04/30/2013	Trading
R. H. Sheppard Company, Inc. Source Location: Core making operation in Hanover County: York Contact Person: Julie L. Smith Telephone Number: (717) 637-3751	VOCs	14.43	04/15/2013	Trading
International Paper Source: Bleach Plant, Erie Mill County: Erie Contact Person: Allyson Bristow Telephone Number: (901) 419-4852	VOCs	72.06		Trading
International Paper Source Location: Erie Mill County: Erie Contact Person: Allyson Bristow Telephone Number: (901) 419-4852	NOx VOCs	864.00 728.00	09/30/2012	Trading

## NOTICES

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<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration date</i>	<i>Intended use of ERCs</i>
Corning Incorporated Source Location: College Township County: Centre Contact Person: Steven Ritter Telephone Number: (607) 974-7247	NOx	1,042.01	06/23/2013	Trading
Sea Gull Lighting Products, Inc. Source Location: 25th and Wharton Streets County: Philadelphia Contact Person: Mark Gardiner Telephone Number: (215) 468-7255	VOCs	12.50	03/1/2013	Trading
Allegro Microsystems, Inc. Source Location: Upper Moreland Township County: Montgomery Contact Person: Wendy Cooper Telephone Number: (610) 286-7434	NOx CO	2.90 1.30	10/20/2013	Trading
Recipient/Holder of ERC: First Quality Tissue, LLC ERC Generating Facility: ALCOA, Inc. ERC Generation Source Location: South Lebanon County: Lebanon Contact Person: Mark Zeffiro Telephone Number: (814) 231-5267	VOCs	43.72	04/05/2012	Internal Use
Lancaster Malleable Castings Company Source Location: Manheim Township County: Lancaster Contact Person: Jeffrey L. Ressler Telephone Number: (717) 295-8200	VOCs CO	11.71 1.30	03/31/2013	Internal Use/Trading
International Paper Source: Lock Haven Mill Source Location: Castanea Township County: Clinton Contact Person: Allyson Bristow Telephone Number: (901) 419-4852	NOx VOC SOx	1,287.00 27.90 6,606.00	03/22/2012	Offsets/Trading
Brodart Company Source Location: Montgomery Facility County: Lycoming Contact Person: Robyn J. Dincher Telephone Number: (570) 326-2461, Ext. 6408	VOCs	24.91	04/18/2013	Trading
Pennsylvania House White Deer Furniture Plant Source: Conveyor and Monorail lines Source Location: White Deer Plant County: Union Contact Person: Robert J. Varney Telephone Number: (570) 523-2356	VOCs	82.90	03/15/2012	Trading
Exelon Power Source: Delaware Generating Station Source Location: Philadelphia County: Philadelphia Contact person: Kimberly Scarborough Telephone Number: (610) 765-5883	NOx SO <sub>2</sub> PM10 PM2.5 CO	205.5 412.2 31.2 22.3 31.7	12/16/2014	Trading
Worthington Steel Company Source Location: East Whiteland Township County: Chester Contact Person: Matt Johnson Telephone Number: (614) 438-7960	NOx	10.00	04/01/2013	Trading



<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration date</i>	<i>Intended use of ERCs</i>
Buckeye Pipe Line Company, LP Source Location: Reed Township County: Dauphin Contact Person: Jason Mengel Telephone Number: (484) 232-4491	VOCs	12.00	02/28/2012	Trading
Bollman Hat Company Source Location: Willow Street, Adamstown County: Lancaster Contact Person: David L. Wails Telephone Number: (717) 484-4361	VOCs	14.34	10/03/2013	Trading
Property Investing Center (Goodville Industrial Center) Source Location: East Earl Township County: Lancaster Contact Person: Richard Stauffer Telephone Number: (717) 738-3488	VOCs	84.09	09/13/2013	Trading
Armstrong World Industries, Inc. (Lancaster Flooring) Source Location: 1067 Dillerville Road County: Lancaster Contact Person: Gene Hartzell Telephone Number: (717) 396-3668	VOC NOx	31.79 1.9	11/15/2014 08/20/2014	Internal Use/ Trading
RUTGERS Organics Corporation Source Location: 201 Struble Road, State College County: Centre Contact Person: Mary Jo Smith Telephone Number: (814) 231-9277	NOx NOx VOC	5.27 3.35 2.17	08/15/2013 04/16/2014 03/26/2014	Internal Use/ Trading
AK Steel Corporation Source Location: Butler County: Butler Contact Person: Robert J. Hocks Telephone Number: (724) 284-2685	NOx NOx	13.00 24.82	11/06/2011 01/30/2012	Trading/ Internal Use
Cabinet Industries, Inc. Source Location: Danville Borough County: Montour Contact Person: Laura Lee Spatzer Telephone Number: (570) 275-1400, Ext. 1400	VOC	7.29	09/01/2015	Trading
Reliant Energy Mid-Atlantic Power Holdings, LLC Source Location: Pennsylvania Avenue, Warren County: Warren Contact Person: Keith A. Schmidt Telephone Number: (724) 597-8193	NOx VOCs SOx PM10 PM2.5 Lead	1,043.00 5.32 5,197.00 155.6 70.1 0.02	9/28/2012	Trading
Arbill Industries, Inc. Source Location: 2207 West Glenwood Avenue County: Philadelphia Contact Person: Barry Bickman Telephone Number: (800) 523-53673	VOCs NOx SOx	20.32 0.38 0.21	01/01/2016	Trading
Dominion Transmission, Inc. Source Location: Big Run Compressor Station County: Jefferson Contact Person: David Testa Telephone Number: (412) 690-1815	NOx	10.00	10/13/2013	Trading
Carmeuse Lime, Inc. Source Location: Hanover Lime Plant County: Adams Contact Person: Kenneth Kauffman Telephone Number: (717) 630-8266	NOx VOC SOx PM10 PM2.5	46.61 1.96 10.26 14.64 7.18	01/03/2016	Trading

<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration date</i>	<i>Intended use of ERCs</i>
Port Glenshaw Glass, LLC Source location: 1101 William Flynn Highway, Glenshaw, PA 15116 County: Allegheny Contact Person: Harry Klodowski Telephone Number: (724) 940-4000	VOC NOx SOx PM2.5 PM10	10.64 59.46 74.89 23.11 25.40	11/24/2014	Trading/ Internal Use
Cinram Manufacturing, LLC Source location: City of Olyphant County: Lackawanna Contact Person: Mark A. Thallmayer Telephone Number: (570) 383-3291	VOC VOC	6.53 6.75	02/06/2016 05/09/2016	Internal Use
Bemis Company, Inc. Source location: Hazle Township County: Luzerne Contact Person: Thomas G. Franko Telephone Number: (570) 501-1429	VOC	22.27	01/1/2016	Trading
Techneglas, Inc. Source Location: Pittston Facility County: Luzerne Contact Person: Harry F. Klodowski, Jr. Telephone Number: (724) 940-4000	VOC NOx	784.88 33.82	12/17/2013 to 8/11/2014	Trading
Horsehead Corporation (Zinc Corp of America) Source: Acid Roaster Plant-Monaca Smelter Source Location: Monaca County: Beaver Contact Person: William N. Bailey Telephone Number: (724) 773-9057	NOx SOx PM10 PM2.5 CO	3.3 382.5 9.4 3.2 1.4	10/23/2012	Netting/ Offsetting
Recipient/Holder of ERC: Natsource MAC 77, Ltd. ERC Generating Facility: Eljer Plumbingware, Inc. Source Location: Ford City Plant County: Armstrong Contact Person: Mithun Rathore Telephone Number: (281) 340-8300	NOx NOx VOCs VOCs VOCs	49.74 55.48 3.22 2.64 1.40	6/8/2014 10/4/2014 3/15/2014 6/8/2014 10/4/2014	Trading
Bluegrass Folding Carton Company, LLC (Formerly Smurfit Stone Container Enterprises, Inc.) Source Location: Upper Providence Township County: Montgomery Contact Person: Tom Tutwiler Telephone Number: (610) 935-4119	VOC	60.36	05/31/2015	Internal Use/ Trade
Fleetwood Industries Source Location: St. Lawrence Plant County: Berks Contact Person: Robert Mervine Telephone Number: (610) 779-7700	VOC	24.5	07/31/2015	Internal Use/ Trade
Sunoco Inc. (R&M) Source Location: 200 Neville Road, Pittsburgh, PA 15225 County: Allegheny Contact Person: Gary P. Rabik Telephone Number: (610) 859-3435	VOC	25.16	04/01/2017	Trading/ Internal Use
Leggett & Platt, Inc. Source location: Zell Brothers County: York Contact Person: Theresa Block Telephone Number: 417-358-8131	VOC	6.51	11/1/2015	Trading

<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration date</i>	<i>Intended use of ERCs</i>
Anchor Glass Container Corporation Source Location: Plant No. 5 County: Fayette Contact Person: Joseph G. Clemis Telephone Number: (813) 884-0000	VOCs NOx PM10 PM2.5 SOx CO	21.0 309.0 68.0 51.0 259.0 20.0	11/04/2014	Trading
R. R. Donnelley & Sons Co. Source Location: Lancaster East Facility County: Lancaster Contact Person: Stacey Haefner Telephone Number: 717-293-2363	VOCs VOCs	7.8 10.5	11/30/2015 12/31/2015	Trading
Philadelphia Gas Works (PGW) Source Location: Richmond Plant County: Philadelphia Contact Person: Megan E. Brown Telephone number: 215-684-6613	NOx VOC PM10 PM2.5 SO <sub>2</sub> CO	47.86 6.54 0.56 0.56 0.16 22.48	1/1/2015	Trading
Ashland, Inc (Ashland Performance Products) Source Location: Neville Island Facility, Pittsburgh County: Allegheny Contact Person: Tara L. Lanier Telephone number: 614-790-3214	NOx VOC CO	10.73 41.78 461.00	11/1/2011	Trading
Philadelphia Baking Company Source Location: 2550 Grant Avenue County: Philadelphia Contact Person: Brent Williams Telephone number: 410-266-0006	NOx VOC PM10 SOx CO	4.09 24.2 0.10 0.02 1.33	9/21/2017	Trading
Lindy Paving, Inc. Source Location: 200 Neville Island Facility County: Allegheny Contact Person: Paul J. Reiner, Jr. Telephone number: 412-281-4389	NOx VOC PM10 PM2.5 SOx CO	6.85 9.10 5.71 1.77 0.66 18.78	10/27/2017	Trading/ Internal Use
Recipient/Holder of ERC: Dominion Transmission, Inc. ERC Generating Facility: Corning, Inc. Source Location: College Township County: Centre Contact Person: Roberta J. Jackson Telephone Number: (804) 787-6145	NOx	108	06/23/2013	Trading/ Use
Eastman Chemical Resins, Inc. Source Location: Jefferson Facility, West Elizabeth County: Allegheny Contact Person: Fred Mullner Telephone number: (412) 384-2520, Ext. 2201	NOx VOC PM2.5 CO	0.50 31.10 2.90 0.40	7/1/2014	Trading
CNH America, LLC Source Location: Belleville Plant, Union Township County: Mifflin Contact Person: Audrey Van Dyke Telephone Number: (262) 636-6073	VOC	39.11	8/1/2018	Trading
Masonic Homes Source Location: One Drive, Elizabethtown County: Lancaster Contact Person: Jeffrey Gromis Telephone Number: (717)367-1121, Ext. 33158	NOx VOC PM2.5 PM10	7.6 3.1 13.0 14.0	12/31/2012	Trading

<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration date</i>	<i>Intended use of ERCs</i>
Foamex, LP Source Location: 1500 East 2nd Street, Eddystone County: Delaware Contact Person: John F. McLaverty Telephone Number: (610) 245-2765	NOx VOC SOx CO	7.67 84.25 1.03 26.93	12/31/2018	Trading
Norcross Safety Products Source Location: US RT 1 at Brinton Lake Road, Concordville County: Delaware Contact Person: Anthony Ricci Telephone Number: 401-275-2432	VOC	7.62	03/27/2017	Trading
NVF Company Source Location: 400 Mulberry Street, Kennett Square County: Chester Contact Person: William Campbell Telephone Number: (302) 239-5281, Ext. 317	NOx VOC SOx	18.86 34.05 28.42	01/31/2015	Trading
P.H. Glatfelter Company Source Location: 228 South Main Street, Spring Grove County: York Contact Person: Jonathan E. Moores Telephone Number: (717) 225-4711, Ext. 2395	SOx	428.00		Trading
The Hershey Company Source Location: Derry Township Plant County: Dauphin Contact Person: Charles Stoner, Jr. Telephone number: 717-534-4692	VOC NOx PM10 PM2.5 CO	37.00 4.00 44.50 8.00 4.90	7/1/2018	Trading
The Hershey Company Source Location: Reading Plant County: Berks Contact Person: Charles Stoner, Jr. Telephone number: 717-534-4692	VOC PM10 PM2.5	5.36 24.63 4.43	5/1/2019	Trading

### **Bureau of Air Quality Summary of ERC Transaction**

The following ERC transactions are approved by the Bureau of Air Quality, Department of Environmental Protection, Commonwealth of Pennsylvania. The ERC transaction requirements are specified in 25 Pa. Code § 127.208.

#### **ERC Generating Facility Information**

ERC Generating Facility Name: International Paper-Erie  
Location of Source: 1540 East Lake Road, Erie, PA 16533  
Certified ERCs (tpy): 1,235 tpy of NOx and 990 tpy of VOC ERCs  
Amount of ERCs traded to Purchaser/Recipient: 47 tpy of VOC; 75tpy of VOC; 57 tpy of NOx; 64 tpy of NOx 250 tpy of NOx and 140 tpy of VOC  
Date of ERCs Transfer: 08/17/2004; 4/1/2009; 4/2/2009; 5/27/2009; 5/12/2010  
ERCs available for future use: 864 tpy of NOx and 728 tpy of VOC  
ERC Expiration date: 9/30/2012

#### **Purchaser/Recipient of ERCs**

Purchaser/Recipient of ERCs: CraftMaster Manufacturing, Inc.  
Location of Source: P. O. Box 311, Shiner Road, Towanda, PA 18848  
Plan Approval Number: 08-0003A

VOC credits used: 0 tpy

VOC credits available for future use: 47 tpy

Purchaser/Recipient of ERCs

Purchaser/Recipient of ERCs: GE Transportation

Location of Source: 2901 East Lake Road, Erie, PA 16531

Plan Approval Number: 25-025N

VOC credits used: 0 tpy

VOC credits available for future use: 75 tpy

Purchaser/Recipient of ERCs

Purchaser/Recipient of ERCs: CraftMaster Manufacturing, Inc.

Location of Source: P. O. Box 311, Shiner Road, Towanda, PA 18848

Plan Approval Number: 08-00003F

NOx credits used: 0 tpy

NOx credits available for future use: 57 tpy

Purchaser/Recipient of ERCs

Purchaser/Recipient of ERCs: Penn State

Location of Source: 113 office of Physical Plant, University Park, PA 16802

Plan Approval Number: 14-0003D

NOx credits used: 0 tpy

NOx credits available for future use: 64 tpy

Purchaser/Recipient of ERCs

Purchaser/Recipient of ERCs: AK Steel Corporation

Location of Source: Butler Works, Pittsburgh Road,  
Butler, PA 16001  
Plan Approval Number: Nil  
NOx credits used: 0 tpy  
ERCs available for future use: 250 tpy of NOx and 140  
tpy of VOC

#### Generating Facility Information

ERC Generating Facility Name: Exelon Generation  
Company  
Location of Source: Delaware Generating Station,  
Philadelphia  
Certified ERCs (tpy): 286.5 tpy of NOx  
Amount of ERCs traded to Purchaser/Recipient: 81 tpy  
of NOx  
Date of ERCs Transfer: 05/06/2010  
ERCs available for future use: 205.5 tpy of NOx  
Expiration Date: 12/16/2014  
Purchaser/Recipient of ERCs  
Purchaser/Recipient of ERCs: Philadelphia Regional Port  
Authority  
Location of Purchaser: 3460 North Delaware Avenue,  
Philadelphia  
Location of User Source: Philadelphia County, PA  
NOx credits to be used: 81 tpy for General conformity  
requirements towards Delaware River Main Channel  
Deepening Project  
NOx credits available for use: 81 Tpy  
Expiration Date: 12/16/2014

*Southwest Regional Office, Water Management Program  
Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-  
4745.*

#### Categorical Exclusion

*Location: Freedom Borough Authority, P. O. Box 201,  
Freedom, PA 15042, Freedom Borough, Beaver County.*

Description: The Pennsylvania Infrastructure Invest-  
ment Authority which administers the Commonwealth's  
State Revolving Fund is intended to be the funding  
source for this project.

The Authority proposes to separate its combined  
sewers to eliminate wet weather overflows and com-  
ply with a Department of Environmental Protection  
(Department) Consent Order and Agreement. Con-  
struction will occur in and adjacent to existing paved  
streets.

The Department's review of the project and the infor-  
mation received has not identified any significant, ad-  
verse environmental impact resulting from this proposal.  
The Department hereby categorically excludes this project  
from the State Environmental Review Process.

#### ENVIRONMENTAL ASSESSMENT

*Northeast Region: Water Management Program, 2 Pub-  
lic Square, Wilkes-Barre, PA 18711-0790.*

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#### Project Information:

<i>Project Applicant</i>	<i>Project Applicant's Address</i>	<i>Project Location (Municipality)</i>	<i>Project Location (County)</i>
City of Pittston	35 Broad Street Pittston, PA 18640	City of Pittston	Luzerne

*Description:* The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. The City of Pittston proposes to construct a sanitary wastewater collection system to serve five structures located in the vicinity of Towpath Court in the City of Pittston (Phase 2). The Department of Environmental Protection's review of the project and the information received in the Environmental Report for the project has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby approves the Environmental assessment.

[Pa.B. Doc. No. 10-1166. Filed for public inspection June 25, 2010, 9:00 a.m.]

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#### Availability of Technical Guidance

Technical guidance documents are available on the Department of Environmental Protection's (Department) web site at <http://www.depweb.state.pa.us> (DEP Keywords: "eLibrary"). The "Technical Guidance Final Documents" heading is the link to a menu of the various Department bureaus where each bureau's final technical guidance documents are posted. The "Technical Guidance Draft Documents" heading is the link to the Department's draft technical guidance documents.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2010.

#### Ordering Paper Copies of Department Technical Guidance

The Department encourages the use of the Internet to view and download technical guidance documents. When this option is not available, persons can order a paper copy of any of the Department's draft or final technical guidance documents by contacting the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

#### Changes to Technical Guidance Documents

Following is the current list of recent changes. Persons who have questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

#### Notice of Availability

DEP ID: 012-0200-005. Title: Public Access to Information and Right to Know Law Policy. Description: Public Access to Information and Right to Know Law Policy clarifies the Department of Environmental Protection's (Department) existing practices in an effort to assure compliance with the Right-to-Know Law (RTKL) and clarifies in writing specific policies and procedures regarding Department information. It informs the public how to obtain Department records and how to dispute a Department determination under the RTKL that does not grant

access to those records. The policy also makes records procedures more clear, uniform and efficient. This policy applies to all requests under the RTKL for access to Department records. This policy also discusses other means of obtaining information from the Department. The policy applies to all recorded information, regardless of whether the information exists in written or electronic format. Contact: Questions concerning this policy should be directed to Dawn Schaefer at dschaefer@state.pa.us or (717) 787-2043.

Effective Date: June 3, 2010.

JOHN HANGER,  
Secretary

[Pa.B. Doc. No. 10-1167. Filed for public inspection June 25, 2010, 9:00 a.m.]

### Cleanup Standards Scientific Advisory Board; Special Meeting

The Cleanup Standards Scientific Advisory Board will hold a special meeting on June 28, 2010, at 1 p.m. in the 10th floor conference room in the Rachel Carson State Office Building. If members are unable to attend the meeting, they may join by teleconference. The purpose of the meeting is to finalize language for the amendments to the proposed Chapter 253 regulations implementing the Uniform Environmental Covenants Act (27 Pa.C.S. §§ 6501—6517).

Questions concerning this meeting should be directed to Troy Conrad at (717) 783-9480 or tconrad@state.pa.us. The agenda and meeting materials for this meeting will be available through the Public Participation Center on the Department of Environmental Protection's (Department) web site at <http://www.depweb.state.pa.us> (DEP Keywords: "Public Participation, Participate").

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Department at (717) 783-9480 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOHN HANGER,  
Secretary

[Pa.B. Doc. No. 10-1168. Filed for public inspection June 25, 2010, 9:00 a.m.]

### Climate Change Advisory Committee Working Group Meetings

The Department of Environmental Protection (Department) announces the following working group meetings:

*Natural Resources Working Group Meetings*  
Thursday, August 5, 2010  
Friday, October 15, 2010  
Wednesday, December 8, 2010

Meetings will be held from 10 a.m. to 2 p.m. at the Department of Conservation and Natural Resources Bureau of Topographic and Geological Survey, 3240 Schoolhouse Road, Middletown, PA 17057.

### *Public Health and Safety Working Group Meetings*

Tuesday, July 27, 2010  
Wednesday, September 29, 2010  
Tuesday, October 26, 2010

Meetings will be held from 10:30 a.m. to 12:30 p.m. in the 12th Floor Conference Room of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17101.

### *Infrastructure Working Group Meetings*

Monday, July 12, 2010  
Monday, September 13, 2010  
Monday, November 8, 2010

The July 12 and September 13 meetings will be held from 9 a.m. to 12 p.m. in the 12th Floor Conference Room of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17101.

The November 8 meeting will be held from 9 a.m. to 12 p.m. in the Susquehanna Room of Fish and Boat Commission Headquarters, 1601 Elmerton Avenue, Harrisburg, PA 17110.

### *Tourism and Outdoor Recreation Working Group Meetings*

Tuesday, July 20, 2010  
Tuesday, September 21, 2010  
Tuesday, November 16, 2010

Meetings will be held from 1 p.m. to 3 p.m. in the Delaware Room of Fish and Boat Commission Headquarters, 1601 Elmerton Avenue, Harrisburg, PA 17110.

Each Adaptation Working Group will focus on a specific area of impact: Infrastructure; Public Health and Safety; Natural Resources; and Tourism and Outdoor Recreation. They will work to identify vulnerabilities to climate change; adaptation efforts already underway; and practical actions the Commonwealth and other stakeholders can undertake to address the risks of climate change. They will also work to share information and knowledge across impacted areas and identify opportunities for collaboration.

For the latest on meeting details and materials, visit [www.depweb.state.pa.us](http://www.depweb.state.pa.us), Keyword: Climate Change. Questions concerning these meetings should be directed to Kim Hoover, Office of Energy and Technology Deployment, P. O. Box 8772, Harrisburg, PA 17105-8772, (717) 772-5161 or khoover@state.pa.us.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Kim Hoover at (717) 772-5161 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOHN HANGER,  
Secretary

[Pa.B. Doc. No. 10-1169. Filed for public inspection June 25, 2010, 9:00 a.m.]

### Nitrogen Tire Inflation System Grant; Program Opportunity

The Department of Environmental Protection (Department), Bureau of Energy, Innovations and Technology Deployment announces an opportunity to apply for Nitrogen Tire Inflation System Grants under the Alternative Fuels Incentive Grant Program (Grant Program). This will be the last grant round for this program. The

primary goals of this direct reimbursement Grant Program are to help improve vehicle fuel economy while reducing the consumption of imported oil, and to potentially extend vehicle tire life over time. Deployment of fuel saving technologies also provides for opportunities to better manage our fuel and natural resources in a way that also improves our environment and enhances our quality of life. The Department is seeking applications from Commonwealth automotive service providers for nitrogen tire inflation systems purchased and installed in the Commonwealth.

Funds awarded under the Grant Program can be used to reimburse a portion of the cost to purchase systems that deliver at least 95% nitrogen purity according to manufacturer specifications. Eligible applicants include automotive service providers who sell tires in this Commonwealth. Eligible applicants with a 50% match of the total system cost may request up to \$5,000 reimbursement for systems purchased and installed after July 1, 2010. This grant will be open until June 30, 2011, or when the funds are exhausted.

The application package, including guidance, instructions and the application form is available on the Department's web site at <http://www.depweb.state.pa.us> (click on "DEP Programs" and then "Alternative Fuels").

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 10-1170. Filed for public inspection June 25, 2010, 9:00 a.m.]

### **Pollution Control Technology Grant Program; Opening of the Grant Application Acceptance Period**

Section 304 of the Alternative Energy Investment Act of 2008 (73 P. S. § 1649.304) (Act 1 or Act) authorizes the Department of Environmental Protection (Department) to award a total of \$25 million for "pollution control technology projects" installed on electric generating units and cogeneration units that have an installed capacity of less than 500 MW per unit that utilize coal, as defined under 25 Pa. Code § 123.202 (relating to definitions), as their primary fuel. The final eligibility criteria for the Pollution Control Technology Grant Program (Program) were published in the *Pennsylvania Bulletin* on January 30, 2010.

The final criteria are summarized as follows:

- Grant applicants will be eligible to receive a pro rata share of the \$25 million available for each eligible electric generating or cogeneration unit at a facility with an installed capacity of less than 500 MW that utilizes coal, as defined under 25 Pa. Code § 123.202, as its primary fuel.

- Eligibility is limited to pollution control technology constructed or installed on the units to comply with regulatory requirements including the Clean Air Interstate Rule, the Clean Air Mercury Rule, the Pennsylvania Mercury Rule under 25 Pa. Code Chapter 123, and SO<sub>2</sub> and NO<sub>x</sub> emission reduction requirements established under 25 Pa. Code Chapters 121, 129 and 145 (relating to general provisions; standards for sources; and interstate pollution transport reduction).

- The grant allocation will be based on the capital cost portion of each project.

- The owner or operator must have obtained a plan approval from the Department on or after January 1, 2006, but not later than December 31, 2009, and must have commenced construction or installed the controls no later than December 31, 2010.

Program grant applications will be accepted for a period of 120 days, through October 25, 2010. The operation of the pollution control technology will be a condition of any grant awarded by the Department. Grant application packets are available on the Department's web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) under "Air," and then "Permits." Applications can also be obtained by contacting the Department at (717) 787-9702.

Applicants must submit an original and three copies of the completed Program application to Department of Environmental Protection, Bureau of Air Quality, 12th Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8776, Harrisburg, PA 17105-8776. Applications must be postmarked or received by 4 p.m. on October 25, 2010. Facsimile transmissions will not be accepted.

Persons with questions or who need additional information, contact Randall Koppenhaver by at [rakoppenha@state.pa.us](mailto:rakoppenha@state.pa.us) or (717) 787-9702.

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 10-1171. Filed for public inspection June 25, 2010, 9:00 a.m.]

## **DEPARTMENT OF HEALTH**

### **Long-Term Care Nursing Facilities; Requests for Exception**

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 201.3 (relating to definitions (feeding assistants)).

Mountain Top Senior Care & Rehabilitation Center  
185 South Mountain Boulevard  
Mountain Top, PA 18707  
DSI No. 0408

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building).

Dubois Nursing Home  
212 South Eighth Street  
P. O. Box 307  
Dubois, PA 15801-0307

These requests are on file with the 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-paexceptstate.pa.us](http://ra-paexceptstate.pa.us).

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,  
Secretary

[Pa.B. Doc. No. 10-1172. Filed for public inspection June 25, 2010, 9:00 a.m.]

### Sexual Assault Victim Emergency Services Regulation

On January 26, 2008, the Department of Health (Department) published a Notice of Final Rulemaking in the *Pennsylvania Bulletin* for the Sexual Assault Victim Emergency Services Regulation. See 38 Pa.B. 573 (January 26, 2008). The Sexual Assault Victim Emergency Services Regulation became effective on January 26, 2008, and amended the Department's regulations at 28 Pa. Code Part IV, Subpart B (relating to general and special hospitals), to add specific requirements for hospitals relating to the provision of sexual assault emergency services. See 28 Pa. Code §§ 117.51—117.58 (relating to sexual assault victim emergency services).

Hospitals that decide they may not provide emergency contraception due to a stated religious or moral belief contrary to providing such medication are required to give notice to the Department of the decision. See 28 Pa. Code § 177.57 (relating to religious or moral exemptions). Hospitals that refer all emergency patients to other hospitals after institution of essential life-saving measures and decide not to provide any sexual assault emergency services are required to give notice to the Department of the decision. See 28 Pa. Code § 117.58 (relating to exemption for hospitals providing limited emergency services).

Sections 117.57(1)(ii) and 117.58(1)(ii) of 28 Pa. Code that the Department will annually publish the lists of hospitals in the *Pennsylvania Bulletin* that have chosen not to provide emergency contraception under 28 Pa. Code § 117.57 or any sexual assault emergency services under 28 Pa. Code § 117.58. The following lists are published in accordance with those provisions and do not create any new obligations for hospitals or relieve hospitals of any existing obligations.

#### Hospitals That May Not Provide Emergency Contraception

Under 28 Pa. Code § 117.57(1)(ii), the Department publishes the following list of hospitals that have provided notice to the Department that the hospital may not provide emergency contraception due to a stated religious or moral belief:

Hospital Name	City, Zip Code
Altoona Regional Health System (Bon Secours Campus)	Altoona, 16601
Jersey Shore Hospital	Jersey Shore, 17740
Mercy Fitzgerald Hospital	Darby, 19023
Mercy Hospital Scranton	Scranton, 18501
Mercy Jeannette	Jeannette, 15644

Hospital Name	City, Zip Code
Mercy Philadelphia Hospital	Philadelphia, 19143
Mercy Suburban Hospital	Norristown, 19401
Nazareth Hospital	Philadelphia, 19152
Muncy Valley Hospital	Muncy, 17756
St. Mary Medical Center	Langhorne, 19047
UPMC Mercy Hospital	Pittsburgh, 15219
Williamsport Hospital	Williamsport, 17701
St. Joseph Regional Health Network	Reading, 19603

#### Hospitals That May Not Provide Any Sexual Assault Emergency Services

Under 28 Pa. Code § 117.58(1)(ii), the Department publishes the following list of hospitals that have provided notice to the Department that the hospital may not provide any sexual assault emergency services due to the limited services provided by the hospital:

Hospital Name	City, Zip Code
Allied Services Institute of Rehabilitation—Scranton	Scranton, 18501
John Heinz Institute of Rehabilitation Medicine—Wilkes-Barre	Wilkes-Barre Township, 18702
Shamokin Area Community Hospital	Coal Township, 17866-9697
Triumph Philadelphia Long-Term Acute Care Hospital	Philadelphia, 19145

Additional information regarding the Sexual Assault Victim Emergency Services Regulation and emergency contraception, and an up-to-date list of hospitals not providing emergency contraception under 28 Pa. Code § 117.57 or not providing any sexual assault emergency services under 28 Pa. Code § 117.58, is available on the Department's web site, [www.health.state.pa.us](http://www.health.state.pa.us).

The publishing in the *Pennsylvania Bulletin* or on the Department's web site of the lists of hospitals not providing emergency contraception under 28 Pa. Code § 117.57, or not providing any sexual assault emergency services under 28 Pa. Code § 117.58, shall not be deemed an acknowledgement or confirmation by the Department that the hospitals are in compliance with the requirements of the regulations.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotape, Braille) should contact Joanne Salsgiver, Director of the Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120-0701, (717) 783-8980, fax (717) 772-2163, or for speech and/or hearing impaired persons V/TT (717) 783-6514, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,  
Secretary

[Pa.B. Doc. No. 10-1173. Filed for public inspection June 25, 2010, 9:00 a.m.]



**Special Supplemental Nutrition Program for Women, Infants and Children (WIC Program); Maximum Allowable Prices and Competitive Prices**

*Maximum Allowable Price*

**Maximum Allowable Prices and Competitive Prices for Type 1 Stores in Regular Cost Counties**

Under 28 Pa. Code §§ 1103.4(5) and 1105.3(a)(1) (relating to selection criteria for authorization and reauthorization; and terms and conditions of participation) and 7 CFR 246.12 (relating to food delivery systems), the WIC Program hereby publishes notice of the Maximum Allowable Prices and Competitive Prices for Type 1 Stores in Regular Cost Counties.

**Maximum Allowable Prices**

Effective July 1, 2010, through September 30, 2010, the Maximum Allowable Prices the Department of Health (Department) will pay Type 1 Stores in Regular Cost Counties for WIC allowable foods are as follows:

<i>Description</i>	<i>Maximum Allowable Price</i>	<i>Maximum Allowable Price</i>
Beans, Canned—15.5/16 oz. ....	\$1.26	
Beans/Peas—Dry—16 oz. ....	\$2.01	
Canned Fish—Pink Salmon ....	\$2.23	
Canned Fish—Sardines ....	\$1.27	
Canned Fish—Tuna ....	\$1.11	
Cereal (per oz.) ....	\$0.32	
Cheese, 16 oz. ....	\$6.17	
Eggs ....	\$1.56	
Gerber Infant Cereal—8 oz. ....	\$2.01	
Infant Fruits, 100%—4 oz. ....	\$0.59	
Infant Vegetables, 100%—4 oz. ....	\$0.59	
Infant Meats, 100%—2.5 oz. ....	\$1.05	
Juice—11.5/12 oz. ....	\$2.12	
Juice—48 oz. ....	\$3.00	
Juice—64 oz. ....	\$3.68	
Kosher Cheese ....	\$7.03	
Kosher Low Fat Milk—quart ....	\$1.63	
Kosher Low Fat Milk—1/2 gallon ....	\$2.96	
Kosher Whole Milk—quart ....	\$1.64	
Kosher Whole Milk—1/2 gallon ....	\$3.04	
Milk, Dry—16 oz. ....	\$4.99	
Milk, Evaporated—12 oz. ....	\$1.21	
Milk, Low Fat—quart ....	\$1.35	
Milk, Low Fat—1/2 gallon ....	\$2.37	
Milk, Low Fat Lactose Free—quart ....	\$2.15	
Milk, Low Fat Lactose Free—1/2 gallon ....	\$3.72	
Milk, Whole—quart ....	\$1.40	
Milk, Whole—1/2 gallon ....	\$2.45	
Milk, Whole Lactose Free—quart ....	\$2.18	
Milk, Whole Lactose Free—1/2 gallon ....	\$3.80	
Peanut Butter ....	\$3.09	
Soy Beverage—Pacific Natural Foods 32 oz. ...	\$3.65	
Soy Beverage—8th Continent 64 oz. ....	\$3.95	
Tofu—Soy Boy/House Premium 12/16 oz. ....	\$2.20	
Whole Grain—Bread, 16 oz. ....	\$3.84	
Whole Grain—Bread, 24 oz. ....	\$3.84	
Whole Grain—Brown Rice, 16 oz. ....	\$1.64	
Whole Grain—Brown Rice, 24 oz. ....	\$2.79	
Whole Grain—Oats, 16 oz. ....	\$1.70	
Whole Grain—Oats, 24 oz. ....	\$5.15	
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz. ....	\$2.19	
Alimentum Advance RTF/Similac Expert Care Alimentum Formula—32 oz. ....	\$8.91	
Alimentum Advance Powder Formula/Similac Expert Care Alimentum—16 oz. ....	\$25.91	
Boost Ready-to-Feed Formula—8 oz. ....	\$2.00	
EnfaCare LIPIL w/Iron Ready to Feed—32 oz. ....	\$7.01	
EnfaCare LIPIL w/Iron Powder Formula—12.8 oz. ....	\$13.99	
Enfamil LIPIL Concentrate Formula—13 oz. ....	\$4.48	
Enfamil LIPIL Ready-to-Feed Formula—32 oz. ....	\$6.57	
Enfamil LIPIL Powder Formula—12.9 oz. ....	\$13.48	
Isomil DF RTF/Similac Expert Care for Diarrhea Formula—32 oz. ....	\$6.21	
Good Start Gentle PLUS Concentrate—Orange Formula—13 oz. ....	\$4.21	
Good Start Gentle PLUS Ready-To-Feed—Orange Formula—32 oz. ...	\$6.35	
Good Start Gentle PLUS Powder—Orange Formula—12 oz. ....	\$13.73	
Good Start Soy PLUS Concentrate—Blue Formula—13 oz. ....	\$4.46	
Good Start Soy PLUS Ready-to-Feed—Blue Formula—32 oz. ....	\$6.56	
Good Start Soy PLUS Powder—Blue Formula—12.9 oz. ....	\$13.73	
Good Start Soy PLUS 2 Powder—Blue w/blue—24 oz. ....	\$20.82	
Good Start Gentle Plus 2 Powder—Blue w/orange—24 oz. ....	\$20.56	
Good Start Protect PLUS 2 Powder—Blue w/green—24 oz. ....	\$26.44	
Good Start Protect PLUS 2 Powder—Green—12 oz. ....	\$14.45	
Good Start Nourish PLUS Powder—Purple—12 oz. ....	\$10.79	
Nutramigen Lipil Concentrate Formula—13 oz. ....	\$7.01	
Nutramigen Lipil Ready-to-Feed Formula—32 oz. ....	\$8.98	
Nutramigen Lipil Powder Formula—16 oz. ....	\$25.26	
Nutramigen Lipil w/Enflora Powder Formula—12.6 oz. ....	\$22.16	
Pediasure Ready-to-Feed Formula—8 oz. ....	\$1.80	
Pediasure w/Fiber Ready-to-Feed Formula—8 oz. ....	\$1.86	
Similac Advance Concentrate Formula—13 oz. ....	\$4.32	
Similac Advance Ready-to-Feed Formula—32 oz. ....	\$6.34	
Similac Advance Powder Formula—12.9 oz. ...	\$13.20	

<i>Description</i>	<i>Maximum Allowable Price</i>
Similac Advance Powder Formula—12.4 oz. . . . .	\$13.20
Similac Neosure Advance RTF/Similac Expert Care NeoSure RTF Formula—32 oz. . . . .	\$7.40
Similac Neosure Advance Powder Formula—12.8 oz. . . . .	15.21
Similac Expert Care NeoSure—13.1 oz. . . . .	\$15.21
Store Brand Milk Based Formula Concentrate—13 oz. . . . .	\$2.84
Store Brand Milk Based Formula—Ready-to-Feed—32 oz. . . . .	\$3.79
Store Brand Milk Based Formula—Powder—25.75 oz. . . . .	\$16.13

A store must permit purchase of WIC allowable foods that exceed the maximum allowable price to WIC participants using a WIC check; however, the amounts that exceed the maximum allowable price of any WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2 (relating to price adjustment).

**Competitive Prices**

To remain WIC Authorized, each store must maintain the minimum inventory of the following WIC food items at, or below, the Competitive Prices listed for the store's peer group. Effective July 1, 2010, through September 30, 2010, the Competitive Prices for WIC Authorization for Type 1 Stores in Regular Cost Counties are as follows:

<i>Description</i>	<i>Competitive Prices</i>
Beans, Canned—15.5/16 oz. . . . .	\$1.26
Beans/Peas—Dry—16 oz. . . . .	\$1.79
Canned Fish—Pink Salmon . . . . .	\$2.13
Canned Fish—Sardines . . . . .	\$1.22
Canned Fish—Tuna . . . . .	\$1.04
Cereal (per oz.) . . . . .	\$.32
Cheese, 16 oz. . . . .	\$5.41
Eggs . . . . .	\$1.46
Gerber Infant Cereal—8 oz. . . . .	\$2.01
Infant Fruits, 100%—4 oz. . . . .	\$.53
Infant Vegetables, 100%—4 oz. . . . .	\$.53
Infant Meats, 100%—2.5 oz. . . . .	\$.95
Juice—11.5/12 oz. . . . .	\$2.01
Juice—48 oz. . . . .	\$2.86
Juice—64 oz. . . . .	\$3.41
Kosher Cheese . . . . .	\$6.99
Kosher Low Fat Milk—1/2 gallon . . . . .	\$2.92
Kosher Whole Milk—1/2 gallon . . . . .	\$2.95
Milk, Low Fat—1/2 gallon . . . . .	\$2.30
Milk, Whole—1/2 gallon . . . . .	\$2.32
Peanut Butter . . . . .	\$2.80
Whole Grain—Bread, 16 oz. . . . .	\$3.60
Whole Grain—Brown Rice, 16 oz. . . . .	\$1.64
Whole Grain—Oats, 16 oz. . . . .	\$1.64
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz. . . . .	\$2.04
Good Start Gentle PLUS Concentrate—Orange Formula—13 oz. . . . .	\$4.21

<i>Description</i>	<i>Competitive Prices</i>
Good Start Gentle PLUS Powder—Orange Formula—12 oz. . . . .	\$13.73
Good Start Soy PLUS Concentrate—Blue Formula—13 oz. . . . .	\$4.46
Good Start Soy PLUS Powder—Blue Formula—12.9 oz. . . . .	\$13.73

**Maximum Allowable Prices and Competitive Prices for Type 2 Stores in Regular Cost Counties**

Under 28 Pa. Code §§ 1103.4(5) and 1105.3(a)(1) and 7 CFR 246.12, the WIC Program hereby publishes notice of the Maximum Allowable Prices and Competitive Prices for Type 2 Stores in Regular Cost Counties.

**Maximum Allowable Prices**

Effective July 1, 2010, through September 30, 2010, the Maximum Allowable Prices the Department will pay Type 2 Stores in Regular Cost Counties for WIC allowable foods are as follows:

<i>Description</i>	<i>Maximum Allowable Price</i>
Beans, Canned—15.5/16 oz. . . . .	\$1.26
Beans/Peas—Dry—16 oz. . . . .	\$2.01
Canned Fish—Pink Salmon . . . . .	\$2.23
Canned Fish—Sardines . . . . .	\$1.39
Canned Fish—Tuna . . . . .	\$1.21
Cereal (per oz.) . . . . .	\$.33
Cheese, 16 oz. . . . .	\$6.17
Eggs . . . . .	\$1.56
Gerber Infant Cereal—8 oz. . . . .	\$2.13
Infant Fruits, 100%—4 oz. . . . .	\$.64
Infant Vegetables, 100%—4 oz. . . . .	\$.64
Infant Meats, 100%—2.5 oz. . . . .	\$1.05
Juice—11.5/12 oz. . . . .	\$2.47
Juice—48 oz. . . . .	\$3.04
Juice—64 oz. . . . .	\$4.26
Kosher Cheese . . . . .	\$7.07
Kosher Low Fat Milk—quart . . . . .	\$1.63
Kosher Low Fat Milk—1/2 gallon . . . . .	\$2.96
Kosher Whole Milk—quart . . . . .	\$1.64
Kosher Whole Milk—1/2 gallon . . . . .	\$3.04
Milk, Dry—16 oz. . . . .	\$4.99
Milk, Evaporated—12 oz. . . . .	\$1.34
Milk, Low Fat—quart . . . . .	\$1.35
Milk, Low Fat—1/2 gallon . . . . .	\$2.39
Milk, Low Fat Lactose Free—quart . . . . .	\$2.30
Milk, Low Fat Lactose Free—1/2 gallon . . . . .	\$4.04
Milk, Whole—quart . . . . .	\$1.40
Milk, Whole—1/2 gallon . . . . .	\$2.45
Milk, Whole Lactose Free—quart . . . . .	\$2.33
Milk, Whole Lactose Free—1/2 gallon . . . . .	\$4.09
Peanut Butter . . . . .	\$3.09
Soy Beverage—Pacific Natural Foods 32 oz. . . . .	\$3.65
Soy Beverage—8th Continent 64 oz. . . . .	\$3.95
Tofu—Soy Boy/House Premium 12/16 oz. . . . .	\$2.20
Whole Grain—Bread, 16 oz. . . . .	\$3.84
Whole Grain—Bread, 24 oz. . . . .	\$3.84

<i>Description</i>	<i>Maximum Allowable Price</i>
Whole Grain—Brown Rice, 16 oz. ....	\$2.19
Whole Grain—Brown Rice, 24 oz. ....	\$2.79
Whole Grain—Oats, 16 oz. ....	\$2.11
Whole Grain—Oats, 24 oz. ....	\$5.18
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz. ....	\$2.23
Alimentum Advance RTF/Similac Expert Care Alimentum Formula—32 oz. ....	\$9.43
Alimentum Advance Powder Formula/Similac Expert Care Alimentum—16 oz. ....	\$26.86
Boost Ready-to-Feed Formula—8 oz. ....	\$2.19
EnfaCare LIPIL w/Iron Ready to Feed—32 oz. ....	\$7.26
EnfaCare LIPIL w/Iron Powder Formula—12.8 oz. ....	\$14.44
Enfamil LIPIL Concentrate Formula—13 oz. ....	\$4.87
Enfamil LIPIL Ready-to-Feed Formula—32 oz. ....	\$7.12
Enfamil LIPIL Powder Formula—12.9 oz. ....	\$13.91
Isomil DF RTF/Similac Expert Care for Diarrhea Formula—32 oz. ....	\$6.34
Good Start Gentle PLUS Concentrate—Orange Formula—13 oz. ....	\$4.73
Good Start Gentle PLUS Ready-To-Feed—Orange Formula—32 oz. ....	\$6.57
Good Start Gentle PLUS Powder—Orange Formula—12 oz. ....	\$13.87
Good Start Soy PLUS Concentrate—Blue Formula—13 oz. ....	\$4.90
Good Start Soy PLUS Ready-to-Feed—Blue Formula—32 oz. ....	\$6.91
Good Start Soy PLUS Powder—Blue Formula—12.9 oz. ....	\$13.87
Good Start Soy PLUS 2 Powder—Blue w/blue—24 oz. ....	\$22.19
Good Start Gentle Plus 2 Powder—Blue w/orange—24 oz. ....	\$22.19
Good Start Protect PLUS 2 Powder—Blue w/green—24 oz. ....	\$26.44
Good Start Protect PLUS 2 Powder—Green—12 oz. ....	\$16.28
Good Start Nourish PLUS Powder—Purple—12 oz. ....	\$10.79
Nutramigen Lipil Concentrate Formula—13 oz. ....	\$7.30
Nutramigen Lipil Ready-to-Feed Formula—32 oz. ....	\$9.20
Nutramigen Lipil Powder Formula—16 oz. ....	\$26.93
Nutramigen Lipil w/Enflora Powder Formula—12.6 oz. ....	\$23.56
Pediasure Ready-to-Feed Formula—8 oz. ....	\$2.13
Pediasure w/Fiber Ready-to-Feed Formula—8 oz. ....	\$2.09
Similac Advance Concentrate Formula—13 oz. ....	\$4.49
Similac Advance Ready-to-Feed Formula—32 oz. ....	\$6.38

<i>Description</i>	<i>Maximum Allowable Price</i>
Similac Advance Powder Formula—12.9 oz. ...	\$13.72
Similac Advance Powder Formula—12.4 oz. ...	\$13.72
Similac Neosure Advance RTF/Similac Expert Care NeoSure RTF Formula—32 oz. ....	\$7.65
Similac Neosure Advance Powder Formula—12.8 oz. ....	\$15.89
Similac Expert Care NeoSure—13.1 oz. ....	\$15.89
Store Brand Milk Based Formula Concentrate—13 oz. ....	\$2.89
Store Brand Milk Based Formula—Ready-to-Feed—32 oz. ....	\$3.86
Store Brand Milk Based Formula—Powder—25.75 oz. ....	\$16.99

A store must permit purchase of WIC allowable foods that exceed the maximum allowable price to WIC participants using a WIC check; however, the amounts that exceed the maximum allowable price of any WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2.

**Competitive Prices**

To remain WIC Authorized, each store must maintain the minimum inventory of the following WIC food items at, or below, the Competitive Prices listed for the store's peer group. Effective July 1, 2010, through September 30, 2010, the Competitive Prices for WIC Authorization for Type 2 Stores in Regular Cost Counties are as follows:

<i>Description</i>	<i>Competitive Prices</i>
Beans, Canned—15.5/16 oz. ....	\$1.26
Beans/Peas—Dry—16 oz. ....	\$1.79
Canned Fish—Pink Salmon ....	\$2.18
Canned Fish—Sardines ....	\$1.34
Canned Fish—Tuna ....	\$1.12
Cereal (per oz.) ....	\$0.33
Cheese, 16 oz. ....	\$5.41
Eggs ....	\$1.46
Gerber Infant Cereal—8 oz. ....	\$2.13
Infant Fruits, 100%—4 oz. ....	\$0.61
Infant Vegetables, 100%—4 oz. ....	\$0.61
Infant Meats, 100%—2.5 oz. ....	\$1.04
Juice—11.5/12 oz. ....	\$2.31
Juice—48 oz. ....	\$2.93
Juice—64 oz. ....	\$3.86
Kosher Cheese ....	\$7.01
Kosher Low Fat Milk—1/2 gallon ....	\$2.92
Kosher Whole Milk—1/2 gallon ....	\$2.95
Milk, Low Fat—1/2 gallon ....	\$2.32
Milk, Whole—1/2 gallon ....	\$2.32
Peanut Butter ....	\$2.80
Whole Grain—Bread, 16 oz. ....	\$3.60
Whole Grain—Brown Rice, 16 oz. ....	\$2.17
Whole Grain—Oats, 16 oz. ....	\$2.08
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz. ....	\$2.21

<i>Description</i>	<i>Competitive Prices</i>
Good Start Gentle PLUS Concentrate—Orange Formula—13 oz. ....	\$4.73
Good Start Gentle PLUS Powder—Orange Formula—12 oz. ....	\$13.87
Good Start Soy PLUS Concentrate—Blue Formula—13 oz. ....	\$4.90
Good Start Soy PLUS Powder—Blue Formula—12.9 oz. ....	\$13.87

**Maximum Allowable Prices and Competitive Prices for Type 3 Stores in Regular Cost Counties**

Under 28 Pa. Code §§ 1103.4(5) and 1105.3(a)(1) and 7 CFR 246.12, the WIC Program hereby publishes notice of the Maximum Allowable Prices and Competitive Prices for Type 3 Stores in Regular Cost Counties.

**Maximum Allowable Prices**

Effective July 1, 2010, through September 30, 2010, the Maximum Allowable Prices the Department will pay Type 3 Stores in Regular Cost Counties for WIC allowable foods are as follows:

<i>Description</i>	<i>Maximum Allowable Price</i>
Beans, Canned—15.5/16 oz. ....	\$1.26
Beans/Peas—Dry—16 oz. ....	\$2.01
Canned Fish—Pink Salmon ....	\$2.28
Canned Fish—Sardines ....	\$1.39
Canned Fish—Tuna ....	\$1.23
Cereal (per oz.) ....	\$.36
Cheese, 16 oz. ....	\$6.17
Eggs ....	\$1.56
Gerber Infant Cereal—8 oz. ....	\$2.28
Infant Fruits, 100%—4 oz. ....	\$.78
Infant Vegetables, 100%—4 oz. ....	\$.78
Infant Meats, 100%—2.5 oz. ....	\$1.18
Juice—11.5/12 oz. ....	\$2.47
Juice—48 oz. ....	\$3.11
Juice—64 oz. ....	\$4.26
Kosher Cheese ....	\$7.89
Kosher Low Fat Milk—quart ....	\$1.63
Kosher Low Fat Milk—1/2 gallon ....	\$3.03
Kosher Whole Milk—quart ....	\$1.64
Kosher Whole Milk—1/2 gallon ....	\$3.05
Milk, Dry—16 oz. ....	\$4.99
Milk, Evaporated—12 oz. ....	\$1.37
Milk, Low Fat—quart ....	\$1.35
Milk, Low Fat—1/2 gallon ....	\$2.41
Milk, Low Fat Lactose Free—quart ....	\$2.30
Milk, Low Fat Lactose Free—1/2 gallon ....	\$4.04
Milk, Whole—quart ....	\$1.40
Milk, Whole—1/2 gallon ....	\$2.45
Milk, Whole Lactose Free—quart ....	\$2.33
Milk, Whole Lactose Free—1/2 gallon ....	\$4.08
Peanut Butter ....	\$3.09
Soy Beverage—Pacific Natural Foods 32 oz. ....	\$3.65
Soy Beverage—8th Continent 64 oz. ....	\$3.95
Tofu—Soy Boy/House Premium 12/16 oz. ....	\$2.34

<i>Description</i>	<i>Maximum Allowable Price</i>
Whole Grain—Bread, 16 oz. ....	\$3.84
Whole Grain—Bread, 24 oz. ....	\$3.84
Whole Grain—Brown Rice, 16 oz. ....	\$2.19
Whole Grain—Brown Rice, 24 oz. ....	\$2.79
Whole Grain—Oats, 16 oz. ....	\$2.11
Whole Grain—Oats, 24 oz. ....	\$5.18
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz. ....	\$2.34
Alimentum Advance RTF/Similac Expert Care Alimentum Formula—32 oz. ....	\$9.48
Alimentum Advance Powder Formula/Similac Expert Care Alimentum—16 oz. ....	\$26.99
Boost Ready-to-Feed Formula—8 oz. ....	\$2.19
EnfaCare LIPIL w/Iron Ready to Feed—32 oz. ....	\$7.54
EnfaCare LIPIL w/Iron Powder Formula—12.8 oz. ....	\$15.19
Enfamil LIPIL Concentrate Formula—13 oz. ....	\$5.24
Enfamil LIPIL Ready-to-Feed Formula—32 oz. ....	\$7.54
Enfamil LIPIL Powder Formula—12.9 oz. ....	\$15.19
Isomil DF RTF/Similac Expert Care for Diarrhea Formula—32 oz. ....	\$8.19
Good Start Gentle PLUS Concentrate—Orange Formula—13 oz. ....	\$4.85
Good Start Gentle PLUS Ready-To-Feed—Orange Formula—32 oz. ....	\$6.94
Good Start Gentle PLUS Powder—Orange Formula—12 oz. ....	\$14.49
Good Start Soy PLUS Concentrate—Blue Formula—13 oz. ....	\$5.12
Good Start Soy PLUS Ready-to-Feed—Blue Formula—32 oz. ....	\$7.28
Good Start Soy PLUS Powder—Blue Formula—12.9 oz. ....	\$14.49
Good Start Soy PLUS 2 Powder—Blue w/blue—24 oz. ....	\$22.19
Good Start Gentle Plus 2 Powder—Blue w/orange—24 oz. ....	\$22.79
Good Start Protect PLUS 2 Powder—Blue w/green—24 oz. ....	\$26.44
Good Start Protect PLUS 2 Powder—Green—12 oz. ....	\$16.28
Good Start Nourish PLUS Powder—Purple—12 oz. ....	\$10.79
Nutramigen Lipil Concentrate Formula—13 oz. ....	\$7.82
Nutramigen Lipil Ready-to-Feed Formula—32 oz. ....	\$9.38
Nutramigen Lipil Powder Formula—16 oz. ....	\$28.36
Nutramigen Lipil w/Enflora Powder Formula—12.6 oz. ....	\$23.56
Pediasure Ready-to-Feed Formula—8 oz. ....	\$2.58
Pediasure w/Fiber Ready-to-Feed Formula—8 oz. ....	\$2.63
Similac Advance Concentrate Formula—13 oz. ....	\$5.17

<i>Description</i>	<i>Maximum Allowable Price</i>
Similac Advance Ready-to-Feed Formula—32 oz. ....	\$7.18
Similac Advance Powder Formula—12.9 oz. ...	\$15.02
Similac Advance Powder Formula—12.4 oz. ...	\$15.02
Similac Neosure Advance RTF/Similac Expert Care NeoSure RTF Formula—32 oz. ....	\$9.23
Similac Neosure Advance Powder Formula—12.8 oz. ....	\$15.89
Similac Expert Care NeoSure—13.1 oz. ....	\$15.89
Store Brand Milk Based Formula Concentrate—13 oz. ....	\$3.10
Store Brand Milk Based Formula—Ready-to-Feed—32 oz. ....	\$4.32
Store Brand Milk Based Formula—Powder—25.75 oz. ....	\$17.99

A store must permit purchase of WIC allowable foods that exceed the maximum allowable price to WIC participants using a WIC check; however, the amounts that exceed the maximum allowable price of any WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2.

**Competitive Prices**

To remain WIC Authorized, each store must maintain the minimum inventory of the following WIC food items at, or below, the Competitive Prices listed for the store's peer group. Effective July 1, 2010, through September 30, 2010, the Competitive Prices for WIC Authorization for Type 3 Stores in Regular Cost Counties are as follows:

<i>Description</i>	<i>Competitive Prices</i>
Beans, Canned—15.5/16 oz. ....	\$1.26
Beans/Peas—Dry—16 oz. ....	\$1.79
Canned Fish—Pink Salmon ....	\$2.25
Canned Fish—Sardines ....	\$1.34
Canned Fish—Tuna ....	\$1.16
Cereal (per oz.) ....	\$.36
Cheese, 16 oz. ....	\$5.41
Eggs ....	\$1.46
Gerber Infant Cereal—8 oz. ....	\$2.28
Infant Fruits, 100%—4 oz. ....	\$.73
Infant Vegetables, 100%—4 oz. ....	\$.73
Infant Meats, 100%—2.5 oz. ....	\$1.16
Juice—11.5/12 oz. ....	\$2.33
Juice—48 oz. ....	\$3.02
Juice—64 oz. ....	\$3.92
Kosher Cheese ....	\$7.67
Kosher Low Fat Milk—1/2 gallon ....	\$3.03
Kosher Whole Milk—1/2 gallon ....	\$3.05
Milk, Low Fat—1/2 gallon ....	\$2.34
Milk, Whole—1/2 gallon ....	\$2.32
Peanut Butter ....	\$2.80
Whole Grain—Bread, 16 oz. ....	\$3.60
Whole Grain—Brown Rice, 16 oz. ....	\$2.17
Whole Grain—Oats, 16 oz. ....	\$2.08

<i>Description</i>	<i>Competitive Prices</i>
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz. ....	\$2.32
Good Start Gentle PLUS Concentrate—Orange Formula—13 oz. ....	\$4.85
Good Start Gentle PLUS Powder—Orange Formula—12 oz. ....	\$14.49
Good Start Soy PLUS Concentrate—Blue Formula—13 oz. ....	\$5.12
Good Start Soy PLUS Powder—Blue Formula—12.9 oz. ....	\$14.49

**Maximum Allowable Prices and Competitive Prices for Type 1 Stores in High Cost Counties**

Under 28 Pa. Code §§ 1103.4(5) and 1105.3(a)(1) and 7 CFR 246.12, the WIC Program hereby publishes notice of the Maximum Allowable Prices and Competitive Prices for Type 1 Stores in High Cost Counties.

**Maximum Allowable Prices**

Effective July 1, 2010, through September 30, 2010, the Maximum Allowable Prices the Department will pay Type 1 Stores in High Cost Counties for WIC allowable foods are as follows:

<i>Description</i>	<i>Maximum Allowable Price</i>
Beans, Canned—15.5/16 oz. ....	\$1.30
Beans/Peas—Dry—16 oz. ....	\$2.05
Canned Fish—Pink Salmon ....	\$2.28
Canned Fish—Sardines ....	\$1.30
Canned Fish—Tuna ....	\$1.15
Cereal (per oz.) ....	\$.33
Cheese, 16 oz. ....	\$6.23
Eggs ....	\$1.66
Gerber Infant Cereal—8 oz. ....	\$2.13
Infant Fruits, 100%—4 oz. ....	\$.60
Infant Vegetables, 100%—4 oz. ....	\$.60
Infant Meats, 100%—2.5 oz. ....	\$1.06
Juice—11.5/12 oz. ....	\$2.31
Juice—48 oz. ....	\$3.07
Juice—64 oz. ....	\$3.90
Kosher Cheese ....	\$7.89
Kosher Low Fat Milk—quart ....	\$1.63
Kosher Low Fat Milk—1/2 gallon ....	\$2.96
Kosher Whole Milk—quart ....	\$1.64
Kosher Whole Milk—1/2 gallon ....	\$3.04
Milk, Dry—16 oz. ....	\$4.99
Milk, Evaporated—12 oz. ....	\$1.26
Milk, Low Fat—quart ....	\$1.46
Milk, Low Fat—1/2 gallon ....	\$2.49
Milk, Low Fat Lactose Free—quart ....	\$2.28
Milk, Low Fat Lactose Free—1/2 gallon ....	\$3.98
Milk, Whole—quart ....	\$1.45
Milk, Whole—1/2 gallon ....	\$2.56
Milk, Whole Lactose Free—quart ....	\$2.31
Milk, Whole Lactose Free—1/2 gallon ....	\$4.01
Peanut Butter ....	\$3.09
Soy Beverage—Pacific Natural Foods 32 oz. ...	\$3.70

<i>Description</i>	<i>Maximum Allowable Price</i>
Soy Beverage—8th Continent 64 oz. ....	\$3.99
Tofu—Soy Boy/House Premium 12/16 oz. ....	\$2.20
Whole Grain—Bread, 16 oz. ....	\$3.84
Whole Grain—Bread, 24 oz. ....	\$3.84
Whole Grain—Brown Rice, 16 oz. ....	\$1.88
Whole Grain—Brown Rice, 24 oz. ....	\$2.99
Whole Grain—Oats, 16 oz. ....	\$1.95
Whole Grain—Oats, 24 oz. ....	\$5.45
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz. ....	\$2.20
Alimentum Advance RTF/Similac Expert Care Alimentum Formula—32 oz. ....	\$9.18
Alimentum Advance Powder Formula/Similac Expert Care Alimentum—16 oz. ....	\$26.21
Boost Ready-to-Feed Formula—8 oz. ....	\$2.00
EnfaCare LIPIL w/Iron Ready to Feed—32 oz. ....	\$7.29
EnfaCare LIPIL w/Iron Powder Formula—12.8 oz. ....	\$14.39
Enfamil LIPIL Concentrate Formula—13 oz. ....	\$4.49
Enfamil LIPIL Ready-to-Feed Formula—32 oz. ....	\$6.66
Enfamil LIPIL Powder Formula—12.9 oz. ....	\$13.76
Isomil DF RTF/Similac Expert Care for Diarrhea Formula—32 oz. ....	\$6.32
Good Start Gentle PLUS Concentrate—Orange Formula—13 oz. ....	\$4.48
Good Start Gentle PLUS Ready-To-Feed—Orange Formula—32 oz. ....	\$6.49
Good Start Gentle PLUS Powder—Orange Formula—12 oz. ....	\$13.89
Good Start Soy PLUS Concentrate—Blue Formula—13 oz. ....	\$4.64
Good Start Soy PLUS Ready-to-Feed—Blue Formula—32 oz. ....	\$6.64
Good Start Soy PLUS Powder—Blue Formula—12.9 oz. ....	\$13.89
Good Start Soy PLUS 2 Powder—Blue w/blue—24 oz. ....	\$21.65
Good Start Gentle Plus 2 Powder—Blue w/orange—24 oz. ....	\$21.44
Good Start Protect PLUS 2 Powder—Blue w/green—24 oz. ....	\$26.44
Good Start Protect PLUS 2 Powder—Green—12 oz. ....	\$14.52
Good Start Nourish PLUS Powder—Purple—12 oz. ....	\$10.79
Nutramigen Lipil Concentrate Formula—13 oz. ....	\$7.17
Nutramigen Lipil Ready-to-Feed Formula—32 oz. ....	\$9.02
Nutramigen Lipil Powder Formula—16 oz. ....	\$26.02
Nutramigen Lipil w/Enflora Powder Formula—12.6 oz. ....	\$22.52
Pediasure Ready-to-Feed Formula—8 oz. ....	\$1.85
Pediasure w/Fiber Ready-to-Feed Formula—8 oz. ....	\$1.92

<i>Description</i>	<i>Maximum Allowable Price</i>
Similac Advance Concentrate Formula—13 oz. ....	\$4.43
Similac Advance Ready-to-Feed Formula—32 oz. ....	\$6.34
Similac Advance Powder Formula—12.9 oz. ....	\$13.60
Similac Advance Powder Formula—12.4 oz. ....	\$13.60
Similac Neosure Advance RTF/Similac Expert Care NeoSure RTF Formula—32 oz. ....	\$7.62
Similac Neosure Advance Powder Formula—12.8 oz. ....	\$15.60
Similac Expert Care NeoSure—13.1 oz. ....	\$15.60
Store Brand Milk Based Formula Concentrate—13 oz. ....	\$2.87
Store Brand Milk Based Formula—Ready-to-Feed—32 oz. ....	\$3.85
Store Brand Milk Based Formula—Powder—25.75 oz. ....	\$16.19

A store must permit purchase of WIC allowable foods that exceed the maximum allowable price to WIC participants using a WIC check; however, the amounts that exceed the maximum allowable price of any WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2.

**Competitive Prices**

To remain WIC Authorized, each store must maintain the minimum inventory of the following WIC food items at, or below, the Competitive Prices listed for the store's peer group. Effective July 1, 2010, through September 30, 2010, the Competitive Prices for WIC Authorization for Type 1 Stores in High Cost Counties are as follows:

<i>Description</i>	<i>Competitive Prices</i>
Beans, Canned—15.5/16 oz. ....	\$1.30
Beans/Peas—Dry—16 oz. ....	\$1.79
Canned Fish—Pink Salmon ....	\$2.21
Canned Fish—Sardines ....	\$1.27
Canned Fish—Tuna ....	\$1.07
Cereal (per oz.) ....	\$.33
Cheese, 16 oz. ....	\$5.51
Eggs ....	\$1.56
Gerber Infant Cereal—8 oz. ....	\$2.13
Infant Fruits, 100%—4 oz. ....	\$.55
Infant Vegetables, 100%—4 oz. ....	\$.55
Infant Meats, 100%—2.5 oz. ....	\$.97
Juice—11.5/12 oz. ....	\$2.13
Juice—48 oz. ....	\$2.95
Juice—64 oz. ....	\$3.54
Kosher Cheese ....	\$7.67
Kosher Low Fat Milk—1/2 gallon ....	\$2.92
Kosher Whole Milk—1/2 gallon ....	\$2.95
Milk, Low Fat—1/2 gallon ....	\$2.34
Milk, Whole—1/2 gallon ....	\$2.42
Peanut Butter ....	\$2.80
Whole Grain—Bread, 16 oz. ....	\$3.61
Whole Grain—Brown Rice, 16 oz. ....	\$1.88

<i>Description</i>	<i>Competitive Prices</i>
Whole Grain—Oats, 16 oz. ....	\$1.91
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz. ....	\$2.08
Good Start Gentle PLUS Concentrate—Orange Formula—13 oz. ....	\$4.48
Good Start Gentle PLUS Powder—Orange Formula—12 oz. ....	\$13.89
Good Start Soy PLUS Concentrate—Blue Formula—13 oz. ....	\$4.64
Good Start Soy PLUS Powder—Blue Formula—12.9 oz. ....	\$13.89

**Maximum Allowable Prices and Competitive Prices for Type 2 Stores in High Cost Counties**

Under 28 Pa. Code §§ 1103.4(5) and 1105.3(a)(1) and 7 CFR 246.12, the WIC Program hereby publishes notice of the Maximum Allowable Prices and Competitive Prices for Type 2 Stores in High Cost Counties.

**Maximum Allowable Prices**

Effective July 1, 2010, through September 30, 2010, the Maximum Allowable Prices the Department will pay Type 2 Stores in High Cost Counties for WIC allowable foods are as follows:

<i>Description</i>	<i>Maximum Allowable Price</i>
Beans, Canned—15.5/16 oz. ....	\$1.30
Beans/Peas—Dry—16 oz. ....	\$2.05
Canned Fish—Pink Salmon ....	\$2.28
Canned Fish—Sardines ....	\$1.46
Canned Fish—Tuna ....	\$1.22
Cereal (per oz.) ....	\$.35
Cheese, 16 oz. ....	\$6.23
Eggs ....	\$1.66
Gerber Infant Cereal—8 oz. ....	\$2.21
Infant Fruits, 100%—4 oz. ....	\$.64
Infant Vegetables, 100%—4 oz. ....	\$.64
Infant Meats, 100%—2.5 oz. ....	\$1.11
Juice—11.5/12 oz. ....	\$2.56
Juice—48 oz. ....	\$3.26
Juice—64 oz. ....	\$4.26
Kosher Cheese ....	\$7.89
Kosher Low Fat Milk—quart ....	\$1.63
Kosher Low Fat Milk—1/2 gallon ....	\$2.96
Kosher Whole Milk—quart ....	\$1.64
Kosher Whole Milk—1/2 gallon ....	\$3.04
Milk, Dry—16 oz. ....	\$4.99
Milk, Evaporated—12 oz. ....	\$1.40
Milk, Low Fat—quart ....	\$1.46
Milk, Low Fat—1/2 gallon ....	\$2.49
Milk, Low Fat Lactose Free—quart ....	\$2.31
Milk, Low Fat Lactose Free—1/2 gallon ....	\$4.10
Milk, Whole—quart ....	\$1.45
Milk, Whole—1/2 gallon ....	\$2.56
Milk, Whole Lactose Free—quart ....	\$2.34
Milk, Whole Lactose Free—1/2 gallon ....	\$4.12
Peanut Butter ....	\$3.09

<i>Description</i>	<i>Maximum Allowable Price</i>
Soy Beverage—Pacific Natural Foods 32 oz. ...	\$3.70
Soy Beverage—8th Continent 64 oz. ....	\$3.99
Tofu—Soy Boy/House Premium 12/16 oz. ....	\$2.20
Whole Grain—Bread, 16 oz. ....	\$3.84
Whole Grain—Bread, 24 oz. ....	\$3.84
Whole Grain—Brown Rice, 16 oz. ....	\$2.19
Whole Grain—Brown Rice, 24 oz. ....	\$2.99
Whole Grain—Oats, 16 oz. ....	\$2.11
Whole Grain—Oats, 24 oz. ....	\$5.45
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz. ....	\$2.33
Alimentum Advance RTF/Similac Expert Care Alimentum Formula—32 oz. ....	\$9.74
Alimentum Advance Powder Formula/Similac Expert Care Alimentum—16 oz. ....	\$27.51
Boost Ready-to-Feed Formula—8 oz. ....	\$2.19
EnfaCare LIPIL w/Iron Ready to Feed— 32 oz. ....	\$7.74
EnfaCare LIPIL w/Iron Powder Formula— 12.8 oz. ....	\$15.30
Enfamil LIPIL Concentrate Formula— 13 oz. ....	\$4.87
Enfamil LIPIL Ready-to-Feed Formula— 32 oz. ....	\$7.12
Enfamil LIPIL Powder Formula—12.9 oz. ....	\$14.61
Isomil DF RTF/Similac Expert Care for Diarrhea Formula—32 oz. ....	\$6.64
Good Start Gentle PLUS Concentrate—Orange Formula—13 oz. ....	\$4.78
Good Start Gentle PLUS Ready-To-Feed— Orange Formula—32 oz. ....	\$6.86
Good Start Gentle PLUS Powder—Orange Formula—12 oz. ....	\$14.47
Good Start Soy PLUS Concentrate—Blue Formula—13 oz. ....	\$4.95
Good Start Soy PLUS Ready-to-Feed—Blue Formula—32 oz. ....	\$6.91
Good Start Soy PLUS Powder—Blue Formula—12.9 oz. ....	\$14.47
Good Start Soy PLUS 2 Powder—Blue w/blue—24 oz. ....	\$22.34
Good Start Gentle Plus 2 Powder—Blue w/orange—24 oz. ....	\$22.19
Good Start Protect PLUS 2 Powder—Blue w/green—24 oz. ....	\$26.44
Good Start Protect PLUS 2 Powder—Green— 12 oz. ....	\$16.28
Good Start Nourish PLUS Powder—Purple— 12 oz. ....	\$10.79
Nutramigen Lipil Concentrate Formula— 13 oz. ....	\$7.51
Nutramigen Lipil Ready-to-Feed Formula— 32 oz. ....	\$9.20
Nutramigen Lipil Powder Formula—16 oz. ....	\$27.39
Nutramigen Lipil w/Enflora Powder Formula—12.6 oz. ....	\$23.82
Pediasure Ready-to-Feed Formula—8 oz. ....	\$2.29

<i>Description</i>	<i>Maximum Allowable Price</i>
Pediasure w/Fiber Ready-to-Feed Formula—8 oz. ....	\$2.22
Similac Advance Concentrate Formula—13 oz. ....	\$4.70
Similac Advance Ready-to-Feed Formula—32 oz. ....	\$6.71
Similac Advance Powder Formula—12.9 oz. ...	\$14.44
Similac Advance Powder Formula—12.4 oz. ...	\$14.44
Similac Neosure Advance RTF/Similac Expert Care NeoSure RTF Formula—32 oz. ....	\$7.93
Similac Neosure Advance Powder Formula—12.8 oz. ....	\$16.68
Similac Expert Care NeoSure—13.1 oz. ....	\$16.68
Store Brand Milk Based Concentrate—13 oz. ....	\$2.95
Store Brand Milk Based Formula—Ready-to-Feed—32 oz. ....	\$4.05
Store Brand Milk Based Formula—Powder—25.75 oz. ....	\$16.99

A store must permit purchase of WIC allowable foods that exceed the maximum allowable price to WIC participants using a WIC check; however, the amounts that exceed the maximum allowable price of any WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2.

**Competitive Prices**

To remain WIC Authorized, each store must maintain the minimum inventory of the following WIC food items at, or below, the Competitive Prices listed for the store's peer group. Effective July 1, 2010, through September 30, 2010, the Competitive Prices for WIC Authorization for Type 2 Stores in High Cost Counties are as follows:

<i>Description</i>	<i>Competitive Prices</i>
Beans, Canned—15.5/16 oz. ....	\$1.30
Beans/Peas—Dry—16 oz. ....	\$1.79
Canned Fish—Pink Salmon ....	\$2.21
Canned Fish—Sardines ....	\$1.43
Canned Fish—Tuna ....	\$1.14
Cereal (per oz.) ....	\$.35
Cheese, 16 oz. ....	\$5.51
Eggs ....	\$1.56
Gerber Infant Cereal—8 oz. ....	\$2.21
Infant Fruits, 100%—4 oz. ....	\$.64
Infant Vegetables, 100%—4 oz. ....	\$.64
Infant Meats, 100%—2.5 oz. ....	\$1.08
Juice—11.5/12 oz. ....	\$2.38
Juice—48 oz. ....	\$3.12
Juice—64 oz. ....	\$3.90
Kosher Cheese ....	\$7.67
Kosher Low Fat Milk—1/2 gallon ....	\$2.92
Kosher Whole Milk—1/2 gallon ....	\$2.95
Milk, Low Fat—1/2 gallon ....	\$2.34
Milk, Whole—1/2 gallon ....	\$2.42
Peanut Butter ....	\$2.80

<i>Description</i>	<i>Competitive Prices</i>
Whole Grain—Bread, 16 oz. ....	\$3.61
Whole Grain—Brown Rice, 16 oz. ....	\$2.17
Whole Grain—Oats, 16 oz. ....	\$2.08
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz. ....	\$2.25
Good Start Gentle PLUS Concentrate—Orange Formula—13 oz. ....	\$4.78
Good Start Gentle PLUS Powder—Orange Formula—12 oz. ....	\$14.47
Good Start Soy PLUS Concentrate—Blue Formula—13 oz. ....	\$4.95
Good Start Soy PLUS Powder—Blue Formula—12.9 oz. ....	\$14.47

**Maximum Allowable Prices and Competitive Prices for Type 3 Stores in High Cost Counties**

Under 28 Pa. Code §§ 1103.4(5) and 1105.3(a)(1) and 7 CFR 246.12, the WIC Program hereby publishes notice of the Maximum Allowable Prices and Competitive Prices for Type 3 Stores in High Cost Counties.

**Maximum Allowable Prices**

Effective July 1, 2010, through September 30, 2010, the Maximum Allowable Prices the Department will pay Type 3 Stores in High Cost Counties for WIC allowable foods are as follows:

<i>Description</i>	<i>Maximum Allowable Price</i>
Beans, Canned—15.5/16 oz. ....	\$1.30
Beans/Peas—Dry—16 oz. ....	\$2.05
Canned Fish—Pink Salmon ....	\$2.30
Canned Fish—Sardines ....	\$1.46
Canned Fish—Tuna ....	\$1.24
Cereal (per oz.) ....	\$.37
Cheese, 16 oz. ....	\$7.09
Eggs ....	\$1.66
Gerber Infant Cereal—8 oz. ....	\$2.42
Infant Fruits, 100%—4 oz. ....	\$.81
Infant Vegetables, 100%—4 oz. ....	\$.81
Infant Meats, 100%—2.5 oz. ....	\$1.18
Juice—11.5/12 oz. ....	\$2.75
Juice—48 oz. ....	\$3.28
Juice—64 oz. ....	\$4.26
Kosher Cheese ....	\$7.89
Kosher Low Fat Milk—quart ....	\$1.63
Kosher Low Fat Milk—1/2 gallon ....	\$3.03
Kosher Whole Milk—quart ....	\$1.64
Kosher Whole Milk—1/2 gallon ....	\$3.05
Milk, Dry—16 oz. ....	\$4.99
Milk, Evaporated—12 oz. ....	\$1.40
Milk, Low Fat—quart ....	\$1.57
Milk, Low Fat—1/2 gallon ....	\$2.61
Milk, Low Fat Lactose Free—quart ....	\$2.39
Milk, Low Fat Lactose Free—1/2 gallon ....	\$4.10
Milk, Whole—quart ....	\$1.59
Milk, Whole—1/2 gallon ....	\$2.66
Milk, Whole Lactose Free—quart ....	\$2.42



<i>Description</i>	<i>Maximum Allowable Price</i>
Milk, Whole Lactose Free—1/2 gallon . . . . .	\$4.12
Peanut Butter . . . . .	\$3.09
Soy Beverage—Pacific Natural Foods 32 oz. . . . .	\$3.70
Soy Beverage—8th Continent 64 oz. . . . .	\$3.99
Tofu—Soy Boy/House Premium 12/16 oz. . . . .	\$2.62
Whole Grain—Bread, 16 oz. . . . .	\$3.84
Whole Grain—Bread, 24 oz. . . . .	\$3.84
Whole Grain—Brown Rice, 16 oz. . . . .	\$2.31
Whole Grain—Brown Rice, 24 oz. . . . .	\$2.99
Whole Grain—Oats, 16 oz. . . . .	\$2.73
Whole Grain—Oats, 24 oz. . . . .	\$5.45
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz. . . . .	\$2.45
Alimentum Advance RTF/Similac Expert Care Alimentum Formula—32 oz. . . . .	\$10.33
Alimentum Advance Powder Formula/Similac Expert Care Alimentum—16 oz. . . . .	\$30.11
Boost Ready-to-Feed Formula—8 oz. . . . .	\$2.19
EnfaCare LIPIL w/Iron Ready to Feed—32 oz. . . . .	\$9.01
EnfaCare LIPIL w/Iron Powder Formula—12.8 oz. . . . .	\$17.26
Enfamil LIPIL Concentrate Formula—13 oz. . . . .	\$5.66
Enfamil LIPIL Ready-to-Feed Formula—32 oz. . . . .	\$8.45
Enfamil LIPIL Powder Formula—12.9 oz. . . . .	\$16.70
Isomil DF RTF/Similac Expert Care for Diarrhea Formula—32 oz. . . . .	\$8.54
Good Start Gentle PLUS Concentrate—Orange Formula—13 oz. . . . .	\$5.74
Good Start Gentle PLUS Ready—To—Feed—Orange Formula—32 oz. . . . .	\$8.14
Good Start Gentle PLUS Powder—Orange Formula—12 oz. . . . .	\$16.36
Good Start Soy PLUS Concentrate—Blue Formula—13 oz. . . . .	\$5.53
Good Start Soy PLUS Ready-to-Feed—Blue Formula—32 oz. . . . .	\$7.47
Good Start Soy PLUS Powder—Blue Formula—12.9 oz. . . . .	\$16.36
Good Start Soy PLUS 2 Powder—Blue w/blue—24 oz. . . . .	\$22.58
Good Start Gentle Plus 2 Powder—Blue w/orange—24 oz. . . . .	\$22.79
Good Start Protect PLUS 2 Powder—Blue w/green—24 oz. . . . .	\$26.44
Good Start Protect PLUS 2 Powder—Green—12 oz. . . . .	\$16.28
Good Start Nourish PLUS Powder—Purple—12 oz. . . . .	\$12.83
Nutramigen Lipil Concentrate Formula—13 oz. . . . .	\$8.63
Nutramigen Lipil Ready-to-Feed Formula—32 oz. . . . .	\$10.94
Nutramigen Lipil Powder Formula—16 oz. . . . .	\$30.29
Nutramigen Lipil w/Enflora Powder Formula—12.6 oz. . . . .	\$25.15

<i>Description</i>	<i>Maximum Allowable Price</i>
Pediasure Ready-to-Feed Formula—8 oz. . . . .	\$2.64
Pediasure w/Fiber Ready-to-Feed Formula—8 oz. . . . .	\$2.63
Similac Advance Concentrate Formula—13 oz. . . . .	\$5.59
Similac Advance Ready-to-Feed Formula—32 oz. . . . .	\$8.04
Similac Advance Powder Formula—12.9 oz. . . . .	\$16.51
Similac Advance Powder Formula—12.4 oz. . . . .	\$16.51
Similac Neosure Advance RTF/Similac Expert Care NeoSure RTF Formula—32 oz. . . . .	\$9.99
Similac Neosure Advance Powder Formula—12.8 oz. . . . .	\$19.19
Similac Expert Care NeoSure—13.1 oz. . . . .	\$19.19
Store Brand Milk Based Formula Concentrate—13 oz. . . . .	\$3.24
Store Brand Milk Based Formula—Ready-to-Feed—32 oz. . . . .	\$4.82
Store Brand Milk Based Formula—Powder—25.75 oz. . . . .	\$17.99

A store must permit purchase of WIC allowable foods that exceed the maximum allowable price to WIC participants using a WIC check; however, the amounts that exceed the maximum allowable price of any WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2.

**Competitive Prices**

To remain WIC Authorized, each store must maintain the minimum inventory of the following WIC food items at, or below, the Competitive Prices listed for the store's peer group. Effective July 1, 2010, through September 30, 2010, the Competitive Prices for WIC Authorization for Type 3 Stores in High Cost Counties are as follows:

<i>Description</i>	<i>Competitive Prices</i>
Beans, Canned—15.5/16 oz. . . . .	\$1.30
Beans/Peas—Dry—16 oz. . . . .	\$1.79
Canned Fish—Pink Salmon . . . . .	\$2.29
Canned Fish—Sardines . . . . .	\$1.43
Canned Fish—Tuna . . . . .	\$1.22
Cereal (per oz.) . . . . .	\$.37
Cheese, 16 oz. . . . .	\$5.83
Eggs . . . . .	\$1.56
Gerber Infant Cereal—8 oz. . . . .	\$2.42
Infant Fruits, 100%—4 oz. . . . .	\$.79
Infant Vegetables, 100%—4 oz. . . . .	\$.79
Infant Meats, 100%—2.5 oz. . . . .	\$1.16
Juice—11.5/12 oz. . . . .	\$2.71
Juice—48 oz. . . . .	\$3.26
Juice—64 oz. . . . .	\$4.03
Kosher Cheese . . . . .	\$7.67
Kosher Low Fat Milk—1/2 gallon . . . . .	\$3.03
Kosher Whole Milk—1/2 gallon . . . . .	\$3.05
Milk, Low Fat—1/2 gallon . . . . .	\$2.57
Milk, Whole—1/2 gallon . . . . .	\$2.61

<i>Description</i>	<i>Competitive Prices</i>
Peanut Butter .....	\$2.99
Whole Grain—Bread, 16 oz. ....	\$3.61
Whole Grain—Brown Rice, 16 oz. ....	\$2.30
Whole Grain—Oats, 16 oz. ....	\$2.71
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz. ....	\$2.43
Good Start Gentle PLUS Concentrate—Orange Formula—13 oz. ....	\$5.74
Good Start Gentle PLUS Powder—Orange Formula—12 oz. ....	\$16.36
Good Start Soy PLUS Concentrate—Blue Formula—13 oz. ....	\$5.53
Good Start Soy PLUS Powder—Blue Formula—12.9 oz. ....	\$16.36

Persons with a disability who require an alternative format of this listing (for example, large print, audiotape, Braille), should contact Chris Harr, Department of Health, Division of WIC, 2150 Herr Street, 1st Floor, Harrisburg, PA 17105, (717) 783-1289, or for speech and/or hearing impaired persons V/TT (717) 783-6514, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1174. Filed for public inspection June 25, 2010, 9:00 a.m.]

## DEPARTMENT OF PUBLIC WELFARE

### Availability of the Low-Income Home Energy Assistance Program; Proposed State Plan and Public Hearing Schedule

*Purpose of Notice*

The Department of Public Welfare (Department) is making available for public review and comment the Fiscal Year (FY) 2010-2011 Low-Income Home Energy Assistance Program (LIHEAP) proposed State Plan. Comments on this notice and testimony received at public hearings will be used to formulate the Department's final State Plan for using Federal funds for FY 2010-2011 LIHEAP.

The Department will make the proposed State Plan available to the public through the Department's web site at [www.dpw.state.pa.us/ServicesPrograms/LIHEAP/](http://www.dpw.state.pa.us/ServicesPrograms/LIHEAP/). In addition, copies of the proposed State Plan will be available upon written request to Director, Division of Federal Programs and Program Management, Department of Public Welfare, DGS Annex, Room 224, Willow Oak Building, 1006 Hemlock Drive, Harrisburg, PA 17110.

The Department will hold three public hearings throughout this Commonwealth to allow testimony on the proposed State Plan and to fulfill the Federal mandate for public input into the planning process. This mandate appears in Title XXVI (The Low-Income Home Energy Assistance Act of 1981) of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. No. 97-35, 42 U.S.C.A.

§§ 8621—8629) as amended by the Human Services Reauthorization Act of 1984 (Pub. L. No. 98-558), the Human Services Reauthorization Act of 1986 (Pub. L. No. 99-425), the Augustus F. Hawkins Human Services Reauthorization Act of 1990 (Pub. L. No. 101-501), the National Institutes of Health Revitalization Act of 1993 (Pub. L. No. 103-43), the Low-Income Home Energy Assistance Amendments of 1994 (Pub. L. No. 103-252), the Coats Human Services Reauthorization Act of 1998 (Pub. L. No. 105-285), and the Energy Policy Act of 2005 (Pub. L. No. 109-58).

*Public Hearing Schedule:*

July 13, 2010  
10 a.m.—1 p.m.  
Philadelphia Workforce Development Corporation  
One Penn Center at Suburban Station  
1617 JFK Boulevard  
Philadelphia, PA

July 15, 2010  
9:30 a.m.—1 p.m.  
Health and Welfare Building  
Room 907, 9th Floor  
Commonwealth and Forster Streets  
Harrisburg, PA

July 22, 2010  
9 a.m.—12 p.m.  
Allegheny County Courthouse  
Gold Room, 4th Floor  
436 Grant Street  
Pittsburgh, PA

This notice shall take effect upon publication in the *Pennsylvania Bulletin*.

*Public Comment*

Persons who wish to testify on the proposed State Plan at a public hearing should arrange a time by telephoning (717) 772-7906. Persons from outside the Harrisburg area should call (800) 692-7462 or send a written request, including telephone number, to Tammy Sampson, Federal Programs and Program Management, Room 224, Willow Oak Building No. 42, DGS Annex Complex, P. O. Box 2675, Harrisburg, PA 17105-2675.

Persons with a disability who require auxiliary aid or service may submit comments using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

HARRIET DICHTER,  
*Secretary*

[Pa.B. Doc. No. 10-1175. Filed for public inspection June 25, 2010, 9:00 a.m.]

### Establishment of an Additional Class of Disproportionate Share Payments

*Purpose of Notice*

The Department of Public Welfare (Department) is announcing its intent to establish an additional class of disproportionate share hospital (DSH) payments to certain qualifying hospitals that the Department determines provide a high volume of services to Medical Assistance (MA) eligible and low-income populations. The Department intends for these payments to promote the hospitals' continued participation in the MA Program.

The Department intends to consider a hospital eligible for this additional class of DSH payments if the hospital is an acute care hospital that meets all of the criteria listed as follows.

a) The hospital is located in a county that exceeds the 96th percentile of the unduplicated number of persons eligible for MA, by county. (January 2010 MA unduplicated eligibility report).

b) The hospital provides more than 58,000 patient days of service as reported on its 2007-2008 State Fiscal Year (FY) MA cost report (MA-336).

c) The hospital's ratio of Pennsylvania MA days to total hospital days is more than 20.0% as reported on its 2007-2008 State FY MA-336.

d) The hospital's FY 2008 Uncompensated Care percentage of Net Patient Revenue is greater than 2.4%, as reported in the Pennsylvania Health Care Cost Containment Council's Fiscal Year 2008 Financial Analysis, Volume One, General Acute Care Hospitals.

e) The hospital's FY 2008 operating margin is less than -3.4%, as reported in the Health Care Cost Containment Council's Fiscal Year 2008 Financial Analysis, Volume One, General Acute Care Hospitals.

Payments will be divided proportionately between qualifying hospitals based on the percentage of each qualifying hospital's MA inpatient days to total MA inpatient days of all qualifying facilities. In making these payments, the Department will ensure that no acute care hospital will receive any DSH payment that is in excess of its hospital-specific limit and the Commonwealth will not exceed its aggregate annual DSH allotment. Any funds available due to the application of the hospital-specific DSH upper payment limit will be redistributed to other hospitals qualifying under this class of disproportionate share payments on a proportionate basis.

#### *Fiscal Impact*

The FY 2009-2010 fiscal impact as a result of this additional class of DSH payments is \$1.882 million (\$0.851 million in State General Funds).

#### *Public Comment*

Interested persons are invited to submit written comments regarding this notice to: Department of Public Welfare, Office of Medical Assistance Programs, c/o Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120. Comments received within 30 days will be reviewed and considered for any subsequent revision of the notice.

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

HARRIET DICHTER,  
*Secretary*

**Fiscal Note:** 14-NOT-651. (1) General Fund; (2) Implementing Year 2009-10 is \$851,000; (3) 1st Succeeding Year 2010-11 is \$851,000; 2nd Succeeding Year 2011-12 is \$851,000; 3rd Succeeding Year 2012-13 is \$851,000; 4th Succeeding Year 2013-14 is \$851,000; 5th Succeeding Year 2014-15 is \$851,000; (4) 2008-09 Program—\$426,822,000; 2007-08 Program—\$468,589,000; 2006-07 Program—\$513,020,000; (8) recommends adoption. Funds have been included in the budget to cover this increase.

[Pa.B. Doc. No. 10-1176. Filed for public inspection June 25, 2010, 9:00 a.m.]

## Inpatient Hospital Services

### *Purpose of Notice*

The Department of Public Welfare (Department) is announcing its intent to implement a revised Medical Assistance (MA) payment methodology for inpatient hospital services provided on a fee-for-service basis in acute care general hospitals. More specifically, the Department intends to change the classification system used for determining Diagnosis-Related Groups (DRGs), and to revise the manner in which it calculates a hospital's DRG base payment rate and outlier payments.

### *Background*

Currently, under its Fee-for-Service program, the Department pays for acute care inpatient hospital services under a prospective DRG payment system. Under this system, a patient is classified into a DRG based on the patient's diagnoses, age, sex, the procedures performed and the patient's discharge status. The Department has computed a relative value for each DRG to reflect the relative costliness of that DRG. In addition, the Department has established a base DRG payment rate for each hospital. To determine the DRG payment amount for an inpatient stay at an acute care hospital, the Department multiplies the hospital's DRG base payment rate by the relative value of the DRG into which the patient stay has been classified. The DRG payment is considered to be payment in full for a hospital stay unless the stay qualifies as either a day or cost outlier, in which case the Department makes an additional payment.

In addition to the DRG payments, under the currently approved State Plan, the Department makes various types of supplemental payments to hospitals that meet certain criteria. Except for inpatient disproportionate share payments, which are required under Federal law, these supplemental payments are optional, and may be revised by the Department, depending upon, among other things, the Commonwealth's financial circumstances.

The Commonwealth is considering enactment of legislation authorizing the Department to impose an assessment on hospitals. If the legislation is enacted, the assessment is expected to generate approximately \$376 million in additional State revenue. This revenue, together with the related Federal matching funds, will enable the Department to update and improve its DRG prospective payment system for inpatient acute care general hospital services. The additional revenue may also enable the Department to not only continue its existing supplemental payments, but establish other supplemental payments to hospitals that meet certain qualifications.<sup>1</sup> Taking into account the DRG and supplemental payments, the Department projects that the assessment revenues and associated Federal matching funds may permit an overall increase in aggregate payments to MA acute care hospital providers in FY 2010-2011.

### *Proposed Changes*

#### *All Patient Refined-Diagnosis Related Group (APR DRG) Classification System*

The DRG classification system currently used by the Department was developed and maintained by the U.S. Department of Health and Human Services (HHS) for use with the Medicare Program. In 2007, HHS adopted a new classification system called Medicare Severity Diagnosis-

<sup>1</sup> The Department will publish a separate notice describing any proposed changes to the supplemental payments made to acute care general hospitals, psychiatric hospitals and rehabilitation hospitals.

Related Groups (MS-DRGs) which was designed to meet the needs of the Medicare Program. Since the implementation of MS-DRGs, HHS has stopped maintaining and updating the DRG classification system currently used by the Department.

The Department anticipates that it may be increasingly difficult to maintain the current DRG classification system given that it is no longer supported by HHS. As a result, and based upon input from providers and their representatives, and the recommendation of the Hospital and Healthsystem Association of Pennsylvania (HAP), the Department is proposing the use of the All Patient Refined-Diagnosis Related Group (APR DRG) system for the classification of inpatient stays into DRGs. The APR DRG system follows the basic DRG logic for classification of patients based on diagnoses, procedures performed, sex, age and discharge status. APR DRG uses four severity-of-illness levels and four risk of mortality levels within each DRG to evaluate the interactions of multiple co-morbidities, age, procedures and principal diagnosis. The APR DRG system was designed for use with all patient populations and reflects the complete cross-section of patients seen in an inpatient acute care setting.

In conjunction with the adoption of the APR/DRG classification system, the Department intends to establish an observation rate for hospital cases for which an inpatient admission is not medically necessary but medical observation of a patient is required.

The Department believes the APR DRG system will appropriately address the classification of the MA population, while allowing hospitals to code claims accurately and completely. As such, the APR DRG system will support the efforts of the Commonwealth and hospitals to improve efficiency and quality of care in the inpatient setting.

#### *Calculation of DRG Base Rate and Relative Values*

In addition to implementing APR DRG payment methodology, the Department intends to update the relative values used in the APR DRG system, and modify the manner in which it determines a hospital's base DRG payment rate. The Department will determine new relative values for the APR DRG system.

Rather than determining a DRG base payment rate based on each hospital's costs and then inflating this rate, the Department will first determine a statewide average of MA fee-for-services cost per discharge standardized for case mix. In determining this Statewide average, the Department will use the most currently available hospital cost and statistical data. After it determines the Statewide average cost, the Department intends to adjust this average to reflect hospital characteristics that may significantly impact the costs that a hospital incurs in delivering inpatient services, and to ensure the resulting payment rates are consistent with the assessment revenue. These adjustments will take into account regional labor costs, teaching status, capital and MA patient levels and assessment revenue. The Department anticipates that once established, the DRG base payment rate will be in effect for at least 3 years. The Department expects that these changes will more closely reflect the resources expended by hospitals to treat MA patients.

#### *Outlier Payments*

Currently, the Department recognizes two categories of outlier cases for which it makes payments in addition to DRG payments: day outliers for lengthy inpatient hos-

pital stays; and cost outlier payments for expensive burn and neonatal inpatient stays.<sup>2</sup>

The Department intends to revise its outlier policies by eliminating day outlier payments and authorizing high and low cost outlier payment adjustments for all DRGs if certain conditions are met. These changes will provide stop loss coverage for hospitals, ensure that the Department's payments are consistent with efficiency and economy and make the Department's outlier policies more in line with those of other health care payers and insurance carriers.

For high cost outlier cases, the Department is proposing to pay 80% of costs for an inpatient stay that exceeds a predetermined, universal cost outlier threshold for all qualified DRG payments after considering the DRG base payment. The Department is also proposing to pay 100% of costs for an inpatient stay that exceed a predetermined, universal cost outlier threshold for qualified burn, transplant and neonatal inpatient cases after considering the DRG base payment.

For low cost outlier cases (that is, cases where the DRG payment exceeds the hospital's cost of providing treatment by a predetermined universal low cost outlier threshold), the Department intends to limit payments by a percentage of the revenue that exceeds the total of the cost and the low cost outlier threshold.

#### *Fiscal Impact*

The revenue derived from the Statewide hospital assessment will offset the state fund costs associated with these changes to the hospital payment methodology; therefore, there is no State fund fiscal impact.

#### *Public Comment*

Interested persons are invited to submit written comments regarding this notice to: Department of Public Welfare, Office of Medical Assistance Programs, c/o Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120. Comments received within 30 days will be reviewed and considered for any subsequent revision of the notice.

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

HARRIET DICHTER,  
*Secretary*

**Fiscal Note:** 14-NOT-650. No fiscal impact; (8) recommendations adoption.

[Pa.B. Doc. No. 10-1177. Filed for public inspection June 25, 2010, 9:00 a.m.]

### **Medical Assistance Program Fee Schedule for Select Services in the Consolidated and Person/Family Directed Support Waivers and Community Mental Retardation Base Program**

#### *Purpose of Notice*

This notice announces the Department of Public Welfare's (Department) proposed payment rates for select services provided in the Consolidated and Person/Family

<sup>2</sup> See 55 Pa. Code § 1163.56 (relating to outliers), which specifies the current requirements and additional payment amounts for day and cost outliers.

Directed Support (P/FDS) waivers (waivers) to the Medical Assistance (MA) Program Fee Schedule effective July 1, 2010. These proposed fee schedule payment rates also serve as the Department's established fees under 55 Pa. Code § 4300.115(a) (relating to Department established fees) for base-funded services managed through county programs for individuals with mental retardation under the Mental Health and Mental Retardation Act of 1966, 50 P. S. §§ 4104—4704, and 55 Pa. Code Chapter 4300 (relating to county mental health and mental retardation fiscal manual).

The services selected for inclusion on the MA fee schedule are listed as follows under the following categories: Select Community-Based Services; Unlicensed Out-of-Home Respite and Respite Camp "Ineligible" Services (Room and Board); Agency with Choice/Financial Management Services, Excluding Benefits; and Agency With Choice/Financial Management Services, Including Benefits.

In addition, three services are added to Select Community-Based services on the 2010-2011 MA Program Fee Schedule: supplemental habilitation, additional individualized staffing and older adult day habilitation. Supplemental habilitation and additional individualized staffing services will also require prior authorization from the Department.

The Department established proposed rates for each of the selected services on the MA Program Fee Schedule based on allowable cost components. Some of the Fiscal Year (FY) 2010-2011 (10-11) allowable cost components were adjusted from the FY 2009-2010 (09-10) rates. Specifically, for some of the FY 10-11 rates on the Select Community-Based Services table, the Department factored in a travel reimbursement rate obtained from actual FY 09-10 therapy providers in each of the four geographic areas. The Department also factored in a productivity time which reflects current practice Statewide for all therapy services. Similar adjustments for travel reimbursement and productivity time were made for the nursing and supports broker services in FY 10-11.

Once the proposed fee schedule rates were established, the Department adjusted the proposed rates based on

wage differences for four geographic areas as identified as follows. These geographic area adjustments were not made to the proposed rates for unlicensed out-of-home respite and respite camp ineligible services. Proposed rates for those services were based on expected meal costs consistent with data published by the United States Department of Agriculture and do not vary by geographic area.

There is no Cost of Living Adjustment (COLA) applied to any of the proposed fee schedule rates in FY 10-11. The Governor's executive budget for FY 10-11 included a 1.0286% reduction in the appropriation for waiver services. The Department reduced all proposed fee schedule rates by 1.0286% to account for the proposed appropriation reduction.

The proposed fee schedule rates are contingent on the final budget enacted by the General Assembly. The proposed fee schedule rates should be used to process claims submitted to the Provider Reimbursement and Operations Management Information System in electronic format (PROMISE™) during FY 10-11 until a notice announcing final fee schedule rates is published.

#### Geographic Areas:

##### Area 1:

Bucks, Chester, Delaware, Lehigh, Montgomery, Northampton, Philadelphia

##### Area 2:

Adams, Allegheny, Beaver, Berks, Carbon, Cumberland, Dauphin, Erie, Franklin, Fulton, Greene, Lancaster, Lawrence, Lebanon, Monroe, Perry, Pike, Schuylkill, Washington, York

##### Area 3:

Armstrong, Bradford, Butler, Cameron, Centre, Clarion, Clinton, Columbia, Crawford, Elk, Forest, Indiana, Huntingdon, Juniata, Lackawanna, Luzerne, Lycoming, McKean, Mercer, Mifflin, Montour, Northumberland, Potter, Snyder, Sullivan, Susquehanna, Tioga, Union, Venango, Warren, Wayne, Westmoreland, Wyoming

##### Area 4:

Bedford, Blair, Cambria, Clearfield, Fayette, Jefferson, Somerset

#### Fee Schedule Rates Tables:

##### Select Community-Based Services\*

\* Modifier ET must be used with applicable procedure codes when billing for temporary base-funded services.

(PA) Prior authorization by ODP must be obtained for this service.

Service	Procedure Code	Modifier	Provider Type	Specialty Code	Unit	Area 1	Area 2	Area 3	Area 4
Nursing Services: LPN	T2025	TE	05	051	15 minutes	\$10.91	\$10.20	\$9.68	\$8.80
		TE & ET							
		TE	16	161					
		TE & ET							
Nursing Services: RN	T2025	TD	05	051	15 minutes	\$16.38	\$15.32	\$14.53	\$13.21
		TD & ET							
		TD	16	160					
		TD & ET							
Physical Therapy	T2025	GP	17	170	15 minutes	\$19.99	\$18.70	\$17.74	\$16.12
		GP & ET							

## NOTICES

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<i>Service</i>	<i>Procedure Code</i>	<i>Modifier</i>	<i>Provider Type</i>	<i>Specialty Code</i>	<i>Unit</i>	<i>Area 1</i>	<i>Area 2</i>	<i>Area 3</i>	<i>Area 4</i>
Occupational Therapy	T2025	GO	17	171	15 minutes	\$21.07	\$19.71	\$18.69	\$16.99
		GO & ET							
Speech and Language Therapy	T2025	GN	17	173	15 minutes	\$21.50	\$20.11	\$19.07	\$17.34
		GN & ET							
Individual Behavioral Therapy	T2025	HE	19	208	15 minutes	\$20.58	\$19.25	\$18.25	\$16.59
		HE & ET							
Group Behavioral Therapy	T2025	HE & HQ	19	208	15 minutes	\$5.15	\$4.81	\$4.57	\$4.15
		HE, HQ & ET							
Visual/Mobility Therapy	W7246		51	517	15 minutes	\$21.51	\$20.12	\$19.08	\$17.34
		ET							
Companion Services, Basic staff support	W1724		51	363	15 minutes	\$ .77	\$ .72	\$ .68	\$ .62
		ET							
Companion Services, level 1	W1725		51	363	15 minutes	\$ .97	\$ .91	\$ .86	\$ .78
		ET							
Companion Services, level 2	W1726		51	363	15 minutes	\$2.05	\$1.92	\$1.82	\$1.65
		ET							
Companion Services, level 3	W1727		51	363	15 minutes	\$4.60	\$4.31	\$4.08	\$3.71
		ET							
Supplemental Habilitation, 1:1(PA)	W7070		52	456, 520, 521 or 522	15 minutes	\$4.82	\$4.51	\$4.28	\$3.89
		ET							
Supplemental Habilitation, 2:1(PA)	W7084		52	456, 520, 521 or 522	15 minutes	\$9.65	\$9.03	\$8.56	\$7.78
		ET							
Additional Individualized Staffing, 1:1(PA)	W7085		52	456, 520, 521 or 522	15 minutes	\$4.82	\$4.51	\$4.28	\$3.89
Additional Individualized Staffing, 2:1(PA)	W7086		52	456, 520, 521 or 522	15 minutes	\$9.65	\$9.03	\$8.56	\$7.78
Older Adult Day Habilitation	W7094		51	410	15 minutes	\$2.85	\$2.67	\$2.53	\$2.30
		ET							
Behavioral Support	W7095		51	510	15 minutes	\$21.30	\$19.92	\$18.89	\$17.18
		ET							
Supports Broker	W7096		51	510	15 minutes	\$10.74	\$10.05	\$9.53	\$8.66

<i>Service</i>	<i>Procedure Code</i>	<i>Modifier</i>	<i>Provider Type</i>	<i>Specialty Code</i>	<i>Unit</i>	<i>Area 1</i>	<i>Area 2</i>	<i>Area 3</i>	<i>Area 4</i>
Homemaker/ Chore (permanent)	W7283		43	430	1 hour	\$22.63	\$21.17	\$20.08	\$18.25
			51	430 or 431					
			55	430 or 431					
Homemaker/ Chore (temporary)	W7283	UA	43	430					
		UA & ET							
		UA	51	430 or 431					
		UA & ET							
		UA	45	430 or 431					
		UA & ET							

**Unlicensed Out-of-Home Respite and Respite Camp Ineligible Services (Room and Board)**

<i>Service</i>	<i>Procedure Code</i>	<i>Provider Type</i>	<i>Specialty Code</i>	<i>Unit</i>	<i>Areas 1 through 4</i>		
Respite—unlicensed, out of home, ineligible	W6060	51	513	1 day	\$12.00/unit, max of 1 ineligible unit per day		
	W6061	51	513				
	W6062	51	513				
		54	540 or 541				
	W6063	51	513				
		54	540 or 541				
	W6064	51	513				
		54	540 or 541				
	W6065	51	513	15 minutes	\$4.00/unit, max of 3 ineligible units per day		
		54	540 or 541				
	W6066	51	513				
	W6067	51	513				
	W6068	51	513				
		54	540 or 541				
W6069	51	513					
	54	540 or 541					
W6070	51	513					
	54	540 or 541					
W6071	51	513					
	54	540 or 541					
Respite—camp, ineligible	W8400	55	555			15 minutes	\$4.00/unit, max of 3 ineligible units per day
		54	540 or 541				
	W8401	55	554	1 day	\$12.00/unit, max of 1 ineligible unit per day		
		54	540 or 541				

**Agency with Choice Financial Management Services, Excluding Benefits\*\***

\*\* Modifier U4 must be used with all procedures codes when billing for services excluding benefits.

<i>Service</i>	<i>Procedure Code</i>	<i>Modifier**</i>	<i>Provider Type</i>	<i>Specialty Code</i>	<i>Unit</i>	<i>Area 1</i>	<i>Area 2</i>	<i>Area 3</i>	<i>Area 4</i>
Companion, level 3	W1727	U4	54	540	15 minutes	\$3.03	\$2.84	\$2.69	\$2.45
Unlicensed Habilitation, level 3	W7060	U4	54	540	15 minutes	\$5.02	\$4.70	\$4.45	\$4.05
Unlicensed Habilitation, level 3, enhanced	W7061	U4	54	540	15 minutes	\$8.30	\$7.77	\$7.36	\$6.70
		TD & U4							
		TE & U4							

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<i>Service</i>	<i>Procedure Code</i>	<i>Modifier**</i>	<i>Provider Type</i>	<i>Specialty Code</i>	<i>Unit</i>	<i>Area 1</i>	<i>Area 2</i>	<i>Area 3</i>	<i>Area 4</i>
Unlicensed Habilitation, level 4	W7068	U4	54	540	15 minutes	\$10.03	\$9.38	\$8.90	\$8.09
Unlicensed Habilitation, level 4, enhanced	W7069	U4	54	540	15 minutes	\$16.60	\$15.53	\$14.72	\$13.38
		TD & U4							
		TE & U4							
Supports Broker	W7096	U4	54	540	15 minutes	\$6.09	\$5.70	\$5.40	\$4.91
Respite—unlicensed, in home, level 2	W7250	U4	54	540	1 day	\$220.84	\$206.59	\$195.91	\$178.10
	W7258	U4	54	540	15 minutes	\$3.45	\$3.23	\$3.06	\$2.78
Respite—unlicensed, in home, level 2, enhanced	W7251	U4	54	540	1 day	\$473.73	\$443.17	\$420.25	\$382.04
		TD & U4							
		TE & U4							
	W7264	U4	54	540	15 minutes	\$7.40	\$6.93	\$6.57	\$5.97
		TD & U4							
		TE & U4							
Respite—unlicensed in home, level 3	W7252	U4	54	540	1 day	\$441.68	\$413.19	\$391.81	\$356.19
	W7265	U4	54	540	15 minutes	\$6.90	\$6.46	\$6.12	\$5.57
Respite—unlicensed, in home, level 3, enhanced	W7253	U4	54	540	1 day	\$947.46	\$886.34	\$840.49	\$764.08
		TD & U4							
		TE & U4							
	W7266	U4	54	540	15 minutes	\$14.80	\$13.84	\$13.13	\$11.93
		TD & U4							
		TE & U4							
Homemaker/Chore	W7283	U4	54	540	1 hour	\$13.28	\$12.43	\$11.78	\$10.71
		UA & U4							
Respite—unlicensed, out of home, level 2	W8002	U4	54	540	1day	\$220.84	\$206.59	\$195.91	\$178.10
	W8012	U4	54	540	15 minutes	\$3.45	\$3.23	\$3.06	\$2.78
Respite—unlicensed, out of home, level 2, enhanced	W8003	U4	54	540	1 day	\$473.73	\$443.17	\$420.25	\$382.04
		TD & U4							
		TE & U4							
	W8013	U4	54	540	15 minutes	\$7.40	\$6.93	\$6.57	\$5.97
		TD & U4							
		TE & U4							
Respite—unlicensed, out of home, level 3	W8004	U4	54	540	1 day	\$441.68	\$413.19	\$391.81	\$356.19
	W8014	U4	54	540	15 minutes	\$6.90	\$6.46	\$6.12	\$5.57
Respite—unlicensed, out of home, level 3, enhanced	W8005	U4	54	540	1 day	\$947.46	\$886.34	\$840.49	\$764.08
		TD & U4							
		TE & U4							
	W8015	U4	54	540	15 minutes	\$14.80	\$13.84	\$13.13	\$11.93
		TD & U4							
		TE & U4							



**Agency with Choice Financial Management Services, Including Benefits\*\*\***

\*\*\* No modifier is needed to indicate the benefit allowance is included.

<i>Service</i>	<i>Procedure Code</i>	<i>Modifier***</i>	<i>Provider Type</i>	<i>Specialty Code</i>	<i>Unit</i>	<i>Area 1</i>	<i>Area 2</i>	<i>Area 3</i>	<i>Area 4</i>
Companion, level 3	W1727		54	540	15 minutes	\$3.84	\$3.59	\$3.41	\$3.10
Unlicensed Habilitation, level 3	W7060		54	540	15 minutes	\$6.35	\$5.94	\$5.64	\$5.12
Unlicensed Habilitation, level 3, enhanced	W7061		54	540	15 minutes	\$10.51	\$9.83	\$9.32	\$8.48
		TD							
		TE							
Unlicensed Habilitation, level 4	W7068		54	540	15 minutes	\$12.70	\$11.88	\$11.26	\$10.24
Unlicensed Habilitation, level 4, enhanced	W7069		54	540	15 minutes	\$21.01	\$19.66	\$18.64	\$16.94
		TD							
		TE							
Supports Broker	W7096		54	540	15 minutes	\$7.71	\$7.21	\$6.84	\$6.22
Respite—unlicensed, in home, level 2	W7250		54	540	1 day	\$279.58	\$261.55	\$248.02	\$225.47
	W7258		54	540	15 minutes	\$4.36	\$4.08	\$3.87	\$3.52
Respite—unlicensed, in home, level 2, enhanced	W7251		54	540	1 day	\$599.74	\$561.05	\$532.03	\$483.66
		TD							
		TE							
	W7264		54	540	15 minutes	\$9.37	\$8.77	\$8.31	\$7.56
		TD							
TE									
Respite—unlicensed, in home, level 3	W7252		54	540	1 day	\$559.17	\$523.09	\$496.04	\$450.94
	W7265		54	540	15 minutes	\$8.74	\$8.18	\$7.75	\$7.05
Respite—unlicensed, in home, level 3, enhanced	W7253		54	540	1 day	\$1,199.49	\$1,122.10	\$1,064.06	\$967.33
		TD							
		TE							
	W7266		54	540	15 minutes	\$18.74	\$17.53	\$16.62	\$15.11
		TD							
TE									
Homemaker/Chore	W7283		54	540	1 hour	\$16.82	\$15.73	\$14.92	\$13.56
		UA							
Respite—unlicensed, out of home, level 2	W8002		54	540	1 day	\$279.58	\$261.55	\$248.02	\$225.47
	W8012		54	540	15 minutes	\$4.36	\$4.08	\$3.87	\$3.52
Respite—unlicensed, out of home, level 2, enhanced	W8003		54	540	1 day	\$599.74	\$561.05	\$532.03	\$483.66
		TD							
		TE							
	W8013		54	540	15 minutes	\$9.37	\$8.77	\$8.31	\$7.56
		TD							
TE									

<i>Service</i>	<i>Procedure Code</i>	<i>Modifier***</i>	<i>Provider Type</i>	<i>Specialty Code</i>	<i>Unit</i>	<i>Area 1</i>	<i>Area 2</i>	<i>Area 3</i>	<i>Area 4</i>
Respite— unlicensed, out of home, level 3	W8004		54	540	1 day	\$559.17	\$523.09	\$496.04	\$450.94
	W8014		54	540	15 minutes	\$8.74	\$8.18	\$7.75	\$7.05
Respite— unlicensed, out of home, level 3, enhanced	W8005		54	540	1 day	\$1,199.49	\$1,122.10	\$1,064.06	\$967.33
		TD							
		TE							
	W8015		54	540	15 minutes	\$18.74	\$17.53	\$16.62	\$15.11
		TD							
TE									

### *Fiscal Impact*

It is estimated that implementation of the Medical Assistance Program Fee Schedule rates included in this Public Notice will result in decreased State fund costs totaling approximately \$0.318 million.

### *Public Comment*

Copies of this notice may be obtained at the local Mental Health/Mental Retardation (MH/MR) County Program, Administrative Entity (AE) or regional Office of Developmental Programs (ODP) in the corresponding regions:

- *Western region:* Piatt Place, Room 4900, 301 5th Avenue, Pittsburgh, PA 15222, (412) 565-5144.

- *Northeast region:* Room 315, Scranton State Office Building, 100 Lackawanna Avenue, Scranton, PA 18503, (570) 963-4749.

- *Southeast region:* 801 Market Street, Suite 5071, Philadelphia, PA 19107, (215) 560-2242 or (215) 560-2245.

- *Central region:* Room 430 Willow Oak Building, P. O. Box 2675, DGS Annex Complex, Harrisburg, PA 17105, (717) 772-6507.

Contact information for the local MH/MR County Program or AE may be found through a link on the Internet at: <https://www.hcsis.state.pa.us/hcsis-ssd/pgm/asp/PRCNT.ASP>, or contact the previously referenced ODP regional office.

Interested persons are invited to submit written comments regarding this notice to the Department at the following addresses:

### *By E-mail:*

Use subject header “PN Fee Schedule” to the Office of Developmental Programs’ rate-setting mailbox at: [ratesetting@state.pa.us](mailto:ratesetting@state.pa.us).

### *By postal mail:*

Department of Public Welfare  
Office of Developmental Programs  
Division of Provider Assistance and Rate Setting  
4th Floor, Health and Welfare Building  
Forster and Commonwealth Avenues  
Harrisburg, PA 17120

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania

AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

HARRIET DICHTER,  
*Secretary*

**Fiscal Note:** 14-NOT-645. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 10-1178. Filed for public inspection June 25, 2010, 9:00 a.m.]

## **Payment for Nursing Facility Services Provided by Nonpublic and County Nursing Facilities; Change in Methods and Standards of Setting Payment Rates**

### *Purpose*

This announcement is to provide notice that the Department of Public Welfare (Department) is proposing to adopt regulations and amend the Commonwealth’s Title XIX State Plan to change its methods and standards for payment of Medical Assistance (MA) nursing facility services provided by nonpublic and county nursing facilities beginning Fiscal Year (FY) 2010-2011.

### *Background*

Currently the MA Program pays for nursing facility services provided to MA eligible recipients by participating nonpublic nursing facilities at per diem rates that are computed using the case-mix payment system set forth in the Department’s regulations at 55 Pa. Code Chapter 1187, Subchapter G (relating to rate setting). A new case-mix payment rate is established for each nonpublic nursing facility once each FY. The rates take effect July 1, the start of the State FY, and remain in effect until the close of the FY on June 30.

Each nonpublic nursing facility’s case-mix per diem rate consists of four rate components, one for each of the three net operating cost centers (“resident care” costs; “other resident related” costs; “administrative” costs) and a fourth component for the “capital” cost center. To determine the rate components of each of the three net operating cost centers, the Department groups nonpublic and county nursing facilities into peer groups based on bed size and geographical location.<sup>1</sup> For each peer group,

<sup>1</sup> Although the Department established a separate payment methodology for county nursing facilities in 2006, the Department has continued to use county nursing facility audited costs in determining the peer group prices for nonpublic nursing facilities. Consistent with Act 44 of 2008, the Department is seeking to amend the State Plan and Chapter 1187 (relating to nursing facility services) to phase out the use of county costs over a 3-year period ending June 30, 2012. See 39 Pa.B. 4179 (July 18, 2009).

the Department calculates a “peer group price” for each of the three net operating cost centers and uses the peer group prices to set the amounts of the respective rate components for the individual nursing facilities. Prior to setting the peer group price for each nursing facility’s resident care rate component, the Department neutralizes each nursing facility’s resident care costs using the facility’s Total Facility Case Mix Index (CMI), which is the average total acuity of all of the facility’s residents on the applicable February 1st picture date. See § 1187.96(a)(5) (relating to price- and rate-setting computations).

Once the Department calculates the resident care peer group price for the rate year, the Department computes each facility’s resident care rate component, and then adjusts that component every quarter during the rate year by the average acuity of the facility’s MA residents using the facility’s MA CMI for the “picture date” designated for the rate quarter. See § 1187.96(a)(5). The Department pays each nonpublic nursing facility for nursing facility services provided to MA recipients during the quarter using the facility’s adjusted quarterly case-mix payment rate calculated for the respective calendar quarter.

The Department makes payments to county nursing facilities for services provided to MA recipients as specified in the Department’s regulations at 55 Pa. Code Chapter 1189 (relating to county nursing facility services), and the Commonwealth’s approved State Plan. Among other things, Chapter 1189 authorizes the Department to make pay-for-performance (P4P) payments to county nursing facilities in accordance with the Commonwealth’s State Plan. In September 2009, the Department submitted a State Plan Amendment, which if approved by the Federal Centers for Medicare and Medicaid Services (CMS), will continue to allow for quarterly P4P payments in FY 2009-2010 and FY 2010-2011 to those county nursing facilities that have an MA CMI for a picture date which is higher than their MA CMI for the prior picture date.

To calculate a nursing facility’s Total Facility and quarterly MA CMIs, the Department first determines a CMI score for each nursing resident present in the facility on the relevant picture date. To determine a resident’s CMI score, the Department extracts data from the most recent comprehensive assessment of the resident, which was transmitted by the nursing facility using the Federally Approved Pennsylvania Specific MDS version 2.0.<sup>2</sup> Then, using the Resource Utilization Group III (RUG III) version 5.01 44 grouper classification system, the Department classifies the resident into one of the 44 groups and assigns a CMI score.

#### *Proposed Changes*

##### 1. RUG-III v. 5.12-44 Grouper.

This Commonwealth is currently only one of two states still using the older RUG-III v. 5.01-44 Grouper for rate-setting. CMS has announced that it will implement the MDS 3.0 effective October 1, 2010. MDS 3.0 does not contain all the elements necessary for resident classification with RUG-III v. 5.01-44 Grouper and CMS has stated it will no longer support this Grouper System once MDS 3.0 is implemented. In anticipation of the CMS move to the new MDS 3.0, the Department is proposing to change

the Grouper used in determining nursing facility residents’ CMI scores to the RUG-III v. 5.12-44 Grouper effective July 1, 2010. This change will apply to residents of both nonpublic and county nursing facilities.

##### 2. Use of the most recent resident assessment.

As noted previously, the Department currently uses data from the most recent comprehensive assessment on file for a nursing facility resident in determining that resident’s RUG category and CMI score. Under both MDS 2.0 and MDS 3.0, nursing facilities are required to conduct and electronically submit assessments other than “comprehensive assessments” for their residents. These assessments also contain all the MDS data elements needed to calculate the residents’ RUG category and CMI score. These assessments may be completed after the latest comprehensive assessment and, therefore, provide more current information on the residents’ condition and care needs.

Rather than continuing to use older assessment data to determine residents’ RUG category and CMI score, the Department intends to amend the State Plan and its regulations to require use of the most recent assessment of any type for each resident, whether or not the assessment is comprehensive effective July 1, 2010. This change will apply to residents of both nonpublic and county nursing facilities. It will enable the Department to make acuity adjustments that are based upon the most up-to-date resident data without any additional administrative burdens or costs to either nursing facilities or the Department.<sup>3</sup>

##### 3. Phase-in of RUG-III v. 5.12 44 Grouper and use of the latest resident assessment in Nonpublic Nursing Facility Rate Setting.

The Department recognizes that the change in Grouper and use of the most recent resident assessment may cause a reduction in per diem rates for some nonpublic nursing facilities. To mitigate any adverse impact of this change on nonpublic nursing facilities, the Department is proposing to amend 55 Pa. Code § 1187.96 to authorize a 3-year phase-in for the transition to the RUG-III v. 5.12 44 Grouper and the use of the latest resident assessment. The phase-in will only affect the resident care component of a facility’s case-mix per diem rate. For the phase-in period beginning July 1, 2010, and ending June 30, 2013, the resident care rate used to establish a nursing facility’s case-mix per diem rate will be a blended resident care rate. A nursing facility’s blended resident care rate will consist of a portion of a 5.01 resident care rate and a portion of a 5.12 resident care rate.

The Department does not intend to apply the phase-in provisions to new nonpublic nursing facilities since the phase-in period is being proposed as a transition from one system to another or to county nursing facilities, since MA CMI scores are only used for the limited purpose of determining whether county nursing facilities qualify for P4P payments.

#### *Fiscal Impact*

No fiscal impact is anticipated as a result of these changes.

#### *Public Comment*

Interested persons are invited to submit written comments regarding these proposed changes to the Depart-

<sup>2</sup> The MDS, or Minimum Data Set, is as Federally-mandated standardized assessment of a resident’s clinical and functional status that all nursing facilities participating in the MA Program must complete and submit for each of their nursing facility residents at prescribed periods during the resident’s stay at the facility. (See 42 CFR 483.20 (relating to resident assessment).)

<sup>3</sup> In addition, the MA Change Tracking form is currently used to determine MA for MA case-mix status. CMS has indicated that this tracking form cannot be processed by the planned national MDS 3.0 submission system. It is anticipated that when MDS 3.0 is implemented, MA status will be determined from a Section S (a state specific section) item added to each MDS 3.0 assessment and will be collected from the latest assessment as a replacement for the MA Change Tracking form.

ment of Public Welfare, Office of Long-Term Living, Attention: Judith Patrick, Department of Public Welfare/ Department of Aging, Office of Long-Term Living, Policy and Strategic Planning, 555 Walnut Street, Forum Place, 5th Floor, Harrisburg, PA 17101-1919. Comments received within 30 days will be reviewed and considered for any subsequent revision of the notice.

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

HARRIET DICHTER,  
Secretary

**Fiscal Note:** 14-NOT-643. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 10-1179. Filed for public inspection June 25, 2010, 9:00 a.m.]

## Payments to Nonpublic and County Nursing Facilities; Proposed Rates for State Fiscal Year 2009-2010

### *Purpose of Notice*

This notice announces the Department of Public Welfare's (Department) proposed annual case-mix per diem payment rates for State Fiscal Year (FY) 2009-2010 for nonpublic and county nursing facilities that participate in the Medical Assistance (MA) Program.

### *Nonpublic Nursing Facility Per Diem Rates*

As required by the case-mix payment methodology set forth in Chapter 1187, Subchapter G (relating to rate setting), the Department intends to set an annual MA per diem rate for each nonpublic nursing facility provider. Each facility's annual per diem rate will have four components: resident care; other resident related; administrative; and capital. For each quarter of FY 2009-2010, the Department will adjust the resident care component of each facility's rate by multiplying the resident care cost component by the facility's MA case-mix index (CMI) for the appropriate picture date.<sup>1</sup>

In addition, as required by section 443.1 of the Public Welfare Code, 62 P. S. § 443.1(7)(iii)(A) (relating to Medical assistance payments for institutional care), the Department intends to adjust each facility's CMI-adjusted quarterly rate by multiplying the rate by a "budget adjustment factor" (BAF). On September 30, 2009, the Department submitted SPA 09-018 to CMS to include the BAF formulas that the Department will use in setting nonpublic nursing facility per diem rates for FY 2009-2010 and FY 2010-2011. If CMS approves SPA 09-018, the Department will apply a BAF of 0.90275 in setting each nonpublic nursing facility's rates for FY 2009-2010. The Department assumed that CMS will approve SPA 09-018 in calculating the proposed rates announced in this notice.

<sup>1</sup> In computing the resident care, other resident related, and administrative rate components, the Department assumed that the Federal Centers for Medicare and Medicaid Services (CMS) will approve State Plan Amendment (SPA) 09-014, which, among other things, would extend the use of county nursing facility costs in the NIS database.

### *County Nursing Facility Per Diem Rates*

As required by the rate methodology set forth in Chapter 1189, Subchapter D (relating to rate setting), the Department intends to set an annual MA per diem rate for each county nursing facility provider. As specified in § 1189.91(b) (relating to per diem rates for county nursing facilities), for each rate year beginning on or after July 1, 2007, the per diem rate paid to a county nursing facility for a rate year will be the facility's prior year's rate. In addition, as required by section 443.1 of the Public Welfare Code, 62 P. S. § 443.1(7)(iii)(A), the Department intends to adjust each county nursing facility's per diem rate by multiplying the rate by a BAF. On September 30, 2009, the Department submitted SPA 09-017 to CMS to include the BAF formula which the Department will use in FY 2009-2010. If CMS approves SPA 09-017, the Department will apply a BAF of 1.01 in setting each county nursing facility's rates for FY 2009-2010. The Department assumed that CMS will approve SPA 09-017 in calculating the proposed rates announced in this notice.

### *Discussion*

As specified in section 443.1(7)(iii) of the Public Welfare Code, the BAF moderates or caps the rate at which nursing facility payment rates increase from one year to the next, and, thus, ensures that the case-mix payment methodology results in payments that are consistent with efficiency and economy, as required by section 1902(a)(30)(A) of Title XIX (42 U.S.C.A. § 1396a(a)(30)(A)). The BAF for both nonpublic and county nursing facility rates would permit a 1% aggregate increase in the Statewide day-weighted average case-mix per diem from the prior FY. Taking this increase into account, case-mix per diem rates will have increased on an annual average basis by \$5.30 per day and in the aggregate by 15.94% overall since FY 2004-2005.

Section 1902(a)(30)(A) also requires that the Department's payment methods and standards result in payments that are consistent with "quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area[.]" The Department is confident that the combination of the adjusted case-mix per diem rates and other supplemental payment authorized under our State Plan<sup>2</sup> results in an overall funding level for MA nursing facility providers that has been, and will remain sufficient to assure that MA recipients continue to receive appropriate access to high quality care in this Commonwealth nursing facilities. The Department has seen no evidence that use of the BAF has adversely impacted the quality of care in Pennsylvania nursing facilities. Although the BAF has been used in rate-setting since FY 2005-2006, the number of licensing and certification actions taken against MA nursing facility providers and the number of serious deficiencies cited in those facilities have actually declined. Further, both

<sup>2</sup> Currently, our approved State Plan authorizes quarterly supplemental payments to nonpublic nursing facilities that meet certain requirements. In FY 2009-2010, the quarterly supplemental payments will equal \$11.04 for each PA MA Day of Care rendered by a qualifying nursing facility.

The State Plan authorizes MA Day One Incentive (MDOI) payments for all county nursing facilities and Pay-for-Performance (P4P) for county nursing facilities that meet certain requirements. On September 23, 2009, the Department submitted SPA 09-021 to CMS to authorize increases in these payments for FY 2009-2010. If CMS approves SPA 09-021, the MDOI payments will be approximately \$12.75 per each paid MA day and the P4P will equal \$1,625,000 per quarter resulting in approximately \$.79 to \$.96 for each paid MA day, depending on the number of qualifying nursing facilities.

In addition, the State Plan authorizes annual disproportionate share (DSH) payments to both nonpublic and county nursing facilities that have overall and MA occupancy rates at or above certain levels. The DSH payments range from \$.64 to \$.73 for each MA Day paid as of a date determined in accordance with the 55 Pa. Code § 1187.111 (relating to disproportionate share incentive payments).

before and after use of the BAF was implemented in 2005, the percent of nursing facilities in this Commonwealth with Substandard Quality of Care and Immediate Jeopardy citations has been consistently well below the United States average and neighboring states.

At the same time, the level of participation by nursing facilities in the MA Program has remained high—the overwhelming majority of licensed nursing facilities are MA providers, and those providers operate 95% of all licensed nursing facility beds in the Commonwealth. In addition, the MA Program continues to pay for more days of care provided in this Commonwealth MA nursing facilities than all other payors combined. In 2008, for example, the MA Program paid for 68% of all nursing facility days. Based upon our paid claims history to date and our projections going forward, we expect to remain the single largest payor in the market place in both the current fiscal year and next fiscal year as well.

The proposed annual per diem rates for FY 2009-2010 are available on the web site for the Department of Public Welfare at [www.dpw.state.pa.us/PartnersProviders/MedicalAssistance/DoingBusiness/LTCCaseMixInfo/](http://www.dpw.state.pa.us/PartnersProviders/MedicalAssistance/DoingBusiness/LTCCaseMixInfo/) and at local county assistance offices throughout this Commonwealth or by contacting Yvette Sanchez-Roberts, Department of Public Welfare, Office of Long-Term Living at (717) 705-3705. In addition, the Department has calculated adjusted quarterly rates for the October, January and April quarters of FY 2009-2010 for each nonpublic MA nursing facility provider. These adjusted quarterly rates are also posted on the Department's web site, and may be obtained at local county assistance offices and from Yvette Sanchez-Roberts.

#### *Fiscal Impact*

If the proposed payment rates are adopted as final, the rates will result in an estimated increased cost of \$24.433 million (\$8.360 million in State funds) for per diem rate payments to nonpublic nursing facilities and an estimated increased cost of \$5.539 million (\$1.895 million in State funds) for per diem rate payments for county nursing facilities' FY 2009-2010 rates compared to the facilities' final FY 2008-2009 per diem rates. Funding for these changes has been included in the MA Long-Term Care appropriation.

#### *Public Comment*

Interested persons are invited to submit written comments regarding the proposed annual rates for FY 2009-2010 to: Department of Public Welfare/Department of Aging, Office of Long-Term Living, Bureau of Policy and Strategic Planning, Forum Place, 5th Floor, 555 Walnut Street, Attention: Yvette Sanchez-Roberts, Harrisburg, PA 17101-1919. Comments received within 30 days will be reviewed and considered for any subsequent revision of the notice.

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

HARRIET DICHTER,  
*Secretary*

**Fiscal Note:** 14-NOT-646. (1) General Fund; (2) Implementing Year 2009-10 is \$10,255,000; (3) 1st Succeeding Year 2010-11 is \$10,255,000; 2nd Succeeding Year 2011-12 is \$10,255,000; 3rd Succeeding Year 2012-13 is \$10,255,000; 4th Succeeding Year 2013-14 is \$10,255,000; 5th Succeeding Year 2014-15 is \$10,255,000; (4) 2008-09 Program—\$672,597,000; 2007-08 Program—\$692,585,000;

2006-07 Program—\$695,279,000; (7) Long-Term Care; (8) recommends adoption. Funds have been included in the budget to cover this increase.

[Pa.B. Doc. No. 10-1180. Filed for public inspection June 25, 2010, 9:00 a.m.]

## **Payments to Nonpublic and County Nursing Facilities; Proposed Rates for State Fiscal Year 2010-2011**

### *Purpose of Notice*

This notice announces the Department of Public Welfare's (Department) proposed annual case-mix per diem payment rates for State Fiscal Year (FY) 2010-2011 for nonpublic and county nursing facilities that participate in the Medical Assistance (MA) Program.

### *Nonpublic Nursing Facility Per Diem Rates*

As required by the case-mix payment methodology set forth in Chapter 1187, Subchapter G (relating to rate setting), the Department intends to set an annual MA per diem rate for each nonpublic nursing facility provider. Each facility's annual per diem rate will have four components: resident care; other resident related; administrative; and capital. In computing the resident care, other resident related, and administrative rate components of the proposed rates, the Department assumed that the Federal Centers for Medicare and Medicaid Services (CMS) will approve State Plan Amendment (SPA) 09-014, which, among other things, would extend the use of county nursing facility costs in the NIS database.

Further, for each quarter of FY 2010-2011, the Department will adjust the resident care component of each facility's rate by multiplying the resident care cost component by the facility's MA case-mix index (CMI) for the appropriate picture date. As described in the notice *Payment for Nursing Facility Services Provided by Nonpublic and County Nursing Facilities; Change in Methods and Standards of Setting Payment Rates* published at 40 Pa.B. 3627 (June 26, 2010), the Department intends to make additional changes to the payment methodology to phase in the use of the MDS RUG-III v. 5.12-44 Grouper and the most recent resident assessments in calculating the CMIs used to establish resident care peer group prices and making the quarterly adjustments to the resident care rate components. In computing the resident care components of the proposed rates, the Department assumed these changes would also be adopted.

In addition, as required by section 443.1 of the Public Welfare Code, 62 P. S. § 443.1(7)(iii)(A) (relating to medical assistance payments for institutional care), the Department intends to adjust each facility's CMI-adjusted quarterly rate by multiplying the rate by a "budget adjustment factor" (BAF). On September 30, 2009, the Department submitted SPA 09-018 to CMS to include the BAF formulas that the Department will use in setting nonpublic nursing facility per diem rates for FY 2010-2011.<sup>1</sup> Based on the funding provided in the Governor's Executive Budget for FY 2010-2011, and assuming CMS approves SPA 09-018, the Department will apply a base

<sup>1</sup> A detailed description of the proposed BAF formulas for FY 2010-2011 is contained in the August 15, 2009 notice published at 39 Pa.B. 4958, which is available online at <http://www.pabulletin.com/secure/data/vol39/39-33/1477.html>.

BAF of 0.91280 in setting each nonpublic nursing facility's rates.<sup>2</sup> In calculating the proposed rates announced in this notice, the Department assumed that the General Appropriations Act of 2010 will include the level of funding in the Governor's Executive Budget and that CMS will approve SPA 09-018.

#### *County Nursing Facility Per Diem Rates*

As required by the rate methodology set forth in Chapter 1189, Subchapter D (relating to rate setting), the Department intends to set an annual MA per diem rate for each county nursing facility provider. As specified in § 1189.91(b) (relating to per diem rates for county nursing facilities), for each rate year beginning on or after July 1, 2007, the per diem rate paid to a county nursing facility for a rate year will be the facility's prior year's rate. In addition, as required by section 443.1 of the Public Welfare Code, 62 P.S. § 443.1(7)(iii)(A), the Department intends to adjust each county nursing facility's per diem rate by multiplying the rate by a BAF. The Department will submit a SPA to CMS to include the BAF formula which the Department will use in FY 2010-2011. Based on the funding provided in the Governor's Executive Budget for FY 2010-2011, and assuming CMS approves this SPA, the Department will apply a BAF of 1.0097 in setting each county nursing facility's rate. In calculating the proposed rates for FY 2010-2011, the Department assumed that the General Appropriations Act of 2010 will include the level of funding in the Governor's Executive Budget and that CMS will approve the SPA including the BAF formula for FY 2010-2011.

#### *Discussion*

As specified in section 443.1(7)(iii) of the Public Welfare Code, the BAF moderates or caps the rate at which nursing facility payment rates increase from one year to the next, and, thus, ensures that the case-mix payment methodology results in payments that are consistent with efficiency and economy, as required by section 1902(a)(30)(A) of Title XIX (42 U.S.C.A. § 1396a(a)(30)(A)). Since the implementation of the BAF, case-mix per diem rates have increased on an annual average basis by \$5.30 per day and in the aggregate by 15.94% overall from FY 2004-2005 through FY 2009-2010. Based on the level of funding in the Governor's Executive Budget, the BAF for FY 2010-2011 for both nonpublic and county nursing facility rates would permit an additional aggregate increase in the State-wide day-weighted average case-mix per diem from the prior fiscal year.<sup>3</sup>

Section 1902(a)(30)(A) also requires that the Department's payment methods and standards result in payments that are consistent with "quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area[.]" For the reasons specified in the notice announcing our proposed rates for FY 2009-2010,<sup>4</sup> the Department remains confident that the combination of the adjusted case-mix per diem rates and other supplemental payments authorized

under our State Plan<sup>5</sup> results in an overall funding level for MA nursing facility providers that has been, and will remain sufficient to assure that MA recipients continue to receive appropriate access to high quality care in the Commonwealth's nursing facilities.

The proposed annual per diem rates for FY 2010-2011 are available on the web site for the Department of Public Welfare at: [www.dpw.state.pa.us/PartnersProviders/MedicalAssistance/DoingBusiness/LTCCCaseMixInfo/](http://www.dpw.state.pa.us/PartnersProviders/MedicalAssistance/DoingBusiness/LTCCCaseMixInfo/) and at local county assistance offices throughout the Commonwealth or by contacting Yvette Sanchez-Roberts, Department of Public Welfare, Office of Long-Term Living at (717) 705-3705.

#### *Fiscal Impact*

If the proposed payment rates are adopted as final, the rates will result in an estimated increased cost of \$23.846 million (\$8.013 million in State funds) for per diem rate payments to nonpublic nursing facilities and an estimated increased cost of \$5.385 million (\$1.809 million in State funds) for per diem rate payments for county nursing facilities' FY 2010-2011 rates compared to the facilities' proposed FY 2009-2010 per diem rates.

#### *Public Comment*

Interested persons are invited to submit written comments regarding the proposed annual rates for FY 2010-2011 to: Department of Public Welfare/Department of Aging, Office of Long-Term Living, Bureau of Policy and Strategic Planning, Forum Place, 5th Floor, 555 Walnut Street, Attention: Yvette Sanchez-Roberts, Harrisburg, PA 17101-1919. Comments received within 30 days will be reviewed and considered for any subsequent revision of the notice.

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

HARRIET DICHTER,  
*Secretary*

**Fiscal Note:** 14-NOT-647. (1) General Fund; (2) Implementing Year 2010-11 is \$9,822,000; (3) 1st Succeeding Year 2011-12 is \$9,822,000; 2nd Succeeding Year 2012-13 is \$9,822,000; 3rd Succeeding Year 2013-14 is \$9,822,000; 4th Succeeding Year 2014-15 is \$9,822,000; 5th Succeeding Year 2015-16 is \$9,822,000; (4) 2009-10 Program—\$540,266,000; 2008-09 Program—\$672,597,000; 2007-08 Program—\$692,585,000; (7) Long-Term Care; (8) recommends adoption. Funds have been included in the budget to cover this increase.

[Pa.B. Doc. No. 10-1181. Filed for public inspection June 25, 2010, 9:00 a.m.]

<sup>2</sup> As specified in the August 15, 2009 notices, prior to establishing the April 2011 rate, the Department will compare the weighted average April rate to the April target rate. If the weighted average April rate is less than the April target rate and the difference is \$.50 or more, the formula for the April BAF will be the April target rate divided by the weighted average April rate at 100%. Otherwise, the April BAF will be equal to the base BAF. See 39 Pa.B. 4958 (August 15, 2009).

<sup>3</sup> The Department will recalculate the BAF once the General Assembly has enacted a General Appropriations Act for FY 2010-2011 and will include the BAF in its notice announcing final MA nursing facility payment rates for the rate-setting year.

<sup>4</sup> The notice *Payments to Nonpublic and County Nursing Facilities; Proposed Rates for State Fiscal Year 2009-2010* announcing the proposed rates for FY 2009-2010 appears in this issue at 40 Pa.B. at 3629 (June 26, 2010).

<sup>5</sup> Currently, our approved State Plan authorizes quarterly supplemental payments to nonpublic nursing facilities that meet certain requirements. In FY 2010-2011, we estimate that the quarterly supplemental payments will equal \$11.73 for each PA MA Day of Care rendered by a qualifying nursing facility. In addition, the Department intends to submit a SPA to authorize additional Enhanced Supplemental Payments to qualifying nonpublic nursing facilities in FY 2010-2011. A detailed description of these proposed payments will be available online at: [www.dpw.state.pa.us/PartnersProviders/MedicalAssistance/DoingBusiness/LTCCCaseMixInfo/](http://www.dpw.state.pa.us/PartnersProviders/MedicalAssistance/DoingBusiness/LTCCCaseMixInfo/).

The State Plan authorizes MA Day One Incentive (MDOI) payments for all county nursing facilities and Pay-for-Performance (P4P) for county nursing facilities that meet certain requirements. On September 23, 2009, the Department submitted SPA 09-021 to CMS to authorize increases in these payments for FY 2010-2011. If CMS approves SPA 09-021, the MDOI payments will be approximately \$14.05 per each paid MA day and the P4P will equal \$1,625,000 per quarter resulting in approximately \$.79 to \$.96 for each paid MA day, depending on the number of qualifying nursing facilities.

In addition, the State Plan authorizes annual disproportionate share (DSH) payments to both nonpublic and county nursing facilities that have overall and MA occupancy rates at or above certain levels in FY 2010-2011. The DSH payments range from \$0.32 to \$5.65 for each MA Day paid as of a date determined in accordance with the 55 Pa. Code § 1187.111 (relating to disproportionate share incentive payments).

## Rate-Setting Methodology for Development of the Payment Rates for the Consolidated and Person/Family Directed Support Waivers and Targeted Services Management for Persons with Mental Retardation

### *Purpose of Notice*

This notice announces that effective July 1, 2010, the Department of Public Welfare (Department) is revising the methodologies used in the Prospective Payment System (PPS) to develop rates for community-based services, including supports coordination, funded through the Consolidated and Person/Family Directed Support (P/FDS) waivers (waivers) and for Targeted Service Management (TSM) provided to persons with mental retardation who are eligible for Medical Assistance (MA) but not eligible to participate in the waivers. This notice describes the methodologies used to develop July 1, 2010, payment rates in the PPS, excluding payment rates for the select waiver services added to the MA program fee schedule.

### *Rate-Setting Methodology*

On July 1, 2009, the Department implemented the PPS, a payment methodology system in which rates are established on a prospective basis for a specified period and are not cost settled at the end of the specified period. The Department included two payment methodology approaches in the PPS: a fee schedule approach and a cost-based approach. Rates for select services were placed on the MA program fee schedule. Other rates for services specific to each provider and procedure code were developed using a cost-based approach, based on allowable historical cost data submitted by providers in cost reports developed by the Department. The historical cost data is then trended forward to a prospective period.

The Department developed the proposed payment rates for waiver-funded services, excluding supports coordination, for Fiscal Year (FY) 2010-2011 (10-11) using FY 2008-2009 (08-09) cost report data submitted by providers, adjusted to account for changes in need and for changes in provider responsibilities for staffing and transportation due to service definitions revisions that took effect July 1, 2009. These adjustments were calculated based on data submitted by providers through the supplemental data request in December 2009 and January 2010, unless information submitted in the supplemental data request showed an adjustment to the submitted cost report data was unnecessary. The adjusted costs were then divided by the reported utilization (units of service available for residential services; units of service provided for nonresidential services) to calculate the unit cost for each procedure code. Utilization data in the cost reports were adjusted to correct errors or miscalculations such as incorrect unit size or inconsistency between reported utilization and reported program capacity.

The Department analyzed the resulting adjusted unit costs for each procedure code to determine whether additional adjustments were needed. The methodology used to make that determination is further detailed and available through an internet link titled, *Methodology for Calculating Unit Costs*, on the Department's web site at: <http://www.dpw.state.pa.us/PartnersProviders/MentalRetardation/003679539.htm>.

After the unit costs for each procedure code were adjusted, a total cost of living increase of 0% was applied to the FY 08-09 unit costs for each procedure code to establish each provider's proposed payment rates for FY

10-11. Total FY 10-11 waiver expenditures were projected using the proposed payment rate and projected utilization, and those projected expenditures were compared to the available proposed waiver appropriation for FY 10-11. Finally, the Rate Adjustment Factor (RAF) of -4.73%, which included a 1.0286% reduction in the Governor's executive budget relating to the waiver appropriation, was applied to the unit costs.

Although the Department intended to utilize cost report data submitted by Supports Coordination Organization (SCO) providers to support the rate-setting process for FY 10-11, the proposed payment rates for supports coordination were not developed from the cost report data submitted by SCO providers in October 2009. Providers reported several difficulties in completing the cost report, including allocating administrative expenses, identifying units and allocating staff time between waiver-funded supports coordination and TSM. The FY 10-11 proposed payment rates for supports coordination are, therefore, based on each provider's FY 09-10 payment rates, instead of the FY 08-09 cost report data.

To establish each SCO's proposed payment rate for supports coordination, the Department first applied a cost of living increase of 0% to each FY 09-10 rate. The Department then projected total FY 10-11 waiver expenditures using the proposed payment rates, projected utilization for all waiver-funded services and compared those projected expenditures to the available proposed FY 10-11 waiver appropriation, which included the 1.0286% reduction in the Governor's executive budget. Finally, the Rate Adjustment Factor (RAF) of -4.73% was applied to the adjusted unit costs.

Rates for TSM providers that also deliver supports coordination were established by assigning the same rates for TSM as were developed for supports coordination. Review of the cost data showed that unit costs for both types of services are similar. Rates for TSM providers that do not deliver supports coordination were developed in accordance with the methodology described in this notice, without comparison to supports coordination costs.

All proposed payment rates for all waiver-funded services, including supports coordination, are contingent on the final budget enacted by the General Assembly. Although the proposed payment rates will be used to process claims submitted to the Provider Reimbursement and Operations Management Information System in electronic format (PROMISE™) during FY 10-11, revenue reconciliation will determine final payments to providers in FY 10-11. The Department is currently reviewing the methodology for calculating revenue reconciliation targets and expects to be able to notify providers of when the targets will be issued.

### *Fiscal Impact*

There is no anticipated fiscal impact.

### *Public Comment*

Copies of this notice may be obtained at the local Mental Health/Mental Retardation (MH/MR) County Program, Administrative Entity (AE) or regional Office of Developmental Programs (ODP) in the corresponding regions:

- *Western region:* Piatt Place, Room 4900, 301 5th Avenue, Pittsburgh, PA 15222, (412) 565-5144.
- *Northeast region:* Room 315, Scranton State Office Building, 100 Lackawanna Avenue, Scranton, PA 18503 (570) 963-4749.

• *Southeast region:* 801 Market Street, Suite 5071, Philadelphia, PA 19107 (215) 560-2242 or (215) 560-2245.

• *Central region:* Room 430 Willow Oak Building, P. O. Box 2675, DGS Annex Complex, Harrisburg, PA 17105 (717) 772-6507.

Contact information for the local MH/MR County Program or AE may be found through a link on the Internet at: <http://www.dpw.state.pa.us/PartnersProviders/MentalRetardation/003679539.htm> or contact the previously referenced ODP Regional office.

Interested persons are invited to submit written comments regarding this notice to the Department at the following addresses:

*By E-mail:*

Use subject header "PN Fee Schedule" to the Office of Developmental Programs' rate-setting mailbox at: [ra-ratesetting@state.pa.us](mailto:ra-ratesetting@state.pa.us).

*By postal mail:*

Department of Public Welfare  
Office of Developmental Programs  
Division of Provider Assistance and Rate Setting  
4th Floor, Health and Welfare Building  
Forster and Commonwealth Avenues  
Harrisburg, PA 17120

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

HARRIET DICHTER,  
*Secretary*

**Fiscal Note:** 14-NOT-644. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 10-1182. Filed for public inspection June 25, 2010, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Adjustment of Program Service Revenue Amounts

In accordance with section 6(a)(5) of the Institutions of Purely Public Charity Act (act) (10 P. S. § 376(a)(5)), the Department of Revenue is required to adjust the annual program service revenue amount used as a benchmark in section 6(a)(1) and (2) of the act (10 P. S. § 376(a)(1) and (2)) for the purpose of asserting a rebuttable presumption.

The annual program service revenue amounts referred to in section 6(a)(1) and (2) of the act shall be increased by 1% as follows:

(1) Effective July 1, 1999—Program Service Revenues—\$10,100,000.

(2) Effective July 1, 2000—Program Service Revenues—\$10,201,000.

(3) Effective July 1, 2001—Program Service Revenues—\$10,303,010.

(4) Effective July 1, 2002—Program Service Revenues—\$10,406,040.

(5) Effective July 1, 2003—Program Service Revenues—\$10,510,100.

(6) Effective July 1, 2004—Program Service Revenues—\$10,615,201.

(7) Effective July 1, 2005—Program Service Revenues—\$10,721,353.

(8) Effective July 1, 2006—Program Service Revenues—\$10,828,567.

(9) Effective July 1, 2007—Program Service Revenues—\$10,936,853.

(10) Effective July 1, 2008—Program Service Revenues—\$11,046,222.

(11) Effective July 1, 2009—Program Service Revenues—\$11,156,684.

(12) Effective July 1, 2010—Program Service Revenues—\$11,268,251.

C. DANIEL HASSELL,  
*Secretary*

[Pa.B. Doc. No. 10-1183. Filed for public inspection June 25, 2010, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Sale of Land No Longer Needed for Transportation Purposes

The Department of Transportation (Department), under section 2003(e)(7) of The Administrative Code of 1929 (71 P. S. § 513(e)(7)), intends to sell certain land owned by the Department.

West Manchester Township, York County

The parcel contains 7,073 square feet +/- of unimproved land split by newly relocated Township Road T-920 known as High Street fronting along SR 0074-029. The former address of the parcel was 1997 Carlisle Road, York, PA. The estimated fair market value is \$2,000.

Interested public entities are invited to express their interest in purchasing this parcel within 30 calendar days from the date of publication of this notice to Tucker Ferguson, P. E., District Engineer, Department of Transportation, Engineering District 8-0, 2140 Herr Street, Harrisburg, PA 17103.

ALLEN D. BIEHLER, P. E.,  
*Secretary*

[Pa.B. Doc. No. 10-1184. Filed for public inspection June 25, 2010, 9:00 a.m.]

### Sale of Land No Longer Needed for Transportation Purposes

The Department of Transportation (Department), under section 2003(e)(7) of The Administrative Code of 1929 (71 P. S. § 513(e)(7)), intends to sell certain land owned by the Department.

West Manchester Township, York County

The parcel contains 2,005 square feet +/- of unimproved land situated along SR 0074 (Carlisle Road) formerly



known as 1998 Carlisle Road, between M & T Bank and Sunset Lane, York, PA. The estimated fair market value is \$15,700.

Interested public entities are invited to express their interest in purchasing this parcel within 30 calendar days from the date of publication of this notice to Tucker Ferguson, P. E., District Engineer, Department of Transportation, Engineering District 8-0, 2140 Herr Street, Harrisburg, PA 17103.

ALLEN D. BIEHLER, P. E.,  
*Secretary*

[Pa.B. Doc. No. 10-1185. Filed for public inspection June 25, 2010, 9:00 a.m.]

### Sale of Land No Longer Needed for Transportation Purposes

The Department of Transportation (Department), under section 2003(e)(7) of The Administrative Code of 1929 (71 P. S. § 513(e)(7)), intends to sell certain land owned by the Department.

West Manchester Township, York County

The parcel contains 13,992 square feet +/- of unimproved land fronting along newly relocated Township Road T-920 known as High Street, York, PA. The former address of the parcel was 2183 High Street, York, PA. The estimated fair market value is \$44,200.

Interested public entities are invited to express their interest in purchasing this parcel within 30 calendar days from the date of publication of this notice to Tucker Ferguson, P. E., District Engineer, Department of Transportation, Engineering District 8-0, 2140 Herr Street, Harrisburg, PA 17103.

ALLEN D. BIEHLER, P. E.,  
*Secretary*

[Pa.B. Doc. No. 10-1186. Filed for public inspection June 25, 2010, 9:00 a.m.]

## ENVIRONMENTAL HEARING BOARD

**Locust Township v. DEP; EHB Doc. No. 2010-079-L; 5-12-10—NPDES Permit; No. PA0113956**

Locust Township has appealed the issuance by the Department of Environmental Protection of an NPDES permit to Locust Township for a facility in Locust Township, Columbia County.

A date for the trial on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is

required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the Pennsylvania AT&T Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

THOMAS W. RENWAND,  
*Chairperson*

[Pa.B. Doc. No. 10-1187. Filed for public inspection June 25, 2010, 9:00 a.m.]

## ENVIRONMENTAL QUALITY BOARD

### Change of Meeting Date

The July 20, 2010, meeting of the Environmental Quality Board (Board) has been rescheduled. The meeting will now take place on Tuesday, July 13, 2010, at 9 a.m. in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105. An agenda and meeting materials for the July 13, 2010, meeting of the Board will be available on the Department of Environmental Protection's web site at <http://www.depweb.state.pa.us> (DEP Search / Keyword: "EQB").

Questions concerning the Board's next scheduled meeting may be directed to Michele Tate at (717) 783-8727 or [mtate@state.pa.us](mailto:mtate@state.pa.us).

JOHN HANGER,  
*Chairperson*

[Pa.B. Doc. No. 10-1188. Filed for public inspection June 25, 2010, 9:00 a.m.]

## GOVERNOR'S OFFICE OF HEALTH CARE REFORM

**Pennsylvania Health Care Reform Implementation Advisory Committee Meeting**

The Pennsylvania Health Care Reform Implementation Advisory Committee, established by Executive Order 2010-02 will hold a public meeting on, Wednesday, June 30, 2010, at 1 p.m. to 3 p.m., in the Pennsylvania Housing Finance Agency Board Room (Street Level), 211 Front Street, Harrisburg, PA.

This meeting is subject to cancellation without notice.

ANN S. TORREGROSSA, Esq.,  
*Director*

[Pa.B. Doc. No. 10-1189. Filed for public inspection June 25, 2010, 9:00 a.m.]

# INDEPENDENT REGULATORY REVIEW COMMISSION

## Notice of Filing of Final Rulemaking

The Independent Regulatory Review Commission (Commission) received the following regulation. It is scheduled to be considered on the date noted. The Commission's public meetings are held at 333 Market Street, 14th Floor, in 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](http://www.irrc.state.pa.us).

### *Final-Form*

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Public Meeting</i>
16A-5136	State Board of Nursing Biennial Renewal Fees	6/10/10	7/15/10

ARTHUR COCCODRILLI,  
*Chairperson*

[Pa.B. Doc. No. 10-1190. Filed for public inspection June 25, 2010, 9:00 a.m.]

# PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY DEPARTMENT OF ENVIRONMENTAL PROTECTION

## Clean Water and Drinking Water State Revolving Fund Programs; Public Meeting on Federal Fiscal Year 2010 Intended Use Plans

The Pennsylvania Infrastructure Investment Authority (PENNVEST) and the Department of Environmental Protection (Department) have prepared the Federal Fiscal Year (FY) 2010 Intended Use Plans (IUPs). These IUPs include a list of drinking water, wastewater treatment, nonpoint source and pollution abatement projects to be considered for a design and engineering or construction loan or grant from funds the Commonwealth expects to receive from the Federal FY 2010 Drinking Water State Revolving Fund (DWSRF) and Clean Water State Revolving Fund (CWSRF) programs. In accordance with United States Environmental Protection Agency guidelines on the development of the IUPs, a public meeting has been scheduled for July 20 at 1:30 p.m. in the 2nd Floor Training Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. This meeting is scheduled for the purpose of receiving comments from the public regarding the Federal FY 2010 IUPs. Interested persons are invited to express their views on the narrative portion

of the IUPs, including the new program guidelines for the Nonpoint Source Program, the set aside work plan or the priority rating or ranking of projects on the IUPs. Persons wishing to offer comments at the public meeting should contact the Division of Technical and Financial Assistance at the address or telephone number listed at the end of this notice or by e-mail to [vbkasi@state.pa.us](mailto:vbkasi@state.pa.us) by 4 p.m. on July 19, 2010. Where written statements are prepared and will be submitted at the meeting, speakers will be asked to restrict the oral portion of the statement to a summary of the written comments.

The projects to be considered for a loan or grant from the DWSRF and CWSRF programs must meet the Federal requirements for funding in accordance with the Federal Safe Drinking Water Act and Clean Water Act. Accordingly, the projects included in the IUPs are expected to meet the requirements applicable to use of the DWSRF and CWSRF loan or grant funds. Projects listed in the FY 2010 IUPs are on the Commonwealth's Project Priority Lists (PPLs) and are expected to proceed with design and engineering or construction within the next 2 years. A project must appear on a PENNVEST-approved IUP before it can receive a loan or grant from the SRF programs. A project's readiness to proceed and the reasonable availability of alternative funds also have a bearing on project selection for the IUPs. Consequently, the rank ordered list of projects on the PPLs does not solely dictate the order in which projects will be chosen for inclusion in an IUP.

The DWSRF will be capitalized with approximately \$39.7 million in Federal funds and approximately \$7.9 million of State funds. Approximately \$10.7 million of these funds will be set aside for technical assistance to small systems, operator training and certification and source water assessment and protection, as authorized under the Safe Drinking Water Act. The DWSRF IUP also includes a narrative work plan that describes how these set aside funds will be used. A minimum of approximately \$1.59 million will be set aside for program administration. Finally, an additional \$11.9 million must be set aside for additional subsidization to disadvantaged communities and \$7.9 million for green infrastructure projects that fall into one or more of the following categories: (1) water efficiency; (2) energy efficiency; (3) environmentally innovative; (4) green stormwater infrastructure and meet the EPA criteria for green infrastructure.

The CWSRF will be capitalized with approximately \$80.7 million of Federal funds and approximately \$16.1 million of State funds. A minimum of approximately \$4.01 million will be set aside for program administration costs. Finally, an additional \$12 million must be set aside for additional subsidization to disadvantaged communities and \$16.1 million must be set aside for green infrastructure projects that fall into one or more of the following categories: (1) water efficiency; (2) energy efficiency; (3) environmentally innovative; (4) green stormwater infrastructure and meet the EPA criteria for green infrastructure.

It is not necessary to appear at the public meeting to present comments on the narrative portion of the IUPs, the set aside work plan or the PPLs. Interested persons may also submit written comments to the Department at the address that follows. Written comments will be considered equivalent to oral statements presented at the meeting. To be considered by the Department and PENNVEST, the written comments must be received by the Division of Technical and Financial Assistance by close of business, July 26, 2010.

A copy of the IUPs, the PPLs, and the DWSRF set aside work plan may be obtained by contacting the Division of Technical and Financial Assistance at (717) 772-4053 or through the Water Standards and Facility Regulation home page on the Department's web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us).

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Veronica Kasi at (717) 772-4053 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

Department of Environmental Protection  
Bureau of Water Standards and Facility Regulation  
Division of Technical and Financial Assistance  
11th Floor  
Rachel Carson State Office Building  
400 Market Street  
Harrisburg, PA 17101  
(717) 787-0122

PENNVEST  
22 South Third Street  
4th Floor  
Keystone Building  
Harrisburg, PA 17101  
(717) 787-8137

JOHN HANGER,  
*Secretary*  
*Department of Environmental Protection*  
*Vice-Chairperson*  
*Pennsylvania Infrastructure Investment Authority*

PAUL K. MARCHETTI,  
*Executive Director*  
*Pennsylvania Infrastructure Investment Authority*  
[Pa.B. Doc. No. 10-1191. Filed for public inspection June 25, 2010, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Application of Laser Marcellus Gathering Company, LLC

**A-2010-2153371. Laser Marcellus Gathering Company, LLC.** For approval to begin to offer, render, furnish or supply natural gas gathering and transporting or conveying service by pipeline to the public in certain townships of Susquehanna County, PA.

#### *Public Input Hearing Notice*

This is to inform you that Public Input Hearings on the previously-captioned case will be held as follows:

*Type:* Public Input Hearings  
*Date:* July 7, 2010  
*Times:* 1 p.m. and 7 p.m.  
*Location:* Great Bend Hose Company No. 1, Inc.  
P. O. Box 201  
Great Bend, PA 18821  
1 p.m.

The American Legion  
Gardner—Warner Post 154  
R. R. 4  
Box 223C  
Montrose, PA 18801  
7 p.m.

*Presiding:* Administrative Law Judge Susan D. Colwell  
P. O. Box 3265  
Harrisburg, PA 17105-3265  
Phone: (717) 783-5452  
Fax: (717) 787-0481

For persons with a disability who wish to attend the hearing, the Pennsylvania Public Utility Commission (Commission) may be able to make arrangements for their special needs. Call the scheduling office at the Commission at least 5 business days prior to the hearing to submit a request.

For persons who require an interpreter to participate in the hearings, the Commission will make every reasonable effort to have an interpreter present. Call the scheduling office at the Commission at least 10 business days prior to the hearing to submit a request.

- Scheduling Office: (717) 787-1399

- Pennsylvania AT&T Relay Service number for persons who are deaf or hearing-impaired: (800) 654-5988

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1192. Filed for public inspection June 25, 2010, 9:00 a.m.]

### Errata Notice; Order

Public Meeting held  
May 20, 2010

*Commissioners Present:* James H. Cawley, Chairperson;  
Tyrone J. Christy, Vice Chairperson; Wayne E. Gardner;  
Robert F. Powelson

*Recalculation of the Pennsylvania  
Telecommunications Relay Service Surcharge;  
M-2010-2151504; M-00900239*

### Errata Notice

This is to advise all parties of record that the Order entered on May 20, 2010, in the above-captioned proceeding contains errors on Page 3, concerning the TDDP Surcharge Business Percentage.

The TDDP Surcharge Business Percentage was incorrectly identified as 2.0 but should be 4.0. Please find the corrected Order attached for your records.

The Order on the PA PUC web site will be corrected as indicated above.

*(Editor's Note:* The incorrect business percentage appeared at 40 Pa.B. 3031 (June 5, 2010). The reference to "Page 3" refers to the Commission's original order.)

Public Meeting held  
May 20, 2010

Commissioners Present: James H. Cawley, Chairperson;  
Tyrone J. Christy, Vice Chairperson; Wayne E. Gardner;  
Robert F. Powelson

*Recalculation of the Pennsylvania  
Telecommunications Relay Service Surcharge;  
M-2010-2151504; M-00900239*

### Order

*By the Commission:*

Pursuant to our May 29, 1990 Order at Docket No. M-00900239 establishing the Pennsylvania Telephone Relay Service (Relay)<sup>1</sup> and surcharge funding mechanism (TRS surcharge) and subsequent legislation,<sup>2</sup> we have completed the annual recalculation of the TRS surcharge as it will apply to residence and business wireline access lines for July 1, 2010, through June 30, 2011. The monthly residential and business monthly access line surcharge will remain set at \$0.08.

### Background

The annual TRS recalculation is dependent on data from several sources. Local Exchange Carriers (LECs)<sup>3</sup> submitted annual wireline access line counts per 52 Pa. Code § 63.37. The Relay Provider, AT&T Communications of Pennsylvania, LLC, submitted the estimated minutes of use and charges for July 1, 2010, through June 30, 2011. Hamilton Telecommunications submitted the estimated minutes of use report for the captioned telephone relay service (CTRS). The Executive Director of the Office of Vocational Rehabilitation (OVR) in the Department of Labor and Industry submitted the 2010-2011 TDDP budget and the 2010-2011 PMASP budget. The surcharge also funds the TRS Advisory Board activities and Fund administration costs. U.S. Bank,<sup>4</sup> the Fund Administrator, provided a statement of the financial status of the Fund.<sup>5</sup>

### Calculation for 2010-2011

Wireline access lines reported by LECs for 2009 and adjusted for Centrex lines are 6,818,611, (4,836,663 residence and 1,981,948 business). Based upon the number of access lines, projected program costs (Relay, CTRS, TDDP, and PMASP), anticipated Relay Advisory Board expenses, TRS Fund administration costs, and the financial status of the TRS Fund, the 2010-2011, the monthly TRS surcharge rate for both residence and business access lines will continue to be set at \$0.08 per month. All LECs shall continue to remit TRS surcharge revenues to the Fund Administrator.<sup>6</sup> Since the 2010-2011 surcharge re-

mains the same as the 2009-2010 rate \$0.08, tariff supplements are not required.

Effective July 1, 2010, the monthly surcharge allocation for each fund account is as follows:<sup>7</sup>

	<i>2010-2011 Monthly Surcharge Percentage</i>	
	<i>Residence %</i>	<i>Business %</i>
Relay	94.0	94.0
TDDP	4.0	4.0
PMASP	<u>2.0</u>	<u>2.0</u>
Total Percentage	100.0	100.0

### Operations for 2010-2011

We shall continue our active oversight of the operations of the Pennsylvania Relay, (traditional, speech-to-speech, and captioned telephone). Further, in accordance with 35 P.S. §§ 6701.3a and 4, we shall continue to collaborate with OVR and its TDDP administrator<sup>8</sup> to ensure adequate funding for distribution of TDDP equipment to low-income households. Further, we shall continue to assist OVR in its mission to ensure adequate funding for PMASP.

### Audits

On May 29, 2003, the Commission authorized an audit of the TRS fund. The scope of this audit has expanded to include additional fiscal periods. On August 7, 2003, a Commission Secretarial Letter required AT&T to file, on or before May 1st of each year, a Statement of Actual Underlying Costs of the PA TRS for the prior completed period of July 1 through June 30. The Bureau of Audits is currently auditing the PA TRS underlying costs for the three fiscal periods ending June 30, 2007, 2008 and 2009. Regarding the TDDP the Bureau of Audits is currently conducting the audit of the two fiscal periods ending June 30, 2008 and 2009.

### Conclusion

The Commission has completed the annual recalculation of the TRS Surcharge. The surcharge to be applied beginning July 1, 2010, through June 30, 2011, will remain at \$0.08 for residential and business access lines; *Therefore,*

### *It Is Ordered That:*

1. For the period of July 1, 2010, through June 30, 2011, the monthly TRS surcharge rate shall be \$0.08 for residence and business, unless we take further action to revise the TRS surcharge prior to June 30, 2011.

2. All local exchange carriers are directed to use the attached form to remit the monthly TRS surcharge collections to U.S. Bank, Institutional Trust & Custody.

3. A copy of this Order be served upon all local exchange carriers, AT&T Communications Company of Pennsylvania, LLC, Hamilton Telecommunications, U.S. Bank Institutional Trust & Custody, the Office of Vocational Rehabilitation in the Department of Labor and Industry, the Office of Consumer Advocate, the Office of Small Business Advocate, and the Pennsylvania Telephone Association.

4. A copy of this Order be published in the *Pennsylvania Bulletin*.

5. A copy of this Order be posted to the Commission's web site.

ROSEMARY CHIAVETTA,  
*Secretary*

<sup>7</sup> The TRS surcharge appears as a single line item on customers' bills but actually has three components (Relay TDDP and PMASP).

<sup>8</sup> As of January 1, 2007, the TDD program is administered by Pennsylvania's Initiative on Assistive Technology (PIAT), Institute on Disabilities, Temple University (IDT).

<sup>1</sup> Additional information on TRS may be found at [http://www.puc.state.pa.us/telecom/telecom\\_relay\\_service.aspx](http://www.puc.state.pa.us/telecom/telecom_relay_service.aspx)

<sup>2</sup> See Act 34 of 1995, 35 P.S. §§ 6701.1—6701.4 (the statutory provisions were amended by Act 181 of 2002 to be more inclusive of persons with disabilities), establishing the Telephone Device Distribution Program (TDDP) to be funded by the TRS surcharge and which codified Relay and use of the TRS surcharge funding mechanism; and Act 174 of 2004, 35 P.S. § 6701.3a, which established the Print Media Access System Program (PMASP) to be funded in part by the TRS surcharge. PMASP is a reading service for persons with certain vision and physical disabilities. The law is now called the "Universal Telecommunications and Print Media Access Act."

<sup>3</sup> LEC includes both incumbent and competitive local exchange carriers. Thirty-eight LECs had not submitted access line counts as of the date of preparation of this order; therefore, access line counts are estimated for surcharge calculation purposes. Noncompliant LECs are referred to the Commission's Law Bureau prosecutory staff.

<sup>4</sup> As a result of mergers, acquisitions, and name changes, Fund administration has been handled by Hamilton Bank (1990), CoreStates Bank N.A. (1995), First Union National Bank (1999), Wachovia Bank, N.A. (2002), and U.S. Bank Institutional Trust & Custody (2006).

<sup>5</sup> Separate accounts are maintained for the portions of the surcharge allocated to Relay, TDDP, and PMASP. Relay Advisory Board, CTRS, and outreach activities are funded from the Relay account; Fund administration draws from each respective account.

<sup>6</sup> U.S. Bank Institutional Trust & Custody, Attn: Sue Massey, EX-PA-WBSP, 50 South 16th Street, 20th Floor, Philadelphia, PA 19102, payable to the "PA Relay Service Fund" and designated for Relay. Wire instructions effective September 11, 2006 can be found on the remittance form.

REMITTANCE FORM FOR MONTHLY TRS SURCHARGE COLLECTIONS

Effective July 1, 2010 through June 30, 2011 Docket No. M-2010-2151504

All local service providers are required to collect and remit the TRS surcharge revenue monthly, by the 20th of each month using the following format for the monthly remittance:

Pennsylvania TRS Surcharge

For the Month Ending
Number of Residential access lines
X \$0.08 per line
Allocated:
TRS Relay 94.0 percent
TDDP 4.0 percent
PMASP 2.0 percent
Number of Business access lines
X \$0.08 per line
Allocated:
TRS Relay 94.0 percent
TDDP 4.0 percent
PMASP 2.0 percent
Total Remittance

Make check payable to: Pennsylvania TRS Fund

Mail Report and payment to:

U.S. Bank Institutional Trust & Custody
Sue Massey
EX-PA-WBSP
50 South 16th Street, 20th Floor
Philadelphia, PA 19102

Wire Instructions:

BANK U.S. Bank N.A
ADDRESS 60 Livingston Avenue
St Paul MN 55107-2292
ABA 091 000 022
BNF ITC Depository South & East
ACCOUNT 173 103 781 832
OBI PA Relay
ATTN: Sue Massey

Remittance for: Company Name(s):
Contact Person:
Voice Phone Number:
E-mail address

Authorized Signature: Date:

Please direct any questions regarding the TRS Surcharge remittance to Eric Jeschke at (717) 783-3850 or ejeschke@state.pa.us.

[Pa.B. Doc. No. 10-1193. Filed for public inspection June 25, 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 12, 2010. 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 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-2010-2161998. PA-NYC Transportation Services, Inc.** (1702 Barrett Drive, Bethlehem, Northampton County, PA 18017)—a corporation of the Commonwealth—in paratransit service, from points in Northampton County, to points in Pennsylvania, and return. *Attorney:* Daniel K. McCarthy, 1146 South Cedar Crest Boulevard, Allentown, PA 18103.

**A-2010-2180179. Advanced Life Support Ambulance, Inc.** (1695 Huntingdon Road, Huntingdon Valley, PA 19006), for the right to begin to transport, as a common carrier, by motor vehicle, persons in paratransit service, from points in the City and County of Philadelphia, to points in Pennsylvania, and return.

**A-2010-2181817. Armstrong Millien t/a AAA Taxi** (1909 Renwick Street, Bethlehem, Lehigh County, PA 18017), for the right to begin to transport, as a common carrier, by motor vehicle, persons in call or demand service, in Northampton County and the City of Bethlehem, Lehigh County, PA. *Attorney:* Barbara A Darkes, Esquire, 100 Pine Street, P. O. Box 1166, Harrisburg, PA 17108-1166.

**A-2010-2181931. Butler Medical Transport, Inc.** (10233 South Dolfield Road, Owings Mills, MD 21117)—a corporation of the Commonwealth, persons in paratransit service, from points in the Counties of York and Lancaster, to points in Pennsylvania, and return.

#### Applications of the following for approval of the *additional right and privilege of operating motor vehicles as common carriers for transportation of persons as described under each application.*

**A-2010-2180799. Valley Limousine Service, LLC** (1302 Gary Street, Bethlehem, Northampton County, PA 18018), a limited liability company of the Commonwealth—persons, in group and party service, in vehicles seating 11 to 15 passengers, including the driver, between points in the Counties of Berks, Bucks, Carbon, Lehigh, Monroe, Montgomery, Northampton and Schuylkill.

**A-2010-2180851. Black Diamond Cab Company, Inc.** (212 West Independence Street, Shamokin, Northumberland County, PA 17872)—a corporation of the Commonwealth, persons, in paratransit service, from points in the Counties of Northumberland, Schuylkill, Columbia, Montour, Union, Snyder, Dauphin and Carbon, to points in Pennsylvania, and return.

#### Application of the following for approval to *begin operating as contract carriers for transportation of persons as described under the application.*

**A-2010-2181610. Latino Americano Transportation, Inc.** (2831 Boudinot Street, Philadelphia, Philadelphia County, PA 19134)—a corporation of the Commonwealth, for the right to begin to transport, as a contract carrier, by motor vehicle, persons between points in the City and County of Philadelphia for the Medical Assistance Transportation Program (MATP) through Logisticare Solutions, LLC.

#### Applications of the following for the approval of the *right and privilege to discontinue/abandon operating as common carriers by motor vehicle and for cancellation of the certificate of public convenience as described under each application.*

**A-2010-2172404. Central Pennsylvania Community Action, Inc.** (P. O. Box 792, Clearfield, Clearfield County, PA 16830)—a corporation of the Commonwealth—discontinuance of service and cancellation of its certificate—persons in paratransit service, for kidney dialysis services, from points in Clearfield County, and from the Borough of Philipsburg, Centre County, to points in Pennsylvania, and return.

**A-2010-2181829. Woodrow Wilson Kirkwood, Jr.** (115 West Main Street, Dayton, Armstrong County, PA 16222)—for the discontinuance of service and cancellation of his certificate as a common carrier, by motor vehicle, authorizing the transportation of persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the Counties of Armstrong and Indiana, to points in Pennsylvania, and return. *Attorney:* Preston T. Younkens, Esquire, 200 North Jefferson Street, Kittanning, PA 16201.

Pennsylvania Public Utility Commission, Bureau of  
Transportation and Safety v. Ali R, Inc.;  
Doc. No. C-2010-2129819, A-00120-445

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Ali R, Inc., Respondent, maintains a principal place of business at 1100 Spring Garden Street, Philadelphia, PA 19123.
2. That Respondent was issued a Certificate of Public Convenience by this Commission on March 30, 2004, at A-00120445.
3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated August 31, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The penalty is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Ali R, Inc., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

#### VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement  
Division  
Bureau of Transportation and Safety

#### NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. Each day you continue to violate any regulation, direction, requirement or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this complaint by filing an acceptable tariff and by paying the fine proposed in this Complaint by certified check or money order. The tariff must be filed with the:

Compliance Office, Bureau of Transportation  
and Safety  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

The fine payment must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of an acceptable tariff and payment of the proposed fine, the complaint proceeding shall be closed.

D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of  
Transportation and Safety v. Kebe Cab Co.;*  
*Doc. No. C-2010-2135170, A-00118352*

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Kebe Cab Co., Respondent, maintains a principal place of business at 1100 Spring Garden Street, Philadelphia, PA 19123.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on November 14, 2001, at A-00118352.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 11, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The penalty is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Kebe Cab Co., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement  
Division  
Bureau of Transportation and Safety

NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. Each day you continue to violate any regulation, direction, requirement or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this complaint by filing an acceptable tariff and by paying the fine proposed in this Complaint by certified check or money order. The tariff must be filed with the:

Compliance Office, Bureau of Transportation and Safety  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

The fine payment must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of an acceptable tariff and payment of the proposed fine, the complaint proceeding shall be closed.

D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

\_\_\_\_\_  
*Pennsylvania Public Utility Commission, Bureau of  
Transportation and Safety v. Kodjoe Cab Co.;*  
*Doc. No. C-2010-2131225, A-00119491*

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Kodjoe Cab Co., Respondent, maintains a principal place of business at 5621 Montour Street, Philadelphia, PA 19123.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on March 11, 2003, at A-00119491.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 11, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The Bureau of Transportation and Safety's Motor Carrier Services and Enforcement Prosecutory Staff's proposed civil penalty for this violation is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Kodjoe Cab Co., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau



of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement  
Division  
Bureau of Transportation and Safety

#### NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. Each day you continue to violate any regulation, direction, requirement or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this complaint by filing an acceptable tariff and by paying the fine proposed in this Complaint by certified check or money order. The tariff must be filed with the:

Compliance Office, Bureau of Transportation and  
Safety  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

The fine payment must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of an acceptable tariff and payment of the proposed fine, the complaint proceeding shall be closed.

D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint

(for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

\_\_\_\_\_  
*Pennsylvania Public Utility Commission, Bureau of  
Transportation and Safety v. Tangara, Inc.;*  
*Doc. No. C-2010-2135211, A-00112471*

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Tangara, Inc., Respondent, maintains a principal place of business at 3360 Chichester Avenue, Apt P 10, Boothwyn, PA 19061-3225.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on December 18, 1995, at A-00112471.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 11, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The penalty is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Tangara, Inc., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

#### VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement  
Division  
Bureau of Transportation and Safety

NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. Each day you continue to violate any regulation, direction, requirement or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this complaint by filing an acceptable tariff and by paying the fine proposed in this Complaint by certified check or money order. The tariff must be filed with the:

Compliance Office, Bureau of Transportation and  
Safety  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

The fine payment must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of an acceptable tariff and payment of the proposed fine, the complaint proceeding shall be closed.

D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of  
Transportation and Safety v. Bhamipura Corp.;*  
*Doc. No. C-2010-2128704, A-00114878*

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Bhamipura Corp., Respondent, maintains a principal place of business at 60 Browning Road, Middletown, DE 19079.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on August 6, 1998, A-00114878.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated August 31, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The Bureau of Transportation and Safety's Motor Carrier Services and Enforcement Prosecutory Staff's proposed civil penalty for this violation is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Bhamipura Corp., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement  
Division  
Bureau of Transportation and Safety

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 Pennsylvania Public Utility Commission  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of an acceptable tariff and payment of the proposed fine, the complaint proceeding shall be closed.

D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

\_\_\_\_\_  
*Pennsylvania Public Utility Commission, Bureau of  
 Transportation and Safety v. Satti Cab Corp.;*  
*Doc. No. C-2010-2135182, A-00118357*

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has del-

egated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Satti Cab Corp., Respondent, maintains a principal place of business at 7122 Pennsylvania Avenue, Upper Darby, PA 19082.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on December 11, 2001, at A-00118357.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 11, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The Bureau of Transportation and Safety's Motor Carrier Services and Enforcement Prosecutory Staff's proposed civil penalty for this violation is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Satti Cab Corp., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
 Motor Carrier Services & Enforcement Division  
 Bureau of Transportation and Safety  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

\_\_\_\_\_  
 Wendy J. Keezel, Chief of Enforcement  
 Motor Carrier Services and Enforcement  
 Division  
 Bureau of Transportation and Safety

NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and

must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

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 Pennsylvania Public Utility Commission  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

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C. You may elect not to contest this complaint by filing an acceptable tariff and by paying the fine proposed in this Complaint by certified check or money order. The tariff must be filed with the:

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 Pennsylvania Public Utility Commission  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

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 Pennsylvania Public Utility Commission  
 P. O. Box 3265  
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D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

\_\_\_\_\_  
*Pennsylvania Public Utility Commission, Bureau of  
 Transportation and Safety v. Simran Trans, Inc.;*  
*Doc. No. C-2010-2135179, A-00121239*

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Simran Trans, Inc., Respondent, maintains a principal place of business at 146 Glencoe Road, Upper Darby, PA 19082.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on December 21, 2004, at A-00121239.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 11, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The Bureau of Transportation and Safety's Motor Carrier Services and Enforcement Prosecutory Staff's proposed civil penalty for this violation is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Simran Trans, Inc., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
 Motor Carrier Services & Enforcement Division  
 Bureau of Transportation and Safety  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

#### VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
 Motor Carrier Services and Enforcement  
 Division  
 Bureau of Transportation and Safety

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*Pennsylvania Public Utility Commission, Bureau of  
 Transportation and Safety v. Iqbal Cab Co.;*  
*Doc. No. C-2010-2131223, A-00119357*

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Iqbal Cab Co., Respondent, maintains a principal place of business at 128 Marlboro Road, Upper Darby, PA 19082.
2. That Respondent was issued a Certificate of Public Convenience by this Commission on January 14, 2003, at A-00119357.
3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that

time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 4, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The Bureau of Transportation and Safety's Motor Carrier Services and Enforcement Prosecutory Staff's proposed civil penalty for this violation is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Iqbal Cab Co., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
 Motor Carrier Services & Enforcement Division  
 Bureau of Transportation and Safety  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

#### VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

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\_\_\_\_\_  
*Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Edomobi Enterprises, Inc.;*  
*Doc. No. C-2010-2128651, A-00110145*

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Ebomobi Enterprises, Inc., Respondent, maintains a principal place of business at 457 East Rively Avenue, Aldan, PA 19018.
2. That Respondent was issued a Certificate of Public Convenience by this Commission on May 5, 1992, at A-00110145.
3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.
4. That Respondent was advised by letter dated August 31, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The penalty is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Ebomobi Enterprises, Inc., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
 Motor Carrier Services & Enforcement Division  
 Bureau of Transportation and Safety  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

#### VERIFICATION

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Date: \_\_\_\_\_

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 Motor Carrier Services and Enforcement Division  
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JAMES J. McNULTY,  
*Secretary*

[Pa.B. Doc. No. 10-1194. Filed for public inspection June 25, 2010, 9:00 a.m.]

## STATE EMPLOYEES' RETIREMENT BOARD

### Hearing Scheduled

The following hearing has been scheduled, as authorized by 71 Pa.C.S. Part XXV (relating to the State Employees' Retirement Code), in connection with the State Employees' Retirement System's denial of Claimant's request concerning the indicated account.

The hearing will be held before a hearing examiner at the State Employees' Retirement System, 30 North Third Street, Fifth Floor, Harrisburg, PA 17101:

July 22, 2010 Thomas R. Czarnecki 1 p.m.  
 Crediting of Standby Time for  
 Retirement Purposes

Parties in each respective case may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearings will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 4 Pa. Code § 250.01 (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code, Part II (relating to General Rules of Administrative Practice and Procedure), unless specific exemption is granted.

LEONARD KNEPP,  
*Secretary*

[Pa.B. Doc. No. 10-1195. Filed for public inspection June 25, 2010, 9:00 a.m.]





