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## July 10, 2010 (Pages 3813-3932)

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# PENNSYLVANIA BULLETIN

Volume 40

Number 28

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Pages 3813—3932

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Administrative Office of Pennsylvania Courts

Board of Coal Mine Safety

Department of Banking

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Department of Health

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Environmental Quality Board

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State Board of Cosmetology

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(Master Transmittal Sheets):**

**No. 428, July 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

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# THE GENERAL ASSEMBLY

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

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

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
<b>2010 GENERAL ACTS OF REGULAR SESSION ENACTED—ACT 035 through 036</b>					
035	Jun 25	HB0048	PN3850	Immediately	Liquor Code—omnibus amendments
036	Jun 25	SB1246	PN1703	Immediately	Conveyance—Commonwealth property in Horsham Township, Montgomery County

\* denotes an effective date with exceptions

### Effective Dates of Statutes

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

### Advance Copies of Statutes

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

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

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

[Pa.B. Doc. No. 10-1241. Filed for public inspection July 9, 2010, 9:00 a.m.]

# THE COURTS

## Title 255—LOCAL COURT RULES

### FAYETTE COUNTY

#### Administrative Order; Juvenile Court Restitution Fund; No. 1534 of 2010 GD

##### Administrative Order

*And Now*, this 21st day of June, 2010, it is hereby Ordered that a Juvenile Court Restitution Fund is adopted as follows.

The Prothonotary is directed as follows:

(1) One certified copy of the order and program shall be filed with the Administrative Office of Pennsylvania Courts.

(2) Two certified copies and diskette of the order and program and one copy of the written notification received from the Juvenile Court Procedural Rules Committee shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

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

The adoption of the Juvenile Court Restitution Fund shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin* and on the UJS Portal.

*By the Court*

GERALD R. SOLOMON,  
*President Judge*

#### Fayette County Juvenile Court Restitution Fund

The statutory authority for the creation of this Fund appears at 42 Pa.C.S. Section 6352(a)(5), The Juvenile Act, Disposition of delinquent children.

The purpose of the Fund is to provide a means whereby the Court may:

- a) direct children under its supervision to pay a reasonable amount of money into a common fund;
- b) collect the above-mentioned revenue and deposit them into an appropriate account that is under the supervision of the Court or its designee;
- c) distribute money received by the Fund to victims of delinquent behavior in a fair and equitable manner.

Furthermore, the Court hereby adopts the following guidelines and operating standards for the Fund.

#### Fayette County Juvenile Court Restitution Fund Operating Guidelines

The Court of Common Pleas of Fayette County, Pennsylvania (Court), through the Fayette County Juvenile Probation Office (Probation) will establish the Fayette County Juvenile Court Restitution Fund (Fund) for the purpose of providing financial reimbursement to the victims of delinquent behavior as defined in the Juvenile Act.

The Probation department will be responsible for establishing, monitoring, maintaining, and auditing the Fund

in accordance with the Fund Operating Guidelines and Standards and accepted accounting practices and principals.

#### *Name*

The name of the Fund will be the "Juvenile Court Restitution Fund." For clarity purposes, when referring to the Fund on documents such as an Informal Adjustment Consent, Consent Decree, an order issued by the Court, rules and conditions of probation, and all financial documents including restitution documents, judgment, etc., the Fund will be referred to as the JCR Fund.

#### *Eligibility*

For the purpose of the Fund, eligibility will be defined as follows:

*Eligible Benefactor*—An eligible benefactor of the Fund will be any child who is under the jurisdiction of the Court through the Probation department on or after the effective start date of the Fund and whose disposition, as rendered by the Court or Probation department, requires the child to pay restitution to a victim of a delinquent act.

*Eligible Recipient*—An eligible recipient of the Fund will be any person, business, organization, etc., including an insurance company, and the Commonwealth's Crime Victims Compensation Fund (Restitution) who has a legitimate restitution claim on file with the Probation office on or after the effective start date of the Fund that is the result of the delinquent act(s) of an Eligible Benefactor.

#### *Fund Revenue*

On and after the effective date of the creation of the Fund, it will be supported financially in the following manner:

- a) The Probation department will assess a fee in the amount of \$25.00 to all children who are subject to delinquency proceedings whose case results in a final disposition of an Informal Adjustment Consent (excluding Youth Commission), Consent Decree, or adjudication of delinquency and make the same payable to the Fund.
- b) The Probation department will assess a minimum fee of \$50.00 for a case referred to the Probation department where the only disposition rendered is an adjustment at the intake level with no further action taken or sanctions imposed. The initial \$25.00 collected in these cases will be made payable to the Fund, with the remainder of payments credited to the Fayette County Youth Commission.
- c) The Probation department will assess a \$100.00 fee for the preparation and processing of Petitions and corresponding documents as they pertain to the expungement of Juvenile Court records and make the same payable to the Fund.

NOTE: A child who otherwise qualifies for an expungement and who has only a single referral to the Court or Probation department that was successfully handled by the Fayette County Youth Commission will not be required to pay the above-mentioned fee.

d) The Probation department will assign a fee of \$25.00 to all cases that are dismissed at the intake level at the Juvenile Probation Office upon the request of the victim or complainant, if the complainant is a private citizen, with the fee to be paid by the person requesting the dismissal and with the fee made payable to the Fund.

e) The Probation department will allocate ten thousand dollars (\$10,000.00) per year as part of the Title IV-E Administrative Account contained in the County Budget for the Probation department and make the same payable to the Fund. This allocation will remain in effect for as long as the Probation department participates in the Title IV-E Administrative Cost Pool Program through the Pennsylvania Department of Public Welfare. The Probation department will request from the County an open purchase order number for the above-mentioned allocation and invoice the County quarterly (March 31, June 30, September 30, and December 31) for reimbursement from the above-mentioned account and make the same payable to the Fund.

f) The Court, at its discretion or upon the recommendation of the Probation department, will make other sources of revenue payable to the Fund as the same become available.

#### *Fund Management*

The Fund receipts and expenditures will be managed by the Probation department. Any and all funds received by the Probation department that may be considered revenue for the Fund will be deposited into an account separate and apart from other accounts managed by the Probation department. The sole purpose of this account will be to receive and disperse funds associated with the JCR Fund. As of the date of the creation of the Fund, the account(s) used by the Probation department requires 2 signatures:

All Fund revenues will be receipted, recorded, deposited and otherwise handled as any other revenue received by the Probation department for the intended purpose of reimbursing victims of delinquent behavior.

Additionally, expenditures made from the Fund will be forwarded to eligible recipients by checks issued from the above-mentioned checking account on an as needed basis.

Expenditures from the above-mentioned account will require two signatures consisting of the Chief and Deputy Chief Juvenile Probation Officers.

The above-mentioned account will be subject to an audit performed by the Controller of Fayette County on an annual basis as per the request of the Chief Juvenile Probation Officer.

#### *Review Committee*

The President Judge will establish a committee to review the requests made by the eligible benefactors requesting benefits from the Fund. The committee will be comprised of the following individuals:

Chief or Deputy Chief Juvenile Probation Officer

Victim Services Coordinator for Juvenile Court

The child's supervising probation officer.

#### *Fund Expenditures*

Eligible benefactors of the Fund will be able to request assistance from the Fund in the following manner:

a) The Court or Probation department will prepare an application form for eligible benefactors to utilize in order to request assistance from the fund. The application form will include the following information:

1) Descriptive information about the child including name, DOB, type of supervision, length of supervision.

2) A statement as to the child's overall adjustment while under supervision, addressing behavior at home, in the community, and at school;

3) A statement as to the child's community service completion rate;

4) A statement as to the balance of restitution due by the child.

The applicant's probation officer will assure that the child completes the application, and the probation officer will forward the same to the Review Committee.

The Review committee will review the application, and recommend the level of expenditure to be made on behalf of the applicant.

The President Judge will authorize the amount to be expended from the Fund and credited to the applicant's / benefactor's restitution account. The Probation department will then disperse payments to all applicants remain victim(s) in a proportionate share.

Payments dispersed from the fund will be made on a first come / first serve basis and will be made in the full amount recommended by the Review Committee and approved by the President Judge.

The Probation department will be prohibited from dispersing payments from the Fund in excess of the Fund case reserves plus \$100.00.

#### *Maximum Disbursement*

The maximum amount that may be dispersed from the Fund on behalf of any single child per period of supervision by the Court or Probation department will be one thousand dollars (\$1,000.00).

#### *Fund Balance*

The Fund will maintain a minimum balance of \$100.00 at all times.

#### *Suspension of Activity*

The Court or Chief Juvenile Probation Officer will have the authority to suspend any and all activities associated with the Fund.

#### *Audit Requirement*

The Fund will be subject to an audit by the Controller of Fayette County on an annual basis, covering the period January 1 through December 31 as part of the annual audit on the above-mentioned check account.

[Pa.B. Doc. No. 10-1242. Filed for public inspection July 9, 2010, 9:00 a.m.]

## LANCASTER COUNTY

### Public Access Policy of the Unified Judicial System of Pennsylvania: Official Case Records of the Magisterial District Courts; Amendment of Local Rule 6 of Lancaster County Rules for Magisterial District Judges; CPJ. No. 7, Page 1357; No. AD 10 AD 2010

#### Administrative Order

And Now, this 16th day of June, 2010, pursuant to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Official Case Records of the Magisterial District Courts* adopted by the Pennsylvania Supreme Court effective July 1, 2010, it is hereby Ordered that existing Local Rule 6 of the Lancaster County Rules for Magisterial District Judges is amended and adopted as follows:

In accordance with Rule of Judicial Administration 103(c), the Lancaster County Clerk of Court is directed to file ten (10) certified copies of this Order and Rule with the Administrative Office of Pennsylvania Courts.

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

*By the Court*

JOSEPH C. MADENSPACHER,  
*President Judge*

#### **Rule 6. Fees.**

##### **A. Fee Schedule for Responding to Public Access Requests**

The following fees shall be charged to the public in response to requests for public access to the official case records of the magisterial district courts:

- (1) Photocopies per page—\$.25
- (2) Staff time required to respond to a public access request—No fee for the first hour of staff time. After the first hour, the fee shall be \$6 per 1/4 hour with a minimum of 1/4 hour.
- (3) Actual postage costs incurred by the court.
- (4) Fees under this paragraph may be waived by the court if the magisterial district judge determines that the requestor is indigent.

##### **B. Remittals of Collected Fees**

Fees received pursuant to Paragraph A above, and any notary fees received by any magisterial district judge or any staff member for affidavits, oaths, acknowledgments, or other similar services, regardless of where such services were performed, shall be remitted to the County of Lancaster.

[Pa.B. Doc. No. 10-1243. Filed for public inspection July 9, 2010, 9:00 a.m.]

#### **SCHUYLKILL COUNTY**

##### **Administrative Order 2010.2; S-1568-10; No. AD-64-2010**

##### **Administrative Order**

*And Now*, this 21st day of June, 2010, at 4:00 p.m., pursuant to Public Access Policy of the Unified Judicial System of Pennsylvania: Official Case Records of the Magisterial District Courts adopted by the Pennsylvania Supreme Court effective July 1, 2010, it is hereby *Ordered* that Schuylkill County Administrative Order 2010.2 shall become effective July 1, 2010. The procedures established by this Administrative Order shall be utilized

to govern public access to the records of the Magisterial District Courts within the 21st Judicial District.

The Court Administrator is directed to:

- 1) File seven (7) certified copies of the Administrative Order with the Administrative Office of the Pennsylvania Courts; and
- 2) Submit the following items to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*:
  - a) two (2) certified copies of the Administrative Order;
  - b) a copy of the Administrative Order on a computer diskette, CD-ROM, or electronic copy that complies with the requirements.
- 3) File one (1) certified copy with the Civil Procedural Rules Committee of the Supreme Court of Pennsylvania.
- 4) Publish a copy of the local rule on the Unified Judicial System Portal at <http://judportal.us/local/rulesselection.sdp>.
- 5) Forward one (1) copy to the Schuylkill Legal Record for publication.
- 6) Keep continuously available for publish inspection and copying in the office of the Prothonotary.

*By the Court*

WILLIAM E. BALDWIN,  
*President Judge*

##### **Public Access Policy of the Unified Judicial System of Pennsylvania: Official Case Records of the Magisterial District Courts**

##### *Schedule for Public Access*

A Magisterial staff member will be available every Monday and Wednesday from 1:00 p.m.—4:30 p.m. and Friday from 1:00 p.m.—3:00 p.m. to process requests for public access to Magisterial District Court Records.

Requests to permit access at other times will only be granted by the Magisterial District Judge if there are extenuating circumstances.

##### *Fees*

A photocopying fee of 25¢ per page shall be charged.

A \$25.00 fee shall be charged for records that must be retrieved from the Schuylkill County Archives Facility, Pottsville, PA and transported to the Magisterial District Judge office.

This Administrative Order shall be effective July 1, 2010 and publicly posted in all Schuylkill County Magisterial District Courts.

[Pa.B. Doc. No. 10-1244. Filed for public inspection July 9, 2010, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 51—PUBLIC OFFICERS

### DEPARTMENT OF STATE

#### [ 51 PA. CODE CH. 53 ]

#### Biennial Filing Fee

The Department of State (Department) amends § 53.1 (relating to biennial filing fee) to read as set forth in Annex A. The final-form rulemaking increases the biennial registration fee for individuals and entities required to be registered under 65 Pa.C.S. Chapter 13A (relating to lobbying disclosure) (act) from \$100 to \$200.

Notice of proposed rulemaking was published at 39 Pa.B. 6049 (October 17, 2009). Publication was followed by a 30-day public comment period. The Department received three comments from the Pennsylvania Association of Government Relations (PAGR), the Pennsylvania Association of Nonprofit Organizations (PANO) and the Pennsylvania Association of Resources: Autism (PAR). On December 16, 2009, the Independent Regulatory Review Commission (IRRC), as part of its review of proposed rulemaking under the Regulatory Review Act (71 P.S. §§ 745.1—745.12), offered comments on the proposed rulemaking. The Department did not receive comments from the Senate and House State Government Committees as part of their review of the proposed rulemaking under the Regulatory Review Act. The comments the Department received described in detail with the Department's response are as follows.

#### *Statutory Authority*

Section 13A08(j) of the act (relating to administration) provides that the Department may, by regulation, adjust the filing fee established under section 13A10 of the act (relating to registration fees; fund established; system; regulations) if the Department determines that a higher fee is needed to cover the costs of carrying out the act.

#### *Purpose*

The current registration fee of \$100 for individuals and entities required to be registered under the act was established under section 13A10(a) of the act. Section 13A08(j) of the act states that the fees may be raised if the Department determines that a higher fee is needed to cover the costs of carrying out the provisions of the act. For fiscal years (FY) 2007-2008, the Department's costs for administering the act totaled \$1,054,165.07. For the biennial registration period 2007-2008, the registration fees paid to the Department totaled \$234,200. For the FY 2008-2009, the Department's costs were \$1,711,318. While the increase in the registration fee will not come close to covering the total costs of administering the act to the Department, it will help to defray some of the costs. In fact, the \$200 fee will cover less than half of the Department's costs with the balance being paid from other resources.

#### *Description of Final-Form Rulemaking*

The PAGR commented that section 1308(f) of the act requires the Department to publish the adjusted registration fee amounts in the *Pennsylvania Bulletin* by June 1, 2009, and by June 1 every 2 years thereafter as necessary. The PAGR argues that because the Department published the proposed rulemaking on October 17, 2009, rather than prior to June 1, 2009, the Department is

untimely. The PAGR found that "the next opportunity the Department has to increase the biennial registration fee is on June 1, 2011."

First, the act only requires the Department to publish the adjusted registration fee amounts by June 1, 2009, and by June 1 every 2 years after, not on June 1. Second, the Department is not raising the fee in 2009. The final-form rulemaking will not go into effect until January 1, 2011. Therefore, in accordance with the act, the Department must publish the proposed regulation adjusting the registration fee by June 1, 2011. By publishing the proposed rulemaking on October 17, 2009, the Department has notified the regulated community of the proposed adjusted registration fee far in advance of June 1, 2011, in accordance with the act. Additionally, the biennial filing fee will be effective on January 1, 2011, because it is the beginning of another biennial registration period.

IRRC commented that the wording of the final-form rulemaking needs to be amended to implement the Department's intent of the regulation being effective on January 1, 2011. To address IRRC's concern, the Department replaced the amount the registration fee of \$200 as stated in the proposed rulemaking with the original amount of \$100 and added a sentence stating "[a]s of January 1, 2011, the biennial filing fee will be \$200."

PANO and PAR: Autism both commented that the increase in the biennial registration fee would be burdensome to their nonprofit organizations. Both groups pointed out that they have additional costs associated with registration besides the fee, such as personnel, office, operating and program expenses. In recognition that any increase in costs is not optimal for anyone, the Department only raised the fee \$100 for the biennial registration period. The additional fees are necessary so that the Department can defray some of its administration costs. While the regulated community bears the burden of an increased fee, it is of utmost importance that the Department is able to continue administering the act. Additionally, the act does not provide the Department with the authority to treat nonprofit organizations differently from for-profit organizations. Therefore, the biennial registration fee increase must be the same for all organizations.

IRRC also requested that the Department explain why the \$200 is the appropriate fee amount and how the \$200 fee is consistent with the act. Section 13A08(j) of the act states that the fees may be raised if the Department determines that a higher fee is needed to cover the costs of carrying out the provisions of the act. For the biennial registration period 2007-2008, the registration fees paid to the Department totaled \$234,200. For the FY 2008-2009, the Department's costs were \$1,711,318. Clearly, the registration fees do not even cover half of the Department's administrative costs. Therefore, the Department, under the act, may raise the fee to help cover the costs of the administration of the act. While the Department could have raised the fee higher to cover its administrative costs, the Department only raised the fee \$100 because the Department did not want to overburden registrants by raising the fee any higher at this time. Another \$100 for a 2-year registration period does not raise the fee too much, while helping to defray some of the administrative costs to the Department.

*Fiscal Impact**Commonwealth*

By raising the registration fee to \$200, the final-form rulemaking will help the Department defray some of the costs of administering the act.

*Local government*

Local government will not have expenses associated with this final-form rulemaking. However, if a local government is required to register as a principal, the local government would have the cost of the increased registration fee of \$200, and would then be considered to be part of the regulated community.

*Private sector*

The final-form rulemaking will increase the biennial registration fee for principals, lobbying firms and lobbyists from \$100 to \$200.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on October 6, 2009, the Department submitted a copy of the notice of proposed rulemaking, published at 39 Pa.B. 6049, to IRRC and to the Senate and House State Government Committees (Committees) for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on June 2, 2010, the final-form rulemaking was deemed approved by the Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on June 3, 2010, and approved the final-form rulemaking.

*Contact Persons*

Additional information may be obtained by contacting Shauna C. Graves, Assistant Counsel, Department of State, 301 North Office Building, Harrisburg, PA 17120-0029, shgraves@state.pa.us.

*Findings*

The Department of State finds that:

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

(2) A public comment period was provided as required by law and all comments were considered in drafting this final-form rulemaking.

(3) This amendment to the biennial filing fee regulation is necessary and appropriate for administering and enforcing the authorizing act identified in this preamble.

*Order*

The Department therefore orders that:

(a) The regulations of the Department, 51 Pa. Code Chapter 53, are amended by amending § 53.1 to read as set forth in Annex A.

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

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

(d) The regulation takes effect immediately upon publication in the *Pennsylvania Bulletin*.

BASIL L. MERENDA,  
*Acting Secretary*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 40 Pa.B. 3471 (June 19, 2010).)*

**Fiscal Note:** Fiscal Note 16-50 remains valid for the final adoption of the subject regulation.

**Annex A****TITLE 51. PUBLIC OFFICERS****PART III. LOBBYING DISCLOSURE****CHAPTER 53. REGISTRATION AND TERMINATION****§ 53.1. Biennial filing fee.**

(a) Under section 13A10(a) of the act (relating to registration fees; fund established; system; regulations), a principal, lobbying firm or lobbyist required to be registered under the act shall pay a biennial filing fee of \$100 to the Department, made payable to the "Commonwealth of Pennsylvania." As of January 1, 2011, the biennial filing fee will be \$200.

(1) The biennial filing fee shall be tendered to the Department with the filing of the principal's, lobbying firm's or lobbyist's first registration statement in each registration period. However, if the Department receives the filing fee within 5 calendar days of the filing of a registration statement, the registration will not be considered delinquent, in compliance with § 51.4 (relating to delinquency).

(2) The biennial filing fee will be a flat fee for the registration period in which paid. A registrant will not be required to pay more than one biennial filing fee in any given biennial registration period, unless a registrant terminates and attempts to reregister during the same biennial registration period.

(3) A separate biennial filing fee shall be paid for each principal, lobbying firm or lobbyist required to be registered, even if employed by a firm, association, corporation, partnership, business trust or business entity that is also required to register and that has paid or will pay the fee.

(4) The biennial filing fee is nonrefundable and non-transferable.

(5) Filing fees expire at the end of each registration period, regardless of when paid.

(b) The failure to pay a biennial filing fee as required by the act and this section will constitute a failure to register as required by the act.

(c) Money received from biennial filing fees will be deposited in the Fund.

[Pa.B. Doc. No. 10-1245. Filed for public inspection July 9, 2010, 9:00 a.m.]

# Title 58—RECREATION

## PENNSYLVANIA GAMING CONTROL BOARD

[ 58 PA. CODE CHS. 523, 525, 535, 537, 541, 543, 545, 549, 551, 553, 555, 557, 559, 561, 563, 565 AND 567 ]

### Table Games; Temporary Regulations

The Pennsylvania Gaming Control Board (Board), under its general authority in 4 Pa.C.S. § 1303A (relating to temporary table game regulations) enacted by the act of January 7, 2010 (P.L. 1, No. 1) (Act 1) and the specific authority in 4 Pa.C.S. § 1302A(1) and (2) (relating to regulatory authority), amends temporary regulations in Chapters 523, 525, 535, 537, 541, 543, 545, 549, 551, 553, 555, 557, 559, 561, 563, 565 and 567 to read as set forth in Annex A. The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board) as part of Subpart K (relating to table games).

#### *Purpose of the Temporary Rulemaking*

This temporary rulemaking amends the regulations for table games in response to comments received from certificate holders and based on the Board's experience to date.

*Explanation of Chapters 523, 525, 535, 537, 541, 543, 545, 549, 551, 553, 555, 557, 559, 561, 563, 565 and 567*

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

While the Board does not agree with all of the suggestions offered and is still reviewing a number of the comments that have been received, the Board does agree that improvements can be made in several areas now.

In Chapter 523 (relating to table game equipment), the Board has made changes to clarify various provisions based on questions it has received. Section 523.12 (relating to dice; physical characteristics) has been revised to clarify that the requirements for dice used in the game of Pai Gow also apply to dice used for Pai Gow Poker. Section 523.13(o)(2) (relating to dice; receipt, storage, inspections and removal from use) has been revised to include crushing as one of the methods authorized for the destruction of dice. Section 523.15(g)(2) (relating to cards; physical characteristics) has been revised to clarify that the label required on a package of multiple decks of cards should indicate the game that the decks are to be used for. This is necessary because different games require different numbers of cards.

In Chapter 525 (relating to table game internal controls), the distribution of copies of the Table Inventory Slip that will be filled out during the drop process at tables that are open for play has been changed. Instead of placing both copies in the drop box that is being removed, the original will be placed in the drop box being removed and the duplicate copy will be placed in the drop box being placed on the gaming table. This will make it easier to calculate the daily gross table game revenue for these tables.

In Chapter 535 (relating to Pai Gow), § 535.3(b)(3) (relating to Pai Gow tiles; physical characteristics) has been revised to allow the unique identifier that must be placed on the tiles to be on the front or the back. Depending on what type of identifier is used, having it on the back of the tile could create a greater potential risk for players to mark the tiles.

In Chapter 537 (relating to Craps and Mini-Craps), definitions for the terms "Buy Bet" and "Lay Bet" have been added to § 537.1 (relating to definitions). Section 537.5a (relating to Buy and Lay Bets) has been added to give certificate holders the option of offering these bets and to establish the required payout odds. Other changes have been made to § 537.3 (relating to permissible wagers) to clarify when Hardway Bets are active and to correct the text in paragraph (34) regarding the Two-Six on the Hop Bet.

In Chapter 541 (relating to Minibaccarat), § 541.2(a) (relating to Minibaccarat table physical characteristics) has been amended to increase the number of players allowed at a Minibaccarat table from seven to nine. This will make the limit on the maximum number of players the same for both Minibaccarat and Midibaccarat. Section 541.3(c) (relating to cards; number of decks) has been amended to increase the time period that the decks of cards used for Minibaccarat can be used from 4 hours to 24 hours. This brings the allowable time period for this game in line with the allowable time period for other games where the players are not handling the cards. Section 541.9(d) (relating to hands of player and banker; procedure for dealing initial two cards to each hand) has been amended to further clarify that players may not touch the cards at any time.

Sections 541.14(c), 543.14(c) and 545.15(c) (related to irregularities) have been revised to give certificate holders an additional option for dealing with a card that has been disclosed in error. Instead of just discarding the disclosed card and one additional card, certificate holders will be able to elect to conduct a simulated round of play with the disclosed card. This option is preferred by more traditional players. For the same reason, § 545.9(d) (relating to hands of player and banker; procedure for dealing initial two cards to each hand) has been revised to have the curator, who is dealing the cards from the dealing shoe, place the Banker's Hand under the right corner of the dealing shoe instead of having the dealer who is calling the game place these cards under the corner of the dealing shoe.

In Chapters 549 and 551 (relating to Blackjack; and Spanish 21), §§ 549.4 and 551.6 (relating to wagers; and wagers; payout odds) have been amended to give certificate holders an additional method that can be used for the collection of losing wagers and the payment of winning wagers.

In Chapter 553 (relating to Poker), § 553.2(c) (relating to Poker table physical characteristics) has been revised to clarify that a Poker table does not have to have a specific area marked on the layout for the placement of the decks of cards used. All that is required is that the certificate holder keep the decks of cards in a location on the table that has been approved by the Bureau of Gaming Operations.

In Chapter 565 (relating to Three Card Poker), several sections have been amended to allow certificate holder's the option of offering Progressive Payout Wagers. In § 565.1 (relating to definitions) definitions of the terms "Envy Bonus," "Envy Bonus qualifying hand" and "progressive payout hand" have been added. In § 565.2 (relating to Three Card Poker table physical characteristics), the table layout, equipment and signage requirements regarding Progressive Payout Wagers have been added. Language has been added to § 565.7 (relating to wagers) which describes how Progressive Payout Wagers are to be placed. Sections 565.8, 565.9 and 565.10 (relating to procedures for dealing the cards from a manual



shoe; procedures for dealing the cards from the hand; and procedures for dealing the cards from an automated dealing shoe) have been revised to incorporate the procedure for collecting Progressive Payout Wagers prior to dealing the cards. In § 565.11 (relating to procedures for completion of each round of play), a new provision has been added which requires the forfeiture of the Progressive Payout Wager if the player does not place a Play Wager. This mirrors the treatment of Ante and Pairs Plus Wagers. Other provisions have been included in this section addressing the payment of the Envy Bonus and progressive payouts that are not paid from the table inventory. Section 565.11a (relating to progressive payout) has been added to specify how winning Progressive Payout Wagers shall be paid. Section 565.12 (relating to payout odds; Envy Bonus; rate of progression; payout limit) establishes the payout amounts for winning Progressive Payout Wagers and Envy Bonuses and sets forth the minimum rate of progression of the progressive meter used for the progressive payouts.

Finally, in Chapters 551, 555, 557, 559, 561, 563, 565 and 567, §§ 551.16(k), 555.14(g), 557.13, 559.15, 561.14, 563.13, 565.13 and 567.11 (relating to irregularities) have been amended. Currently, these sections require that a malfunctioning automated card shuffling device or automated dealing shoe be removed from a gaming table before another method of shuffling or dealing can be used at that gaming table. Because some of these devices are built into the gaming tables, this requirement would prevent a certificate holder from continuing to use these gaming tables. To give certificate holders additional operating flexibility, these sections have all been revised to allow continued use of these gaming tables so long as the certificate holders place a cover or sign on the malfunctioning device.

#### *Affected Parties*

This temporary rulemaking will affect how certificate holders may conduct table games at their licensed facilities.

#### *Fiscal Impact*

##### *Commonwealth*

The Board does not expect that the revisions in this temporary rulemaking will have fiscal 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*

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

##### *General public*

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

##### *Paperwork Requirements*

This temporary rulemaking will not impose new paperwork requirements on certificate holders.

##### *Effective Date*

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

#### *Public Comments*

While this temporary rulemaking will be effective upon publication, the Board is seeking comments from the public and affected parties as to how this temporary 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 Susan Yocum, Assistant Chief Counsel, Pennsylvania Gaming Control Board, P. O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation #125-126.

#### *Contact Person*

The contact person for questions about this rulemaking is Susan Yocum, Assistant Chief Counsel, (717) 703-2971.

#### *Regulatory Review*

Under 4 Pa.C.S. § 1303A, the Board is authorized to adopt temporary regulations which are not subject to the provisions of sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1208), 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 regulations of the Board, 58 Pa. Code Chapters 523, 525, 535, 537, 541, 543, 545, 549, 551, 553, 555, 557, 559, 561, 563, 565 and 567, are amended by amending §§ 523.12, 523.13, 523.15, 525.13, 535.3, 537.1, 537.3, 541.2, 541.3, 541.9, 541.14, 543.14, 545.9, 545.15, 549.4, 551.6, 551.16, 553.2, 555.14, 557.13, 559.15, 561.13, 563.13, 565.1, 565.2, 565.7—565.13 and 567.11 and by adding §§ 537.5a and 565.11a to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The temporary regulations are effective July 10, 2010.

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

(d) The temporary regulations are 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:** 125-126. No fiscal impact; (8) recommends adoption.

Annex A

Title 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart K. TABLE GAMES

CHAPTER 523. TABLE GAME EQUIPMENT

§ 523.12. Dice; physical characteristics.

\* \* \* \* \*

(b) Dice used in the table games of Pai Gow and Pai Gow Poker must comply with subsection (a) except as follows:

\* \* \* \* \*

§ 523.13. Dice; receipt, storage, inspections and removal from use.

\* \* \* \* \*

(o) Destruction or cancellation of dice, other than those retained for Board inspection, shall be completed within 72 hours of collection.

\* \* \* \* \*

(2) Destruction must occur by shredding or crushing.

\* \* \* \* \*

§ 523.15. Cards; physical characteristics.

\* \* \* \* \*

(g) Each deck of cards shall be packaged separately or in a set containing the number of decks authorized in this subpart and selected by a certificate holder for use in a particular table game. Each package of cards shall be sealed in a manner approved by the Bureau of Gaming Operations to provide evidence of any tampering with the package. If multiple decks of cards are packaged and sealed in a set, the package must have a label that indicates or contain a window that reveals an adequate description of the contents of the package, including:

\* \* \* \* \*

(2) The game for which the cards are to be used.

\* \* \* \* \*

CHAPTER 525. TABLE GAME INTERNAL CONTROLS

§ 525.13. Procedure for drops at open table games.

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

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

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

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

drop box that is attached to the gaming table immediately following the removal of the drop box that is removed from the gaming table as part of the drop.

CHAPTER 535. PAI GOW

§ 535.3. Pai Gow tiles; physical characteristics.

\* \* \* \* \*

(b) Each tile used must:

\* \* \* \* \*

(3) Have on the back or front of each tile an identifying feature unique to each certificate holder.

\* \* \* \* \*

CHAPTER 537. CRAPS AND MINI-CRAPS

§ 537.1. Definitions.

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

\* \* \* \* \*

*Buy Bet*—A Place Bet to Win which offers a payout of true odds.

\* \* \* \* \*

*Lay Bet*—A Place Bet to Lose which offers a payout of true odds.

\* \* \* \* \*

§ 537.3. Permissible wagers.

(a) The following wagers may be used in the games of Craps and Mini-Craps:

\* \* \* \* \*

(7) A Four the Hardway Bet placed in a box which shows two dice, each of which displays a value of 2, that may be made at any time. A Four the Hardway Bet shall be inactive on the come out roll unless called "on" by the player and confirmed by the dealer through placement of an "on" marker button on top of the player's wager. A winning or losing Four the Hardway Bet shall be determined as follows:

\* \* \* \* \*

(8) A Six the Hardway Bet placed in a box which shows two dice, each of which displays a value of 3, that may be made at any time. A Six the Hardway Bet shall be inactive on the come out roll unless called "on" by the player and confirmed by the dealer through placement of an "on" marker button on top of the player's wager. A winning or losing Six the Hardway Bet shall be determined as follows:

\* \* \* \* \*

(9) An Eight the Hardway Bet placed in a box which shows two dice, each of which displays a value of 4, that may be made at any time. An Eight the Hardway Bet shall be inactive on the come out roll unless called "on" by the player and confirmed by the dealer through placement of an "on" marker button on top of the player's wager. A winning or losing Eight the Hardway Bet shall be determined as follows:

\* \* \* \* \*

(10) A Ten the Hardway Bet placed in a box which shows two dice, each of which displays a value of 5, that may be made at any time. A Ten the Hardway Bet shall be inactive on the come out roll unless called "on" by the player and confirmed by the dealer through placement of

an "on" marker button on top of the player's wager. A winning or losing Ten the Hardway Bet shall be determined as follows:

\* \* \* \* \*

(34) A Two-Six or Deuce-Six on the Hop Bet placed in an area on the layout for this bet that may be made at any time. A winning or losing Two-Six or Deuce-Six on the Hop Bet shall be determined as follows:

(i) A Two-Six or Deuce-Six on the Hop Bet shall win if a total of 8 is thrown with a 2 appearing on one die and a 6 appearing on the other die on the roll immediately following placement of the Two-Six or Deuce-Six on the Hop Bet.

(ii) A Two-Six or Deuce-Six on the Hop Bet shall lose if any other combination is thrown on the roll immediately following placement of the Two-Six or Deuce-Six on the Hop Bet.

\* \* \* \* \*

§ 537.5a. Buy and Lay Bets.

(a) In addition to Place Bets to Win on 4, 5, 6, 8, 9 and 10, a certificate holder may, in its Rules Submission under § 521.2 (relating to table games Rules Submissions), offer players the option of placing a Buy Bet. The certificate holder may collect a vigorish of up to 5%, as specified in the certificate holder's Rules Submission, of the amount wagered on winning Buy Bets. A certificate holder that offers Buy Bets shall pay winning wagers as follows:

<i>Wager</i>	<i>Payout Odds</i>
Place Bet to Win on 4	2 to 1
Place Bet to Win on 5	3 to 2
Place Bet to Win on 6	6 to 5
Place Bet to Win on 8	6 to 5
Place Bet to Win on 9	3 to 2
Place Bet to Win on 10	2 to 1

(b) In addition to Place Bets to Lose on 4, 5, 6, 8, 9 and 10, a certificate holder may, in its Rules Submission under § 521.2, offer players the option of placing a Lay Bet. The certificate holder may collect a vigorish of up to 5%, as specified in the certificate holder's Rules Submission, of the amount wagered on winning Lay Bets. A certificate holder that offers Lay Bets shall pay winning wagers as follows:

<i>Wager</i>	<i>Payout Odds</i>
Place Bet to Lose on 4	1 to 2
Place Bet to Lose on 5	2 to 3
Place Bet to Lose on 6	5 to 6
Place Bet to Lose on 8	5 to 6
Place Bet to Lose on 9	2 to 3
Place Bet to Lose on 10	1 to 2

(c) Except as permitted in subsections (a) and (b), a certificate holder may not charge a percentage, fee or vigorish to a player in making any wager in the game of Craps or Mini-Craps.

CHAPTER 541. MINIBACCARAT

§ 541.2. Minibaccarat table physical characteristics.

(a) Minibaccarat shall be played on a table having a place for the dealer on one side and on the opposite side, numbered places for a maximum of nine seated players.

\* \* \* \* \*

§ 541.3. Cards; number of decks.

\* \* \* \* \*

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

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

\* \* \* \* \*

(d) Players may not touch, handle, remove or alter any cards used to play Minibaccarat.

§ 541.14. Irregularities.

\* \* \* \* \*

(c) If a card dealt in error under the circumstances described in subsection (a) or (b) is disclosed at the time it is dealt, the dealer shall, in accordance with one of the following procedures designated in the certificate holder's Rules Submission under § 521.2 (relating to table games Rules Submissions):

(1) Place the disclosed card and one additional card drawn face down from the dealing shoe in the discard rack without disclosing the additional card.

(2) Use the disclosed card as the first card of a simulated round of play in which wagers may not be accepted. The cards shall be dealt in accordance with the rules of this chapter and shall be placed in the discard rack upon completion of the dealing procedures.

\* \* \* \* \*

CHAPTER 543. MIDIBACCARAT

§ 543.14. Irregularities.

\* \* \* \* \*

(c) If a card dealt in error under the circumstances described in subsection (a) or (b) is disclosed at the time it is dealt, the dealer shall, in accordance with one of the following procedures designated in the certificate holder's Rules Submission under § 521.2 (relating to table games Rules Submissions):

(1) Place the disclosed card and one additional card drawn face down from the dealing shoe in the discard bucket without disclosing the additional card.

(2) Use the disclosed card as the first card of a simulated round of play in which wagers may not be accepted. The cards shall be dealt in accordance with the rules of this chapter and be placed in the discard bucket upon completion of the dealing procedures.

\* \* \* \* \*

CHAPTER 545. BACCARAT

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

\* \* \* \* \*

(d) A certificate holder may, in the certificate holder's Rules Submission under § 521.2 (relating to table games Rules Submissions), elect to use the following procedures in lieu of the procedures in subsection (c) and § 545.10 (relating to procedure for dealing a third card), after all four cards have been dealt:

(1) The curator shall place the Banker's Hand underneath the right corner of the dealing shoe.

\* \* \* \* \*

§ 545.15. Irregularities.

\* \* \* \* \*

(c) If a card dealt in error under the circumstances described in subsection (a) or (b) is disclosed at the time it is dealt, the dealer calling the game shall, in accordance with one of the following procedures designated in the certificate holder's Rules Submission under § 521.2 (relating to table games Rules Submissions):

- (1) Place the disclosed card and one additional card drawn face down from the dealing shoe in the discard bucket without disclosing the additional card.
- (2) Use the disclosed card as the first card of a simulated round of play in which wagers may not be accepted. The cards shall be dealt in accordance with the rules of this chapter and be placed in the discard bucket upon completion of the dealing procedures.

\* \* \* \* \*

**CHAPTER 549. BLACKJACK**

**§ 549.4. Wagers.**

\* \* \* \* \*

(f) After each round of play is complete, the dealer shall collect all losing wagers and pay off all winning wagers in accordance with one of the following procedures designated in the certificate holder's Rules Submission under § 521.2 (relating to table games Rules Submissions):

- (1) Collect all losing wagers and then pay off all winning wagers.
- (2) Pay off all winning wagers and collect all losing wagers beginning with the player farthest to the right of the dealer and continuing counterclockwise around the table. The dealer shall place any losing wagers directly into the table inventory and shall not pay off any winning wagers by using value chips collected from a losing wager.
- (g) Winning wagers made in accordance with subsection (b) shall be paid at odds of 1 to 1 with the exception of blackjack, which shall be paid at odds of 3 to 2.
- (h) Once the first card of any hand has been removed from the shoe by the dealer, a player may not handle, remove or alter any wagers that have been made until a decision has been rendered and implemented with respect to that wager.
- (i) Once an Insurance Wager under § 549.10 (relating to Insurance Wager), a Double Down Wager under § 549.11 (relating to Double Down Wager) or a wager on split pairs has been made and confirmed by the dealer under § 549.12 (relating to splitting pairs), a player may not handle, remove or alter the wagers until a decision has been rendered and implemented with respect to that wager.

(j) After the cards have been shuffled as required under § 549.5 (relating to opening of table for gaming), a certificate holder may prohibit any person, whether seated at the gaming table or not, who does not make a wager on a given round of play from placing a wager on the next round of play and any subsequent round of play at that gaming table until either:

- (1) The certificate holder chooses to permit the player to begin wagering again.
- (2) A reshuffle of the cards has occurred.
- (k) If a double shoe is utilized, the term "first card" as used in subsections (a), (d) and (g) means the determinant card.

**CHAPTER 551. SPANISH 21**

**§ 551.6. Wagers; payout odds.**

\* \* \* \* \*

(f) After each round of play is complete, the dealer shall collect all losing wagers and pay off winning wagers in accordance with one of the following procedures designated in the certificate holder's Rules Submission under § 521.2 (relating to table games Rules Submissions):

- (1) Collect all losing wagers and then pay off all winning wagers.
- (2) Pay off all winning wagers and collect all losing wagers beginning with the player farthest to the right of the dealer and continuing counterclockwise around the table. The dealer shall place any losing wagers directly into the table inventory and may not pay off any winning wagers by using value chips collected from a losing wager.

(g) Except as provided in subsections (h) and (i), winning wagers made in accordance with subsection (b)(3) shall be paid at odds of 3 to 2, and winning wagers made in accordance with subsection (b)(1), (2) or (4) shall be paid at odds of 1 to 1.

(h) A certificate holder shall pay the following payout odds for winning wagers made in accordance with subsection (b) unless the player has made a Double Down Wager under § 551.11 (relating to Double Down Wager; rescue), in which case all of the following wagers shall only be paid at odds of 1 to 1:

- (1) Three cards consisting of the 6, 7 and 8 of mixed suits shall be paid at odds of 3 to 2.
- (2) Three cards consisting of the 6, 7 and 8 of the same suit shall be paid at odds of 2 to 1, except that three cards consisting of the 6, 7 and 8 of spades shall be paid at odds of 3 to 1.
- (3) Three cards consisting of three 7's of mixed suits shall be paid at odds of 3 to 2.
- (4) Three cards consisting of three 7's of the same suit shall be paid at odds of 2 to 1, except that three cards consisting of three 7's of spades shall be paid at odds of 3 to 1.
- (5) Five cards totaling 21 shall be paid at odds of 3 to 2.
- (6) Six cards totaling 21 shall be paid at odds of 2 to 1.
- (7) Seven or more cards totaling 21 shall be paid at odds of 3 to 1.

(i) In addition to the payouts required under subsection (h)(4), a winning hand that consists of three 7's of the same suit when the dealer's exposed card is also a seven of any suit shall be paid an additional fixed payout of \$1,000 if the player's original wager was \$5 or more but less than \$25, or \$5,000 if the player's original wager was \$25 or more. All other players at the table who placed a wager during that round of play shall also be paid an additional fixed payout of \$50. The additional fixed payouts required by this subsection will not be applicable if a Double Down Wager was made on a winning hand or the winning hand had been split under § 551.12 (relating to splitting pairs).

(j) Except as expressly permitted by this subchapter, once the first card of any hand has been removed from the shoe by the dealer, no player may handle, remove or alter any wagers that have been made until a decision has been rendered and implemented with respect to that wager.

(k) Once an Insurance Wager under § 551.10 (relating to Insurance Wager), a Double Down Wager or a wager to split pairs has been made and confirmed by the dealer, no player may handle, remove or alter the wagers until a decision has been rendered and implemented with respect to that wager, except as expressly permitted by this subchapter.

(l) After the cards have been shuffled under § 551.4 (relating to opening of the table for gaming), a certificate holder may prohibit any person, whether seated at the gaming table or not, who does not make a wager on a given round of play from placing a wager on subsequent rounds of play at that gaming table until either:

(1) The certificate holder chooses to permit the player to begin wagering again.

(2) A reshuffle of the cards has occurred.

§ 551.16. Irregularities.

\* \* \* \* \*

(k) If an automated card shuffling device or automated dealing shoe malfunctions and cannot be used, the automated card shuffling device or automated dealing shoe must 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.

\* \* \* \* \*

CHAPTER 553. POKER

§ 553.2. Poker table physical characteristics.

\* \* \* \* \*

(c) Decks of cards used for the play of Poker shall be kept on the Poker table in a location approved by the Bureau of Gaming Operations, for the placement of the cards. This area may be part of the table inventory container.

\* \* \* \* \*

CHAPTER 555. CARIBBEAN STUD POKER

§ 555.14. Irregularities.

\* \* \* \* \*

(g) If an automated card shuffling device or automated dealing shoe malfunctions and cannot be used, the automated card shuffling device or automated dealing shoe must 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.

CHAPTER 557. FOUR CARD POKER

§ 557.13. Irregularities.

\* \* \* \* \*

(g) If an automated card shuffling device or automated dealing shoe malfunctions and cannot be used, the automated card shuffling device or automated dealing shoe must 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.

CHAPTER 559. LET IT RIDE POKER

§ 559.15. Irregularities.

\* \* \* \* \*

(f) If an automated card shuffling device or automated dealing shoe malfunctions and cannot be used, the automated card shuffling device or automated dealing shoe must 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.

CHAPTER 561. PAI GOW POKER

§ 561.14. Irregularities; invalid roll of dice.

\* \* \* \* \*

(n) If an automated card shuffling device or automated dealing shoe malfunctions and cannot be used, the automated card shuffling device or automated dealing shoe must 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.

CHAPTER 563. TEXAS HOLD 'EM BONUS POKER

§ 563.13. Irregularities.

\* \* \* \* \*

(g) If an automated card shuffling device or automated dealing shoe malfunctions and cannot be used, the automated card shuffling device or automated dealing shoe must 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.

CHAPTER 565. THREE CARD POKER

§ 565.1. Definitions.

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

*Envy Bonus*—An additional fixed sum payout made to a player who placed a Progressive Payout Wager when another player at the Three Card Poker table is the holder of an Envy Bonus qualifying hand.

*Envy Bonus qualifying hand*—A Three Card Poker hand with a rank of ace, king and queen of the same suit.

\* \* \* \* \*

*Progressive payout hand*—An ace, king and queen of the same suit; a straight flush; three-of-a-kind; or, if included in the payable selected by the certificate holder in the certificate holder's Rules Submission under § 521.2 (relating to table games Rules Submissions), a straight, as defined in § 565.6 (relating to Three Card Poker rankings).

\* \* \* \* \*

§ 565.2. Three Card Poker table physical characteristics.

\* \* \* \* \*

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

\* \* \* \* \*

(5) If the certificate holder offers a Progressive Payout Wager, a separate designated area for each player, located

immediately behind the Pair Plus Wager betting area, designated for the placement of the Progressive Payout Wager for each player.

(6) Inscriptions that advise patrons of the payout odds or amounts for Ante and Play Wagers, Pair Plus Wagers and Ante bonuses, the Progressive Payout Wager, the Envy Bonus and the phrase "Dealer Plays with Queen High or Better."

(c) If payout odds are not inscribed on the layout as required under subsection (b)(6), a sign identifying the payout odds for all authorized wagers shall be posted at each Three Card Poker table.

\* \* \* \* \*

(f) If a certificate holder offers a Progressive Payout Wager in accordance with § 565.7(a)(4) (relating to wagers), the Three Card Poker table must have a progressive table game system, in accordance with § 524.7 (relating to progressive table game systems), for the placement of Progressive Payout Wagers. The progressive table game system must include:

(1) A wagering device at each betting position that acknowledges or accepts the placement of the Progressive Payout Wager.

(2) A device that controls or monitors the placement of Progressive Payout Wagers at the gaming table, including a mechanism, such as a lock-out button, that prevents the recognition of any Progressive Payout Wager that a player attempts to place after the dealer has announced "no more bets."

§ 565.7. Wagers.

(a) The following wagers may be placed in the game of Three Card Poker:

\* \* \* \* \*

(3) A player may compete against both the dealer and the posted payout table by placing wagers in accordance with paragraphs (1) and (2).

(4) If the certificate holder offers a Progressive Payout Wager, after placing an Ante Wager or a Pair Plus Wager, a player may also place a Progressive Payout Wager on whether the player will be dealt a Progressive Payout Hand. A Progressive Payout Wager shall be made in the amount of \$1 or \$5 as specified in the certificate holder's Rules Submission under § 521.2 (relating to table games Rules Submissions) by placing a gaming chip into the progressive wagering device designated for that player. Each player shall be responsible for verifying that the player's respective Progressive Payout Wager has been accepted.

(b) Wagers at Three Card Poker shall be made by placing gaming chips or plaques on the appropriate betting areas of the table layout or by placing a gaming chip into the progressive wagering device at the player's betting position. A verbal wager accompanied by cash may not be accepted.

\* \* \* \* \*

(d) Ante Wagers, Pair Plus Wagers and Progressive Payout Wagers shall be placed prior to the dealer announcing "no more bets" in accordance with the dealing procedures in § 565.8, § 565.9 or § 565.10 (relating to procedures for dealing the cards from a manual dealing shoe; procedures for dealing the cards from the hand; and procedures for dealing the cards from an automated dealing shoe). Except for Play Wagers, a wager may not be made, increased or withdrawn after the dealer has

announced "no more bets." Play Wagers shall be placed in accordance with § 565.11(b) (relating to procedures for completion of each round of play).

(e) A certificate holder may, if specified in the certificate holder's Rules Submission under § 521.2, permit a player to simultaneously play and place wagers at two adjacent betting positions during a round of play.

\* \* \* \* \*

§ 565.8. Procedures for dealing the cards from a manual shoe.

\* \* \* \* \*

(b) Prior to dealing any cards, the dealer shall announce "no more bets" and use the progressive table game system to prevent the placement of any additional Progressive Payout Wagers. The dealer shall then collect any Progressive Payout Wagers and, on the layout in front of the table inventory container, verify that the number of gaming chips wagered equals the number of Progressive Payout Wagers accepted by the progressive table game system. The dealer shall then place the gaming chips into the table inventory container.

\* \* \* \* \*

§ 565.9. Procedures for dealing the cards from the hand.

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

\* \* \* \* \*

(3) Prior to dealing any cards, the dealer shall then announce "no more bets" and use the progressive table game system to prevent the placement of any additional Progressive Payout Wagers. The dealer shall then collect any Progressive Payout Wagers and, on the layout in front of the table inventory container, verify that the number of gaming chips wagered equals the number of Progressive Payout Wagers accepted by the progressive table game system. The dealer shall then place the gaming chips into the table inventory container. The dealer shall 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.

\* \* \* \* \*

§ 565.10. 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:

\* \* \* \* \*

(2) Prior to the shoe dispensing any stacks of cards, the dealer shall then announce "no more bets" and use the progressive table game system to prevent the placement of any additional Progressive Payout Wagers. The dealer shall then collect any Progressive Payout Wagers and, on the layout in front of the table inventory container, verify that the number of gaming chips wagered equals the number of Progressive Payout Wagers accepted by the progressive table game system. The dealer shall then place the gaming chips into the table inventory container.

\* \* \* \* \*

§ 565.11. Procedures for completion of each round of play.

\* \* \* \* \*

(b) After examination of his cards, each player who has placed an Ante Wager shall have the option to either make a Play Wager in an amount equal to the player's Ante Wager or forfeit the Ante Wager and end his participation in the round of play. The dealer shall offer this option to each player, starting with the player farthest to the left of the dealer and moving clockwise around the table in order.

(1) If a player has placed an Ante Wager and a Pair Plus Wager as required under § 565.7(f) (relating to wagers) but does not make a Play Wager, the player shall forfeit both the Ante Wager and the Pair Plus Wager.

(2) If a player has placed an Ante Wager and a Progressive Payout Wager but does not make a Play Wager, the player shall forfeit both the Ante Wager and the Progressive Payout Wager but does not forfeit the eligibility to receive an Envy Bonus under § 565.12(h) (relating to payout odds; Envy Bonus; rate of progression; payout limitation).

\* \* \* \* \*

(d) The dealer shall then settle the wagers remaining on the table, starting with the player farthest to the dealer's right and continuing counterclockwise around the table until the following procedure has been completed for the remaining players:

\* \* \* \* \*

(3) Pay winning wagers in accordance with the payout odds listed in § 565.12.

(4) Pay any Envy Bonus won in accordance with § 565.12(h).

(e) If a player has won a progressive payout that is not being paid from the table inventory container, the cards of that player shall remain on the table until the necessary documentation has been completed.

(f) After all wagers have been settled, the cards shall be collected by the dealer and placed in the discard rack in a way so that the cards can be readily arranged to reconstruct each hand in the event of a question or dispute.

**§ 565.11a. Progressive payout.**

(a) A winning Progressive Payout Wager shall be paid in accordance with the payout table in § 565.12 (relating to payout odds; Envy Bonus; rate of progression; payout limitation) prior to the collection of the winning player's cards by the dealer.

(b) A winning player shall receive the payout for only the highest ranking hand formed from the player's Three Card Poker hand.

(c) A winning Progressive Payout Wager shall be paid irrespective of the outcome of the player's Ante Wager or Pair Plus Wager and have no bearing on any other wagers made by the player.

(d) Prior to making a payout for a Progressive Payout Wager, the dealer shall:

(1) Verify that the hand is a winning hand.

(2) Verify that the appropriate light on the progressive table game system has been illuminated.

(3) Have a floorperson or above validate the progressive payout in accordance with the certificate holder's approved internal control procedures.

(e) Winning Progressive Payout Wagers shall be paid after the player's other Three Card Poker wagers are settled. If a player has won the progressive payout that is 100% of the jackpot amount on the progressive meter under § 565.12(g), the progressive payout may not be paid from the table inventory container. Other winning Progressive Payout Wagers shall be paid from the table inventory container.

**§ 565.12. Payout odds; Envy Bonus; rate of progression; payout limitation.**

\* \* \* \* \*

(g) If a certificate holder offers a Progressive Payout Wager, the certificate holder shall pay out winning Progressive Payout Wagers at the amounts contained in the following payout table selected by the certificate holder in the certificate holder's Rules Submission filed in accordance with § 521.2:

**\$1 Progressive Payout Wagers**

<i>Hand</i>	<i>Payout Table A</i>	<i>Payout Table B</i>
Ace, King & Queen of Spades	100% of meter	100% of meter
Ace, King & Queen of Hearts, Diamonds or Clubs	\$500	\$500
Straight Flush	\$70	\$100
Three-of-a-kind	\$60	\$90
Straight	\$6	N/A

**\$5 Progressive Payout Wagers**

<i>Hand</i>	<i>Payout Table A</i>	<i>Payout Table B</i>
Ace, King & Queen of Spades	100% of meter	100% of meter
Ace, King & Queen of Hearts, Diamonds or Clubs	\$2,500	\$2,500
Straight Flush	\$350	\$500
Three-of-a-kind	\$300	\$450
Straight	\$30	N/A

(h) Players making a Progressive Payout Wager in accordance with § 565.7(a)(4) (relating to wagers) shall receive an Envy Bonus when another player at the same Three Card Poker table is the holder of an Envy Bonus Qualifying hand.

(1) Players are entitled to multiple Envy Bonuses if more than one other player is the holder of an Envy Bonus Qualifying hand; provided, however, that a player is not entitled to an Envy Bonus for his own hand or the hand of the dealer.

(2) Envy Bonus payments shall be made according to the following payout schedules for Envy Bonus Qualifying hands based upon the amount of the Progressive Payout Wager placed by the player receiving the Envy Bonus:

**\$1 Progressive Payout Wager**

<i>Hand</i>	<i>Envy Bonus</i>
Ace, King & Queen of Spades	\$100
Ace, King & Queen of Hearts, Diamonds or Clubs	\$25

**\$5 Progressive Payout Wager**

<i>Hand</i>	<i>Envy Bonus</i>
Ace, King & Queen of Spades	\$500
Ace, King & Queen of Hearts, Diamonds or Clubs	\$125

(i) The rate of progression for the progressive meter used for the progressive payouts in subsection (g) must be contained in the certificate holder's Rules Submission filed in accordance with § 521.2 and be at least 14% for Payout Table A and 20% for Payout Table B. The initial and reset amount must also be contained in the certificate holder's Rules Submission and be at least \$1,000.

(j) Winning Progressive Payout Hands shall be paid in accordance with the amount on the meter when it is the player's turn to be paid in accordance with § 565.11a (related to progressive payout).

**§ 565.13. Irregularities.**

\* \* \* \* \*

(g) If an automated card shuffling device or automated dealing shoe malfunctions and cannot be used, the automated card shuffling device or automated dealing shoe must 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.

**CHAPTER 567. WAR**

**§ 567.11. Irregularities.**

\* \* \* \* \*

(e) 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 must 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. 10-1246. Filed for public inspection July 9, 2010, 9:00 a.m.]



# PROPOSED RULEMAKING

## BOARD OF COAL MINE SAFETY

[ 25 PA. CODE CH. 208 ]

### Underground Coal Mine Safety

The Board of Coal Mine Safety (Board) proposes to add Chapter 208 (relating to underground coal mine safety) to read as set forth in Annex A.

The Board is seeking comments to the proposed rulemaking. This proposed rulemaking has been drafted by the Department of Environmental Protection (Department) and the action of the Board to publish this proposed rulemaking is not an endorsement by the Board of these regulations but is instead to call for comment from interested parties, specifically of the mining industry and miners in this Commonwealth. In particular, the Board would like to call attention to §§ 208.11, 208.12, 208.15(b), 208.21, 208.32(b) and 208.41(b). Comments are invited on the need or necessity for the proposed rulemaking, the clarity of the wording and other concerns. This proposed rulemaking establishes safety standards regarding belt conveyor flammability, the design, installation and maintenance of mine seals for abandoned areas, escapeways, emergency response, and self-contained self-rescue devices. This proposed rulemaking principally incorporates by reference safety standards adopted by the United States Department of Labor, Mine Safety and Health Administration (MSHA) in 30 CFR Part 75 (relating to mandatory safety standards—underground coal mines). The MSHA regulations/standards being incorporated by reference implement some of the requirements of the Mine Improvement and New Emergency Response Act of 2006 (MINER Act). See sections 201, 514, 515 and 14 of the MINER Act (30 U.S.C.A. §§ 826 and 963—965).

This proposed rulemaking was adopted by the Board at its meeting of April 8, 2010.

#### A. Effective Date

This proposed rulemaking will go into effect upon final-form publication in the *Pennsylvania Bulletin*.

#### B. Contact Persons

For further information, contact Joseph Sbaffoni, Director, Bureau of Mine Safety, Fayette County Health Center, 100 New Salem Road, Room 167, Uniontown, PA 15401, (724) 439-7469; or Doug Brennan, Director, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding submitting comments on this proposed rulemaking appears in Section J of this Preamble. Persons with a disability may use the Pennsylvania AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposed rulemaking is available electronically through the Department's web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us).

#### C. Statutory Authority

This proposed rulemaking is being made under the authority of sections 106, 106.1 and 106.2 of the Bituminous Coal Mine Safety Act (BCMSA) (52 P. S. §§ 690-106, 690-106.1 and 690-106.2), which authorizes the adoption of regulations implementing the BCMSA including additional safety standards. The Board is directed to consider adopting regulations implementing the MINER Act regu-

lations. This proposed rulemaking is also being made under the authority of section 1917-A of The Administrative Code of 1929 (71 P. S. § 510-17), which authorizes the Department to prevent the occurrence of a nuisance.

#### D. Background and Purpose

At the National level, the MSHA regulates mine safety under the authority of the Federal Mine Safety and Health Act of 1977 (30 U.S.C.A. §§ 801—965) (Mine Safety Act). The MSHA regulations are in 30 CFR Parts 1—199 (relating to Mine Safety and Health Administration, Department of Labor). The operating requirements for underground coal mines are in 30 CFR Part 75.

The Mine Safety Act only preempts state laws or regulations that are less stringent than or that conflict with MSHA standards. See section 955 of the Mine Safety Act (30 U.S.C.A. § 955), regarding state laws. Unlike a state's ability under other Federal statutes to obtain primacy (primary enforcement authority), a state cannot obtain authority to enforce the Mine Safety Act in that state's jurisdiction. As a result, a number of states maintain an independent underground coal mine safety program with the mine operator being subject to two mine safety programs.

On June 15, 2006, the United States Congress amended the Mine Safety Act by enacting the MINER Act. The MINER Act addresses safety issues raised by fatal mine accidents at the Sago and Alma Mines in West Virginia and the Darby Mine in Kentucky. In addition, Congress adopted the Consolidated Appropriations Act of 2008 (Pub. L. No. 110-161, December 26, 2007, 121 Stat. 1844) directing the MSHA to adopt new belt conveyor flame-resistance standards. In accordance with these congressional mandates, the MSHA promulgated regulations addressing the flammability of belt conveyors, the strength of seals for abandoned areas, escapeways, refuge alternatives, post-accident breathable air, communications, tracking and mine rescue teams.

The Commonwealth has been regulating safety at underground bituminous coal mines since 1889. See the act of May 9, 1889 (P. L. 154, No. 171), regarding the recovery of the bodies of workmen. On July 7, 2008, the General Assembly enacted the BCMSA. The BCMSA is the first significant update of the Commonwealth's underground bituminous coal mine safety laws since 1961. See section 103(a) of the BCMSA (52 P. S. § 690-103(a)), regarding purpose and findings.

One of the significant changes made by the BCMSA is the authority to promulgate regulations for mine safety. The General Assembly established the Board to promulgate the regulations. This seven-member Board consists of the Department's Secretary as chairperson and three members representing the view point of mine workers and the viewpoint of underground bituminous coal mine operators respectively. See section 106 of the BCMSA, regarding the Board.

A significant problem with the preexisting law is that its safety standards were becoming outdated. See section 103 of the BCMSA. There was no effective mechanism to modify existing standards or to adopt new safety standards to address changes in technology or other hazards.

To rectify this problem, the BCMSA contains broad rulemaking authority to adopt regulations to either modernize safety standards in the BCMSA or adopt new safety standards not contained in the BCMSA. See sec-

tion 106 of the BCMSA. The Board was directed to start considering whether to adopt Federal mine safety standards not in the BCMSA. See section 106.1 of the BCMSA, regarding rulemaking. Of particular concern is the adoption of regulations implementing safety standards established by the MINER Act regulations. See section 106.1(h) of the BCMSA.

This proposed rulemaking implements the MINER Act's safety standards for belt conveyor flammability, mine seals for abandoned areas, escapeway, refuge alternatives and post accident breathable air.

As the following explains, there are only a few instances when the MINER Act regulations need to be either strengthened or clarified. Therefore, this proposed rulemaking incorporates by reference the applicable MSHA regulations. Adopting MSHA regulations by reference will enhance safety at underground coal mines because the potential for confusion by operators as to the appropriate safety standard is minimized. A future change in an MSHA regulation that has been incorporated by reference takes immediate effect in law in this Commonwealth. As a result, these regulations will remain current with MSHA regulations. If it appears that a proposed change to one of the incorporated by reference MSHA regulations is inappropriate or will reduce the safety of miners, the Board can act to make the appropriate modification to the Department's regulations.

#### *Sealing of abandoned areas of mines*

This issue is being addressed because inadequately sealed abandoned and unused portions of mines pose a significant safety hazard. Abandoned and unused areas of underground coal mines may contain coal dust and accumulated gas which can be ignited by rock falls, lightning and, in some instances, fires started by spontaneous combustion. Seals are used to isolate this environment from the active workings of the mine. They are also used to keep explosions in abandoned areas contained to that area. Without an adequate seal, the overpressure from an explosion in an abandoned area can cause serious injury to miners and damage mine equipment. In the Department's experience, the atmosphere in these abandoned areas does not remain inert. This creates the risk of having an abandoned area which could have a dangerous explosion that blows out the seals.

Under section 235 of the BCMSA (52 P. S. § 690-235), regarding unused and abandoned parts of mines, and its predecessor section 247 of the Pennsylvania Bituminous Coal Mine Act (PBCMA) (52 P. S. § 701-247), the Department is responsible for ensuring that abandoned parts of mines are adequately sealed. The Department has relied upon the MSHA's determination that a proposed seal, if installed properly, will meet a specified over pressure standard. The Department ensures that the seal is properly installed and maintained.

Initially, the MSHA required seals to have a strength to withstand an overpressure of at least 20 pounds per square inch (psi). The 20 psi standard was in the original version of 30 CFR 75.335 (relating to seal strengths, design applications, and installation). The definition of "overpressure" is in 30 CFR 75.2 (relating to definitions).

At 72 FR 28796 (May 22, 2007), as an Emergency Temporary Standard (ETS), the MSHA revised the seal strength standard to be at least 50 psi.

At 72 FR 21182 (April 14, 2008), the MSHA finalized the ETS with some additional revisions. A significant change was that the MSHA created a two-tier system. The operator can use a seal meeting the 50 psi standard

when the atmosphere of the abandoned area is inert, there is monitoring to ensure that the atmosphere remains inert and there are no other circumstances putting additional stress on the seals. Otherwise, the seal must have a strength of at least 120 psi. Rather than following this two-tier system, the Department has been requiring seals to meet the 120 psi standard. The proposed mine seal regulation codifies the current practice of the Department: requiring seals to meet at least a 120 psi standard; relying on the MSHA's determination that the seal is designed to meet the 120 psi standard; and ensuring that the operator is properly installing and maintaining the seal.

#### *Belt conveyor flammability*

One of the most significant hazards in an underground coal mine is a belt conveyor fire. Under section 273 of the PBCMA (52 P. S. § 701-273), regarding conveyor belts, construction and operation of conveyor equipment underground, operators were required to install belts with adequate flame-resistant coverings. In determining whether the belt covering was adequately flame-resistant, the Department relied upon the MSHA's approval of the belt as being flame-resistant.

The efficacy of the MSHA standard has been in question for some time.

At the time the BCMSA was being enacted, the MSHA had not yet promulgated the new belt flammability resistance standards. Therefore, rather than enacting a provision requiring belt conveyor coverings to meet a flammability standard, the General Assembly directed the Board to consider promulgating a regulation addressing belt flammability after the MSHA adopts MINER ACT regulations addressing belt flammability. See section 106.1(h) of the BCMSA.

At 73 FR 80580 (December 31, 2008), the MSHA promulgated a final rulemaking which, among other things, established a more stringent belt flammability standard and belt entry maintenance standards to minimize the possibility of a belt fire. The proposed rulemaking incorporates by reference the requirement that belts meet the new flammability resistance standard.

#### *Emergency response*

Most of the safety standards in the BCMSA are for the purpose of ensuring that a mine accident will not occur. Despite effective mine safety standards, serious accidents are still possible. Therefore, it is necessary to maximize the possibility of the miner's ability to survive a serious accident.

The MSHA regulations have always contained standards concerning escapeways as well as self-contained self-rescue devices which provide post accident breathable air. The MINER Act regulations strengthen these provisions and also establish emergency response and post accident communications standards. Adopting these MSHA regulations will enhance the Department's ability to ensure the safety of miners if, despite the operational safety standards, a fire or explosion occurs.

#### *E. Summary of Regulatory Requirements*

These regulations will be placed in Chapter 208. Creating a new chapter is necessary because the Commonwealth has never promulgated regulations addressing underground coal mine safety.

#### *General provisions*

##### *§ 208.1. Definitions.*

Most of the terms being defined in this proposed rulemaking are already defined in the BCMSA. They are

restated here for convenience. These terms are “act,” “approval or approved,” “miner,” “MSHA,” “NIOSH,” “operator,” “representative of miners” and “underground bituminous coal mine or mine.”

In addition, it is proposed to define “overpressure,” “psi” and “self-contained self-rescue device.” The terms “overpressure” and “psi” are used in proposed § 208.11 (relating to seals) to describe the strength of seals. The term “overpressure” has been defined in accordance with MSHA standards in 30 CFR 75.2. The term “self-contained self-rescue device” is used in proposed §§ 208.61—208.65 (relating to self-contained self-rescue devices). The term has been defined in accordance with the MSHA standards. See 73 FR 21182.

§ 208.2. *Scope.*

The safeguards and procedures required by these regulations will apply to underground bituminous coal mines, operators and miners subject to the BCMSA.

§ 208.3. *Access to material.*

This section authorizes the Department to obtain on an individual basis copies of the material an operator submits to the MSHA under the regulations incorporated by reference in Chapter 208. For the most part, the Department will be accepting the MSHA’s approval of seals and equipment. There are instances when the Department will need copies of this information to approve a plan or to raise concerns to the MSHA for its consideration as part of its review of the requested approval. The Department will provide this information to an official representative of the miners as requested, unless specified otherwise in Chapter 208.

*Seals*

§ 208.11. *Seals.*

Subsection (a) requires seals for abandoned areas to be designed, constructed and installed to withstand an overpressure of at least 120 psi. As with current practice, this subsection is more stringent than the MSHA regulation. The MSHA regulation permits a 50 psi standard if the atmosphere in the abandoned area is and remains inert. However, the monitoring system only measures the atmosphere at or near the seal. It does not monitor the atmosphere throughout the abandoned area. Therefore, there is significant uncertainty as to whether the atmosphere throughout the abandoned area is inert. Also, in the Department’s experience, the atmosphere in these abandoned areas does not remain inert. This creates the risk of having an abandoned area which could have a dangerous explosion that blows out the seals.

Subsection (b) incorporates by reference 30 CFR 75.335(a)(2) and (c) (relating to seal strengths, design applications and installation). This incorporation by reference ensures consistency because the Department will use the MSHA’s criteria for seals requiring a strength of 120 psi.

Subsection (c) incorporates by reference 30 CFR 75.335(a)(3). This incorporation by reference ensures consistency because the Department will use the MSHA’s criteria to require a seal to have a strength greater than 120 psi.

Subsection (d) establishes two key points. First, the Department will accept the MSHA’s approval of the seal’s design. Second, the Department will approve the installation of the seal as part of the ventilation plan for the abandoned area required by section 235 of the BCMSA. The Department needs to retain responsibility for the

installation of seals because of the potential impact on mining operations and the Department’s obligations under section 235 of the BCMSA. To minimize conflicts and paperwork the operator is to submit to the Department the same information it submits to the MSHA for approval to install the seal. Unlike the MSHA requirements, if applicable, the operator shall provide a copy of the approved seal design installation application to the miners’ representative at the same time the application is submitted to the Department. This enables the persons most at risk if the seal fails an opportunity to comment.

The Department did not duplicate the certification requirement in this proposed rulemaking because sections 218(d) and 218.1(b) of the BCMSA (52 P. S. §§ 690-218(d) and 690-218.1(b)), regarding preshift examination at fixed intervals and supplemental examination, require the person doing the examination to certify by initials, the time and date the seals were examined.

§ 208.12. *Sampling and monitoring requirements.*

This section incorporates by reference 30 CFR 75.336 (relating to sampling and monitoring requirements). The atmospheres of sealed areas shall be monitored by a person certified under the BCMSA as a mine foreman, assistant mine foreman or mine examiner. This monitoring can be conducted by means of an atmospheric monitoring system, rather than by using site specific sampling by a certified person.

Initially a sealed area is monitored once every 24 hours. If the seals’ design strength is 120 psi or greater, then monitoring may cease once the seals for the area reach the design strength. If the seal strength is less than 120 psi, monitoring shall continue at a lesser frequency in accordance with the MSHA approved seal or ventilation plan. There are requirements to ensure that the monitoring points and sampling frequencies remain valid. Finally, for those areas where the seal strength is less than 120 psi, the section addresses the actions to be taken if the atmosphere stops being inert.

§ 208.13. *Construction and repair of seals.*

Subsection (a) incorporates by reference 30 CFR 75.337 (relating to construction and repair of seals), the MSHA’s standards for approving the installation and repair of seals. This incorporation by reference ensures that the Department and the MSHA will be enforcing the same standards to ensure the safe installation and repair of seals.

The MSHA regulation requires the operator to maintain and repair seals to protect miners from the hazards of sealed areas.

The MSHA regulation specifies the actions to be taken by the operator prior to sealing an area.

The MSHA regulation requires the operator to designate a certified person to directly supervise the installation and repair of seals. This certified person is not required to be certified as a mine foreman, assistant mine foreman, or examiner under the BCMSA.

The MSHA regulation requires a senior mine official to certify that the seal has been installed in accordance with the approval.

The MSHA regulation specifies the operator’s notification and information submission requirements.

The MSHA regulation prohibits, without approval, cutting, welding or soldering within 150 feet of seals.

The MSHA regulation specifies requirements for gas sampling pipes.

The MSHA regulation includes requirements for draining water and slurry from a sealed area.

Subsection (b) requires that cutting, welding and soldering with an arc or flame within 150 feet of a seal must also be approved by the Department, as well as the MSHA. Conducting welding, cutting or soldering within 150 feet of a seal, such as the installation or repair of a seal, raises significant safety concerns relating to the operation of the mine.

The only difference between this proposed section and the MSHA regulation is that a copy of the information to justify welding, cutting or soldering within 150 feet of a seal is to be submitted, if applicable, to the representative of the miners. This enables the persons who could be placed at risk by the welding, cutting or soldering activity to have an opportunity to comment on the adequacy of the operator's proposal.

#### § 208.14. *Training.*

This section establishes the training requirements for persons involved in the installation or repair of seals. It incorporates by reference 30 CFR 75.338 (relating to training). As a result, the Department and the MSHA will be using the same standards for determining who is qualified to be involved in the construction and repair of seals. The requirements can be summarized as follows: persons conducting sampling shall be trained as to the appropriate equipment, locations and methodologies for conducting sampling; persons involved in the installation or repair of seals shall be trained in the use of the approved materials and procedures for constructing and repairing seals; and the operator must certify that all persons involved in the installation and repair of seals have received the appropriate training.

#### § 208.15. *Seals records.*

Subsection (a) incorporates by reference 30 CFR 75.339 (relating to seals records). The operator's recordkeeping and retention requirements for the Department will be identical to its requirements for the MSHA. Subsection (b) obligates the operator, upon request, to provide these records to the Department and, if applicable, the representative of the miners.

#### *Escapeways*

#### § 208.21. *Escapeways.*

Subsection (a) incorporates by reference 30 CFR 75.380 (relating to escapeways; bituminous and lignite mines). The requirements can be summarized as follows:

There shall be at least two distinct and travelable escapeways.

The escapeways must run continuously from each working section, and each area where mechanized mining equipment is being installed or removed, to separate surface openings.

The escapeways shall be maintained in a safe and travelable condition.

Each escapeway shall be provided with a durable, flame-resistant lifeline which is equipped with directional signaling devices.

The openings shall be protected to prevent fires, fumes or flood water from entering the mine.

One escapeway will be the primary escapeway which shall be ventilated with intake air at a higher pressure from the belt entryway. Alternative ventilation standards that maintain the integrity of the escapeway can be approved.

The alternative escapeway must be isolated from the primary escapeway, except that the two escapeways may have a common air intake.

There is a limitation on the types of equipment that can be in the escapeways.

In general, the primary escapeway must be isolated from belt and haulage entries.

Shafts and slopes are to be provided with mechanical escape facilities.

Subsection (b) incorporates by reference 30 CFR 75.382 (relating to mechanical escape facilities). The requirements include the following: mechanical escape facilities shall be provided with overspeed, overwind and automatic stop controls; every mechanical escape facility with a platform, cage or other device must be equipped with brakes that can stop the fully loaded platform, cage or other device; mechanical escape facilities, including automatic elevators, shall be examined weekly; and a person trained to operate the mechanical escape facility always shall be available while anyone is underground.

Subsection (c) incorporates by reference 30 CFR 75.384 (relating to longwall and shortwall travelways). The requirements include the following: if longwall or shortwall mining systems are used and the two designated escapeways are located on the headgate side, a travelway shall be provided on the tailgate side of that longwall or shortwall; the route of travel shall be clearly marked; and if a roof fall or other blockage occurs that prevents travel in the travelway, work shall cease and miners shall be withdrawn to a safe area and the Department shall be notified.

Section 274 of the BCMSA (52 P. S. § 690-274) addresses mine openings or outlets. This section specifically requires that the two intake openings or outlets to the surface must not be at a common shaft, slope or drift opening. It also states that the openings or outlets must have a distinct means of egress available for use by the employees. For this reason, in subsection (a), the Department did not incorporate by reference the language in 30 CFR 75.380(c) that allows two escapeways to end in one multiple compartment shaft or slope separated by walls. Both the State and the Federal regulations require no fewer than two intake openings or outlets to the surface from every seam of coal being worked.

The Department will apply escapeway requirements in accordance with MSHA regulations to primary and secondary escapeways designated by mine operators. Section 230(c)(1)(iii) of the BCMSA (52 P. S. § 690-230(c)(1)(iii)) requires that the belt conveyor entry provides an intake escapeway to the main air current. Section 274(e) of the BCMSA also requires that intake and return entries shall be kept reasonably drained and reasonably free from refuse and obstructions of all kinds, so that individuals may safely travel throughout the whole length and have a safe means of egress from workings in case of emergencies.

#### *Belts*

#### § 208.31. *Approval of conveyor belts.*

This section incorporates by reference 30 CFR 75.1108(b) and (c) (relating to approved conveyor belts). This provision provides the following:

Beginning December 31, 2009, conveyor belts installed by operators shall be approved by the MSHA as meeting the flame-resistant standards in 30 CFR Part 14 (relating to requirements for the approval of flame-resistant conveyor belts).

The compliance date may be extended if the MSHA extends its compliance date for installing conveyor belts approved under 30 CFR Part 14 based on a determination that these belts are not available.

All conveyor belts in a mine are to be approved by the MSHA under the 30 CFR Part 14 flame-resistant standard by December 31, 2018.

§ 208.32. *Maintenance of belt conveyors and belt conveyor entries.*

Subsection (a) incorporates by reference 30 CFR 75.1731 (relating to maintenance of belt conveyors and belt conveyor entries) so that the Department will be using the MSHA belt and belt entry maintenance requirements. These requirements are common sense actions that will minimize the risk of a conveyor belt fire. Subsection (b) makes it clear that the belt conveyor preshift and fixed interval inspections address compliance with these maintenance requirements. The maintenance requirements can be summarized as follows: damaged belt conveyor components shall be repaired or replaced; belt conveyors must be aligned to prevent rubbing; materials that contribute to a frictional heating hazard are to be excluded from the belt entry; and a spliced conveyor belt must retain its flame-resistant properties.

*Emergencies*

§ 208.41. *Emergency evacuation.*

Subsection (a) incorporates by reference 30 CFR 75.1501 (relating to emergency evacuations). This section requires that, for each shift underground, there shall be a person who will be responsible for taking charge during a mine emergency. The MSHA regulation permits this responsible person to be working underground. This runs the risk that the responsible person, due to the mine emergency, cannot take charge. Even if the responsible person is not caught up in the mine emergency, if that person is underground when the emergency happens, it will be difficult for that person to carry out all the duties of a responsible person. Therefore, subsection (b) adds to the MSHA requirements by requiring that an individual designated by the mine operator and trained to the same extent in emergency procedures as the responsible person shall be located on the surface at all times to take charge during mine emergencies if the responsible person is unable to carry out his duties. The individual on the surface is to have current knowledge of where persons are working underground, the mine's ventilation system, aspects of the mine relevant to post accident response, for example escapeways, communication systems, as well as, the different accident/emergency response plans and shall be annually trained in all the aspects of emergency response.

Responsible persons are authorized to initiate an evacuation when there is an imminent danger to miners due to fire or explosion or gas or water inundation. The operator is responsible for ensuring that persons working underground know the identity of their responsible person.

§ 208.42. *Emergency evacuation and firefighting program of instruction.*

This section incorporates by reference 30 CFR 75.1502 (relating to mine emergency evacuation and firefighting program of instruction). The Department will accept the MSHA's approval of the emergency evacuation and fire fighting program of instruction. The Department's interest is whether an operator is instructing all miners in the proper procedures they must follow if a mine emergency occurs. Miners shall be instructed in the following: mine

evacuation procedures; procedures for assembling and deploying fire and rescue equipment and personnel; mine rescue devices; refuge alternatives; different mine evacuation scenarios; use of fire suppression and fighting equipment; escapeway system; storage of self-contained self-rescuers in the mine; mine map; and escape, fire fighting and emergency evacuation plans in effect at the mine.

§ 208.43. *Use of fire suppression equipment.*

This section incorporates by reference 30 CFR 75.1503 (relating to use of fire suppression equipment). The operator is responsible for ensuring that the appropriate number of persons are trained in using the fire fighting equipment available on the following: working sections; attended equipment; and maintenance shifts.

§ 208.44. *Mine emergency evacuation training and drills.*

This section incorporates by reference 30 CFR 75.1504 (relating to mine emergency evacuation training and drills). The Department will be ensuring that the operator is conducting its MSHA-approved emergency training. Operators are required to conduct emergency training and require miners to participate. The training and drill must occur at least once each quarter. Each training and drill must address the following: hands on training on all the types of self-contained self-rescuers at the mine; a realistic escape scenario running the length of either the primary or alternative escapeway; a review of the mine and escapeway maps, the fire fighting plan and the mine emergency evacuation plan in effect at the mine; operation and location of fire fighting equipment and materials; the procedures for deploying refuge alternatives; and training in the transportation of the refuge alternative.

§ 208.45. *Escapeway maps.*

This section incorporates by reference 30 CFR 75.1505 (relating to escapeway maps). The Department and the MSHA will be enforcing the same escapeway mine map requirements. These regulations address the following: the map's depiction of information a miner needs to either escape the mine or to seek refuge within the mine; the places in the mine where the maps are to be posted; keeping the maps up to date; and notifying all affected miners of changes in the escapeway system.

§ 208.46. *Refuge alternatives.*

This section incorporates by reference 30 CFR 75.1506 (relating to refuge alternatives). The Department will accept and enforce the MSHA's approval of refuge alternatives and components. This incorporation by reference means that the Department and the MSHA will be using the same standards to ensure that operators have established refuges in the mine as an alternative when escape is not feasible. The requirements address the following: the use of refuge alternatives and components approved by the MSHA; the capacity of refuge alternatives; the location of refuge alternatives; identification of roof and rib support for the refuge alternative; maintenance of the refuge alternative and the refuge alternative's site; the identification of refuge alternatives; monitoring of the refuge alternative's atmosphere; and provision of a fire extinguisher.

§ 208.47. *Emergency response plan; refuge alternatives.*

This provision incorporates by reference 30 CFR 75.1507 (relating to Emergency Response Plan; refuge alternatives). Incorporating 30 CFR 75.1507 by reference enhances the Department's ability to ensure the adequacy of the mine refuge alternative being provided by an operator. The regulation requires the emergency response

plan, required by the MINER Act, to address the following: the provision of refuge alternatives; the methods to be used to maintain the refuge alternatives' atmosphere; the supplies, equipment and manuals to be included in a refuge alternative; and the procedures and arrangements to be used to provide additional supplies if the refuge alternative only has 48 hours of supplies.

§ 208.48. *Training and records for examination, maintenance and repair of refuge alternatives and components.*

This provision incorporates by reference 30 CFR 75.1508 (relating to training and records for examination, maintenance and repair of refuge alternatives and components). The Department will be using the MSHA requirements to ensure that refuge alternatives and components are properly maintained. The requirements address the following: the training of all persons responsible for maintaining refuge alternatives and components; documentation of repairs made to refuge alternatives or components; and maintenance of training and repair records.

#### *Communications*

§ 208.51. *Communications facilities for refuge alternatives.*

This provision incorporates by reference 30 CFR 75.1600-3 (relating to communications facilities; refuge alternatives). The Department and the MSHA will be using the same standards to ensure that refuge alternatives are provided with affective communications systems. These requirements address a two-way communications system and an additional backup system.

#### *Self-Contained Self-Rescue Devices*

§ 208.61. *Availability of approved self-contained self-rescue devices; instruction in use and location.*

This provision incorporates by reference 30 CFR 75.1714 (relating to availability of approved self-rescue devices; instruction in use and location). The Department and the MSHA will be using the same standards to ensure the availability of self-contained self-rescue devices. The regulation addresses the following issues: the operator's obligation to provide to miners who go underground and authorized visitors approved self-contained self-rescue devices which provide breathable air for at least 1 hour; and training in the use of self-contained self-rescue devices.

§ 208.62. *Approved self-contained self-rescue devices.*

This provision incorporates by reference 30 CFR 75.1714-1 (relating to approved self-rescue devices). The Department will be able to ensure that operators are using the appropriate self-contained self-rescue devices. In general, operators are required to provide self-contained self-rescue devices that are approved by the MSHA and the National Institute of Occupational Safety and Health.

§ 208.63. *Self-contained self-rescue devices; use and location requirements.*

This provision incorporates by reference 30 CFR 75.1714-2 (relating to self-rescue devices; use and location requirements). The Department and the MSHA will be using the same requirements on operators to provide self-contained self-rescue devices. The issues addressed

are as follows: the wearing or carrying of a self-contained self-rescue device by each person underground; the conditions and circumstances under which self-contained self-rescue devices can be near the person working underground rather than worn or carried by the person; the MSHA's approval for an operator to place self-contained self-rescue devices more than 20 feet away from the person; storing self-contained self rescuers underground; and the use and location of devices with a 10-minute capacity and additional 1-hour bottles.

§ 208.64. *Self-contained self-rescue devices; inspection, testing, maintenance, repair, and recordkeeping.*

This provision incorporates by reference 30 CFR 75.1714-3 (relating to self-rescue devices; inspection, testing, maintenance, repair, and recordkeeping). The Department will use the MSHA standards to ensure that self-contained self-rescue devices are properly maintained. The MSHA standards require the following: inspection, testing, maintenance and repair of self-contained self-rescue devices by an adequately trained person; inspection of self-contained self-rescue devices after being worn or used; testing filter self-contained self-rescuers; testing of self-contained self-rescue devices; documentation of the testing and maintenance activities; and the repair of self-contained self-rescue devices removed from service.

§ 208.65. *Additional self-contained self-rescue devices.*

This provision incorporates by reference 30 CFR 75.1714-4 (relating to additional self-contained self rescuers (SCSRs)). The Department will be enforcing the MSHA requirements for additional self-rescuers. The requirements address the provision of the following: additional self-contained self-rescuers in working places; additional self-contained self-rescuers on mantrips; and caches of self-contained self-rescuers in or between escapeways.

§ 208.66. *Map locations.*

This section incorporates by reference 30 CFR 75.1714-5 (relating to map locations of self-contained self-rescuers (SCSR)). This provision requires the mine operator to indicate the locations of all stored self-contained self-rescuers on mine maps.

§ 208.67. *Emergency tethers.*

This section incorporates by reference 30 CFR 75.1714-6 (relating to emergency tethers). This provision requires at least one tether, which is a durable rope or equivalent material, to be provided and stored with the additional self-contained self-rescuers.

§ 208.68. *Multi-gas detectors.*

This section incorporates by reference 30 CFR 75.1714-7 (relating to multi-gas detectors). This provision requires that a mine operator shall provide an MSHA-approved, handheld, multi-gas detector that can measure methane, oxygen and carbon monoxide to each group of underground miners and to each person who works alone. It also requires that at least one person in each group of underground miners shall be a qualified person under 30 CFR 75.150 (relating to tests for methane and for oxygen deficiency; qualified person) and that each person who works alone shall be trained to use the device. Multi-gas detectors shall be maintained and calibrated.

§ 208.69. *Reporting SCSR inventory, malfunctions and retention.*

This section incorporates by reference 30 CFR 75.1714-8 (relating to reporting SCSR inventory and malfunctions; retention of SCSRs).

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

##### *Benefits*

The intent of this proposed rulemaking is to enhance mine safety by ensuring that abandoned areas are isolated from the working mine, by reducing the possibility of belt conveyor fires and by enhancing the miners ability to survive a mine fire, cave-in or the inundation of a mine by gas or water. Abandoned areas are effectively isolated because the proposed rulemaking includes effective standards for the design, strength, installation and maintenance of mine seals. The possibility of a belt fire is reduced because the Department will be ensuring that belts have been approved under the MSHA's new belt conveyor flame-resistance standard and that the belt conveyor entryway is maintained in a manner to minimize the possibility of a fire. A miner's ability to survive a mine emergency is enhanced in several ways. First, the Department will be enforcing the MSHA requirements concerning emergency response and emergency response training. Second, to enhance the miners' ability to escape a mine, the Department will be ensuring that the MSHA's requirements for escapeways and self-contained self-rescue devices are met. In case the miners cannot escape the mine, the Department's enforcement of the MSHA's refuge alternative requirements will enhance the miners' ability to remain alive pending a rescue.

Currently, there are 38 underground bituminous coal mines in this Commonwealth. These mines employ approximately 4,420 persons, not all of whom work underground.

This proposed rulemaking reduces the possibility that 1 or more of the 4,420 persons working at mines will suffer a serious or fatal injury due to a mine fire, cave-in or an inundation of a mine by gas or water. Also, the belt conveyor fire-resistance and mine seal standards reduce the possibility of an explosion or a fire that would seriously damage the mine, mining equipment or cause the loss of life. The Department lacks the data to estimate the potential benefits from reducing these risks. Nonetheless, the potential benefits are significant because, as the following explains, the costs are minimal.

The only alternative to be considered was writing regulations that primarily restate the MINER Act regulations. This approach was rejected for two reasons.

First, in rewriting the regulations there is always the possibility of unintended differences, of style if nothing else, with the MINER Act regulations. These differences could become a source of confusion as to the appropriate standard to be followed by operators. Incorporating by reference the MSHA regulations with a few differences stated in the regulation minimizes this problem.

Second, the incorporation by reference enables the Department's regulations to remain consistent with the MSHA regulations. Of particular concern are incorporating any changes to the MSHA regulations due to a law suit brought by the International Mine Workers challenging some of the aspects of MSHA's belt flammability and alternative refuge regulations. This incorporation by reference will implement changes to the MSHA MINER Act regulations due to this litigation.

##### *Compliance costs*

This proposed rulemaking does not impose new compliance costs. For the most part, this proposed rulemaking imposes standards already being imposed by the MSHA. The only differences are instances when the proposed rulemaking requires a seal with a strength of 120 psi and the MSHA would permit a seal of 50 psi. However, this is not new. Since October 20, 2008, the Department has been requiring new seals to have a strength of 120 psi.

##### *Compliance Assistance Plan*

The Department will work with the Pennsylvania Coal Association to assist coal mine operators in complying with this proposed rulemaking. In addition, compliance assistance will be provided by the mine inspectors as part of their inspections of mines.

##### *Paperwork Requirements*

The only paperwork requirement imposed by this proposed rulemaking is that operators shall be required to submit to the Department applications to conduct welding, cutting or soldering within 150 feet of a seal.

##### G. *Sunset Review*

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

##### H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on June 25, 2010, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Senate and House Environmental Resources and Energy Committees. 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.

##### I. *Public Comments*

*Written comments.* Interested persons are invited to submit comments, suggestions or objections regarding the proposed rulemaking to the Board of Coal Mine Safety, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board on or before September 8, 2010. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by the Board on or before September 8, 2010. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final-form rulemaking will be considered.

*Electronic comments.* Comments may be submitted electronically to the Board at RegComments@state.pa.us and must also be received by the Board on or before September 8, 2010. A subject heading of the proposal and a

return name and address must be included in each transmission. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

JOHN HANGER,  
Chairperson

**Fiscal Note:** 7-455. No fiscal impact; (8) recommends adoption.

**Annex A**

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

**Subpart D. ENVIRONMENTAL HEALTH AND SAFETY**

**ARTICLE IV. OCCUPATIONAL HEALTH AND SAFETY**

**CHAPTER 208 UNDERGROUND COAL MINE SAFETY**

**GENERAL PROVISIONS**

- Sec. 208.1. Definitions.
- 208.2. Scope.
- 208.3. Access to material.

**SEALS**

- 208.11. Seals.
- 208.12. Sampling and monitoring requirements.
- 208.13. Construction and repair of seals.
- 208.14. Training.
- 208.15. Seals records.

**ESCAPEWAYS**

- 208.21. Escapeways.

**BELTS**

- 208.31. Approval of conveyor belts.
- 208.32. Maintenance of belt conveyors and belt conveyor entries.

**EMERGENCIES**

- 208.41. Emergency evacuation.
- 208.42. Emergency evacuation and firefighting program of instruction.
- 208.43. Use of fire suppression equipment.
- 208.44. Mine emergency evacuation training and drills.
- 208.45. Escapeway maps.
- 208.46. Refuge alternatives.
- 208.47. Emergency response plan; refuge alternatives.
- 208.48. Training and records for examination, maintenance and repair of refuge alternatives and components.

**COMMUNICATIONS**

- 208.51. Communications facilities for refuge alternatives.

**SELF-CONTAINED SELF-RESCUE DEVICES**

- 208.61. Availability of approved self-contained self-rescue devices; instruction in use and location.
- 208.62. Approved self-contained self-rescue devices.
- 208.63. Self-contained self-rescue devices; use and location requirements.
- 208.64. Self-contained self-rescue devices; inspection, testing, maintenance, repair, and recordkeeping.
- 208.65. Additional self-contained self-rescue devices.
- 208.66. Map locations.
- 208.67. Emergency tethers.
- 208.68. Multi-gas detectors.
- 208.69. Reporting SCSR inventory, malfunctions and retention.

**GENERAL PROVISIONS**

**§ 208.1. Definitions.**

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

*Act*—The Bituminous Coal Mine Safety Act (52 P. S. §§ 690-101—690-708).

*Approval or approved*—The term as defined in section 104 of the act (52 P. S. § 690-104).

*MSHA*—The term as defined in section 104 of the act.

*Miner*—The term as defined in section 104 of the act.

*NIOSH*—The term as defined in section 104 of the act.

*Operator*—The term as defined in section 104 of the act.

*Overpressure*—The highest pressure over the background atmospheric pressure that could result from an explosion, which includes the impact of the pressure wave on an object. See 30 CFR 7.502 (relating to definitions).

*psi*—Pounds per square inch.

*Representative of the miners*—The term as defined in section 104 of the act.

*SCSR—Self-contained self-rescue device*—A type of closed-circuit, self-contained breathing apparatus approved by MSHA and NIOSH under 42 CFR Part 84 (relating to approval of respiratory protective devices) for escape only from underground mines.

*Underground bituminous coal mine or mine*—The term as defined in section 104 of the act.

**§ 208.2. Scope.**

The safety standards and procedures in this chapter apply to all underground bituminous coal mines, operators and miners subject to the act.

**§ 208.3. Access to material.**

Upon request from the Department, or as required under this chapter, an operator shall submit to the Department a copy of any application, report, plan or other material submitted to MSHA pursuant to a regulation adopted by reference in this chapter. Upon request from the authorized representative of miners, the Department will provide copies of an application, report, plan or other material submitted to MSHA pursuant to a regulation adopted by reference in this chapter.

**SEALS**

**§ 208.11. Seals.**

(a) *Minimum seal strength.* Mine operators shall design, construct and maintain seals to withstand an overpressure of at least 120 psi.

(b) *Seal strengths and installation.* The provisions of 30 CFR 75.335(a)(2) and (c) (relating to seal strengths, design applications, and installation) are incorporated by reference.

(c) *Seal Strength greater than 120 psi.* The provisions of 30 CFR 75.335(a)(3) shall be used for determining when the strength of a seal exceeds 120 psi.

(d) *Seal installation approval.* The operator shall submit an application to install the MSHA-approved seal design to the Department for its review and approval. An approved application to install the seal shall be made part of the abandoned area ventilation plan required under section 235 of the act (52 P. S. § 690-235) regarding unused and abandoned parts of mines and follow 30 CFR 75.335(c).

(1) The operator shall provide the representative of the miners, if applicable, the approved seal design installation application at the same time the operator submits the application to the Department.

(2) Any individual installing the seal shall do so in accordance with the approved abandoned area ventilation plan.



**§ 208.12. Sampling and monitoring requirements.**

The provisions of 30 CFR 75.336 (relating to sampling and monitoring requirements) are incorporated by reference.

**§ 208.13. Construction and repair of seals.**

(a) *General.* The provisions of 30 CFR 75.337 (relating to construction and repair of seals) are incorporated by reference.

(b) *Welding, cutting, and soldering.* An individual may not perform any welding, cutting or soldering with an arc or flame within 150 feet of a seal unless otherwise approved by the Department.

(1) The operator shall submit to the Department and the representative of the miners, if applicable, an application containing the same information submitted to MSHA under 30 CFR 75.337(f).

(2) Any welding, cutting or soldering within 150 feet of a seal shall be performed in accordance with the application approved by the Department and made part of the abandoned area ventilation plan required under section 235 of the act (52 P. S. § 690-235), regarding unused and abandoned parts of mines.

**§ 208.14. Training.**

The provisions of 30 CFR 75.338 (relating to training) are incorporated by reference.

**§ 208.15. Seals records.**

(a) *General.* The provisions of 30 CFR 75.339 (relating to seals records) are incorporated by reference.

(b) *Access to records.* Upon request from the Department, or from the authorized representative of miners, mine operators shall provide access to any record required under this section.

**ESCAPEWAYS****§ 208.21. Escapeways.**

(a) *Bituminous and lignite mines.* The provisions of 30 CFR 75.380 (relating to escapeways; bituminous and lignite mines) are incorporated by reference except that the language in 30 CFR 75.380(c) allowing the two escapeways to end in one multiple compartment shaft or slope separated by walls is not incorporated by reference.

(b) *Mechanical and escape facilities.* The provisions of 30 CFR 75.382 (relating to mechanical escape facilities) are incorporated by reference.

(c) *Longwall and shortwall travelways.* The provisions of 30 CFR 75.384 (relating to longwall and shortwall travelways) are incorporated by reference. If a roof fall or other blockage occurs that prevents travel in the travelway, the mine operator shall notify the Department.

**BELTS****§ 208.31. Approval of conveyor belts.**

The provisions of 30 CFR 75.1108(b) and (c) (relating to approved conveyor belts) are incorporated by reference.

**§ 208.32. Maintenance of belt conveyors and belt conveyor entries.**

(a) *Maintenance standards.* The provisions of 30 CFR 75.1731 (relating to maintenance of belt conveyors and belt conveyor entries) are incorporated by reference.

(b) *Inspections.* Individuals conducting inspections of belt conveyors required under sections 218 and 218.1 of the act (52 P. S. §§ 690-218 and 690-218.1) regarding

preshift examination at fixed intervals and supplemental inspection shall address compliance with this section's maintenance requirements.

**EMERGENCIES****§ 208.41. Emergency evacuation.**

(a) *Emergency evacuation.* The provisions of 30 CFR 75.1501 (relating to emergency evacuations) are incorporated by reference.

(b) *Individual located on the surface.* An individual designated by the mine operator to take charge during mine emergencies and trained to the same extent in emergency procedures as the responsible person shall be located on the surface during all shifts.

**§ 208.42. Emergency evacuation and firefighting program of instruction.**

The provisions of 30 CFR 75.1502 (relating to mine emergency evacuation and firefighting program of instruction) are incorporated by reference.

**§ 208.43. Use of fire suppression equipment.**

The provisions of 30 CFR 75.1503 (relating to use of fire suppression equipment) are incorporated by reference.

**§ 208.44. Mine emergency evacuation training and drills.**

The provisions of 30 CFR 75.1504 (relating to mine emergency evacuation training and drills) are incorporated by reference.

**§ 208.45. Escapeway maps.**

The provisions of 30 CFR 75.1505 (relating to escapeway maps) are incorporated by reference.

**§ 208.46. Refuge alternatives.**

The provisions of 30 CFR 75.1506 (relating to refuge alternatives) are incorporated by reference.

**§ 208.47. Emergency response plan; refuge alternatives.**

The provisions of 30 CFR 75.1507 (relating to emergency response plan; refuge alternatives) are incorporated by reference.

**§ 208.48. Training and records for examination, maintenance and repair of refuge alternatives and components.**

The provisions of 30 CFR 75.1508 (relating to training and records for examination, maintenance and repair of refuge alternatives and components) are incorporated by reference.

**COMMUNICATIONS****§ 208.51. Communications facilities for refuge alternatives.**

The provisions of 30 CFR 75.1600-3 (relating to communications facilities; refuge alternatives) are incorporated by reference.

**SELF-CONTAINED SELF-RESCUE DEVICES****§ 208.61. Availability of approved self-contained self-rescue devices; instruction in use and location.**

The provisions of 30 CFR 75.1714 (relating to availability of approved self-rescue devices; instruction in use and location) are incorporated by reference.

**§ 208.62. Approved self-contained self-rescue devices.**

The provisions of 30 CFR 75.1714-1 (relating to approved self-rescue devices) are incorporated by reference.

**§ 208.63. Self-contained self-rescue devices; use and location requirements.**

The provisions of 30 CFR 75.1714-2 (relating to self-rescue devices; use and location requirements) are incorporated by reference.

**§ 208.64. Self-contained self-rescue devices; inspection, testing, maintenance, repair, and record-keeping.**

The provisions of 30 CFR 75.1714-3 (relating to self-rescue devices; inspection, testing, maintenance, repair, and recordkeeping) are incorporated by reference.

**§ 208.65. Additional self-contained self-rescue devices.**

The provisions of 30 CFR 75.1714-4 (relating to additional self-contained self-rescuers (SCSRs)) are incorporated by reference.

**§ 208.66. Map locations.**

The provisions of 30 CFR 75.1714-5 (relating to map locations of self-contained self-rescuers (SCSR)) are incorporated by reference.

**§ 208.67. Emergency tethers.**

The provisions of 30 CFR 75.1714-6 (relating to emergency tethers) are incorporated by reference.

**§ 208.68. Multi-gas detectors.**

The provisions of 30.1714-7 (relating to multi-gas detectors) are incorporated by reference.

**§ 208.69. Reporting SCSR inventory, malfunctions and retention.**

The provisions of 30 CFR 75.1714-8 (relating to reporting SCSR inventory and malfunctions; retention of SCSR) are incorporated by reference.

[Pa.B. Doc. No. 10-1247. Filed for public inspection July 9, 2010, 9:00 a.m.]

## ENVIRONMENTAL QUALITY BOARD

[ 25 PA. CODE CH. 78 ]  
Oil and Gas Wells

The Environmental Quality Board (Board) proposes to amend Chapter 78 (relating to oil and gas wells). The proposed rulemaking updates existing requirements regarding the drilling, casing, cementing, testing, monitoring and plugging of oil and gas wells, and the protection of water supplies. The proposed rulemaking includes updated material specifications and performance testing and amended design, construction, operational, monitoring, plugging, water supply replacement and gas migration reporting requirements. The additional requirements will minimize gas migration and will provide an increased degree of protection for both public and private water supplies.

This proposed rulemaking was adopted by the Board at its meeting of May 17, 2010.

*A. Effective Date*

The proposed rulemaking will go into effect upon final-form publication in the *Pennsylvania Bulletin*.

*B. Contact Persons*

For further information, contact Scott Perry, Director, Bureau of Oil and Gas Management, Rachel Carson State Office Building, 5th Floor, 400 Market Street, P. O. Box 8765, Harrisburg, PA 17105-8461, (717) 772-2199; or Doug Brennan, Director, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the Pennsylvania AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposed rulemaking is available on the Department of Environmental Protection's (Department) web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us).

*C. Statutory Authority*

This proposed rulemaking is being made under the authority of section 604 of the Oil and Gas Act (act) (58 P. S. § 601.604), which directs the Board to adopt regulations necessary to implement the act, and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20). Section 1917-A of The Administrative Code of 1929 authorizes and requires the Department to protect the people of this Commonwealth from unsanitary conditions and other nuisances, including any condition that is declared to be a nuisance by any law administered by the Department. Section 1920-A of The Administrative Code of 1929 authorizes the Board to promulgate regulations of the Department.

*D. Background of the Proposed Rulemaking*

A properly cased and cemented oil and gas well is critical to protecting fresh groundwater and public safety. Many of the regulations governing well construction and water supply replacement were promulgated in July 1989 and remain largely unchanged. New well drilling and completion practices used to develop Marcellus Shale wells, as well as recent impacts to drinking water supplies by both traditional and Marcellus Shale wells, caused the Department to reevaluate the existing requirements.

With the development of the oil and gas industry in this Commonwealth, the potential exists for natural gas to migrate from the wellbore (by means of either improperly constructed or old, deteriorated wells). This stray gas may adversely affect water supplies, as well as accumulate within or adjacent to structures such as residences and businesses. If a well is not properly constructed and operated there could be potential threat of a fire or explosion. These situations represent a threat to public safety, health and welfare.

It was determined that many, if not all, Marcellus well operators met or exceeded the current well casing and cementing regulations. However, it was also determined that the current regulations were not specific enough in detailing the Department's expectations of a properly cased and cemented well. Finally, the Department determined that the existing regulations did not address the need for an immediate response by operators to a gas migration complaint nor did they require routine inspection of existing wells by the operator.

A draft of the proposed rulemaking was presented to the Oil and Gas Technical Advisory Board (TAB) for its consideration on September 17, 2009. Because of the scope of the proposed rulemaking, TAB requested additional time to review and provide comment. As part of

its review, TAB formed a technical committee with representatives from various companies, trade groups and consultants. Since the initial meeting in September 2009, the Department has met with TAB and its subcommittee on October 28, 2009, January 14, 2010, January 21, 2010, and March 25, 2010. At the March 25, 2010, meeting, TAB voted unanimously to recommend that the Board offer these regulations as a proposed rulemaking.

In addition to developing the proposed rulemaking through TAB, the Department solicited comments from the public. The Department published an advanced notice of proposed rulemaking (ANPR) at 40 Pa.B. 623 (January 30, 2010) soliciting comments to proposed rulemaking. The public comment period closed March 2, 2010.

The ANPR procedure is an optional process, as it is not required under either the Regulatory Review Act (71 P.S. §§ 745.1—745.12) or the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. § 1204(3)), known as the Commonwealth Documents Law. The purpose of using the ANPR process is to solicit public comment on the proposed regulatory changes prior to presenting a proposed rulemaking to the Board. Through the ANPR process, the Department obtained valuable comments that warrant additional consideration by interested stakeholders as the proposed rulemaking moves through the formal rulemaking process.

#### *E. Advanced Notice of Proposed Rulemaking Summary of Comments and Responses*

The ANPR process is used to solicit public comment on proposed regulatory changes before the Department presents a rulemaking package to the Board. Through the ANPR process, the Department obtained valuable comments that warrant additional consideration by interested stakeholders as this proposed rulemaking moves through the formal rulemaking process.

The Department received comments from 87 individuals, businesses, trade organizations and public interest groups. A summary of the comments received was presented to TAB at its March 25, 2010, meeting for the members' review. The Department received a wide range of comments on the topic of water quality and quantity of replacement water supply. A second area of comments focused on the proposed cementing standards and cementing practices. It is the Department's experience that poorly cemented casing is the reason for many gas migration cases. Many of the commentators offered suggested language for cement standards and for testing cementing jobs. Closely associated with the cement and cementing standards is casing and casing standards. The Department received comments on the pressure testing requirements for the various casing strings as well as the use of centralizers and safety equipment associated with the individual strings.

The Department also received numerous comments concerning issues beyond the scope of this proposed rulemaking or beyond the scope of the Department's statutory authority. It is important to note that this proposed rulemaking is limited to protecting public safety and groundwater resources through proper well construction, water supply replacement or restoration, well inspection, gas migration investigation and response, and well plugging.

The Department determined that these issues will be addressed expeditiously. While other potential impacts to the environment from oil and gas well development warrant consideration, an evaluation will unduly delay the promulgation of these important regulations. The

Department intends to engage in another round of rulemaking to address additional issues presented by development of the Marcellus Shale and other unconventional resources such as coalbed methane. To the extent that commentators do not believe their comments have been sufficiently addressed, they may submit additional comments on this proposed rulemaking as part of the formal rulemaking process and the Department will address them through a formal comment/response document.

#### *F. Summary of Proposed Rulemaking*

##### *§ 78.1. Definitions.*

Definitions for "cement job log," "conductor pipe" and "intermediate casing" were added to strengthen new and existing provisions in Chapter 78. The definitions for "casing seat," "cement" and "surface casing" were amended to reflect current requirements. Finally, the definition of "retrievable" was rescinded and the substantive portion of the definition was inserted into the appropriate plugging regulations.

The Board is specifically requesting comments on the definition of "deepest fresh groundwater" which is defined as "the deepest fresh groundwater bearing formation penetrated by the wellbore as determined from drillers logs from the well or from other wells in the area surrounding the well or from historical records of the normal surface casing seat depths in the area surrounding the well, whichever is deeper." Ascertaining the deepest fresh groundwater zone is important because this is the depth to which surface casing must be set.

##### *§ 78.51. Protection of water supplies.*

This section has been significantly amended to reflect current case law on the requirements for operators to restore or replace a water supply that has been polluted or diminished as a result of gas or oil well drilling. The proposed rulemaking does not impose new or expanded duties on well operators but does clarify their responsibilities.

Water supplies that are polluted or diminished shall be restored or replaced. If the existing supply did not meet safe drinking water standards, the operator shall supply a water source that is as good as the preexisting supply. If a supply exceeded safe drinking water standards, the operator need only provide a supply that meets those standards. The owner of the supply may still seek an appropriate legal remedy to obtain a supply that meets preexisting standards if so warranted.

An increase in operating and maintenance costs shall be provided by the operator in perpetuity. If the supply was reasonably intended to provide a greater quantity than was currently used (and was capable of doing so), the operator shall provide a supply to meet the anticipated need.

Finally, if an operator is notified by an affected user of the supply that it has been impacted by drilling, the operator shall notify the Department in 10 days.

##### *§ 78.52. Predrilling or prealteration survey.*

Operators must now provide the Department and water supply owners with the results of their predrilling surveys within 10 days of receipt of the results.

##### *§ 78.71. Use of safety devices—well casing.*

The proposed amendments clarify that the casing to which the blow-out prevention equipment may be attached must be cemented in place.

§ 78.72. *Use of safety devices—blow-out prevention equipment.*

The proposed amendments more clearly define when blow-out preventer equipment must be used, where the controls of the equipment must be located in a manner that allows operation in case of an emergency, how defective equipment must be treated and the training a person shall have to operate the equipment. The Board is specifically requesting comments on establishing requirements for additional safety equipment and procedures.

§ 78.73. *General provision for well construction and operation.*

The proposed amendments reduce the allowable pressure that may be exerted on the surface casing seat. This proposed rulemaking will significantly reduce the possibility of a gas migration event by adding a margin of error onto the assumed hydrostatic pressure being exerted on the surface casing seat. A new requirement for check flow valves that prevent backflow from the pipeline has been included.

§ 78.75a. *Area of alternative methods.*

Section 211 of the act (58 P. S. § 601.211) provides that well construction or plugging regulations may be modified by an alternative method approved by the Department. This new section will broaden the Department's ability to use the "area of alternative methods" for geological regions when existing regulations do not necessarily provide sufficient protection of the environment. This procedure would be used to establish environmentally necessary protective measures on an area wide basis as opposed to a well-by-well basis. Establishing an area requires notice in the *Pennsylvania Bulletin* and an opportunity for the public to comment.

§ 78.76. *Drilling within a gas storage reservoir area.*

The proposed rulemaking would require operators to submit a casing and cementing plan to the Department for approval prior to drilling through a gas storage reservoir area or protective area.

§ 78.81. *General provisions.*

The proposed rulemaking rescinds subsection (c), which states that certain sections of the regulation do not apply to production or intermediate casing, to reflect new requirements.

§ 78.82. *Use of conductor pipe.*

The proposed rulemaking would further delineate the requirements for conductor pipe that is used to stabilize the top hole of a well so that it protects fresh groundwater.

§ 78.83. *Surface and coal protective casing and cementing procedures.*

The proposed rulemaking would prohibit the use of surface casing as production casing and requires an additional string of casing to be installed in a well unless the well is only used to produce oil that does not present a threat to groundwater or if the operator of a gas well demonstrates that all gas and fluids will be contained in the well.

Additional amendments require the use of air or fresh-water based fluids when drilling through the fresh groundwater zone, rescind subsection (c) that gives operators the ability to drill to producing zones prior to isolating fresh groundwater under certain circumstances and mandate the use of centralizers to position the casing in the wellbore.

The Board is specifically requesting comments on the placement of centralizers to ensure that the casing is properly located within the wellbore and that the well bore is sufficiently wide to ensure proper placement of cement. General references to American Petroleum Institute (API) standards are not as helpful as these standards are not generally available to the public.

§ 78.83a. *Casing and cementing plan.*

This new section requires operators to develop a casing and cementing plan that the Department can review at the well site. The plan must describe the casing used and the cementing practices to be employed. The Department can request submittal of the plan for approval prior to drilling.

§ 78.83b. *Casing and cementing—lost circulation.*

This new section requires operators to notify the Department when cement used to protect fresh groundwater is not returned to the surface despite pumping more than 120% of the estimated required volume.

If cement is not returned to the surface, unless the well only produces oil off a vented production pipe, additional strings of casing must be run and cemented.

§ 78.83c. *Intermediate and production casing.*

This new section specifies the cementing requirements for intermediate and production casing and specifies the pressure limitation for wells that produce gas off the annulus of the intermediate casing string.

§ 78.84. *Casing standards.*

This section has been significantly amended to require pressure testing of casing attached to a blow-out preventer with a pressure rating of 3,000 psi, as well as pressure testing for used or welded casing. For casing attached to a blow-out preventer, a passing pressure test is holding 120% of the maximum anticipated working pressures to which the casing will be exposed for 30 minutes without a 10% decrease in pressure. Passing pressure tests for other casing is holding the maximum anticipated working pressures to which the casing will be exposed for 30 minutes without a 10% decrease in pressure. The 10% decrease is included to account for normal variation in pressure gauges.

Additional welded casing standards include requiring three welded passes and certification for welders who do not have 10 years of experience welding casing.

§ 78.85. *Cement standards.*

This section was amended to provide additional objectives for well casing cement to meet as well as to reference new American Society for Testing and Materials standards in addition to American Petroleum Institute standards.

Subsection (b) was amended to eliminate actions that could disturb the cement while it sets over the mandated 8-hour wait time. New subsections (d) and (e) were added to require notification to the Department prior to cementing operations to ensure proper inspection of the cement job and to require the availability of the cement job log at the well site for inspection.

The Board is requesting additional comments on the concept of creating a zone of critical cement at the casing seat. Commentators in the ANPR process proposed that the zone of critical cement would include a 72-hour compressive strength standard of 1,200 psi. The zone of critical cement would also be required to meet the API free water separation standard conformance standard of

no more than 6 milliliters per 250 milliliters of cement tested in accordance with the current API RP 10B.

The Board is also requesting additional comments on a provision providing the Department the ability to set more stringent local standards if needed for pollution prevention and to establish quantitative temperature limits for water used in cement mixing.

§ 78.88. *Mechanical integrity of operating wells.*

This new section requires operators to inspect their wells at least quarterly for signs of physical degradation of the well in addition to determining whether the pressure in the well is within allowable limits. Wells that fail inspection shall be attended to immediately and the Department shall be notified.

§ 78.89. *Gas migration response.*

This new section requires well operators to notify the Department if the operator is notified or becomes aware of a gas migration event and to take investigative and corrective measures if so required by the Department. The section specifies that emergency responders and the Department shall be notified immediately if the level of natural gas detected is greater than 10% of the lower explosive limit of natural gas.

§§ 78.92—78.95. *Plugging.*

These sections have been modified to incorporate the substantive requirements of the rescinded definition of “retrievable” along with requiring an additional attempt to remove uncemented casing prior to plugging a well. The revised sections also require cement to be placed across the formerly producing formation as opposed to placing the cement plug on top of the formation as is the current requirement.

§ 78.96. *Marking the location of a plugged well.*

The amendments to this section permit the use of materials other than cement and metal to mark and hold a marker for a plugged well.

§ 78.121. *Production reporting.*

This section has been amended to incorporate the requirements of the act of March 22, 2010 (P. L. 167, No. 15) (Act 15) which requires semiannual production reporting of Marcellus Shale wells. The reporting date for all wells has been changed from March 31 to February 15 to match Act 15. Marcellus operators shall also report on August 15 each year. The Department is required to post the production of Marcellus wells on its web site. To accomplish this reporting requirement, the Department is mandating electronic production reporting.

§ 78.122. *Well record and completion report.*

This section has been amended to require certification by the operator of the proper construction of the well and to require additional information in the stimulation record including water source identification and volume as well as a list of chemicals used to stimulate the well.

G. *Benefits, Costs and Compliance*

*Benefits*

Both the residents of this Commonwealth and the regulated community will benefit from this proposed rulemaking.

The public will benefit in several ways. The updated casing and cementing requirements will provide an increased degree of protection for homeowners and both public and private water supplies. The proposed construction standards will align the Commonwealth’s regulations

with other states’ regulations as well as current industry standards. Pressure testing the casing and certain casing seats will detect construction deficiencies before a well could create a potential safety or environmental problem. Minimizing annular pressure will reduce the potential for gas migration. The new quarterly inspections and annual reporting will be a vital tool for operators to use in detecting potential safety or environmental impacts before they may become an issue. The proposed rulemaking also outlines the procedures the operator and the Department will utilize if there is a reported gas migration event.

The new construction standards and the well remediation measures will far outweigh the liability to the operator from the potential impacts to public safety and harm to the environment from gas migration or from polluting water resources that may result without these additional precautions.

Most of the proposed amendments are codifying existing best practices employed by prudent operators. These operators should not see much, if any, increased cost as a result of the proposed rulemaking. Any increased cost of constructing the well in time and materials will decrease the risk of gas migrations resulting from defective casing or cementing. As new areas of this Commonwealth are developed for natural gas, the proposed rulemaking will avoid many potential health, safety and environmental issues.

*Costs*

This proposed rulemaking will impose minimal additional costs on the Department. This proposed rulemaking will help the Department offset the potential health, safety and environmental issues.

The Department finds that most gas migration issues stem from inadequate cement procedures, cement returns or combinations of inadequate casing and cementing or over-pressured casing seats. Because the Department is proposing amendments that are predominately codifying existing industry standards, increased cost associated with drilling and operating oil and gas wells will be minimal. The potential increases in cost to an operator will be associated with assuring a well is properly completed, operated and plugged.

The potential increase in cost is minor when compared to the overall cost of well construction. When cement is not returned to the surface or when excessive pressure is placed on the surface casing seat, the proposed rulemaking requires the operator to install an additional string of casing. The construction cost for the additional string of casing is about \$10,000 per well.

Used casing, welded casing and casing attached to a high pressure blow-out preventer must be pressure tested to demonstrate its ability to withstand the highest anticipated working pressures to which the casing will be exposed. If the casing fails this test, the operator shall repair or replace the casing and ultimately pass the pressure test. In the Department’s estimation, less than 5% of the casing used is anticipated to fail a pressure test. The cost to repair or replace the defective casing is completely outweighed by the environmental damage that would result from a failed string of casing and the fact that the casing would still need to be repaired or replaced.

The typical cost to develop a Marcellus Shale well is around \$5,000,000. The additional cost of compliance would only be approximately 0.2% of the overall cost to develop a Marcellus Shale well.

The typical cost to develop a shallow gas well is \$250,000 and the typical cost to develop an oil well is \$200,000. In either situation, the additional cost of compliance would only be approximately 4% to 5% of the overall cost of the well.

The additional measures are proposed to reduce the potential for gas mitigation. If an operator fails to prevent a pollution event of a water supply, the anticipated cost to permanently replace one private water supply would be approximately \$4,000 to drill a new water well or \$30,000 to provide and permanently pay for a treatment system.

*Compliance Assistance Plan*

The Department has worked extensively with representatives from the regulated community and leaders from the several industry trade organizations have attended the advisory committee meetings when this proposed rulemaking has been discussed. Therefore, the requirements in the proposed rulemaking are well known.

However, the Department has scheduled several training sessions for the regulated community that address the Department's regulatory requirements. The Department will use these training sessions as an opportunity to further educate the industry about the new requirements.

*Paperwork Requirements*

An annual well inspection report, the semiannual production report mandated by Act 15 and the additional information required in the well completion report will require the submittal of two additional forms and additional information on an existing form.

*H. Pollution Prevention*

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

This proposed rulemaking will continue to assure that the citizens and the environment of this Commonwealth experience the advantage of our oil and gas resources. The proposed rulemaking will minimize gas migration and will provide an increased degree of protection for both public and private water supplies.

The proposed modifications include updated material specifications and performance testing. The proposed rulemaking adds more specific design, construction, operational and monitoring requirements. The plugging, water supply replacement and gas migration reporting regulations have been amended to ensure that public safety and fresh groundwater are protected.

*I. Sunset Review*

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

*J. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on June 25, 2010, the Department

submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the House and Senate Environmental Resources and Energy Committees. 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.

*K. Public Comments*

*Written comments.* Interested persons are invited to submit comments, suggestions or objections regarding the proposed rulemaking to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board on or before August 9, 2010. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by the Board on or before August 9, 2010. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final-form rulemaking will be considered.

*Electronic comments.* Comments may be submitted electronically to the Board at RegComments@state.pa.us and must also be received by the Board on or before August 9, 2010. A subject heading of the proposed rulemaking and a return name and address must be included in each transmission.

*L. Public Hearings*

The Board will hold four public hearings for the purpose of accepting comments on this proposed rulemaking. The hearings will be held as follows:

- July 19, 2010  
7 p.m. Tunkhannock Area High School Auditorium  
120 West Tioga Street  
Tunkhannock, PA 18657
- July 21, 2010  
7 p.m. Lycoming College  
Heim Science Center Building  
Room G-11  
700 College Place  
Williamsport, PA 17701
- July 22, 2010  
7 p.m. Department of Environmental Protection  
Northwest Regional Office  
1st Floor Conference Room  
230 Chestnut Street  
Meadville, PA 16335
- July 22, 2010  
7 p.m. Department of Environmental Protection  
Southwest Regional Office  
Waterfront Conference Room A and B  
400 Waterfront Drive  
Pittsburgh, PA 15222-4745

Persons wishing to present testimony at a hearing are requested to contact the Environmental Quality Board,

P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526 at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony is limited to 10 minutes for each witness. Witnesses are requested to submit three written copies of their oral testimony to the hearing chairperson to aid in transcribing the hearing. Organizations are limited to designating one witness to present testimony on their behalf at each hearing.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Board at (717) 787-4526, or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD), or (800) 654-5988 (voice users) to discuss how the Board may accommodate their needs.

JOHN HANGER,  
Chairperson

**Fiscal Note:** 7-459. No fiscal impact; (8) recommends adoption.

**Annex A**

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

**Subpart C. PROTECTION OF NATURAL RESOURCES**

**ARTICLE I. LAND RESOURCES**

**CHAPTER 78. OIL AND GAS WELLS**

**Subchapter A. GENERAL PROVISIONS**

**§ 78.1. Definitions.**

\* \* \* \* \*

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

\* \* \* \* \*

**Casing seat**—The depth to which the surface casing or coal protection casing [ is run ] or intermediate casing is set. In wells without surface casing, the surface casing seat shall be considered to be equal to [ the depth of casing which is normal for wells in the area ] 50 feet below the deepest fresh groundwater.

**Cement**—A mixture of materials for bonding or sealing that attains a 7-day maximum permeability of 0.01 millidarcies and a 24-hour compressive strength of at least 500 psi in accordance with applicable [ API ] standards and specifications.

**Cement job log**—A written record that documents the actual procedures and specifications of the cementing operation. The record must include the type of cement with additives, the volume, yield and density in pounds per gallon of the cement and the amount of cement returned to the surface, if any. Cementing procedural information must include a description of the pumping rates in bbls per minute, pressures in psi, time in minutes and sequence of events during the cementing operation.

\* \* \* \* \*

**Conductor pipe**—A short string of large-diameter casing used to stabilize the top of the wellbore in shallow unconsolidated formations.

\* \* \* \* \*

**Intermediate casing**—A string of casing other than production casing that is used in the wellbore to isolate, stabilize or provide well control to a greater depth than that provided by the surface casing or coal protection casing.

\* \* \* \* \*

[ **Retrievable**—When used in conjunction with surface casing, coal protective casing or production casing, the casing that can be removed after exerting a prudent effort to pull the casing while applying a pulling force at least equal to the casing weight plus 5000 pounds or 120% of the casing weight, whichever is greater. ]

\* \* \* \* \*

**Surface casing**—[ A string of pipe which extends from the surface and that segregates and protects fresh groundwater and stabilizes the hole ] Casing used to isolate the wellbore from fresh groundwater and to prevent the escape or migration of gas, oil and other fluids from the well bore into fresh groundwater. The surface casing is also commonly referred to as the water string or water casing.

\* \* \* \* \*

**Subchapter C. ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS**

**§ 78.51. Protection of water supplies.**

(a) A well operator who affects a public or private water supply by pollution or diminution shall restore or replace the affected supply with an alternate source of water adequate in quantity and quality for the purposes served by the supply as determined by the Department.

\* \* \* \* \*

(d) [ The operator shall affirmatively demonstrate to the Department's satisfaction that the quality of the restored or replaced water supply to be used for human consumption is at least equal to the quality of the water supply before it was affected by the operator. If the quality of the water supply before it was affected by the operator cannot be affirmatively established, the operator shall demonstrate that the concentrations of substances in the restored or replaced water supply do not exceed the primary and secondary maximum contaminant levels established under § 109.202 (relating to State MCLs, MRDLs and treatment technique requirements). ] A restored or replaced water supply includes any well, spring, public water system or other supply approved by the Department, which meets the criteria for adequacy as follows:

(1) **Reliability, cost, maintenance and control.** A restored or replaced water supply, at a minimum, must:

- (i) Be as reliable as the previous water supply.
- (ii) Be as permanent as the previous water supply.
- (iii) Not require excessive maintenance.

(iv) Provide the owner and the user with as much control and accessibility as exercised over the previous water supply.

(v) Not result in increased costs to operate and maintain. If the operating and maintenance costs of

the restored or replaced water supply are increased, the operator shall provide for permanent payment of the increased operating and maintenance costs of the restored or replaced water supply.

(2) **Quality.** The quality of a restored or replaced water supply will be deemed adequate if it meets the standards established pursuant to the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17), or is comparable to the unaffected water supply if that water supply did not meet these standards.

(3) **Adequate quantity.** (i) A restored or replaced water supply will be deemed adequate in quantity if it meets one of the following as determined by the Department:

(A) The water supply delivers the amount of water necessary to satisfy the water user's needs and the demands of any reasonably foreseeable uses.

(B) The water supply is established through a connection to a public water supply system which is capable of delivering the amount of water necessary to satisfy the water user's needs and the demands of any reasonably foreseeable uses.

(ii) For purposes of this paragraph and with respect to agricultural water supplies, the term reasonably foreseeable uses includes the reasonable expansion of use where the water supply available prior to drilling exceeded the actual use.

(4) **Water source serviceability.** Replacement of a water supply includes providing plumbing, conveyance, pumping or auxiliary equipment and facilities necessary for the surface landowner or water purveyor to utilize the water supply.

\* \* \* \* \*

(f) [ The oil or gas well operator's duty to replace or restore a water supply includes providing plumbing, conveyance, pumping or auxiliary equipment and facilities necessary for the surface landowner or water purveyor to utilize the water supply.

(g) [ Tank trucks or bottled water are acceptable only as temporary water replacement for a period approved by the Department and do not relieve the operator of the obligation to provide a restored or replaced water supply.

[ (h) ] (g) If the well operator and the landowner, water purveyor or affected person are unable to reach agreement on the means for restoring or replacing the water supply, the Department or either party may request a conference under section 501 of the act (58 P. S. § 601.501).

(h) A well operator who receives notice from a landowner, water purveyor or affected person that a water supply has been affected by pollution or diminution, shall report receipt of the notice to the Department within 10 calendar days of receiving the notice.

**§ 78.52. Predrilling or prealteration survey.**

(a) A well operator who wishes to preserve its defense under section 208(d)(1) of the act (58 P. S. § 601.208(d)(1)) that the pollution of a water supply existed prior to the drilling or alteration of the well shall [ **cause** ] **conduct** a predrilling or prealteration survey [ **to be conducted** ] in accordance with this section.

\* \* \* \* \*

(d) An operator electing to preserve its defenses under section 208(d)(1) of the act shall provide a copy of the results of the survey to the Department and the landowner or water purveyor within 10-calendar days of [ **being notified by the Department to submit a copy** ] receipt of the results.

\* \* \* \* \*

**Subchapter D. WELL DRILLING,  
OPERATION AND PLUGGING**

**GENERAL**

**§ 78.71. Use of safety devices—well casing.**

(a) The operator shall equip the well with one or more strings of casing of sufficient **cemented** length and strength to **attach blow-out prevention equipment** and prevent blowouts, explosions, fires and casing failures during installation, completion and operation.

\* \* \* \* \*

**§ 78.72. Use of safety devices—blow-out prevention equipment.**

(a) The operator shall use blow-out prevention equipment [ **when well head pressures or natural open flows are anticipated at the well site that may result in a blow-out or when the operator is drilling in an area where there is no prior knowledge of the pressures or natural open flows to be encountered.** ] in the following circumstances:

(1) **When drilling a well that is intended to produce natural gas from the Marcellus Shale formation.**

(2) **When well head pressures or natural open flows are anticipated at the well site that may result in a loss of well control.**

(3) **When the operator is drilling in an area where there is no prior knowledge of the pressures or natural open flows to be encountered.**

(4) **On wells regulated under the Oil and Gas Conservation Law (58 P. S. §§ 401—409).**

(5) **When drilling within 200 feet of a building.**

(b) Blow-out prevention equipment used [ **shall** ] **must** be in good working condition at all times.

(c) **Controls for the blow-out preventer must be accessible to allow actuation of the equipment. Additional controls for a blow-out preventer with a pressure rating of greater than 3,000 psi not associated with the rig hydraulic system must be located away from the drilling rig so that the blow-out preventer can be actuated if control of the well is lost.**

(d) The operator shall use pipe fittings, valves and unions placed on or connected to the blow-out prevention systems that have a working pressure capability that exceeds the anticipated pressures.

[ (d) ] (e) The operator shall conduct a complete test of the ram type blow-out preventer and related equipment for both pressure and ram operation before placing it in service on the well. The operator shall test the annular type blow-out preventer in accordance with the manufacturer's published instructions, or the instructions of a professional engineer, prior to the device being placed in



service. **Blow-out prevention equipment that fails the test may not be used until it is repaired and passes the test.**

**[(e)] (f)** When the equipment is in service, the operator shall visually inspect blow-out prevention equipment during each tour of drilling operation and during actual drilling operations test the pipe rams for closure daily and the blind rams for closure on each round trip. When more than one round trip is made in a day, one daily closure test for blind rams is sufficient. Testing shall be conducted in accordance with American Petroleum Institute publication API RP53, "API Recommended Practice for Blowout Prevention Equipment Systems for Drilling Wells." The operator shall record the results of the inspection and closure test in the drillers log before the end of the tour. **Blow-out prevention equipment that is not in good working order shall be repaired or replaced immediately and retested prior to the resumption of drilling.**

**(g)** All lines, valves and fittings between the closing unit and the blow-out preventer stack must be flame resistant and have a rated working pressure that meets or exceeds the requirements of the blow-out preventer system.

**[(f)] (h)** During drilling when conditions are such that the use of a blowout preventer can be anticipated, there shall be present on the **[rig floor a certified]** well site an individual **[responsible to]** who the operator has determined is trained and competent in the use of the blow-out prevention equipment. Satisfactory completion of a **[United States Geologic Survey (U.S.G.S.) approved]** well control course by the Independent Association of Drilling Contractors or equivalent study shall be deemed adequate **[certification]** for purposes of this subsection.

**[(g)] (i)** \* \* \*  
\* \* \* \* \*

**[(h)] (j)** \* \* \*

**§ 78.73. General provision for well construction and operation.**

**(a)** The operator shall construct and operate the well in accordance with this chapter and ensure that the integrity of the well is maintained and health, safety, environment and property are protected.

**(b)** The operator shall prevent gas **[and other fluids from lower formations from entering]**, oil, brine, completion and servicing fluids, and any other fluids from below the casing seat from entering fresh groundwater and prevent pollution or diminution of fresh groundwater.

**[(b)] (c)** After a well has been completed, recompleted, reconditioned or altered the operator shall prevent shut-in pressure **[or]** and producing back pressure at the surface casing seat **[or]**, coal protective casing seat **or intermediate casing seat when the intermediate casing is used in conjunction with the surface casing to isolate fresh groundwater** from exceeding **80%** of the hydrostatic pressure of the surrounding fresh groundwater system in accordance with the following formula. The maximum allowable shut-in pressure **[or]** and producing back pressure to be ex-

erted at the **[surface casing seat, or coal protective]** casing seat may not exceed the **[hydrostatic]** pressure calculated as follows: Maximum pressure = **(0.8 x 0.433 psi/foot)** multiplied by (casing length in feet).

**[(c)] (d)** After a well has been completed, recompleted, reconditioned or altered, if the shut-in pressure or producing back pressure exceeds the **[hydrostatic]** pressure at the surface casing seat **[or]**, coal protective casing as calculated in subsection **[(b)] (c)**, the operator shall take action to prevent the migration of gas and other fluids from lower formations into fresh groundwater. To meet this standard, the operator may cement or install on a packer sufficient intermediate or production casing or take other actions approved by the Department. This section does not apply during testing for mechanical integrity in accordance with State or Federal requirements.

**(e)** Excess gas encountered during drilling, completion or stimulation shall be flared, captured or diverted away from the drilling rig in a manner that does not create a hazard to the public health or safety.

**(f)** Except for gas storage wells, the well must be equipped with a check valve to prevent backflow from the pipelines into the well.

**§ 78.75a. Area of alternative methods.**

**(a)** The Department may designate an area of alternative methods if the Department determines that well drilling requirements beyond those provided in this chapter are necessary to drill, operate or plug a well in a safe and environmentally protective manner.

**(b)** To establish an area of alternative methods, the Department will publish a notice in the *Pennsylvania Bulletin* of the proposed area of alternative methods and provide the public with an opportunity to comment on the proposal. After reviewing any comments received on the proposal, the Department will publish a final designation of the area and required alternative methods in the *Pennsylvania Bulletin*.

**(c)** Wells drilled within an area of alternative methods established under subsection (b) must meet the requirements specified by the Department unless the operator obtains approval from the Department to drill, operate or plug the well in a different manner that is at least as safe and protective of the environment as the requirements of the area of alternative methods.

**§ 78.76. Drilling within a gas storage reservoir area.**

**(a)** An operator proposing to drill a well within a gas storage reservoir area or a reservoir protective area to produce gas or oil shall forward by certified mail a copy of the well location plat, the drilling, casing and cementing plan and the anticipated date drilling will commence to the gas storage reservoir operator **and to the Department for approval by the Department** and **[shall]** submit proof of notification to the Department with the well permit application.

\* \* \* \* \*

**CASING AND CEMENTING**

**§ 78.81. General provisions.**

\* \* \* \* \*

[ (c) Casing and cementing standards in §§ 78.83—78.85 (relating to surface and coal protective casing and cementing procedures; casing standards; and cement standards) apply to surface casing and coal protective casing but do not apply to production casing. ]

§ 78.82. Use of conductor pipe.

If the operator installs conductor pipe in the well, the [ operator may not remove the pipe. ] following provisions apply:

- (1) The operator may not remove the pipe.
- (2) Conductor pipe shall be installed in a manner that prevents infiltration of surface water or fluids from the operation into groundwater.
- (3) Conductor pipe must be made of steel unless a different material is approved for use by the Department.

§ 78.83. Surface and coal protective casing and cementing procedures.

(a) For wells drilled, altered, reconditioned or recompleted after \_\_\_\_\_ (*Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.*), surface casing or any casing functioning as a water protection casing may not be utilized as production casing unless one of the following applies:

- (1) In oil wells where the operator does not produce any gas generated by the well and the annulus between the surface casing and the production pipe is left open.
- (2) The operator demonstrates that the pressure in the well bore at the casing seat is no greater than the pressure permitted under § 78.73(c) (relating to general provision for well construction and operation) and demonstrates through a pressure test or other method approved by the Department that all gas and fluids will be contained within the well.

(b) If the well is to be equipped with threaded and coupled casing, the operator shall drill a hole so that the diameter is at least 1 inch greater than the outside diameter of the casing collar to be installed. If the well is to be equipped with plain-end welded casing, the operator shall drill a hole so that the diameter is at least 1 inch greater than the outside diameter of the [ casing tube ] centralizer band.

[ (b) ] (c) [ Except as provided in subsection (c), the ] The operator shall drill to approximately 50 feet below the deepest fresh groundwater or at least 50 feet into consolidated rock, whichever is deeper, and immediately set and permanently cement a string of surface casing to that depth. The surface hole shall be drilled using air, freshwater, or freshwater based drilling fluid. The surface casing seat shall be set in consolidated rock. When drilling a new well or re-drilling an existing well, the operator shall install at least one centralizer within 50 feet of the casing seat and then install a centralizer in intervals no greater than every 150 feet above the first centralizer.

[ (c) If no fresh groundwater is being utilized as a source of drinking water within a 1,000-foot radius of the well, the operator may set and permanently cement a single string of surface casing through all

water zones, including fresh, brackish and salt water zones. Prior to penetrating zones known to contain, or likely containing, oil or gas, the operator shall install and permanently cement the string of casing in a manner that segregates the various waters. ]

\* \* \* \* \*

(f) If additional fresh groundwater is encountered in drilling below the permanently cemented surface casing, the operator shall protect the additional fresh groundwater by installing and cementing a subsequent string of casing or other procedures approved by the Department to completely isolate and protect fresh groundwater. The string of casing may also penetrate zones bearing salty or brackish water with cement in the annular space being used to segregate the various zones. Sufficient cement shall be used to cement the casing at least 20 feet into the permanently cemented surface casing.

(g) The operator shall set and cement a coal protective string of casing through workable coal seams. The base of the coal protective casing [ shall ] must be at least 30 feet below the lowest workable coal seam. The operator shall install at least two centralizers. One centralizer shall be within 50 feet of the casing seat and the second centralizer shall be within 100 feet of the surface.

(h) [ When ] Unless an alternative method has been approved by the Department in accordance with § 78.75 (relating to alternative methods), when a well is drilled through a coal seam at a location where the coal has been removed or when a well is drilled through a coal pillar, the operator shall drill to a depth of at least 30 feet but no more than 50 feet deeper than the bottom of the coal seam. The operator shall set and cement a coal protection string of casing to this depth. The operator shall equip the casing with a cement basket or other similar device above and as close to the top of the coal seam as practical. The bottom of the casing shall be equipped with an appropriate device designed to prevent deformation of the bottom of the casing. The interval from the bottom of the casing to the bottom of the coal seam shall be filled with cement either by the balance method or by the displacement method. Cement shall be placed on top of the basket between the wall of the hole and the outside of the casing by pumping from the surface. If the operator penetrates more than one coal seam from which the coal has been removed, the operator shall protect each seam with a separate string of casing that is set and cemented or with a single string of casing which is stage cemented so that each coal seam is protected as described in this subsection. The operator shall cement the well to isolate workable coal seams from each other.

\* \* \* \* \*

(j) If it is anticipated that cement used to permanently cement the surface casing can not be circulated to the surface, a cement basket may be installed immediately above the depth of the [ last ] anticipated lost circulation zone. The casing shall be permanently cemented by the displacement method. Additional cement may be added above the cement basket, if necessary, by pumping through a pour string from the surface to fill the annular space.

§ 78.83a. Casing and cementing plan.

(a) The operator shall prepare and maintain a casing and cementing plan showing how the well

will be drilled and completed. The plan must demonstrate compliance with this subchapter and include the following information:

- (1) The anticipated depth and thickness of any producing formation, expected pressures, and anticipated fresh groundwater zones.
- (2) The diameter of the well bore.
- (3) The casing type, whether the casing is new or used, depth, diameter, wall thickness and burst pressure rating.
- (4) The cement type, yield, additives and estimated amount.
- (5) The estimated location of centralizers.
- (6) Alternative methods or materials as required by the Department as a condition of the well permit.
- (b) The plan shall be available at the well site for review by the Department.
- (c) Upon request, the operator shall provide a copy of the well specific casing and cementing plan to the Department for review and approval.
- (d) Revisions to the plan made as a result of onsite modification shall be documented in the plan by the operator and be available for review by the Department.

**§ 78.83b. Casing and cementing—lost circulation.**

(a) If cement used to permanently cement the surface or coal protective casing is not circulated to the surface despite pumping a volume of cement equal to or greater than 120% of the calculated annular space, the operator shall notify the Department and meet one of the following requirements:

- (1) Run an additional string of casing at least 50 feet deeper than the surface casing and cement the second string of casing back to the seat of the surface or coal protective casing and vent the annulus of the additional casing string to the atmosphere at all times unless closed for well testing or maintenance. Shut-in pressure on the casing seat of the second string of casing may not exceed the requirements of § 78.73(c) (relating to general provision for well construction and operation).
- (2) If the additional string of casing is the production casing, the operator shall set the production casing on a packer in a competent formation below the surface casing seat, and vent the annulus of the production casing to the atmosphere at all times unless closed for well testing or maintenance.
- (3) Run production casing at least to the top of the formation that is being produced and cement the production casing to the surface.
- (4) Produce oil but not gas and leave the annulus between the surface casing and the production pipe open.

(b) If cement used to permanently cement the surface or coal protective casing is not circulated to the surface, the Department may require the operator to determine the amount of casing that was cemented by logging or other suitable method.

**§ 78.83c. Intermediate and production casing.**

(a) Except as provided in § 78.72 (relating to use of safety devices-blow-out prevention equipment),

intermediate and production casing shall be cemented according to this section.

(b) If the well is to be equipped with an intermediate casing, the casing shall be cemented from the casing seat to a point at least 500 feet above the seat. If any producing horizon is open to the well bore above the casing seat, the casing shall be cemented from the casing seat up to a point at least 500 feet above the top of the shallowest productive horizon, or to a point at least 200 feet above the shoe of the next shallower casing string that was set and cemented in the well. The intermediate casing may be perforated to produce gas or oil if a shoe test demonstrates a pressure gradient greater than 0.465 psi/ft multiplied by casing length in feet.

(c) Except as provided in § 78.83 (relating to surface and coal protective casing and cementing procedures), each well must be equipped with production casing. The production string may be set on a packer or cemented in place. If the production casing is cemented in place, cement shall be placed by the displacement method with sufficient cement to fill the annular space to the surface or to a point at least 500 feet above the production casing seat.

**§ 78.84. Casing standards.**

(a) The operator shall install casing that can withstand the effects of tension, and prevent leaks, burst and collapse during its installation, cementing and subsequent drilling and producing operations.

(b) [ The operator shall equip the casing string with appropriate equipment to center the casing through the hole in fresh groundwater zones. This equipment is not required when existing hole conditions such as caving or crookedness might cause loss of the well or result in a defective cement job ] Surface casing must be a string of new pipe with a pressure rating that is at least 20% greater than the anticipated maximum pressure to which the surface casing will be exposed.

(c) Used casing may be approved for use as surface, intermediate or production casing but shall be pressure tested after cementing and before continuation of drilling. A passing pressure test is holding the anticipated maximum pressure to which it will be exposed for 30 minutes with not more than a 10% decrease in pressure.

(d) New or used plain end casing, except when being used as drive pipe, conductor, or as a casing string prior to setting and cementing surface casing, that is welded together for use must meet the following requirements:

(1) The casing must pass a pressure test by holding the anticipated maximum pressure to which the casing will be exposed for 30 minutes with not more than a 10% decrease in pressure. The operator shall notify the Department at least 24 hours before conducting the test. The test results shall be entered on the drilling log.

(2) The casing shall be welded using at least three passes with the joint cleaned between each pass.

(3) The casing shall be welded by a person trained and certified in the applicable American Petroleum Institute's standard for welding casing and pipe or an equivalent training and certification

program as approved by the Department. A person with 10 or more years of experience welding casing as of \_\_\_\_\_ (*Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.*) who registers with the Department by \_\_\_\_\_ (*Editor's Note: The blank refers to a date 9 months after the effective date of adoption of this proposed rulemaking.*) is deemed to be certified.

[ (c) ] (e) When casing through a workable coal seam, the operator shall install coal protective casing that has a minimum wall thickness of 0.23 inches.

(f) Casing which is attached to a blow-out preventer with a pressure rating of greater than 3,000 psi shall be pressure tested. A passing pressure test must be holding 120% of the highest expected working pressure of the casing string being tested, for 30 minutes with not more than a 10% decrease. Certification of the pressure test shall be confirmed by entry and signature of the person performing the test on the driller's log.

#### § 78.85. Cement standards.

(a) [ The ] When cementing surface casing, coal protective casing and intermediate casing when the intermediate casing is used in conjunction with the surface casing to isolate fresh groundwater, the operator shall use cement that [ will resist degradation by chemical and physical conditions in the well ] meets or exceeds the ASTM International C 150, Type I, II or III Standard or API Specification 10. The cement must also:

- (1) Secure the casing in the well bore.
- (2) Isolate the well bore from fresh groundwater.
- (3) Contain any pressure from drilling, completion and production.
- (4) Protect the casing from corrosion.
- (5) Resist degradation by the chemical and physical conditions in the well.
- (6) Prevent gas flow in the annulus.

(b) [ The operator shall permit the cement to set to a minimum compressive strength of 350 pounds per square inch (psi) in accordance with the American Petroleum Institute's API Specification 10. The operator shall permit the cement to set for a minimum period of 8 hours prior to the resumption of actual drilling ] After the casing cement is placed behind surface casing and intermediate casing when the intermediate casing is used in conjunction with the surface casing to isolate fresh groundwater, the operator shall permit the cement to set to a minimum designed compressive strength of 350 pounds per square inch (psi) at the casing seat.

(c) After the casing cement is placed and cementing operations are complete, the casing may not be disturbed for a minimum of 8 hours by one or more of the following:

- (1) Releasing pressure on the cement head, if float equipment check valves did not hold or float equipment was not equipped with check valves.
- (2) Nippling up on or in conjunction to the casing.

(3) Slacking off by the rig supporting the casing in the cement sheath.

(4) Running drill pipe, wireline, or other mechanical devices into or out of the wellbore.

[ (c) ] (d) Where special cement or additives are used, the operator may request approval from the Department to reduce the cement setting time specified in subsection [ (b) ] (c).

(e) The operator shall notify the Department a minimum of 1 day before cementing of the surface casing begins, unless the cementing operation begins within 72 hours of commencement of drilling.

(f) A copy of the cement job log shall be available at the well site for inspection by the Department during drilling operations. The cement job log shall be maintained by the operator after drilling operations for at least 5 years and be made available to the Department upon request.

#### OPERATING WELLS

#### § 78.88. Mechanical integrity of operating wells.

(a) Except for wells regulated under Subchapter H (relating to underground gas storage), the operator shall inspect each operating well at least quarterly to ensure it is in compliance with the well construction and operating requirements of this chapter and the act. The results of the inspections shall be recorded and retained by the operator for at least 5 years and shall be available for review by the Department and the coal owner or operator.

(b) At a minimum, inspections must determine:

- (1) The well-head pressure or water level measurement.
- (2) The open flow on the annulus of the production casing or the annulus pressure if the annulus is shut in.
- (3) If there is evidence of gas escaping from the well and the amount escaping, using measurement or best estimate of quantity.

(4) If there is evidence of progressive corrosion, rusting or other signs of equipment deterioration.

(c) For structurally sound wells in compliance with § 78.73(c) (relating to general provision for well construction and operation), the operator shall follow the reporting schedule outlined in subsection (e).

(d) For wells exhibiting progressive corrosion, rusting or other signs of equipment deterioration that compromise the integrity of the well, or the well is not in compliance with § 78.73(c), the operator shall immediately notify the Department and take corrective actions to repair or replace defective equipment or casing or mitigate the excess pressure on the surface casing seat, coal protective casing seat or intermediate casing seat when the intermediate casing is used in conjunction with the surface casing to isolate fresh groundwater according to the following hierarchy:

- (1) The operator shall reduce the shut-in or producing back pressure on the casing seat to achieve compliance with § 78.73(c).
- (2) The operator shall retrofit the well by installing production casing to reduce the pressure on the casing seat to achieve compliance with § 78.73(c).

The annular space surrounding the production casing must be open to the atmosphere. The production casing shall be either cemented to the surface or installed on a permanent packer. The operator shall notify the Department at least 7 days prior to initiating the corrective measure.

(3) Additional mechanical integrity tests, including, but not limited to, pressure tests, may be required by the Department to demonstrate the integrity of the well.

(e) The operator shall submit an annual report to the Department identifying the compliance status of each well with the mechanical integrity requirements of this section. The report shall be submitted on forms prescribed by, and available from, the Department or in a similar manner approved by the Department.

§ 78.89. Gas migration response.

(a) When an operator or owner is notified of or otherwise made aware of a natural gas migration incident, the operator shall immediately notify the Department and, if so directed by the Department, conduct an investigation of the incident. The purpose of the investigation is to determine the nature of the incident, assess the potential for hazards to public health and safety, and mitigate any hazard posed by the levels of natural gas. The operator, in conjunction with the Department and local emergency response agencies, shall take measures necessary to ensure public health and safety.

(b) The investigation undertaken under subsection (a) must include, but not be limited to, the following:

(1) An interview with the complainant to obtain information about the complaint and to assess the reported problem.

(2) A field survey to assess the presence and concentrations of natural gas and aerial extent of the stray natural gas.

(3) Establishment of monitoring locations at potential sources, in potentially impacted structures, and the subsurface.

(c) If the level of natural gas is greater than 10% of the lower explosive limit of natural gas, the operator shall:

(1) Immediately notify the local emergency response agency, police and fire departments and the Department.

(2) Conduct an immediate field survey of the operator's adjacent oil or gas wells to assess the wells for mechanical integrity, defective casing or cementing, and excess pressures within any part of the well. The initial area of assessment must include wells within 2,500 feet and expanded to a greater distance if necessary as determined by the Department.

(3) Initiate mitigation controls, which may include remedial measures, access control, advisories, evacuation, signs and other actions.

(d) The operator shall take action to correct any defect in the oil and gas wells to mitigate the stray gas incident.

(e) The operator and owner shall report to the Department by phone within 12 hours after the

interview with the complainant and field survey of the natural gas levels. A follow-up report shall be filed in writing with the Department within 3 days of the complaint. This follow-up report must include the results of the investigation, monitoring results and measures taken by the operator to repair any defects at any of the adjacent oil and gas wells.

PLUGGING

§ 78.92. Wells in coal areas—surface or coal protective casing is cemented.

(a) In a well underlain by a workable coal seam, where the surface casing or coal protective casing is cemented and the production casing is not cemented or the production casing is not present, the owner or operator shall plug the well as follows:

(1) The retrievable production casing shall be removed [ and the ] by applying a pulling force at least equal to the casing weight plus 5,000 pounds or 120% whichever is greater. If this fails, an attempt shall be made to separate the casing by cutting, ripping, shooting or other method approved by the Department, and making a second attempt to remove the casing by exerting a pulling force equal to the casing weight plus 5,000 pounds or 120% of the casing weight, whichever is greater. The well shall be filled with nonporous material from the total depth or attainable bottom of the well, to a point [ 20 feet above the top of ] 50 feet below the lowest stratum bearing or having borne oil, gas or water. At this point, there shall be placed a plug of cement, which [ shall extend ] extends for at least 50 feet above [ that point ] this stratum. [ Between this sealing plug and a point 20 feet above the next higher stratum bearing or having borne oil, gas or water, the hole shall be filled with nonporous material and at that point there shall be placed another 50-foot plug of cement which ] Each overlying formation bearing or having borne oil, gas or water shall be plugged with cement a minimum of 50 feet below this formation to a point 50 feet above this formation. The zone between cement plugs shall be filled with nonporous material. The cement plugs shall be placed in a manner that will completely seal the hole. [ In like manner, the hole shall be filled and plugged, with reference to each of the strata bearing or having borne oil, gas or water. ] The operator may treat multiple strata as one stratum and plug as described in this subsection with a single column of cement or other materials approved by the Department. Where the production casing is not retrievable, the operator shall plug that portion of the well under § 78.91(d) (relating to general provisions).

\* \* \* \* \*

(b) The owner or operator shall plug a well, where the surface casing, coal protective casing and production casing are cemented, as follows:

\* \* \* \* \*

(3) Following the plugging of the cemented portion of the production casing, the uncemented portion of the production casing shall be separated from the cemented portion and retrieved by applying a pulling force at least equal to the casing weight plus 5,000 pounds or 120% whichever is greater. If this fails, an attempt shall be made to separate the casing by

**cutting, ripping, shooting or other method approved by the Department, and making a second attempt to remove the casing by exerting a pulling force equal to the casing weight plus 5,000 pounds or 120% of the casing weight, whichever is greater.** The maximum distance the stub of the uncemented portion of the production casing may extend is 100 feet below the surface or coal protective casing whichever is lower. In no case may the uncemented portion of the casing left in the well extend through a formation bearing or having borne oil, gas or water. Other stratum above the cemented portion of the production casing bearing or having borne oil, gas or water shall be plugged by filling the hole with nonporous material to 20 feet above the stratum and setting a 50-foot plug of cement. The operator may treat multiple strata as one stratum and plug as described in this subsection with a single column of cement or other material as approved by the Department. When the uncemented portion of the production casing is not retrievable, the operator shall plug that portion of the well under § 78.91(d).

\* \* \* \* \*

**§ 78.93. Wells in coal areas—surface or coal protective casing anchored with a packer or cement.**

(a) In a well where the surface casing or coal protective casing and production casing are anchored with a packer or cement, the owner or operator shall plug the well as follows:

(1) The retrievable production casing shall be removed **[ and the ] by applying a pulling force at least equal to the casing weight plus 5,000 pounds or 120% whichever is greater. If this fails, an attempt shall be made to separate the casing by cutting, ripping, shooting or other method approved by the Department, and making a second attempt to remove the casing by exerting a pulling force equal to the casing weight plus 5,000 pounds or 120% of the casing weight, whichever is greater.** The well shall be filled with nonporous material from the total depth or attainable bottom of the well, to a point **[ 20 feet above the top of ] 50 feet below** the lowest stratum bearing or having borne oil, gas or water. At this point there shall be placed a plug of cement, which **[ shall extend ] extends** for at least 50 feet above **[ that point ] this stratum. [ Between this sealing plug and a point 20 feet above the next higher stratum bearing or having borne oil, gas or water, the hole shall be filled with nonporous material and at that point there shall be placed another 50-foot plug of cement which ]** Each overlying formation bearing or having borne oil, gas or water shall be plugged with cement a minimum of 50 feet below this formation to a point 50 feet above this formation. The zone between cement plugs shall be filled with nonporous material. The cement plugs shall be placed in a manner that will completely seal the hole. **[ In this manner, the hole shall be filled and plugged, with reference to each of the strata bearing or having borne oil, gas or water. ]** The operator may treat multiple strata as one stratum and plug as described in this subsection with a single column of cement or other material as approved by the Department. When the production casing is not retrievable, the operator shall plug this portion of the well under § 78.91(d) (relating to general provisions).

\* \* \* \* \*

(3) After it has been established that the surface casing or coal protective casing is free and can be retrieved, the surface or coal protective casing shall be retrieved **[ and a ] by applying a pulling force at least equal to the casing weight plus 5,000 pounds or 120% whichever is greater. If this fails, an attempt shall be made to separate the casing by cutting, ripping, shooting or other method approved by the Department, and making a second attempt to remove the casing by exerting a pulling force equal to the casing weight plus 5,000 pounds or 120% of the casing weight, whichever is greater.** A string of casing with an outside diameter of **[ not less than ] at least 4 1/2 inches** for gas wells, or **[ not less than ] at least 2 inches** for oil wells, shall be run to the top of the 100-foot plug described in paragraph (2) and cemented to the surface.

\* \* \* \* \*

**§ 78.94. Wells in noncoal areas—surface casing is not cemented or not present.**

(a) The owner or operator shall plug a noncoal well, where the surface casing and production casing are not cemented, or is not present as follows:

(1) The retrievable production casing shall be removed **by applying a pulling force at least equal to the casing weight plus 5,000 pounds or 120% whichever is greater. If this fails, an attempt shall be made to separate the casing by cutting, ripping, shooting or other method approved by the Department, and making a second attempt to remove the casing by exerting a pulling force equal to the casing weight plus 5,000 pounds or 120% of the casing weight, whichever is greater.** The well shall be filled with nonporous material from the total depth or attainable bottom of the well, to a point **[ 20 feet above the top of ] 50 feet below** the lowest stratum bearing or having borne oil, gas or water. At this point there shall be placed a plug of cement, which **[ shall extend ] extends** at least 50 feet above **[ that point ] this stratum. [ Between this sealing plug and a point 20 feet above the next higher stratum bearing or having borne oil, gas or water, the hole shall be filled with nonporous material and at that point there shall be placed another 50-foot plug of cement. The hole shall be filled and plugged, with reference to each of the strata bearing or having borne oil, gas or water. ]** Each overlying formation bearing or having borne oil, gas or water shall be plugged with cement a minimum of 50 feet below this formation to a point 50 feet above this formation. The zone between cement plugs shall be filled with nonporous material. The cement plugs shall be placed in a manner that will completely seal the hole. The operator may treat multiple strata as one stratum and plug as described in this paragraph with a single column of cement or other materials as approved by the Department. When the production casing is not retrievable, the operator shall plug this portion of the well under § 78.91(d) (relating to general provisions).

\* \* \* \* \*

(3) After setting the uppermost 50-foot plug, the retrievable surface casing shall be removed **[ and the ] by applying a pulling force at least equal to the casing weight plus 5,000 pounds or 120% whichever is greater. If this fails, an attempt shall be made to separate the casing by cutting, ripping, shooting or**

other method approved by the Department, and making a second attempt to remove the casing by exerting a pulling force equal to the casing weight plus 5,000 pounds or 120% of the casing weight, whichever is greater. The hole shall be filled from the top of the 50-foot plug to the surface with nonporous material other than gel. If the surface casing is not retrievable, the hole shall be filled from the top of the 50-foot plug to the surface with a noncementing material.

\* \* \* \* \*

§ 78.95. Wells in noncoal areas—surface casing is cemented.

(a) The owner or operator shall plug a well, where the surface casing is cemented and the production casing is not cemented or not present, as follows:

(1) The retrievable production casing shall be removed [ and the ] by applying a pulling force at least equal to the casing weight plus 5,000 pounds or 120% whichever is greater. If this fails, an attempt shall be made to separate the casing by cutting, ripping, shooting or other method approved by the Department, and making a second attempt to remove the casing by exerting a pulling force equal to the casing weight plus 5,000 pounds or 120% of the casing weight, whichever is greater. The well shall be filled with nonporous material from the total depth or attainable bottom of the well, to a point [ 20 feet above the top of ] 50 feet below the lowest stratum bearing or having borne oil, gas or water. At this point there shall be placed a plug of cement, which [ shall extend ] extends for at least 50 feet above [ that point ] this stratum. [ Between this sealing plug and a point 20 feet above the next higher stratum bearing or having borne oil, gas or water, the hole shall be filled with nonporous material and at that point there shall be placed another 50-foot plug of cement. The hole shall be filled and plugged, with reference to each of the strata bearing or having borne oil, gas or water. ] Each overlying formation bearing or having borne oil, gas or water shall be plugged with cement a minimum of 50 feet below this formation to a point 50 feet above this formation. The zone between cement plugs shall be filled with nonporous material. The cement plugs shall be placed in a manner that will completely seal the hole. The operator may treat multiple strata as one stratum and plug as described in this subsection with a single column of cement or other materials as approved by the Department. When the production casing is not retrievable, the operator shall plug this portion of the well under § 78.91(d) (relating to general provisions).

\* \* \* \* \*

§ 78.96. Marking the location of a plugged well.

(a) Upon the completion of plugging or replugging a well, the operator shall erect over the plugged well a permanent marker of concrete, metal [ or metal and concrete ], plastic or equally durable material. The marker [ shall ] must extend at least 4 feet above the ground surface and enough below the surface to make the marker permanent. Cement may be used to hold the marker in place provided the cement does not prevent inspection of the adequacy of the well plugging. The permit or registration number shall be stamped or cast or otherwise permanently affixed to the marker. In lieu of placing the marker above the ground

surface, the marker may be buried below plow depth and [ shall ] contain enough metal to be detected at the surface by conventional metal detectors.

Subchapter E. WELL REPORTING

§ 78.121. [ Annual production report ] Production reporting.

(a) The well operator shall submit an annual production and status report for each well on an individual basis, on or before [ March 31 ] February 15 of each year. The operator of a well which produces gas from the Marcellus shale formation shall submit a production and status report for each well on an individual basis, on or before February 15 and August 15 of each year. Production shall be reported for the preceding calendar year or in the case of a Marcellus shale well, for the preceding 6 months. When the production data is not available to the operator on a well basis, the operator shall report production on the most well-specific basis available. The annual production report [ shall ] must include information on the amount and type of waste produced and the method of waste disposal or reuse. Waste information submitted to the Department in accordance with this subsection [ shall ] must satisfy the residual waste biennial reporting requirements of § 287.52 (relating to biennial report).

(b) The [ annual ] production report shall be submitted [ on forms prescribed by, and available from, the Department or in a similar manner approved by the Department ] electronically to the Department through its web site.

§ 78.122. Well record and completion report.

(a) For each well that is drilled or altered, the operator shall keep a detailed drillers log at the well site available for inspection until drilling is completed. Within 30 calendar days of cessation of drilling or altering a well, the well operator shall submit a well record to the Department on a form provided by the Department that includes the following information:

\* \* \* \* \*

(9) A certification by the operator that the well has been constructed in accordance with this chapter and any permit conditions imposed by the Department.

(10) Drillers log that includes the name and depth of formations from the surface to total depth, depth of oil and gas producing zone, depth of fresh water and brines and source of information.

[ (10) ] (11) Other information required by the Department.

(b) Within 30 calendar days after completion of the well, the well operator shall submit a completion report to the Department on a form provided by the Department that includes the following information:

\* \* \* \* \*

(6) Stimulation record, including pump rates, pressure, total volume and list of hydraulic fracturing chemicals used, the volume of water used and identification of water sources used pursuant to an approved water management plan.

(7) Actual open flow production and [ rock ] reservoir pressure.

(8) Open flow production and [ rock ] reservoir pressure, measured 24 hours after [ treatment ] completion.

\* \* \* \* \*

[Pa.B. Doc. No. 10-1248. Filed for public inspection July 9, 2010, 9:00 a.m.]

# STATE EMPLOYEES' RETIREMENT BOARD

[ 4 PA. CODE CH. 249 ]

## Exemption from Execution; Assignment of Rights

The State Employees' Retirement Board (Board) proposes to rescind § 249.53 (relating to exemption from execution; assignment of rights) to read as set forth in Annex A. This section pertains to the exemption from execution and assignment of rights when a member becomes indebted to the State Employees' Credit Union.

### A. Effective Date

The proposed rulemaking will go into effect upon final-form publication in the *Pennsylvania Bulletin*.

### B. Contact Person

For further information, contact Robert Gentzel, Director of Communications and Policy, State Employees' Retirement System, 30 North Third Street, Suite 150, Harrisburg, PA 17101-1716, (717) 787-9657; or Brian E. McDonough, Deputy Chief Counsel, State Employees' Retirement System, 30 North Third Street, Suite 150, Harrisburg, PA 17101-1716, (717) 783-7317. Information regarding submitting comments on this proposed rulemaking appears in Section H of this preamble.

### C. Statutory Authority

This proposed rulemaking is being made under the authority of 71 Pa.C.S. §§ 5902(h) and 5953 (relating to administrative duties of the board; and taxation, attachment and assignment of funds).

### D. Background and Purpose

This proposed rulemaking rescinds State Employees Credit Union payment language in § 249.53. The language is obsolete. Currently, credit unions do not meet the statutory requirements and it is unlikely that any new ones will. A corresponding statutory amendment is also being considered. The language concerning payment priority in the event of member indebtedness to the Commonwealth is included in the proposed comprehensive regulation on priority of payments from member benefits in § 247.11 (relating to priority of taxation, attachments and assignments of funds). See 38 Pa.B. 2062 (May 3, 2008).

### E. Benefits, Costs and Compliance

Executive Order 1996-1 requires a cost/benefit analysis of the proposed rulemaking.

#### Benefits

The rescission of § 249.53 will alleviate any confusion and prevent possible disputes with regard to conflicting demands on members' retirement benefits.

#### Costs

There are no costs to the Commonwealth, its citizens or State employees associated with this proposed rulemaking.

#### Compliance costs

The proposed rulemaking is not expected to impose additional compliance costs on State employees.

#### F. Sunset Review

A sunset review is not applicable.

#### G. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 14, 2010, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the House State Government Committee and the Senate Finance Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

#### H. Public Comments

*Written comments.* Interested persons are invited to submit comments, suggestions or objections regarding the proposed rulemaking to Robert Gentzel, Director of Communications and Policy, State Employees' Retirement System, 30 North Third Street, Suite 150, Harrisburg, PA 17101-1716. Comments submitted by facsimile will not be accepted. The Board must receive comments, suggestions or objections within 30 days of publication in the *Pennsylvania Bulletin*.

*Electronic comments.* Comments may be submitted electronically to the Board at [rgentzel@state.pa.us](mailto:rgentzel@state.pa.us) and must be received by the Board within 30 days of publication in the *Pennsylvania Bulletin*. A subject heading of the proposal and a return name and address must be included in each transmission. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

NICHOLAS J. MAIALE,  
*Chairperson*

**Fiscal Note:** 31-13. No fiscal impact; (8) recommends adoption.

### Annex A

#### TITLE 4. ADMINISTRATION

#### PART X. STATE EMPLOYEES' RETIREMENT BOARD

#### CHAPTER 249. ADMINISTRATION, FUNDS, ACCOUNTS, GENERAL PROVISIONS

#### Subchapter E. GENERAL PROVISIONS

§ 249.53. [ Exemption from execution; assignment of rights ] (Reserved).

[ (a) *General.* In the event any member, entitled to a benefit, has been determined, at the time this



benefit becomes payable, to be obligated to the Commonwealth for the repayment of money for any employment related reason, or to be obligated to the State Employees' Credit Union for the repayment of a loan not to exceed \$750 with interest, as provided in section 5953 of the code (relating to taxation, attachment and assignment of funds), the Board will cause to be paid from the member's account, upon his authorization, or upon certification of his agencies legal representative, the amount of indebtedness. The member, or his designated beneficiary, in the case of a deceased member, shall have the privilege of restoring the set off amount to his account within 30 days thereafter in a lump sum. Failing that, any benefit to which he would otherwise be entitled shall be withheld until an amount sufficient to satisfy the obligation has been accumulated, whereupon the annuity shall be payable to the member.

(b) *Debt priorities.* In the event a member is indebted, not only to the Commonwealth, but also the State Employees' Credit Union, under section 5953 of the code, payments to satisfy indebtedness to the Commonwealth shall be made in full before the Credit Union indebtedness is satisfied.

(c) *Effect of credit union payment.* In the event the Board is required to satisfy a credit union loan on behalf of an active member, as provided in section 5953(b)(2) of the code, the amount of the satisfaction will be automatically converted into an arrears liability of the member, which shall be restored in full by the defaulting member by lump sum or payroll deductions over a period not exceeding 1 year with statutory interest charged during the repayment period. ]

[Pa.B. Doc. No. 10-1249. Filed for public inspection July 9, 2010, 9:00 a.m.]

## SUSQUEHANNA RIVER BASIN COMMISSION

[ 25 PA. CODE CHS. 806 AND 808 ]  
Review and Approval of Projects

This document contains proposed rules that would amend the project review regulations of the Susquehanna River Basin Commission (Commission) to: Include subsidiary allocations for public water supply systems under the scope of withdrawals requiring review and approval; improve notice procedures for all project applications; clarify requirements for grandfathered projects increasing their withdrawals from an existing source or initiating a new withdrawal; refine the provisions governing transfer and re-issuance of approvals; clarify the Executive Director's authority to grant, deny, suspend, rescind, modify or condition an Approval by Rule; include decisional criteria for diversions into the basin; amend administrative appeal procedures to broaden available remedies and streamline the appeal process; and make other minor regulatory clarifications to the text of the regulations.

*Dates:* Comments on these proposed rules may be submitted to the Commission on or before August 10, 2010. The Commission has scheduled two public hearings on the proposed rules, to be held July 27, 2010, in

Binghamton, New York, and July 29, 2010, in Harrisburg, Pennsylvania. The locations of the public hearings are listed in the addresses section of this notice.

*Addresses:* Comments may be mailed to: Mr. Richard A. Cairo, Susquehanna River Basin Commission, 1721 N. Front Street, Harrisburg, PA 17102-2391, or by email to rcairo@srbc.net.

The public hearings will be held on Tuesday, July 27, 2010, at 7:00 p.m., at the Holiday Inn Arena, 2-8 Hawley Street, Binghamton, New York 13901, and Thursday, July 29, 2010, at 10:00 a.m., at the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17101. Those wishing to testify are asked to notify the Commission in advance, if possible, at the regular or electronic addresses given below.

*For Further Information Contact:* Richard A. Cairo, General Counsel, telephone: 717-238-0423, ext. 306; fax: 717-238-2436; e-mail: rcairo@srbc.net. Also, for further information on the proposed rulemaking, visit the Commission's web site at [www.srbc.net](http://www.srbc.net).

### *Supplementary Information*

#### *Background and Purpose of Amendments*

When 18 CFR 806.4 was originally published as final at 71 FR 78570, December 29, 2006, updating and expanding the range of projects subject to Commission review and approval, a pre-existing regulatory provision was omitted inadvertently and this proposed rulemaking attempts to correct that omission. Specifically, 18 CFR § 806.4(a)(2) would be modified to indicate that the taking or removal of water by a public water supplier indirectly through another public water supply system or another water facility (aka, a subsidiary allocation) constitutes a withdrawal that is subject to review and approval.

An amendment to 18 CFR § 806.4(a)(2)(iv) will clarify that sponsors of grandfathered surface or groundwater withdrawal projects are required to submit applications for review and approval whenever the project will increase its withdrawal from an existing source, or initiate a withdrawal from a new source, or combination of sources. This clarification memorialized existing Commission policy under the current rule.

An amendment to 18 CFR § 806.4(c) will provide that sponsors of certain classes of projects undergoing a change of ownership, and thus triggering review and approval, would have 90 days from the date of ownership transfer to submit applications under the rule. The current rule requires submission of the application on or before the date of ownership change. This amendment is consistent with those recommended for transfers of approval under 18 CFR § 806.6, as discussed below.

The proposed amendments to 18 CFR § 806.6 are intended to clarify that certain approvals may be transferred or conditionally transferred administratively, rather than requiring full Commission action on such transfer requests. The existing phraseology authorizing transfers or conditional transfers of approval "without prior Commission review and approval" was misleading in that respect and is proposed to be deleted, along with other editorial changes intended to add more clarification to this section.

The existing rule also requires certain categories of approvals to initiate the transfer of approval process with the Commission on or before the date of ownership transfer, and yet other categories of approvals are allowed to initiate transfer applications within 90 days of the date

of ownership transfer. The proposed language would uniformly require all applications to be submitted within 90 days of the date of ownership transfer.

Another substantive change would break out situations where project sponsors with existing approvals undergo a name change and seek to have the approval changed to reflect the new name. Rather than being categorized as a transfer of approval, which is triggered by a change in ownership, a new subsection is added to more appropriately provide for "re-issuance" of such approvals to reflect the name change of the existing project sponsor.

An amendment is proposed to 18 CFR § 806.7 to clarify that existing language recognizing that agencies of the member jurisdictions exercise "review authority" over projects also regulated by the Commission is intended to mean and should be stated as "review and approval authority."

18 CFR § 806.15 currently sets notification requirements for project sponsors applying for approvals issued by the Commission under its standard docketing procedures, and for Approval by Rule (ABR) natural gas pad site approvals issued under 18 CFR § 806.22(f). However, ABRs issued under 18 CFR § 806.22(e) are subject to certain notification standards in that section which are inconsistent with the general notification requirements contained in 18 CFR § 806.15. Furthermore, there are also requirements contained in 18 CFR § 806.22(f) that are redundant with those contained in 18 CFR § 806.15 and are therefore unnecessary.

The proposed amendments to this section (and complementary ones proposed for 18 CFR §§ 806.22(e) and (f)) are intended to result in all notification requirements for all project approvals being consolidated into this section, including all those having general applicability and those that might be specific to certain classes of project applications.

With regard to specific requirements for certain classes, the proposed rulemaking would establish the following revised notification standards:

- For groundwater withdrawal applications, rather than just notifying landowners that are contiguous to the project site, notice would have to be given to all owners currently listed on the tax assessment rolls that are within one-half mile of the proposed withdrawal location.

- For surface water withdrawal applications, rather than just notifying landowners that are contiguous to the project site, notice would have to be given to all owners currently listed on the tax assessment rolls that are within one-half mile of the proposed withdrawal location and whose property borders the stream, river, lake or water body from which the withdrawal is proposed to be taken.

- For consumptive use applications involving a withdrawal, the applicable groundwater or surface water withdrawal requirements noted above would apply. For consumptive use applications that do not involve a withdrawal (such as those supplied by a public water supplier), newspaper notice in the area of the project would be required.

- For out-of-basin diversion applications, there would be additional newspaper notice required in the area outside the basin where the proposed use of the diverted water would occur.

- For into-basin diversion applications, there would be additional newspaper notice required in the area outside the basin where the withdrawal of water proposed for diversion is located.

- For applications to use public water supply a source for water in natural gas development operations, newspaper notice in the area served by the public water supply system would be required.

- For applications to use wastewater discharge as a source for water in natural gas development operations, newspaper notice would be required in all areas where such discharge water would be used for such development purposes.

In addition to the foregoing, the proposed amendments establish uniform proof of notification standards and would require project sponsors to maintain all proofs of notice for the duration of the approvals related to such notices.

The Approval by Rule (ABR) provisions contained in 18 CFR § 806.22 would be modified to clarify that the Executive Director has the authority not only to grant or deny such ABRs, but to "suspend, rescind, modify or condition" such approvals as well. Such authority was implied in the existing language and the existing policy of the Commission supports that interpretation. The proposed amendment is intended to provide that clarification. A second amendment would require all project sponsors seeking an ABR to satisfy the applicable notice requirements proposed for 18 CFR § 806.15, and noted above.

With regard to ABRs issued under 18 CFR § 806.22(f) for natural gas development projects, language is proposed for subsection (f)(12)(i) to clarify that project sponsors registering approved water withdrawals must record daily and report quarterly the quantity of water obtained from all registered sources. Additionally, subsection (f)(12)(ii) would be modified to delete "other reclaimed waters" as potential sources, thus limiting the class of approvable sources under this provision to public water supply systems and wastewater discharges.

The proposed amendments to 18 CFR § 806.24 would add certain decisional criteria for consideration by the Commission while acting on applications for into-basin diversions, similar to what now is provided for consideration in acting on out-of-basin diversion applications. Specifically, the proffered language would add criteria related to the potential introduction of invasive or exotic species that may be injurious to the water resources of the basin, and the extent to which the proposed diversion would satisfy all other applicable standards contained in subpart C of Part 806.

18 CFR § 806.35 currently indicates that project sponsors have an affirmative duty to pay fees established by the Commission. The proposed amendatory language would expand this to indicate that the purpose of such fees is to cover the Commission's costs of administering its regulatory program and any extraordinary costs associated with specific projects.

18 CFR § 808.2 currently establishes a procedure for the filing of administrative appeals to actions or decisions rendered by the Commission or the Executive Director. The broad terms of the current regulation have resulted in some abuse of the appeal process, including attempts to file appeals of determinations on requests for administrative appeals, appeals of stay request determinations and other extraneous or repetitive pleadings that frustrate the original purpose of providing the appropriate administrative review envisioned when this rule became effective in 2007. In short, this abuse has been enabled by the fact that there is no limitation on the type of

Commission actions that are eligible for appeal under this section, leaving any action of the Commission subject to this process.

Additionally, the current regulation does not contain provisions for handling appeals from administrative level "Access to Records" determinations. The new Access to Records Policy adopted by the Commission in 2009 (Policy No. 2009-02) provides for appeal of such decisions to the Commission. Finally, the current regulation does not specify the authority of an appointed hearing officer to admit or bar intervenor parties based on the principle of standing.

The proposed revisions to 18 CFR § 808.2 generally limit appeals to a single filing, and only to project determinations or records determinations. Executive Director determinations on requests for stay would not be appealable to the Commission and would stand until the time of the Commission proceeding on the appeal (unless overturned by a court of competent jurisdiction). Lastly, the appointed hearing officer is given authority to admit or bar intervenor parties based on the legal principle of standing.

List of Subjects in 18 CFR Parts 806 and 808

Administrative practice and procedure, Water resources.

Accordingly, for the reasons set forth in the preamble, the Susquehanna River Basin Commission proposes to amend 18 CFR Parts 806 and 808 as follows:

PART 806—REVIEW AND APPROVAL OF PROJECTS

Subpart C—Standards for Review and Approval

1. The authority citation for Part 806 continues to read as follows:

Authority: Secs. 3.4, 3.5(5), 3.8, 3.10 and 15.2, Pub. L. 91-575, 84 Stat. 1509 et seq.

2. In § 806.4, revise paragraphs (a)(2) introductory text, (a)(2)(iv), and (c) to read as follows:

§ 806.4. Projects requiring review and approval.

\* \* \* \* \*

(a) \* \* \*

(2) Withdrawals. Any project described below shall require an application to be submitted in accordance with § 806.13, and shall be subject to the standards set forth in § 806.23. Hydroelectric projects, except to the extent that such projects involve a withdrawal, shall be exempt from the requirements of this section regarding withdrawals; provided, however, that nothing in this paragraph shall be construed as exempting hydroelectric projects from review and approval under any other category of project requiring review and approval as set forth in this section, § 806.5, or 18 CFR part 801. The taking or removal of water by a public water supplier indirectly through another public water supply system or another water user's facilities shall constitute a withdrawal hereunder.

\* \* \* \* \*

(iv) With respect to groundwater projects in existence prior to July 13, 1978, and surface water projects in existence prior to November 11, 1995, any project that will increase its withdrawal from any source, or initiate a withdrawal from a new source, or combination of sources, by a consecutive 30-day average of 100,000 gpd or more,

above that maximum consecutive 30-day amount which the project was withdrawing prior to the said applicable date.

\* \* \* \* \*

(c) Any project that did not require Commission approval prior to January 1, 2007, and not otherwise exempt from the requirements of paragraph (a)(1)(iv), (a)(2)(v) or (a)(3)(iv) pursuant to paragraph (b) of this section, may be undertaken by a new project sponsor upon a change of ownership pending action by the Commission on an application submitted by such project sponsor requesting review and approval of the project, provided such application is submitted to the Commission in accordance with this part within 90 days of the date change of ownership occurs and the project features related to the source, withdrawal, diversion or consumptive use of water, or the nature or quantity of water withdrawal, diversion or consumptive use associated with the project do not change pending review of the application. For purposes of this paragraph, changes in the quantity of water withdrawal, diversion or consumptive use shall only relate to increases in quantity in excess of the quantity withdrawn, diverted or consumptively used prior to the change of ownership.

3. In § 806.6, revise paragraphs (a), (b) introductory text, (b)(1), (c) introductory text and (d) introductory text, and add paragraph (e) to read as follows:

§ 806.6. Transfer and re-issuance of approvals.

(a) An existing Commission project approval may be transferred or conditionally transferred to a new project sponsor upon a change of ownership of the project, subject to the provisions of paragraphs (b), (c) and (d) of this section, and the new project sponsor may only operate the project in accordance with and subject to the terms and conditions of the existing approval pending approval of the transfer, provided the new project sponsor notifies the Commission within 90 days from the date of the change of ownership, which notice shall be on a form and in a manner prescribed by the Commission and under which the new project sponsor certifies its intention to comply with all terms and conditions of the transferred approval and assume all other associated obligations.

(b) An existing Commission project approval for any of the following categories of projects may be conditionally transferred, subject to administrative approval by the Executive Director, upon a change of ownership and the new project sponsor may only operate such project in accordance with and subject to the terms and conditions of the transferred approval:

(1) A project undergoing a change of ownership as a result of a corporate reorganization where the project property is transferred to a corporation by one or more corporations solely in exchange for stock or securities of the transferee corporation, provided that immediately after the exchange the transferor corporation(s) own 80 percent of the voting stock and 80 percent of all other stock of the transferee corporation.

\* \* \* \* \*

(c) An existing Commission approval of a project that satisfies the following conditions may be conditionally transferred and the project sponsor may only operate such project in accordance with and subject to the terms and conditions of the conditionally transferred approval, pending action by the Commission on the application submitted in accordance with paragraph (c)(3) of this section:

\* \* \* \* \*

(d) An existing Commission project approval for any project not satisfying the requirements of paragraphs (b) or (c) of this section may be conditionally transferred and the project sponsor may only operate such project in accordance with and subject to the terms and conditions of the conditionally transferred approval, pending action by the Commission on an application the project sponsor shall submit to the Commission, provided that:

\* \* \* \* \*

(e) An existing Commission project approval may be re-issued by the Executive Director at the request of a project sponsor undergoing a change of name, provided such change does not affect ownership or control of the project or project sponsor. The project sponsor may only continue to operate the project under the terms and conditions of the existing approval pending approval of its request for re-issuance, provided it submits its request to the Commission within 90 days from the date of the change, which notice shall be on a form and in a manner prescribed by the Commission, accompanied by the appropriate fee established therefore by the Commission.

4. In § 806.7, revise paragraph (a) to read as follows:

**§ 806.7. Concurrent project review by member jurisdictions.**

(a) The Commission recognizes that agencies of the member jurisdictions will exercise their review and approval authority and evaluate many proposed projects in the basin. The Commission will adopt procedures to assure compatibility between jurisdictional review and Commission review.

\* \* \* \* \*

5. Revise § 806.15 to read as follows:

**§ 806.15. Notice of application.**

(a) The project sponsor shall, no later than 10 days after submission of an application to the Commission, notify the appropriate agency of the member state, each municipality in which the project is located, and the county planning agency of each county in which the project is located, that an application has been submitted to the Commission. The project sponsor shall also publish at least once in a newspaper of general circulation serving the area in which the project is located, a notice of the submission of the application no later than 10 days after the date of submission. The project sponsor shall also meet any of the notice requirements set forth in paragraphs (b) through (e) of this section, if applicable. All notices required under this section shall contain a description of the project, its purpose, the requested quantity of water to be withdrawn obtained from for sources other than withdrawals or consumptively used, and the address, electronic mail address, and phone number of the project sponsor and the Commission.

(b) For withdrawal applications submitted pursuant to § 806.4 (a)(2), the project sponsor shall also provide the notice required under paragraph (a) of this section no later than 10 days after the date of its submission to each property owner listed on the tax assessment rolls of the county in which such property is located and identified as follows:

(1) For groundwater withdrawal applications, the owner of any property that is located within one-half mile of the proposed withdrawal location.

(2) For surface water withdrawal applications, the owner of any property that is riparian or littoral to the body of water from which the proposed withdrawal will be taken and is within one-half mile of the proposed withdrawal location.

(c) For projects involving a diversion of water out of the basin, the project sponsor shall also publish a notice of the submission of its application, within 10 days thereof, at least once in a newspaper of general circulation serving the area outside the basin where the project proposing to use the diverted water is located. For projects involving a diversion of water into the basin, the project sponsor shall also publish a notice of the submission of its application, within 10 days thereof, at least once in a newspaper of general circulation serving the area outside the basin where the withdrawal of water proposed for diversion is located.

(d) For applications submitted under § 806.22(f)(12)(ii) to use a public water supply source, the newspaper notice requirement contained in paragraph (a) of this section shall be satisfied by publication in a newspaper of general circulation in the area served by the public water supply.

(e) For applications submitted under § 806.22(f)(12)(ii) to use a wastewater discharge source, the newspaper notice requirement contained in paragraph (a) of this section shall be satisfied by publication in a newspaper of general circulation in each area within which the water obtained from such source will be used for natural gas development.

(f) The project sponsor shall provide the Commission with a copy of the United States Postal Service return receipt for the notifications to agencies of member states, municipalities and county planning agencies required under paragraph (a) of this section. The project sponsor shall also provide certification on a form provided by the Commission that it has published the newspaper notice(s) required by this section and made the landowner notifications as required under paragraph (b) of this section, if applicable. Until these items are provided to the Commission, processing of the application will not proceed. The project sponsor shall maintain all proofs of notice required hereunder for the duration of the approval related to such notices.

6. In § 806.22, revise paragraphs (e)(1)(i) introductory text, (e)(1)(i), (e)(1)(ii), (e)(6), (f)(3), (f)(9), and (f)(12)(i) and (f)(12)(ii) to read as follows:

**§ 806.22. Standards for consumptive uses of water.**

\* \* \* \* \*

(e) \* \* \*

(1) Except with respect to projects involving natural gas well development subject to the provisions of paragraph (f) of this section, any project whose sole source of water for consumptive use is a public water supply system, may be approved by the Executive Director under this paragraph (e) in accordance with the following, unless the Executive Director determines that the project cannot be adequately regulated under this approval by rule:

(i) Notification of Intent: No fewer than 90 days prior to the construction or implementation of a project or increase above a previously approved quantity of consumptive use, the project sponsor shall submit a Notice of Intent (NOI) on forms prescribed by the Commission, and the applicable application fee, along with any required attachments.

(ii) Within 10 days after submittal of an NOI under paragraph (e)(1)(i) of this section, the project sponsor shall satisfy the notice requirements set forth in § 806.15.

\* \* \* \* \*

(6) The Executive Director may grant, deny, suspend, rescind, modify or condition an approval to operate under this approval by rule and will notify the project sponsor of such determination, including the quantity of consumptive use approved.

\* \* \* \* \*

(f) \* \* \*

(3) Within 10 days after submittal of an NOI under paragraph (f)(2) of this section, the project sponsor shall satisfy the notice requirements set forth in § 806.15.

\* \* \* \* \*

(9) The Executive Director may grant, deny, suspend, rescind, modify or condition an approval to operate under this approval by rule and will notify the project sponsor of such determination, including the sources and quantity of consumptive use approved. The issuance of any approval hereunder shall not be construed to waive or exempt the project sponsor from obtaining Commission approval for any water withdrawals or diversions subject to review pursuant to § 806.4 (a).

\* \* \* \* \*

(12) The following additional sources of water may be utilized by a project sponsor in conjunction with an approval by rule issued pursuant to paragraph (f)(9) of this section:

(i) Water withdrawals or diversions approved by the Commission pursuant to § 806.4 (a) and issued to persons other than the project sponsor, provided any such source is approved for use in natural gas well development, the project sponsor has an agreement for its use, and at least 10 days prior to use, the project sponsor registers such source with the Commission on a form and in a manner as prescribed by the Commission, and provides a copy of same to the appropriate agency of the member state. Any approval issued hereunder shall be further subject to any approval or authorization required by the member state to utilize such source(s). The project sponsor shall record on a daily basis, and report quarterly on a form and in a manner prescribed by the Commission, the quantity of water obtained from any source registered hereunder.

(ii) Sources of water other than those subject to paragraph (f)(12)(i) of this section, including public water supply or wastewater discharge, provided such sources are first approved by the Executive Director pursuant to this section. Any request to utilize such source(s) shall be submitted on a form and in a manner as prescribed by the Commission, shall satisfy the notice requirements set forth in § 806.15, and shall be subject to review pursuant to the standards set forth in subpart C of this part. Any approval issued hereunder shall be further subject to any approval or authorization required by the member state to utilize such source(s).

7. In § 806.24, add paragraph (c)(2), to read as follows  
**§ 806.24. Standards for diversions.**

\* \* \* \* \*

(c) \* \* \*

(2) In deciding whether to approve a proposed diversion into the basin, the Commission shall also consider and the project sponsor shall provide information related to the following factors:

(i) Any adverse effects and cumulative adverse effects the project may have on the Susquehanna River Basin, or any portion thereof, as a result of the introduction or

potential introduction of invasive or exotic species that may be injurious to the water resources of the basin.

(ii) The extent to which the proposed diversion satisfies all other applicable standards set forth in subpart C of this part.

8. Revise § 806.35 to read as follows:

**§ 806.35. Fees**

Project sponsors shall have an affirmative duty to pay such fees as established by the Commission to cover its costs of administering the regulatory program established by this part, including any extraordinary costs associated with specific projects.

*PART 808—HEARINGS AND ENFORCEMENT ACTIONS*

*Subpart A—Conduct of Hearings*

10. The authority citation for Part 808 continues to read as follows:

Authority: Secs. 3.4, 3.5(5), 3.8, 3.10 and 15.2, Pub. L. 91-575, 84 Stat. 1509 et seq.

11. In § 808.2, revise paragraphs (a), (b), (c), (d), (e), (f), (g), and (h) to read as follows:

**§ 808.2. Administrative appeals.**

(a) A project sponsor or other person aggrieved by a final action or decision of the Commission or Executive Director on a project application or a records access determination made pursuant to Commission policy may file a written appeal requesting a hearing. Except with respect to project approvals or denials, such appeal shall be filed with the Commission within 30 days of the action or decision. In the case of a project approval or denial, such appeal shall be filed by a project sponsor within 30 days of receipt of actual notice, and by all others within 30 days of publication of notice of the action taken on the project in the Federal Register. In the case of records access determinations, such appeal shall be filed with the Commission within 30 days of receipt of actual notice of the determination.

(b) The appeal shall identify the specific action or decision for which a hearing is requested, the date of the action or decision, the interest of the person requesting the hearing in the subject matter of the appeal, and a statement setting forth the basis for objecting to or seeking review of the action or decision. Appeals omitting any of these elements will be considered incomplete and not considered by the Commission.

(c) Any request not filed on or before the applicable deadline established in paragraph (a) of this section hereof will be deemed untimely and such request for a hearing shall be considered denied unless the Commission otherwise authorizes it nunc pro tunc. Receipt of requests for hearings, pursuant to this section, whether timely filed or not, shall be submitted by the Executive Director to the commissioners for their information.

(d) Petitioners shall be limited to a single filing that shall set forth all matters and arguments in support thereof, including any ancillary motions or requests for relief. Issues not raised in this single filing shall be considered waived and filings may only be amended or supplemented upon leave of the Executive Director. Where the petitioner is appealing a final determination on a project application and is not the project sponsor, the

petitioner shall serve a copy of the appeal upon the project sponsor within five days of its filing.

(e) If granted, hearings shall be held not less than 20 days after notice appears in the Federal Register. Hearings may be conducted by one or more members of the Commission, by the Executive Director, or by such other hearing officer as the Commission may designate.

(1) The petitioner may also request a stay of the action or decision giving rise to the appeal pending final disposition of the appeal, which stay may be granted or denied by the Executive Director after consultation with the Commission chair and the member from the affected member state. The decision of the Executive Director on the request for stay shall not be appealable to the Commission under this section and shall remain in full force and effect until the Commission acts on the appeal.

(2) In addition to the contents of the request itself, the Executive Director, in granting or denying the request for stay, will consider the following factors:

- (i) Irreparable harm to the petitioner.
- (ii) The likelihood that the petitioner will prevail.

(f) The Commission shall grant the hearing request pursuant to this section if it determines that an adequate record with regard to the action or decision is not available, the case involves a determination by the Executive Director or staff which requires further action by the Commission, or that the Commission has found that an administrative review is necessary or desirable. If the Commission denies any request for a hearing, the party seeking such hearing shall be limited to such remedies as may be provided by the compact or other applicable law or court rule.

(g) If a hearing is granted, the Commission shall refer the matter for hearing to be held in accordance with § 808.3, and appoint a hearing officer.

(h) *Intervention.*

(1) A request for intervention may be filed with the Commission by persons other than the petitioner within 20 days of the publication of a notice of the granting of

such hearing in the Federal Register. The request for intervention shall state the interest of the person filing such notice, and the specific grounds of objection to the action or decision or other grounds for appearance. The hearing officer(s) shall determine whether the person requesting intervention has standing in the matter that would justify their admission as an intervener to the proceedings in accordance with federal case law.

(2) Interveners shall have the right to be represented by counsel, to present evidence and to examine and cross-examine witnesses.

\* \* \* \* \*

Dated: June 22, 2010.

PAUL O. SWARTZ,  
*Executive Director*

**Fiscal Note:** 72-8. No fiscal impact; (8) recommends adoption.

**Annex A**  
**TITLE 25. ENVIRONMENTAL PROTECTION**  
**PART IV. SUSQUEHANNA RIVER BASIN**  
**COMMISSION**  
**CHAPTER 806. REVIEW AND APPROVAL OF**  
**PROJECTS**

**§ 806.1. Incorporation by reference.**

The regulations and procedures for review of projects as set forth in 18 CFR Part 806 ([ 2009 ] 2010) (relating to review and approval of projects) are incorporated by reference and made part of this title.

**CHAPTER 808. HEARINGS AND ENFORCEMENT**  
**ACTIONS**

**§ 808.1. Incorporation by reference.**

The regulations and procedures for hearings/enforcement actions as set forth in 18 CFR Part 808 ([ 2009 ] 2010) (relating to hearings and enforcement actions) are incorporated by reference and made part of this title.

[Pa.B. Doc. No. 10-1250. Filed for public inspection July 9, 2010, 9:00 a.m.]

# STATEMENTS OF POLICY

## Title 4—ADMINISTRATION

### PART II. EXECUTIVE BOARD

#### [ 4 PA. CODE CH. 9 ]

#### Reorganization of the State Police

The Executive Board approved a reorganization of the State Police effective June 18, 2010.

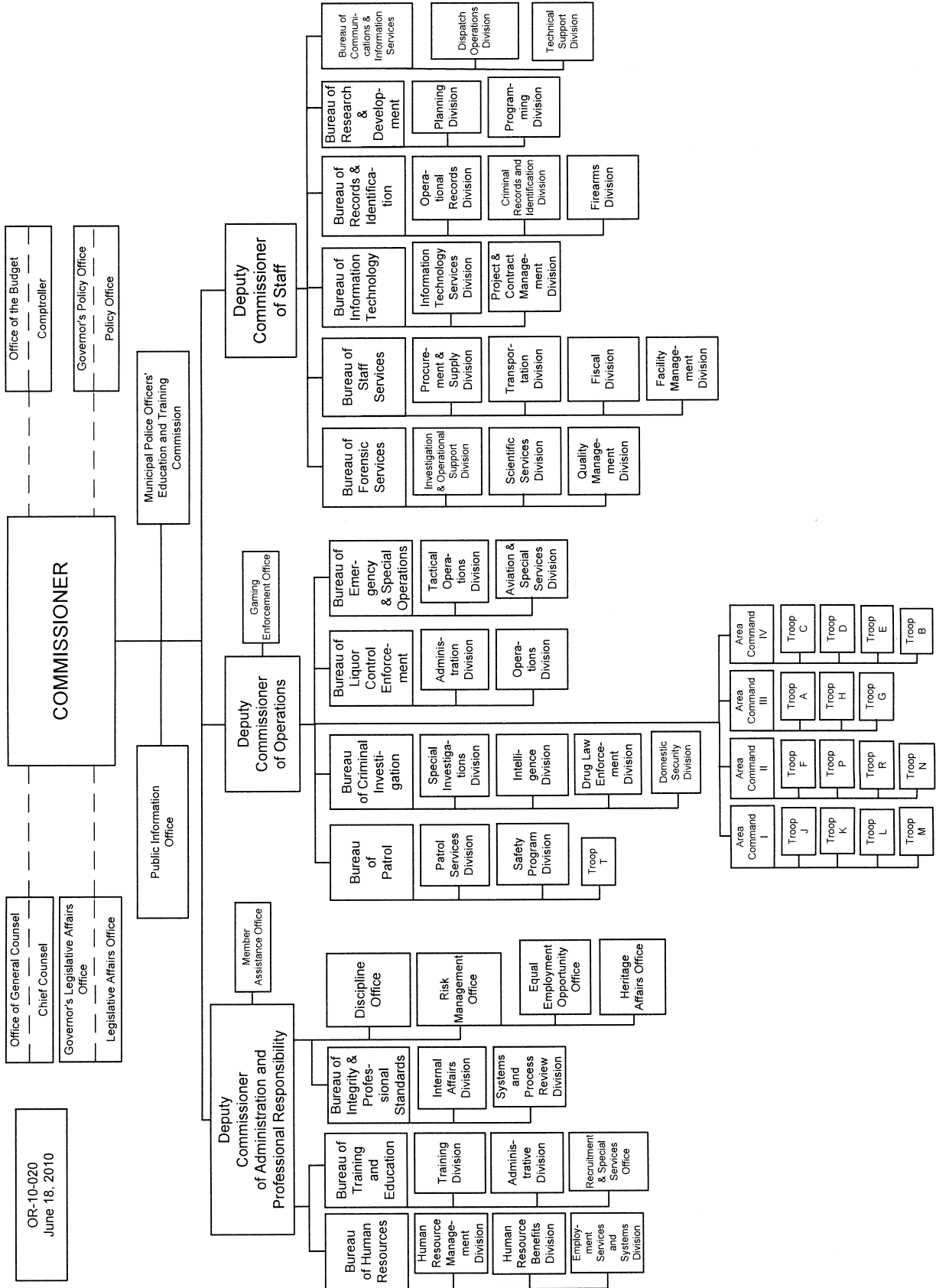
The organization chart at 40 Pa.B. 3867 (July 10, 2010) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

*(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of Pennsylvania Code) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)*

[Pa.B. Doc. No. 10-1251. Filed for public inspection July 9, 2010, 9:00 a.m.]

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PENNSYLVANIA STATE POLICE





# Title 10—BANKS AND BANKING

DEPARTMENT OF BANKING

[ 10 PA. CODE CH. 47 ]

## Mortgage Loan Modifications—Statement of Policy

The Department of Banking (Department) adds Chapter 47 (relating to mortgage loan modifications—statement of policy) under 7 Pa.C.S. § 6138(a)(4) (relating to authority of department), section 12 of the Consumer Discount Company Act (CDCA) (7 P.S. § 6212) and section 202.D of the Department of Banking Code (71 P.S. § 733-202.D).

### *Purpose*

The purpose of this statement of policy is to provide guidance to licensees under 7 Pa.C.S. Chapter 61 (relating to Mortgage Licensing Act) (MLA) and the CDCA who wish to engage in mortgage loan modification activities. The events that have occurred in the mortgage industry over the last several years have left many consumers unable to pay their current mortgages. While some consumers feel comfortable contacting their current mortgage servicer to modify the current repayment terms, others have turned to third parties to negotiate on their behalf. Many of the Department's licensees have entered this niche industry because they believe that the experience and expertise they have gained by brokering and originating mortgage loans makes them qualified to negotiate a mortgage loan modification on behalf of a consumer. However, the mortgage loan modification process is not the same as brokering or originating mortgage loans. The guidance expressed in this statement of policy should allow licensees to avoid placing consumers who are struggling with their existing mortgage loans into inappropriate mortgage loan modifications and protect consumers in this Commonwealth from inexperienced and unscrupulous companies.

### *Explanation of Regulatory Requirements*

There are no new regulatory requirements as a result of the issuance of this statement of policy.

### *Entities Affected*

The statement of policy will affect existing licensees and future licensees who perform mortgage loan modifications under the MLA and CDCA.

### *Cost and Paperwork Requirements*

Additional costs will not be incurred by the Department or licensees as a result of this statement of policy.

### *Effective Date/Sunset Date*

The statement of policy is effective upon publication in the *Pennsylvania Bulletin*. There is no sunset date.

### *Contact Person*

Persons with questions regarding the statement of policy should contact the Office of Chief Counsel, Department of Banking, 17 North Second Street, Suite 1300, Harrisburg, PA 17101-2290, (717) 787-1471.

STEVEN KAPLAN,  
*Secretary*

*(Editor's Note: Title 10 of the Pa. Code is amended by adding a statement of policy in §§ 47.1—47.6 to read as set forth in Annex A.)*

**Fiscal Note:** 3-49. No fiscal impact; (8) recommends adoption.

## Annex A

### TITLE 10. BANKS AND BANKING

#### PART IV. BUREAU OF CONSUMER CREDIT AGENCIES

#### CHAPTER 47. MORTGAGE LOAN MODIFICATIONS—STATEMENT OF POLICY

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### § 47.1. Definitions.

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

*Acts*—The MLA and the CDCA.

*Advance fee*—Any funds requested by or to be paid to a licensee in advance of or during the processing of a mortgage loan modification.

*CDCA*—The Consumer Discount Company Act (7 P.S. §§ 6201—6221).

*Government agency*—A Federal, State or local government agency, including the United States Department of Housing and Urban Development and the Pennsylvania Housing Finance Agency.

*Licensee*—A licensee under the MLA or CDCA or partially exempt entity under the MLA.

*MLA*—The Mortgage Licensing Act (7 Pa.C.S. Chapter 61).

*Mortgage broker*—The term as defined in section 6102 of the MLA (relating to definitions).

*Mortgage loan*—The term as defined in section 6102 of the MLA.

*Mortgage loan modification*—An agreement which revises the terms of an existing mortgage loan, including an agreement to reduce mortgage loan payment amounts, balance or interest rate. A mortgage loan modification may also include an agreement to waive any accrued or prospective mortgage loan charges.

*Mortgage originator*—The term as defined in section 6102 of the MLA.

### § 47.2. Purpose.

This chapter provides guidance to licensees under the acts who wish to engage in mortgage loan modification activities. Many licensees have expressed a belief that their experience and expertise in the business of originating mortgage loans equates to a similar expertise regarding mortgage loan modifications. However, modifying a mortgage loan is not the same as brokering or originating a mortgage loan. A licensee experienced in making or brokering loans may not have the necessary training or experience related to mortgage loan modifications to appropriately negotiate a mortgage loan modification on behalf of a borrower. The guidance expressed in this chapter should allow licensees to avoid placing borrowers who are struggling with their existing mortgage loans into inappropriate mortgage loan modifications.

**§ 47.3. Provision of mortgage loan modification counseling to borrowers.**

A licensee who wishes to provide mortgage loan modifications for mortgage loans other than those held or serviced by the licensee should do one of the following:

(1) Be approved as a counselor by a government agency or employed by a counselor approved by a government agency and follow the rules, regulations, policies and guidelines of the approving government agency.

(2) Verify and document that the borrower has received counseling regarding mortgage loan modifications from a counselor approved by a government agency.

**§ 47.4. Options other than licensee mortgage loan modification.**

Prior to contracting with a borrower to perform a mortgage loan modification, a licensee should inform the borrower of other appropriate options to resolve a delinquent mortgage loan, which may include:

(1) Repayment of the mortgage loan according to the contracted terms.

(2) A self-negotiated mortgage loan modification.

(3) Sale of the property which is collateral for the mortgage loan.

(4) Filing for personal bankruptcy.

**§ 47.5. Improper activities regarding mortgage loan modifications.**

A licensee providing mortgage loan modifications should not:

(1) Provide mortgage loan modifications for mortgage loans other than those held or serviced by the licensee in a manner inconsistent with § 47.3 (relating to provision of mortgage loan modification counseling to borrowers).

(2) Advise, encourage or permit a borrower to stop or delay making regularly scheduled payments on an existing mortgage loan unless a mortgage loan modification is completely negotiated and executed with the holder or servicer of the borrower's mortgage loan and the mortgage loan modification provides for such a cessation or delay in making regularly scheduled payments on the existing mortgage loan.

(3) Accept, hold or transmit any money unless the licensee is operating in compliance with Federal and State law, including the Debt Management Services Act (63 P. S. §§ 2401—2449) and the Money Transmission Business Licensing Law (7 P. S. §§ 6101—6118).

(4) Charge advance fees to a borrower for a mortgage loan modification.

(5) Attempt to negotiate or contract with a borrower for a mortgage loan modification which the licensee knows or has reason to believe the borrower will not be able to afford.

(6) Enter into any contract or agreement to purchase a borrower's property.

(7) Accept a power of attorney to represent a borrower or represent that the licensee has a power of attorney for a borrower.

(8) Fail in a timely manner to:

(i) Communicate with or on behalf of a borrower.

(ii) Act on any reasonable request from or take any reasonable action on behalf of a borrower.

(9) Engage in false or misleading advertising. Examples of false or misleading advertising include:

(i) Advertising which makes it appear that the licensee is a government agency.

(ii) Advertising which includes a "guarantee" unless there is a bona fide guarantee which will benefit a borrower.

(iii) Advertising which makes it appear that a licensee has a special relationship with lenders when no such relationship exists.

(10) Make a statement or engage in an action which is false, misleading, deceptive or inappropriate. Examples of false, misleading, deceptive or inappropriate statements or actions include:

(i) Leading a borrower to believe that payments do not need to be made on the borrower's existing mortgage loan.

(ii) Encouraging or directing a borrower not to communicate with the holder or servicer of the borrower's mortgage loan.

(iii) Leading a borrower to believe that a mortgage loan modification can be negotiated on behalf of the borrower when the licensee has reason to believe that a mortgage loan modification cannot be negotiated on behalf of the borrower.

(iv) Leading a borrower to believe that the borrower's credit record will not be negatively affected by a mortgage loan modification when the licensee has reason to believe that the borrower's credit record may be negatively affected by the mortgage loan modification.

**§ 47.6. Credit Services Act applicability to mortgage loan modifications.**

A mortgage broker or mortgage originator providing mortgage loan modifications may be considered to be a "credit services organization" as that term is defined in section 2 of the Credit Services Act (73 P. S. § 2182). As such, a mortgage broker or mortgage originator providing mortgage loan modifications should carefully review the Credit Services Act (73 P. S. §§ 2181—2192) and, when appropriate, contact the Pennsylvania Office of Attorney General regarding the Credit Services Act's applicability to mortgage loan modifications.

[Pa.B. Doc. No. 10-1252. Filed for public inspection July 9, 2010, 9:00 a.m.]

**DEPARTMENT OF BANKING**

**[ 10 PA. CODE CH. 49 ]**

**Reverse Mortgages—Statement of Policy**

The Department of Banking (Department) adds Chapter 49 (relating to reverse mortgages—statement of policy) under 7 Pa.C.S. § 6138(a)(4) (relating to authority of department), section 12 of the Consumer Discount Company Act (CDCA) (7 P. S. § 6212) and section 202.D of the Department of Banking Code (71 P. S. § 733-202.D).

*Purpose*

The purpose of this statement of policy is to provide guidance to licensees regarding the Department's interpretation of the proper conduct of making, originating or

servicing reverse mortgage loans and to inform licensees of the proper use of, and risks associated with, reverse mortgage loans.

*Explanation of Regulatory Requirements*

There are no new regulatory requirements as a result of this policy statement.

*Entities Affected*

The statement of policy affects existing licensees and new licensees under 7 Pa.C.S. Chapter 61 (relating to Mortgage Licensing Act) and the CDCA that make, originate or service reverse mortgage loans.

*Costs and Paperwork Requirements*

Additional costs will not be incurred by the Department or licensees as a result of this statement of policy.

*Effectiveness/Sunset Date*

The statement of policy is effective upon publication in the *Pennsylvania Bulletin*. There is no sunset date.

*Contact Person*

Persons with questions regarding the statement of policy should contact the Office of Chief Counsel, Department of Banking, 17 North Second Street, Suite 1300, Harrisburg, PA 17101-2290, (717) 787-1471.

STEVEN KAPLAN,  
Secretary

*(Editor's Note:* Title 10 of the Pa. Code is amended by adding a statement of policy in §§ 49.1—49.3 to read as set forth in Annex A.)

**Fiscal Note:** 3-48. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 10. BANKS AND BANKING**

**PART IV. BUREAU OF  
CONSUMER CREDIT AGENCIES**

**CHAPTER 49. REVERSE  
MORTGAGES—STATEMENT OF POLICY**

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49.1.	Definitions.
49.2.	Purpose.
49.3.	Reverse mortgage practices.

**§ 49.1. Definitions.**

*Applicant*—A person who submits an application for a reverse mortgage loan.

*CDCA*—The Consumer Discount Company Act (7 P. S. §§ 6201—6219).

*Disbursements*—Disbursements made by a licensee or assignee at or after the closing of a mortgage loan, including advances made on a reverse mortgage line of credit, regularly scheduled payments under a reverse mortgage loan and advances used to pay property charges.

*FHA*—The Federal Housing Administration.

*HUD*—The United States Department of Housing and Urban Development.

*Hazard insurance*—Insurance that covers property damage caused by fire, wind, storms and other similar risks.

*Insured reverse mortgage loan*—A reverse mortgage loan insured by the Federal government or agency or instrumentality thereof.

*Licensee*—A licensee under the MLA or CDCA or partially-exempt entity under the MLA.

*MLA*—The Mortgage Licensing Act (7 Pa.C.S. Chapter 61).

*Maturity of a reverse mortgage loan*—The date on which full repayment of the reverse mortgage loan is due.

*Mortgage loan*—A mortgage loan as defined in section 6102 of the MLA (relating to definitions) or a loan involving a mortgage made by a licensee under the CDCA, or both, as the context may require.

*Mortgage originator*—A mortgage originator as defined in section 6102 of the MLA.

*Net worth*—Assets less liabilities and assets unacceptable to HUD for purposes of complying with 24 CFR 202.5(n) or 202.8(b)(1) (relating to general approval standards; and loan correspondent lenders and mortgagees), as applicable.

*Person*—A person as defined in section 6102 of the MLA and section 2 of the CDCA (7 P. S. § 6202), as applicable.

*Property charge set aside account*—Funds set aside by the borrower to pay for property charges.

*Property charges*—Property taxes, hazard insurance and other charges required by the lender to be paid by the borrower.

*Property taxes*—The taxes assessed, or a reasonable estimate of the taxes to be assessed, on the property being mortgaged based upon the assessed value of the property and any improvements thereon.

*Proprietary reverse mortgage lender*—A licensee which makes proprietary reverse mortgage loans.

*Proprietary reverse mortgage loan*—A reverse mortgage loan that is not an insured reverse mortgage loan or single-purpose reverse mortgage loan.

*Reverse mortgage loan*—A mortgage loan that is a reverse mortgage transaction as defined in 12 CFR 226.33(a) (relating to requirements for reverse mortgages).

*Service or servicing*—Remitting payments to borrowers, or collecting or remitting payments for another of principal, interest, taxes, insurance and any other payments pursuant to a mortgage loan.

*Single-purpose reverse mortgage loans*—Reverse mortgage loans which are made by state or local governments or nonprofit organizations where the loan proceeds are to be used for a specified purpose.

*Tenure reverse mortgage loan*—A reverse mortgage loan where advances are made to the borrower for a period of time until the maturity of the reverse mortgage loan.

*Term reverse mortgage loan*—A reverse mortgage loan where advances are made to the borrower for a specified period of time.

**§ 49.2. Purpose.**

(a) This chapter provides guidance to licensees regarding the Department's interpretation of the proper conduct of making, originating or servicing reverse mortgage loans and to inform licensees of the proper use of, and risks associated with, reverse mortgage loans. Reverse mortgage loans can present eligible homeowners with unique benefits not available through standard mortgage loans. Because of this, the Department believes that reverse mortgage loans will become more available and widely offered to consumers in this Commonwealth. How-

ever, with these benefits also come unique risks to the homeowners. The vast majority of reverse mortgage loans that are marketed in this Commonwealth are to consumers who are 62 years of age or older, primarily because the Federally-insured reverse mortgage loan program prohibits the making of reverse mortgage loans to borrowers who are under 62 years of age. Because of the demographic to which most reverse mortgage loans are marketed, the Department is concerned about the potential for older consumers in this Commonwealth to be victimized by either bad advice or outright fraud. Furthermore, the Department is concerned that as reverse mortgage loans become more available, licensees may not be fully cognizant of the propriety of, and the necessary business practices required to limit risks to consumers in this Commonwealth who use, reverse mortgage loans.

(b) Most reverse mortgage lenders offer insured reverse mortgage loans and must adhere to well-established Federal standards set through the FHA's reverse mortgage loan insurance program, including consumer counseling. However, proprietary reverse mortgage loans are not insured by the Federal government and are not required to follow the standards and requirements mandated by the FHA to obtain Federal insurance. Therefore, proprietary reverse mortgage loans present certain financial risks that are not present with an insured reverse mortgage loan. For example, in the event that a proprietary reverse mortgage lender were to fail or become unable to service its proprietary reverse mortgage loans, borrowers' anticipated income streams could be disrupted or eliminated causing unexpected and severe financial hardship to the borrowers. Additionally, a risk facing proprietary reverse mortgage lenders is a decline in the market value of a property serving as collateral to a level that is less than the value of the proprietary reverse mortgage loan. While FHA insurance provides lenders of insured reverse mortgage loans with protection against this risk, proprietary reverse mortgage lenders would have no similar protection.

### § 49.3. Reverse mortgage practices.

#### (a) *Financial strength.*

(1) A licensee lender should not offer reverse mortgage loans unless it has the financial ability to make disbursements and service the reverse mortgage loans as required. By their nature, reverse mortgage loans present risks to licensee lenders and borrowers that are unique to the reverse mortgage industry. Unlike standard mortgage loans, reverse mortgage loans create a stream of payments to the borrower that the borrower relies on to pay other obligations and may require extended periods of cash outlay with no cash return for licensees. Reverse mortgage loans also present "crossover risk," when the outstanding balance of the loan exceeds the value of the property held as collateral. In those cases, proprietary reverse mortgage loans do not have Federal insurance to protect lenders against the risk of not being able to recover the value of their reverse mortgage loan at maturity. The risks endanger the financial solvency of the licensee and disbursements to borrowers. Therefore, a licensee's financial strength and solvency is both a matter of concern to the licensee and the borrower.

(2) If a licensee knows or suspects that its financial situation or ability to service disbursements is at risk, the licensee should notify the Department immediately to discuss possible solutions that will protect consumers as well as the financial health of the licensee. To evaluate whether a licensee lender has sufficient financial capability to offer reverse mortgage loans, the Department will

review the overall financial condition of the licensee and in particular, the ability to make disbursements and service its reverse mortgage loan portfolio. For example, although a mortgage lender licensee under the MLA is required to have a minimum net worth of \$250,000, the Department believes that it may be necessary for such a licensee who makes reverse mortgage loans to take additional precautions to ensure that it has the ability to make disbursements and service its reverse mortgage loans. Additional precautions could include additional capital and funding sources. The Department will review a licensee's capital, liquidity and other factors, such as the licensee's business model and available financial resources to replenish capital, that affect the licensee's ability to service its reverse mortgage loans, particularly with respect to licensees that make or service proprietary reverse mortgage loans. Proprietary reverse mortgage loan lenders should also seek measures that act as insurance against crossover risk. The measures could include obtaining private insurance products to mitigate the risk.

#### (b) *Reverse mortgage loan agreements.*

(1) A licensee lender that makes proprietary reverse mortgage loans should consider the negative effects on borrowers if the licensee fails to make disbursements and service the loans. A licensee should consider inserting consumer protections in its reverse mortgage loan agreements that would allow borrowers to be released from their reverse mortgage loan obligations if the licensee or any assignee should fail to make disbursements or service the reverse mortgage loan. Additionally, a licensee should provide procedures for the release or satisfaction of liens on collateral in the event that a licensee or assignee is unable to make required disbursements, so that affected borrowers may obtain other financing. Lastly, a licensee should consider protections for borrowers such as not including in reverse mortgage loan agreements provisions which would allow a licensee or an assignee to discontinue disbursements or otherwise alter the terms of the reverse mortgage loan agreement because of the declining equity in a borrower's collateral.

(2) In the event that property charges are not escrowed as part of a reverse mortgage loan, and a borrower fails to pay the property charges as agreed, a licensee lender should consider and discuss with the borrower any available options the borrower may have to cure the default prior to foreclosing and explore alternatives to foreclosure to permit the borrower to remain in the property.

(c) *Reverse mortgage loan origination.* When offering reverse mortgage loans, a licensee should:

(1) Ensure that the licensee's mortgage originators offering reverse mortgage loans are knowledgeable about reverse mortgage loans in general and, specifically, with the reverse mortgage loans they are offering to applicants.

(2) Ensure that an applicant understands that the applicant's family or other beneficiaries may not inherit the property serving as collateral at the time of the applicant's death unless the reverse mortgage loan is paid in full.

(3) Encourage an applicant to discuss a proposed reverse mortgage loan transaction with the applicant's family members or beneficiaries.

(4) Require a reverse mortgage loan applicant to seek counseling from a HUD-approved reverse mortgage loan counselor.

(5) Discuss with a reverse mortgage loan applicant alternatives to a reverse mortgage loan that may serve an applicant's needs and goals.

(6) Under subsection (f), consider an applicant's circumstances and offer the reverse mortgage loan available to the licensee that best meets the applicant's needs and goals.

(7) For a term reverse mortgage loan, consider the projected financial condition of the applicant once the time period for making loan advances has expired and disclose to the applicant the adverse implications of a term reverse mortgage loan if the applicant does not have alternate sources of funds to meet the applicant's financial needs following the lapse of advances under a term reverse mortgage loan.

(8) If available, consider whether establishing an escrow account for property charges is appropriate for the applicant and, if such an option is not available, discuss with the applicant the utility of establishing a property charge set aside account.

(9) Limit fees and charges to what is reasonable for the reverse mortgage loan. For proprietary reverse mortgage loans, the permissible fees and costs on insured reverse mortgage loans should be considered a guide as to what is reasonable.

(10) When offering a proprietary reverse mortgage loan, confirm that the applicant understands that the reverse mortgage loan being offered is not a government-sponsored or insured reverse mortgage loan and explain the differences between a proprietary reverse mortgage loan and government-sponsored or insured reverse mortgage loan.

(11) Disclose and ensure that the applicant understands the amount of, and service provided for, each fee and charge imposed in connection with a reverse mortgage loan.

(d) *Nonborrower spouse.* A licensee is strongly cautioned to consider the appropriateness of, and fully disclose the possible consequences of, a reverse mortgage loan for a nonborrower spouse living in the mortgaged property. Consequences include the nonborrower spouse being unable to keep the property if the applicant ceases to live in the property because of the applicant's death or other circumstances which cause the applicant to vacate the premises.

(e) *Conflicts of interest.* A licensee should not:

(1) Offer ancillary or third-party products or services funded by the proceeds of a reverse mortgage loan if the licensee or an affiliated person would receive a financial benefit from the proceeds or services, excluding affiliated business arrangements as provided for and in accordance with 24 CFR 3500.15 (relating to affiliated business arrangements).

(2) Offer, solicit or make a reverse mortgage loan for the purpose of financing the sale of a product or service by the licensee or any affiliated person.

(3) Accept or receive any fee, compensation or other benefit for referring applicants to other individuals or entities for the purpose of applicants obtaining products or services to be financed with the reverse mortgage loan proceeds.

(f) *Unsuitability.* A licensee should not offer reverse mortgage loans that the licensee knows, or reasonably should have known, is unsuitable for, or contrary to the wishes or expectation of, an applicant. A licensee should ask an applicant about the purpose for the proposed reverse mortgage loan and, if the reverse mortgage loan is unsuitable for the applicant, should fully disclose to the applicant why the reverse mortgage loan is not suitable. Examples of circumstances which might indicate that an offered reverse mortgage loan is unsuitable include reverse mortgage loans when the applicant:

(1) Does not intend to reside in the property on a long term basis.

(2) Does not want nonborrower residents of the property to be displaced at the maturity of the loan because they will not be able to pay off the reverse mortgage loan.

(3) Will use the proceeds of the reverse mortgage loan to purchase a product, such as annuities or other investments, which are not appropriate for the borrower.

(4) Does not understand the terms and conditions of a reverse mortgage loan or what happens to the collateral when the reverse mortgage loan matures.

(5) Would receive disbursements from the reverse mortgage loan that are insufficient to meet the applicant's stated needs or is not enough to justify the initial cost of a reverse mortgage loan.

(g) *Servicing.* Licensee lenders should perform their servicing obligation in a timely manner and in accordance with agreements with borrowers.

(h) *Mental capacity.* A licensee should take steps to confirm the applicant understands the reverse mortgage loan transaction. When a licensee has reason or should have reason to believe that an applicant is not able to understand or comprehend a reverse mortgage loan transaction due to reduced or diminished mental capacity, a licensee should take steps to determine if the consumer has the ability to understand the transaction. These steps should be documented by the licensee and could include asking appropriate additional questions, contacting appropriate family members or a known guardian, or requesting a physician's note. If the licensee concludes that the customer is unable to understand the transaction due to diminished or reduced mental capacity, the licensee should not proceed with offering or making a reverse mortgage loan.

(i) *Powers of attorney.* When a person seeks to enter into a reverse mortgage loan transaction on behalf of an applicant pursuant to a power of attorney or other similar document, the licensee should not continue with the loan transaction without obtaining and reviewing the documents granting the power of attorney and confirming that the power of attorney documents are current and authorize the applicant's representative to enter into and consummate the proposed reverse mortgage loan. In those cases, licensees should recommend that the person acting with the power of attorney consult with the family members, if any, of the applicant regarding the consequences of a reverse mortgage loan, including the possible loss of the collateral.

[Pa.B. Doc. No. 10-1253. Filed for public inspection July 9, 2010, 9:00 a.m.]

# NOTICES

## ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

### Request for Bids

The Administrative Office of Pennsylvania Courts will be accepting bids for previously used three Leibert units, four UPS units, three Onan ATS units, one Leibert AC8

controller unit, one TVSS system, two Onan generators and one Trane air conditioning unit available approximately August 6, 2010, from our facility at 5035 Ritter Road, Mechanicsburg, PA. For further information on this equipment, contact Jaime Kornacki, Jaime.Kornacki@pacourts.us.

ZYGMONT A. PINES,  
*Courts Administrator*

[Pa.B. Doc. No. 10-1254. Filed for public inspection July 9, 2010, 9:00 a.m.]

## DEPARTMENT OF BANKING

### Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending June 22, 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

#### Holding Company Acquisitions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
6-18-2010	Standard Financial Corp. Murrysville Westmoreland County	Filed
	Application for approval to acquire 100% of Standard Bank, PaSB, Murrysville.	

#### Branch Applications

##### De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
6-16-2010	Allegheny Valley Bank of Pittsburgh Pittsburgh Allegheny County	7703 McKnight Road Pittsburgh Allegheny County	Filed
6-22-2010	Beneficial Mutual Savings Bank Philadelphia Philadelphia County	34 South Sycamore Street Newtown Township Bucks County	Approved

#### Branch Discontinuances

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
6-18-2010	Beneficial Mutual Savings Bank Philadelphia Philadelphia County	1191 Woodlane Road Eastampton Burlington County, NJ	Filed
6-18-2010	Beneficial Mutual Savings Bank Philadelphia Philadelphia County	220 West Front Street Florence Burlington County, NJ	Filed
6-18-2010	Beneficial Mutual Savings Bank Philadelphia Philadelphia County	25 Fort Dix Road Pemberton Burlington County, NJ	Filed

## SAVINGS INSTITUTIONS

No activity.

## CREDIT UNIONS

No activity.

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. 10-1255. Filed for public inspection July 9, 2010, 9:00 a.m.]

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Applications, Actions and Special Notices

#### APPLICATIONS

### THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

This notice provides information about persons who have applied for a new, amended or renewed NPDES or WQM permit, a permit waiver for certain stormwater discharges or submitted a Notice of Intent (NOI) for coverage under a general permit. The applications concern, but are not limited to, discharges related to industrial, animal or sewage waste, discharges to groundwater, discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities or concentrated animal feeding operations (CAFOs). This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal waste; discharge into groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

For NPDES renewal applications in Section I, the Department of Environmental Protection (Department) has made a tentative determination to reissue these permits for 5 years, subject to effluent limitations and monitoring and reporting requirements in their current permits, with appropriate and necessary updated requirements to reflect new and changed regulations and other requirements.

For applications for new NPDES permits and renewal applications with major changes in Section II, as well as applications for MS4 individual permits and individual stormwater construction permits in Sections IV and VI, the Department, based upon preliminary reviews, has made a tentative determination of proposed effluent limitations and other terms and conditions for the permit applications. These determinations are published as proposed actions for comments prior to taking final actions.

Unless indicated otherwise, the Environmental Protection Agency (EPA) Region III Administrator has waived the right to review or object to proposed NPDES permit actions under the waiver provision in 40 CFR 123.24(d).

Persons wishing to comment on an NPDES application are invited to submit a statement to the regional office noted before an application within 30 days from the date of this public notice. Persons wishing to comment on a WQM permit application are invited to submit a statement to the regional office noted before the application within 15 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the applications. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests for a public hearing on applications. A public hearing may be held if the responsible office considers the public response significant. If a hearing is scheduled, a notice of the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. The Department will postpone its final determination until after a public hearing is held.

Persons with a disability who require an auxiliary aid, service, including TDD users, or other accommodations to seek additional information should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

**I. NPDES Renewal Applications**

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0064033 (Sewage)	Pusti Margiya Vashnav Samaj of North America 15 Manor Road Schuylkill Haven, PA 17972	Schuylkill County Wayne Township	Unnamed Tributary to Lower Little Swatara Creek 07D	Y
PA0060003 (Sewage)	Wyoming County Housing Authority Main Street Nicholson, PA 18446	Wyoming County Nicholson Borough	Martins Creek 4-F Cold Water Fishes	Y
PA0070092 (Sewage)	Owners: John M. and Van Daniel Yetter t/a Evergreen Village 45 North Courtland Street East Stroudsburg, PA 18301  Facility: Evergreen Village WTP Evergreen Road Upper Mount Bethel, PA 18343	Northampton County Upper Mount Bethel Township	Unnamed Tributary to Allegheny Creek 01F	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0085316 (Sew)	Fort Heritage, LTD Fort Heritage Lighthouse Chapel 1958 Emmitsburg Road Gettysburg, PA 17325	Adams County Cumberland County	Marsh Creek 13-D	Y
PA0041581 (Sew)	Liverpool Municipal Authority P. O. Box 357 Liverpool, PA 17045	Perry County Liverpool Borough	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>
PA0111945 (Industrial Wastewater & Stormwater)	Ward Manufacturing, Inc. P. O. Box 9 117 Gulick Street Blossburg, PA 16912	Blossburg Borough Tioga County	Johnson Creek Tioga River 4A	Y
PA0113433 (Sewage)	Fetterman SFTF 2074 Old Reading Road Catawissa, PA 17820	Columbia County Roaring Creek Township	Unnamed Tributary of Roaring Creek 5-E	Y
PA0112747 (Sewage)	Mahaffey Borough Municipal Authority Wastewater Treatment Plant P. O. Box 202 Mahaffey, PA 15757-0202	Clearfield County Mahaffey Borough	West Branch Susquehanna River 8-B	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>
PA0239542 (Industrial Waste)	Geothermal Energy Systems, Inc. 5960 Susquehanna Trail Turbotville, PA 17772-8555	Warren County City of Warren	Allegheny River 16-B	Y



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

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

**PA0020851**, Sewage, SIC Code 4952, **Hyndman Borough Municipal Authority Bedford County**, P. O. Box 445, Hyndman, PA 15545. Facility Name: Hyndman Borough STP. This existing facility is located in Hyndman Borough, **Bedford County**.

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

The receiving stream(s), Wills Creek, is located in State Water Plan watershed 13-A 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 0.150 MGD (Interim) and 0.365 MGD (Final).

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Weekly Average	Instantaneous Maximum
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
Total Residual Chlorine (Interim)	XXX	XXX	XXX	0.5	1.64 Maximum	XXX
CBOD <sub>5</sub> (Interim)	31.3	50 Weekly Average	XXX	25	40	50
(Final)	76	122 Weekly Average	XXX	25	40	50
BOD <sub>5</sub> Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
Total Suspended Solids (Interim)	37.5	56.3 Weekly Average	XXX	30	45	60
Total Suspended Solids (Final)	93	137 Weekly Average	XXX	30	45	60
Total Suspended Solids Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
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

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	Report	7,306	XXX	XXX	XXX
Net Total Phosphorus	Report	974	XXX	XXX	XXX

In addition, the permit contains an amendment to the Chesapeake Bay Strategy Implementation interim milestone dates. The final compliance date is not affected.

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.

**Application No. PA 0026654**, Sewage, **Borough of New Cumberland**, 1120 Market Street, New Cumberland, PA 17070. This facility is located in New Cumberland Borough, **Cumberland County**.

Description of activity: The application is for renewal of an NPDES permit for an existing discharge of treated sewage.

The receiving stream, Susquehanna River, is in Watershed 7-E, and classified for warm water fishes, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Steelton Borough is located on the Susquehanna River, approximately 1.27 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 1.25 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
Total Phosphorus	2.0		4.0
Dissolved Oxygen	Minimum of 5.0 at all times		
pH	From 6.0 to 9.0 inclusive		
Fecal Coliform	200/100 ml as a Geometric Average		
(5-1 to 9-30)	2,000/100 ml as a Geometric Average		
(10-1 to 4-30)			

Chesapeake Bay Requirements

	<i>Concentration (mg/L)</i>		<i>Mass (lbs)</i>
	<i>Monthly Average</i>	<i>Monthly</i>	<i>Annual</i>
Ammonia-N	Report	Report	Report**
Kjeldahl-N	Report	Report	XXX
Nitrate-Nitrite as N	Report	Report	XXX
Total Nitrogen	Report	Report	Report
Total Phosphorus	Report	Report	Report
Net Total Nitrogen	XXX	Report	22,831*
Net Total Phosphorus	XXX	Report	3,044*

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

\* Net Total Nitrogen and Net Total Phosphorus limits compliance date will begin on October 1, 2012. Since these reporting requirements are annual loads, reporting on compliance with the annual limitations will be required on the Supplemental DMR—Annual Nutrient Summary by November 28, 2013. The facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until September 30, 2012.

\*\* Total Annual Ammonia Load will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2010.

You may make an appointment to review the Department's files on this case by calling the File Review Coordinator at 717-705-4732.

The EPA waiver is not in effect.

**PA0044911**, Industrial Waste, SIC Code 2023, **Land 'O Lakes Inc.**, 405 Park Drive, Carlisle, PA 17015-9270. Facility Name: Land 'O Lakes—Carlisle Facility. This existing facility is located in South Middleton Township, **Cumberland 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), Mountain Creek, is located in State Water Plan watershed 7-E and is classified for Trout Stocking, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.81 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	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
Temperature (° F)						
Aug 1—Jun 30	XXX	XXX	XXX	Report	110	XXX
Jul 1—31 (Interim)	XXX	XXX	XXX	Report	82	XXX
Jul 1—31 (Final)	XXX	XXX	XXX	Report	93	XXX
CBOD <sub>5</sub>						
(Interim)	90	180	XXX	Report	Report	33
(Final)	67	135	XXX	10	20	25

<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>
BOD <sub>5</sub>						
Wastewater Influent	Report	Report	XXX	Report	Report	XXX
Total Suspended Solids						
Wastewater Influent	Report	Report	XXX	Report	Report	XXX
(Interim)	115	226	XXX	Report	Report	42
(Final)	67	135	XXX	10	20	25
Ammonia-Nitrogen						
May 1 - Oct 31	10	20	XXX	1.5	3.0	3.7
Nov 1 - Apr 30 (Interim)	30	60	XXX	4.5	9.0	11
Nov 1 - Apr 30 (Final)	18.7	32	XXX	4.5	9.0	11
Total Phosphorus						
(Interim)	13.5	27	XXX	2.0	4.0	5.0
(Final)	6.7	13.5	XXX	1.0	2.0	2.5

The proposed effluent limits for Internal Monitoring Points 101 and 102 are:

<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)						
Internal Monitoring Point	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)						
Internal Monitoring Point	XXX	XXX	Report	XXX	XXX	Report
Dissolved Oxygen						
Internal Monitoring Point	XXX	XXX	Report	XXX	XXX	XXX
Temperature (° F)						
Internal Monitoring Point	XXX	XXX	XXX	Report	Report	XXX
CBOD <sub>5</sub>						
Internal Monitoring Point	Report	Report	XXX	Report	Report	XXX
Total Suspended Solids						
Internal Monitoring Point	Report	Report	XXX	Report	Report	XXX
Ammonia-Nitrogen						
Internal Monitoring Point	Report	Report	XXX	Report	Report	XXX
Total Phosphorus						
Internal Monitoring Point	Report	Report	XXX	Report	Report	XXX

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

- Schedule of Compliance

You may make an appointment to review the Department of Environmental Protection's files on this case by calling the File Review Coordinator at 717-705-4732.

The EPA waiver is in effect.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**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: NOTE—this is a republished notice since an earlier version contained incorrect effluent limitations.

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:

<i>Discharge Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
BOD <sub>5</sub>	2,474	5,093	71	145	177
TSS	1,942	4,451	55	127	139
Iron, Total	14	29	0.410	0.820	1.025
Aluminum, Total	23	46	0.657	1.314	1.643

Discharge Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
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)		Concentration (mg/L)	
	Monthly	Annual	Monthly	Average
Ammonia-N	Report	Report	Report	Report
Kjeldahl-N	Report			Report
Nitrate-Nitrite as N	Report			Report
Total Nitrogen	Report	Report	Report	Report
Total Phosphorus	Report	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.*

**PA0204811**, Sewage and Industrial Waste, SIC Codes 3089 and 3079, **Royal Window and Door Profiles**, One Contact Place, Delmont, PA 15626-1402. This application is for renewal of an NPDES permit to discharge treated sewage and untreated industrial wastes and storm water runoff from Custom Window Extrusions in Salem Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Tributary to Beaver 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 existing/proposed downstream potable water supply intake from this facility is the Westmoreland Municipal Water Authority approximately 3 to 4 miles from the discharge point.

*Outfall 101:* existing discharge, design flow of 0.0029 mgd.

Parameter	Mass (lb/day)		Minimum	Concentration (mg/l)	
	Average Monthly	Maximum Daily		Average Monthly	Maximum Daily
Flow (MGD)	Monitor and Report				
C-BOD <sub>5</sub>				10	20
Total Suspended Solids				30	60
Ammonia Nitrogen (NH <sub>3</sub> -N)					
May 1 to Oct 31				3.0	6.0
Nov 1 to Apr 30				9.0	18.0
Fecal Coliform (#/100ml)					
May 1 to Sept 30				200	1,000
Oct 1 to Apr 30				2,000	10,000
Total Residual Chlorine				1.4	3.3
Dissolved Oxygen			not less than 3 mg/l		
pH	not less than 6.0 nor greater than 9.0				

*Outfall 201:* existing discharge, design flow of 0.003 mgd.

Parameter	Mass (lb/day)		Minimum	Concentration (mg/l)	
	Average Monthly	Maximum Daily		Average Monthly	Maximum Daily
Flow (MGD)	Monitor and Report				
Temperature (° F)					110
Oil and Grease				15	29
C-BOD <sub>5</sub>				13	26
Total Suspended Solids				9.5	19
Iron (Total)				Monitor and Report	
Manganese (Total)				Monitor and Report	
Aluminum				Monitor and Report	
pH	Between 6.0 and 9.0 at all times				

*Outfalls 301 and 401:* existing discharge, consists of storm water run off only

<i>Parameter</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>
Flow	Monitor and Report				
Oil and Grease	Monitor and Report				
Total Suspended Solids	Monitor and Report				

*Outfall 001:* existing discharge, consists of 101, 201, 301 and 401—Flow N/A

<i>Parameter</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>
Flow (MGD)	Monitor and Report				
C-BOD <sub>5</sub>					
Total Suspended Solids					
Ammonia Nitrogen (NH <sub>3</sub> -N)					
May 1 to Oct 31					
Nov 1 to Apr 30					
Dissolved Oxygen	7.0				
Iron (Total)	Monitor and Report				
Manganese (Total)	Monitor and Report				
Aluminum	Monitor and Report				
pH	Between 6.0 and 9.0 at all times				

The EPA waiver is in effect.

**PA0217867**, Sewage, **Residential Resources Southwest, Inc.**, 650 Smithfield Street, 18th Floor, Suite 1870, Pittsburgh, PA 15222. This application is for renewal of an NPDES permit to discharge treated sewage from Residential Resources Southwest STP in Ohioville Borough, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Drainage Swale Tributary to Unnamed Tributary of Upper Dry Run, which are classified as 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 City of East Liverpool, OH on the Ohio River.

*Outfall 001:* existing discharge, design flow of 0.01 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	5.0			10.0
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	0.10			0.24
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.

**PA0095303**, Sewage, **Purchase Line School District**, 16559 Route 286 Highway East, P. O. Box 374, Commodore, PA 15729-0374. This application is for renewal of an NPDES permit to discharge treated sewage from Purchase Line School District Sewage Treatment Plant in Green Township, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Unnamed Tributary of East 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 Kittanning Suburban Joint Water Authority on the Allegheny River.

*Outfall 001*: existing discharge, design flow of 0.022 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>	20			40
Suspended Solids	25			50
Ammonia Nitrogen				
May 1 to Oct 31	2.0			4.0
Nov 1 to Apr 30	2.9			5.8
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 7.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0096091**, Sewage, **Aleppo Township Authority**, 100 North Drive, Sewickley, PA 15143. This application is for renewal of an NPDES permit to discharge treated sewage from I-79 North STP in Aleppo Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Kilbuck Run, which are classified as a 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 Midland Borough Authority.

*Outfall 001*: existing discharge, design flow of 0.095 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	2.5			5.0
Nov 1 to Apr 30	7.5			15.0
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			
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.

**PA0098396**, Sewage, **Oak Estates, Inc.**, 600 Laurelview Drive, Mt. Pleasant, PA 15666. This application is for renewal of an NPDES permit to discharge treated sewage from Laurelview Manor MHP STP in Bullskin Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Unnamed Tributary of Jacobs Creek, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Westmoreland County Municipal Authority-McKeesport.

*Outfall 001*: existing discharge, design flow of 0.03 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	20			4.0
Nov 1 to Apr 30	3.5			7.0
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	0.3			0.7
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.

**PA0216470**, Sewage, **Children's Bible Ministries**, P. O. Box 378, Carmichaels, PA 15320-0378. This application is for renewal of an NPDES permit to discharge treated sewage from Cornerstone Ministry STP in Jefferson Township, **Greene County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Unnamed Tributary of Pumpkin Run, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Tri-County Joint Municipal Authority.

*Outfall 001*: existing discharge, design flow of 0.03 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
May 1 to Oct 31	1.9			3.8
Nov 1 to Apr 30	2.9			5.8
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	0.018			0.042
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.

**PA0096903**, Sewage, **Paul D. and Mark L. Galbraith, G & G Mobile Home Sales**, 23 Oakridge Heights Drive, Oakdale, PA 15071. This application is for renewal of an NPDES permit to discharge treated sewage from Hidden Valley Estates MHP STP in Robinson Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Unnamed Tributary of Little Raccoon Creek, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Midland Water Authority.

*Outfall 001*: existing discharge, design flow of 0.009 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	25.0			50.0
Suspended Solids	30.0			60.0
Ammonia Nitrogen				
May 1 to Oct 31	15.0			30.0
Nov 1 to Apr 30	25.0			50.0
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
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0217247**, Sewage, **Marion Center Area School District**, Box 156, Route 403, Marion Center, PA 15759. This application is for renewal of an NPDES permit to discharge treated sewage from Creekside Washington Elementary School STP in Washington Township, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Unnamed Tributary of South Branch Plum Creek, which are classified as a 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 Buffalo Township Municipal Authority located on the Allegheny River.

*Outfall 001*: existing discharge, design flow of 0.0019 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen				

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
May 1 to Oct 31 Fecal Coliform	23.0			46.0
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
pH	not less than 6.0 nor greater than 9.0			

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. 6610401**, Sewerage, **Eaton Sewer and Water Company, Inc.**, P. O. Box 316, Nicholson, PA 18446. This proposed facility is located in Eaton Township, **Wyoming County**.

Description of Proposed Action/Activity: This project involves upgrading an existing pump station that will serve the Wal-Mart store, the Wyoming County Building and the Moose Lodge. The sewage will be treated at the existing Eaton Sewer and Water Company treatment plant.

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

**WQM Permit No. 2110404**, Sewerage, **David W. Ketner**, 159 Garland Drive, Carlisle, PA 17013. This proposed facility is located in North Middleton Township, **Cumberland County**.

Description of Proposed Action/Activity: Seeking approval for the construction/operation of a small flow treatment facility for a single family residence.

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**WQM Permit No. 0210202**, Industrial Waste, **Ingram Barge Company**, 100 Atlantic Avenue, Elizabeth, PA 15037. This proposed facility is located in Elizabeth Township, **Allegheny County**.

Description of Proposed Action/Activity: Application for the construction and operation of a treatment plant.

**WQM Permit No. 0410403**, Sewerage, **East Rochester Borough**, 760 Spruce Street, East Rochester, PA 15074-1457. This proposed facility is located in East Rochester Borough, **Beaver County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sewer system.

**WQM Permit No. 6510407**, Sewerage, **Hempfield Township Municipal Authority**, 1146 Woodward Drive, Greensburg, PA 15601. This proposed facility is located in Hempfield Township, **Westmoreland County**.

Description of Proposed Action/Activity: Application for the construction and operation of sewer extension.

**IV. NPDES Applications for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)**

**V. Applications for NPDES Wavier Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)**

**VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities**

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

*Carbon County Conservation District: 5664 Interchange Road, Lehighton, PA 18235-5114, 610-377-4894.*

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI021310001	The Woods Campground Attn: Mr. Patrick Gremling 845 Vaughn Lane Lehighton, PA 18235	Carbon	Towamensing Township	White Oak Run EV, MF

**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>
Jaindl Farms, LLC 3150 Coffeetown Road Orefield, PA 18069	Lehigh, Berks, Northampton	8,401.8 total acres  8,113.3 acres for manure application	3669.02 animal equivalent units  0.45 animal equivalent units per acre	Turkeys	Unnamed tributaries to Little Lehigh Creek HQ-CWF  Named tributaries to Little Lehigh Creek including: Berks: Toad Creek HQ/CWF Lehigh: Breinig Run HQ-CWF Iron Run HQ-CWF Swabia Creek HQ-CWF  Little Lehigh Creek HQ-CWF MF Hassen Creek HQ-CWF MF and Monocacy Creek HQ-CWF, MF	New

**PUBLIC WATER SUPPLY (PWS)  
PERMIT**

Under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17), the following parties have applied for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on a permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of Environmental Protection (Department) of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

Following the comment period, the Department will make a final determination regarding the proposed permit. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The permit application and any related documents are on file at the office listed before the application and are available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability who require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

**SAFE DRINKING WATER**

**Applications Received under the Pennsylvania Safe Drinking Water Act**

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

**Application No. 4810503, Public Water Supply.**

Applicant **Portland Borough Authority**  
 Township or Borough Upper Mount Bethel Township  
**Northampton County**  
 Responsible Official Lance Prator, Chairperson  
 Portland Borough Authority  
 P. O. Box 572  
 Portland, PA 18351  
 Type of Facility Community Water System  
 Consulting Engineer Russell D. Scott, IV, P. E.  
 RKR Hess Associates  
 112 North Courtland Street  
 East Stroudsburg, PA 18301  
 570-421-1550  
 Application Received Date May 24, 2010  
 Description of Action Application for construction of a new well with associated well house and conveyance main.

**MINOR AMENDMENT**

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

**Application No. 5210504MA.**

Applicant **Twin Lakes Utilities, Inc.**  
 Township or Borough Shohola Township  
**Pike County**  
 Responsible Official Robert K. Fullagar, P. E.  
 Director of Operations  
 Twin Lakes Utilities, Inc.  
 c/o Middlesex Water Company  
 1500 Ronson Road  
 Iselin, NJ 08830  
 Type of Facility Community Water System  
 Consulting Engineer Same as above  
 Application Received Date May 26, 2010  
 Description of Action Application for installation of a second booster pump and elimination of the currently approved variable speed drive.

**Application No. 5210505MA.**

Applicant **Pennsylvania American Water**  
 Township or Borough Deleware Township  
**Pike County**  
 Responsible Official David Kaufman  
 VP Engineering  
 800 West Hersheypark Drive  
 Hershey, PA 17033  
 Type of Facility Community Water System  
 Consulting Engineer Daniel G. Rickard, P. E.  
 Pennsylvania American Water  
 100 North Pennsylvania Avenue  
 Wilkes-Barre, PA 18701  
 570-830-6531  
 Application Received Date March 19, 2010  
 Description of Action Application for construction of a chlorine contact pipe to replace an existing contact tank at Wild Acres development, Well No. 2.

**Application No. 4010505MA.**

Applicant **Aqua Pennsylvania, Inc.**  
 Township or Borough Rice Township  
**Luzerne County**  
 Responsible Official Patrick R. Burke  
 Regional Manager  
 Northeast and Central Operations  
 1 Aqua Way  
 White Haven, PA 18661  
 Type of Facility Community Water System  
 Consulting Engineer William A. LaDieu, P. E.  
 CET Engineering Services  
 1240 North Mountain Road  
 Harrisburg, PA 17112  
 717-541-0622  
 Application Received Date June 10, 2010

Description of Action	Application for repair of an existing concrete finished water storage reservoir serving the development of Laurel Lakes.
<b>Application No. 5410503MA.</b>	
Applicant	<b>Kline Township Municipal Authority</b>
Township or Borough	Kline Township <b>Schuylkill County</b>
Responsible Official	Francis A. Patton, Jr. Chairperson Kline Township Municipal Authority 76 South Kennedy Drive McAdoo, PA 18237
Type of Facility	Community Water System
Consulting Engineer	Michael G. Pohronezny, P. E. Systems Design Engineering, Inc. 1032 James Drive Leesport, PA 19533
Application Received Date	June 14, 2010
Description of Action	Application for replacement of the existing disinfection system in use at the community water system from gas chlorination to a sodium hypochlorite feed system.

## 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).**

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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:

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Former Lancaster Malleable Casting Company, Manheim Township, Lancaster County.** Reliance Environmental, Inc., 130 East Chestnut Street, Lancaster, PA 17602, on behalf of Mac Land Company, 1350 Fruitville Pike, Lancaster, PA 17601, submitted a Notice of Intent to Remediate site soils contaminated with No. 2 fuel oil from underground storage tanks. The site will be remediated to the Residential Statewide Health Standard and will remain industrial.

**Former Lehr's Exxon, Manchester Township, York County.** Alternative Environmental Solutions, Inc., 480 New Holland Avenue, Suite 8203, Lancaster, PA 17602, on behalf of Carole Lehr, c/o Attorney Bob Kane, 474 West Market Street, York, PA 17401, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with unleaded and leaded gasoline from historic operations of an automotive service facility and retail sales of petroleum products. The site will be remediated to a combination of Statewide Health and Site-Specific Standards. Future use of the site is unknown.

**Arlene Kohr Property, City of Lebanon, Lebanon County.** Liberty Environmental, Inc., 50 North 5th Street, Fifth Floor, Reading, PA 19601, on behalf of Arlene M. Kohr, c/o Gregory K. Bump (POA), Fulton Financial Advisors NA, P. O. Box 448, Lebanon, PA 17042, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with No. 2 fuel oil from an underground storage tank. The site will be remediated to a combination of Residential Statewide Health and Site-Specific Standards. Future use of the site is residential.

**O-Z/Gedney Company, LLC Facility, Perry Township, Berks County.** WSP Environment and Energy, 11190 Sunrise Valley Drive, Suite 300, Reston, VA 20191, on behalf of Emerson, 8000 West Florissant Avenue, St. Louis, MO 63136-1415, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with

PCBs, PAHs and Inorganics from historic operations for the manufacture of electrical fittings and junction boxes. The site will be remediated to a Site-Specific Standard. Future use will be industrial or commercial.

**Lawrence Newcomer Residence**, Jackson Township, **York County**. Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073, on behalf of Lawrence and Cynthia Newcomer, 230 Perry Avenue, York, PA 17408, submitted a Notice of Intent to Remediate site soils contaminated with No. 2 fuel oil. The site will be remediated to the Residential Statewide Health Standard and will remain residential.

**Matthew Gartside Property**, Rapho Township, **Lancaster County**. GemChem, Inc., 53 North Cedar Street, Lititz, PA 17543, on behalf of Matthew Gartside, 238 Fairview Road, Manheim, PA 17545, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with No. 2 fuel oil released from an aboveground storage tank. The site will be remediated to the Residential Statewide Health Standard and will remain residential.

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

**Trinity Industries, Inc.—North Plant**, Borough of Greenville, **Mercer County**. Golder Associates, Inc., 200 Century Parkway, Suite C, Mt. Laurel, NJ 08054 on behalf of Trinity Industries, Inc., 2525 Stemmons Freeway, Dallas, TX 75207 has submitted a Notice of Intent to Remediate. Lead is the primary chemical of concern in soil and tetrachloroethene and manganese are the primary chemicals of concern in groundwater. The property is currently zoned industrial and the proposed future of the site is industrial as well. The Notice of Intent to Remediate was published in the *The Herald* on June 7, 2010. The site will be remediated to the Site-Specific Standard.

*Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**RIDC City Center of Duquesne**, City of Duquesne, **Allegheny County**. KU Resources, 22 South Linden Street, Duquesne, PA 15110 on behalf of the RIDC of Southwestern Pennsylvania, the American textile Company, Inc., MBC Properties (Miller Bros. Construction), Ruttenberg Realty Company, LLC, Greater Pittsburgh Community Food Bank, and the Regional Trail Alliance has submitted a Notice of Intent to Remediate. The property was utilized as an integrated steel-making facility that ceased operations in 1987. Known primary contaminants include semivolatiles organic compounds, volatile organic compounds, metals and PCBs in soil and volatile organic compounds and metals in groundwater. Most of the Site will remain light industrial and/or commercial with a small portion for recreation. The Site previously attained a Site-Specific Standard by means of the Special Industrial Area (SIA) provisions of Act 2. KU Resources intends to attain a combined Site-Specific and Statewide Health Standards without the use of the SIA provisions.

**62nd Street Industrial Park**, City of Pittsburgh, **Allegheny County**. GAI Consultants, Inc., 385 East Waterfront Drive, Homestead, PA 15120 on behalf of the Urban Redevelopment Authority of Pittsburgh, 200 Ross Street, Pittsburgh, PA 15122 has submitted a Notice of Intent to Remediate. The 62nd Street Industrial Park is the Former Tippins facility along Butler Street. Past historical uses include bulk storage of liquid petroleum

products and as a cold roll steel fabricator. The remediator is planning to use the Special Industrial Area provisions to attain a Site-Specific Standard. Most of the site will remain nonresidential except for a portion to use as a recreational trail.

## 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

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**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.**

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*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.*

**06-05100E: Ontelaunee Power Operating Co., LLC** (5115 Pottsville Pike, Reading, PA 19605-9729) to modify the carbon monoxide limit for the two combined cycle turbines at their electric generating station in Ontelaunee Township, **Berks County**.

**67-03162A: Church & Dwight Co., Inc.** (5197 Commerce Drive, York, PA 17408) for construction of a cat litter manufacturing line at their facility in Jackson Township, **York County**. Plant operations include aggregate mixing and blending controlled by two baghouses as well as aggregate coating and fragrance application operations. Potential volatile organic compound and particulate matter emissions are estimated to be approximately 1.2 and 1 ton per year, respectively. The plan approval will include monitoring, work practice standards, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: B. Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226.*

**PA-04-00699G: NGC Industries, LLC—formerly known as National Gypsum Company** (168 Shippingport Hill Road, Shippingport, PA 15077-0346) for authorization to use ammonium sulfate as a board hardening accelerating agent at NGC's wallboard manufacturing facility in Shippingport, **Beaver County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.45, the Department of Environmental Protection (Department) intends to issue a Plan Approval to authorize the use of ammonium sulfate as a board hardening accelerating agent at NGC's wallboard manufacturing facility located in Shippingport, Beaver County.

No physical changes are being made to accommodate this project. Up to 471.5 tons per year of ammonium sulfate will be used in existing equipment. Use of this raw material will result in an increase of 27.8 pounds ammonia per hour and 121.6 tons of ammonia per year. Applicant has modeled the potential impact of the ammonia emissions with reference to potential health and odor impacts, and shown concentrations will not exceed published levels. BAT for this operation consists of the use of best operating practices. The proposed raw material usage is subject to the applicable requirements of 25 Pa. Code Chapters 121—145. The Department believes that the facility will meet these requirements by complying with Plan Approval conditions relating to restrictions, monitoring, recordkeeping, reporting and work practice standards:

Those who wish to provide the Department with additional written information that they believe should be considered prior to the issuance of the Plan Approval may submit the information to Barbara Hatch, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222. Each written comment must contain the following:

Name, address and telephone number of the person submitting the comments.

Identification of the proposed Plan Approval (specify the Plan Approval number).

Concise statements regarding the relevancy of the information or objections to issuance of the Plan Approval.

All comments must be received prior to the close of business 30 days after this publication.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940.*

**10-359B: Keystone Midstream Services, LLC** (10355 Westmoor Drive, Suite 250, Westminister, CO 80021) for construction of a natural gas processing facility at their facility in Forward Township, **Butler County**.

Under to 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (Department) intends to issue Plan Approval 10-359A to Keystone Midstream Services, LLC for the construction of a natural gas processing facility at their facility at 736 Prospect Road, Forward Township, Butler County. The Plan Approval will subsequently be incorporated into the facility's Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

Plan Approval No. 10-359B is for the construction of a 40 MMCF/day capacity natural gas processing, consisting of ten compressor engines, a gas processing skid, a 2 mmBtu/hr glycol dehydrator/reboiler, two 400 barrel capacity condensate storage tanks and miscellaneous process heaters. Based on the information provided by the applicant and the Department's own analysis, the proposed facility will have the potential to emit approximately 95.54 tons of carbon monoxide, 46.76 tons of nitrogen oxides, 42.16 tons of volatile organic compounds (VOCs), 4.59 tons of particulate matter, 0.30 ton of sulfur oxides and 15.53 tons of total Hazardous Air Pollutants (HAP) per year.

The Plan Approval will contain additional testing, recordkeeping and work practice requirements designed to keep the facility operating within all applicable air quality requirements. The facility will also be subject to the requirements of New Source Performance Standards, 40 CFR Part 60, Subparts KKK, for Onshore Natural Gas Processing Plants, and JJJJ, for Stationary Spark Ignition Internal Combustion Engines.

Copies of the application, the Department's analysis, and other documents used in the evaluation are available for public inspection between 8 a.m. and 4 p.m. weekdays at the address shown as follows. To make an appointment, contact Records Management at 814-332-6340.

Anyone wishing to provide the Department with additional information they believe should be considered may submit the information to the address shown as follows. Comments must be received by the Department within 30 days of the last day of publication. Written comments should include the following:

1. Name, address and telephone number of the person submitting comments.
2. Identification of the proposed Plan Approval; No. 10-359B.
3. Concise statement regarding the relevancy of the information or any objections to issuance of the Plan Approval.

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted on the comments received during the public comment period. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by

publication in a local newspaper of general circulation 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 John Guth, Regional Air Quality Manager, Department of Environmental Protection, Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335, 814-332-6940.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104. Contact: Edward Braun, Chief—Telephone: 215-685-9476.*

**AMS 07034: PA Convention Center** (1101 Arch Street, Philadelphia, PA 19107) for installation of two 500 Kilowatt (KW) Detroit Diesel emergency generator firing No. 2 fuel oil, one 600 KW Detroit Diesel emergency generator firing No. 2 fuel oil, one 270 Horsepower (HP) Peerless fire protection pump firing No. 2 fuel oil, two 20.4 mmBtu/hr Cleaver Brooks Boiler firing No. 2 fuel oil and natural gas, two 8.76 mmBtu/hr York Chillers firing No. 2 fuel oil and natural gas, one 600,000 Btu/hr Hot Water heater in the City of Philadelphia, **Philadelphia County**. The Facility will be limited to less than 25 tons of Nitrogen Oxides (NOx) emissions per year. The plan approval will contain operating, testing, monitoring, recordkeeping and reporting requirements to ensure operation within all applicable requirements.

**AMS 09199: PA Convention Center Annex** (111 North Broad Street, Philadelphia, PA 19107) to install two 1750 Kilowatt (KW) Cummins Diesel emergency generator firing No. 2 fuel oil, two 20.93 mmBtu/hr Burnham Boiler firing No. 2 fuel oil and natural gas, two 8.43 mmBtu/hr Johnson Controls/Power Flame Chillers firing No. 2 fuel oil and natural gas, two 1.0 mmBtu/hr PVI Industries Hot Water heaters firing natural gas in the City of Philadelphia, **Philadelphia County**. The Facility will be limited to less than 25 tons of Nitrogen Oxides (NOx) emissions per year. The plan approval will contain operating, testing, monitoring, recordkeeping and reporting requirements to ensure operation within all applicable requirements.

**Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507.*

**40-00117: Valley Asphalt** (215 East Saylor Avenue, Laflin, PA 18702) for operation of a batch mix asphalt plant and associated air cleaning devices at their facility in Plains Township, **Luzerne County**. This facility is currently operating under Operating Permit 40-303-023. All permit requirements shall be included in the new State-only (Synthetic Minor) Operating Permit for this facility. This Operating Permit shall include emission restrictions, monitoring, recordkeeping and reporting requirements designed to ensure this facility complies with all applicable air quality regulations.

**48-00077: Falk Funeral Homes & Crematory, Inc.** (1418 Main Street, Hellertown, PA 18055-1325) for operation of funeral services and human crematory in Hellertown Borough, **Northampton County**. This is a renewal of the State-only Natural Minor operating permit. The State-only operating permit includes emissions, work practice standards and testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

*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.*

**07-03003: Altoona Regional Health System** (2500 Seventh Avenue, Altoona, PA 16602) for operation of the boiler plant and emergency generators at their facility in the City of Altoona, **Blair County**. This action is a renewal of the State-only operating permit issued in 2004. The permit renewal will contain all of the emission limits and work practice standards along with all monitoring, recordkeeping and reporting requirements from the previous permit to ensure the facility complies with the applicable air quality regulations.

**07-03008: Nason Hospital** (105 Nason Drive, Roaring Spring, PA 16673) for operation of two natural gas/No. 2 fuel oil-fired boilers at their facility in Roaring Spring Borough, **Blair County**. This action is a renewal of the State-only operating permit issued in 2004. The permit renewal will contain all of the emission limits and work practice standards along with all monitoring, recordkeeping and reporting requirements from the previous permit to ensure the facility complies with the applicable air quality regulations.

**28-03055: D.L. Martin Co.** (25 Harbaugh Drive, Mercersburg, PA 17236) for operation of a surface coating system at their facility in Mercersburg Borough, **Franklin County**. The permit will contain all of the emission limits and work practice standards along with all monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations.

**67-03046: Cycle Chem, Inc.** (550 Industrial Drive, Lewisberry, PA 17739) for operation of two waste solvent storage tanks in Fairview Township, **York County**. This action is a renewal of the State-only operating permit issued in 2005. The permit renewal will contain all of the emission limits and work practice standards along with all monitoring, recordkeeping and reporting requirements from the previous permit to ensure the facility complies with the applicable air quality regulations.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Matthew Williams, New Source Review Chief—Telephone: 814-332-6940.*

**27-00018: National Fuel Gas Supply Corp.—Queen Compressor Station** (P. O. Box 2081, Erie, PA 16512-2081) for the re-issuance of a Natural Minor Operating Permit to operate a natural gas compressor station on Queen Pumping Station Road in Hickory Township, **Forest County**. The primary emission sources include four natural gas fueled compressor units, a natural gas fueled auxiliary generator, a natural gas dehydration unit and miscellaneous natural gas use.

## 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 permit-

ting 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.*

**30841316 and NPDES Permit No. PA0213535, Consol PA Coal Company, LLC**, (P. O. Box J, 1525 Pleasant Grove Road, Claysville, PA 15323), to revise the permit for the Bailey Mine and Prep Plant in Richhill Township, **Greene County** and East Finley Township, **Washington County** to add acres for development mining at a new underground training center. Underground Acres Proposed 87.78, Subsidence Control Plan Acres Proposed 87.78. No additional discharges. Application received: May 19, 2010.

**56841328 and NPDES Permit No. PA0033677, Rosebud Mining Company**, (301 Market Street, Kittanning, PA 16201), to revise the permit and related NPDES permit for the Mine 78 in Paint Township, **Somerset County** to add a sedimentation pond and NPDES discharge point 005. Receiving stream: Paint Creek, classified for the following use: CWF. Application received: May 21, 2010.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.*

**32950104 and NPDES No. PA 0213055. Big Mack Leasing Company, Inc.**, R. D. 6, Box 231, Kittanning, PA 16201, renewal for the continued operation and restoration of a bituminous surface mine in Young Township, **Indiana County**, affecting 62.9 acres. Receiving stream(s): unnamed tributary to/and Whisky Run to Blacklegs Creek classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: June 16, 2010.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.*

**33100105 and NPDES Permit No. PA0258903. Original Fuels, Inc.** (P. O. Box 343, Punxsutawney, PA 15767) Commencement, operation and restoration of a bituminous surface strip and auger operation in Perry Township, **Jefferson County** affecting 139.8 acres. Receiving streams: Unnamed tributaries to Big Run and Big Run, classified for the following: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: June 18, 2010.

**1419-33100105-E-1. Original Fuels, Inc.** (P. O. Box 343, Punxsutawney, PA 15767) Application for a stream encroachment to conduct mining activities within 100 feet but no closer than 50 feet and to construct erosion and sedimentation control facilities no closer than 25 feet of an unnamed tributary to Big Run in Perry Township, **Jefferson County**. Receiving streams: Unnamed tributaries to Big Run and Big Run, classified for the following: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: June 18, 2010.

**1419-33100105-E-2. Original Fuels, Inc.** (P. O. Box 343, Punxsutawney, PA 15767) Application for a stream

encroachment to install and maintain a stream crossing over an unnamed tributary of Big Run along with mining activities within 100 feet but no closer than 50 feet and to construct erosion and sedimentation control facilities no closer than 25 feet to the stream in Perry Township, **Jefferson County**. Receiving streams: Unnamed tributaries to Big Run and Big Run, classified for the following: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: June 18, 2010.

**1419-33100105-E-3. Original Fuels, Inc.** (P. O. Box 343, Punxsutawney, PA 15767) Application for a stream encroachment to conduct mining activities within 100 feet but no closer than 50 feet and to construct erosion and sedimentation control facilities no closer than 25 feet of an unnamed tributary to Big Run in Perry Township, **Jefferson County**. Receiving streams: Unnamed tributaries to Big Run and Big Run, classified for the following: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: June 18, 2010.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**14743007 and NPDES No. PA0610691. Keystone Coal Co.** (1375 Jackson Street, Suite 401, Fort Myers, FL 33901). Renewal of an existing surface mine operation located in Snow Shoe Township, **Centre County** affecting 344.7 acres. Receiving streams: unnamed tributaries to Beech Creek and Logway Run and Council Run to Beech Creek classified for Cold Water Fisheries. There are no potable water supply intakes within 10 miles downstream. Application received: May 21, 2010.

**14860103 and NPDES No. PA0115576. Keystone Coal Co.** (1375 Jackson Street, Suite 401, Fort Myers, FL 33901). Renewal of an existing surface mine operation located in Curtin Township, **Centre County** affecting 199.0 acres. Receiving streams: unnamed tributary to Beech Creek (Cold Water Fishery) and Beech Creek to Bald Eagle Creek classified for Trout Stocked Warm Water Fishery. There are no potable water supply intakes within 10 miles downstream. Application received: May 21, 2010.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**54850202R5 and PA0614611.** (10 Giberton Road, Gilberton, PA 17934), renewal of an existing anthracite coal refuse reprocessing, refuse disposal, surface mine and preparation operation in West Mahanoy and Mahanoy Townships, Shenandoah and Gilberton Boroughs, **Schuylkill County** affecting 1,590.0 acres, receiving stream: Mahanoy Creek. Application received: June 23, 2010.

**49773202R5. Gilberton Coal Company**, (10 Giberton Road, Gilberton, PA 17934), renewal of an existing anthracite coal refuse reprocessing, refuse disposal, surface mine and preparation operation in Mt. Carmel, Conyngham and Butler Townships, **Northumberland, Columbia and Schuylkill Counties** affecting 958.0 acres, receiving stream: none. Application received: June 23, 2010.

*Noncoal Applications Received*

*Effluent Limits*—The following effluent limits will apply to NPDES permits issued in conjunction with a noncoal mining permit:



Parameter	Table 2 30-day Average	Daily Maximum	Instantaneous Maximum
Suspended solids	10to35mg/l	20to70mg/l	25to90mg/l
Alkalinity exceeding acidity* pH*		greater than 6.0; less than 9.0	

\* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.*

**62100302. A.C.A. Sand & Gravel, LLC** (19170 Route 89, P. O. Box 16, Corry, PA 16407) Commencement, operation and restoration of a large sand and gravel operation in Columbus Township, **Warren County** affecting 179.0 acres. Receiving streams: Unnamed tributary to Brokenstraw Creek and Brokenstraw Creek, classified for the following Statewide uses: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: June 18, 2010.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**4873SM5C and NPDES Permit No. PA0009695. Kinsley Construction, Inc.**, (P. O. Box 2886, York, PA 17405), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in West Manchester Township, **York County**, receiving stream: Codorus Creek, classified for the following use: warm water fishery. Application received: June 22, 2010.

**5176SM9T. B & D Brothers, LLC**, (22878 SR 11, Hallstead, PA 18822), transfer of an existing quarry operation from New Milford Sand and Gravel, Inc. and correction to increase the permitted acres from 17.0 to 22.9 acres in New Milford Township, **Susquehanna County**, receiving stream: none. Application received: June 23, 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: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.*

Certification Request initiated by **PPL Holtwood, LCC**, Two North Ninth Street, Allentown, PA 18101. Wallenpaupack Hydroelectric Project (FERC Project No. 487, Project), on Lake Wallenpaupack, in Hawley Borough, **Wayne and Pike Counties**, ACOE Philadelphia District, Hawley Quadrangle N: 16.25 inches; W: 0.75 inch (discharge), source water (Lake Wallenpaupack) is approximately 3.5 miles up-stream.

On September 23, 2003, the Department of Environmental Protection (Department) certified that there is reasonable assurance that the Lake Wallenpaupack Hydroelectric Project (Project) owned and operated by PPL Holtwood, LLC (Owner), on the Lackawaxen River will comply with section 401 of the Federal Clean Water Act (33 U.S.C.A. § 1341) and 25 Pa. Code Chapters 93 and 96. On November 23, 2004, as a result of an appeal filed by the Owner, the Department issued a modified certification. As a result of various changes requested by the Owner as well as changes made by the Department to the Owner's National Pollutant Discharge Elimination System (NPDES) permit, the Department intends to modify paragraph 2 of the November 23, 2004 certification as follows:

### 2. Monitoring and Reporting

a. The Owner shall conduct effluent monitoring of the turbine discharge for the following parameters at the railroad bridge during the period April 1 through October 31. The effluent shall be monitored for the identified parameters as follows:

<i>Parameter</i>	<i>Minimum Measurement Frequency</i>
• Flow	Daily
• DO	Daily
• pH	Daily
• Temperature	Daily
• Total—Iron	Weekly
• Total—Manganese	Weekly
• Total—Aluminum	Weekly

Analytical methods promulgated in 40 CFR Part 136 must be used.

The pH of the discharge may be less than or greater than the standard/range as specified in 25 Pa. Code § 93.7 if the Owner can demonstrate that the pH of the discharge is not less than or greater than the pH of the lake water as measured at the penstock tap in the powerhouse building. The Department will accept simultaneous sampling as a component of such a demonstration.

Samples shall be taken when discharging at a time representative of the entire discharge period. Metal samples shall be a composite sample (minimum of four grabs) evenly spaced throughout the discharge period. Dissolved oxygen sampling shall consist of a minimum of four grab samples evenly spaced throughout the discharge period. The pH grab sample shall be taken at a time representative of the entire discharge period. Temperature shall be measured and reported as a daily maximum. Flow shall be measured and reported as a daily maximum and monthly average.

Monitoring results obtained during April 1 through October 31 shall be summarized for the month and submitted to PADEP and received no later than the 28th day of the following month. The monthly reports shall include sample results, collection, time and date, discharge start and end times, and comments.

b. The Owner shall conduct in-stream benthos monitoring once every 5 years starting in 2014 at three stations, Station 1 above the discharge approximately 600 feet, Station 2 below the discharge approximately 1,300 feet,

and Station 3 below the discharge approximately 9,500 feet in accordance with the *Macroinvertebrate Sample Collection and Processing Methodology for Cause/Effect Surveys*. The station locations are fixed and should not be changed without prior approval from the Department. The Owner will follow the sample collection protocol set forth in the previously referenced document for a stream greater than 50 feet in width. Samples must be collected between October 1 and May 31 during normal to low stream flow conditions. The benthic macroinvertebrate report shall be submitted to the Department 120 days after the sample collection.

c. The Department retains the right to specify additional studies or monitoring to ensure that the receiving water quality is not adversely impacted by any hydrogen sulfide treatment process that may be employed by the Owner.

#### DAM SAFETY

*Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.*

**D54-200 Whippoorwill Dam, Borough of Frackville, c/o Gerard Jankaitis**, 42 South Center Street, Frackville, PA 17931. To modify, operate and maintain the existing Whippoorwill Dam across Stony Creek (CWF), with no impacts to wetlands or stream channels, for the purpose of constructing an emergency spillway to pass the spillway design flood and rehabilitation of the existing spillway (Shanandoah, PA Quadrangle N: 6.0 inches; W: 9.8 inches) in West Mahanoy Township, **Schuylkill County**.

**D54-075A. Ashland Dam. Ashland Area Municipal Authority**, 401 South 18th Street, Ashland, PA 17921. To modify, operate and maintain Ashland Dam across Little Mahanoy Creek (CWF), for the purpose of constructing a six foot concrete parapet wall across the crest of the dam which will allow greater storage capacity and allow the spillway to safely pass the probable maximum flood (Ashland, PA Quadrangle N: 5 inches; E: 15.9 inches) in Ashland and Butler Township, **Schuylkill 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 permitse

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is

subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

### I. NPDES Renewal Permit Actions

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0035637 (Sewage)	Department of Transportation Safety Rest Area Site #55 Interstate 81 Northbound Greenfield Township, PA 18411	Lackawanna County Greenfield Township	Unnamed Tributary of South Branch Tunkhannock Creek 4-F	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0026280 (Sew)	Lewistown Borough Two East Third Street Lewistown, PA 17044-1799	Mifflin County Lewistown Borough	Juniata River 12-A	Y
PA0083011 (Sew)	Newberry Township Municipal Authority 1915 Old Trail Road Etters, PA 17319-9130	York County Newberry Township	Susquehanna River 7-E	Y
PA0081957 (IW)	CBS Corporation 20 Stanwix Street Pittsburgh, PA 15222	Adams County Cumberland Township	UNT of Rock Creek 13-D	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>
PA0209449 Industrial Waste	GKN Sinter Metals, Inc. Airport Road 1 Emporium, PA 15834-0493	Emporium Borough Cameron County	Driftwood Branch— Sinnemahoning and West Creek 8-A	Y
PA0228206 (Industrial Waste)	Clearfield Municipal Authority Montgomery Run Water Treatment Plant 107 East Market Street Clearfield, PA 16830	Clearfield County Pike Township	Montgomery Creek 8B	Y
PA0209384	Lawrence Township Municipal Authority Wastewater Treatment Plant 173 School Road Tioga, PA 16946	Lawrence Township Tioga County	Tioga River 4-A	Y

## NOTICES

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<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>
PA0228893 (Sewage)	Liberty Area Municipal Authority Wastewater Treatment Plant 4810 Blockhouse Road Liberty, PA 16930	Tioga County Liberty Township Liberty Borough	Blockhouse Creek 9-A	Y
PA0228923 (Sewage)	Pine Cradle Lake Campground P. O. Box 113 Rome, PA 18837	Bradford County Rome Township	Unnamed Tributary to Parks Creek 4-D	Y
PA0228834 (Sewage) Non-Public	River Hill Power Company, LLC 94 Spruce Street Indiana, PA 15701	Clearfield County Karthaus Township	West Branch Susquehanna SWP 8D	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>
PA0204498 Sewage	Marion Center Area School District Box 156 Route 403 Marion Center, PA 15759	Indiana County Rayne Township	Swale to UNT of Crooked Creek	Y
PA0096229 Sewage	Marianna-West Bethlehem Joint Sewerage Authority P. O. Box 428 Marianna, PA 15345-0428	Washington County West Bethlehem Township	Ten Mile Creek	Y
PA0033871 Sewage	GSP Management Company P. O. Box 677 Morgantown, PA 19543	Indiana County White Township	UNT of McKee Run	Y
PA0035670 Sewage	Department of Transportation Bureau of Design P. O. Box 3060 Harrisburg, PA 17105-3060	Armstrong County Kiskiminetas Township	Rattling Run	Y
PA0252760 Sewage	Pine Township Supervisors 400 Clay Avenue P. O. Box 311 Templeton, PA 16259	Armstrong County Pine Township	Allegheny River	Y
PA0218545 Sewage	Quecreek Mining, Inc. 1576 Stoystown Road Friedens, PA 15541	Somerset County Lincoln Township	UNT of Quemahoning Creek	Y
PA0094676 Sewage	Twin Lakes Center, Inc. 224 Twin Lake Road Somerset, PA 15501	Somerset County Somerset Township	East Branch Coxes Creek	Y
PA0025941 Sewage	Canonsburg Houston Joint Authority 68 East Pike Street Canonsburg, PA 15317	Washington County Cecil Township	Chartiers Creek	N

*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>
PA0220736	Flying W Ranch 685 Flying Ranch Road Tionesta, PA 16353	Forest County Kingsley Township	Unnamed Tributary to Church Run 16-F	Y
PA0093157	Moraine Camplands Association, Inc. 281 Staff Road Slippery Rock, PA 16057-5327	Butler County Brady Township	Unnamed Tributary to Big Run 20-C	Y
PA0222852	West Fallowfield Township 6817 Main Street P. O. Box 157 Hartstown, PA 16131	Crawford County West Fallowfield Township	Patton Run 20-A	Y

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**II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions**


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

**NPDES Permit No. PA0261459**, Sewage, **Anthony and Lori Todaro**, 605 Roxbury Road, Newville, PA 17241. This proposed facility is located in Upper Mifflin Township, **Cumberland County**.

Description of Proposed Action/Activity: Authorization to discharge to an UNT to Whisky Run in Watershed 7-B.

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**NPDES Permit No. PA0254215**, Sewage, **Rox Coal, Inc.**, P. O. Box 260, Friedens, PA 15541. This proposed facility is located in Stony Creek Township, **Somerset County**.

Description of Proposed Action/Activity: Permit issuance to discharge domestic wastewater from a bath house.

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

**WQM Permit No. 2110403**, Sewage, **Anthony and Lori Todaro**, 605 Roxbury Road, Newville, PA 17241. This proposed facility is located in Upper Mifflin Township, **Cumberland County**.

Description of Proposed Action/Activity: Permit approval for the construction/operation of sewage facilities consisting of a SFTF with septic tanks, dosing tank and pump, peat filter, chlorine disinfection, and outfall to UNT Whiskey Run.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**WQM Permit No. 4110403**, Sewerage, SIC 4952, **Williamsport Sanitary Authority**, 253 West Fourth Street, Williamsport, PA 17701-6113. These proposed and existing facilities are located in the City of Williamsport, **Lycoming County**.

Description of Proposed Action/Activity: Permit issued authorizing the design, construction and operation of wet weather and nutrient reduction upgrades at the Authority's Central Plant.

**WQM Permit No. 02491001**, Sewerage, SIC 4952, **Delaware Township Municipal Authority**, P. O. Box 80, Dewart, PA 17730. This proposed facility is located in Delaware Township, **Northumberland County**.

Description of Proposed Action/Activity: DTMA is proposing a sewer extension from the existing sanitary manhole at the intersection of Seagraves Drive (SR 1005) and Fisher Drive to Eighth Street Drive, and then east along Eighth Street Drive approximately 2,000 LF to the new Watsonstown United Methodist Church. The authority is seeking coverage of the sewer extension and associated grinder pumps under a general WQM permit.

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**WQM Permit No. 0210201**, Industrial Waste, **Allied Waste Systems of PA, Imperial Landfill**, 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: Permit issuance for the construction and operation of Sedimentation Basins.

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

**WQM Permit No. WQG018755**, Sewerage, **Ruth Addis**, 5164 Albion Road, Girard, PA 16417. This proposed facility is located in Girard Township, **Erie County**.

Description of Proposed Action/Activity: A Single Residence Sewage Treatment Plant.

**WQM Permit No. WQG018756**, Sewerage, **Chad and Lindsay Ristau**, 431 Lookout Street, Warren, PA 16365. This proposed facility is located in Farmington Township, **Warren County**.

Description of Proposed Action/Activity: A Single Residence Sewage Treatment Plant.

**WQM Permit No. 4301202**, Industrial Waste, **Amendment No. 2, John Koller & Son, Inc.**, 1734 Perry Highway, Fredonia, PA 15124. This proposed facility is located in Fairview Township, **Mercer County**.

Description of Proposed Action/Activity: Amendment to the Water Quality permit for the sludge dewatering filter replacement.

**WQM Permit No. 2597201**, Industrial Waste, **Amendment No. 1, Albion Borough**, 26 Smock Avenue, Albion, PA 16401. This proposed facility is located in Albion Borough, **Erie County**.

Description of Proposed Action/Activity: An Industrial Waste Part II Water Quality Management permit to install a backwash water storage tank at the Gage Road Water Treatment Facility.

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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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*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>
PAI032807006	Craig Nitterhouse 900 Kriner Road Suite 1 Chambersburg, PA 17201	Franklin	Guilford Township	Falling Spring Creek HQ-CWF
PAI033609004-2	Nancy Evans PPL Holtwood 2 North 9th Street Allentown, PA 18101-1179	Lancaster	Martic Township	Susquehanna River WWF

*Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

*Lycoming County Conservation District: 542 County Farm Road, Suite 202, Montoursville, PA 17754, (570) 433-3003.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI044110002	Richard Hannan, Jr. 2029 Lycoming Creek Road Williamsport, PA 17701	Lycoming	Loyalsock Township	Mill Creek TSF/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>
Shenandoah Borough Schuylkill County	PAG2005409014	Shenandoah Valley School District 805 West Centre Street Shenandoah, PA 17976-1401	Shenandoah Creek CWF, MF	Schuylkill County Conservation District 570-622-3742
Port Carbon Borough Schuylkill County	PAG2005410007	D.G.Y. Real Estate, LP 310 Mill Creek Avenue Pottsville, PA 17901	Mill Creek CWF, MF	Schuylkill County Conservation District 570-622-3742

<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>
Bethlehem Township Northampton County	PAG2004810006	Bethlehem Township Municipal Authority Attn: Steve J. Hunsberger 4225 Easton Avenue Bethlehem, PA 18020	Tributary to Lehigh River CWF, MF	Northampton County Conservation District 610-746-1971
South Whitehall Township Lehigh County	PAG2003910003	Phoenix Construction & R Enterprises LTD 2076 Wooded Ridge Circle Fogelsville, PA 18051	Jorden Creek TSF, MF Lehigh River TSF, MF	Lehigh County Conservation District 610-391-9583
Southampton Township Franklin County	PAG2002810005	Troy Beam Forest Ridge Acres Ph IV 401 Shippensburg Road Shippensburg, PA 17257	Middlespring Creek CWF	Franklin County Conservation District 185 Franklin Farm Lane Chambersburg, PA 17201 717-264-5499
Guilford Township Franklin County	PAG2002810002-1	Nelson Diller Crestview Operations 845 Milnor Road Greencastle, PA 17225	Conococheague Creek WWF-MF	Franklin County Conservation District 185 Franklin Farm Lane Chambersburg, PA 17201 717-264-5499
Letterkenny Township Franklin County	PAG2002810012	Michael Purdom Letterkenny Family Housing 22 Riverview Drive Suite 101 Wayne, NJ 07470	UNT to Rowe Run WWF-MF	Franklin County Conservation District 185 Franklin Farm Lane Chambersburg, PA 17201 717-264-5499
Dover Township York County	PAG2006709016-1	Robert Krantz Dover Area School District 2 School Lane Dover, PA 17315	Little Conewago Creek by means of Fox Run TSF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
Shrewsbury Township York County	PAG2006705086-1	Jonathan C. Mayers Russett Farm Devco Limited Partnership 4750 Owings Mill Boulevard Owing Mills, MD 21117 and Phil Robinson Joe Bull, LP 18147 Amanda Lane New Freedom, PA 17349	UNT to Deer Creek CWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
Marion Township Berks County	PAG2000610018	Larry Martin Dutch Valley Food Distributors 7615 Lancaster Avenue Myerstown, PA 17067	UNT to Little Swatara Creek CWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533 610-372-4657
Caernarvon Township Berks County	PAG2000610028	Andrea Finerosky Morgantown, LP 234 North James Street Newport, DE 19804	UNT to Conestoga River WWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533 610-372-4657

## 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>
Upper Bern Township Penn Township Berks County	PAG2000604047-1	Andrew Merrick CMTS Ministries, Inc. 321 Focht Road Bernville, PA 19506	UNT to Irish Creek- Northkill Creek WWF-CWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533 610-372-4657
Bern Township Berks County	PAG2000608059-1	Philip Yocom 50 Grandview Boulevard Reading, PA 19609	UNT to Schuylkill River CWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533 610-372-4657
Dover Township York County	PAG2006705051-1	Brenda Nestor Fox Run Creek Estates, LP 1250 East Hallandale Beach Boulevard Hallandale, FL 33009	Fox Run TSF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
Dover Borough Dover Township York County	PAG2006710010	Dave Nelson Dover Area School District 2 School Lane Dover, PA 17315	Fox Run TSF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
Fairview Township York County	PAG2006710021	Kenneth H. Myhre 5591 Cannes Circle #602E Sarasota, FL 34231	Bennet Run WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
Muhlenberg Township Berks County	PAG2000607088-1	Steve Landes Muhlenberg Township 5401 Leesport Avenue Temple, PA 19560	Schuylkill River WWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533 610-372-4657
Tulpehocken Township Berks County	PAG2000609047	David Alspaugh 78 Cherry Hill Road Richland, PA 17087	UNT to Little Swatara Creek CWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533 610-372-4657
West Hempfield Township Lancaster County	PAG2003610026	Elmer S. and Ada Forry 820 Ivy Drive Lancaster, PA 17601	Little Conestoga Creek TSF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 717-299-5361
Elizabeth Township Lancaster County	PAG2003610027	Daniel Heller 16 East Brubaker Valley Road Lititz, PA 17543	UNT to Hammer Creek TSF-MF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 717-299-5361



<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 Borough Lancaster County	PAG2003610028	Carel USA 385 South Oak Street Manheim, PA 17545 and Clair Brothers Audio Systems P. O. Box 396 Lititz, PA 17543	UNT to Chickies Creek WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 717-299-5361
Manheim Township Lancaster County	PAG2003610011	George Hurst Oregon Dairy Farm, LLC 2870 Oregon Pike Lititz, PA 17543	Conestoga River WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 717-299-5361
Hampden Township Cumberland County	PAG2002105019-R	Hogan Development Company III 1271 Lititz Pike Lancaster, PA 17601	Pine Run—Holtz Run WWF	Cumberland County Conservation District 310 Allen Road Carlisle, PA 17013 717-240-7812
Southampton Township Cumberland County	PAG2002105054-R	The Willow Group 1153 Ragged Edge Road Chambersburg, PA 17202	Burd Run CWF-MF	Cumberland County Conservation District 310 Allen Road Carlisle, PA 17013 717-240-7812
Carroll Township York County	PAG2006705024-1	Windy Heights, LLC 201 South Fileys Road Dillsburg, PA 17019	Stony Run-Fishers Run CWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984
Hamilton Township Adams County	PAG2000104016-R	Paul D. Burkentine Stoneridge Development 330 Dubs Church Road Hanover, PA 17331	UNT to Conewago Creek WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 717-334-0636
Oxford Township Adams County	PAG2000104023-R	John and Todd Grim Irish Meadows Partners 300 Frederick Street Hanover, PA 17331	UNT to South Branch Conewago Creek WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 717-334-0636
North Towanda Township Bradford County	PAG2000810011	Bhadresh Patel Peace Motel, Inc. 383 York Avenue Towanda, PA 18848	Sugar Creek WWF Susquehanna River WWF	Bradford County Conservation District Stoll Natural Resource Center R. R. 5 Box 5030C Towanda, PA 18848 (570) 265-5539 Ext. 6
Mount Carmel Township Northumberland County	PAG2004910009	Mount Carmel Area School District 600 West Fifth Street Mount Carmel, PA 17851	UNT to Shamokin Creek CWF	Northumberland County Conservation District R. R. 3 Box 238-C Sunbury, PA 17801 (570) 286-7114 Ext. 4

*General Permit Type—PAG-3**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>
Bethlehem City Lehigh County	PAR 202253	Barker Steel, LLC a Harris Rebar Company 55 Sumner Street Milford, MA 01757	Lehigh River WWF	Department of Environmental Protection Northeast Regional Office 2 Public Square Wilkes-Barre, PA 18701-1915 570-826-2511
Franklin County Chambersburg City	PAR123542	Ventura Foods, LLC 1501 Orchard Drive Chambersburg, PA 17201-4812	Conococheague Creek HQ-CWF	DEP—SCRO— Watershed Management 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
York County Springettsbury Township	PAR203547	Cooper Tools, LLC 1209 Orange Street Wilmington, DE 19801-1120	Kreutz Creek WWF	DEP—SCRO— Watershed Management 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
Huntingdon County Porter Township	PAR143507	MWV Consumer & Office Products P. O. Box 317 Alexandria, PA 16611	Frankstown Branch Juniata River WWF	DEP—SCRO— Watershed Management 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
South Pymatuning Township Mercer County	PAR228326	Limpach, Inc., d/b/a Johnson Industries, Inc. P. O. Box 7 Orangeville, OH 44453	Unnamed Tributary to Pymatuning Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 814/332-6942

*General Permit Type—PAG-4**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>
Berks County Alsace Township	PAG043635	Tanya Hess 1879 Freidensburg Road Reading, PA 19606	UNT Antietam Creek 3C CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
Girard Township Erie County	PAG049587	Ruth Addis 5164 Albion Road Girard, PA 16417	Elk Creek 15	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 814/332-6942
Farmington Township Warren County	PAG049588	Chad and Lindsay Ristau 431 Lookout Street Warren, PA 16365	Kiantone Creek 16-B	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 814/332-6942

*General Permit Type—PAG-8 (SSN)**Facility Location:*

<i>Municipality &amp; County</i>	<i>Applicant Name &amp; Address</i>	<i>Site Name</i>	<i>Permit Number</i>	<i>Contact Office &amp; Phone No.</i>
White Township Indiana County	Synagro 264 Prisani Street P. O. Box 35 Bovard, PA 15619	Musser Farm	730954	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

*General Permit Type—PAG-10*

*Facility Location:  
Municipality &  
County*

Banks Township  
Carbon County

*Permit No.*  
PAG102218

*Applicant Name &  
Address*  
Altadis USA, Inc.  
Altadis USA  
McAdoo Plant  
1000 Tresckow Road  
McAdoo, PA 18237-2599

*Receiving  
Water/Use*  
Catawissa Creek  
CWF  
5-E

*Contact Office &  
Phone No.*  
DEP—NERO  
Water Management  
2 Public Square  
Wilkes-Barre, PA  
18701-1915  
570-826-2533

*General Permit Type—PAG-12*

*Facility Location:  
Municipality &  
County*

Lancaster County  
Rapho Township

*Permit No.*  
PAG123689

*Applicant Name &  
Address*  
Robert L. Brubaker, Jr.  
2871 North Colebrook  
Road  
Manheim, PA 17545

*Receiving  
Water/Use*  
7-G

*Contact Office & Phone  
No.*  
DEP—SCRO  
Watershed Management  
909 Elmerton Avenue  
Harrisburg, PA 17110  
717-705-4802

**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>
Katzmaier Farms Paul Katzmaier 251 Katzmaier Road Montoursville, PA 17754	Lycoming	159.9	2.18	Dairy	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**

*Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Operations Permit** issued to **Quality Custom Kitchen, Inc.**, 7360619, Earl Township, **Lancaster County** on 6/23/2010 for the operation of facilities approved under Construction Permit No. 3610513 MA.

**Operations Permit** issued to **Leola Industrial Center**, 7360515, Upper Leacock Township, **Lancaster County** on 6/23/2010 for the operation of facilities approved under Construction Permit No. 3610514 MA.

*Northcentral Region: Water Supply Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Permit No. M.A. (1791505)—Construction**, Public Water Supply.

Applicant	<b>Pike Township Municipal Authority</b>
Township or Borough	Curwensville Borough
County	<b>Clearfield</b>
Responsible Official	Mr. F. Michael Smeal Pike Township Municipal Authority P. O. Box 27 Curwensville, PA 16833
Type of Facility	Public Water Supply— Construction
Consulting Engineer	John P. Mazich, P. E. Uni-Tec Consulting Engineers, Inc. 2007 Cato Avenue State College, PA 16801
Permit Issued Date	June 22, 2010
Description of Action	Installation of Ridge Avenue Pump Station No. 2.

**Permit No. 1406502—Operation**, Public Water Supply.

Applicant	<b>Miles Township Water Authority East</b>
Township or Borough	Miles Township
County	<b>Centre</b>
Responsible Official	Mr. Philip Meyer, Chairperson Miles Township Water Authority East P. O. Box 157 Rebersburg, PA 16872
Type of Facility	Public Water Supply—Operation
Consulting Engineer	David Swisher, P. E. Herbert, Rowland & Grubic, Inc. 474 Windmere Drive State College, PA 16801
Permit Issued Date	June 22, 2010
Description of Action	Operation of a United States Filter/Memcor, model 6M10C, continuous microfiltration plant, an OX1-5X mixed-oxidant generation system and a 200,000 gallon finished water storage tank.

*Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Permit No. 0209518**, Public Water Supply.

Applicant	<b>Findlay Township Municipal Authority</b> 1271 Route 30 P. O. Box 409 Clinton, PA 15026
Borough or Township	Findlay Township
County	<b>Allegheny</b>
Type of Facility	Westport Area booster station
Consulting Engineer	NIRA Consulting Engineers, Inc. 950 Fifth Avenue Coraopolis, PA 15108
Permit to Construct Issued	June 22, 2010

**Permit No. 5608507**, Public Water Supply.

Applicant	<b>Jenner Township</b> 2058 Lincoln Highway Boswell, PA 15531
Borough or Township	Jenner Township
County	<b>Somerset</b>
Type of Facility	Laurel Mountain Village water system
Consulting Engineer	The EADS Group, Inc. 450 Aberdeen Drive Somerset, PA 15501
Permit to Construct Issued	June 22, 2010

**Operations Permit** issued to **Plum Borough Municipal Authority**, 4555 New Texas Road, Pittsburgh, PA 15239, (PWSID No. 5020041) Plum Borough, **Allegheny County** on June 18, 2010, for the operation of facilities approved under Construction Permit No. 0292506MA.

**Operations Permit** issued to **Plum Borough Municipal Authority**, 4555 New Texas Road, Pittsburgh, PA 15239, (PWSID No. 5020041) Plum Borough, **Allegheny County** on June 22, 2010, for the operation of facilities approved under Construction Permit No. 0208502.

**Operations Permit** issued to **Pittsburgh Water & Sewer Authority**, 1200 Penn Avenue, 2nd Floor, Pittsburgh, PA 15222, (PWSID No. 5020038) City of Pittsburgh, **Allegheny County** on June 22, 2010, for the operation of facilities approved under Construction Permit No. 0209519.

**Permit No. 6509507MA**, Minor Amendment, Public Water Supply.

Applicant	<b>Latrobe Municipal Authority</b> 207 Waterworks Road Latrobe, PA 15650
Borough or Township	Unity Township
County	<b>Westmoreland</b>
Type of Facility	Lightcap Road waterline
Consulting Engineer	Gibson-Thomas Engineering Co., Inc. 1004 Ligonier Street P. O. Box 853 Latrobe, PA 15650
Permit to Construct Issued	June 22, 2010

**Permit No. 3279-MA2**, Minor Amendment, Public Water Supply.

Applicant	<b>Volant Borough</b> Post Office Box 96 Volant, PA 16156
Borough or Township	Volant Borough
County	<b>Lawrence</b>
Type of Facility	Public Water Supply
Consulting Engineer	Thomas Thompson Gannett Fleming, Inc. 554 South Erie Street Mercer, PA 16137
Permit to Construct Issued	June 24, 2010

### STORMWATER MANAGEMENT

#### Action on plans submitted under the Stormwater Management Act (32 P. S. § 680.9)

*Bureau of Watershed Management, P. O. Box 8775, Harrisburg, PA 17105-8775.*

The Act 167 Stormwater Management Plans for the Perkiomen Creek Headwaters Watershed, submitted by Lehigh County, was approved on June 22, 2010. This approval applies only to the portion of the watershed within Lehigh County.

## 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:

*Northeast Region: Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Bethlehem Commerce Center—Lot 11**, 1805 East 4th Street, Bethlehem City, **Northampton County**. Kenneth G. Robbins, HDR Engineering, Inc., 1720 Spillman Drive, Suite 280, Bethlehem, PA 18015-2165 has submitted a Cleanup Plan (on behalf of her client, Lehigh Valley Industrial Park, Inc., 1720 Spillman Drive, Suite 150, Bethlehem, PA 18015-2164), concerning the remediation of soils found to have been impacted by inorganics, VOCs and SVOCs as a result of historical manufacturing operations at the site. The Report was submitted in partial fulfillment for demonstrating attainment of the Site-Specific Standard for soils. A public notice regarding the submission of the Cleanup Plan was published in *The Express Times* on June 7, 2010.

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Simon Camera Parcels**, City of York, **York County**. Herbert, Rowland & Grubic, Inc., 1820 Linglestown Road, Harrisburg, PA 17110, on behalf of City of York Redevelopment Authority, 49 East Market Street, York, PA 17401, submitted a combined Remedial Investigation and Final Report concerning site soils and groundwater contaminated with chlorinated solvents from past commercial dry cleaning operations. The Report is intended to document remediation of the site to meet the Site-Specific Standard.

**Miller & Nolton Properties**, Newport Borough, **Perry County**. Marshall, Miller & Associates, 3913 Hartzdale Drive, Suite 1306, Camp Hill, PA 17011, on behalf of Minuteman Spill Response, Inc., P. O. Box 10, Mifflinville, PA 18631; Keystone Oil Products Corporation, 1600 Hummel Avenue, Camp Hill, PA 17011; Anne and Lawrence Miller, 357 North 4th Street, Newport, PA 17074, and Lorie and Stephen Nolton, 359 North 4th Street, Newport, PA 17074, submitted a Final Report concerning remediation of site soils contaminated with No. 2 fuel oil from a ruptured aboveground storage 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.

**Katherine Endres Property**, Maiden Creek Township, **Berks County**. Liberty Environmental, Inc., 50 North 5th Street, 5th Floor, Reading, PA 19601, on behalf of Katherine Endres, 57 West Wesner Road, Blandon, PA 19510, submitted a Final Report concerning remediation of site soils and groundwater contaminated with No. 2 heating oil. The Report is intended to document remediation of the site to meet the Residential Statewide Health Standard.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Robert Fontana Property**, Beaver Township, **Columbia County**. Minuteman Spill Response, Inc., P. O. Box 10, Mifflinville, PA 18631 on behalf of Robert Fontana, 165 Fayette Avenue, Buffalo, NY 14223 has submitted within 90 days of the release a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The Report is intended to document remediation of the site to meet the Statewide Health Standard.

**Lock Haven Bald Eagle St. Former MGP Site**, City of Lock Haven, **Clinton County**. The Mahfood Group, 260 Millers Run Road, Bridgeville, PA 15017 on behalf of UGI Utilities, Inc., 2525 North 12th Street, Suite 360, Reading, PA 19612 has submitted a combined Risk Assessment Report and Cleanup Plan concerning remediation of site groundwater contaminated with benzene, toluene, ethylbenzene, and xylenes (BTEX) and polycyclic aromatic hydrocarbons (PAHs). The Report is intended to document remediation of the site to meet the Site-Specific Standard.

**UGI-Penn natural Gas-Danville Holder/Regulator Station**, Danville Borough, **Montour County**. Stantec Consulting, 400 Davis Drive, Suite 400, Plymouth Meeting, PA 19462 on behalf of UGI Penn Natural Gas, 100 Kachel Boulevard, P. O. Box 12677, Reading, PA 19612-2677 has submitted a Remedial Investigation Report concerning the remediation of site soil contaminated with arsenic, antimony, and lead. The Report is intended to document remediation of the site to meet the Site-Specific Standard.

**UGI Mount Carmel Former MGP site**, Mount Carmel Borough, **Northumberland County**. Haley & Aldrich, Inc., 299 Cherry Hill Road, Suite 105, Parsippany, NJ 07054-1124 on behalf of UGI Central Penn Gas, 2525 North 12th Street, Suite 380, Reading, PA 19612 has submitted a Cleanup Plan concerning remediation of site soil and groundwater contaminated with inorganic compounds, polycyclic aromatic hydrocarbons and other organic compounds. The Report is intended to document remediation of the site to meet the Site-Specific Standard.

*Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**1215 Federal Street**, City of Pittsburgh, **Allegheny County**. American Geosciences, Inc., 3925 Reed Boulevard, Suite 400, Murrysville, PA 15668 on behalf of Andrew Stewart, Federal North Associates, LP, 5812 Darlington Road, Pittsburgh, PA 15217 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with PCE, TCE and its degradation products from a former dry cleaning operation. The site is currently a parking garage.

**Triangle Fasteners, Former Amoco Bulk Plant**, City of Pittsburgh, **Allegheny County**. Shaw Environmental, Inc., 2790 Mosside Boulevard, Monroeville, PA 15146 on behalf of Steve Gonzalski, Atlantic Richfield Company, a BP Products, North America, Inc. Company, 1 West Pennsylvania Avenue, Suite 440, Towson, MD 21204 has submitted a Final Report concerning the remediation of site soils and groundwater contaminated with diesel and leaded gasoline constituents.

## 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:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Industrial Property**, City of Philadelphia, **Philadelphia County**. Jeffery T. Bauer, Whitestone Associates, Inc., 1600 Manor Drive, Suite 220, Chalfont, PA 18914, Keith D'Ambrosio, P.E., 1600 Manor Drive, Suite 220, Chalfont, PA 18914 on behalf of Brad Adams, Wal-Mart Store, Inc., 2001 SE 10th Street, Bentonville, AR 72716 has submitted a Remedial Investigation Report concerning the remediation of site groundwater contaminated with PAH's and inorganic. The Remedial Investigation Report was approved by the Department of Environmental Protection on June 16, 2010.

**Enterprise Heights**, City of Philadelphia, **Philadelphia County**. Bill Schmidt, Pennoni Associates, Inc., 3001 Market Street, Philadelphia, PA 19104 on behalf of Omowale Crenshaw, Enterprise Heights Real Estate Development, 4548 Market Street, Philadelphia, PA 19139 has submitted a Final Report concerning the remediation of site soil contaminated with lead. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on May 26, 2010.

**Donnelly Residence**, City of Philadelphia, **Philadelphia County**. Charles Burger, Mountain Research, LLC, 825 25th Street, Altoona, PA 16601, Clare Erskine, Allstate Insurance Company, 1200 Atwater Drive, Suite 110, Malvern, PA 19355 on behalf of Joseph Donnelly, 8610 Wissahickon Avenue, Philadelphia, PA 19128 has submitted a Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on June 3, 2010.

**Pennridge S. Middle School**, Sellersville Borough, **Bucks County**. Daniel Lewis, Spotts, Stevens and McCoy, Inc., 1947 North Park Road, Reading, PA 19610-0307 on behalf of Jeff Loeffler, Pennridge School District, 410 East Walnut Street, Perkasio, PA 18944, Robert Reinhart, Pennridge School District, 410 East Walnut Street, Perkasio, PA 18944 has submitted a Final Report con-

cerning the remediation of site soil and groundwater contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on June 7, 2010.

**The Colonnade at Schwenksville**, Borough of Schwenksville, **Montgomery County**. Kelly Lee Kinkaid, P. G., Liberty Environmental, Inc., 50 North 5th Street, 5th floor, Reading, PA 19601 on behalf of Robert Domagalski, Life Care Holdings, LLC, c/o The Colonnade, 300 Perkiomen Avenue, Schwenksville, PA 19473 has submitted a Final Report concerning the remediation of site groundwater and soil contaminated with No. 4 fuel oil and petroleum. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on June 17, 2010.

**Holland Shopping Center**, Northampton Township, **Buck County**. Keith T. D'Ambrosio, Whitestone Associates, Inc., 1600 Manor Drive, Chalfont, PA 18914 on behalf of Matthew Winters, Wawa, Inc., Red Roof Office, 260 Baltimore Pike, Wawa, PA 19063 has submitted a Final Report concerning the remediation of site groundwater and soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on April 27, 2010.

**Funk Residence**, West Brandywine Township, **Chester County**. Dean Druckenmiller, Synergy Environmental, Inc., 155 Railroad Plaza, Royersford, PA 19468, Mark Potter, Fairmont Specialty Group, P. O. Box 2807, Huston, TX 17252 on behalf of Walter Funk, 103 Barons Hill Road, Brandamore, PA 19316 has submitted a Final Report concerning the remediation of site groundwater and soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on April 29, 2010.

**Miller Street Industrial Associates, LP**, Quakertown Borough, **Bucks County**. Michael Christie, Penn Environmental & Remediation, Inc., 2755 Bergey Road, Hatfield, PA 19440 on behalf of Roger Altemose, Mill Street Industrial Associates, LP, 2880 Bergey Road, Suite D, Hatfield, PA 19440 has submitted a Final Report concerning the remediation of site soil contaminated with lead. The Final Report demonstrated attainment of the Site-Specific Standard and was approved by the Department of Environmental Protection on April 21, 2010.

**Frazer Shopping Center**, East Whiteland Township, **Chester County**. Phil Gray, Phoenix, GeoEnvironmental, LLC, 445 Bethlehem Pike, Suite 108, Colmar, PA 18915 on behalf of Michael Stapler, Metropol Properties, LP, P. O. Box 1189, Frazer, PA 19355 has submitted a Remedial Investigation/Final Report concerning the remediation of site groundwater and soil contaminated with chlorinated solvents. The Remedial Investigation/Final Report was given an extension by the Department of Environmental Protection on April 21, 2010.

**(REVISED) SC Loveland Piers 66 69 N.**, City of Philadelphia, **Philadelphia County**. Craig Herr, RT Environmental Services, Inc., 215 West Church Road, King of Prussia, PA 19406 on behalf of James Anderson, Berks Street Corporation, 6958 Torresdale Avenue, Philadelphia, PA 19135 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with inorganic. The Final Report did not demonstrate attainment of the Statewide Health Stan-

dard and was placed on hold by the Department of Environmental Protection on March 30, 2010.

**PenFlex**, East Whiteland Township, **Chester County**. Dennis Libenson, Environmental Consulting, Inc., 500 East Washington Street, Suite 375, Norristown, PA 19401 on behalf of Ray Brown, 271 LP, 1404 Thrush Lane, West Chester, PA 19382 has submitted a Final Report concerning the remediation of site groundwater contaminated with chlorinated solvents. The Final Report demonstrated attainment of the Site-Specific Standard and was approved by the Department of Environmental Protection on August 12, 2008.

**Clifford Residence**, East Coventry Township, **Chester County**. Charles Burger, Mountain Research, LLC, 825 25th Street, Altoon, PA 16601, Clare Erskine, Allstate Insurance Company, 1200 Artwater Drive, Suite 110, Malvern, PA 19355 on behalf of Karen Clifford, 367 Bethel Church Road, Spring City, PA 19475 has submitted a Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on April 23, 2010.

**Rite Aid 2451**, City of Philadelphia, **Philadelphia County**. Scott Treherne, BL Companies, 213 Market Street, 6th Floor, Harrisburg, PA 17101, Ken Yoder, BL Companies, 213 Market Street, 6th Floor, Harrisburg, PA 17101 on behalf of Robert Lerner, Rite Aid Corporation, 30 Hunter Lane, Camp Hill, PA 17101 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with used motor oil. The Final Report did not demonstrate attainment of the Statewide Health Standard and was disapproved by the Department of Environmental Protection on April 21, 2010.

**Woronko Residence**, Buckingham Township, **Bucks County**. Jeremy Bolyn, Environmental Maintenance Company, Inc., 1420 East Mermaid Lane, Glenside, PA 19038 on behalf of George Woronko, 4109 Tresher Drive, Doylestown, PA 18902 has submitted a Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on April 6, 2010.

**Danko Property**, Middletown Township, **Bucks County**. Jeremy Bolyn, Environmental Maintenance Company, Inc., 1420 East Mermaid Lane, Glenside, PA 19038 on behalf of Mark Danko, 18 Quakerhill Road, Levittown, PA 19057 has submitted a Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on April 19, 2010.

*Northeast Region: Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**First Student, Inc.—Macungie Terminal**, 3130 Route 100, Lower Macungie Township, **Lehigh County**. Thomas J. Martinelli, JMT Environmental Technologies, Inc., P. O. Box 22044, Lehigh Valley, PA 18002-2044 submitted a Final Report (on behalf of his client, First Student, Inc.—Macungie Terminal, 3130 Route 100, Macungie, PA 18062), concerning the remediation of soil found to have been impacted by diesel fuel as a result of

leakage from a school bus' diesel tank. The Report documented attainment of the Residential Statewide Health Standard and was approved on June 22, 2010. The Report was originally submitted within 90 days of the release.

**Upper Mount Bethel Community Park**, 1535 Potomac Street, Upper Mount Bethel Township, **Northampton County**. Thomas J. Martinelli, JMT Environmental Technologies, Inc., P. O. Box 22044, Lehigh Valley, PA 18002-2044 submitted a Final Report (on behalf of his client, Upper Mount Bethel Township, 387 Ye Olde Highway, Mount Bethel, PA 18343), concerning the remediation of soil found to have been impacted No. 2 fuel oil as a result of a breached underground storage tank shell during construction activities. The Report document attainment of the Residential Statewide Health Standard for soil and was approved on June 24, 2010. The Report was originally submitted within 90 days of the release.

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Cardinal Freight Lines/Reichart Property**, Hamilton Township, **Adams County**. Skelly & Loy, Inc., 449 Eisenhower Boulevard, Suite 300, Harrisburg, PA 17111, on behalf of Brian and Lela Reichart, 4671 Carlisle Pike, New Oxford, PA 17350 and Cardinal Freight Lines, 5333 Davidson Highway, Concord, NC 28027, submitted a Final Report concerning remediation of site soils contaminated with diesel fuel from a tractor-trailer accident. The Report, which was submitted within 90 days of the release, demonstrated attainment of the Residential Statewide Health Standard and was approved by the Department of Environmental Protection on June 24, 2010.

*Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Rosedale Tract KOZ and Lower Ore Yard KOZ**, City of Johnstown, **Cambria County**. L. Robert Kimball Associates, 615 West Highland Avenue, P. O. Box 1000, Ebensburg, PA 1531 on behalf of the Johnstown Redevelopment Authority, 401 Washington Street, 4th Floor, Johnstown, PA 15901 has submitted a Cleanup Plan concerning the remediation of site soil contaminated with heavy metals. The Cleanup Plan was approved by the Department of Environmental Protection on May 17, 2010.

**Allegheny County Field Sports Complex**, State Route 51 and Montour Run Road, Borough of Coraopolis, Robinson Township, Township of Moon, **Allegheny County**. Chester Engineers, Airside Business Park, 260 Airside Drive, Moon Township, PA 15108 on behalf of James R. Wilharm, Trustee for Sports Legacy Foundation, Alliance Reality Management, 121 Towne Square Way, Pittsburgh, PA 15227 has submitted a Remedial Investigation Report, Risk Assessment Report, Cleanup Plan and Final Report concerning remediation of site soil and groundwater contaminated with lead, arsenic and other inorganic constituents. The Report is intended to document remediation of the site to meet a Site-Specific Residential Standard. The Report was approved on May 17, 2010. An environmental covenant restriction the site to be used only for recreational purposes will be recorded with Allegheny County.



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**HAZARDOUS WASTE TREATMENT, STORAGE & DISPOSAL FACILITIES**


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Permits issued, suspended, expired, denied, revoked, reinstated or returned under the Solid Waste Management Act of July 7, 1980 (P. L. 380, No. 97) (35 P. S. §§ 6018.101—6018.1003) and Regulations to Operate a Hazardous Waste Treatment, Storage, or Disposal Facility.

*Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Permit No. PA6213820503. Letterkenny Army Depot, Mr. Bryan Hoke**, 1 Overcash Avenue, Chambersburg, PA 17201, Letterkenny, Green and Hamilton Townships, **Franklin County**. In accordance with 25 Pa. Code § 264a.167, the Department of Environmental Protection (Department) is providing for notice of Letterkenny Army Depot's Closure Report and Certification for RCRA permitted storage Building 675, Storage Pad 676 and Storage Pad 696 received by the Department on December 18, 2009 and closure certification concurrence by the Department on June 23, 2010.

Persons interested in reviewing the closure report and certification may contact John Oren, Facilities Manager, Department of Environmental Protection, 909 Elmerton Avenue, Harrisburg, PA 17110, 717-705-4706. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984. Comments should be submitted to this office within 45 days of *Pennsylvania Bulletin* publication.

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**REGISTRATION FOR GENERAL PERMIT—RESIDUAL WASTE**


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**Registration Approved Under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Residual Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and/or the Beneficial Use of Residual Waste Other Than Coal Ash.**

*Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.*

**Registration Under General Permit No. WMGR097R013. N-Viro International Corporation**, 3450 West Central Avenue, Toledo, OH 43606.

**General Permit Number WMGR097** authorizes research and development (R&D) activities. This general permit was issued in support of limited R&D activities to collect technical and supporting information that demonstrates the blending of (i) an alkaline material, and (ii) sewage sludge generated at the wastewater treatment plant will create a material that may be used as an alternative fuel for an electric power generation plant. Central Office approved this registration for coverage under the general permit on June 25, 2010.

Persons interested in obtaining more information, or obtaining copies of the general permit may contact C. D. Vu, General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Land Recycling and Waste Management, Rachel Carson State Office Building, P. O. Box 8472, Harrisburg, PA 17105-8472, 717-787-7381. TDD users may contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service, (800) 654-5984.

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**RESIDUAL WASTE GENERAL PERMITS**


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**Permits Revoked Under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Residual Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and/or the Beneficial Use of Residual Waste Other Than Coal Ash.**

*Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.*

**General Permit No. WMGR090R053. Schultz Enterprises, Inc.**, 541 Flint Hill Road, King of Prussia, PA 19406.

**General Permit Number WMGR090** authorizes the processing and beneficial use of reclaimed asphalt pavement (RAP) materials as a roadway construction material. The permittee requested the general permit be revoked due to the utilization of the RAP materials under the industry-wide co-product determination. Central Office revoked this general permit on June 7, 2010.

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**REGISTRATION FOR RESIDUAL WASTE GENERAL PERMITS**


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**Registration for General Permit issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); and Residual Waste Regulations for a General Permit To Operate Residual Waste Processing Facilities (25 Pa. Code § 287.611 relating to authorization for general permit).**

*Southcentral Regional Office: Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200.*

**General Permit No. WMGR109-SC004. Middletown Biofuels, LLC**, 414 Innovation Drive, Blairsville, PA 15717. The Department of Environmental Protection (Department) has issued a registration under General Permit WMGR109 to Middletown Biofuels, LLC, for the processing and beneficial use of used restaurant oil, yellow grease, grease trap waste, oil and animal fats from food processing or rendering plants, waste from ethanol production, soy bean soap stock, float grease (from wastewater treatment plants), and off-specification vegetable oil for use as a biofuel or biodiesel. This Registration is for their location at East End Warehouse, 532 East Emaus Street, Middletown, PA 17057.

Persons interested in reviewing the general permit may contact John Oren, Facilities Manager, Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4706. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

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**AIR QUALITY**


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**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.*

**66-310-016GP3: Meshoppen Stone, Inc.** (P. O. Box 127, Frantz Road, Meshoppen, PA 18630) on June 17, 2010, to construct and operate a Portable Crushing Operation with watersprays at their Carter II Quarry in Meshoppen Township, **Wyoming County**.

**66-310-017GP3: Meshoppen Stone, Inc.** (P. O. Box 127, Frantz Road, Meshoppen, PA 18630) on June 17, 2010, to construct and operate a Portable Crushing Operation with watersprays at their Shannon Hill Quarry in Meshoppen Township, **Wyoming County**.

**66-329-003GP9: Meshoppen Stone, Inc.** (P. O. Box 127, Frantz Road, Meshoppen, PA 18630) on June 17, 2010, to install and operate a Diesel I/C engine at their Carter II Quarry in Meshoppen Township, **Wyoming County**.

**66-329-004GP9: Meshoppen Stone, Inc.** (P. O. Box 127, Frantz Road, Meshoppen, PA 18630) on June 17, 2010, to install and operate a Diesel I/C engine at their Shannon Hill Quarry in Meshoppen Township, **Wyoming County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 814-949-7935.*

**GP3-17-07-03014: New Enterprise Stone & Lime Co., Inc.** (P. O. Box 77, New Enterprise, PA 16664) on June 22, 2010, for a portable crusher and three conveyors at the Roaring Spring Quarry in Taylor Township, **Blair County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: Barb Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226.*

**GP5-65-00867B: CONSOL Gas Co.** (CNX Center, 1000 Consol Energy Drive, Canonsburg, PA 15317-6506) on June 18, 2010, received authorization for operation of a natural gas production facility at their Jacob's Creek Compressor Station in South Huntingdon Township, **Westmoreland County**.

**GP5-65-00961C: CONSOL Gas Co.** (CNX Center, 1000 Consol Energy Drive, Canonsburg, PA 15317-6506) on June 18, 2010, received authorization for operation of a natural gas production facility at their Hickman Compressor Station in Bell Township, **Westmoreland County**.

**GP3-32-00320A: Penn Run Quarry-2** (590 Spruce Grove Road, Penn Run, PA 15765) on June 23, 2010, received authorization under GP-3 for installation and operation of a non-coal mineral processing plant at their Spruce Mine (Permit No. 32040301) in Cherry Hill Township, **Indiana County**.

**GP9-32-00320B: Penn Run Quarry-2** (590 Spruce Grove Road, Penn Run, PA 15765) on June 23, 2010, received authorization under GP-9 to allow installation and operation of four (5) diesel engines to power a non-coal mineral processing plant at the Spruce Mine (Permit No. 32040301) in Cherry Hill Township, **Indiana County**.

**GP5-32-146A: XTO Energy, Inc.** (810 Houston Street, Fort Worth, TX 76102) on May 27, 2010, to construct and operate one natural gas compressor engine and one natural gas dehydrator at their Kent Compressor Station in Blacklick Township, **Indiana County**.

**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

*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.*

**67-05041A: Defense Logistics Agency** (DESSP-PG "S" Avenue and 3rd Street, Building 750, New Cumberland, PA 17070) on June 21, 2010, to construct three new boilers to replace four existing boilers at their Defense Distribution Depot Susquehanna, PA in Fairview Township, **York County**. The plan approval was extended.

**Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.**

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 814-949-7935.*

**06-05063: Boyertown Foundry Co.** (P. O. Box 443, New Berlinville, PA 19545-0443) on June 21, 2010, for their gray iron foundry in Boyertown Borough, **Berks County**. This is a renewal of the Title V operating permit.

**38-05017: Greater Lebanon Refuse Authority** (1610 Russell Road, Lebanon, PA 17046-1437) on June 21, 2010, for the municipal solid waste landfill in North Lebanon Township, **Lebanon County**. This is a renewal of the operating permit.

**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.**

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Matthew Williams, Facilities Permitting Chief—Telephone: 814-332-6940.*

**25-00052: Ames True Temper** (55 Pleasant Street, Union City, PA 16438-1337) on June 21, 2010, to re-issue the Natural Minor Operating Permit for this wooden tool handle manufacturing and coating facility in Union City Borough, **Erie County**. The facility's primary emissions are from surface coating operations.

**16-00003: State System of Higher Education—Clarion State University** (840 Wood Street, Clarion, PA 16214-1240) on June 23, 2010, to re-issue a Natural Minor Operating Permit Number to operate their boiler plant at the university, in Clarion Borough, **Clarion County**. The facility's primary emission sources include three Boilers and various Emergency Power Generators. The emissions of criteria pollutants from this facility are below major source levels.

**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.**

*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.*

**67-05005: PPL Brunner Island, LLC** (2 North 9th Street, Allentown, PA 18101-1139) on June 21, 2010, for the Brunner Island coal fired electric generating station in East Manchester Township, **York County**. This Title V Operating Permit was administratively amended to include the requirements of Plan Approval Nos. 67, 05005D, E and F, and to include standard conditions for continuous emission monitors (CEMs) and the Clean Air Interstate Rule (CAIR).

## 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 Applications Returned*

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.*

**56823108 and NPDES No. PA0605751. C & O Coal Company**, 124 Walker School Road, Berlin, PA 15530, permit renewal for reclamation only of a bituminous surface mine in Brothersvalley Township, **Somerset County**, affecting 42.1 acres. Receiving stream(s): unnamed tributaries to/and Buffalo Creek classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: December 7, 2009. Permit Returned: June 18, 2010.

### *Coal Permits Actions*

*California District Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100.*

**56981301 and NPDES Permit No. PA0215121, Quecreek Mining, Inc.**, (P. O. Box 260, Friedens, PA 15541-0260), to renew and revise the permit for the Quecreek Mine in Lincoln and Somerset Townships, **Somerset County** including the GP-12 permit and related NPDES permit. No additional discharges. Application received: November 17, 2008. Permit issued: June 21, 2010.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.*

**07850103 and NPDES No. PA0597091. Cooney Brothers Coal Co.**, P. O. Box 246, Cresson, PA 16630, permit renewal for reclamation only of a bituminous

surface mine in Logan Township, **Blair County**, affecting 114.0 acres. Receiving stream(s): unnamed tributary to/and Kittanning Run classified for the following use(s): cold water fishery. The first downstream potable water supply intake from the point of discharge is Altoona City Authority-Blair County PWS and Crystal Pine Bottled Water-Michael Washko. Application received: February 17, 2010. Permit Issued: June 21, 2010.

**32070104 and NPDES No. PA0262404. P & N Coal Company, Inc.**, P. O. Box 330, Punxsutawney, PA 15767, revision to add 5.0 acres for mining to an existing bituminous surface mine in Banks Township, **Indiana County**, affecting 137.3 acres. Receiving stream(s): unnamed tributary to South Branch of Bear Run, unnamed tributary to Cush Creek and unnamed tributary to Brady Run classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: December 21, 2009. Revision withdrawn: March 16, 2010.

**56940106 and NPDES No. PA0212903. Fieg Brothers**, 3070 Stoystown Road, Stoystown, PA 15563, permit renewal for the continued operation and restoration of a bituminous surface mine in Brothersvalley Township, **Somerset County**, affecting 77.4 acres. Receiving stream(s): unnamed tributaries to/and Buffalo Creek classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: February 17, 2010. Permit issued: June 26, 2010.

**56763114 and NPDES No. PA0608238. Svonavec, Inc.**, 150 West Union Street, Suite 201, Somerset, PA 15501, permit renewal for continued operation and restoration of a bituminous surface mine in Milford Township, **Somerset County**, affecting 96.8 acres. Receiving stream(s): unnamed tributaries to/and South Glad Creek classified for the following use(s): warm water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: September 9, 2009. Permit Issued: June 23, 2010.

**32080101 and NPDES No. PA0262561. P & N Coal Co., Inc.**, P. O. Box 332, Punxsutawney, PA 15767, revision of an existing bituminous surface mine to add 15.8 acres to the permit area in Banks Township, **Indiana County**, affecting 9.4 acres. Receiving stream(s): unnamed tributaries to Cush Creek classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: March 24, 2010. Permit Issued: June 23, 2010.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**17080103 and NPDES No. PA0256722. Hilltop Coal Co.** (12 Dutchtown Road, Houtzdale, PA 16651). Commencement, operation and restoration of a bituminous surface and auger mine located in Bigler Township, **Clearfield County** affecting 320.7 acres. Receiving streams: unnamed tributary to Muddy Run and unnamed tributaries to Little Muddy Run classified for Cold Water Fisheries. There are no potable water supply intakes within 10 miles downstream. Application received: March 10, 2008. Permit issued: June 10, 2010.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**40840202R5 and NPDES Permit No. PA0613703. Silverbrook Anthracite, Inc.**, (1 Market Street, Laflin, PA 18702), renewal of an existing anthracite coal refuse reprocessing and prep plant operation in Laflin Borough, **Luzerne County** affecting 30.30 acres, receiving stream:

Garden Creek. Application received: September 21, 2009. Renewal issued: June 23, 2010.

*Noncoal Applications Returned*

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.*

**34090801. Deihl's Excavation**, 250 Industrial Park Road, Mifflintown, PA 17059, commencement, operation and restoration of a small Noncoal (industrial minerals) operation in Milford Township, **Juniata County**, affecting 5.0 acres. Receiving stream(s): Juniata River. Application received: March 11, 2009. Permit Returned: June 21, 2010.

**32092801. Pioneer Oil & Gas Field Services, LP**, P. O. Box 368, Elderton, PA 15736, commencement, operation and restoration of a small Noncoal (industrial minerals) operation in Young Township, **Indiana County**, affecting 5.0 acres. Receiving stream(s): Gobblers Run. Application received: June 4, 2009. Permit Returned: June 21, 2010.

**50090801. Barbara Beers**, 1360 Newport Road, Duncannon, PA 17020, commencement, operation and restoration of a small Noncoal (industrial minerals) operation in Miller Township, **Perry County**, affecting 1.5 acres. Receiving stream(s): unnamed tributary to Losh Run. Application received: July 13, 2009. Permit Returned: June 21, 2010.

*Noncoal Permits Actions*

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.*

**07092801. Catharine Properties, Inc.**, One Either Street, Braddock, PA 15104, commencement, operation and restoration of a small Noncoal (industrial minerals) operation in Catharine Township, **Blair County**, affecting 5.0 acres. Receiving stream(s): unnamed tributary to Frankstown Branch Juniata River. Application received: February 26, 2009. Permit Issued: June 22, 2010.

**5679123 and NPDES Permit No. PA0599166, Action Mining, Inc.**, 1117 Shaw Mines Road, Meyersdale, PA 15552, renewal of NPDES Permit, Southampton Township, **Somerset County**. Receiving stream(s): unnamed tributary to Shoemaker Run classified for the following uses(s): high quality. There are no potable water supply intakes within 10 miles downstream. Application received: March 11, 2010. Permit issued: June 21, 2010.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**4773SM2 and NPDES No. PA0596680. Hanson Aggregates Pennsylvania, Inc.** (7660 Imperial Way, Allentown, PA 18195). Renewal of the NPDES Permit for discharges of treated mine drainage from a quarry operation in Potter Township, **Centre County**. Receiving stream: unnamed tributary to Cedar Creek classified for Cold Water Fishery. Application received: February 16, 2010. Permit issued: June 15, 2010.

**4775SM10 and NPDES No. PA0596639. Hanson Aggregates Pennsylvania, Inc.** (850 Boalsburg, PA 16827). Renewal of the NPDES Permit for discharges of treated mine drainage from a quarry operation in College Township, **Centre County**. Receiving stream: Spring Creek classified for High Quality Cold Water Fishery. Application received: February 16, 2010. Permit issued: June 15, 2010.

**14920302 and NPDES No. PA0207098. Hanson Aggregates Pennsylvania, Inc.** (850 Boalsburg, PA 16827). Renewal of the NPDES Permit for discharges of

treated mine drainage from a quarry operation in Potter Township, **Centre County**. Receiving stream: Lick Run classified for High Quality Cold Water Fishery. Application received: February 16, 2010. Permit issued: June 15, 2010.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**8274SM4A2C10 and NPDES Permit No. PA0010111. Rohrer's Quarry, Inc.**, (P. O. Box 365, Lititz, PA 17543), renewal and correction of NPDES Permit for discharge of treated mine drainage from a quarry operation in Penn and Warwick Townships, **Lancaster County**, receiving stream: unnamed tributary of Little Conestoga Creek. Application received: April 25, 2010. Renewal issued: June 21, 2010.

**58100802. Michael Mackenzie**, (1391 Franks Road, Susquehanna, PA 18847), commencement, operation and restoration of a quarry operation in Great Bend Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received: March 1, 2010. Permit issued: June 23, 2010.

**ACTIONS ON BLASTING ACTIVITY APPLICATIONS**

**Actions on applications under the Explosives Acts of 1937 and 1957 (43 P.S. §§ 151—161); and 25 Pa. Code § 211.124 (relating to blasting activity permits). Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.**

*Blasting Permits Actions*

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.*

**43104001. Kesco, Inc.** (P. O. Box 95, Adrian, PA 16210) Blasting Activity Permit for commercial site development in City of Hermitage, **Mercer County**. This Blasting Activity Permit will expire on October 31, 2010. Permit Issued: June 21, 2010.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**36104133. Keystone Blasting Service**, (15 Hopeland Road, Lititz, PA 17543), construction blasting for Timber Ridge in Mt. Joy Township, **Lancaster County** with an expiration date of June 30, 2011. Permit issued: June 21, 2010.

**46104107. Eastern Blasting Co., Inc.**, (1292 Street Road, New Hope, PA 18938), construction blasting for Montgomery Knoll in Montgomery Township, **Montgomery County** with an expiration date of July 1, 2011. Permit issued: June 23, 2010.

**36104134. ME Drilling & Blasting**, (P. O. Box 279, Auburn, NH 03032), construction blasting for Concordia Estates in West Hempfield Township, **Lancaster County** with an expiration date of June 22, 2011. Permit issued: June 24, 2010.

**36104135. ME Drilling & Blasting**, (P. O. Box 279, Auburn, NH 03032), construction blasting for Veranda Development in East Hempfield Township, **Lancaster County** with an expiration date of June 22, 2011. Permit issued: June 24, 2010.

**36104136. ME Drilling & Blasting**, (P. O. Box 279, Auburn, NH 03032), construction blasting for Penn's

Crossing in Manheim Township, **Lancaster County** with an expiration date of June 22, 2011. Permit issued: June 24, 2010.

**36104137. ME Drilling & Blasting**, (P. O. Box 279, Auburn, NH 03032), construction blasting for Weaver Road Park in Manheim Township, **Lancaster County** with an expiration date of June 22, 2011. Permit issued: June 24, 2010.

**36104138. ME Drilling & Blasting**, (P. O. Box 279, Auburn, NH 03032), construction blasting for The Villas at Elm Tree in Rapho Township, **Lancaster County** with an expiration date of June 22, 2011. Permit issued: June 24, 2010.

**36104139. Keystone Blasting Service**, (15 Hopeland Road, Lititz, PA 17543), construction blasting for Roy Stoltzfus Barn in Upper Leacock Township, **Lancaster County** with an expiration date of July 30, 2010. Permit issued: June 24, 2010.

**64104005. Northeast Blasting**, (403 Middle Creek Road, Honesdale, PA 18431), construction blasting for the Damascus Township Shale Bank in Damascus Township, **Susquehanna County** with an expiration date of June 14, 2011. Permit issued: June 24, 2010.

**58104028. Mike Kipar**, (6005 SR 267, Meshoppen, PA 18630) and John Brainard, (3978 SR 2073, Kingsley, PA 18826), construction blasting for the Kipar Gas Pad and Road in Auburn Township, **Susquehanna County** with an expiration date of June 15, 2011. Permit issued: June 24, 2010.

**58104029. John Brainard**, (3978 SR 2073, Kingsley, PA 18826), construction blasting for the Decker Well Pad in Rush Township, **Susquehanna County** with an expiration date of July 30, 2010. Permit issued: June 24, 2010.

**58104030. John Brainard**, (3978 SR 2073, Kingsley, PA 18826), construction blasting for the Stockholm 2H Well Site and Tank Farm in Dimock Township, **Susquehanna County** with an expiration date of July 30, 2010. Permit issued: June 24, 2010.

**58104031. John Brainard**, (3978 SR 2073, Kingsley, PA 18826), construction blasting for the Post 1H Well Pad in Brooklyn Township, **Susquehanna County** with an expiration date of July 30, 2010. Permit issued: June 24, 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

#### Denial

*Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, Telephone 570-826-2511.*

**E45-500. Raymond Johns**, 45 Furber Avenue, Lindon, NJ 07036, in Tobyhanna Township, **Monroe County**, U.S. Army Corps of Engineers, Philadelphia District.

Proposal to place fill in approximately 0.003 acre of Exceptional Value, PEM wetlands for the purpose of constructing a single-family dwelling on Lots Nos. 7 and 8, Block A-100, Section 3 of Arrowhead Lakes Residential Community has been denied. The project is located along Lakeshore Drive on the northwestern side of Arrowhead Lake (Thornhurst, PA Quadrangle N: 5.4 inches; W: 10.6 inches).

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

**E38-167, Department of Environmental Protection Engineering District 8-0**, 2140 Herr Street, Harrisburg, PA 17103-1699, ACOE Baltimore District.

To: (1) remove the existing structure and to construct and maintain a 31.0-foot wide, three span bridge having a normal span of 248.7 feet and an underclearance of 6.9 feet across Swatara Creek (WWF); (2) relocate and maintain 180.0 feet of an unnamed tributary to Swatara Creek (WWF); (3) remove the existing structure and construct and maintain a 6.0-inch depressed, 24.0-inch diameter corrugated metal pipe culvert with a length of 43.0 feet in an unnamed tributary to Swatara Creek (WWF); (4)

permanently place and maintain fill in 0.05-acre of PFO wetlands; and (5) temporarily place and maintain fill within 0.01-acre of PFO wetlands in North Annville and East Hanover Townships, Lebanon County (Indiantown Gap, PA Quadrangle N: 0.2 inch; W: 10.1 inches, Latitude: 40° 22' 34"; Longitude: 76° 34' 20") all for the purpose of improving transportation safety and roadway standards by replacing the SR 4014 (Black Mill Road) bridge over Swatara Creek. The amount of wetland impact is considered a de minimis impact of 0.05 acre and wetland replacement is not required. The project will involve the use of a temporary causeway and cofferdams.

**E44-143: Department of Transportation, Engineering District 2-0**, 1924 Daisy Street Extension, Clearfield, PA 16830, Burnham Borough, Mifflin County, ACOE Baltimore District.

To remove the existing bridge structure and construct and maintain a 63.0-foot wide, single span bridge having a normal span of 46.8 feet and an underclearance of 5.5 feet across Bucks Run (TSF, MF), for the purpose of improving transportation safety and roadway standards. The project is located on SR 1005, approximately 90.0 feet south of its intersection with SR 4013 (Burnham, PA Quadrangle N: 0.7 inch; W: 9.4 inches, Latitude: 40° 37' 45"; Longitude: -77° 34' 03") in Burnham Borough, Mifflin County.

*Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636.*

**E08-464 Department of Transportation, Engineering District 3-0**, P. O. Box 218, Montoursville, PA 17754-0218. SR 0187 Section 003 Bridge Structure Replacement over Bennetts Creek, Asylum Township, **Bradford County**, ACOE Baltimore District (Wyalusing, PA Quadrangle N: 41° 43' 30"; W: 76° 22' 03").

Department of Transportation, Engineering District 3-0 proposes to replace the existing single span concrete slab bridge with a single span concrete arch culvert over Bennetts Creek. The existing structure has a 13 ft. normal span, 45° skew, 11.12 ft. underclearance, and 791.31 ft. low chord elevation. The proposed structure has a 20 ft. normal span, 45° skew, 10.54 ft. underclearance, and 791.33 ft. low chord elevation. The proposed bridge will be placed approximately on the existing vertical and horizontal alignment. Bennetts Creek is classified as a Warm Water Fishery by 25 Pa. Code Chapter 93 Water Quality Standards. The proposed project will not impact any jurisdictional wetlands. This permit also includes 401 Water Quality Certification.

**E14-533. Department of Transportation, Engineering District 2-0**, 1924-30 Daisy Street, Clearfield, PA 16830. Pond M ARD Remediation, in Patton Township, **Centre County**, ACOE Baltimore District (Julian, PA Quadrangle Latitude: 40° 49' 54"; Longitude: 77° 58' 6").

To help protect water quality from Acid Rock Discharges (ARD) by proposing a sedimentation basin M pipe by-pass modification that includes the construction and maintenance of: 1) a permanent enclosure of 462 linear feet of Buffalo Run and unnamed tributary within a 60-inch HDPE pipe; 2) a cast-in-place concrete end wall at the inlet of the 60-inch and 42-inch culvert, for the 60-inch enclosure and the modification of an existing 42-inch HDPE pipe; 3) the installation of two USBR Type VI Impact Basins with R-7 riprap for scour protection at the outlets of the 60-inch HDPE and 42-inch HDPE culverts; 4) the temporary use of two 42-inch HDPE pipes to connect the two outlets of the upstream 60-inch

concrete pipes to the inlet of the 60-inch enclosure while modifications are made to the existing 42-inch pipe; 5) modifications to an existing 42-inch HDPE pipe to create a total length of 462 feet to act as a overflow channel for the 60-inch culvert; 6) a gravel access maintenance road from SR 3042 to the far left flood fringe; 7) a subsurface ARD collection and pumping system sedimentation basin M includes: two pump stations, 1,186 linear feet of 2" SDR-11 HDPE force main pipe, 340 linear feet of 3" SDR-17 HDPE force main pipe, 325 linear feet of 8" HDPE perforated pipe, 395 linear feet of 6" HDPE pipe, and placement of 12,025 cubic yards of soil/aggregate within the 100 year floodplain of Buffalo Run, located 2,200 feet northwest of the SR 3042 and SR 550 intersection. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E18-452. Department of Transportation, Engineering District 2-0**, 1924 Daisy Street Extension, Clearfield, PA 16830. SR 2004, Section A07 Bridge Replacement in Lamar Township, **Clinton County**, ACOE Baltimore District (Mill Hall, PA Quadrangle Latitude: 40° 04' 46"; Longitude 77° 28' 46").

The applicant proposes to replace a single lane, two span, open grate steel girder bridge, with a two lane, two span, pre-stressed concrete adjacent box beam bridge. The existing structure has a total normal span of 126 ft., skew of 58°, underclearance of 10.5 ft., and roadway width of 15.4 ft. The proposed structure has a total normal span of 140 ft., skew of 60°, underclearance of 11.5 ft., and a roadway width of 28 ft. Minor approach work will be required to account for a 3 ft. horizontal alignment shift to the west. The proposed bridge is located over Fishing Creek. Fishing Creek is classified as a High Quality-Cold Water Fishery by 25 Pa. Code Chapter 93. This project proposes to temporarily impact 0.02 acre of jurisdictional wetlands. This permit also includes 401 Water Quality Certification.

**E18-453. Lamar Township**, 148 Beagle Road, Mill Hall, PA 17751-9493. Stoltzfus Channel Stabilization and Fencing Project, in Lamar Township, **Clinton County**, ACOE Baltimore District (Mill Hall, PA Quadrangle N: 41° 5' 28"; W: 77° 23' 39").

To construct and maintain 5,675 linear feet of streambank fencing to create a 35 foot wide riparian buffer along 1,550 feet of Chub Run and another 1,300 feet of an unnamed tributary. Woody vegetation will be planted in this newly established riparian buffer. In addition to fencing, the applicant proposes to construct and maintain: 1) a 78 foot channel realignment with R-5 riprap in the left stream bank on Chub Run immediately upstream of the Township's Stover's Crossroad culvert; 2) a 122 foot long stream relocation with R-5 riprap in the left stream bank to cut off an ox bow in Chub Run that was created by a previous storm event; 3) fill the ox bow with R-5 riprap channel blocks on either end and clean fill in between to restore a vegetated pasture in the right floodplain; 4) 140 linear feet of 6-inch drain pipe for a pond outlet under the right floodplain and the associated R-5 riprap outfall apron in Chub Run; 5) abandon and stabilize with vegetation an existing 20 foot wide cattle stream crossing; 6) improve an existing cattle stream crossing to a 16-foot wide by 30 foot long bridge across the unnamed tributary; 7) a 70 feet long by 16 feet wide new concrete hog slat agricultural equipment crossing on Chub Run; 8) realign 10 linear feet of an unnamed tributary as it enters the realigned Chub Run; 9) stabilize 35 linear feet of the left stream bank of the

unnamed tributary, located 1,100 feet north on Stover's Cross Road from Beagle Road. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E41-604. Sandra S. Bierly**, 1020 First Avenue, Williamsport, PA 17701-3008. Small Projects Water Obstruction and Encroachment Joint Permit, in Piatt Township, **Lycoming County**, ACOE Susquehanna River Basin District (Williamsport, PA Quadrangle N: 41° 12' 56"; W: 77° 13' 40").

To construct and maintain an open sided pavilion measuring 16 feet by 30 feet in the delineated floodway of W.B. Susquehanna River, which is located south of the intersection of SR 0220 and Bolins Landing Road in Piatt Township, Lycoming County. There are no proposed wetland impacts. This permit was issued under Section 105.13(e) "Small Projects."

*Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, PA 16335.*

**E20-578, Iroquois Boating & Fishing Club**, 10733 Konneyaut Trail, Conneaut Lake, PA 16316, Pittsburgh ACOE.

To dredge approximately 595 cubic yards of lake bed material from a swimming area measuring approximately 130 feet by 50 feet on the east shore of Conneaut Lake approximately 450 feet northwest of the intersection of Konneyaut Trail and Iroquois Road.

#### 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.

*Northcentral Region: Oil and Gas Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

ESCGP-1 # ESG10-105-0008  
Applicant Name Ultra Resources, Inc.  
Contact Person Belinda Salinas  
Address 5 East Avenue, #108  
City, State, Zip Wellsboro, PA 16901-1613  
County Potter  
Township(s) West Branch Township  
Receiving Stream(s) and Classification(s) Crippen Run and Birch Still Hollow  
Secondary—South and West Branch Pine Creek

ESCGP-1 # ESG10-105-0009  
Applicant Name Ultra Resources, Inc.  
Contact Person Belinda Salinas  
Address 5 East Avenue, #108  
City, State, Zip Wellsboro, PA 16901-1613  
County Potter  
Township(s) West Branch  
Receiving Stream(s) and Classification(s) South Branch Pine Creek  
Secondary—Stone, Paul, Birch Still, Mott Hill, Hasker and Long Hollows

ESCGP-1 # ESG10-117-0075  
Applicant Name Ultra Resources, Inc.  
Contact Person Belinda Salinas  
Address 5 East Avenue, #108  
City, State, Zip Wellsboro, PA 16901-1613  
County Tioga  
Township(s) Gaines Township  
Receiving Stream(s) and Classification(s) Painters Hollow and Right Branch  
Secondary—Pine Creek

ESCGP-1 # ESG10-117-0115  
Applicant Name Ultra Resources, Inc.  
Contact Person Belinda Salinas  
Address 5 East Avenue, #108  
City, State, Zip Wellsboro, PA 16901-1613  
County Tioga  
Township(s) Gaines Township  
Receiving Stream(s) and Classification(s) Lick Run

ESCGP-1 # ESG10-081-0027  
Applicant Name Chief Gathering, LLC  
Contact Person Ted Wurfel  
Address 6051 Wallace Road Extension  
City, State, Zip Wexford, PA 15090  
County Lycoming  
Township(s) Jordan Township  
Receiving Stream(s) and Classification(s) Little Muncy and West Branch Little Muncy Creeks, Little Indian Run

ESCGP-1 # ESX10-015-0143  
Applicant Name Talisman Energy USA  
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) North Branch of Sugar Creek

ESCGP-1 # ESG10-081-0026  
Applicant Name Chief Gathering, LLC  
Contact Person Ted Wurfel  
Address 6051 Wallace Road Extension  
City, State, Zip Wexford, PA 15090  
County Lycoming  
Township(s) Penn and Franklin Townships  
Receiving Stream(s) and Classification(s) Marsh, Little Indian and Beaver Runs

- ESCGP-1 # ESG10-081-0030  
 Applicant Name Chief Gathering, LLC  
 Contact Person Ted Wurfel  
 Address 6051 Wallace Road Extension  
 City, State, Zip Wexford, PA 15090  
 County Lycoming  
 Township(s) Shrewsbury Township  
 Receiving Stream(s) and Classification(s) Lick, Lake, Fox,  
 Big and Roaring Runs
- ESCGP-1 # ESG10-081-0016  
 Applicant Name Chief Gathering, LLC  
 Contact Person Ted Wurfel  
 Address 6051 Wallace Road Extension  
 City, State, Zip Wexford, PA 15090  
 County Lycoming  
 Township(s) Shrewsbury Township  
 Receiving Stream(s) and Classification(s) Muncy Creek,  
 Fox, Big and Lick Runs
- ESCGP-1 # ESX10-117-0120  
 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) UNT to West  
 Branch of Stony Fork Creek  
 Secondary—UNT to UNT to West Branch of Stony  
 Fork Creek
- ESCGP-1 # ESX10-081-0031  
 Applicant Name Anadarko E&P Company, LP  
 Contact Person Frank Davis  
 Address 1201 Lake Robins Drive  
 City, State, Zip Houston, TX 77380  
 County Lycoming  
 Township(s) Cummings Township  
 Receiving Stream(s) and Classification(s) Second  
 Fork Larry's Creek/West Branch Susquehanna  
 River  
 Secondary—Larry's Creek
- ESCGP-1 # ESX10-131-0017  
 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
- ESCGP-1 # ESX10-131-0018  
 Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Wyoming  
 Township(s) Washington Township  
 Receiving Stream(s) and Classification(s) West Branch  
 Meshoppen Creek  
 Secondary—Meshoppen Creek
- ESCGP-1 # ESX10-015-0147  
 Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Bradford  
 Township(s) Asylum Township  
 Receiving Stream(s) and Classification(s) UNT  
 Susquehanna River  
 Secondary—Susquehanna River
- ESCGP-1 # ESX10-015-0146  
 Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Bradford  
 Township(s) Windham and Litchfield Townships  
 Receiving Stream(s) and Classification(s) UNT to Bullard  
 Creek/West Branch Parks Creek  
 Secondary—Bullard Creek
- ESCGP-1 # ESX10-015-0145  
 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) Tributaries to  
 Sugar Creek
- ESCGP-1 # ESX10-035-0004  
 Applicant Name Range Resources—Appalachia, LLC  
 Contact Person Carla Suszkowski  
 Address 380 Southpointe Boulevard, Plaza II, Suite 300  
 City, State, Zip Canonsburg, PA 15317  
 County Clinton  
 Township(s) Gallagher Township  
 Receiving Stream(s) and Classification(s) East and Middle  
 Branch Queen Run  
 Secondary—West Branch Susquehanna River
- ESCGP-1 # ESX10-081-0033  
 Applicant Name Range Resources—Appalachia, LLC  
 Contact Person Carla Suszkowski  
 Address 380 Southpointe Boulevard, Plaza II, Suite 300  
 City, State, Zip Canonsburg, PA 15317  
 County Lycoming  
 Township(s) Jackson Township  
 Receiving Stream(s) and Classification(s) Greys Run,  
 Blockhouse Creek, UNT to Grey's Run and Blockhouse  
 Creek
- ESCGP-1 # ESX10-127-0006  
 Applicant Name Hess Corporation  
 Contact Person Eugene Linscomb  
 Address 500 Dallas Street  
 City, State, Zip Houston, TX 77002  
 County Wayne  
 Township(s) Preston Township  
 Receiving Stream(s) and Classification(s) Tributary to  
 Lackawanna River
- ESCGP-1 # ESX10-117-0119  
 Applicant Name East Resources, Inc.  
 Contact Person Jefferson Long  
 Address 301 Brush Creek Road  
 City, State, Zip Warrendale, PA 15086  
 County Tioga  
 Township(s) Richmond, Covington and Charleston  
 Townships  
 Receiving Stream(s) and Classification(s) UNT to North  
 Elk Run
- ESCGP-1 # ESX10-015-0154  
 Applicant Name Appalachia Midstream Services, LLC  
 Contact Person Patrick Myers  
 Address 100 1st Center  
 City, State, Zip Horseheads, NY 14845  
 County Bradford  
 Township(s) North Towanda and Towanda Townships  
 Receiving Stream(s) and Classification(s) Sugar Creek,  
 Susquehanna River, Towanda Creek



ESCGP-1 # ESX10-117-0124

Applicant Name East Resources, Inc.  
 Contact Person Jefferson Long  
 Address 301 Brush Creek Road  
 City, State, Zip Warrendale, PA 15086  
 County Tioga  
 Township(s) Covington Township  
 Receiving Stream(s) and Classification(s) UNT to Elk  
 Run/Tioga River Basin  
 Secondary—Elk Run to Tioga River

ESCGP-1 # ESX10-015-0148

Applicant Name East Resources, Inc.  
 Contact Person Jefferson Long  
 Address 301 Brush Creek Road  
 City, State, Zip Warrendale, PA 15086  
 County Bradford  
 Township(s) Canton Township  
 Receiving Stream(s) and Classification(s) Towanda Creek

ESCGP-1 # ESX10-117-0122

Applicant Name East Resources, Inc.  
 Contact Person Jefferson Long  
 Address 301 Brush Creek Road  
 City, State, Zip Warrendale, PA 15086  
 County Tioga  
 Township(s) Middlebury Township  
 Receiving Stream(s) and Classification(s) UNT to Crooked  
 Creek  
 Secondary—Crooked Creek

ESCGP-1 # ESX10-117-0125

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) UNT to East  
 Branch Stony Fork  
 Secondary—East Branch Stony Fork

ESCGP-1 # ESX10-117-0129

Applicant Name East Resources, Inc.  
 Contact Person Jefferson Long  
 Address 301 Brush Creek Road  
 City, State, Zip Warrendale, PA 15086  
 County Tioga  
 Township(s) Deerfield Township  
 Receiving Stream(s) and Classification(s) UNT to Troups  
 Creek/Tioga River Basin  
 Secondary—Troups Creek

ESCGP-1 # ESX10-113-0005

Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Sullivan  
 Township(s) Elkland Township  
 Receiving Stream(s) and Classification(s) UNTs to Elk  
 Creek  
 Secondary—Elk Creek

ESCGP-1 # ESX10-131-0015

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) Susquehanna  
 River

ESCGP-1 # ESX10-015-0149

Applicant Name Southwestern Energy Production  
 Company  
 Contact Person Jeffrey Sherrick  
 Address 2350 North Sam Houston Parkway E, Suite 125  
 City, State, Zip Houston, TX 77032  
 County Bradford  
 Township(s) Herrick Township  
 Receiving Stream(s) and Classification(s) UNT to Cold  
 Creek

ESCGP-1 # ESX10-015-0126

Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Bradford  
 Township(s) Tuscarora Township  
 Receiving Stream(s) and Classification(s) Little Tuscarora  
 Creek (W) and Fargo Creek (E)  
 Secondary—Susquehanna River (W) and Tuscarora  
 Creek (E)

ESCGP-1 # ESX10-081-0029

Applicant Name Range Resources—Appalachia, LLC  
 Contact Person Carla Suszkowski  
 Address 380 Southpointe Boulevard  
 City, State, Zip Canonsburg, PA 15317  
 County Lycoming  
 Township(s) Watson Township  
 Receiving Stream(s) and Classification(s) Tombs Run,  
 UNT to North Fork of Tombs Run  
 Secondary—Tombs Run

ESCGP-1 # ESX10-131-0011

Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Wyoming  
 Township(s) Meshoppen Township  
 Receiving Stream(s) and Classification(s) UNT to Black  
 Walnut Creek  
 Secondary—Black Walnut Creek

ESCGP-1 # ESX10-081-0032

Applicant Name XTO Energy, Inc.  
 Contact Person Dewey Chalos  
 Address 810 Houston Street  
 City, State, Zip Fort Worth, TX 76102  
 County Lycoming  
 Township(s) Franklin and Moreland Townships  
 Receiving Stream(s) and Classification(s) UNTs to Little  
 Muncy Creek, Derr, German and Laurel Runs; Little  
 Muncy Creek, German and Laurel Runs

ESCGP-1 # ESX10-117-0123

Applicant Name EQT Production Company  
 Contact Person Todd Klaner  
 Address 455 Racetrack Road  
 City, State, Zip Washington, PA 15301  
 County Tioga  
 Township(s) Duncan Township  
 Receiving Stream(s) and Classification(s) Sand Run  
 Secondary—West Branch Susquehanna River

ESCGP-1 # ESX10-015-0116  
 Applicant Name Chief Oil and Gas, LLC  
 Contact Person Michael Hritz  
 Address 6051 Wallace Road, Suite 210  
 City, State, Zip Wexford, PA 15090  
 County Bradford  
 Township(s) Granville Township  
 Receiving Stream(s) and Classification(s) UNT to Gulf  
 Brook  
 Secondary—Towanda Creek

ESCGP-1 # ESX10-131-0013  
 Applicant Name Chief Oil and Gas, LLC  
 Contact Person Michael Hritz  
 Address 6051 Wallace Road, Suite 210  
 City, State, Zip Wexford, PA 15090  
 County Wyoming  
 Township(s) Mehoopany Township  
 Receiving Stream(s) and Classification(s) Rogers Hollow  
 Secondary—Mehoopany Creek

ESCGP-1 # ESX10-081-0023  
 Applicant Name Chief Oil and Gas, LLC  
 Contact Person Michael Hritz  
 Address 6051 Wallace Road, Suite 210  
 City, State, Zip Wexford, PA 15090  
 County Lycoming  
 Township(s) Anthony and Lycoming Townships  
 Receiving Stream(s) and Classification(s) Stony Gap Run  
 Secondary—Hoagland Run

ESCGP-1 # ESX10-115-0020  
 Applicant Name Cabot Oil and Gas Corporation  
 Contact Person Jeffrey Keim  
 Address Five Penn Center West, Suite 401  
 City, State, Zip Pittsburgh, PA 15276  
 County Susquehanna  
 Township(s) Forest Lake Township  
 Receiving Stream(s) and Classification(s) UNT to Forest  
 Lake Creek

ESCGP-1 # ESX10-061-0001  
 Applicant Name Pennsylvania General Energy  
 Company, LLC  
 Contact Person Craig Dean  
 Address 120 Market Street  
 City, State, Zip Warren, PA 16365  
 County Huntingdon  
 Township(s) Todd Township  
 Receiving Stream(s) and Classification(s) UNT to Sugar  
 Creek  
 Secondary—Sugar Creek

ESCGP-1 # ESX10-015-0151  
 Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Bradford  
 Township(s) Tuscarora  
 Receiving Stream(s) and Classification(s) Tributary to  
 Fargo Creek  
 Secondary—Fargo Creek

ESCGP-1 # ESX10-015-0144  
 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) Wyalusing  
 Creek

ESCGP-1 # ESG10-117-0114  
 Applicant Name Ultra Resources, Inc.  
 Contact Person Belinda Salinas  
 Address 5 East Avenue, #108  
 City, State, Zip Wellsboro, PA 16901-1613  
 County Tioga  
 Township(s) Gaines Township  
 Receiving Stream(s) and Classification(s) Lick Run

ESCGP-1 # ESX10-015-0150  
 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

ESCGP-1 # ESX10-117-0126  
 Applicant Name Novus Operating, LLC  
 Contact Person Jim Wood  
 Address 2963 Ruger Drive  
 City, State, Zip Royse City, TX 75189  
 County Tioga  
 Township(s) Brookfield Township  
 Receiving Stream(s) and Classification(s) UNT to North  
 Fork Conwanesque River  
 Secondary—North Fork Conwanesque River

ESCGP-1 # ESX10-081-0035  
 Applicant Name Anadarko E&P Company, LP  
 Contact Person Frank Davis  
 Address 1201 Lake Robins Drive  
 City, State, Zip The Woodlands, TX 77380  
 County Lycoming  
 Township(s) McHenry Township  
 Receiving Stream(s) and Classification(s) First Big Fork  
 and UNT to Second Big Fork  
 Secondary—Trout Run

ESCGP-1 # 17-09-801(01) Phase 6  
 Applicant Name EOG Resources, Inc.  
 Contact Person Nathan Wells  
 Address 2039 South Sixth Street  
 City, State, Zip Indiana, PA 15701  
 County Clearfield  
 Township(s) Lawrence and Goshen Townships  
 Receiving Stream(s) and Classification(s) UNT to Alex  
 Branch  
 Secondary—Trout Run, Coldstream, Little Laurel, Lick  
 and Stone Runs

ESCGP-1 # ESX10-015-0152  
 Applicant Name EOG Resources, Inc.  
 Contact Person  
 Address 400 Southpoint Boulevard, Plaza 1, Suite 300  
 City, State, Zip Canonsburgh, PA 15317  
 County Bradford  
 Township(s) Springfield Township  
 Receiving Stream(s) and Classification(s) Mill Creek  
 Secondary—Sugar Creek

*Northwest Region: Oil and Gas Program Manager, 230  
 Chestnut Street, Meadville, PA 16335.*

ESCGP-1 # ESX10-019-0032  
 Phillips Exploration Inc.—Hinch Smith Farm  
 Family, LP #1  
 Gary Clark  
 502 Keystone Drive  
 Warrendale, PA 15086  
 Butler County, Butler Township(s)  
 Butcher Run (WWF)

ESCGP-1 #ESG10-083-0010  
 Applicant US Energy Development Corp. Warrant 4917  
 Phase III and IV  
 Contact Todd Witmer  
 Address 2350 North Forest Road  
 Getzville, NY 14068  
 County McKean Township(s) Foster  
 Receiving Stream(s) and Classification(s) Yeager Brook  
 (HQ); North Branch Willow Creek (HQ)

ESCGP-1 #ESX09-019-0031  
 Applicant Rex Energy Corp.—Southwest Butler County  
 Project Va  
 Contact Timothy Beattie  
 Address 476 Rolling Ridge Drive, Suite 300  
 State College, PA 16801  
 County Butler Township(s) Jackson  
 Receiving Stream(s) and Classification(s) Connoqueness-  
 ing Creek, WWF

ESCGP-1 #ESX10-053-0008  
 Applicant Seneca Resources Corp.—Tionesta  
 Contact Douglas Kepler  
 Address 51 Zents Boulevard  
 Brookville, PA 15825  
 County Forest Township(s) Tionesta  
 Receiving Stream(s) and Classification(s) Chauncy Run  
 (EV); UNT to Hemlock Creek (EV)

ESCGP-1 #ESX10-083-0013  
 Applicant MSL Oil & Gas Corp.—Lot 15  
 Contact Douglas Kepler  
 Address 51 Zents Boulevard  
 Brookville, PA 15825  
 County McKean Township(s) Lafayette  
 Receiving Stream(s) and Classification(s) Thundershower  
 Run (HQ); UNT to Buck Lick Run (HQ)

[Pa.B. Doc. No. 10-1256. Filed for public inspection July 9, 2010, 9:00 a.m.]

### **Municipal Recycling Program Performance Grant Applications under Act 101, Section 904 of The Municipal Waste Planning, Recycling and Waste Reduction Act of 1988; Calendar Year 2009**

The Department of Environmental Protection (Department) announces a request for applications from municipalities for recycling performance grant assistance for recycling programs under section 904 of the Municipal Waste Planning, Recycling and Waste Reduction Act (act) (53 P. S. § 4004.904). Municipalities include counties, cities, boroughs, incorporated towns, townships, home rule municipalities, their authorities, councils of governments, consortiums or similar entities established by two or more municipalities under 53 Pa.C.S. Chapter 23, Subchapter A (relating to intergovernmental cooperation). This application period is for eligible materials recycled and marketed in calendar year 2009.

Municipal Recycling Program Performance Grant funds will be awarded to municipalities based upon the weight of source separated recyclable materials identified in section 1501(c)(1)(i) of the act (53 P. S. § 4004.1501(c)(1)(i)) recovered by municipal recycling programs, and the population of the municipality as determined by the most recent decennial census. Municipalities will be eligible to receive an award based on a formula of \$5 for each Department approved ton of eligible recyclable materials recycled or marketed and \$1 per approved ton for each

percentage of municipal waste calculated by the Department to be diverted from disposal. The weight of eligible materials allowable from nonresidential (commercial, institutional and municipal) sources under the preceding formula will be limited to no more than the weight of approved eligible materials from residential sources. Any Department approved materials from nonresidential sources not factored into the preceding formula will be awarded a bonus of \$10 per ton. The Department may not award grants calculated to be less than \$10.

Applicants that have failed to comply with the conditions set forth in previously awarded grants, the recycling program performance requirements contained in the act of November 9, 2006 (P. L. 1347, No. 140), the grant requirements of the act, or the regulations of the Act will not be awarded funds under this grant program. An applicant, if required, must be compliant with all previously noted conditions by September 30, 2010, in order to submit a performance grant application. Applicants must ensure that they are in compliance with 25 Pa. Code § 272.314(b)(2) (relating to limits in Department's authority to award grants), regarding the submittal of the annual recycling report.

Eligible materials include post-consumer: clear glass, colored glass, aluminum cans, steel and bimetallic cans, high-grade office paper, newsprint, corrugated paper, other marketable grades of paper and plastics. Grants will be awarded only for properly documented, eligible materials that were actually marketed on or after January 1, 2009, to and including, December 31, 2009. Applicants should only claim those tonnages for which they have documentation at the time they complete their application. Grant funds will not be awarded for residues, materials not listed as eligible including, but not limited to, leaf and yard wastes, or any materials which cannot be documented as being recycled into a new product or use. In particular, recovered glass that is being stockpiled or used as daily cover at a landfill will not be considered as recycled. Applicants must be able to document the amount of residue attributable to their recycling program.

Documentation to support all claims that eligible recyclable materials were generated within the municipality and marketed must be made available for auditing by the Department, the Office of the Auditor General, the Office of the Treasurer, or agents of those offices for 4 years. The Department will not require applicants to retain hauler customer lists; however, the lists may be required to be examined in the event of an audit. It will be the applicant's responsibility to arrange for hauler customer lists to be provided, or for haulers to be present with their customer lists, during a grant audit. Supporting documentation is not required to be submitted with the application. Any tonnages not properly documented at the time of an audit will not be credited towards the applicant's Performance Grant award. No additional/supplemental documentation will be accepted after the audit is completed. Failure to submit a complete and valid application may result in a denial of the application and possible enforcement proceedings.

*Acceptable Supporting Documentation:* Weight slips or receipts verifying that the materials were recycled or marketed are required as supporting documentation for the grant application. The documentation must include: 1) the date the materials were recycled/marketed; 2) the type of material recycled/marketed; 3) the name of the municipality where the material was generated; 4) weight, stated in pounds or tons, of the material recycled/marketed; 5) the name of the entity that collected,

weighed and/or processed the material; and 6) must state residential or commercial tonnages. Documentation supporting materials source separated from municipal waste by commercial/institutional establishments and recycled/marketed must bear the name of the establishment and the municipality where the establishment is located.

Acceptable documentation must be provided in one of the following formats: 1) a dated weight/market receipt identifying the generator of the recyclable materials and the market; 2) a dated report submitted by the hauler or market on company letterhead clearly indicating the name of the company generating the recyclable materials; or 3) a dated report submitted by the generator, which is signed by the hauler or market vendor that received the materials. Reports may be submitted on annual, monthly, weekly or other time period format. All information must be legible.

Estimates of weight will not be accepted, except in cases where: 1) the material is packaged in uniform bales and the average weight of a bale can be demonstrated and supported by weight receipts and a record of the number of bales was provided by the market vendors; or when 2) multiple generators contribute to a known quantity of marketed material, and the hauler or market estimates the quantities attributable to any individual establishment or municipality, and verifies the estimate with a signature.

Although the supporting documentation is not required to be submitted with the grant application, any documentation provided must conform to the previously listed requirements or the materials claimed will not be credited toward the grant award. Potential applicants should review the Department's booklet, "Documentation Requirements and Examples" ([www.depweb.state.pa.us](http://www.depweb.state.pa.us), Keyword: "Recycling Grants"), prior to completing the grant application.

Grant applications must be on forms provided by the Department for calendar year 2009. Grant applications must be delivered to the 14th Floor of the Rachel Carson State Office Building, 400 Market Street, Harrisburg by 4 p.m., September 30, 2010, or postmarked on or before that day. Applications received by the Department after the deadline will be returned to the applicant. Grant awards are predicated on the receipt of recycling fees required by Sections 701 and 702 of Act 101, and the availability of moneys in the Recycling Fund.

Municipalities wishing to file an application should contact the Department at the address that follows. Applicants who filed a Performance Grant application for calendar year 2008 will be mailed a current application by the Department as soon as they are available. Information on the grant program may also be obtained from the Department's web site. Inquiries concerning this notice should be directed to Mark Vottero, Bureau of Waste Management, Department of Environmental Protection, Rachel Carson State Office Building, P. O. Box 8472, Harrisburg, PA 17105-8472 or [mvottero@state.pa.us](mailto:mvottero@state.pa.us).

JOHN HANGER,  
Secretary

[Pa.B. Doc. No. 10-1257. Filed for public inspection July 9, 2010, 9:00 a.m.]

## Nutrient and Sediment Reduction Credit Trading Program; Notice of Actions

The Department of Environmental Protection (Department) provides notice of the following actions under the Nutrient and Sediment Reduction Credit Trading Program (Trading Program). These actions were taken under The Clean Streams Law (35 P.S. §§ 691.1—691.1001) and the Final Trading of Nutrient and Sediment Reduction Credits—Policy and Guidelines (Policy) (DEP ID No. 392-0900-001) See 36 Pa.B. 7999 (December 30, 2006). The Policy calls for a transparent system of credit reviews and approvals.

Trading is a market-based program that provides incentives for entities to create nutrient reduction credits by going beyond statutory, regulatory or voluntary obligations and goals by removing nutrients from a watershed. The credits can be traded to help others more cost-effectively meet their obligations or goals. The primary purpose of the Trading Program is to provide for more efficient ways for National Pollutant Discharge Elimination System (NPDES) permittees to meet their effluent limits for nutrients and sediment. Currently, the focus of the program is on the Chesapeake Bay Watershed.

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.

For further information about these certifications or the Trading Program, contact Ann Smith, Water Planning Office, Department of Environmental Protection, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 787-4726, [annsmith@state.pa.us](mailto:annsmith@state.pa.us) or visit the Department's web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keywords: "Nutrient Trading").

The following proposals have been certified by the Department. This certification is considered final actions of the Department.

**City of Lancaster Advanced Wastewater Treatment Plant** (130 Centerville Road, Lancaster, PA, Lancaster County). This certification is applicable to the operation of the City of Lancaster Advanced Wastewater Treatment Plant. This certification includes a verification

plan and authorizes the generation of nitrogen and phosphorous credits. Notice of the proposal for this certification was published for comment at 40 Pa.B. 2597 (May 15, 2010).

**Northwestern Lancaster County Authority** (97 North Penryn Road, Manheim, PA, Lancaster County). This certification is applicable to the operation of the Northwestern Lancaster County Authority. This certification includes a verification plan and authorizes the generation of nitrogen and phosphorous credits. Notice of the proposal for this certification was published for comment at 40 Pa.B. 755 (February 6, 2010).

**Bellefonte Wastewater Treatment Plant** (615 Pleasant Valley Boulevard, Bellefonte, PA, Centre County). This certification is applicable to the operation of the Bellefonte Wastewater Treatment Plant. This certification includes a verification plan, and authorizes the generation of nitrogen and phosphorous credits. Notice of the proposal for this certification was published for comment at 40 Pa.B. 85 (January 2, 2010).

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 10-1258. Filed for public inspection July 9, 2010, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Renal Disease Advisory Committee Meeting

The Renal Disease Advisory Committee, established by section 4 of the act of June 23, 1970 (P. L. 419, No. 14) (35 P. S. § 6204), will hold a public meeting on Friday, July 30, 2010, from 10 a.m. to 2 p.m. The meeting will be held in Conference Room 327 of the Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120.

Questions regarding this notice should be directed to Carolyn S. Cass, Director, Division of Child and Adult Health, Department of Health, Health and Welfare Building, 625 Forster Street, Seventh Floor-East Wing, Harrisburg, PA 17120.

Persons with a disability may submit questions to Carolyn S. Cass in alternative formats, such as audiotape, Braille or TDD (717) 783-6514 or TT (800) 654-5984. Persons with a disability who require an alternative format of this document (for example, large print, audio tape or Braille) should contact Carolyn S. Cass to make the necessary arrangements.

This meeting is subject to cancellation without notice.

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1259. Filed for public inspection July 9, 2010, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Application for Lease of Right-of-Way

Under 67 Pa. Code § 495.4(d) (relating to application procedure), an application to lease highway right-of-way has been submitted to the Department of Transportation by Lamar Advertising Company, seeking to lease highway right-of-way located along SR 0028 at 1130, 1134—1136 East Ohio Street, City of Pittsburgh, Allegheny County, containing 8,793 ± square feet or 0.2018 ± acre, for the purpose of two outdoor advertising devices.

Interested persons are invited to submit, within 30 days from the publication of this notice in the *Pennsylvania Bulletin*, written comments, suggestions and/or objections regarding the approval of this application to H. Daniel Cessna, P. E., District Executive, Engineering District 11-0, 45 Thoms Run Road, Bridgeville, PA 15017.

Questions regarding this application or the proposed use may be directed to Michael Sudar, District Property Manager, 45 Thoms Run Road, Bridgeville, PA 15017, (412) 429-4830.

ALLEN D. BIEHLER,  
*Secretary*

[Pa.B. Doc. No. 10-1260. Filed for public inspection July 9, 2010, 9:00 a.m.]

### Sale of Land No Longer Required for Transportation Purposes

#### Burks County, SR 0078, Section 17M

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. The parcel is triangular in shape, located at the intersection of Chestnut and North Fifth Streets in the Borough of Hamburg, Berks County. The parcel is an Uneconomic Remnant consisting of approximately 0.09 acre estimated fair market value is \$5,400. The sale of the property is in an as-is condition. Interested public entities are invited to express their interest in purchasing the site within 30 calendar days from the date of publication of this notice.

For further information, contact Bruce Kern, District Property Manager, Department of Transportation, 1002 Hamilton Street, Allentown, PA 18101, (610) 871-4179.

ALLEN D. BIEHLER, P. E.,  
*Secretary*

[Pa.B. Doc. No. 10-1261. Filed for public inspection July 9, 2010, 9:00 a.m.]

# INDEPENDENT REGULATORY REVIEW COMMISSION

## Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 645.5b).

The Commission has issued comments on the following proposed regulations. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
16A-6916	State Board of Social Workers, Marriage and Family Therapists and Professional Counselors Licensed by Endorsement; Hours of Supervised Clinical Experience 40 Pa.B. 2131 (April 24, 2010)	5/24/10	6/23/10
16A-4316	State Board of Chiropractic Assistance of Unlicensed Supportive Personnel 40 Pa.B. 2128 (April 24, 2010)	5/24/10	6/23/10
14-518	Department of Public Welfare Revisions to the Special Allowance for Supportive Services Requirements; Road to Economic Self-sufficiency through Employment and Training (RESET) Program 40 Pa.B. 2111 (April 24 2010)	5/24/10	6/23/10
7-452	Environmental Quality Board Dam Safety and Waterway Management 40 Pa.B. 2211 (April 24, 2010)	5/24/10	6/23/10

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**State Board of Social Workers, Marriage/Family  
Therapists and Professional Counselors  
Regulation #16A-6916 (IRRC #2831)**

**Licensed by Endorsement; Hours of Supervised  
Clinical Experience**

**June 23, 2010**

We submit for your consideration the following comments on the proposed rulemaking published in the April 24, 2010 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the State Board of Social Workers, Marriage/Family Therapists and Professional Counselors (Board) to respond to all comments received from us or any other source.

**1. Section 47.12c. Licensed clinical social worker.—  
Consistency with statute; Need; Reasonableness;  
Economic Impact.**

*Consistency with statute*

Under 63 P. S. § 1908(b), the Board is required to issue licenses as follows:

**Issuance of license.**—The Board shall issue to each person *who meets the licensure requirements of this act* a certificate setting forth that such person is licensed to hold himself or herself out as a . . . licensed clinical social worker. . . (Emphasis added.)

Act 68 of 2008 (Act 68) amended 63 P. S. § 1907(d)(3) to state one of the qualifications for licensure as follows:

The applicant has completed at least three years or 3,000 hours of supervised clinical experience acceptable to the board as determined by regulation after the completion of the master's degree in social work. (Emphasis added.)

Paragraph (a)(5) would delete the phrase "3 years or," which is in the statute, and accept only the hourly clinical experience. We recommend that the Board retain this phrase, and provide in regulation what is considered to be three years of experience acceptable to the Board to qualify the candidate. If the Board does not retain this language, it should explain how Paragraph (a)(5) is consistent with the statute.

*Paragraph (b)(9)*

The Board proposes to reduce the existing 1,800 hours to 1,500 hours of clinical experience. The Board states in the Preamble that this is a proportionate reduction related to the amendment to total hours by Act 68 from 3,600 hours to 3,000 hours. As amended, Paragraph (b)(9) would state:

The supervised clinical experience shall be completed in no less than 2 years and no more than 6 years, except that at least 500 hours and no more than 1,500 hours may be credited in any 12-month period.

The National Association of Social Workers (NASW) commented with strong concern relating to the amended limitation of hours that can be counted for a 12-month period. NASW observes that a person working 40 hours per week for 50 weeks a year would work for 2,000 hours. NASW believes it would be more appropriate to leave the cap at 1,800 hours per year rather than reduce it to 1,500 hours per year. NASW also believes the reduction in

hours creates a financial burden to social workers. NASW concludes that the 1,500-hour limitation is harmful to candidates and serves no logical purpose.

We have two concerns. First, we request an explanation of the need to amend the limit on the number of hours that can be counted in a 12-month period. Using NASW's example, a person working 40 hours per week could only get credit for working 45 weeks of the year under existing regulation, and that credit would be reduced to 37.5 weeks under the proposed amendment. We did not find any similar limitation in the statute. Why is it reasonable and necessary for the Board to exclude as much as three months of experience in a 12-month period?

Second, we question the efficacy of amending the number of hours in the 12-month limit. For a person working a 40-hour week without any limitation, it would take 75 weeks, or about 19 months to meet the 3,000 hours specified in Act 68. The proposed limitation to 1,500 hours in a 12-month period would only extend the time period to a little over 21 months. We request an explanation of the need to amend the number of hours in a 12-month period which only has a minimal practical effect.

## 2. Use of the terms "state" and "jurisdiction."—Clarity.

The House Professional Licensure Committee (House Committee) questioned the lack of consistency in Sections 48.17(3) and (4) and 48.18(3) and (4) with reference to the terms "state" and "jurisdiction." We note that Sections 47.16(4) and (5) also use these terms. The House Committee also questioned whether the word "state" includes a U. S. territory, possession or the District of Columbia. The Board should clarify this terminology in the final-form regulation.

### State Board of Chiropractic Regulation #16A-4316 (IRRC #2832)

#### Assistance of Unlicensed Supportive Personnel

June 23, 2010

We submit for your consideration the following comments on the proposed rulemaking published in the April 24, 2010 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the State Board of Chiropractic (Board) to respond to all comments received from us or any other source.

#### Section 5.54. Assistance by unlicensed supportive personnel.—Statutory authority; Fiscal impact; Protection of Public health, safety and welfare; Need; Implementation procedures; Clarity.

##### *Fiscal impact*

This proposed regulation permits unlicensed supportive personnel to perform certain activities supervised by a licensed chiropractor, as authorized by the PA Chiropractic Practice Act (Act). A commentator suggests that implementation of this rulemaking will cause a substantial fiscal burden on the regulated community, due to increased insurance premiums and increased paperwork from claims. The Regulatory Analysis Form that accompanied the proposed rulemaking does not include a detailed fiscal impact analysis of the regulation. We request that the Board include such an analysis with the submittal of the final-form regulation, taking into consideration the cost issues raised.

##### *Subsection (a)*

Subsection (a) defines various terms. We raise three issues.

First, Subsection (a) defines "direct supervision." However, both the Act and Section 5.54 use the term "direct on-premises supervision." (Emphasis added.) The final-form regulation also should include the phrase "on-premises."

In addition, the final-form regulation should more clearly define "direct on-premises supervision." For example, must the chiropractor be in the room with unlicensed personnel or just in the building?

We note that Subsection (f) further explains the term "on-premises" by requiring the chiropractor to be "physically present on the premises and able to intervene whenever necessary." We recommend that the Board incorporate language from Subsection (f) in the definition of "direct on-premises supervision," and amend Subsection (f) to use the defined term.

Second, Subsection (a) defines "unlicensed supportive personnel" as a "person . . . regularly employed . . ." We agree with the House Professional Licensure Committee (HPLC) that the final-form regulation should replace the term "person" with "individual."

Finally, what does the Board consider to be a person who is "regularly employed"? The final-form regulation should define this term.

##### *Subsection (b)*

Subsection (b) states that: "[t]he chiropractor is *professionally responsible* for the actions of unlicensed supportive personnel . . ." (Emphasis added.) Both a public commentator and the HPLC suggest that the phrase "professionally responsible" does not explain what specific duties that phrase would impose on the chiropractor. We agree that this phrase is vague and should be defined.

##### *Subsection (c)(1)*

The Act states that:

"[n]othing in this act shall prohibit a licensed chiropractor from utilizing the assistance of unlicensed supportive personnel . . . provided that a chiropractor may not delegate any activity or duty to such unlicensed individuals which requires formal education or training in the practice of chiropractic or the knowledge and skill of a licensed chiropractor." 63 P. S. § 625.601.

Subsection (c)(1) lists activities or duties that a chiropractor may delegate to unlicensed supportive personnel "performing under the chiropractor's direct on-premises supervision." Paragraph (c)(1)(vi) allows the delegation of "Instructing and monitoring therapeutic exercises in the office." Paragraph (c)(1)(xxiv) allows the delegation of "Performing therapeutic exercises and activities to include provision of direct one-on-one contact or constant attendance necessary to achieve the desired therapeutic results of the exercise."

Commentators have noted that the Act does not explicitly authorize chiropractors to perform therapeutic exercises. They further assert that specialized training and education is required to administer therapeutic exercises and there is no assurance that chiropractors have the necessary training and education to prescribe therapeutic exercises or to supervise the delegation of these exercises.

It is unclear what is encompassed by the term "therapeutic exercises" because the term is not defined in the

regulation. What do these exercises entail? Are chiropractors formally educated and trained in the performance of these exercises, and if so, do they constitute the practice of chiropractic?

Commentators also have questioned whether other activities listed in this subsection fall under the scope of practice of a chiropractor, such as assisting in applying a cast, brace appliance or orthotic; performing range of motion testing and muscle testing; and performing extremity measurements and postural screening. We note that under the Act, chiropractors are not permitted to delegate activities or duties that require “formal education or training in the practice of chiropractic. . . .”

Consequently, we request the Board further explain its statutory authority for permitting delegation of all the activities, duties and procedures listed in Subsection (c)(1). Additionally, if the Board retains the provisions related to therapeutic exercises, it needs to define “therapeutic exercises” and explain the qualifications of the chiropractor to delegate and supervise these exercises.

*Subsection (c)(2)*

Subsection (c)(2) permits a licensed chiropractor to delegate various adjunctive procedures, activities and duties to unlicensed supportive personnel. The Act defines adjunctive procedures as “physical measures such as mechanical stimulation, heat, cold, light, air, water, electricity, sound, massage and mobilization.” § 625.102. Commentators suggest that Subsection (c)(2) exceeds the Board’s statutory authority since the Act requires chiropractic training and education to perform adjunctive procedures, and any procedures requiring chiropractic training and education cannot be delegated. Consistent with our comment on Subsection (c)(1), the Board needs to explain its statutory authority for permitting chiropractors to delegate each activity, duty and procedure listed in Subsection (c)(2) to unlicensed supportive personnel.

Subsection (c)(2)(vi) refers to “therapeutic” laser therapy and Subsection (c)(2)(vii) refers to “other therapeutic modalities classifiable as adjunctive procedures.” The definition of “adjunctive procedures” in the Act does not reference therapeutic activities or modalities. The Board should specify its statutory authority for including provisions relating “therapeutic” activities or modalities in the regulation. If the Board retains these provisions, it should define “therapeutic modalities.”

*Subsection (e)*

This subsection references activities or duties identified in Subsections (b) and (c). Since Subsection (b) lists neither activities nor duties, we assume that the Board intended to include those referenced in Subsections (c) and (d). The final-form regulation should correct this error.

A commentator also notes confusion with the purpose of Subsection (e). The Preamble states that this subsection allows any activity or duty not listed in the regulation to be evaluated in accordance with the Act, however the language contained in Subsection (e) does not reflect this. Therefore, what specific types of activities or duties would be covered by Subsection (e) that would not be covered by Subsections (c) and (d)? Also, the last sentence of Subsection (e) appears to be duplicative of the prohibitions contained in Subsection (d). The Board should clarify the need for including these provisions.

*Subsection (g)*

This subsection states that: “[a] chiropractor may not permit an unlicensed supportive person to perform any

activity that the supportive person is not qualified by training, education or experience to perform.” How will the Board ensure that unlicensed supportive personnel are adequately trained to carry out their duties? Additionally, the Board should clarify what “qualified training” is.

*Subsection (h)*

The HPLC suggests that this subsection is redundant. We agree and recommend that the Board either explain the need or delete it from the final-form regulation.

*Miscellaneous clarity*

Subsections (c)(2)(iii), (iv), and (vii) include the phrase “provision of the supervision.” To improve clarity, we recommend the Board delete the phrase “provision of.”

Department of Public Welfare  
Regulation #14-518 (IRRC #2833)

**Revisions to the Special Allowance for Supportive Services Requirements; Road to Economic Self-sufficiency through Employment and Training (RESET) Program**

June 23, 2010

We submit for your consideration the following comments on the proposed rulemaking published in the April 24, 2010 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Department of Public Welfare (Department) to respond to all comments received from us or any other source.

**1. General—Appendix A. Work and Work-Related Special Allowances.—Fiscal and economic impact; Feasibility; Implementation procedures; Reasonableness; Need.**

In the Preamble, the Department describes the “purpose” of this proposed regulation as follows:

“This proposed rulemaking accomplishes the objective of maintaining the availability of special allowances in a fiscally responsible and cost effective manner given the current economic and budget crisis. This proposed rulemaking amends both the maximum amount and the frequency for special allowances to maximize scarce resources so that funds for special allowances are available to the greatest number of participants. Under section 408(c) of the Public Welfare Code [Code] regarding meeting special needs; and work supports and incentives, the Department is required to ‘take into account availability, costs and the number of recipients needing services within the geographic area and shall seek to provide essential services to the greatest number of recipients. . . .’”

A major part of the Department’s plan for attaining its objectives is the annual and lifetime limits for special allowances in the proposed amendments to Appendix A of Chapter 165. The Department is establishing annual and life-time limits on special allowances for work and education supportive services. These allowances include transportation, clothing, and books, supplies, tools or equipment for education or training programs. There are three areas of issues and questions.

First, further explanation is needed of how the Department took “into account availability, costs and the number of recipients needing services within the geographic area” in determining the new limits for special allowances. The Department also needs to provide more detail as to how it



examined the availability, costs or number of recipients needing services in developing the amendments to Appendix A.

Second, the Department claims that the amendments will assist in providing services to the greatest number of recipients given the current budget crisis. However, commentators claim that spending has actually decreased in these programs through the years. In addition, commentators claim that the programs costs are a very small percentage of the available block grant funding. Therefore, the Department needs to provide more detail as to why the changes are necessary to provide services to the greatest number of individuals.

Third, commentators contend that the limits will undercut participants' efforts to obtain better employment, and ultimately the proposed changes will defeat the purpose of the allowances. For example, there is a \$1,500 annual private transportation limit. Commentators contend that between gas, repair costs, etc., it would be virtually impossible for a recipient not to exceed the limit. Other concerns are the limits on education expenses. Without these supports, commentators indicate that many will not be able to pursue educational programs that exceed more than one or two years, or go back for new or additional training or education later in their lifetimes. Employment objectives will be limited to low-paying jobs. Commentators argue that in the long run, this will impose more costs on taxpayers as fewer people will be able to permanently leave public assistance through better-paying careers.

The Department should explain its methods for determining each of the annual and lifetime limits. In addition, the Department needs to address concerns of the affected communities related to the impact of each limit on the efforts of people seeking to improve their training and education, and obtain and maintain long-term employment and self-sufficiency. The Department also should provide a thorough fiscal analysis and an explanation of both the impact of and need for this proposed regulation.

**2. Section 165.1. General.—Statutory authority; Protection of public health, safety and welfare; Reasonableness; Need.**

This proposed regulation amends provisions for special allowances for services for participants in the RESET program established in Chapter 165. Those exempted from RESET can also obtain special allowances. Subsection (a) permits these individuals to receive services by participating in a "work or work-related activity" and they must "comply with the AMR [Agreement of Mutual Responsibility] and EDP [Employment Development Plan]." Commentators contend that this language would require these volunteers to adhere to an hourly service requirement. However, Section 405.1(b) of the Code does not impose such a requirement, but states that: "any applicant or recipient exempted from . . . [RESET] may participate in employment and work-related activities." (Emphasis added.) See 62 P. S. § 405.1(b). What is the Department's statutory authority for Subsection (a)?

Commentators also argue this provision is not in the public interest. Examples of exempted RESET individuals include individuals with disabilities and domestic violence victims. Their circumstances could prevent them from committing to an hourly requirement. For example, a domestic violence victim, who does not want an abuser to know the victim's whereabouts, may not want to regularly leave a safe location. A disability may prevent a

person from leaving their home altogether. Therefore, how would the Department protect these individuals while maintaining the hourly requirement? The Preamble to the final-form regulation should explain the need for requiring individuals who volunteer to participate in work or work-related activity to "comply with the requirements of the AMR or EDP."

**3. Section 165.44. Verification for special allowances for supportive services.—Reasonableness; Need; Implementation procedures; Clarity.**

Commentators express concern with the deletion of the phrase "only when it is not readily apparent" from the existing language in Subsection (a)(2). The Department needs to explain the need for verification for authorization of every expense. Wouldn't the need for transportation expenses be readily apparent based on the address of the recipient and the job site or school? If not, the Department should provide examples of acceptable and readily accessible means of verification.

With respect to verification of service, Subsection (b)(1)(i) states, in part, that the Department "may require that the participant or provider or the supportive service, or both, verify that the participant received the approved special allowance for supportive services and that the provider received payment for the amount the participant was eligible to receive." What is the need for this provision? Additionally, under what circumstances would the Department require verification from both the participant and the provider?

Subsection (b)(2) lists circumstances in which the Department will process supportive services overpayment referrals, including in Subparagraph (viii): "The participant did not participate in or comply with RESET, including meeting hourly and other work and work-related requirements as specified in the AMR or EDP." Commentators are concerned that this language would result in overpayment referrals for full amounts, even though participants may have completed the majority of their required hours. What is the need for this provision? Will amounts that a participant is required to repay be pro-rated based upon hours completed? Finally, there is no Subparagraph (vii), and subparagraph (viii) therefore should be re-numbered.

**4. Section 165.46. Types of special allowances for supportive services.—Economic impact; Need; Compliance with the Regulatory Review Act.**

The proposed regulation eliminates the existing Subsection (c)(5), thus removing special allowances for moving costs. However, Section 432.20 of the Code specifically allows for assistance for moving costs "to ensure gainful employment." See 62 P. S. § 432.20. Given the language in the statute and the concerns expressed by commentators, the Department should examine the economic impact of this deletion and explain the need for this change.

Proposed Subsection (c) states that: "[t]he Department may amend Appendix A as necessary based on availability of funding and demand for supportive services. Revisions will be published as a notice in the *Pennsylvania Bulletin* for recommended codification in Appendix A."

This subsection does not comply with the requirements of the Regulatory Review Act. 71 P. S. §§ 745.1—745.15. First, regulations in this Commonwealth cannot be amended without being subject to the regulatory review process. The extensive comments filed on this proposed regulation indicate that amendments to Appendix A, which has been made part of this rulemaking, should be subject to review and comment by the public before

adoption or implementation. In addition, codification cannot occur simply through notification in the *Pennsylvania Bulletin* without a regulation being reviewed and approved by both the Independent Regulatory Review Commission and the Office of the Attorney General. See id. at §§ 745.5b and 732-204(b). Therefore, this subsection should be removed from the final-form regulation.

**Environmental Quality Board  
Regulation #7-452 (IRRC #2835)  
Dam Safety and Waterway Management  
June 23, 2010**

We submit for your consideration the following comments on the proposed rulemaking published in the April 24, 2010 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Environmental Quality Board (EQB) to respond to all comments received from us or any other source.

**1. Section 105.1. Definitions.—Statutory authority; Need; Clarity.**

*Person*

Subsection (i) contains provisions not included in the definition of “person” in the Dam Safety and Encroachments Act (Act). See 32 P. S. § 693.1 et. seq. For example, the terms “firm” and “estate” are not included in the statutory definition, and neither is the phrase “or other legal entity which is recognized by law as the subject of rights and duties.” Existing language contained in the regulation, such as the term “public utility” and “political subdivision of this Commonwealth” also are not included in the Act. The EQB should use the statutory definition in the regulation or explain its statutory authority for adding these terms and phrases to the proposed definition.

**2. Section 105.4. Delegations to local agencies.—Clarity.**

*Subsection (b)*

The existing language of the regulation prohibits delegating the authority to issue permits. The proposed regulation changes this provision to allow such delegations, but does not provide a reason for this change. The Preamble to the final-form regulation should explain the basis for this revision.

*Subsection (e)*

The proposed regulation removes a statutory citation from this subsection. Like Subsection (b), the Preamble also should provide an explanation for this amendment.

**3. Section 105.13b. Proof of financial responsibility.—Economic and fiscal impact; Clarity.**

This section allows permit approval for Hazard Potential Category 1 or 2 dams only if they submit proof of financial responsibility or security assuring proper construction, repair, etc. of the facility. In the Preamble, the EQB states there are approximately 2,333 owners of 3,256 dams that are affected by these regulations. The EQB also provides a breakdown of the dams by ownership and category. The EQB explains that the cost is “dam-specific based on the size and type . . . of dam.” The EQB also states that “if this amendment is not approved, the cost to the Commonwealth could be significant.” While we recognize it is difficult to predict how dam owners will provide financial assurance, we request further informa-

tion on the potential economic and fiscal impact of the regulation on Category 1 or 2 county owned, municipally owned, privately owned and state owned dams by category.

Subsection (1)(i) includes as an example of proof of financial responsibility: “[a] certificate of public convenience from the Public Utility Commission if the owner of the proposed facility is subject to regulation under 66 Pa.C.S. (relating to the Public Utility Code).” A commentator is concerned that the proposed regulation did not contemplate deregulation of the utility industry, and as a result did not envision the undue hardship this provision could cause, given that many financial institutions are unwilling to provide these financial assurances in today’s economy. Does the EQB know the number of deregulated companies that would be impacted by this proposed rulemaking? What would be the fiscal impact on these types of utilities?

**4. Section 105.14. Review of applications.—Clarity.**

Paragraph (b)(1) states a broad declaration that the Department of Environmental Protection (Department) will consider potential threats to the environment created by a dam in its determination of impact. However, Paragraph (b)(4) specifically identifies several factors that will be considered and includes, in existing language, “other significant environmental factors.” A commentator is concerned that Subsection (b)(1) could be interpreted to mean that threats do not have to be significant to determine impact. We agree and question the need to amend Paragraph (b)(1) in addition to the detail provided in Paragraph (b)(4). We recommend deleting the amendment to Paragraph (b)(1). Alternatively, if it is retained, the EQB should explain why the amendment is needed and consistent with Paragraph (b)(4).

Also, a commentator suggests that the “existing and designated uses” mentioned in the last sentence of Subsection (b)(4) are those defined in Chapter 93. The EQB should explain what uses will be considered and provide a cross-reference in the regulation to the existing and designated uses the Department will consider.

**5. Section 105.42. Terms and conditions of Department permits and approvals.—Reasonableness; Economic impact; Clarity.**

This section has been revised to make the permittee or the owner responsible for both informing the contractor and for completing the acknowledgement form regarding the terms and conditions of the permit. The PA Department of Transportation (PennDOT) is concerned that this provision would result in PennDOT being responsible for permits obtained by developers for Highway Occupancy Permits that require roadway improvements within PennDOT’s right-of-way. Could PennDOT be responsible for the construction of roadway improvements that are required as a result of private development? Similar concerns apply to Section 105.46. We will review the EQB’s response to this issue in our consideration of whether the final regulation is in the public interest.

**6. Section 105.45. Inspections by the Department.—Clarity.**

Who does the EQB consider an “authorized agent” of the Department? The final-form regulation should clarify this issue.

**7. Section 105.81. Permit applications for construction and modification of dams and reservoirs.—Implementation procedures; Clarity.**

In Subsection (a)(3), what does the EQB consider “sufficient detail” contained in plan specifications and

design reports to evaluate the safety and suitability of the proposed dam, reservoir and appurtenant works? This language should either be clarified in the final-form regulation, or deleted.

**8. Section 105.91. Classification of dams and reservoirs.—Implementation procedures; Clarity.**

This section classifies dams and reservoirs based on size and hazard potential. Hazard potential is based on the amount of the population at risk and the degree of economic loss. A commentator recommends that the EQB incorporate environmental losses into the determination of hazard potential. Has the Board considered including these losses as a factor?

**9. Section 105.96. Outlet works.—Implementation procedures; Clarity.**

Subsection (a) indicates that draining devices must be sized to pass a minimum of 70% of the “highest mean monthly inflow.” How is this type of inflow calculated? For example, is it based on storm potential, such as a 2-year/24-hour storm? The final-form regulation should clarify this issue.

**10. Section 105.97. Stability of structures.—Need; Implementation procedures; Clarity.**

This section requires a safety factor for gravity dams of 1.7 for maximum pool in Paragraph (d)(2). A commentator notes that this factor is greater than that imposed by national standards. How did the EQB determine that 1.7 is an appropriate safety factor?

**11. Section 105.102. Personnel and supervision.—Clarity.**

Subsection (a) refers to a “professional engineer or a Department-approved representative.” (Emphasis added.) When would the Department use a representative in lieu of a professional engineer and what qualifications would be required for approval as a representative?

**12. Section 105.134. EAP.—Feasibility; Implementation procedures; Clarity.**

This section requires Hazard Potential Category 1, 2 and 3 dams to develop an Emergency Action Plan (EAP) to follow in the event of a dam hazard emergency.

We raise three issues.

First, this section is not clear regarding the role of local governments. Subsection 105.134(a) replaces “local emergency management officials” with “the Pennsylvania Emergency Management Agency (PEMA)” for approval of a plan. Paragraph 105.134(a)(2) requires the signature of “county emergency management coordinators.” However, it is only after approval of the plan that a copy is given to the “municipal emergency management agencies” under Subsection (b). We request an explanation of why this section is being amended so that local governments are no longer included in the review and approval of the EAP.

Second, Paragraph (a)(4) states: “[T]he EAP must be prepared in accordance with the most recent EAP guidelines developed by the Department and PEMA.” How will the applicant know what are the most recent guidelines? Where can these be found? The same concern applies to Subsection (f).

Third, Subsection (d) requires notice of the EAP to be posted in the “city, borough and township buildings in the affected municipalities.” Does the Department or a dam owner have the feasibility to require these locations to display these postings? The final-form regulation should clarify this issue.

**13. Sections 105.134. EAP. and 105.135. Dam hazard emergencies.—Protection of the public health, safety and welfare; Implementation procedures; Clarity.**

These sections are not clear regarding the role of local governments in amended Section 105.134 and as it relates to Section 105.135. For example, relating to Subsection 105.135(c), a commentator suggests that the municipality or county should be notified and will be the authority to take action. We note that the following terms are used in these sections:

- Paragraph 105.134(a)(2) “county emergency management coordinators.”
- Subsection 105.134(b) “municipal emergency management agencies.”
- Subsection 105.135(c) “appropriate emergency management officials” and “authorities.”

We recommend that the EQB review these sections and clearly identify which government entities would participate, approve, receive notifications and take action under each section.

ARTHUR COCCODRILLI,  
*Chairperson*

[Pa.B. Doc. No. 10-1262. Filed for public inspection July 9, 2010, 9:00 a.m.]

**Notice of Filing of Final Rulemakings**

The Independent Regulatory Review Commission (Commission) received the following regulations. They are scheduled to be considered on the dates noted. The Commission’s public meetings are held at 333 Market Street, 14th Floor, Harrisburg, PA at 10 a.m. To obtain a copy of the regulation, interested parties should first contact the promulgating agency. If a copy cannot be obtained from the promulgating agency, the Commission will provide a copy or a copy can be obtained from the web site, www.irrc.state.pa.us.

*Final-Form*

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Public Received Meeting</i>	
12-85	Department of Labor and Industry Workers' Compensation; Individual Self-Insurance	6/23/10	8/5/10
16-47	Department of State Schedule of Civil Penalties—Funeral Directors and Funeral Establishments	6/25/10	8/5/10
16A-4818	State Board of Funeral Directors Continuing Education Enforcement	6/25/10	8/5/10

ARTHUR COCCODRILLI,  
*Chairperson*

[Pa.B. Doc. No. 10-1263. Filed for public inspection July 9, 2010, 9:00 a.m.]

# PENNSYLVANIA PUBLIC UTILITY COMMISSION

## Telecommunications

**A-2010-2183671. Verizon Pennsylvania, Inc. and Intellifiber Networks, Inc.** Joint petition of Verizon Pennsylvania, Inc. and Intellifiber Networks, Inc. for approval of an adoption of an interconnection agreement under section 252(i) of the Telecommunications Act of 1996.

Verizon Pennsylvania, Inc. and Intellifiber Networks, Inc., by its counsel, filed on June 24, 2010, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an adoption of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania, Inc. and Intellifiber Networks, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1264. Filed for public inspection July 9, 2010, 9:00 a.m.]

## Telecommunications Services

**A-2010-2184303 and A-2010-2184304. Norlight Telecommunications, Inc.** Application of Norlight Telecommunications, Inc. for approval to offer, render, furnish or supply telecommunications services to the public as a competitive local exchange carrier in the service territories of The United Telephone Company of Pennsylvania, LLC, d/b/a CenturyLink and Windstream Pennsylvania, LLC.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before July 26, 2010. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

*Applicant:* Norlight Telecommunications, Inc.

*Through and By Counsel:* Anthony D. Gillette, Esquire, 8829 Bond Street, Overland Park, KS 66214

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1265. Filed for public inspection July 9, 2010, 9:00 a.m.]

## Tentative Order

Public Meeting held  
June 16, 2010

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

*Petition of the Borough of Pleasantville for a Declaratory Order that its Provision of Water Service to Isolated Customers in Adjoining Townships Does Not Constitute the Provision of Public Utility Service Under 66 Pa.C.S. § 102; Doc. No. P-2010-2157896*

## Tentative Order

*By the Commission:*

On February 12, 2010, the Borough of Pleasantville (the Borough or Pleasantville), filed the above-captioned petition for declaratory order. In accordance with 52 Pa. Code § 5.42, the Borough served a copy of its petition on the Office of Consumer Advocate ("OCA"), the Office of Trial Staff ("OTS"), the Office of Small Business Advocate ("OSBA"), and notified each of the 193 customers affected located outside of Pleasantville's corporate boundaries of the petition by means of a bill insert. None of the above-mentioned parties filed answers to Pleasantville's petition.

Section 331(f) of the Public Utility Code, 66 Pa.C.S. § 331(f), provides that the Commission "may issue a declaratory order to terminate a controversy or remove uncertainty." By its petition, the Borough seeks a determination that its provision of water service to the 193 customers that are physically proximate to the Borough, but not within the corporate boundaries of the Borough, is not subject to Commission jurisdiction. The Borough asserts that the service it provides to these 193 customers is not service "to or for the public" within the meaning of Section 102 of the Public Utility Code, 66 Pa.C.S. § 102.

In its petition, the Borough states that the 193 customers outside of the Borough's corporate limits take service at the same rates and terms of service as customers that reside inside Borough boundaries.

Furthermore, the Borough notes that it has been serving the 193 extra-territorial customers commencing with a contamination event in 1964 in response to direction from the Pennsylvania Board of Health (precursor to the current Pennsylvania Department of Health). We agree that under these circumstances, it is appropriate to issue a Declaratory Order in response to the subject petition.

In support of its petition, the Borough states that it is currently subject to the Commission's jurisdiction and complies with the Commission's reporting and tariff requirements. The Borough states that these requirements are unreasonably burdensome given the Borough's already limited financial resources. The Borough seeks to avoid these requirements, but at the same time retain service to the existing extra-territorial customers.

In its petition, the Borough alleges that all of the extra-territorial customers in question are proximate to the Borough. In response to the contamination event, the Borough opted to receive service from the City of Titusville ("Titusville"), approximately six miles from the Borough. A water main was laid from Titusville to the Borough, which intersects two adjacent townships; Oil Creek Township, Venango County, and Oil Creek Township, Crawford County. The Borough serves 139 extra-

territorial customers in Oil Creek Township, Venango County. The Borough serves approximately twenty-five customers in Oil Creek Township, Crawford County. The Borough also serves, on average, twenty-nine customers within Allegheny Township, Venango County.

These extra-territorial customers are primarily residential. All of these extra-territorial customers reside in close proximity to the Borough and/or the Borough's water main connecting to Titusville. To date, the Borough has never received a formal complaint from any customer. These extra-territorial customers were allowed to hook up because of the contamination event and a dearth of other available service options. The Borough provides and maintains fire hydrants that protect all of the extra-territorial customers.

In further support of its petition, the Borough states that the extra-territorial customers did not, and still do not, have a right to connect to Borough's system; rather the only persons who had, and still have, any right to connect to the Borough's water system are property owners located within the Borough's municipal limits.

The Borough also states in a February 10, 2010 Borough Resolution that it will not, unless directed by a Pennsylvania regulatory agency (such as the Commission or the Pennsylvania Department of Environmental Protection ("DEP"), etc.), permit any new customer connections, for which an alternative service option exists, beyond its municipal boundaries. In addition, the Borough's resolution provides that the Borough will apply the same rules, regulations, and rates to the customers outside as those within Borough limits. The Borough Resolution also states that the Borough will not repeal or sunset the aforementioned resolution without advising the Commission regarding same. These commitments were made to ensure that the Borough will not be adding additional extra-territorial customers and that the 193 extra-territorial customers will not be subject to potential discrimination without the opportunity for Commission oversight.

The Borough submits that its circumstances are similar to those presented to the Commission in the matter of *Lehigh Valley Cooperative Farmers v. City of Allentown*, 54 Pa.P.U.C. 495 (1980), wherein the Commission concluded that service to a number of isolated individuals outside of the municipal boundaries under special circumstances did not constitute public utility service subject to the Commission's jurisdiction. We agree.

In *Lehigh Valley*, the Commission reiterated that the test to determine whether a party is rendering service to the public is set forth in *Borough of Ambridge v. Pa. Public Service Commission*, 165 A. 47 (Pa. Super. 1933). In *Ambridge*, the Commission noted,

We find the distinction between public and private rendition of such service put definitely on the readiness to serve all members of the public to the extent of capacity: The test is, therefore whether or not such person holds himself out, expressly or impliedly, as engaged in the business of supplying his product or service to the public, as a class, or to any limited portion of it, as contradistinguished from holding himself out as serving or ready to serve only particular individuals. The public or private character of the enterprise does not depend, however, upon the number of persons by whom it is used, but upon whether or not it is open to the use and service of all members of the public who may require it, to the extent of its capacity; and the fact that only a limited number of

persons may have occasion to use it does not make it a private undertaking if the public generally has a right to such use.

See also, *Petition of Chicora Borough*, Docket No. P-00981355 (May 22, 1998).

More recently, the Commission applied the same rationale in *Joint Application of Seven Fields Development Corporation*, Docket No. A-220007 and A-210062F2000 (October 1, 1999). In that case, the Commission granted an application filed by a jurisdictional utility seeking to transfer its assets used in the operation of its water system to the Borough of Seven Fields. The Commission noted that the borough would be providing water service to three customers that were located outside of the borough's limits. Moreover, the Commission took note of the fact that the borough committed to continue providing water service solely to these three customers at the same terms of service as are or will be offered to customers within the boundaries of the borough. Also, as in the instant case, the Borough of Seven Fields presented an affidavit to the effect that it did not intend to offer service to the general public outside of its boundaries in the future. In the *Seven Fields* case, the Commission concluded that the limited nature of water service to such a defined group of customers should not realistically be subject to its jurisdiction. *Id.* at p.4.

Similarly, and more recently, in *Petition of Laceyville Borough*, Docket No. P-2008-2064117 (2008), the Commission determined that service of seventeen customers outside the Laceyville Borough limits did not constitute public utility service. Even more recently, in *Petition of Cochranton Borough for a Declaratory Order*, Docket No. P-2008-2035741 (2009), the Commission determined that service seventy-five customers outside the Cochranton Borough limits did not constitute public utility service. Pleasantville's petition in this proceeding comports with these two recent proceedings, and therefore Pleasantville's petition should be resolved on a similar basis.

In applying the standards enunciated in *Laceyville* and *Cochranton* to the facts of the present case, we find that the limited extra-territorial service provided by the Borough is not subject to Commission jurisdiction. The extra-territorial service being provided by the Borough is provided to a limited number of customers and is not available to the general public. The Borough did not seek these extra-territorial customers but agreed to provide service to them when the customers' ground water source was found to be contaminated. Moreover, the Borough clearly states that it will continue to provide service only to the 193 customers that it is presently serving outside of its boundaries and that it is not soliciting additional customers. Such service does not constitute the provision of water service to or for the public. We note our expectation that an express condition of this exemption is that the Borough continue to apply the same rates outside as well as within Borough limits. Finally, however, we find that paragraph three of the Borough's resolution indicating that "[t]he Borough will not, unless directed by a Pennsylvania regulatory agency, permit any new customer connections, for which an alternative service option exists, beyond its municipal boundaries," is insufficient to grant Pleasantville's petition. For the Commission to grant Pleasantville's petition, Pleasantville must revise this language of its resolution to read "[t]he Borough will not, unless directed by a Pennsylvania regulatory agency, permit any new customer connections beyond its municipal boundaries, without the prior approval of the PUC."

Under these circumstances, no certificate of public convenience is needed by the Borough and, absent any contrary responses from concerned parties, this Commission will cancel the operating authority issued to Pleasantville Borough; *Therefore,*

*It Is Ordered That:*

1. The Petition for Declaratory Order filed by Pleasantville Borough on February 12, 2010, at Docket No. P-2010-2157896 is hereby granted, consistent with this Order.

2. The provision of water service by Pleasantville Borough to the 193 customers located outside of the Borough's boundaries is deemed to be non-jurisdictional because it is not service "to or for the public" within the meaning of Section 102 of the Public Utility Code, 66 Pa.C.S. § 102.

3. A copy of this Order shall be served upon Pleasantville Borough and upon each of the Borough's 193 extra-territorial customers.

4. The Secretary shall certify this Order and deposit it with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

5. Pleasantville Borough is directed to publish in a newspaper of general circulation in the Pleasantville area, notice of this Tentative Order and of the Commission's intent to cancel the Pleasantville Borough certificate of public convenience absent adverse public comment within the twenty-day time constraint established in the *Pennsylvania Bulletin*.

6. The Borough of Pleasantville must revise paragraph three of its resolution dated February 9, 2010, to read "[t]he Borough will not, unless directed by a Pennsylvania regulatory agency, permit any new customer connections beyond its municipal boundaries, without the prior approval of the PUC."

7. If no objection to this Order is filed with the Commission within twenty days of the publication date in the *Pennsylvania Bulletin*, this Order shall become final, and the Commission's Secretary's Bureau shall cancel the operating authority of Pleasantville Borough and mark this file as closed. The Secretary's Bureau then shall remove Pleasantville Borough from the active lists of the Tariff and Annual Report Section of the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Audits.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1266. Filed for public inspection July 9, 2010, 9:00 a.m.]

## STATE BOARD OF BARBER EXAMINERS

**Bureau of Professional and Occupational Affairs v.  
Rodolfo J. Blanco, t/d/b/a Javis Unisex Barber  
Shop; Doc. No. 1160-42-09**

On May 11, 2010, Rodolfo J. Blanco, t/d/b/a Javis Unisex Barber Shop, unlicensed, of Philadelphia, Philadelphia County, was assessed a civil penalty of \$500 for operating a barber shop without a license.

Individuals may obtain a copy of the adjudication by writing to David Markowitz, Board Counsel, State Board of Barber Examiners, P. O. Box 2649, Harrisburg, PA 17105-2649.

This final adjudication and order represents the State Board of Barber Examiners's (Board) final decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court, must serve the Board with a copy of their petition for review. The Board contact for receiving service of the appeals is the previously-named Board Counsel.

L. ANTHONY SPOSSEY,  
*Chairperson*

[Pa.B. Doc. No. 10-1267. Filed for public inspection July 9, 2010, 9:00 a.m.]

## STATE BOARD OF COSMETOLOGY

**Bureau of Professional and Occupational Affairs v.  
Sixto G. Rivera; Doc. No. 0906-45-10**

On May 17, 2010, the State Board of Cosmetology (Board) suspended the license of Sixto G. Rivera, license no. CO231858L of Philadelphia, Philadelphia County. The Board took this action under the Order of the Court of Common Pleas of Philadelphia County dated May 7, 2010, which the Court issued under 23 Pa.C.S. § 4355 (relating to denied or suspension of licenses). The suspension is effective immediately.

Individuals may obtain a copy of the order by writing to Cynthia K. Montgomery, Senior Counsel in Charge, State Board of Cosmetology, P. O. Box 2649, Harrisburg, PA 17105-2649.

SUSANNE M. PHILO,  
*Chairperson*

[Pa.B. Doc. No. 10-1268. Filed for public inspection July 9, 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:

August 12, 2010 Martin J. Barrett 10 a.m.  
Disability Retirement Benefits

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. 10-1269. Filed for public inspection July 9, 2010, 9:00 a.m.]

## SUSQUEHANNA RIVER BASIN COMMISSION

### Projects Approved for Consumptive Uses of Water

The Susquehanna River Basin Commission (Commission) has approved the following list of projects, during May 1, 2010, through May 31, 2010.

For further information contact Richard A. Cairo, General Counsel, (717) 238-0423, Ext. 306, fax (717) 238-2436, rcairo@srbc.net; or Stephanie L. Richardson, Secretary to the Commission, (717) 238-0423, Ext. 304, fax (717) 238-2436, srichardson@srbc.net; or mail inquiries to Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, PA 17102-2391.

#### *Supplementary Information*

This notice lists the projects, described as follows, receiving approval for the consumptive use of water under the Commission's approval by rule process set forth in and 18 CFR 806.22(f) (relating to standards for consumptive uses of water) for the time period specified previously:

#### *Approvals By Rule Issued Under 18 CFR 806.22(f):*

1. East Resources, Inc., Pad ID: Johnson 434, ABR-20100501, Shippen Township, Tioga County, PA; Approval Date: May 3, 2010.
2. East Resources, Inc., Pad ID: Red Run Mountain 736, ABR-20100502, McIntyre Township, Lycoming County, PA; Approval Date: May 3, 2010.
3. East Resources, Inc., Pad ID: Newlin 476, ABR-20100503, Charleston Township, Tioga County, PA; Approval Date: May 3, 2010.
4. Stone Energy Corporation, Pad ID: Loomis Well No. 2H, ABR-20100504, Rush Township, Susquehanna County, PA; Approval Date: May 4, 2010.
5. Chief Oil & Gas, LLC, Pad ID: Flook Drilling Pad No. 1, ABR-20100505, Mifflin Township, Lycoming County, PA; Approval Date: May 5, 2010.
6. Chief Oil & Gas, LLC, Pad ID: Kerr Drilling Pad No. 1, ABR-20100506, Lathrop Township, Susquehanna County, PA; Approval Date: May 5, 2010.
7. Chesapeake Appalachia, LLC, Pad ID: Verex, ABR-20100507, Auburn Township, Susquehanna County, PA; Approval Date: May 6, 2010.
8. Chesapeake Appalachia, LLC, Pad ID: Pauliny, ABR-20100508, Terry Township, Bradford County, PA; Approval Date: May 6, 2010.

9. Chesapeake Appalachia, LLC, Pad ID: Coates, ABR-20100509, Standing Stone Township, Bradford County, PA; Approval Date: May 6, 2010.

10. Chesapeake Appalachia, LLC, Pad ID: Woodburn, ABR-20100510, Armenia Township, Bradford County, PA; Approval Date: May 6, 2010.

11. Chesapeake Appalachia, LLC, Pad ID: Jack, ABR-20100511, Windham Township, Wyoming County, PA; Approval Date: May 6, 2010.

12. EOG Resources, Inc., Pad ID: ROGERS 1H, ABR-20100512, Springfield Township, Bradford County, PA; Approval Date: May 10, 2010.

13. EXCO Resources (PA), Inc., Pad ID: Litke (Pad 2), ABR-20100513, Burnside Township, Centre County, PA; Approval Date: May 12, 2010, including a partial waiver of 18 CFR 806.15.

14. EXCO Resources (PA), Inc., Pad ID: Litke (Pad 3), ABR-20100514, Burnside Township, Centre County, PA; Approval Date: May 12, 2010, including a partial waiver of 18 CFR 806.15.

15. EXCO Resources (PA), Inc., Pad ID: Litke (Pad 5), ABR-20100515, Burnside Township, Centre County, PA; Approval Date: May 12, 2010, including a partial waiver of 18 CFR 806.15.

16. East Resources, Inc., Pad ID: Walker 438, ABR-20100516, Shippen Township, Tioga County, PA; Approval Date: May 12, 2010.

17. East Resources, Inc., Pad ID: Dandois 482, ABR-20100517, Sullivan Township, Tioga County, PA; Approval Date: May 12, 2010.

18. Cabot Oil & Gas Corporation, Pad ID: WarrinerR P2, ABR-20100518, Dimock Township, Susquehanna County, PA; Approval Date: May 13, 2010.

19. Cabot Oil & Gas Corporation, Pad ID: WarrinerR P5, ABR-20100519, Dimock Township, Susquehanna County, PA; Approval Date: May 13, 2010.

20. Cabot Oil & Gas Corporation, Pad ID: CarsonJ P1, ABR-20100520, Springville Township, Susquehanna County, PA; Approval Date: May 15, 2010.

21. Cabot Oil & Gas Corporation, Pad ID: HawleyW P1, ABR-20100521, Dimock Township, Susquehanna County, PA; Approval Date: May 15, 2010.

22. Talisman Energy USA, Inc., Pad ID: Gardiner 01 071, ABR-20100522, Troy Township, Bradford County, PA; Approval Date: May 15, 2010.

23. Talisman Energy USA, Inc., Pad ID: Vanblarcom 03 054, ABR-20100523, Columbia Township, Bradford County, PA; Approval Date: May 15, 2010.

24. Chesapeake Appalachia, LLC, Pad ID: Fred, ABR-20100524, Leroy Township, Bradford County, PA; Approval Date: May 15, 2010.

25. Chesapeake Appalachia, LLC, Pad ID: McConnell, ABR-20100525, Overton Township, Bradford County, PA; Approval Date: May 15, 2010.

26. Chesapeake Appalachia, LLC, Pad ID: Janet, ABR-20100526, Monroe Township, Bradford County, PA; Approval Date: May 15, 2010.

27. Chesapeake Appalachia, LLC, Pad ID: Treat, ABR-20100527, Rome Township, Bradford County, PA; Approval Date: May 15, 2010.

28. Chesapeake Appalachia, LLC, Pad ID: Morse, ABR-20100528, Leroy Township, Bradford County, PA; Approval Date: May 15, 2010.

29. Ultra Resources, Inc.; Pad ID: Patel 914, ABR-20100529, Abbott Township, Potter County, PA; Approval Date: May 17, 2010.
30. Anadarko E&P Company, LP, Pad ID: COP Tract 231 D, ABR-20100530, Snow Shoe Township, Centre County, PA; Approval Date: May 18, 2010, including a partial waiver of 18 CFR 806.15.
31. EOG Resources, Inc., Pad ID: COP Pad A, ABR-20100531, Lawrence Township, Clearfield County, PA; Approval Date: May 18, 2010.
32. East Resources, Inc., Pad ID: Greenwood Hunting Lodge 427, ABR-20100532, McIntyre Township, Lycoming County, PA; Approval Date: May 18, 2010.
33. EOG Resources, Inc., Pad ID: PHC 28H/29H, ABR-20090918.1, Lawrence Township, Clearfield County, PA; Approval Date: May 19, 2010.
34. EOG Resources, Inc., Pad ID: PHC 4H, ABR-20090501.1, Lawrence Township, Clearfield County, PA; Approval Date: May 19, 2010.
35. EOG Resources, Inc., Pad ID: PHC 5H, ABR-20090502.1, Lawrence Township, Clearfield County, PA; Approval Date: May 19, 2010.
36. EOG Resources, Inc., Pad ID: PHC 6H, ABR-20090721.2, Lawrence Township, Clearfield County, PA; Approval Date: May 19, 2010.
37. XTO Energy Incorporated, Pad ID: Everbe Farms 8518H, ABR-20100533, Franklin Township, Lycoming County, PA; Approval Date: May 20, 2010.
38. Range Resources—Appalachia, LLC; Pad ID: Arrowhead Hunting Club Unit, ABR-20100534, Gallagher Township, Clinton County, PA; Approval Date: May 20, 2010.
39. Chesapeake Appalachia, LLC; Pad ID: Hayward New, ABR-20100535, Rome Township, Bradford County, PA; Approval Date: May 20, 2010.
40. Chesapeake Appalachia, LLC; Pad ID: Madden, ABR-20100536, Asylum Township, Bradford County, PA; Approval Date: May 21, 2010.
41. Chesapeake Appalachia, LLC; Pad ID: McGraw, ABR-20100537, Auburn Township, Susquehanna County, PA; Approval Date: May 21, 2010.
42. Chesapeake Appalachia, LLC; Pad ID: Cerca, ABR-20100538, Wyalusing Township, Bradford County, PA; Approval Date: May 21, 2010.
43. Chesapeake Appalachia, LLC; Pad ID: Rich, ABR-20100539, Troy Township, Bradford County, PA; Approval Date: May 21, 2010.
44. Chesapeake Appalachia, LLC; Pad ID: Flash, ABR-20100540, Rome Township, Bradford County, PA; Approval Date: May 21, 2010.
45. Anadarko E&P Company, LP, Pad ID: COP Tract 685 A, ABR-20100541, Cummings Township, Lycoming County, PA; Approval Date: May 24, 2010, including a partial waiver of 18 CFR 806.15.
46. Cabot Oil & Gas Corporation, Pad ID: RozellC P1, ABR-20100542, Jessup Township, Susquehanna County, PA; Approval Date: May 24, 2010.
47. Chesapeake Appalachia, LLC; Pad ID: Burkett, ABR-20100543, Smithfield Township, Bradford County, PA; Approval Date: May 25, 2010.
48. Chesapeake Appalachia, LLC; Pad ID: Matt Will Farms, ABR-20100544, Troy Township, Bradford County, PA; Approval Date: May 26, 2010.
49. Ultra Resources, Inc., Pad ID: Simonetti 817 (rev), ABR-20100545, Gaines Township, Tioga County, PA; Approval Date: May 26, 2010.
50. Chief Oil & Gas, LLC, Pad ID: Kitzmiller Drilling Pad No. 1, ABR-20100546, Jordan Township, Lycoming County, PA; Approval Date: May 27, 2010.
51. Chief Oil & Gas, LLC, Pad ID: Severcool Drilling Pad No. 1, ABR-20100547, Forkston Township, Wyoming County, PA; Approval Date: May 27, 2010.
52. Chief Oil & Gas, LLC, Pad ID: R & D Drilling Pad No. 1, ABR-20100548, Mehoopany Township, Wyoming County, PA; Approval Date: May 27, 2010.
53. Talisman Energy USA, Inc., Pad ID: Cole 03 016, ABR-20100549, Columbia Township, Bradford County, PA; Approval Date: May 27, 2010.
54. Cabot Oil & Gas Corporation, Pad ID: PettyJ P1, ABR-20100550, Dimock Township, Susquehanna County, PA; Approval Date: May 27, 2010.
55. EOG Resources, Inc., Pad ID: PHC Pad Q, ABR-20100551, Lawrence Township, Clearfield County, PA; Approval Date: May 27, 2010.
56. Talisman Energy USA, Inc., Pad ID: Wilber 03 065, ABR-20100552, Columbia Township, Bradford County, PA; Approval Date: May 27, 2010.
57. East Resources, Inc.; Pad ID: Breon 492, ABR-20100553, Sullivan Township, Tioga County, PA; Approval Date: May 28, 2010.
58. Range Resources—Appalachia, LLC; Pad ID: Harman, Lewis Unit No. 1H; ABR-20100554, Moreland Township, Lycoming County, PA; Approval Date: May 28, 2010.
59. EOG Resources, Inc., Pad ID: JBR PARTNERS 1V, ABR-20100555, Saint Marys City, Elk County, PA; Approval Date: May 28, 2010.
60. XTO Energy Incorporated, Pad ID: Tome 8522H, ABR-20100556, Moreland Township, Lycoming County, PA; Approval Date: May 28, 2010.
61. Chesapeake Appalachia, LLC, Pad ID: Kenyon, ABR-20100557, Overton Township, Bradford County, PA; Approval Date: May 28, 2010.
62. Chesapeake Appalachia, LLC, Pad ID: Feusner New, ABR-20100558, Litchfield Township, Bradford County, PA; Approval Date: May 28, 2010.
63. Ultra Resources, Inc., Pad ID: Miksis 831, ABR-20100559, Gaines Township, Tioga County, PA; Approval Date: May 28, 2010.
64. Ultra Resources, Inc., Pad ID: Coon Hollow 904, ABR-20100560, West Branch Township, Potter County, PA; Approval Date: May 28, 2010.
65. East Resources, Inc., Pad ID: Young 431, ABR-20100561, Shippen Township, Tioga County, PA; Approval Date: May 31, 2010.

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Dated: June 22, 2010.

PAUL O. SWARTZ,  
*Executive Director*

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