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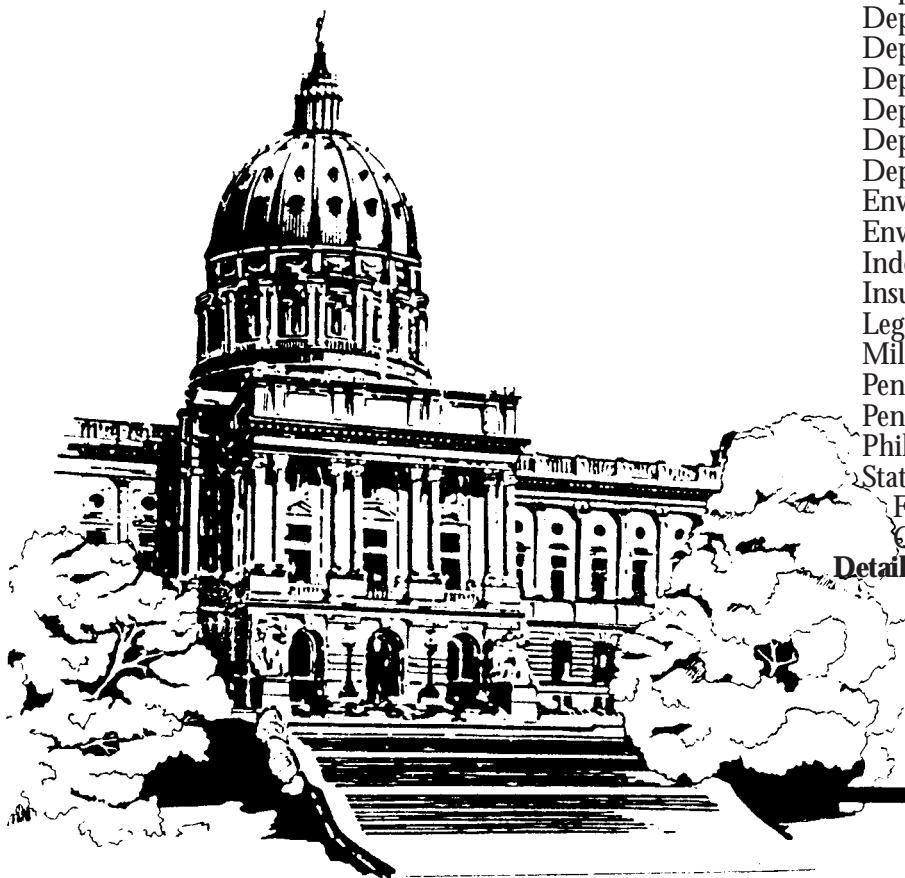
# PENNSYLVANIA BULLETIN

Volume 40  
Saturday, September 18, 2010 • Harrisburg, PA  
Number 38  
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Counselors

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

**No. 430, September 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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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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 702, 838, 840, 969, 1079, 1080, 1147, 1403, 1490,  
 1498, 1629, 1630, 1632, 1633, 1730, 1731, 1732,  
 1733, 1893, 1896, 1897, 2014, 2254, 2257, 2414,  
 2416, 2418, 2419, 2420, 2531, 2635, 2636, 2742,  
 2743, 2745, 2934, 2935, 2938, 3083, 3087, 3089,  
 3327, 3493, 3661, 3822, 3823, 3824, 3943, 4153,  
 4248, 4249, 4250, 4251, 4384, 4648, 4745, 4749,  
 4752, 4754, 4918, 4923, 4924, 5063, 5064, 5065,  
 5128, 5129, 5130, 5293

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART V. PROFESSIONAL ETHICS AND CONDUCT [ 204 PA. CODE CH. 83 ]

#### Amendment of Rule 214 of the Rules of Disciplinary Enforcement; No. 91 Disciplinary Rules

*Per Curiam*

*And Now*, this 1st day of September, 2010, upon the recommendation of the Disciplinary Board of the Supreme Court of Pennsylvania; the proposal having been published for comment in the *Pennsylvania Bulletin*, 40 Pa.B. 1066 (February 27, 2010):

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 214 of the Pennsylvania Rules of Disciplinary Enforcement is amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective in sixty days.

#### Annex A

### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

#### PART V. PROFESSIONAL ETHICS AND CONDUCT

##### Subpart B. DISCIPLINARY ENFORCEMENT

#### CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

##### Subchapter B. MISCONDUCT

#### Rule 214. Attorneys convicted of crimes.

(a) An attorney convicted of a serious crime shall report the fact of such conviction **within 20 days** to the Secretary of the Board [ **within 20 days after the date of sentencing** ]. The responsibility of the attorney to make such report shall not be abated because the conviction is under appeal or the clerk of the court has transmitted a certificate to Disciplinary Counsel pursuant to subdivision (b).

\* \* \* \* \*

(f) (1) Upon the receipt of a certificate of conviction of an attorney for a serious crime, the Court shall, in addition to any order of suspension it may enter in accordance with the provisions of subdivision (d), also refer the matter to the Board for the institution of a formal proceeding before a hearing committee in the appropriate disciplinary district in which the sole issue to be determined shall be the extent of the final discipline to be imposed, except that a disciplinary proceeding so instituted shall not be brought to hearing until **sentencing and all appeals** from the conviction are concluded.

(2) Notwithstanding the provision of paragraph (1) that a hearing shall not be held until **sentencing and all appeals** from a conviction have been concluded, a respondent-attorney who has been temporarily suspended pursuant to this rule shall have the right to request an accelerated disposition of the charges which form the basis for the temporary suspension by filing a notice with the Secretary of the Board and Disciplinary Counsel requesting accelerated disposition. Within 30 days after filing of such a notice, Disciplinary Counsel shall file a petition for discipline, if such a petition has not already been filed, and the matter shall be assigned to a hearing committee for accelerated disposition. The assignment to a hearing committee shall take place within seven (7) days after the filing of such a notice or the filing of a petition for discipline, whichever occurs later. Thereafter the matter shall proceed and be concluded by the hearing committee, the Board and the Court without appreciable delay. If a petition for discipline is not timely filed or assigned to a hearing committee for accelerated disposition under this paragraph, the order of temporary suspension shall be automatically dissolved, but without prejudice to any pending or further proceedings under this rule.

**Official Note:** The “without appreciable delay” standard of subdivision (f)(2) **of the rule** is derived from *Barry v. Barchi*, 443 U.S. 55, 66 (1979). Appropriate steps should be taken to satisfy this requirement, such as continuous hearing sessions, procurement of daily transcript, [ **filing** ] **fixing** of truncated briefing schedules, conducting special sessions of the Board, etc.

(g) Upon receipt of a certificate of a conviction of any attorney for a crime other than a serious crime, the Court shall take such action as it deems warranted. The Court may in its discretion take no action with respect to convictions for minor offenses.

**Official Note:** The actions the Court may take under subdivision (g) include reference of the matter to the Office of Disciplinary Counsel for investigation and possible commencement of either a formal or informal proceeding, or reference of the matter to the Board with direction that it institute a formal proceeding.

(h) An attorney suspended under the provisions of subdivision (d) may be reinstated immediately upon the filing by the Board with the Court of a certificate demonstrating that the underlying conviction has been reversed, but the reinstatement will not terminate any formal proceeding then pending against the attorney.

(i) As used in this rule, the term “serious crime” means a crime that is punishable by imprisonment for one year or upward in this or any other jurisdiction.

**(j) For the purposes of this rule, Rule 203(b)(1) and Rule 402, “conviction” means any guilty verdict, whether after trial by judge or jury, or finding of guilt, and any plea of guilty or *nolo contendere* that has been accepted by the court, whether or not sentence has been imposed.**

[Pa.B. Doc. No. 10-1748. Filed for public inspection September 17, 2010, 9:00 a.m.]

# Title 25—LOCAL COURT RULES

## ARMSTRONG COUNTY

### Order Directing Increase in Monthly Supervision Fee; No. CP-03-AD-000009-2010

#### Order of Court

*And Now*, this 13th day of August, 2010, it is hereby *Ordered* that the monthly supervision fee required by Act. No. 35 of 1991 be increased from \$25.00 to \$50.00, effective November 1, 2010.

The Court Administrator is hereby *Directed* to

(1) file seven certified copies of the rule with the Administrative Office of Pennsylvania Courts;

(2) distribute two certified copies of the rule and a computer diskette containing the text of the rule to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

(3) file one certified copy of the rule with the Criminal Procedural Rules Committee; and

(4) keep the rule continuously available in the Office of the Prothonotary for public inspection and copying.

*By the Court*

KENNETH G. VALASEK,  
*President Judge*

[Pa.B. Doc. No. 10-1749. Filed for public inspection September 17, 2010, 9:00 a.m.]

## FAYETTE COUNTY

### Administrative Order; No. 2333 of 2010 GD

#### Administrative Order

*And Now*, this 30th day of August, 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 the Public Access Fee Schedule is adopted as follows.

The Prothonotary is directed as follows:

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

(2) Two certified copies and CD of the order and program shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

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

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

The adoption of the Public Access Policy shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

*By the Court*

GERALD R. SOLOMON,  
*President Judge*

#### Public Access Fee Schedule

Fees:

\$ .25 per page copied

\$8.00 for each quarter (1/4) hour associated with preparation, copying and re-filing of requested court documents that are voluminous in nature, only to be charged to requests of 10 or more case files per request.

Pre-payment of estimated costs are required for voluminous orders.

Fees paid for services are non-refundable.

All monies generated from the above are to be transferred monthly to the County of Fayette General Fund.

[Pa.B. Doc. No. 10-1750. Filed for public inspection September 17, 2010, 9:00 a.m.]

## MONTGOMERY COUNTY

### Public Access Policy—Official Case Records of the Magisterial District Courts of Montgomery County—Fees; No. A.D. 266-10

#### Administrative Order

*And Now*, this 30th day of August, 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, the following fee schedule is hereby adopted, effective immediately:

*Fees:*

(1) \$0.25 per page copied;

(2) \$8.00 for each quarter (1/4) hour associated with the preparation, copying and re-filing of court dockets involving complex or voluminous requests;

(3) Pre-payment of estimated costs for services may be required at the discretion of the Magisterial District Judge;

(4) Fees paid for services are non-refundable;

(5) Fees may be waived if the Magisterial District Judge determines that the requestor is indigent;

(6) All monies generated from the above are to be transferred monthly to the County of Montgomery General Fund.

*By the Court*

RICHARD J. HODGSON,  
*President Judge*

[Pa.B. Doc. No. 10-1751. Filed for public inspection September 17, 2010, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 25—ENVIRONMENTAL PROTECTION

### ENVIRONMENTAL QUALITY BOARD

[ 25 PA. CODE CH. 102 ]

#### Erosion and Sediment Control and Stormwater Management

[CORRECTION]

An error occurred in the final-form rulemaking adding 25 Pa. Code § 102.14(a) (relating to riparian buffer requirements) which appeared at 40 Pa.B. 4861, 4894 (August 21, 2010). The correct version of § 102.14(a) is as follows:

#### § 102.14. Riparian buffer requirements.

(a) *General requirements for mandatory riparian buffers.*

(1) Except as in accordance with subsection (d), persons proposing or conducting earth disturbance activities when the activity requires a permit under this chapter may not conduct earth disturbance activities within 150 feet of a perennial or intermittent river, stream, or creek, or lake, pond or reservoir when the project site is located in an exceptional value or high quality watershed attaining its designated use as listed by the Department at the time of application and shall protect any existing riparian buffer in accordance with this section.

(2) Except as in accordance with subsection (d), persons proposing or conducting earth disturbance activities when the activity requires a permit under this chapter where the project site is located in an Exceptional Value or High Quality watershed where there are waters failing to attain one or more designated uses as listed in Category 4 or 5 on Pennsylvania's Integrated Water Quality Monitoring and Assessment report, as amended and updated, at the time of the application, and the project site contains, is along or within 150 feet of a perennial or intermittent river, stream, or creek, lake, pond or reservoir shall, in accordance with the requirements of this section do one of the following:

- (i) Protect an existing riparian forest buffer.
- (ii) Convert an existing riparian buffer to a riparian forest buffer.
- (iii) Establish a new riparian forest buffer.

The remaining text of the section was accurate as printed.

[Pa.B. Doc. No. 10-1573. Filed for public inspection August 20, 2010, 9:00 a.m.]

### ENVIRONMENTAL QUALITY BOARD

[ 25 PA. CODE CH. 301, 302, 303 AND 305 ]

#### Administration of the Water and Wastewater Systems Operators' Certification Program

The Environmental Quality Board (Board) adds Chapter 302 (relating to administration of the water and wastewater systems operators' certification program) and rescinds Chapters 301—303 and 305 to read as set forth in Annex A. This final-form rulemaking describes the process the State Board for Certification of Water and Wastewater System Operators (Certification Board) will follow to administer the Water and Wastewater Systems Operators' Certification Program (Program) and identifies the duties and responsibilities of the Department of Environmental Protection (Department) and the operators and owners of drinking water and wastewater treatment systems in this Commonwealth. Additionally, it establishes standards for operator certification, recertification, certification renewal and security training; defines the certification renewal period and requirements for certification renewal; establishes appropriate fees; and defines classifications and subclassifications for certification.

This order was adopted by the Board at its meeting on June 15, 2010.

#### A. *Effective Date*

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

#### B. *Contact Persons*

For further information, contact Veronica Kasi, Chief, Division of Technical and Financial Assistance, P. O. Box 8467, Rachel Carson State Office Building, Harrisburg, PA 17105-8467, (717) 772-4053; or William Cumings, 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, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final-form 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*

The final-form rulemaking is being made under the authority of section 4(c) of the Water and Wastewater Systems Operators' Certification Act (act) (63 P. S. § 1004(c)), which directs the adoption of rules and regulations necessary to implement the act, and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), which authorizes the Board to promulgate rules and regulations necessary for the performance of the work of the Department.

#### D. *Background and Purpose*

This final-form rulemaking describes the policies and procedures the Certification Board and the Department will follow to implement their responsibilities and duties under the act. This includes the procedures to be followed by applicants to become certified to operate a water or wastewater treatment system for the first time, to renew their certifications and to apply for reciprocity based on certification received from another state. The regulations

also describe the procedure the Certification Board will follow for the review of applications for certification, including the review of criminal history records (CHR). The regulations also define requirements for the suspension or revocation of an operator's certificate, upon petition by the Department and for the review of Department decisions related to operator training programs and courses. The final-form rulemaking also establishes the standards and requirements for operators of water and wastewater systems to become certified and maintain their certification. It also establishes the duties and responsibilities of operators and owners related to the operation of a community or nontransient, noncommunity water system, water distribution system, wastewater treatment system treating more than 2,000 gallons per day and a satellite wastewater collection system with a pump station. Finally, fees to cover the costs of Program administration are established.

This final-form rulemaking ensures that the Commonwealth's Program will continue to meet the Federal requirements established in the 1996 amendments to the Federal Safe Drinking Water Act for state drinking water programs. This final-form rulemaking is more stringent than the Federal guidelines in one area. The Federal guidelines apply only to drinking water system operators; this final-form rulemaking also applies to wastewater system operators. The decision to include wastewater system operators in the new requirements was made early in the process by the Certification Board and the Department after significant public input. This was done to improve Program consistency and implementation.

The Department and the Certification Board worked very closely with the Small Systems Technical Assistance Center for Small Systems (TAC) and the Certification Program Advisory Committee (CPAC) to draft Chapter 302. The elements of the overall structure of the Program were discussed in-depth with the respective committees. This resulted in consensus on the essential requirements and standards for certification and the roles and responsibilities of operators and system owners.

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

The Board approved the proposed rulemaking with a 30-day public comment period on April 21, 2009. A notice of proposed rulemaking was published at 39 Pa.B. 3591 (July 11, 2009). Public comments were accepted from July 11, 2009, through September 9, 2009. The comment period was extended at the request of the regulated community and the Independent Regulatory Review Commission (IRRC). The Department received comments from 77 commentators.

Based on comments received during this official comment period and because the proposed rulemaking contained significant changes in several areas, the Department prepared an Advanced Notice of Final Rulemaking (ANFR) package for additional public comment. A notice of the availability of the ANFR was published at 40 Pa.B. 560 (January 23, 2010). The ANFR was optional, as it is not required by the Regulatory Review Act (71 P.S. §§ 745.1—745.12). However, this procedure allowed the Department to solicit additional comments prior to presenting a final-form rulemaking package to the Board. Comments submitted to the Department on the ANFR are summarized and responded to by the Department in this preamble and in a separate more detailed comment and response document. Comments from the ANFR were received through February 26, 2010, with the Department receiving comments from 13 commentators. In addition to

the previous opportunities for public comment on the proposed rulemaking, the public was again provided an opportunity to comment at the Certification Board meeting on March 19, 2010. These comments were taken into consideration by the Certification Board in the preparation of their final comments on the regulations and both comment response documents prepared by the Department.

The following is a summary of each subchapter and the changes made from proposed to final-form rulemaking.

*Subchapter A.* This subchapter defines the universe of the regulated community impacted by these regulations, establishes definitions and clarifies the standards that shall be met for certification. This subchapter was restructured to split the universe of the regulated community between drinking water and wastewater systems and to highlight the standards of certification. A number of definitions were deleted. The following terms were added or edited: "Activated sludge," "Administrative hearing," "Board-designated agent," "Board guidelines," "Board Secretary," "Certificate program," "Client ID," "Contact hour," "Conventional filtration," "Department," "Direct filtration," "Environmental Hearing Board," "Environmental Quality Board," "Environmental statute," "Fee," "Groundwater," "Membrane filtration," "PLC—Programmable logic controls," "Permitted average daily discharge flow," "Person," "Political subdivision," "Post-presentation credit," "Public water system," "Recertification," "SCADA System—Supervisory control and data acquisition system," "Satellite collection system," "Single entity collection system," "Site-specific," "Ultraviolet disinfection" and "Upgrade."

*Subchapter B.* This subchapter prescribes what a complete application should include for certification, recertification, upgrade, renewal and reciprocity along with how to obtain the appropriate Department approved application forms. In addition, this subchapter discusses program fees. Revisions to this subchapter were made to clarify how to obtain appropriate Department-approved application forms from the Board Secretary or through the Department's web site and to refine how the fees will be applied.

*Subchapter C.* This subchapter covers the procedures the Certification Board will follow in implementing its powers and duties as defined in the act. These include the issuance of certificates for certification or recertification, upgrade, reciprocity, renewal and extensions. Also, this subchapter prescribes the actions the Board can take to suspend, revoke, modify or reinstate an operator's certificate upon petition by the Department or review Department training decisions. Revisions to this subchapter were made to provide more definitive time frames for these procedures.

*Subchapter D.* This subchapter identifies and explains the requirements for submission of a CHR, the investigation and review procedures the Board will adhere to, the prescribed actions the Board can take as a result of a CHR and the time frame for action by the Certification Board. Changes in this subchapter further clarified the requirements and responsibilities of the applicant, the Department and the Certification Board.

*Subchapter E.* This subchapter prescribes the general requirements for administrative hearings. These hearings will be conducted by the Certification Board in accordance with these procedures whenever the Department petitions the Certification Board to suspend, modify or revoke an operator's license. There were no substantive changes to this subchapter.

*Subchapter F.* This subchapter discusses the examination requirements. This includes general provisions for developing and administering valid certification examinations (using psychometric principles and recognized industry standards) to measure an applicant's knowledge, skills and abilities to make process control decisions. Additionally, this subchapter discusses the roles and responsibilities for the Department, the Certification Board and approved examination providers in the preparation and administration of these examinations. Eligibility requirements that an applicant shall comply with to take an examination are also defined. Revisions to this subchapter were made to limit the situations when an operator shall retake an examination.

*Subchapter G.* This subchapter discusses the minimum education, examination and experience requirements; defines the methodology for determining qualifying experience and creates an accelerated certification option for systems having to upgrade the system for various reasons that will require the available operators to also upgrade their license. Provisions for accelerated certification were modified in response to comments to clarify that operators who meet the requirements for accelerated certification do not have to meet additional experience requirements.

*Subchapter H.* This subchapter establishes standards for the training approval program, establishes the continuing education requirements for certificate renewal and defines the system security training requirements. Significant revisions were made to § 302.804 (relating to system security training requirements) in response to comments to add criteria to define when the Department would require additional training. The Department will also be required to notify the operators needing to take this additional training in writing.

*Subchapter I.* This subchapter deals with the classification and subclassification of water and wastewater systems. Revisions to §§ 302.901 and 302.902 (relating to classification and subclassifications of water systems; and classifications and subclassifications of wastewater systems) identified what conditions or circumstances the Department will consider when defining a change in classification or subclassification, or both, of a water or wastewater system. These include an increase in capacity that changes the class of the system, the addition or loss of a treatment technology, other Federal or State regulatory changes regarding a treatment technology used at a system and the issuance of a permit changing the class or subclassification of a system.

*Subchapter J.* This subchapter outlines the certification classes and subclassifications for water and wastewater operators. Also, operator-in-training status, grandparented operators and laboratory supervisor certification are discussed. Section 302.1006 (relating to laboratory supervisor certification) was revised to ensure consistency with Chapter 252 (relating to environmental laboratory accreditation).

*Subchapter K.* This subchapter applies to a professional engineer registered under the Engineer, Land Surveyor and Geologist Registration Law (63 P. S. §§ 148—158.2) who has been successfully examined in civil, environmental or sanitary engineering and is a certified operator or an applicant for operator certification. Also, provisions for issuance of initial certification and experience requirements for professional engineers are discussed.

*Subchapter L.* This subchapter defines the duties owners and operators may perform, identifies who can make

process control decisions, lists the components of a process control plan, defines standard operating procedures and its contents, characterizes the number of operators required at a system and defines the role of the operator in responsible charge. In addition, this subchapter defines the conditions under which an owner can choose to use a circuit rider or a programmable logic controls and supervisory control and data acquisition system (SCADA) to ensure process control decisions are made properly by a certified operator. Significant changes were made to this subchapter to refine the duties of operators and owners to address concerns of commentators about the level of operator liability, define criteria under which the Department would require a process control plan, to further refine who can make process control decisions at a system and to eliminate the need for an operator to submit written reports to the owner when the operator suspects conditions exist that are, or may, result in a violation. The operator would still be required to report these conditions to the owner, orally or otherwise. Required compliance was clarified to only include those Federal or State laws or rules and regulations promulgated or permit conditions and requirements applicable to the operation of water or wastewater systems. Section 302.1209 (relating to assessment of fines and penalties) was added to provide that fines and penalties for violations of certain sections of the act will only be assessed after an order of the Department has been violated.

#### *F. Summary of Comments and Responses Regarding the Proposed Rulemaking*

The Board approved the proposed rulemaking with a 30-day public comment period on April 21, 2009. A notice of proposed rulemaking was published at 39 Pa.B. 3591. Public comments were accepted from July 11, 2009, through September 9, 2009. The comment period was extended at the request of the regulated community and IRR. The Department received comments from 77 commentators.

Based on comments received during this official comment period and because the proposed rulemaking contained significant changes from existing regulations in several areas, the Department prepared an ANFR package for additional public comment. A notice of the availability of the ANFR was published at 40 Pa.B. 560. Comments from the ANFR were received through February 26, 2010, with the Department receiving comments from 13 commentators. In addition to the previous opportunities for public comment on the proposed rulemaking, the public was provided an opportunity to comment at the Certification Board meeting on March 19, 2010. These comments were taken into consideration by the Certification Board in the preparation of their final comments on the regulations and both comment response documents prepared by the Department.

The major changes made to the final-form rulemaking in response to comments received during the public comment period are categorized as follows:

*Definitions.* A number of definitions were revised as suggested by the commentators. In addition, the definitions for "Conventional filtration," "Membrane filtration" and "Ground water" were revised to ensure continued consistency with Chapter 109 (relating to safe drinking water).

*Scope.* This section was revised to more accurately capture the standards that shall be met to ensure compliance.

*Fees.* While the actual fee structure did not change, further clarification as to how the fees would be applied

was added. Several commentators requested that a dedicated fund for the program fees be established.

*Collection systems.* The section distinguishing the requirement for a certified operator based on ownership was deleted. The definitions for single entity and satellite collection systems were revised to parallel statutory language.

*Laboratory supervisor subclassification.* Sections referring to this subclassification were revised to ensure consistency between Chapter 302 and Chapter 252. Provisions for the grandparenting of existing laboratory supervisors were added. In addition, existing certified operators who want to continue as the laboratory supervisor will have 12 months after the Certification Board starts offering this subclass to satisfy the standards for certification.

*Operator liability.* Section 302.1209 replaced proposed § 302.1209, regarding satellite collection systems. Section 302.1209 was added to provide the Department's assessment of a penalty for violations of certain sections of the act will be based on a person's failure to comply with an order of the Department. This has always been the intention of the Department and the way the Program has been implemented since 2002. In addition, operator responsibility for compliance was limited to only those laws, rules and regulations and permit conditions regarding the operation of a water or wastewater system. Responsibility for results of standard operating procedures was limited to only those actions taken by operators under the direct supervision of the operator in responsible charge.

*Duties of operators.* The duties of operators were revised to parallel statutory language. Additional language to further clarify the statutory requirement for a report from the operator to an owner regarding violations and potential violations was deleted.

*Process control decisions.* Language pertaining to Department staff making process control decisions under specific situations was deleted.

*Process control plans.* Language was added to clarify when the Department would ask for the development of these plans and who would be responsible for their development.

*Security training.* Further definition as to when and how the Department could require additional security training beyond the initial training course was added.

The major changes made to the final-form rulemaking in response to comments received during the ANFR are categorized as follows:

*Scope.* This section was revised to more accurately capture who is impacted by the regulations.

*SCADA systems.* Language was revised to more accurately reflect the level of input an available operator should have in the programming, operation and maintenance of a SCADA system and how the use of these systems impact the operation of a water or wastewater system.

*Circuit riders.* Language was changed to ensure the requirements for the use of a circuit rider only apply to those systems owned by different entities but operated by the same available operator. In addition the content and requirements for a general workplan were modified.

The following were comments received during the public comment period that did not result in a change in the final-form rulemaking. The same topic was also raised by some commentators as part of the ANFR:

*Available operator report.* Commentators wanted the submittal of this report eliminated. However, the Department feels this report is an essential tool to ensure accuracy of the Department's records to comply with Federal and statutory requirements.

*Consequences of process control decisions.* A complete level of comfort with the issue of operator liability and the consequences of process control decisions cannot be reached in regulation because of the need to consider each situation on a case-by-case basis. Language provided by commentators as part of the ANFR process would have transferred much of this responsibility to the owner, instead of the operator. Federal guidelines and requirements do not allow for this transference.

The following comment was received during the ANFR process that did not result in a change in the final-form rulemaking:

*Automatic extensions.* Commentators wanted an automatic 90-day extension of an operator's renewal cycle if the operator had completed some, but not all, of the continuing education hours needed for certificate renewal. The existing framework allows for these extensions to be awarded upon request to the Certification Board. The Certification Board needs to continue to review these situations on a case-by-case basis and award the extensions when warranted.

One final issue identified by the commentators during the public comment period that did not result in a change to the final-form rulemaking at this time is allowing operators to "bank" extra continuing education credits from one renewal cycle to the next cycle. At the request of CPAC, TAC and the Certification Board, the Department initiated further research on the feasibility of implementing a "banking" option. To that end, the Department committed to working with CPAC, TAC, the Certification Board and other representatives of the regulated community, including approved training providers and certified operators, to explore issues relevant to the successful implementation of a "banking" option. If an option appears to be feasible, the Department may initiate regulatory revisions to allow for the banking of extra continuing education credits. The Department's analysis will be done as soon as possible, but no later than 3 years from now when the Department is required to submit its first review of the proposed fee structure.

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

*Benefits.* The intended results of these regulations are to protect the environment, ensure the public's health and safety and promote the long-term sustainability of this Commonwealth's drinking water and wastewater treatment systems by ensuring that certified operators with the appropriate knowledge, skills and abilities are available to make the necessary process control decisions. Therefore, the biggest beneficiary of these regulations is the general public.

The classification and subclassification framework more accurately reflects what the operator needs to understand to operate a system effectively and successfully. This framework was developed in partnership with representatives of the regulated community to meet their needs. In addition, in some instances, once certified, many operators will receive an increase in pay. Finally, the system



owners may also benefit from cost savings realized through more effective and efficient operation of their water or wastewater system.

Implementation of these regulations will ensure continued approval of the program by the United States Environmental Protection Agency (EPA). This approval is reviewed on an annual basis. If the EPA chooses not to approve the Program, the Commonwealth stands to lose approximately \$5.8 million per year in Federal funding for the State Revolving Loan Fund, administered by the Pennsylvania Infrastructure Investment Authority.

*Compliance costs.* An individual responsible for making process control decisions at a drinking water or wastewater

treatment system in this Commonwealth shall be appropriately certified for that system. A process control decision is a decision that changes or maintains water quality or water quantity to protect public health or the environment. Owners of a drinking water community or nontransient noncommunity water system, drinking water distribution system, wastewater treatment system treating more than 2,000 gallons per day or a satellite wastewater collection system with a pump station shall designate at least one certified operator to make all the process control decisions for the system.

The estimated costs to the operator to comply with provisions of these regulations are summarized in Table 1.

*Table 1. Estimated Costs to the Operator*

<i>Requirement</i>	<i>Cost</i>	<i>Description/Comments</i>
Initial certification	\$150	Paid to the Department. This fee is incurred when a person submits an application to become a certified operator. This certification is valid for 3 years.
Certification renewal	\$60	Paid to the Department. This cost is incurred once every 3 years after the initial certification period.
Examination fee for both initial certification and certain upgrades to license	\$35 per examination session	Paid to the Department. Operators are allowed to take as many examinations as they think they can complete in 4 hours. Most operators are able to complete the necessary examinations needed for the more common treatment systems within one or two sessions.
Examination provider registration fee	Varies	Paid to the approved examination provider. These fees are not established by the Department. However, the Department recommends less than \$100. Fees are designed to allow the approved examination provider the ability to recover incurred costs.
CHR	\$10	Onetime fee charged by the Pennsylvania State Police.
Continuing education	\$240—\$900	Paid to one of the Department's approved training providers. Depends on number of hours needed and average cost per hour for training

These regulations authorize an annual service fee for system owners, based on the amount of flow the system is permitted to treat. The assessment of this fee is tied to the classification of the system and the certification class needed by the system owner's designated available operators. The maximum fee that any one owner of more than one system pays is \$10,000. The only other cost for compliance for the owner is the actual cost for hiring a certified operator. The average cost to hire a certified operator is between \$30,000 and \$80,000 per year (based on a limited survey of operators completed in 2003). It is strongly advised that owners hire more than one certified operator. However, unless there are problems at the system, this responsibility is left to the owner. If necessary, the Department does have the authority to order the owner to hire additional certified operators to address specific environmental compliance problems. In addition, the owner may choose to cover the operator's costs for obtaining continuing education contact hours. This is an arrangement negotiated between the owners and their certified operators.

#### *Compliance Assistance Plan*

The Department is implementing a comprehensive training and compliance assistance strategy to assist operators and owners who are required to comply with the program. This includes web-based training through the Department's EarthWise Academy, additional classroom training as needed, a comprehensive training approval process and packaged training programs. This comprehensive strategy is designed to take advantage of existing training expertise in the industry and promote a market for training providers to meet the training needs of this program. Additional compliance assistance is available through the Drinking Water Capability Enhancement Program, the Wastewater Diagnostics Program and the Drinking Water and Wastewater Outreach Assistance Provider Programs.

#### *Paperwork Requirements*

The following is a list of paperwork requirements for the operator in Chapter 302. Beyond the operator's time and the Program fees previously identified, there are no additional costs for this rulemaking.

1. Certification examination registration form (to register to take an examination).

2. Application for certification action (for certification, recertification, certification upgrade or certification through reciprocity).

3. Application for certification renewal (done once every 3 years).

4. CHR from the Pennsylvania State Police.

5. Application for exemption (only needed if operator will not be able to complete requirements for initial certification or certification renewal due to extenuating circumstances such as military service or health problems).

6. The development and approval of standard operating procedures if the operator and owner choose to utilize this tool to ensure all process control decisions are made by an available operator.

7. The development and approval of a process control plan that describes the operational procedures for a drinking water or wastewater treatment system. This will only be required by the Department on a case-by-case basis; depending on the level of noncompliance at the system and the existence of equivalent plans, such as an operation and maintenance plan, an emergency response plan or standard operating procedures.

8. The development of a management plan or contract, if an operator wants to serve as a circuit rider, when the owner is responsible for more than one drinking water or wastewater treatment system. The management plan or contract should identify the systems, their characteristics, points of contact and the number of visits or expected hours the operator will complete in a designated time frame. System specific plans shall also be developed for each system to include procedures to be followed by personnel at the system when the circuit rider is not at the system.

9. The operator shall notify the owner of violations or potential violations at the system. Recommendations, if the operator has any, for resolving the problem should also be included.

The owner will need to report the names, addresses and level of certification of all operators designated as available operators for the system upon written request from the Department. Changes in available operators shall be reported within 10 days. If the owner chooses to designate an operator in responsible charge to utilize standard operating procedures, the name, address and level of certification of the operator shall also be reported to the Department upon request.

A training provider who would like to provide training to operators to meet the training or continuing education requirements shall become an approved training sponsor and have courses approved. This process is documented in the "Training Provider Manual for the Pennsylvania Water and Wastewater System Operator Training Program," DEP ID: 383-2300-002.

An entity which would be an approved examination provider shall become approved and comply with the Certification Board guidelines for the scheduling of examinations and the registration of applicants.

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 De-

partment encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally-friendly materials, more efficient use of raw materials and the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance. This final-form rulemaking incorporated the following pollution prevention incentives by ensuring that qualified, certified operators are making all operational decisions in this Commonwealth's drinking water and wastewater treatment systems. The water and wastewater treatment system operator is the key element in overall process control. By improving the certified operator's capabilities, more effective treatment and removal of pollutants and better use of available resources will result. Testing and training programs are designed to focus on different ways the operator can more effectively operate the system to minimize and prevent pollution and conserve energy.

I. *Sunset Review*

The regulations 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 30, 2009, the Department submitted a copy of the notice of proposed rulemaking, published at 39 Pa.B. 3591, to IRRC and to the House and Senate Environmental Resources and Energy Committees (Committees) for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on August 4, 2010, the final-form rulemaking was deemed approved by the Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on August 5, 2010, and approved the final-form rulemaking.

K. *Findings*

The Board finds that:

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

(2) A public comment period was provided as required by law and all comments were considered. Also, the Department undertook an ANFR, optional process not required by law, to allow an additional 30 day comment period. Notice of the ANFR was published at 40 Pa.B. 560.

(3) These regulations do not enlarge the purpose of the proposed rulemaking published at 39 Pa.B. 3591.

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

## L. Order

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

(a) The regulations of the Department, 25 Pa. Code Chapters 301—303 and 305, are amended by deleting §§ 301.1—301.3, 301.11—301.13, 303.1—303.3, 303.11—303.14, 303.21—303.28, 303.31—303.34 and 305.1—305.7 and by adding §§ 302.101—302.104, 302.201, 302.202, 302.301—302.309, 302.401—302.404, 302.501, 302.601—302.605, 302.701—302.705, 302.801—302.804, 302.901, 302.902, 302.1001—302.1006, 302.1101—302.1103 and 302.1201—302.1209 to read as set forth in Annex A.

(*Editor's Note:* The addition of § 302.104 was not included in the proposed rulemaking published at 39 Pa.B. 3591.)

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

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

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

(e) This order shall take effect immediately.

JOHN HANGER,  
Chairperson

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 40 Pa.B. 4814 (August 21, 2010).)

**Fiscal Note:** Fiscal Note 7-443 remains valid for the final adoption of the subject regulations.

## Annex A

## TITLE 25. ENVIRONMENTAL PROTECTION

## PART II. STATE BOARD FOR CERTIFICATION OF SEWAGE TREATMENT PLANT AND WATERWORKS OPERATORS

## CHAPTER 301. (Reserved)

## §§ 301.1—301.3. (Reserved).

## §§ 301.11—301.13. (Reserved).

## CHAPTER 302. ADMINISTRATION OF THE WATER AND WASTEWATER SYSTEMS OPERATORS' CERTIFICATION PROGRAM

## Subch.

A.	GENERAL PROVISIONS
B.	GENERAL REQUIREMENTS FOR APPLICATIONS FOR CERTIFICATION ACTIONS
C.	BOARD PROCEDURES AND ACTIONS
D.	CRIMINAL HISTORY RECORDS
E.	ADMINISTRATIVE HEARINGS OF THE BOARD
F.	PREPARATION AND ADMINISTRATION OF CERTIFICATION EXAMINATIONS
G.	EDUCATION, EXAMINATION AND EXPERIENCE REQUIREMENTS
H.	CONTINUING EDUCATION AND TRAINING
I.	SYSTEM CLASSIFICATION AND SUBCLASSIFICATIONS
J.	OPERATOR CLASSES AND SUBCLASSIFICATIONS
K.	PROFESSIONAL ENGINEERS
L.	SYSTEM OPERATION

## Subchapter A. GENERAL PROVISIONS

Sec.	
302.101.	Definitions.
302.102.	Purpose.
302.103.	Scope.
302.104.	Certification requirements.

## § 302.101. Definitions.

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

*Accelerated certification*—A method of upgrading a system's available operators' certificates to accommodate a change in the system's capacity or treatment technology.

*Act*—The Water and Wastewater Systems Operators' Certification Act (63 P. S. §§ 1001—1015.1).

*Activated carbon adsorption*—A water treatment process designed to improve the quality of water being treated by using activated granular or powdered carbon to remove specific organic chemical compounds by adsorption.

*Activated sludge*—The treatment technology that mechanically introduces air into wastewater to achieve microbiological suspended growth treatment such as extended aeration, sequential batch reactors, contact stabilization, conventional, step feed or oxidation ditch.

*Administrative hearing*—A meeting of the Board, or Board-designated agent, held upon petition of the Department to revoke, suspend, modify or reinstate an operator's certificate in accordance with 2 Pa.C.S. Chapter 5, Subchapter A (relating to practice and procedure of Commonwealth agencies).

*Aeration*—A water treatment process designed to improve the quality of water being treated by introducing air or oxygen into water to remove undesirable dissolved gases, to remove volatile organic compounds or to oxidize inorganic compounds so they can be removed as particulates.

*Applicant*—A person seeking certification as a water or wastewater system operator.

*Application for certification action*—A written request for the Board to take a certification action using approved Department forms.

*Available operator*—A certified operator who is onsite or able to be contacted as needed to make process control decisions in a timely manner to protect public health and the environment.

*Bioperable operator*—A certified operator who holds a valid certificate for both water and wastewater systems.

*Bioperable training*—Department-approved continuing education training that has content that is applicable to both water and wastewater systems.

*Board*—The State Board for Certification of Water and Wastewater Systems Operators.

*Board-designated agent*—A Board member, Certification Program Advisory Committee member or Department staff person who completes certain duties on behalf of the Board.

*Board guidelines*—The guidelines established to carry out the powers and duties of the Board.

*Board Secretary*—A Department staff member elected by the Board to implement administrative aspects of the Drinking Water and Wastewater System Operators' Certification Program.

*CHR—Criminal history record*—A report of criminal history record issued by the Pennsylvania State Police under 18 Pa.C.S. Chapter 91 (relating to criminal history record information).

*Cartridge or bag filtration*—For drinking water, a process for the purpose of substantial particulate removal by straining with bag or cartridge filters manufactured of various materials and pore sizes.

*Certificate program*—A Department-approved curriculum or series of training courses leading to a certificate or diploma in water or wastewater treatment.

*Certification*—The process by which an individual obtains a water or wastewater system operator's certificate.

*Certification action*—Action taken by the Board related to a certification examination or recertification or the issuance of an initial certificate, certificate renewal or certificate through reciprocity.

*Certification Program Advisory Committee*—The advisory committee created under the act.

*Certified operator*—An operator who holds a valid certificate in accordance with the act.

*Chemical addition*—A water treatment process designed to improve the quality of the water being treated through the addition of chemicals such as lime, soda ash, caustic soda and permanganate.

*Circuit rider*—A management program in which a certified operator may make process control decisions at more than one system of different ownership.

*Class*—An alphabetic letter assigned by the Department to a water or wastewater system based upon the classification of a system or an alphabetic letter assigned to an individual's certificate.

*Classification*—The size or type of a water or wastewater system.

*Clean Streams Law*—The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

*Client ID*—The unique data management system generated identification number assigned to the operator used to track the operator's certification records.

*Collection system*—A system of pipelines or conduits, pumping stations and force or gravity mains used for collecting and conveying wastes to a point of treatment and disposal.

*Community water system*—A public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

*Consecutive system*—

(i) A public water system that obtains all of its water from another public water system and resells the water to a person, provides treatment to meet a primary maximum contaminant level or provides drinking water to an interstate carrier.

(ii) The term does not include bottled water and bulk water systems as defined in § 109.1 (relating to definitions).

*Contact hour*—The standard unit of measure assigned by the Department for participation in a Department-approved training event based on the amount of instruction time received.

*Continuing education*—Approved activities to include training, outreach programs, contact hours, meetings,

presentations and other activities designed to increase the knowledge, skills and abilities of system operators.

*Conventional filtration*—For drinking water, the series of processes for the purpose of substantial particulate removal consisting of coagulation, flocculation, clarification and granular media filtration. The clarification step must be a solid/liquid separation process where accumulated solids are removed during this separate component of the treatment system.

*Corrosion control and sequestering*—A water treatment process designed to mitigate the adverse effects of corrosion in drinking water.

*Department*—The Department of Environmental Protection of the Commonwealth.

*Diatomaceous earth filtration*—For drinking water, a process for the purpose of substantial particulate removal, in which a precoat cake of diatomaceous earth filter media is deposited on a support membrane (septum) and, while the water is filtered by passing through the cake on the septum, additional filter media, known as body feed, is continuously added to the feed water, to maintain the permeability of the filter cake.

*Direct filtration*—For drinking water, a series of processes implemented for the purpose of substantial particulate removal consisting of coagulation and filtration. The term includes flocculation after coagulation, but does not include sedimentation.

*Distribution system*—Pipelines, appurtenances, devices and facilities that convey potable water under pressure to customers.

*Drinking water environmental laboratory supervisor*—An individual having the knowledge, skills and abilities necessary to supervise laboratory procedures and the reporting of analytical data for an environmental laboratory operated by a drinking water system in accordance with industry, State and Federal standards.

*Environmental Hearing Board*—The board established under the Environmental Hearing Board Act (35 P. S. §§ 7511—7516).

*Environmental laboratory*—A facility engaged in the testing or analysis of environmental samples.

*Environmental Quality Board*—The board established under section 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510—20).

*Environmental sample*—A solid, liquid, gas or other specimen taken for the purpose of testing or analysis as required by an environmental statute.

*Environmental statute*—A statute administered by the Department or the EPA relating to the protection of the environment or protection of public health, safety and welfare.

*Examination*—A test module or grouping of test modules administered by the Board or its designated agent used in part to determine the competency of applicants for certification or recertification.

*Fee*—A nonrefundable cost assigned to cover the expenses of the program.

*Fixed film treatment*—A wastewater treatment technology that uses a fixed contact media to achieve treatment such as trickling filters and rotating biological contactors.

*GED*—General equivalency diploma.

*Gaseous chlorine disinfection*—A water treatment process designed to inactivate pathogenic organisms from water being treated utilizing gaseous chlorine.

*Grandparented*—The temporary exemption for an existing operator of an existing system, as of February 21, 2002, from the initial educational and examination requirements for certification where a system was not required by prior law to have a certified operator. A grandparented operator may be the operator in responsible charge.

*Groundwater*—Water that is located within the saturated zone below the water table and is available to supply wells and springs.

*Hydraulic design capacity*—The maximum monthly design flow at which a drinking water or wastewater system is expected to consistently provide the required treatment or at which a distribution or collection system is expected to properly function without creating a backup, surcharge or overflow.

*Industrial wastewater treatment system*—Any system that treats industrial waste or pollution, but not sewage, as those terms are defined in section 1 of The Clean Streams Law (35 P. S. § 691.1).

*Investigation*—A detailed inquiry as to the nature, circumstances and official records regarding an applicant or certified operator's criminal conviction as identified in a criminal history record.

*Ion exchange and greensand*—A water treatment process such as greensand filtration, ion exchange or activated alumina designed to improve the quality of water being treated by removal of inorganic constituents.

*Master certificate*—A certificate authorizing an operator to make process control decisions at any water or wastewater system of a specific size, regardless of the treatment technology subclassifications used by that system.

*Membrane filtration*—For drinking water:

(i) A pressure or vacuum driven separation process in which particulate matter larger than 1 micrometer is rejected by an engineered barrier, primarily through a size-exclusion mechanism, and which has a measurable removal efficiency of a target organism that can be verified through the application of a direct integrity test.

(ii) The term includes the common membrane technologies of microfiltration, ultrafiltration, nanofiltration and reverse osmosis.

*NPDES*—The National Pollutant Discharge Elimination System as authorized under section 402 of the Federal Clean Water Act (33 U.S.C.A. § 1342).

*Noncommunity water system*—A public water system which is not a community water system.

*Nongaseous chemical disinfection*—A water treatment process designed to inactivate pathogenic organisms from water being treated utilizing nongaseous chemical elements or compounds.

*Nontransient noncommunity water system*—A noncommunity water system that regularly serves at least 25 of the same persons over 6 months per year.

*Operator*—

(i) An individual who works with water or wastewater system processes or portions thereof.

(ii) The term includes, but is not limited to, an individual who may be gaining experience to obtain certification in appropriate subclassifications within classifica-

tions of certification. These individuals will have a working knowledge of system operation.

*Operator-in-responsible-charge*—An individual designated by the owner to be the certified operator who makes the process control decisions that directly impact the quality or quantity, or both, of water.

*Operator-in-training*—An applicant for certification who has passed the certification examination but does not meet the experience requirements.

*Order of the Department*—An order of the Department issued under section 4(b)(2) of the act (63 P. S. § 1004(b)(2)) and orders of the Department issued under section 4(b)(1.1) of the act.

*Owner*—A person who owns or is the holder of an applicable permit for the operation of a water or wastewater system.

*Ozonation*—The water treatment process designed to inactivate pathogenic organisms from water being treated utilizing ozone.

*PLC—Programmable logic controls*—A small computer used for automated control of machinery used for water and wastewater treatment. The PLC replaces the many timers, relays and other devices used to control start/stop, run time and level controls of this machinery.

*Permitted average daily discharge flow*—The permitted annual average daily discharge flow, as stated in the NPDES or Water Quality Management (WQM) permit.

*Person*—

(i) An individual, company, corporation, municipality, municipal authority, partnership, firm, association, trust, estate, public or private institution, or any agency of Federal or State government.

(ii) The term also includes the officers, directors, employees and agents of any partnership, firm, association, company, corporation, municipality, municipal authority, public or private institution or any agency of Federal or State government.

*Petition*—A written request from the Department to the Board to take an action to modify, suspend, revoke or reinstate a certified operator's certificate.

*Post-presentation credit*—Contact hours for precertification or continuing education credit for a training course not previously approved by the Department. An operator may obtain post-presentation credit upon application to the Department.

*Process control decision*—A decision that maintains or changes the water quality or quantity of a water system or wastewater system in a manner that may affect the public health or environment.

*Process control plan*—A plan developed by an operator in responsible charge that outlines the facilities, methods, activities and treatment alternatives necessary to meet permit requirements and provide long term and reliable system operations.

*Professional engineer*—An engineer registered under the Engineer, Land Surveyor and Geologist Registration Law (63 P. S. §§ 148—158.2), who has been examined in civil, sanitary or environmental engineering and determined proficient.

*Psychometrics*—The analytical methodology and design of tests to evaluate and measure psychological variables such as intelligence and aptitude.

*Public water system—*

(i) A system which provides water to the public for human consumption which has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. The term includes collection, treatment, storage and distribution facilities under control of the operator of the system and used in connection with the system.

(ii) The term includes collection or pretreatment storage facilities not under control of the operator which are used in connection with the system.

(iii) The term also includes a system which provides water for bottling or bulk hauling for human consumption. Water for human consumption includes water that is used for drinking, bathing and showering, cooking, dishwashing or maintaining oral hygiene

*Recertification*—The process by which an individual previously certified under the act, obtains a new certificate following expiration, suspension or revocation of the previous certificate.

*Renewal of certification*—The process by which an individual extends for another period of time an existing, valid water system or wastewater system operator's certificate under the act.

*SCADA—Supervisory control and data acquisition system*—A specialized computer system designed to monitor and control many of the processes and operations for water and wastewater treatment. A SCADA system controls equipment based on predetermined criteria, monitors the status of treatment processes and equipment and initiates commands automatically based on conditions or thresholds defined by the available operator. The available operator can also initiate process control changes from a workstation connected to the SCADA system.

*Satellite collection system*—A wastewater system consisting only of collection facilities with at least one pump station, which is designed to convey in excess of 2,000 gallons per day of untreated wastewater to a wastewater system owned by a different entity.

*Serving an average*—The hydraulic design capacity of a water system.

*Single entity collection system*—A wastewater system consisting only of collection facilities with at least one pump station which is designed to convey in excess of 2,000 gallons per day of untreated wastewater to a wastewater treatment system owned by the owner of the collection system.

*Slow sand filtration*—For drinking water, a process for the purpose of substantial particulate removal by physical and biological mechanisms during the passage of raw water through a bed of sand at low velocity, generally less than 0.4 meter per hour.

*Subclassification*—A number assigned by the Department to a water or wastewater system based upon the treatment process used by that system or the number assigned to an operator's certificate based upon meeting the certification requirements for a specific treatment process.

*System*—A water or wastewater system.

*Track*—A combination of approved education and experience requirements necessary to qualify for operator certification.

*Training approval process guidelines*—Department guidelines authorized by the act that set standards for

training sponsors, courses, course content, training approval criteria and training provider approval criteria.

*Training provider*—A person who designs or delivers any type of education or training activities, courses or programs.

*Training sponsor*—A training provider approved by the Department to provide training to water and wastewater system operators in this Commonwealth in accordance with the Department's training approval process guidelines.

*Treatment*—The physical, chemical or biological process necessary to change, modify or maintain the chemical or biological nature of water.

*Treatment ponds and lagoons*—A wastewater treatment technology that utilizes a pond, lagoon or wetlands with anaerobic or facultative biological processes for the treatment of wastewater and meets the following criteria:

(i) A design hydraulic detention time in the treatment process of 15 days or greater.

(ii) A biological treatment process that does not have any return activated sludge system.

(iii) A biological treatment process that is impacted by diurnal fluctuations as a result of photosynthesis.

*Trigger parameter*—A set-point for a designated biological, chemical or physical parameter that requires a response by the operator in responsible charge.

*Ultraviolet disinfection*—A water treatment process that inactivates pathogenic organisms using light with a wavelength range of 1,000 to 4,000 angstroms.

*Upgrade*—The certification process an existing certified operator follows to increase the operator's ability to make process control decisions at a system with a higher flow or additional treatment technologies.

*Wastewater*—A substance that contains the waste products or excrement or other discharge from the bodies of human beings or animals and noxious or deleterious substances being harmful or inimical to the public health, or to animal or aquatic life, or to the use of water for domestic water supply or for recreation, or which constitutes pollution under The Clean Streams Law.

*Wastewater environmental laboratory supervisor*—An individual having the necessary knowledge, skills and abilities necessary to supervise laboratory procedures and reporting of analytical data for an environmental laboratory operated by a wastewater or industrial waste system in accordance with industry, State and Federal standards.

*Wastewater system*—A structure designed to collect, convey or treat wastewater and from which effluent in excess of 2,000 gallons per day is discharged into waters of this Commonwealth.

*Water system*—A community water system or a nontransient noncommunity water system as those terms are defined in section 3 of the Pennsylvania Safe Drinking Water Act (35 P. S. § 721.3).

**§ 302.102. Purpose.**

(a) The purpose of this chapter is to protect the environment and the public's health and safety by ensuring that certified operators with the appropriate knowledge, skills and abilities make appropriate process control decisions during the operation of water and wastewater treatment systems, water distribution systems and wastewater collection systems.

(b) This chapter establishes the training, education, experience and examination standards necessary for operator certification.

(c) This chapter also establishes the administrative processes and procedures the Board will follow to implement the Board's duties and responsibilities under the act.

**§ 302.103. Scope.**

(a) Owners and operators of the following public water systems shall comply with this chapter:

- (1) Community water systems.
- (2) Nontransient noncommunity water systems.
- (3) Consecutive systems.

(b) Owners and operators of the following wastewater systems shall comply with this chapter:

- (1) Wastewater systems.
- (2) Collection systems with pump stations.

(c) Owners and operators of the following systems are exempt from the requirements of this chapter:

(1) A wastewater treatment system with a permitted average daily discharge flow of less than 2,000 gallons per day.

(2) A wastewater treatment system regulated under Chapter 73 (relating to standards for onlot sewage treatment facilities).

(3) An industrial wastewater system used to treat, recycle or impound industrial or agricultural wastes within the boundaries of the industrial or agricultural property.

(4) An industrial wastewater pretreatment system in which treated wastewater is released to a collection system of a wastewater treatment plant that is regulated by this chapter.

(5) An industrial wastewater treatment system that is an NPDES permitted point source discharge.

(6) A system designed to only collect and treat stormwater.

(7) Other systems that are exempted by the Department by rules and regulations, guidelines or policy.

(d) Operators of industrial wastewater treatment facilities may voluntarily obtain a wastewater system operator's certificate consistent with this chapter.

**§ 302.104. Certification requirements.**

(a) A person may not make a process control decision at a water or wastewater system unless that person is Board-certified with a valid certificate with the appropriate class and subclassifications for the size and treatment technologies of a water or wastewater system and is designated by the owner as an available operator as defined in § 302.1202 (relating to duties of owners).

(b) To become certified by the Board, the applicant shall:

(1) Apply for certification in accordance with § 302.201 (relating to form of application).

(2) Pass the appropriate examinations as defined in § 302.702 (relating to examination requirements) or an equivalent examination as defined in § 302.304 (relating to issuance of a certificate through reciprocity).

(3) Meet minimum education requirements as defined in § 302.701 (relating to minimum education requirements).

(4) Meet the experience requirements as defined in § 302.703 (relating to experience requirements).

**Subchapter B. GENERAL REQUIREMENTS FOR APPLICATIONS FOR CERTIFICATION ACTIONS**

Sec.

302.201. Form of application.

302.202. Operator certification program fees.

**§ 302.201. Form of application.**

(a) An applicant for examination or a certification action shall submit a complete application with required documentation using the appropriate Department-approved forms to the Board's Secretary. These forms can be obtained by contacting the Board Secretary, P. O. Box 8454, Harrisburg, PA 17105-8454 or through the Department's web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us), Keyword: "Operators."

(b) In addition to the forms described in subsection (a), an application for certification action for either certification or recertification must include:

(1) An original or copy of the applicant's Pennsylvania State Police CHR, issued no more than 90 days prior to the date the application is received by the Board Secretary.

(2) For education purposes, one of the following:

(i) A copy of the applicant's high school diploma or GED or a statement of completion of high school or achievement of GED.

(ii) Written verification by the applicant's supervisor or another certified operator with direct knowledge of the applicant's experience working as an operator in a water or wastewater system before February 21, 2002.

(3) Documentation of the applicant's experience as defined in § 302.704 (relating to determining qualifying experience) and verified by the applicant's supervisor or another certified operator with the knowledge of the applicant's experience.

(4) An official copy of the applicant's college transcripts, if applicable.

(5) Copies of certificates of completion of Department-approved training courses if applicable.

(6) The applicant's notarized signature.

(7) The applicable fees specified in § 302.202 (relating to operator certification program fees).

(c) In addition to the forms described in subsection (a), an application for certification action for certificate upgrade must include:

(1) An official copy of the applicant's college transcripts, if applicable.

(2) Documentation of the applicant's additional experience for the additional class or subclassification as defined in §§ 302.703 and 302.704 (related to experience requirements; and determining qualifying experience), verified by the applicant's supervisor or another certified operator with the knowledge of the applicant's experience.

(3) Copies of certificates of completion of Department-approved training courses, if applicable.

(4) The applicant's notarized signature.

(5) The applicable fees specified in § 302.202.

(d) In addition to the forms described in subsection (a), an application for certification action for certificate renewal must include:

- (1) Proof of completed continuing education.
- (2) The applicant's notarized signature.
- (3) The applicable fees specified in § 302.202.

(e) In addition to the forms described in subsection (a), an application for certification action for reciprocity must include:

- (1) An original or copy of the applicant's Pennsylvania State Police CHR, issued no more than 90 days prior to the date the application is received by the Board Secretary.
- (2) A copy of the applicant's operator certificate issued by another state, territory or Board-approved register as defined in § 302.305 (relating to Board-approved reciprocity register).
- (3) For education purposes, one of the following:
  - (i) A copy of the applicant's high school diploma or GED or a statement of completion of high school or achievement of GED.
  - (ii) Written verification by the applicant's supervisor or another certified operator with direct knowledge of the applicant's experience working as an operator in a water or wastewater system before February 21, 2002.
- (4) Documentation of the applicant's experience as defined in § 302.704 and verified by the applicant's supervisor or another certified operator with the knowledge of the applicant's experience.
- (5) A copy of the applicant's official transcripts from college, if applicable.
- (6) Copies of certificates of completion of Department-approved training courses if applicable.
- (7) The applicant's notarized signature.
- (8) The applicable fees specified in § 302.202.

**§ 302.202. Operator certification program fees.**

- (a) An application for a certification action or post-presentation credit must be accompanied by a nonrefundable check or money order payable to the "Commonwealth of Pennsylvania." The applicant's client ID should be printed on the check or money order.
- (b) Applications to become an approved training provider, course and conference approvals, course rosters and requests for examination sessions must be accompanied by a nonrefundable check or money order payable to the "Commonwealth of Pennsylvania."
- (c) The annual service fee paid by system owners must be accompanied by a nonrefundable check or money order payable to the "Commonwealth of Pennsylvania." The system Public Water Supply ID or NPDES Permit Number should be printed on the check or money order. The annual service fee for systems in subsection (d) is a fee per public water supply ID, NPDES permit number (for discharge systems), Clean Streams Law permit number (for nondischarge systems) or satellite collection system. If this annual service fee is not remitted within 60 days of notification by the Department that the fee is due, interest shall accrue on the entire amount from the original date payment was due, at a rate of 12% per annum until payment is remitted.
- (d) Fees shall be paid into the State Treasury into a special restricted revenue account in the General Fund

known as the Safe Drinking Water Account administered by the Department for use in protecting the public from the hazards of unsafe drinking water and which funds are hereby appropriated to the Department for purposes authorized in the act.

(e) The fees are as follows:

*Operators:*

Initial Certification Class A, B, C, D .....	\$150
Initial Certification Class Dc, Class E .....	\$100
Certification through Reciprocity Class A, B, C, D ..	\$150
Certification through Reciprocity Class Dc; Class E .	\$100
Certificate Renewal .....	\$60
Examination Session .....	\$35
Replacement of Certificate or Pocket Card .....	\$25
Post-presentation Credit Application .....	\$250

*Training:*

Training Provider Approval Application .....	\$90
Brief Course Approval .....	\$115
Full Course Approval .....	\$300
Conference Approval .....	\$70
Course Rosters .....	\$1 per name
Classroom Courses offered by the Department are \$10 per contact hour maximum per person.	
Web-based Courses offered by the Department are \$30 per contact hour maximum per person.	

Onsite Training offered by the Department is \$1,600 per event.

*Approved Examination Providers:*

Ten or more examination sessions per year .....	\$800
Five to ten examination sessions per year .....	\$700
Two to five examination sessions per year .....	\$600
One examination session per year .....	\$400

*Owners:*

Annual Service Fee Class A System .....	\$500
Annual Service Fee Class B System .....	\$150
Annual Service Fee Class C System .....	\$100
Annual Service Fee Class D and E Systems .....	\$65

(f) An operator holding a valid certificate as of September 18, 2010, is not required to pay the initial certification fees identified in subsection (e). This operator is subject to all other fees in this section.

(g) The fees identified in subsection (e) are in addition to any fees charged by an approved examination provider as defined in § 302.602 (relating to approved examination providers)

(h) The fees identified in subsection (e) related to course approval are a one-time fee assessed for the course. Training providers that have courses approved as of September 18, 2010, are not required to pay this fee for these approved courses.

(i) A conference approval fee is a one-time fee assessed for the entire conference and is not based on the number of training sessions in the conference.

(j) Persons regulated by the act will not pay more than a total of \$10,000 annually to the Commonwealth for operator certification fees specified under subsection (e).



(k) Federal or State agencies that provide funding to the Department through terms and conditions of a mutual agreement for the administration of this program will not be subject to the fees in subsection (e).

(l) The Department will review the adequacy of the fees established in this section at least once every 3 years and provide a written report to the EQB. The report will identify any disparity between the amount of program income generated by the fees and the costs to administer these programs, and it will contain recommendations to modify fees to eliminate the disparity, including recommendations for regulatory amendments to modify program fees.

### Subchapter C. BOARD PROCEDURES AND ACTIONS

Sec.

- 302.301. Board procedures for certification action.
- 302.302. Issuance of certificate for certification or recertification.
- 302.303. Issuance of upgraded certificate.
- 302.304. Issuance of certificate through reciprocity.
- 302.305. Board-approved reciprocity register.
- 302.306. Certificate renewal.
- 302.307. Extensions.
- 302.308. Suspensions, revocation or modification of an operator's certificate.
- 302.309. Board review of Department training decisions.

#### § 302.301. Board procedures for certification action.

(a) The Board Secretary will review the application for certification action for completeness.

(b) If the application is not complete, the applicant will be notified within 14 days from receipt of the application, of the specific information required to make the application complete.

(c) When an application is complete, the Board Secretary will review the application using policy and procedures defined by the Board in guidelines and make a recommendation for action to the Board designating the appropriate class and subclassification.

(d) The Board, or the Board Secretary, as authorized by the Board, will take action on an application for certification within 120 days of receipt of a complete application. If the Board determines additional information from the applicant is necessary to complete the review of the Board Secretary's recommendation, final action on the application will be delayed until this information is provided. Within 120 days of receipt of the requested information, the Board will take final action on the application for certification.

(e) The Board Secretary will issue the operator's certificate within 60 days of Board action. A certificate will include the issuance and expiration dates, class and subclassifications, client ID and certification identification numbers and pocket card for identification purposes.

(f) The issuance date on the certificate corresponds with the date of Board action and the operator is assigned to the current 3-year renewal cycle (either the first day of January, April, July or October). The certificate is valid for a 3-year period and will expire on the date indicated unless suspended, modified or revoked by the Board prior to expiration.

(g) The Board will deny an application for certification action for failure to meet the requirements of the act, this chapter, and any other Federal or State law or rules and regulations promulgated thereto applicable to the operation of water and wastewater systems.

(h) The Board authorizes the Board Secretary to deny an application for certification action without Board review for failure to:

(1) Meet the requirements for reciprocity as defined in § 302.304 (relating to issuance of certificate through reciprocity).

(2) Meet processing deadlines.

(3) Successfully pass an examination for certification.

(i) When the Board denies an application for certification action, the Board Secretary will notify the applicant in writing within 60 days of the Board decision, describing the applicant's right to appeal the action to the Environmental Hearing Board.

(j) Within 4 weeks of receiving a written request of a certified operator and payment of a fee as established in § 302.202 (relating to operator certification program fees) for the replacement of a certificate or wallet card, the Board Secretary will fulfill the request.

#### § 302.302. Issuance of certificate for certification or recertification.

The Board may approve a complete application for certification action for either certification or recertification with a designated class and subclassification when the applicant has met the requirements for certification as defined in § 302.104 (relating to certification requirements). The Board will also complete the review of the applicant's CHR in accordance with §§ 302.402 and 302.403 (relating to CHR investigations; and review of CHRs by the Board) before approving a complete application for certification action for certification or recertification.

#### § 302.303. Issuance of upgraded certificate.

(a) The Board will approve a complete application for certification action to upgrade an existing certificate to the appropriate class when the applicant meets the additional experience requirements defined in § 302.703 (relating to experience requirements) for the upgrade in class. The Board will also approve a complete application for certification action to upgrade an operator-in-training as defined in § 302.1004 (relating to operator-in-training status) when the operator-in-training has met the minimum experience requirements for certification defined in § 302.703.

(b) The Board will approve a complete application for certification action to upgrade an existing certificate to add another subclassification when the applicant passes the Part II Treatment Technology Specific Examination as defined in § 302.601 (relating to general provisions) that corresponds to a subclassification defined in §§ 302.1002 and 302.1003 (relating to the certification classes and subclassifications of water system operators; and certification classes and subclassifications of wastewater system operators) and completes 1-year additional experience requirement, if applicable, as defined in § 302.703 and § 302.704 (relating to experience requirements; and determining qualifying experience).

(c) The Board will replace the applicant's existing certificate with an upgraded certificate that maintains the operator's current 3-year renewal cycle. Those applicants that were upgraded from the operator-in-training status will be issued a certificate in accordance with procedures defined in § 302.301 (relating to Board procedures for certification action).

(d) Additional changes in continuing education requirements as defined in § 302.803 (relating to phased sched-

ule for continuing education requirements) resulting from an upgrade will not be enforced until the certified operator's next full 3 year renewal cycle.

(e) Class Dc, Dn and grandparented drinking water system certificates will not be upgraded.

**§ 302.304. Issuance of certificate through reciprocity.**

(a) The Board may issue a certificate to an applicant holding a valid water or wastewater, or both, operator certificate from another state, territory, the District of Columbia or a Board-approved reciprocity register, when the applicant meets the requirements for certification defined in § 302.104 (relating to certification requirements) and demonstrates the out-of-State certificate was issued as the result of passing an examination comparable to one administered by the Board.

(b) The Department will determine whether the content of the examination is comparable to an examination prepared by the Department and obtain confirmation from the state, territory or Board approved registry that issued the applicant's certificate that the applicant holds a valid certificate, and is in compliance with applicable laws, regulations and other requirements.

(c) Operators previously certified in this Commonwealth are not eligible to apply for reciprocity if:

(1) The Board revoked, suspended or modified their certificate in accordance with § 302.308 (relating to suspensions, revocation or modification of an operator's certificate).

(2) The operator failed to meet the continuing education requirements for its most recent 3 year renewal cycle.

**§ 302.305. Board-approved reciprocity register.**

(a) The Board recognizes the Association of Boards of Certification Registry and United States Military or Coast Guard discharge papers documenting water or wastewater operation as reciprocity registers.

(b) The Board may recognize additional certification registers upon request by an applicant or the entity maintaining the register.

**§ 302.306. Certificate renewal.**

(a) Certified operators meeting the requirements of the act, this chapter, and any other Federal or State law or rules and regulations promulgated thereto applicable to the operation of water and wastewater systems and any orders of the Board or the Department relative to certification will be eligible for certificate renewal without further examination.

(b) The Board will attempt to notify certified operators when renewal is due at least 60 days prior to certificate expiration. Failure to receive a renewal application from the Board does not release a certified operator from the requirements of the act, this chapter, and other Federal or State law or rules and regulations promulgated thereto applicable to the operation of water and wastewater systems.

(c) Certified operators shall meet the continuing education requirements as defined in § 302.803 (relating to phased schedule for continuing education requirements) as a condition of renewal.

(d) Continuing education must be successfully obtained during the certified operator's 3-year certification period.

A certified operator who fails to complete the continuing education requirements within the 3-year cycle shall apply for recertification.

(e) The Board will not renew a certificate for an operator who fails to meet the continuing education requirements, unless the operator has applied for and been granted an extension in accordance with § 302.307 (relating to extensions).

(f) A certificate will not be deemed expired if the Board Secretary has received a complete application for certification action for renewal before the expiration date of the certificate. This provision will be in force until the Board takes action on the application. If approved, the certificate will be issued with an expiration date that maintains the operator's prior 3-year cycle.

(g) A certificate renewal issued by the Board after the certificate has expired will have the effective issuance date of when the Board Secretary finalizes the renewed certificate as authorized by the Board. The Board Secretary will send the renewed certificate no later than 90 days after receiving a complete application. The expiration date will be 3 years after the expiration date of the lapsed certificate.

(h) Within 24 months following the date of expiration, an operator who has completed the continuing education, but whose certificate has expired, may renew the certificate by submitting a complete application for certification action for renewal. A certified operator who fails to renew the certificate within 24 months of the expiration date shall apply for recertification.

(i) The Board Secretary will submit a listing of applicants for certificate renewal to the Board that the Department has determined have not met the continuing education requirements as defined in § 302.802 (relating to continuing education requirements for certificate renewal). The listing will include the applicants' names, their classes and subclassifications of certification and the number of approved hours of continuing education completed.

(j) An operator shall submit any post-presentation credit applications for training that were not preapproved by the Department in accordance with training approval process guidelines within 90 days after certificate expiration.

(k) After the Board has taken action to deny an application for certificate renewal due to lack of continuing education, the Board Secretary will send a certified letter to the operator notifying it of the Board's decision. The Board Secretary will send a copy of this letter to the appropriate Department regional program manager and the owners of any systems who identified the operator as an available operator for their systems.

(l) The operator has 14 days from receipt of the certified letter to submit additional documentation of completed continuing education for review by the Department to the Board Secretary. If the Department approves the additional documentation showing compliance with the requirement for continuing education, the Board Secretary will issue a valid certificate to the operator. If not, the operator is no longer certified, and shall apply for recertification.

**§ 302.307. Extensions.**

(a) The Board may grant a time extension to a certified operator to meet the requirements of the act, this chapter, and other Federal or State law or rules and regulations

promulgated thereto applicable to the operation of water and wastewater systems provided that:

(1) The certified operator requests an extension in writing with appropriate justification no later than 90 days after certificate expiration, except in extenuating circumstances.

(2) The certified operator agrees to meet all requirements within a specific time period established by the Board.

(b) Within 14 days of Board action, the Board Secretary will provide an explanation of the Board's decision and any requirements for compliance in writing to the certified operator.

(c) Circumstances that justify an extension include:

(1) Military service that curtails an operator's ability to access continuing education, mandated training or Board testing.

(2) Health related circumstances that curtail an operator's ability to participate in continuing education, mandated training or Board testing.

(3) Other extreme circumstances.

**§ 302.308. Suspensions, revocation or modification of an operator's certificate.**

(a) The Board may take action to suspend, revoke, modify or reinstate an operator's certificate upon petition by the Department.

(b) The Board may suspend, revoke or modify a certificate for misconduct for reasons including:

(1) Negligence in the operation of a water or wastewater system.

(2) Fraud.

(3) Falsification of an application or other State, local or Federal documents or records relating to the operation of a water or wastewater system.

(4) Incompetence or failure to use reasonable care and professional judgment in performing the duties of a certified operator as described in § 302.1201 (relating to duties of operators).

(5) Violation of State or Federal laws and the rules and regulations promulgated thereunder associated with the operation of a water or wastewater treatment system.

(c) Suspension, revocation, modification or reinstatement of an operator's certificate will become effective immediately upon the Board's action.

(d) The Board may suspend or modify a certificate for a specific time period or require additional education, training or reexamination as a condition of reinstatement.

(e) Within 5 days of the Board taking an action to suspend, revoke, modify or reinstate an operator's certificate, the Board Secretary will notify the Department, the certified operator and the certified operator's employer in writing of the Board action to suspend, revoke or modify an operator's certificate.

(f) Final actions taken by the Board related to this section are appealable to the Environmental Hearing Board.

**§ 302.309. Board review of Department training decisions.**

(a) A training provider or sponsor may request the Board to review a Department action to do the following:

(1) Approve, disapprove, revoke or suspend a training provider's status as an approved sponsor of training for certification and continuing education.

(2) Approve, deny, revoke or suspend the approval of any course for certification and continuing education.

(3) Assess an instructor's qualifications.

(4) Assign appropriate continuing education contact hours.

(b) Within 75 days of receiving notification from the Department, a training provider or sponsor may submit a request to the Board to review the Department's decision. The request must include the following:

(1) The reasons for the Department's decision.

(2) The reasons why the Board review is necessary.

(3) Circumstances that merit consideration by the Board to reverse or modify the Department's decision.

(4) The desired action from the Board.

(c) The Board will take action on any training decision request within 120 days of completion of a scheduled Board meeting dealing with the training action.

(d) Final actions taken by the Board related to this section are appealable to the Environmental Hearing Board.

**Subchapter D. CRIMINAL HISTORY RECORDS**

Sec.

302.401. Submission of CHRs.

302.402. CHR investigations.

302.403. Review of CHRs by the Board.

302.404. Board actions as the result of a CHR.

**§ 302.401. Submission of CHRs.**

(a) The Board requires a CHR to accompany an application whenever an applicant does one or more of the following:

(1) Submits an application for certification. A CHR is not required for subsequent renewals.

(2) Submits an application requesting certification by reciprocity.

(3) Submits an application for recertification.

(b) An applicant holding a bioperable certification shall meet the requirements in subsection (a) for each separate water and wastewater certificate.

(c) The date of issuance on a CHR must be no more than 90 days before the date when the application is received by the Board Secretary.

**§ 302.402. CHR investigations.**

The following criminal activities require further investigation:

(1) A felony.

(2) A misdemeanor that appears to be related directly to activities associated with carrying out the duties and responsibilities as a certified operator.

**§ 302.403. Review of CHRs by the Board.**

(a) The Board will review all CHRs submitted with applications for certification action in accordance with the act and this chapter.

(b) A preliminary review committee will conduct a review, and if necessary, conduct appropriate investigations and make a recommendation to the Board for action. The membership of this committee will include:

- (1) A Board member.
- (2) A Department employee.
- (3) Board legal counsel.

(c) The Board or Board-designated agent will conduct an evaluation of all applicants with a conviction noted on their CHR to determine the appropriate category in this section. Convictions meeting the criteria in § 302.402 (relating to CHR investigations) require the Department to conduct an investigation and submit a written report to the Board or Board-designated agent.

(d) If the preliminary review committee feels the conviction may be related to the operation of a drinking water or wastewater treatment system, it will instruct the Board Secretary to send the applicant a certified letter notifying them of this potential and offering them the opportunity to appear at the next regularly scheduled Board meeting to present any information they feel is relevant or related to the conviction. The Department employee on the committee will also solicit further information from the appropriate regional office as it relates to the circumstances that resulted in the conviction and the applicant's record as an operator.

(e) The preliminary review committee will present the reasons for its recommendation and any associated documentation to the Board before the Board takes action on the application for certification action.

(f) These recommendations will be assigned into the following two categories:

- (1) Recommend approval of the application for certification action.
- (2) Recommend that the full Board review the CHR and investigation findings.

(g) An applicant for certification will not be denied admittance to the certification exam pending a final action on a CHR.

(h) The Department will complete the investigation within 120 days unless granted an extension by the preliminary review committee based on circumstances related to the necessary collection of information needed to make a recommendation.

**§ 302.404. Board actions as the result of a CHR.**

(a) The Board will act on all CHRs submitted with an application for certification action.

(b) The Board will find no further action is necessary when an applicant's CHR shows no convictions.

(c) Based on the Board's authority under 18 Pa.C.S. Chapter 91 (relating to criminal history record information), the Board may deny an application for certification action based on a conviction of either:

- (1) A felony related to the trade, occupation or profession for which the certification is sought.
- (2) A misdemeanor related to the trade, occupation or profession for which the certification is sought.

(d) The Board will review the recommendations of the preliminary review committee before taking action. Based on this review, the Board will do one of the following:

- (1) Agree with the preliminary review committee and take action on the CHR accordingly.
- (2) Disagree with the preliminary review committee and take action on the CHR accordingly.
- (e) Within 14 days of Board action, the Board Secretary will notify an applicant in writing of the Board's action to

deny an application for certification action based on the applicant's CHR. This notification will also identify the Board's reasons for the decision.

(f) Final actions taken by the Board related to this section are appealable to the Environmental Hearing Board.

**Subchapter E. ADMINISTRATIVE HEARINGS OF THE BOARD**

Sec. 302.501. General requirements.

**§ 302.501. General requirements.**

(a) The Department may file with the Board Secretary a written petition under section 4(b)(1) of the act (63 P. S. § 1004(b)(1)), by submitting a written request containing the following information:

(1) The factual basis of the petition including the dates, times and places of the occurrences and the names of the responsible parties with sufficient specificity that the respondent can file an answer and prepare a defense to the allegations.

(2) The statutes or regulations, or both, allegedly violated and underlying the petition.

(3) The relief requested.

(4) An identification of the Department attorney or contact person, including the address and telephone number, who can receive service on behalf of the Department.

(b) Upon receipt of a petition, the Board Secretary will:

(1) Provide a copy of the petition to the operators named in the petition, sent by certified mail.

(2) Schedule the petition for hearing before the Board or a hearing officer appointed by the Board. As necessary, the Board Secretary may schedule prehearing conferences and issue orders needed to dispose of prehearing issues.

(c) Requests to reschedule or cancel a hearing must be in writing and be received by the Board Secretary at least 14 days prior to the date of the hearing. Continuance of a hearing is at the discretion of the Board. The Board may continue a hearing upon its own motion.

(d) The hearings of the Board will be in accordance with 2 Pa.C.S. Chapter 5, Subchapter A (relating to practice and procedure of Commonwealth agencies).

(e) The Chairperson of the Board is authorized to sign decisions and orders on behalf of the Board.

(f) An order of the Board will be effective immediately unless otherwise indicated within the order.

(g) Final Board actions on the petition may be appealed to the Environmental Hearing Board.

**Subchapter F. PREPARATION AND ADMINISTRATION OF CERTIFICATION EXAMINATIONS**

Sec. 302.601. General provisions.  
 302.602. Approved examination providers.  
 302.603. Examination eligibility.  
 302.604. Examination administration.  
 302.605. Use of materials and electronic devices by the applicant during examination.

**§ 302.601. General provisions.**

(a) The Department will prepare and the Board will administer valid certification examinations using industry recognized psychometric principles and standards to measure the applicant's knowledge, skills and abilities necessary to make process control decisions that meet

permit requirements, maintain system reliability and ensure the protection of the environment, public health and safety.

(b) Certification and recertification examinations will consist of a two part examination. Part I of the examination will measure the applicant's knowledge, skills and abilities common to all water or wastewater systems regardless of size. Part II of the examination will measure the applicant's knowledge, skills and abilities necessary to operate specific treatment technologies or system components.

(c) There will be separate stand-alone examinations for wastewater collection systems, either satellite or single entity; water distribution or consecutive systems without treatment and Dc systems.

(d) There will be a Part II examination for laboratory supervisor for a water system and a Part II examination for laboratory supervisor for a wastewater system.

(e) There will be a master examination for either water or wastewater systems for operators wanting a master certificate to operate all available treatment technologies and system components.

(f) The Department will annually review examinations for relevancy. The Department may use third party contractors, members of the Board or the Certification Program Advisory Committee, Department staff or any other qualified individuals as subject matter experts for the content and validation of the examinations.

(g) The Board may use third-party examination proctors for administration of examinations, provided the proctors have completed the necessary training defined by Board guidelines.

(h) Paper and test materials remain the property of the Board.

(i) The Board, Board Secretary or the Department will not disclose individual examination scores to the public.

#### **§ 302.602. Approved examination providers.**

(a) The Board may use consultants, nonprofit water and wastewater industry associations and organizations, the Department or educational institutions to assist in the administration of the examinations for certification. The Board Secretary will approve all examination providers in accordance with Board guidelines.

(b) Approved examination providers may charge a fee to an applicant to cover the cost of personnel, facility rental and other incurred costs related to the registration and administration of the examination.

(c) Approved examination providers will not at any time be in possession of any Department-developed examination materials or examination content.

(d) Approved examination providers will administer examinations in accordance with Board guidelines.

#### **§ 302.603. Examination eligibility.**

(a) An applicant for examination shall submit a request for examination using approved Board forms to one of the approved examination providers. The applicant shall also pay any fees defined by the approved examination provider for processing this request.

(b) An individual is not required to meet experience requirements of the act, regulations or guidelines as a condition for examination.

(c) An individual is not required to successfully attain any training as a condition for examination.

(d) An individual that attends five or more examination sessions without applying for certification shall pay the examination session fees as defined in § 302.202 (relating to operator certification program fees) before being allowed to attend additional examination sessions.

(e) A certified operator is not required to retake an examination already successfully passed unless either one of the following conditions occurs:

(1) The individual fails to renew his certification within 2 years from the expiration date of the certification.

(2) The individual fails to complete the required amount of continuing education within the 3-year renewal cycle.

#### **§ 302.604. Examination administration.**

(a) The proctors and Department staff will follow all procedures for the administration of an examination as defined in Board guidelines.

(b) The examination proctor will provide a written report to the Board regarding any applicant violating this section or Board guidelines.

(c) The Board may make exceptions to a written examination or other examination requirements when an applicant or representative makes a "reasonable accommodation" request under the Americans With Disabilities Act of 1990 (42 U.S.C.A. §§ 12101—12213) in written form to the Board, the request documents the reason for the accommodation and the request is submitted to the Board Secretary in writing. The Board Secretary will notify the applicant within 14 days after Board action on the request.

(d) The Board may make exceptions to the scheduled date and location of an examination upon written request by an applicant based on religious preference, jury duty or other compelling reasons.

#### **§ 302.605. Use of materials and electronic devices by the applicant during examination.**

(a) The use of nonprogrammable calculators by applicants during the examination is permitted.

(b) The use of hand held computers or other devices that can store technical information, electronic communication devices, personal music players or other memory storage devices or printed materials other than the materials provided by the examination proctor during the examination is not permitted during the examination.

(c) An applicant may use special electronic devices, if the applicant has submitted a written request to the Board Secretary for approval and has received written approval from the Board.

### **Subchapter G. EDUCATION, EXAMINATION AND EXPERIENCE REQUIREMENTS**

Sec.

302.701. Minimum education requirements.

302.702. Examination requirements.

302.703. Experience requirements.

302.704. Determining qualifying experience.

302.705. Accelerated certification requirements for system modifications.

#### **§ 302.701. Minimum education requirements.**

(a) An applicant for certification shall obtain a high school diploma or a GED to meet one of the minimum education requirements.

(b) The Board may grant an education exemption to the requirements in subsection (a) if the applicant provides written verification by the applicant's supervisor or

another certified operator with direct knowledge of the applicant's experience working as an operator in a water or wastewater system before February 21, 2002.

(c) Experience used to meet the equivalency for a high school diploma or GED cannot be used as experience for certification.

**§ 302.702. Examination requirements.**

(a) An applicant for certification in wastewater shall obtain a passing score on a Part I General Examination and one or more of the Part II Treatment Technology Specific Examinations, a Master Examination or a Collection System Examination.

(b) An applicant for certification in drinking water shall obtain a passing score on a Part I General Examination and one or more of the Part II Treatment Technology Specific Examinations for Class A, B and C, a Part I General Examination for Class D, a Master Examination, a Dc or Dn Small System Examination or a Distribution Examination.

(c) An applicant shall obtain a minimum numerical score of correctly answered questions based on industry recognized psychometric principles and standards to pass an examination for certification.

(d) An applicant's score on an examination is independent and not conditional on the results of any other type of certification examination.

(e) Test results are valid indefinitely, unless the applicant must apply for recertification as determined by the Board.

**§ 302.703. Experience requirements.**

(a) To meet the requirements for certification, the Department will provide an applicant with two different experience tracks.

(b) Track I identifies the experience requirement necessary to qualify for certification when the applicant meets the basic educational requirement in § 302.701 (relating to minimum education requirements).

(1) *Track I experience requirements for wastewater treatment system operators.*

Class	Minimum Experience
A	4 years
B	3 years
C	2 years
D	1 year
E	1 year

(2) *Track I experience requirements for water system operators.*

Class	Minimum Experience
A	4 years
B	3 years
C	2 years
D	1 year
E	1 year
Dc	6 months
Dn	6 months

(c) An applicant for operator certification using Track I may supplement up to 50% of the required experience by successfully completing additional education beyond the minimum education requirement defined in § 302.701.

One month of experience can be credited for the successful completion of every 10 contact hours of Department-approved training courses in water or wastewater treatment, as applicable, or 1.5 months experience may be credited for the successful completion of one college credit in water or wastewater treatment related courses from an accredited college or university. The Department will approve these courses in accordance with its training approval process guidelines.

(d) Track II provides a reduction in the experience requirements defined in subsection (b) when the applicant has successfully earned one of the following:

(1) A certificate of completion of a Department-approved certificate program in water or wastewater treatment, or both (CP). The Department will approve this program in accordance with its training approval process guidelines.

(2) An associate degree in a water or wastewater operations program, or both, approved by the Department (ASP). The Department will approve this program in accordance with its training approval process guidelines.

(3) An associate degree in environmental sciences, physical sciences, engineering or engineering technology not approved by the Department (AS).

(4) A bachelor's or graduate degree in biology, chemistry, environmental sciences, physical sciences, sanitary or environmental engineering or engineering technology from a Nationally accredited college or university (BS/BA).

(e) The required experience under Track II is:

(1) *Track II experience requirements for wastewater treatment system operators.*

Class	CP	ASP	AS	BS/BA
A	2 years	1 year	3.5 years	2 years
B	1 year	6 months	2.5 years	1 year
C	6 months	6 months	1.5 years	6 months
D	6 months	6 months	6 months	6 months
E	6 months	6 months	6 months	6 months

(2) *Track II experience requirements for water system operators.*

Class	CP	ASP	AS	BS/BA
A	2 years	1 year	3.5 years	2 years
B	1 year	6 months	2.5 years	1 year
C	6 months	6 months	1.5 years	6 months
D	6 months	6 months	6 months	6 months
E	6 months	6 months	6 months	6 months
Dc	0	0	6 months	0
Dn	0	0	6 months	0

(f) When education is applied to meet the experience requirements for certification under Track II, the credit can only be applied once and is not cumulative.

**§ 302.704. Determining qualifying experience.**

(a) The Board will determine if the applicant's experience meets the experience requirements defined in § 302.703 (relating to experience requirements).

(b) Experience for certification is achieved by participating in a combination of activities related to process control under the supervision of a certified operator who holds the appropriate subclassifications.

(c) The Board will consider the following activities for qualifying experience:

(1) Operating mechanical equipment related to process control.

(2) Maintaining mechanical equipment related to process control.

(3) Collecting and analyzing chemical and biological samples related to process control and regulatory compliance activities.

(4) Performing calculations related to process control.

(5) Preparing or standardizing chemical and biological solutions.

(6) Interpreting, compiling and completing monitoring data.

(7) Recommending appropriate process control measures.

(8) Participating in onsite assessment, inspection or evaluation of plant processes.

(9) Calibrating chemical feed systems.

(10) Using equipment to monitor and measure flows through a water or wastewater system.

(d) An applicant for a wastewater certificate may apply experience as defined in subsection (c) as follows:

(1) Experience working at an activated sludge wastewater system qualifies an applicant for an activated sludge wastewater certificate (Subclassification 1), the fixed film wastewater certificate (Subclassification 2) and the treatment pond and lagoon wastewater certificate (Subclassification 3).

(2) Experience working at a fixed film wastewater system qualifies an applicant for a fixed film wastewater certificate (Subclassification 2) and a treatment pond and lagoon wastewater certificate (Subclassification 3).

(3) Experience working at a treatment pond and lagoon wastewater system qualifies the applicant for the treatment pond and lagoon wastewater certificate (Subclassification 3).

(4) Experience working at a satellite collection system or a single entity collection system qualifies the applicant for a Class E Subclassification 4 wastewater certificate.

(5) Experience for class may be obtained at a wastewater system with the classification level requested or two classification levels alphabetically lower.

(e) An applicant for a water certificate may apply experience as defined in subsection (c) as follows:

(1) Experience working at a conventional filtration, direct filtration, diatomaceous earth filtration or slow sand filtration water system qualifies an applicant for any of the following:

(i) The filtration water certificates (Subclassifications 1, 2, 3, 4, 5 and 6).

(ii) The chemical treatment water certificates (Subclassifications 7, 8, 9 and 10).

(iii) The gaseous chlorine and nongaseous chemical disinfection water treatment certificates (Subclassifications 11 and 12).

(2) Experience working at a cartridge or bag filtration or membrane filtration water system qualifies an applicant for any of the following:

(i) The cartridge or bag filtration and the membrane filtration water certificates (Subclassifications 5 and 6).

(ii) The chemical treatment water certificates (Subclassifications 7, 8, 9 and 10).

(iii) The gaseous chlorine and nongaseous chemical disinfection water treatment certificates (Subclassifications 11 and 12).

(3) Experience working at a corrosion control and sequestering, chemical addition, ion exchange and greensand or aeration and activated carbon adsorption water system qualifies an applicant for any of the following:

(i) The chemical treatment water certificates (Subclassifications 7, 8, 9 and 10).

(ii) The gaseous chlorine and nongaseous chemical disinfection water treatment certificates (Subclassifications 11 and 12).

(4) Experience working at a gaseous chlorine disinfection or nongaseous chemical disinfection water system qualifies an applicant for the gaseous chlorine and nongaseous chemical disinfection water treatment certificates (Subclassifications 11 and 12).

(5) Experience working at an ultraviolet water system qualifies an applicant for the ultraviolet water treatment certificate (Subclassification 13).

(6) Experience working at an ozonation water system qualifies an applicant for the ozonation water treatment certificate (Subclassification 14).

(7) Experience for a class may be obtained at a water system at the classification level requested or two classification levels alphabetically lower.

(8) Experience working at a Dc water system qualifies an applicant for only the Class D water certificate with the gaseous chlorine and nongaseous chemical disinfection water treatment certificates (Subclassifications 11 and 12).

(9) Experience working at a Dn water system qualifies an applicant for only the Class D water certificate without any subclassifications.

(f) One year of experience is equal to 220 working days or 1,760 hours of employment.

(g) Experience will be prorated for time periods less than 1 year.

(h) Experience is counted up to the first day of the month after the applicant submits an application for certification action.

(i) An applicant's experience at a wastewater system may be used to meet no more than half the experience requirement for a drinking water certification of the same classification level or a level alphabetically lower. The remaining experience must be operating experience at a drinking water system as defined in subsection (c).

(j) An applicant's experience at a water system may be used to meet no more than half the experience requirement of a wastewater certification of the same classification level or a level alphabetically lower. The remaining experience must be operating experience at a wastewater system as defined in subsection (c).

**§ 302.705. Accelerated certification requirements for system modifications.**

(a) An operator certificate upgrade is required when an increase in treatment capacity of the system no longer

qualifies the available operator to make process control decisions for that system. When the capacity of the system is increased so as to change the classification of the system, the existing available operators will qualify for an accelerated certification upgrade by applying for an upgrade in class before the larger system becomes operational. Additional experience or training is not required.

(b) An operator certificate upgrade is required when the addition of a different treatment technology to a system no longer qualifies the available operators to make process control decisions for that system. When a different treatment technology is added that results in a change of the subclassification of the system, the existing available operators may qualify for an accelerated certification upgrade if:

(1) The owner obtains the appropriate NPDES, public water supply or The Clean Streams Law permit from the Department.

(2) The operator successfully completes an onsite, Department-approved training program from the manufacturer or consulting engineer on the proper operation and maintenance of the new treatment technology.

(3) The operator passes, or previously passed, the appropriate Part II Technology Specific examination for the new treatment technology. Additional experience required under § 302.303(b) (relating to issuance of upgraded certificate) would be waived.

(4) The manufacturer or consulting engineer provides the Board and the Department with written documentation that the available operators for the system have successfully completed the formalized startup training and assistance program and are competent in the operation of the treatment technology.

(c) The available operators of the system undergoing an upgrade may continue to make process control decisions for the system if the conditions for accelerated certification as defined in subsection (a) or (b) are met. If not, the owner of the system will find another available operator with the appropriate class and subclassifications to make process control decisions until the existing certified operators at the system meet the additional examination requirements defined in § 302.702 (relating to examination requirements) and any additional experience requirements defined in § 302.703 (relating to experience requirements).

**Subchapter H. CONTINUING EDUCATION AND TRAINING**

- Sec.
- 302.801. Training and continuing education.
- 302.802. Continuing education requirements for certificate renewal.
- 302.803. Phased schedule for continuing education requirements.
- 302.804. System security training requirements.

**§ 302.801. Training and continuing education.**

(a) The Department will designate all approved training and continuing education into one of the following categories:

- (1) Wastewater.
- (2) Water.
- (3) Bioperable.
- (4) Security training as established in § 302.804 (relating to system security training requirements).

(b) The Department may approve, deny, suspend or revoke any training sponsor, training program, training course or conference session.

(c) The Department may audit, examine, inspect, and review the activities and documentation of approved training sponsors, training programs, approved instructors, courses, course content, conference sessions, teaching materials and facilities as related to water operator training and wastewater operator training and continuing education.

(d) The Department will develop training approval process guidelines that define the standards for the approval of training providers as training sponsors, training programs, instructors, courses and course content, conference sessions and other teaching materials and facilities used for the development and delivery of water and wastewater operator training and continuing education.

(e) Decisions of the Department related to this section are reviewable by the Board.

**§ 302.802. Continuing education requirements for certificate renewal.**

(a) Only contact hours for training approved by the Department will be used by a certified operator to meet the continuing education requirements for certificate renewal.

(b) A certified operator is required to successfully obtain the designated continuing education contact hours as defined in § 302.803 (relating to phased schedule for continuing education requirements) for certification renewal for the appropriate class.

(c) Bioperable operators will meet the continuing education requirements for each water and wastewater certificate held.

(d) A certified operator may not apply excess contact hours to a subsequent 3 year renewal cycle.

(e) For the purpose of meeting the continuing education requirement, the contact hours associated with a Department-approved course may only be applied once within an operator's 3 year renewal cycle.

(f) A Department-approved instructor holding an operator's certificate may be granted continuing education contact hours for teaching a Department-approved training course provided the instructor delivers the course within the instructor's 3 year renewal cycle and provides documentation to the Department that the course was completed, with the total amount of hours of training delivered. The contact hours for a specific course can be granted only once within the 3 year renewal cycle in which the course is taught.

(g) A certified operator is credited continuing education contact hours in the 3 year renewal cycle in which the training was completed, as documented by the training provider.

(h) Certified operators that have successfully completed the Department's Drinking Water Corrosion Control Treatment Course or Bio-solids Management Course may be granted a one-time credit for the contact hours for continuing education during the initial renewal cycle, regardless of the date of completion.

**§ 302.803. Phased schedule for continuing education requirements.**

(a) The number of required contact hours of continuing education for certificate renewal is as follows:



(1) *Contact hour requirements for wastewater system certified operators.*

<i>Operator Class</i>	<i>Contact Hours for First 3-Year Renewal Cycle</i>	<i>Contact Hours for Subsequent 3-Year Renewal Cycle</i>
A	15	30
B	15	30
C	15	30
D	8	15
E	8	15
Grandparented	8	15

(2) *Contact hour requirements for water system certified operators.*

<i>Operator Class</i>	<i>Contact Hours for First 3-Year Renewal Cycle</i>	<i>Contact Hours for Subsequent 3-Year Renewal Cycle</i>
A	15	30
B	15	30
C	15	30
D	8	15
E	8	15
Dc	4	9
Dn	3	6
Grandparented	8	15

(b) The first 3-year renewal cycle is defined as either the first 3-year period in which a certified operator holds a valid certificate after being transferred from an annual renewal cycle, or the first cycle after receiving certification.

(c) The subsequent 3-year renewal cycle is every 3-year period after the operator's first three-year renewal cycle.

**§ 302.804. System security training requirements.**

(a) Every certified operator shall successfully complete a Department-approved system security training course.

(b) A certified operator shall meet the system security training requirement in the certified operator's first renewal period commencing on or after September 18, 2010.

(c) A certified operator shall successfully demonstrate the knowledge, skills and abilities contained in the Department's system security training course using a Department-approved learning assessment method.

(d) The contact hours associated with the system security training also qualifies as approved continuing education within an operator's 3-year renewal cycle.

(e) A Department-approved training sponsor may, upon written agreement with the Department, deliver the Department's system security course that is approved to meet the requirements of this section.

(f) Bioperable operators need to successfully complete the Department-approved system security training course only once.

(g) The Department may require certified operators to attend and successfully complete additional Department-approved system security courses upon written notification when any of the following occur:

(1) The operator failed the Department-approved system security course required in subsection (a).

(2) There is a history of security issues at a water or wastewater system where the certified operators work.

(3) There is a history of security issues with the certified operator.

(4) New or updated security courses become available.

(5) The Department determines a situation or threat (Federal, State, local) exists that requires additional specific security courses.

(h) When establishing additional security training requirements as provided for in subsection (g), the Department will include the following in the written notification:

(1) Identification of the certified operators who must complete the training.

(2) The deadline for completing the security training.

(3) The amount and type of security training to be completed.

**Subchapter I. SYSTEM CLASSIFICATION AND SUBCLASSIFICATIONS**

Sec.

302.901. Classification and subclassifications of water systems.

302.902. Classifications and subclassifications of wastewater systems.

**§ 302.901. Classification and subclassifications of water systems.**

(a) Water systems will be classified into one of five classifications being designated as Classification A, B, C, D or E as follows:

(1) *Classification A.* Water systems serving an average of more than 5 million gallons per day.

(2) *Classification B.* Water systems serving an average of greater than 1 million gallons per day but less than or equal to 5 million gallons per day.

(3) *Classification C.* Water systems serving an average of greater than 100,000 gallons per day but less than or equal to 1 million gallons per day.

(4) *Classification D.* Water systems serving an average of less than or equal to 100,000 gallons per day.

(5) *Classification E.* Distribution and consecutive water systems, without treatment.

(b) Upon written request by the owner, the Department may reclassify a water system serving no more than 500 individuals or having no more than 150 connections, where the source of water for the system is exclusively groundwater, as a Dc water system. A water system that requires only disinfection will be classified as a Dc system.

(c) Each water system Classification A, B and C must be assigned one or more of the following 14 treatment subclassifications that identifies the treatment methods used to process water at that system. Classifications D and E may have one or more of the following 14 treatment subclassifications if the system or operator uses the specified treatment methods to process drinking water at that system.

(1) Subclassification 1—Conventional Filtration.

(2) Subclassification 2—Direct Filtration.

(3) Subclassification 3—Diatomaceous Earth Filtration.

(4) Subclassification 4—Slow Sand Filtration.

(5) Subclassification 5—Cartridge or Bag Filtration.

(6) Subclassification 6—Membrane Filtration.

(7) Subclassification 7—Corrosion Control and Sequestering.

(8) Subclassification 8—Chemical Addition.

(9) Subclassification 9—Ion Exchange and Greensand.

(10) Subclassification 10—Aeration and Activated Carbon Adsorption.

(11) Subclassification 11—Gaseous Chlorine Disinfection.

(12) Subclassification 12—Nongaseous Chemical Disinfection.

(13) Subclassification 13—Ultraviolet Disinfection.

(14) Subclassification 14—Ozonation.

(d) Upon written notice provided to the owners and available operators of the system, the Department may change the classification or subclassification of a water system because of changes in the conditions or circumstances at the system, including, but not limited to:

(1) An increase in capacity that changes the class of the system.

(2) The addition or loss of a treatment technology.

(3) Other Federal or State regulatory changes in requirements relating to the treatment technology used at the system.

(4) The issuance of a permit changing the class or subclassification of a system.

**§ 302.902. Classifications and subclassifications of wastewater systems.**

(a) Wastewater systems will be classified into one of five classifications being designated as Classification A, B, C, D or E as follows:

(1) *Classification A.* Wastewater systems with a permitted average daily discharge flow greater than 5 million gallons per day or unlimited permitted discharge flows.

(2) *Classification B.* Wastewater systems with a permitted average daily discharge flow greater than 1 million gallons per day but less than or equal to 5 million gallons per day.

(3) *Classification C.* Wastewater systems with a permitted average daily discharge flow greater than 100,000 gallons per day but less than or equal to 1 million gallons per day.

(4) *Classification D.* Wastewater systems with a permitted average daily discharge flow equal to or less than 100,000 gallons.

(5) *Classification E.* A satellite collection system.

(b) Each wastewater system Classification A, B, C and D must be assigned one or more of 4 treatment subclassifications that identifies the treatment or collection methods, or both, used to process wastewater at that system:

(1) Subclassification 1—Activated Sludge.

(2) Subclassification 2—Fixed Film.

(3) Subclassification 3—Treatment Ponds and Lagoons.

(4) Subclassification 4—Single Entity Collection System.

(c) Upon written notice provided to the owners and available operators of the system, the Department may change the classification or subclassification of a waste-

water system because of changes in the conditions or circumstances at the system, including, but not limited to:

(1) An increase in capacity that changes the class of the system.

(2) The addition or loss of a treatment technology.

(3) Other Federal or State regulatory changes in requirements relating to treatment technology used at the system.

(4) The issuance of a permit changing the class or subclassification of a system.

**Subchapter J. OPERATOR CLASSES AND SUBCLASSIFICATIONS**

Sec.

302.1001. General provisions.

302.1002. Certification classes and subclassifications of water system operators.

302.1003. Certification classes and subclassifications of wastewater system operators.

302.1004. Operator-in-training status.

302.1005. Grandparented operators.

302.1006. Laboratory supervisor certification.

**§ 302.1001. General provisions.**

(a) A certified operator may hold only one valid water certificate and one valid wastewater certificate. Each valid certificate may include one or more appropriate classes and subclassifications.

(b) A certified operator holding a valid Class A, B, C or D and the Class E water or wastewater certificate and all the water or wastewater treatment technology subclassifications, will be issued either a water or wastewater master certificate for that class.

**§ 302.1002. Certification classes and subclassifications of water system operators.**

(a) There are 6 water classes and 14 water treatment technology subclassifications that correspond to the water system classifications and treatment technology subclassifications defined in § 302.901 (relating to classification and subclassifications of water systems).

(b) To hold a valid Class A, B or C water certificate, the operator shall meet the certification requirements set forth in § 302.104 (relating to certification requirements) for at least one water treatment technology subclassification defined in § 302.901.

(c) To hold a valid Class D or E water certificate, the operator shall meet the certification requirements in § 302.104 but is not required to have a subclassification, unless the operator is involved in making process control decisions involving one of the subclassification treatment technologies defined in § 302.901.

(d) A Dc or Dn certificate is a stand-alone certificate and does not include any water treatment technology subclassifications.

(e) Water operators with a Class A, B, C or D water certificate that also make process control decisions in the distribution system shall also have the Class E certificate.

**§ 302.1003. Certification classes and subclassifications of wastewater system operators.**

(a) There are five wastewater classifications and four wastewater treatment technology subclassifications that correspond to the wastewater treatment system classifications and treatment technology subclassifications defined in § 302.902 (relating to classifications and subclassifications of wastewater systems).

(b) Certified wastewater operators holding an A, B, C or D classification will have at least one wastewater treatment technology subclassification.

(c) The Class E wastewater classification will be combined with Subclassification 4 as a standalone certificate for operators of wastewater collection systems who meet the requirements for certification as defined in § 302.104 (relating to certification requirements).

(d) Wastewater operators with a Class A, B, C or D wastewater certificate that also make process control decisions in the collection system shall also have the E4 certificate.

**§ 302.1004. Operator-in-training status.**

(a) The operator-in-training status applies to an individual passing the certification examinations who has not yet met the minimum education and experience requirements in §§ 302.701 and 302.703 (relating to minimum education requirements; and experience requirements).

(b) An operator-in-training status is valid until the individual demonstrates the education and experience requirements as defined in §§ 302.701 and 302.703 have been met and the Board issues a certificate.

(c) An individual with operator-in-training status will not independently make process control decisions or serve as the available operator for a water or wastewater system.

(d) An operator-in-training may concurrently hold a water and wastewater operator-in-training status.

**§ 302.1005. Grandparented operators.**

(a) This section applies to those operators of nontransient noncommunity water systems, satellite wastewater collection systems containing a pump station or single entity wastewater collection systems who were granted a grandparented certificate by the Board.

(b) Grandparented certificates are site, size and technology specific and not transferable to any other water or wastewater system.

(c) A grandparented certificate is temporary and will expire within 3 years of the date of issuance. A certified operator who was grandparented shall meet the conditions for certification renewal including the submittal of an application for certification action for renewal defined in § 302.201 (relating to form of application) and completion of the continuing education requirements defined in § 302.802 (relating to continuing education requirements for certificate renewal).

(d) The grandparented certificate is no longer valid if one of the following applies:

(1) The certified operator moves to another water or wastewater system.

(2) The system subclassification changes because of a modification or addition, or both, of treatment technology.

(3) The Board modifies, suspends or revokes the certificate upon petition of the Department.

(e) If a grandparented certificate is no longer valid, the operator shall meet the requirements for certification as identified in § 302.104 (relating to certification requirements).

**§ 302.1006. Laboratory supervisor certification.**

(a) There will be a laboratory supervisor subclassification (15) for individuals responsible for the supervision of testing or analysis of environmental samples and report-

ing of analytical data for water supply systems in a Pennsylvania-accredited environmental laboratory operated by a water system.

(b) There will be a laboratory supervisor subclassification (5) for individuals responsible for supervision of the testing or analysis of environmental samples and reporting of analytical data for wastewater systems in a Pennsylvania-accredited environmental laboratory operated by a wastewater or industrial waste system.

(c) A certified operator, including those holding a master certificate, will not be qualified by the Department for a laboratory supervisor certificate without meeting the requirements in this section.

(d) Laboratory supervisor certification is not required to qualify for a master certificate in water or wastewater.

(e) An applicant for laboratory supervisor's certification for drinking water or wastewater shall have 2 years of experience in the testing and analysis of environmental samples for water or wastewater systems.

(f) An applicant for laboratory supervisor's certification for drinking water or wastewater systems shall hold a valid operator's certificate and demonstrate the knowledge, skills and abilities needed to be a laboratory supervisor by obtaining a passing score on either the Part II Laboratory Supervisor for Water Systems or Part II Laboratory Supervisor for Wastewater Systems examination.

(g) In accordance with § 252.302(h)(3) (relating to qualifications of the laboratory supervisor), certified operators who are serving as the laboratory supervisor for a drinking water or wastewater system on September 18, 2010, will have 12 months after the Board makes the water or wastewater laboratory subclassification examination available to meet the standards for certification as defined in this section.

(h) Certified operators who meet the other qualifications defined in § 252.302 or § 252.303 (relating to grandfathering provisions for laboratory supervisors) do not need to obtain the laboratory supervisor certification to continue serving as a laboratory supervisor for a water or wastewater system.

**Subchapter K. PROFESSIONAL ENGINEERS**

Sec.

302.1101. General provisions.

302.1102. Issuance of initial certification for a professional engineer.

302.1103. Experience requirements for professional engineers.

**§ 302.1101. General provisions.**

(a) This subchapter applies to a professional engineer registered under the Engineer, Land Surveyor and Geologist Registration Law (63 P. S. §§ 148—158.2) who has been successfully examined in civil, environmental or sanitary engineering and is a certified operator, or an applicant for operator certification.

(b) A professional engineer applying for certification action shall meet the same requirements as provided for by the act, this chapter, and any other Federal or State law or rules and regulations promulgated thereto applicable to the operation of water and wastewater systems except for those provided for in this subchapter.

**§ 302.1102. Issuance of initial certification for a professional engineer.**

A professional engineer shall submit an application for certification action in accordance with § 302.201 (relating to form of application). The engineer shall also meet the

requirements for certification in § 302.104 (relating to certification requirements). When requesting a certificate under this subchapter, the applicant shall provide a copy of, or other written proof of, a valid professional engineer's license.

**§ 302.1103. Experience requirements for professional engineers.**

In addition to those activities defined in § 302.704 (relating to determining qualifying experience), other activities specifically associated with the responsibilities and duties of a professional engineer may be eligible as qualifying experience for an applicant. These activities include the following:

- (1) Plant start-up activities.
- (2) Development of standard operating procedures.
- (3) Development of an operation and maintenance plan or an emergency response plan for a water or wastewater system.
- (4) Consulting activities associated with water or wastewater system operations.
- (5) Activities associated with testing pilot technology.
- (6) Activities related to operational inspections completed by a professional engineer.

**Subchapter L. SYSTEM OPERATION**

Sec.

- 302.1201. Duties of operators.
- 302.1202. Duties of owners.
- 302.1203. Process control decisions.
- 302.1204. Standard operating procedures.
- 302.1205. Number of required certified operators.
- 302.1206. Operator in responsible charge.
- 302.1207. Operation of multiple treatment systems.
- 302.1208. PLCs and SCADA.
- 302.1209. Assessment of fines and penalties.

**§ 302.1201. Duties of operators.**

(a) A certified operator shall comply with the act, this chapter, and other Federal or State law or rules and regulations promulgated thereto applicable to the operation of water and wastewater systems to protect the environment and public health and safety. A certified operator shall provide for the suitable operation and maintenance of a water or wastewater system utilizing available resources needed to comply with applicable laws, rules and regulations and permit conditions or requirements. The Department will consider reports submitted to the owner in accordance with subsection (c) and the owner's response as defined in § 302.1202(a)(4) (relating to duties of owners) when deciding if a certified operator is in compliance.

(b) Available operator tasks necessary to control the operation and provide for the maintenance of a water or wastewater system may include:

- (1) Controlling the selection of, or flow from, an existing permitted source to a water system.
- (2) Controlling the selection of flow to a water distribution system.
- (3) Controlling the flow from a wastewater system to the waters of this Commonwealth as defined in the NPDES or The Clean Streams Law permit for the system.
- (4) Controlling the processing of raw, treated or finished water or wastewater.
- (5) Preparing and controlling chemical or biological, or both, addition for water or wastewater treatment.

(6) Observing and taking the necessary actions in response to variations in operating conditions.

(7) Adjusting system processes based on monitoring data.

(8) Performing calculations for process control.

(9) Operating valves or gates, or both, either manually or by remote control.

(10) Starting or stopping pumps or increasing or decreasing pump rates.

(11) Providing for proper source water protection.

(12) Directing the actions of certified and noncertified operators.

(13) Taking an action to maintain a system's equipment to prevent pollution or a permit violation.

(14) Overseeing or performing the collection, analysis and interpretation of all process control and compliance monitoring samples of the water or wastewater systems.

(15) Preparing, reviewing and submitting applicable notices and reports to the appropriate persons or agencies.

(16) Developing, approving or using a process control plan that is specific to the treatment needs and conditions of the system.

(c) Certified operators shall report to the system owner known violations or system conditions that may be or are causing violations of Federal or State law or rules and regulations promulgated thereto or permit conditions and requirements applicable to the operation of water or wastewater systems. When submitted, the report must include the following:

- (1) The name of the certified operator making the report.
- (2) The date.
- (3) The nature of the violation or system conditions.
- (4) The suspected cause of the violation or system conditions, including the lack of needed resources.
- (5) The degree of severity or threat to public health, safety or the environment of the violation or system conditions.

(6) Actions or mitigating measures associated with process control necessary to prevent or eliminate a violation of Federal or State law or rules and regulations promulgated thereto or permit conditions and requirements applicable to the operation of water or wastewater systems.

(d) The available operators making process control decisions are responsible for those decisions and consequences, unless the owner fails to respond to a report as required in subsection (c) or there is a deliberate action with malice or negligence on the part of an employee under the supervision of the available operator.

**§ 302.1202. Duties of owners.**

(a) An owner of a water or wastewater system shall:

(1) Comply with the Federal or State law or rules and regulations promulgated thereto or permit conditions and requirements applicable to the operation of water or wastewater systems.

(2) Insure process control decisions at the systems are made by available operators with a valid operator's certificate with the appropriate classes and subclassifications.

(3) Post the names of the available operators in the treatment area of the system, including the method of contacting them if they are not onsite.

(4) Take appropriate action in a timely manner in response to reports required under § 302.1201(c) (relating to duties of operators) from certified operators.

(5) Provide a copy of all current, relevant water and wastewater permits to all available operators, unless the owner submits a written request to the Department. Upon receipt of this written request, the Department will provide the current water and wastewater permits to the available operator designated by the owner.

(b) Upon written request, a system owner shall report to the Department:

(1) The system name, address, phone number and e-mail address (if available).

(2) The name and title of the system representative providing the information.

(3) The system owner name, address, phone number and e-mail address (if available).

(4) The Public Water System Identification number, NPDES permit numbers or Water Quality Management Part II permit numbers for the system.

(5) The name, client ID, address, phone number and email address (if available) of available operators employed by the owner at the system and the operators' classes and subclassifications.

(6) The designation of an operator in responsible charge if the owner chooses to develop and utilize standard operating procedures.

(c) A system owner shall notify the Department in writing within 10 calendar days of the addition, loss, change or replacement of an available operator. The owner shall provide at that time the name, client ID, and class and subclassification of all operator changes.

#### **§ 302.1203. Process control decisions.**

(a) An available operator shall make all process control decisions. These decisions may be made onsite, from a remote site, by the use of standard operating procedures approved by the operator in responsible charge, or by using a PLC system as provided under § 302.1208 (relating to PLCs and SCADA).

(b) A certified operator can make process control decisions for systems with a smaller hydraulic design capacity, provided they are certified with the appropriate treatment technology-based subclassifications.

(c) The Department may require a system to have a process control plan that includes, as necessary, the following:

- (1) A flow diagram of the entire treatment process.
- (2) The identification of individual treatment units by type.
- (3) A description of the treatment process provided by each treatment unit.
- (4) The anticipated level of treatment provided by each treatment unit.
- (5) The normal influent and effluent operating ranges for each wastewater or water treatment unit.
- (6) A description of the average and seasonal characteristics of the raw water or wastewater influent.
- (7) Any standard operating procedures.

(8) The methods to be utilized to monitor and adjust treatment processes

(9) The identification of the key processes and equipment associated with these processes.

(10) An outline of how key processes and equipment will be monitored if the system is without staff during daily operations.

(11) The trigger parameters for each unit that requires a process control decision.

(12) A preventive and emergency maintenance plan for all process control-related equipment including a replacement parts inventory and emergency repair method.

(13) The procedures for emergency operations when security has been breached or natural disasters threaten public safety, the environment and property.

(14) The wastewater treatment methods and strategies to assure proper treatment during wet weather operations.

(15) A plan for wasting, treating and disposing of solids associated with wastewater treatment.

(d) Plans required under other Department rules and regulations applicable to the operation of a drinking water or wastewater system may satisfy the requirement for a process control plan as determined by the Department.

(e) The Department will consider the following criteria when determining whether or not to require a process control plan:

- (1) The system has a significant history of noncompliance.
- (2) The system is having difficulty with a new treatment technology.
- (3) Another unique situation where the development of a process control plan is warranted.

(f) The Department will notify the owner in writing when it is determined a process control plan is needed.

#### **§ 302.1204. Standard operating procedures.**

(a) Standard operating procedures are written documents outlining the actions necessary to make process control decisions given established operational quantitative and qualitative parameters for the system or treatment units within the system.

(b) Standard operating procedures must:

- (1) Include the name of the operator in responsible charge.
- (2) Identify the operators that may utilize the standard operating procedures to make process control decisions.
- (3) State which treatment processes are covered by the standard operating procedures for treatment process that are not covered by the standard operating procedures, the operator must be instructed to contact the operator in responsible charge to make any necessary process control decisions.

(4) Identify the trigger parameters for the treatment processes and the appropriate actions to be taken for each treatment process.

(c) Standard operating procedures shall be approved in writing and dated by the operators in responsible charge, and available at the system for review.

(d) The use of standard operating procedures is an optional method, available to the operator in responsible charge, to allow operators under the operator in responsible charge's direct supervision to implement process control decisions. The decision to use standard operating procedures depends on the complexity and personnel of the system.

(e) An operator in responsible charge using standard operating procedures shall notify the system owner that these standard operating procedures are in use.

(f) The Department may request a copy of a system's standard operating procedures to determine the use of the procedures by the operators or the effectiveness of the procedures to insure compliance with Federal or State law or rules and regulations promulgated thereto or permit conditions and requirements applicable to the operation of water or wastewater systems.

(g) Standard operating procedures may be in an electronic form to facilitate searching for, and retrieval of, information by an operator. These standard operating procedures must be in an electronic form that cannot be changed without evidence of tampering. The standard operating procedures must also indicate where the original signed paper copy or copies are maintained and the name of the operator in responsible charge who signed them. The content of the electronic version of the standard operating procedures must be identical to the current signed paper standard operating procedures. If differences are found between the electronic form and the original signed paper copy of the standard operating procedures, the original signed paper copy will be considered the official version of the standard operating procedures.

**§ 302.1205. Number of required certified operators.**

A system shall have the number of available operators necessary to comply with Federal and State laws, and rules and regulations associated with water or wastewater systems to protect the environment and public health and safety.

**§ 302.1206. Operator in responsible charge.**

(a) The system owner shall notify the Department of changes in the operator in responsible charge within 10 days of the change, including the name, client ID, and certificate number of the operators in responsible charge. System owners shall notify the operators in responsible charge of this designation in writing.

(b) Upon request of the Department, a system owner shall provide the name, client ID, and certificate number of any operators in responsible charge.

(c) An operator in responsible charge shall hold a valid certificate with the classes and subclassifications as defined in §§ 302.1002 and 302.1003 (relating to certification classes and subclassifications of water system operators; and certification classes and subclassifications of wastewater system operators) that correspond to the system's classification and subclassification as defined in §§ 302.901 and 302.902 (relating to classification and subclassifications of water systems; and classification and subclassifications of wastewater systems).

(d) A grandparented operator can be designated as the operator in responsible charge.

(e) The duty of the operator in responsible charge will be to approve any standard operating procedures developed for the system.

(f) The operator in responsible charge as designated in subsection (a), is accountable for violations of Federal or State law or rules and regulations promulgated thereto or permit conditions and requirements applicable to the operation of water or wastewater systems which may occur when an operator follows these standard operating procedures, provided that the violation occurred as a direct result of a provision in the standard operating procedure approved by the operator in responsible charge.

**§ 302.1207. Operation of multiple treatment systems.**

(a) An available operator may make process control decisions at more than one system.

(b) Any available operator operating more than one system, including a circuit rider, shall meet the requirements of the act, this chapter, and Federal or State law or rules and regulations promulgated thereto applicable to the operation of water or wastewater systems.

(c) An owner may use the services of a circuit rider to meet the requirements of the act, this chapter, and Federal or State law or rules and regulations promulgated thereto applicable to the operation of water or wastewater systems.

(d) A system owner shall notify the Department within 10 days when a circuit rider is employed to operate the system.

(e) Unless the following information is specified in a contract between the circuit rider and the owner, the circuit rider shall develop and submit a general work plan to the owner of each system that includes:

(1) The name and location of the circuit rider's primary business.

(2) The name and location of each system to be included in the circuit rider program.

(3) The classification and subclassification of each system included in the circuit rider program.

(4) The number of estimated hours per week the circuit rider works at each system, with the method of documentation to be used for each visit.

(f) A circuit rider shall develop and submit a system specific management plan to the owner of each system describing the information relevant to the owner's system. This management plan must include:

(1) The names and contact information of the available operators for that system, with a copy of the operators' certificate to be prominently displayed at the system.

(2) The standard operating procedures and a process control plan for the system.

(3) The name and method of contacting the circuit rider in case of an emergency.

(4) An estimate of the response time necessary to be physically present at the system.

(g) An available operator may not make process control decisions at more than one system until the owner has provided approval through signature for the specific management plan for the system.

(h) The general work plan and the system specific management plans developed for a circuit rider program shall be made available to the Department upon request.

(i) The circuit rider shall report any changes to the general work plan and provide appropriate documentation within 10 days to the owners of all the participating systems.

(j) The circuit rider shall report changes to the system specific management plan and provide appropriate documentation within 10 days to the owner of the system identified in the management plan.

(k) The Department may require the circuit rider to be present at a system for the purposes of Department inspection or investigation.

(l) The Department may direct an owner or available operator to cease participation in a circuit rider program if one of the following applies:

(1) The system is in violation for failure to meet the requirements of the act, this chapter, and Federal or State law or rules and regulations promulgated thereto applicable to the operation of water or wastewater systems.

(2) There is a threat to public health, safety and the environment due to the actions of the circuit rider.

(3) Changes have occurred at the system that are not included in the system specific management plan.

**§ 302.1208. PLCs and SCADA.**

(a) An owner may use a PLC or SCADA system to monitor, maintain or make decisions regarding any process control activity within the water or wastewater system.

(b) The available operator shall monitor a PLC or SCADA system that is used for process control, and have the ability to adjust, or direct the adjustment of, these systems when necessary to maintain compliance with Federal or State law or rules and regulations promulgated thereto or permit conditions and requirements applicable to the operation of water or wastewater systems.

(c) A system utilizing a PLC or SCADA system shall have a backup emergency plan for making process control decisions when, or if, the PLC or SCADA system is inoperable.

(d) If an owner wants to have a PLC or SCADA system oversee more than one water or wastewater system simultaneously, the system specific management plan developed under § 302.1207 (relating to the operation of multiple treatment systems) must also identify and demonstrate how process control decisions not performed by the PLC or SCADA system will be made and demonstrate how continual staffing and monitoring of systems controlled by a PLC or SCADA system will be maintained.

**§ 302.1209. Assessment of fines and penalties.**

The assessment of a civil penalty for noncompliance with section 5(d), 6(d) or 13 of the act (63 P. S. §§ 1005(d), 1006(d) and 1013) will be assessed only upon the person's failure to comply with an order of the Department issued under section 4(b)(1.1) (63 P. S. § 1004(b)(1.1)) of the act.

**CHAPTER 303. (Reserved)**

**§§ 303.1—303.3. (Reserved).**

**§§ 303.11—303.14. (Reserved).**

**§§ 303.21—303.28. (Reserved)**

**§§ 303.31—303.34. (Reserved).**

**CHAPTER 305. (Reserved)**

**§§ 305.1—305.7. (Reserved).**

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## Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

### STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS

[ 49 PA. CODE CHS. 47, 48 AND 49 ]

#### Code of Ethical Practice and Standards of Professional Conduct

The State Board of Social Workers, Marriage and Family Therapists and Professional Counselors (Board) adds §§ 47.71—47.80, 48.71—48.80 and 49.71—49.80 (relating to code of ethical practice and standards of professional conduct) to read as set forth in Annex A.

*Effective Date*

The final-form rulemaking is effective upon publication in the *Pennsylvania Bulletin*.

*Statutory Authority*

The Board is authorized to adopt regulations necessary for the administration of its enabling statute under section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act (act) (63 P. S. § 1906(2)).

*Background and Purpose*

Section 6(2) of the act authorizes the Board to adopt rules and regulations establishing standards of professional practice and conduct for licensed social workers, licensed clinical social workers, licensed marriage and family therapists and licensed professional counselors in this Commonwealth. The Board, through this final-form rulemaking, is implementing section 6(2) of the act.

In developing this code of ethical practice and standards of professional conduct, the Board looked at codes of conduct established by professional associations and organizations as well as other state codes. In particular, the Board modeled these regulations after codes of conduct and professional practice adopted by the following associations and organizations: the National Association of Social Workers (NASW); the Pennsylvania Society for Clinical Social Work (PSCSW); the Association of State Social Work Boards; the Clinical Social Work Federation; the Pennsylvania State Board of Psychology; the American Association for Marriage and Family Therapy (AAMFT); the American Counseling Association (ACA); the National Board for Certified Counselors; the Professional Counseling Board; the Commission on Rehabilitation Counselor Certification; and the American Psychological Association. In addition, the Board looked at standards promulgated by other state licensing boards.

The Board adopts this final-form rulemaking with a code of ethical practice and standards of professional conduct for each of the three professions within its jurisdiction. In drafting the final-form rulemaking, the Board sought the greatest possible consistency among the three chapters. The Board recognized that the National associations representing each of the professions had previously issued its own codes of ethics. The Board also recognized that each group of licensed stakeholders would seek the highest level of consistency between the specific provisions of the Board's code of ethics and those of that profession's National association's code of ethics.

*Summary of Comments and Responses to Proposed Rule-making*

Notice of the proposed rulemaking was published at 38 Pa.B. 3253 (June 14, 2008). The Board received comments from the following entities: the Pennsylvania Counseling Association (PCA); the Pennsylvania Association for Marriage and Family Therapy (PAMFT); the North Atlantic Region of the ACA; the Pennsylvania Chapter of the NASW (NASW-PA); and the PSCSW. In addition, the Board received comments from the Independent Regulatory Review Commission (IRRC) and the House Professional Licensure Committee (HPLC) in response to their review of the regulations under the Regulatory Review Act (71 P. S. §§ 745.1—745.12). Responses to the comments have been grouped under general categories, as follows:

*Need for the Final-Form Rulemaking*

In general, the HPLC questioned the need for the rulemaking. However, the public commentators expressed general support for the proposed rulemaking. PSCSW “welcome[d] the ethical standards of the regulations and [found] them to be clear and acceptable practice.” NASW-PA agreed “with the need to establish standards of professional practice and conduct” and appreciated the Board’s consideration of the codes of conduct established by the various professional associations. The PAMFT was “pleased to see the publication of” the proposed rulemaking and “urges the adoption of the proposed regulation” with minor changes. The PCA appreciated “the work that has gone into the development of this Code of Ethics for LPCs” and offered comments they hoped would be useful to the Board. The ACA (North Atlantic Region) recognized “the work that went into putting together this proposed code” and noted that it would “serve Licensed Professional Counselors and the public well,” but likewise offered comments to strengthen the final-form rulemaking.

The HPLC opined that these regulations are “unnecessary especially considering that only the Psychology Board has similar regulations.” The Board notes that the State Board of Occupational Therapy promulgated a code of ethics in § 42.24 (relating to Code of Ethics) as has the State Board of Examiners in Speech-Language and Hearing in § 45.102 (relating to Code of Ethics). The State Board of Veterinary Medicine also has similar rules of professional conduct in § 31.21 (relating to Rules of Professional Conduct for Veterinarians). The State Board of Accountancy regulations in §§ 11.21—11.36 (relating to relations with clients and public) regarding independence, integrity and objectivity, competence, fees, confidential client information, records, advertising and solicitation are similar to a code of ethics. As IRRC pointed out, many boards have similar provisions, although not necessarily in a “code of ethics.” Many boards define unprofessional conduct to include ethics violations. The Board elected to follow the State Board of Psychology’s lead because psychology is a related profession and many of the ethical principles are similar. In addition, the State Board of Psychology’s code of ethics has been tested in court and has withstood judicial scrutiny.

The HPLC suggested that the Board consider adopting a National standard for ethics currently established by the National associations. Likewise, NASW-PA requested that the Board “adopt by reference the current codes of professional conduct for each profession under the Board.” By promulgating its own code of ethics, the Board intended to provide more specific guidance than that of the National associations, as well as impose stricter

standards than the National associations when appropriate. In addition, the National codes are written in nonregulatory language, which was one of IRRC’s concerns about certain provisions in the proposed rulemaking. To address the HPLC’s and other commentators’ concerns, the Board indicated its intention to adhere to each licensee group’s National codes of ethics and standards of practice in resolving ambiguities that may arise under the regulations, but that conflict will be resolved in favor of these regulations.

*Format of the Final-Form Rulemaking*

IRRC expressed concerns about the format of the proposed rulemaking in that the entire code of ethics for each profession is in one section containing a variety of topics. IRRC suggested that it would improve clarity and ease implementation to set forth some of the subject areas separately. The Board agreed and restructured the final-form rulemaking by dividing it into ten sections to aid clarity. IRRC also pointed out the use of “non-regulatory” language at various places throughout the proposed rulemaking. The Board revised the final-form rulemaking to clarify that its requirements are mandatory by replacing “should” with “shall” throughout.

Additionally, IRRC and PAMFT suggested that the only applicable National code of ethics that should be referenced in Chapter 48 is the AAMFT. The other organizations listed were professional counseling groups. The Board agreed and amended the provision so that only the AAMFT Code of Ethics is referenced. IRRC, the PCA and the ACA (North Atlantic Region) further noted the conspicuous absence of the code of ethics of the ACA from Chapter 49. The Board corrected this oversight.

The HPLC questioned the use of the term “licensee” throughout the proposed rulemaking, when the opening paragraph in each chapter specifies which licensees to which the regulation applies. In fact, the regulations apply to all licensees. Chapter 47 applies to licensed social workers and licensed clinical social workers; Chapter 48 applies to licensed marriage and family therapists; and Chapter 49 applies to licensed professional counselors. These are all of the licensee classifications currently regulated by the Board. The Board has often used the shorthand phrase “licensee” throughout its regulations and does not feel the use of the term adversely affects the clarity of the final-form rulemaking.

*Responsibility to clients/patients*

IRRC noted that there are two sections in the regulations that relate to misrepresentation of professional qualifications and suggested that they be combined to avoid duplication in the final-form rulemaking. Instead, because the Board separated the topics of “responsibility to clients/patients” and “advertising” in separate sections, the Board has to retain and amend the provisions. The first provision relates to communications with specific existing or prospective clients/patients whose identity is known to the licensee. The advertising provision, now contained §§ 47.80, 48.80 and 49.80 (relating to advertising) applies specifically to general informational activities, including those that enable the public, referral sources or others to choose professional services on an informed basis. Both provisions were amended to clarify the Board’s intent.

The PCA inquired as to why the proposed code did not prohibit licensed professional counselors who hold doctorate degrees in noncounseling areas from representing themselves as having a doctorate. The regulations prohibit licensees from misrepresenting their professional



qualifications. To clarify the Board's intent, the advertising provisions were amended to provide that licensees may not advertise or misrepresent their services and credentials in a manner that is false, misleading, deceptive or fraudulent.

IRRC and the HPLC also questioned the definition of the "appropriate standard of care." Commentators asked whether the Board should promulgate a regulation that requires a licensee to provide "effective" care. Obviously the goal of social work, marriage and family therapy and professional counseling services is to be effective. However, the Board has concerns about establishing a regulation, the violation of which could result in disciplinary action, regarding the effectiveness of care. The Board believes that the standard should be what the ordinary, reasonable licensee would do under the circumstances; and while, as one commentator noted, this definition may seem to be weak and open to interpretation, the courts have been dealing with the "reasonable person" standard for centuries. These regulations seek to establish minimum standards, the violation of which could result in disciplinary action against a licensee. Finally, the Board notes that the National codes of ethics will be used in resolving ambiguities that arise under these regulations.

IRRC expressed concerns about how the two public members of the Board would be able to ascertain what a "reasonable licensee" would do under similar circumstances. In addition, NASW-PA and PSCSW suggested that "standards of care" cases should be reviewed by a licensee's peers and not by another profession. In general, when a "standard of care" case comes before the Board, it is the usual circumstance that the prosecution and defense have "experts" testify as to what standard of care should have been followed by the licensee under the circumstances. The Board believes the public members are capable of evaluating the testimony objectively, in spite of the fact that they are not licensees with comparable training. A professional board made up of a majority of licensees is the entity that ultimately decides these issues. Under section 5(a) of the act (63 P. S. § 1905(a)), the 13-member Board is comprised as follows: 10 who are licensees—5 who are either licensed social workers or licensed clinical social workers, 2 or 3 licensed marriage and family therapists and 2 or 3 licensed professional counselors; 2 public members; and the Commissioner of Professional and Occupational Affairs. The Board believes that due to the great degree of consistency among these regulations, a professional member that is, for example, a licensed professional counselor, will be able to review a matter involving a licensed social worker, licensed clinical social worker or marriage and family therapist with little difficulty. In addition, as noted previously, each profession's National code of ethics will be used to resolve ambiguities arising in matters under these regulations. Finally, NASW-PA raised concerns that attorneys and paralegals review complaints to determine whether a violation of the regulations has occurred. NASW-PA suggested that ethics-related complaints be reviewed by a committee of the same licensed professionals who are familiar with the code of ethical practice and professional conduct. PSCSW supports the NASW-PA proposal and notes that enforcement and prosecution "should be ultimately done by peer review not by another profession." PSCSW suggests that, in a case of "a therapeutic ethical [lapse] or disregard entirely, a jury of ones' (sic) peers is more appropriate and responsible." As noted previously, the prosecution division has access to experts who review matters to determine whether a violation of a standard of practice has been violated and who later testify in

hearings before the Board. Neither the Board nor its professional members may preview a complaint or provide advice to the Commonwealth's prosecutors as to what complaints deserve to be prosecuted. To do so would be an improper commingling of the prosecutorial and adjudicatory functions. See *Lyness v. State Board of Medicine*, 529 Pa. 535, 605 A.2d 1204 (1992).

IRRC noted that the State Board of Psychology's standards provide for areas in which recognized standards do not yet exist. To address IRRC's and the HPLC's specific concerns, the Board added language conceding that, although in some areas recognized standards do not yet exist, protection of the client's/patient's welfare remains the paramount consideration.

IRRC and the HPLC expressed concern with the requirement to make "appropriate" referrals "in a timely manner" as being ambiguous and asked for a more specific rule for a minimum time period in the final-form rulemaking. The Board responded by amending the language to provide that licensees refer a client/patient to another professional and take steps to facilitate an orderly transfer of responsibility whenever the client's/patient's needs exceed the licensee's competence level. The amendment further provides that the licensee shall notify the client/patient promptly of the need to refer and seek the referral and transfer of services in relation to the client's/patient's needs and preferences. The Board felt that it was impossible to establish a strict timetable for referrals that would be applicable in all cases. Thus, to address the HPLC's concerns, the disciplinable offense becomes not making a referral at all when a client's/patient's needs exceed the licensee's competence level.

The PCA suggested that the regulations should require licensed professional counselors to be competent in the use and interpretation of the instruments they use and no requirement to utilize current instruments. The ACA (North Atlantic Region) also pointed out that the code of ethics failed to address assessment. The Board responded by amending the competency provisions in Chapter 49 to require licensees to use only those testing and assessment instruments relevant to the needs of the client/patient and for which the licensee has been trained. The Board also added a provision requiring licensees to maintain knowledge of current scientific and professional information regarding the services they render. The Board also noted that it will refer to the ACA code of ethics to resolve ambiguities.

#### *Informed consent*

The HPLC and IRRC questioned the informed consent provisions and IRRC asked if the Board would consider providing a written disclosure form for licensees to use in discussing services and other issues with the patient/client. In response, rather than promulgate a form which would have to be adapted to every situation, the Board redrafted the section to include a list setting forth the type of information that shall be provided to clients/patients in writing, to include billing and collection policies, as suggested by PSCSW. In response to the HPLC's concerns, the redrafted provision no longer requires a licensee to notify a client/patient of every service available, or the limits, rights, opportunities and obligations. The new provision requires the licensee to inform the client/patient of the purpose of the services being provided, risks and limits to the services being provided that are known to the licensee; reasonable alternatives to the services being provided; the costs, billing and overdue collections policies and their potential effect on the continuation of the professional relationship; the client's/

patient's right to refuse or withdraw consent and the time frame covered by the consent; and other information the licensee reasonably expects would affect the client's/patient's decision to enter into or continue the professional relationship.

IRRC questioned whether a spouse, domestic partner or adult child would be able to provide informed consent on behalf of someone who is not competent due to age or mental condition. To address this concern, the Board clarified that either a parent, guardian, court-appointed representative or the holder of a client's/patient's power of attorney could provide consent to treatment.

The PCA questioned the provision regarding a client/patient receiving services involuntarily. The PCA suggested that this standard challenges the very essence of autonomy. The ACA (North Atlantic Region) also noted that although some individuals might be mandated to treatment, they still have the option of refusing even if doing so has serious consequences that are considerably less appealing than counseling. In response, the Board clarified that the provision was intended to address clients/patients who are engaged in legally-mandated services. The Board also clarified that the licensee shall provide information about the nature and extent of the services and about the client's/patient's rights to the client/patient or to the client's/patient's legal representative, when applicable. The PCA also opined that this provision also suggests that releases of information can be made without the involuntary client's written consent in violation of other laws. The Board noted that the provisions regarding confidentiality clearly provide that licensees have a primary obligation to protect the client's/patient's right to confidentiality and privacy as established by law and professional standards of practice. Therefore, specific laws requiring certain conditions be met before information can be released without written consent must continue to be followed.

#### *Confidentiality and privacy*

IRRC and the HPLC asked the Board to cite to specific "other laws" that govern confidentiality and privacy. The Board is wary of omitting future statutory developments by setting forth a current listing of applicable privacy-related statutes and regulations. The Board noted that it gave consideration to certain specific statutes, including those pertaining to confidentiality of drug and alcohol use records, HIV-related status and records and the Health Insurance Portability and Accountability Act. The Board declined to attempt to identify and cite every possible Federal or State law or regulation that governs privacy and confidentiality of mental health information in this final-form rulemaking. Instead, the Board amended the provision to provide that confidential information may only be revealed with consent, unless the failure to do so would violate a court order or a specific Federal or State privacy statute or regulation. Thus, in a proceeding alleging that a licensee released confidential information without consent, the licensee could defend by pointing to a court order or a specific statute or regulation requiring disclosure.

IRRC also questioned the Board's use of the terms "legally authorized person" and "person legally authorized" to give consent. In the final-form rulemaking, the Board amended the language to refer to the client's/patient's parent, guardian, court-appointed representative or holder of power of attorney.

PAMFT raised concerns regarding confidentiality in providing services to families, couples or groups. IRRC

asked whether the Board should amend the regulation to ensure that each family member's confidentiality is protected. The Board believes the proposed rulemaking adequately protects the confidentiality of participants in family, group or couples counseling. A licensee has an affirmative duty not to disclose confidential information without consent. This general provision would extend to participants in group or family counseling situations. As noted by PAMFT, family members who are included in sessions are considered part of the client group. Each of the regulated professions' National association's codes of ethics has its own provisions regarding confidentiality of each member of a family treatment group. The specific concerns raised by PAMFT are addressed within the consent provisions of these regulations when read in concert with the AAMFT code of ethics.

#### *Termination*

The PCA suggested that licensees should be allowed to terminate or discharge a patient/client for nonpayment of fees. IRRC noted that this issue does not appear to be addressed in the proposed rulemaking. In response, the Board added language providing that a licensee may terminate services for nonpayment if the financial contractual arrangements have been made clear to the client/patient, the client/patient does not pose an imminent danger to self or others and the clinical and other consequences of the current nonpayment have been addressed and discussed with the client/patient. The PCA also suggested that the provision should address termination of treatment due to lack of client progress. It is very difficult to set standards, the violation of which could result in disciplinary action, based on subjective measure such as effectiveness of treatment or lack of progress by the client/patient. The Board, instead, will rely on the National codes of ethics to resolve ambiguities.

In addition, IRRC suggested that the Board eliminate language requiring "appropriate" referral and "reasonable" notification regarding interruption or termination of services and, instead, establish a specific minimum time period for advance notice of termination to provide time for referrals and the search for a new provider. The Board elected to eliminate the offending language and rely on the National codes of ethics to resolve ambiguities.

#### *Sexual harassment*

The PCA and the ACA (North Atlantic Region) noted that nothing in this code of ethics addressed limitations on sexual or romantic relationships with current or former clients. The Board notes that its existing regulations dealing with sexual misconduct in §§ 47.61—47.65, 48.21—48.25 and 49.21—49.25 (relating to sexual misconduct) adequately address those issues.

IRRC noted that the Board already addresses sexual misconduct in its regulations and suggests that sexual harassment should rely on the definition of sexual intimacies already included in the definitions section of each chapter in prohibiting this type of behavior. IRRC also suggested that the Board define the term "sexual harassment" in the final-form rulemaking. In the final-form rulemaking, the Board moved sexual harassment to its own section and amended the regulations to clarify that sexual misconduct applies to clients/patients while the prohibition on sexual harassment addresses employment or academic relationships in the professional work environment and draws its definition directly from the Human Relations Commission's guidelines on sexual harassment.

*Discrimination*

IRRC noted that there are numerous State and Federal antidiscrimination laws and suggested that the Board reference these existing laws rather than designing a new antidiscrimination rule. In response, the Board amended the provision on discrimination to provide that licensees comply with existing Federal and State antidiscrimination laws and may not practice, condone, facilitate or collaborate with any form of discrimination prohibited by those laws.

The PCA suggested that gender identity should be added to the list of protected classes. As noted previously, the Board elected to rely on existing antidiscrimination laws, which renders unnecessary a recitation of each protected group or prohibited behavior. The PCA also suggested that the Board include an affirmative duty to be competent in working with diverse clients/patients. The Board feels that the general competency provisions are adequate. The ACA (North Atlantic Region) suggested renaming this provision "nondiscrimination." The Board elected to retain the heading to be consistent with most codes of ethics.

*Dual or multiple relationships affecting the licensee's judgment*

IRRC agreed with the HPLC's concerns about terms and phrases in this section being vague or ambiguous. IRRC suggested that the Board provide specific examples of situations that this provision seeks to address. The Board has had numerous cases brought before it that revolve around licensees whose other relationships (social, professional, business, financial, and the like) with clients/patients and their family members interfere with the therapeutic relationship. For example, a licensee begins providing marriage counseling to a husband and wife, eventually becoming a close personal friend of the wife, and rather than provide counseling to the couple, ends up seeing the wife in therapy sessions three or four times a week, going out to dinner and shopping with the wife and checking in on the wife numerous times during the day. When their social relationship fails, the wife is distraught and feels that she had lost a friend, a mother figure and her therapist all at once. In this case, the licensee fails to maintain appropriate therapeutic boundaries and engages in improper dual or multiple relationships with a client/patient. There have been other cases of licensee's loaning money to or accepting loans from clients/patients, investing in business ventures with clients/patients and so on. The Board intends, by this final-form rulemaking, to restrict these types of relationships with clients/patients which are engaged in to satisfy the licensee's needs, rather than the client's/patient's needs. The Board believes that practitioners in the field are familiar with the terms used in the final-form rulemaking and understand the behaviors being regulated. Each of the National codes of ethics contains similar provisions prohibiting dual or multiple relationships that affect the licensee's professional judgment. To respond to the HPLC's concerns, the Board revised the language regulating dual or multiple relationships to be more certain and to clarify that the concern is with the effect on the client/patient and not everyone with whom they deal.

*Research and publication*

In the proposed rulemaking, a lengthy provision on the subject of research and publication was included as part of the responsibility of a licensee to clients/patients. IRRC and the HPLC expressed concerns regarding the defini-

tion of certain terms, citation to pertinent applicable laws, implementation and enforcement. The ACA and the PCA also commented regarding the effect of deception upon informed consent for research. Upon consideration of these comments, the Board chose to rewrite the entire section, specifically and succinctly emphasizing its major categorical concerns (protection of human subjects, informed consent, confidentiality and publication responsibilities) in the final-form rulemaking. In response to the HPLC's concerns, the language that remains has been amended to clarify that the "pertinent ethical principles" are those in this chapter and the National codes of ethics; that the informed consent form must use language that the licensee believes would be understandable to the research participants; and that only those attendant discomforts and risks that are most likely to occur and which are known to the licensee must be described.

*Payment for services*

The HPLC asked the Board to clarify what it meant by providing that records may not be withheld due to nonpayment for past services "except as otherwise provided by law." In response, the Board deleted that language to clarify that a licensee may not withhold a client's/patient's records due solely to nonpayment for services.

*Recordkeeping*

The HPLC noted that the proposed rulemaking required licensees to keep records regarding termination but did not specify as to what is being terminated. The Board amended the language to clarify that it is the termination of the professional relationship that must be recorded. The HPLC also noted that the Board sought to require that documentation protect privacy to the extent "possible and appropriate." The Board clarified that documentation shall protect clients'/patients' privacy to the extent that it is consistent with applicable Federal and State laws and regulations. The PCA raised the subject of security of records, leading the Board to adopt Federal and State legal standards for retention and storage. The Board also specified protections to persons other than the client/patient in considering whether certain records should be released.

*Mandatory reporting*

Both NASW-PA and PSCSW suggested that the mandatory reporting requirement consider the client's/patient's right to confidentiality. The Board determined that the confidentiality provisions sufficiently address that issue and would be inherently a part of a licensee's considerations. The Board, on its own initiative, amended the change of name or mailing information provision to remove the language "failure to do so may result in disciplinary action by the Board" as the violation of a regulation may result in disciplinary action by the Board and is superfluous.

*Fiscal Impact and Paperwork Requirements*

The final-form rulemaking will not have fiscal impact and will not impose additional paperwork requirements on the Board or its licensees.

The final-form rulemaking should not impose legal, accounting or reporting requirements on the regulated community.

*Sunset Date*

The Board continuously monitors its regulations. Therefore, a sunset date has not been assigned.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 4, 2008, the Board submitted a copy of the notice of proposed rulemaking, published at 38 Pa.B. 3253, to IRRC and to the HPLC and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on August 18, 2010, the final-form rulemaking was approved by the HPLC. On August 18, 2010, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on August 19, 2010, and approved the final-form rulemaking.

*Contact Person*

Interested persons may obtain information regarding the final-form rulemaking by writing to Beth Sender Michlovitz, Board Counsel, State Board of Social Workers, Marriage and Family Therapists and Professional Counselors, P. O. Box 2649, Harrisburg, PA 17105-2649, bmichlovit@state.pa.us.

*Findings*

The Board finds that:

- (1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law and all comments were considered.
- (3) The amendments to the final-form rulemaking do not enlarge the purpose of the proposed rulemaking published at 38 Pa.B. 3253.
- (4) This final-form rulemaking is necessary and appropriate for administration and enforcement of the authorizing acts identified in this Preamble.

*Order*

The Board orders that:

(a) The regulations of the Board, 49 Pa. Code Chapters 47, 48 and 49, are amended by adding §§ 47.71—47.80, 48.71—48.80 and 49.71—49.80 to read as set forth in Annex A.

*(Editor's Note: The addition of §§ 47.72—47.80, 48.72—48.80 and 49.72—49.80 was not included in the proposed rulemaking published at 38 Pa.B. 3253.)*

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

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

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

DONNA A. TONREY, LMFT,  
*Chairperson*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 40 Pa.B. 5106 (September 4, 2010).)*

**Fiscal Note:** Fiscal Note 16A-6911 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 47. STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS**

**CODE OF ETHICAL PRACTICE AND STANDARDS OF PROFESSIONAL CONDUCT**

**§ 47.71. Codes of ethical practice and professional conduct.**

The Board subscribes to the codes of ethics and practice standards promulgated by the National Association of Social Workers (NASW), the Pennsylvania Society for Clinical Social Work and the Model Social Work Practice Act of the Association of State Social Work Boards. Licensed social workers and licensed clinical social workers (licensees) shall adhere to these codes and standards, except when they conflict with this chapter. The Board will use these codes and standards in resolving ambiguities which may arise in the interpretation of this chapter, except that whenever any conflict exists between this chapter and the professional associations' codes and standards, this chapter shall prevail.

**§ 47.72. Responsibilities to clients/patients.**

(a) *Competency.*

(1) In all communications with, or regarding, specific existing or prospective clients/patients, licensees may not misrepresent directly, indirectly or by implication their professional qualifications such as education, specialized training, experience or areas of competence.

(2) Licensees may practice only within the competency areas for which they are qualified by education, training and experience.

(3) Licensees shall maintain appropriate standards of care. The appropriate standard of care is defined as what an ordinary, reasonable licensee would have done in a similar circumstance. In areas in which recognized standards do not yet exist, licensees shall take whatever precautions are necessary to protect the welfare of their clients/patients.

(4) Licensees shall maintain knowledge of current scientific and professional information related to the services they render.

(5) Licensees shall refer a client/patient to another professional and take steps to facilitate an orderly transfer of responsibility when the client's/patient's needs exceed the licensee's competence level. Licensees shall notify client/patient promptly of the need to refer and seek the referral and transfer of services in relation to the client's/patient's needs and preferences.

(b) *Informed consent.*

(1) Licensees shall inform clients/patients in writing of:

- (i) The purpose of the services being provided.

(ii) Risks and limits related to the services that are known to the licensee.

(iii) Reasonable alternatives to the services being provided.

(iv) Relevant costs, billing and overdue collection policies and their potential effect on the continuation of the professional relationship.

(v) The clients'/patients' right to refuse or withdraw consent, and the time frame covered by the consent.

(vi) Other information the licensees reasonably might expect to affect the clients'/patients' decisions to enter into or continue the professional relationship.

(2) Licensees shall use clear and understandable language when providing the information in paragraph (1) to clients/patients.

(3) Licensees shall provide services to clients/patients only in the context of a professional relationship based on valid informed consent.

(4) In instances when the client/patient is unable to read or understand the informed consent document or has trouble understanding the primary language contained in the informed consent document, licensees shall take steps to ensure the client's/patient's comprehension including providing a detailed verbal explanation or arranging for a qualified interpreter or translator, as needed. If a client/patient is not competent to provide informed consent because of age or mental condition, the licensee shall obtain consent from the client's/patient's parent, guardian, court-appointed representative or the holder of the client's/patient's power of attorney.

(5) When a client/patient is receiving legally-mandated services, licensees shall provide information about the nature and extent of the services and about the client's/patient's rights to the client/patient or the client's/patient's parent, guardian, court-appointed representative or the holder of the client's/patient's power of attorney, as applicable.

(6) Licensees who provide services by means of electronic means shall inform the client/patient of the reasonably foreseeable limitations and risks associated with those services.

(c) *Delegation.* A licensee may not delegate professional responsibilities to another person when the licensee delegating the responsibilities knows or has reason to know that the other person is not qualified by training, experience or licensure to perform those responsibilities.

(d) *Confidentiality and privacy.*

(1) Licensees shall have a primary obligation to protect the client's/patient's right to confidentiality and privacy as established by law and professional standards of practice. Confidential and private information shall only be revealed to others when the client/patient, or the client's/patient's parent, guardian, court-appointed representative or the holder of the client's/patient's power of attorney, has given informed consent, except in those circumstances in which failure to do so would violate a court order or specific Federal or State privacy statutes or regulations, or result in clear and present danger to the client/patient or others. Unless specifically contraindicated by these situations, a client/patient shall be informed and written consent shall be obtained before the confidential and private information is revealed.

(2) Licensees shall discuss with clients/patients and the client's/patient's parent, guardian, court-appointed representative or the holder of the client's/patient's power of

attorney, the nature of confidentiality and the limitation of the clients'/patients' right to confidentiality. Licensees shall review with clients/patients circumstances when confidential information may be requested and when disclosure of confidential information is legally required. This discussion shall occur as soon as possible in the professional relationship and as needed throughout the course of the relationship.

(3) When licensees provide services to families, couples or groups, licensees shall seek agreement among the parties involved concerning each individual's right to confidentiality and obligations to preserve the confidentiality of information shared by others. Licensees shall inform participants in family, group or couples counseling that the licensee cannot guarantee that all participants will honor the agreements. In the context of couple, family or group treatment, the licensee may not reveal any individual's confidences to others in the client unit without the prior written permission of that individual.

(4) Licensees shall take reasonable steps to protect the confidentiality of information transmitted to other parties through the use of computers, electronic mail, facsimile machines, telephones and telephone answering machines, and other electronic or computer technology.

(e) *Termination of services.*

(1) Licensees may terminate services only after giving careful consideration to factors affecting the professional relationship and making an effort to minimize possible adverse effects. If an interruption or termination of services is anticipated, notification and referral for continued services shall be provided to the client/patient.

(2) Licensees may terminate services to a client/patient who has not paid an overdue fee balance if the following conditions are met:

(i) The financial contractual arrangements have been made clear to the client/patient.

(ii) The client/patient does not pose an imminent danger to self or others.

(iii) The clinical and other consequences of the current nonpayment have been addressed and discussed with the client/patient.

(f) *Discrimination.* Licensees shall comply with existing Federal and State antidiscrimination laws and may not practice, condone, facilitate or collaborate with any form of discrimination prohibited by those laws.

(g) *Conduct with clients/patients.*

(1) Licensees may not physically or verbally abuse or threaten clients/patients or family members of clients/patients.

(2) Licensees may not use derogatory language in their written or verbal communications to or about clients/patients. Licensees shall use accurate and respectful language in communications to and about clients/patients.

#### **§ 47.73. Dual or multiple relationships affecting the licensee's judgment.**

(a) *Dual or multiple relationships defined.* Dual or multiple relationships occur when the licensee engages in multiple or ongoing interactions with clients/patients, the clients'/patients' romantic partners or immediate family members of clients/patients in more than one context, whether professional, social or business. Dual or multiple relationships can occur simultaneously or consecutively.

(b) *Dual or multiple relationships prohibited.*

(1) A licensee shall avoid dual or multiple relationships and conflicts of interest with any client/patient, which could impair the licensee's professional judgment or increases the risk of client/patient exploitation.

(2) A licensee may not undertake or continue a professional relationship with a client/patient, supervisee or student when the objectivity or competency of the licensee is, or could reasonably be expected to be, impaired or when the relationship with the client/patient, supervisee or student is exploitative.

(3) A licensee shall carefully consider familial, social, emotional, financial, supervisory, political, administrative and legal relationships with a client/patient or a person related to or associated with the client/patient to assure that impaired judgment or exploitation does not occur within the professional relationship.

(4) Licensees shall always carefully consider the potentially harmful effects of dual or multiple relationships on their practice and on their clients/patients. A licensee shall refrain from entering into, or promising another to enter into, professional, social or business relationships with another person if it appears reasonably likely that the relationship might impair the licensee's objectivity or otherwise interfere with the licensee's effectiveness or might harm or exploit the client/patient.

(5) When a dual or multiple relationship cannot be avoided, a licensee shall take reasonable professional precautions, such as informed consent, consultation, supervision and documentation, to ensure that judgment is not impaired and that no exploitation occurs.

(6) If a licensee finds that, due to unforeseen factors, a potentially harmful dual or multiple relationship has arisen with a client/patient, the licensee shall attempt to resolve it with due regard for the best interests of the client/patient and maximum compliance with the act and this chapter.

(c) *Conflicts of interest.* When a licensee provides services to two or more people who have a relationship with each other, such as couples or family members, the licensee shall clarify with all parties which individuals will be considered clients/patients and the nature of the licensee's professional obligation to the various individuals who are receiving services. A licensee who anticipates or should reasonably anticipate a conflict of interest among the individuals receiving services, or who anticipates or should reasonably anticipate having to perform in potentially conflicting roles, such as a licensee who is asked or ordered to testify in a child custody dispute or divorce proceeding involving clients/patients, shall clarify the roles with the parties involved and take reasonable action to minimize any conflict of interest.

**§ 47.74. Sexual harassment.**

(a) Licensees may not sexually harass supervisees, students, trainees, employees, research subjects or colleagues.

(b) Sexual harassment includes unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when any one of the following occurs:

(1) Submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic association with a licensee.

(2) Submission to or rejection of the conduct by an individual is used as the basis for employment-related decisions affecting the individual or academic decisions affecting the individual.

(3) The conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile or offensive working or academic environment.

**§ 47.75. Impaired practice.**

A licensee may not undertake or continue a professional relationship with a client/patient, supervisee or student when the objectivity or competency of the licensee is, or could reasonably be expected to be, impaired due to mental, emotional, physiological, pharmacological or substance abuse conditions. If such a condition develops after a professional relationship has been initiated, the licensee shall terminate the professional relationship in an appropriate manner and shall, either himself or through an appropriate designee, notify the client/patient of the termination in writing and assist the client/patient in obtaining services from another professional.

**§ 47.76. Research and publication.**

(a) *Protection of human subjects.*

(1) A licensee shall plan, design, conduct and report research in a manner consistent with this chapter, the codes of ethics in § 47.71 (relating to codes of ethical practice and professional conduct), Federal and State laws, host institutional rules and scientific standards governing research with human subjects.

(2) A licensee shall obtain informed consent from participants by using language that the licensee believes would be understandable to the research participants and that:

(i) Accurately explains the purpose and procedures to be followed.

(ii) Identifies any procedures that are experimental or relatively untried.

(iii) Describes the attendant discomforts and risks that are most likely to occur, which are known to the licensee.

(iv) Describes the benefits or changes in individuals or organizations that might be reasonably expected.

(v) Discloses appropriate alternative procedures that may be advantageous for the subject.

(vi) Offers to answer inquiries concerning the procedures.

(vii) Instructs that subjects are free to withdraw their consent and discontinue participation in the research project at any time.

(3) When a participant is not capable of giving informed consent, licensees shall provide an appropriate explanation, obtain agreement for participation and obtain informed consent from a participant's parent, guardian, court-appointed representative or the holder of the participant's power of attorney.

(4) Information obtained about research participants during the course of the research is confidential. The licensee shall explain to the participant whether the possibility exists that others may obtain access to the information, and also explain the plans for protecting the participant's confidentiality as part of the procedure for obtaining informed consent.

(b) *Reporting and publication of results.*

(1) Licensees may not engage in fraudulent research, distort data, misrepresent data or deliberately bias their results.

(2) Licensees shall plan, conduct, report and publish accurately and in a manner that minimizes the possibility that results will be misleading.

(c) *Other ethical obligations.* In addition to the provisions of this section, a licensee's ethical obligations with regard to research and publication are governed by this chapter and those codes of ethics and standards of practice to which the Board subscribes in § 47.71.

**§ 47.77. Payment for services.**

(a) When setting fees, licensees shall ensure that the fees are fair, reasonable and commensurate with the services performed.

(b) Licensees may not accept goods or services as payment for professional services.

(c) Licensees shall make financial arrangements with clients/patients, third-party payors and supervisees that are reasonably understandable and conform to accepted professional practices.

(d) Prior to entering into the therapeutic or supervisory relationship, a licensee shall clearly disclose and explain to clients/patients and supervisees the following:

(1) Financial arrangements and fees related to professional services, including charges for canceled or missed appointments.

(2) The use of collection agencies or legal measures for nonpayment.

(3) The procedure for obtaining payment from the client/patient, to the extent allowed by law, if payment is denied by the third-party payor.

(e) Once services have begun, licensees shall provide reasonable notice of changes in fees or other charges.

(f) Licensees shall give reasonable notice to clients with unpaid balances of their intent to seek collection by agency or legal recourse. When this action is taken, licensees may not disclose clinical information.

(g) Licensees shall represent facts truthfully to clients, third-party payors and supervisees regarding services rendered.

(h) Licensees may not withhold records under their immediate control that are requested and needed for a client's/patient's treatment solely because payment has not been received for past services.

**§ 47.78. Recordkeeping.**

(a) For each client/patient, a licensee shall keep records of the dates of social work services, types of social work services, details of the services provided, termination of the professional relationship, and billing information.

(b) Records kept by the licensee shall be retained for at least 5 years from the date of the last entry. Records held or owned by government agencies or educational institutions are not subject to this requirement.

(c) Licensees shall take reasonable steps to ensure that documentation in records is accurate, legible and reflects the services provided.

(d) Licensees shall include sufficient and timely documentation in records to facilitate the delivery of services and to ensure continuity of services provided to the client/patient in the future.

(e) Licensees' documentation shall protect clients'/patients' privacy to the extent that it is consistent with applicable Federal and State laws and regulations and should include information that is directly relevant to the delivery of services.

(f) Licensees shall store records following termination of services to ensure reasonable future access. Records shall be retained and stored as required by applicable Federal and State law and regulations.

(g) Licensees shall provide a client/patient with reasonable access to records concerning the client/patient. Licensees who are concerned that clients'/patients' access to their records could cause serious harm to the client/patient or another person shall provide assistance in interpreting the records and consultation with the client/patient regarding the records. Licensees may limit clients'/patients' access to their records, or portions of their records, only in exceptional circumstances when there is compelling evidence that the access would cause serious harm to the client/patient or another person. Both the clients'/patients' requests and the rationale for withholding some or all of the records shall be documented in the clients'/patients' files. When providing clients'/patients with access to their records, licensees shall take steps to protect the confidentiality of other individuals identified or discussed in the records.

(h) In the event of the licensee moving from the area or closing the licensee's practice, a licensee shall arrange for the storage, transfer or disposal of client/patient records in ways that maintain confidentiality and safeguard the welfare of clients/patients.

**§ 47.79. Mandatory reporting.**

(a) Licensees, supervisors and trainees have a responsibility to report alleged violations of the act or this chapter to the Board. If a licensee has knowledge or reason to suspect that a colleague or other licensee is incompetent, impaired or unethical, the licensee shall report that practitioner to the Board. Licensees shall make these reports in a manner that does not violate a client's/patient's right to confidentiality.

(b) Licensees shall comply with the mandatory reporting requirements in this chapter, including §§ 47.51—47.57 (relating to child abuse reporting requirements).

(c) Licensees shall notify the Board within 30 days of changes of name or mailing information to ensure that the Board has the licensee's current name and mailing address.

**§ 47.80. Advertising.**

(a) *Definition.* Advertising is defined as the engagement in general informational activities, including those that enable the public, referral sources or others to choose professional services on an informed basis.

(b) *Engagement in advertising.*

(1) Licensees may engage in advertising that accurately represents their competencies, education, training and experience relevant to their professional practice. Licensees may not advertise their services and credentials in a manner that is false, misleading, deceptive or fraudulent.

(2) Licensees shall ensure that advertisements and publications in any media, such as directories, announcements, business cards, newspapers, radio, television, internet and facsimiles, convey information that is neces-

sary for the public to make an appropriate selection of professional services. This information may include the following:

- (i) Office information, such as name, address, telephone number and credit card acceptability.
  - (ii) Earned degrees and State or provincial licensures or certifications.
  - (iii) Professional association member status.
  - (iv) Description of practice.
- (3) Licensees may not use names that could mislead the public concerning the identity, responsibility, source or status of those practicing under that name, and may not hold themselves out as being partners or associates of a firm if they are not partners or associates of the firm.

(4) Licensees may not use any professional identification, such as a business card, office sign, letterhead, internet, or telephone or association directory listing, if it includes a statement or claim that is false, fraudulent, misleading or deceptive.

(5) In representing their educational qualifications, licensees shall list and claim only those earned degrees from institutions accredited by regional accreditation sources recognized by the United States Department of Education, from institutions recognized by states or provinces that license or certify the licensee, or from equivalent foreign institutions.

(6) A licensee shall correct, whenever possible, false, misleading or inaccurate information and representations made by others concerning the licensee's qualifications, services or products.

(7) Licensees shall make certain that the qualifications of their employees or supervisees are represented in a manner that is not false, misleading or deceptive.

(8) Licensees may not represent themselves as providing specialized services unless they have the required education, training or supervised experience.

**CHAPTER 48. STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS—LICENSURE OF MARRIAGE AND FAMILY THERAPISTS**

**CODE OF ETHICAL PRACTICE AND STANDARDS OF PROFESSIONAL CONDUCT**

**§ 48.71. Code of ethical practice and professional conduct.**

The Board subscribes to the code of ethics and practice standards for licensed marriage and family therapists (licensees) promulgated by the American Association for Marriage and Family Therapy (AAMFT) and the Board will use the AAMFT Code of Ethics in resolving ambiguities which may arise in the interpretation of this chapter, except that whenever any conflict exists between this chapter and the AAMFT Code of Ethics, this chapter shall prevail.

**§ 48.72. Responsibilities to clients/patients.**

(a) *Competency.*

(1) In all communications with, or regarding, specific existing or prospective clients/patients, licensees may not misrepresent directly, indirectly or by implication their professional qualifications such as education, specialized training, experience or areas of competence.

(2) Licensees may practice only within the competency areas for which they are qualified by education, training and experience.

(3) Licensees shall maintain appropriate standards of care. The appropriate standard of care is defined as what an ordinary, reasonable licensee would have done in a similar circumstance. In areas in which recognized standards do not yet exist, licensees shall take whatever precautions are necessary to protect the welfare of their clients/patients.

(4) Licensees shall maintain knowledge of current scientific and professional information related to the services they render.

(5) Licensees shall refer a client/patient to another professional and take steps to facilitate an orderly transfer of responsibility when the client's/patient's needs exceed the licensee's competence level. Licensees shall notify client/patients promptly of the need to refer and seek the referral and transfer of services in relation to the clients'/patients' needs and preferences.

(b) *Informed consent.*

(1) Licensees shall inform clients/patients in writing of:

- (i) The purpose of the services being provided.
- (ii) Risks and limits related to the services that are known to the licensee.
- (iii) Reasonable alternatives to the services being provided.
- (iv) Relevant costs, billing and overdue collection policies and their potential effect on the continuation of the professional relationship.

(v) The clients'/patients' right to refuse or withdraw consent, and the time frame covered by the consent.

(vi) Other information the licensees reasonably might expect to affect the clients'/patients' decisions to enter into or continue the professional relationship.

(2) Licensees shall use clear and understandable language when providing the information in paragraph (1) to clients/patients.

(3) Licensees shall provide services to clients/patients only in the context of a professional relationship based on valid informed consent.

(4) In instances when the client/patient is unable to read or understand the informed consent document or has trouble understanding the primary language contained in the informed consent document, licensees shall take steps to ensure the client's/patient's comprehension including providing a detailed verbal explanation or arranging for a qualified interpreter or translator, as needed. If a client/patient is not competent to provide informed consent because of age or mental condition, the licensee shall obtain consent from the client's/patient's parent, guardian, court-appointed representative or the holder of the client's/patient's power of attorney.

(5) When a client/patient is receiving legally-mandated services, licensees shall provide information about the nature and extent of the services and about the client's/patient's rights to the client/patient or the client's/patient's parent, guardian, court-appointed representative or the holder of the client's/patient's power of attorney, as applicable.

(6) Licensees who provide services by means of electronic means shall inform the client/patient of the reasonably foreseeable limitations and risks associated with those services.



(c) *Delegation.* A licensee may not delegate professional responsibilities to another person when the licensee delegating the responsibilities knows or has reason to know that the other person is not qualified by training, experience or licensure to perform those responsibilities.

(d) *Confidentiality and privacy.*

(1) Licensees shall have a primary obligation to protect the client's/patient's right to confidentiality and privacy as established by law and professional standards of practice. Confidential and private information shall only be revealed to others when the client/patient, or the client's/patient's parent, guardian, court-appointed representative or the holder of the client's/patient's power of attorney, has given informed consent, except in those circumstances in which failure to do so would violate a court order or specific Federal or State privacy statutes or regulations or result in clear and present danger to the client/patient or others. Unless specifically contraindicated by these situations, a client/patient shall be informed and written consent shall be obtained before the confidential and private information is revealed.

(2) Licensees shall discuss with clients/patients and the client's/patient's parent, guardian, court-appointed representative or the holder of the client's/patient's power of attorney, the nature of confidentiality and the limitation of the clients'/patients' right to confidentiality. Licensees shall review with clients/patients circumstances when confidential information may be requested and when disclosure of confidential information is legally required. This discussion shall occur as soon as possible in the professional relationship and as needed throughout the course of the relationship.

(3) When licensees provide services to families, couples or groups, licensees shall seek agreement among the parties involved concerning each individual's right to confidentiality and obligations to preserve the confidentiality of information shared by others. Licensees shall inform participants in family, group or couples counseling that the licensee cannot guarantee that all participants will honor the agreements. In the context of couple, family or group treatment, the licensee may not reveal any individual's confidences to others in the client unit without the prior written permission of that individual.

(4) Licensees shall take reasonable steps to protect the confidentiality of information transmitted to other parties through the use of computers, electronic mail, facsimile machines, telephones and telephone answering machines, and other electronic or computer technology.

(e) *Termination of services.*

(1) Licensees may terminate services only after giving careful consideration to factors affecting the professional relationship and making an effort to minimize possible adverse effects. If an interruption or termination of services is anticipated, notification and referral for continued services shall be provided to the client/patient.

(2) Licensees may terminate services to a client/patient who has not paid an overdue fee balance if the following conditions are met:

(i) The financial contractual arrangements have been made clear to the client/patient.

(ii) The client/patient does not pose an imminent danger to self or others.

(iii) The clinical and other consequences of the current nonpayment have been addressed and discussed with the client/patient.

(f) *Discrimination.* Licensees shall comply with existing Federal and State antidiscrimination laws and may not practice, condone, facilitate or collaborate with any form of discrimination prohibited by those laws.

(g) *Conduct with clients/patients.*

(1) Licensees may not physically or verbally abuse or threaten clients/patients or family members of clients/patients.

(2) Licensees may not use derogatory language in their written or verbal communications to or about clients/patients. Licensees shall use accurate and respectful language in communications to and about clients/patients.

**§ 48.73. Dual or multiple relationships affecting the licensee's judgment.**

(a) *Dual or multiple relationships defined.* Dual or multiple relationships occur when the licensee engages in multiple or ongoing interactions with clients/patients, the clients'/patients' romantic partners or immediate family members of clients/patients in more than one context, whether professional, social or business. Dual or multiple relationships can occur simultaneously or consecutively.

(b) *Dual or multiple relationships prohibited.*

(1) A licensee shall avoid dual or multiple relationships and conflicts of interest with any client/patient, which could impair the licensee's professional judgment or increases the risk of client/patient exploitation.

(2) A licensee may not undertake or continue a professional relationship with a client/patient, supervisee or student when the objectivity or competency of the licensee is, or could reasonably be expected to be, impaired or when the relationship with the client/patient, supervisee or student is exploitative.

(3) A licensee shall carefully consider familial, social, emotional, financial, supervisory, political, administrative and legal relationships with a client/patient or a person related to or associated with the client/patient to assure that impaired judgment or exploitation does not occur within the professional relationship.

(4) Licensees shall always carefully consider the potentially harmful effects of dual or multiple relationships on their practice and on their clients/patients. A licensee shall refrain from entering into, or promising another to enter into, professional, social or business relationships with another person if it appears reasonably likely that the relationship might impair the licensee's objectivity or otherwise interfere with the licensee's effectiveness or might harm or exploit the client/patient.

(5) When a dual or multiple relationship cannot be avoided, a licensee shall take reasonable professional precautions, such as informed consent, consultation, supervision and documentation, to ensure that judgment is not impaired and that no exploitation occurs.

(6) If a licensee finds that, due to unforeseen factors, a potentially harmful dual or multiple relationship has arisen with a client/patient, the licensee shall attempt to resolve it with due regard for the best interests of the client/patient and maximum compliance with the act and this chapter.

(c) *Conflicts of interest.* When a licensee provides services to two or more people who have a relationship with each other, such as couples or family members, the licensee shall clarify with all parties which individuals will be considered clients/patients and the nature of the licensee's professional obligation to the various individu-

als who are receiving services. A licensee who anticipates or should reasonably anticipate a conflict of interest among the individuals receiving services or who anticipates or should reasonably anticipate having to perform in potentially conflicting roles, such as a licensee who is asked or ordered to testify in a child custody dispute or divorce proceeding involving clients/patients, shall clarify the roles with the parties involved and take reasonable action to minimize any conflict of interest.

**§ 48.74. Sexual harassment.**

(a) Licensees may not sexually harass supervisees, students, trainees, employees, research subjects or colleagues.

(b) Sexual harassment includes unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when one of the following occurs:

(1) Submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic association with a licensee.

(2) Submission to or rejection of the conduct by an individual is used as the basis for employment-related decisions affecting the individual or academic decisions affecting the individual.

(3) The conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile or offensive working or academic environment.

**§ 48.75. Impaired practice.**

A licensee may not undertake or continue a professional relationship with a client/patient, supervisee or student when the objectivity or competency of the licensee is or could reasonably be expected to be impaired due to mental, emotional, physiological, pharmacological or substance abuse conditions. If such a condition develops after a professional relationship has been initiated, the licensee shall terminate the professional relationship in an appropriate manner and shall, either himself or through an appropriate designee, notify the client/patient of termination in writing and assist the client/patient in obtaining services from another professional.

**§ 48.76. Research and publication.**

(a) *Protection of human subjects.*

(1) A licensee shall plan, design, conduct and report research in a manner consistent with this chapter, the AAMFT Code of Ethics, applicable Federal and State laws, host institutional rules and scientific standards governing research with human subjects.

(2) A licensee shall obtain informed consent from participants by using language that the licensee believes would be understandable to the research participants and that:

(i) Accurately explains the purpose and procedures to be followed.

(ii) Identifies any procedures that are experimental or relatively untried.

(iii) Describes the attendant discomforts and risks that are most likely to occur and which are known to the licensee.

(iv) Describes the benefits or changes in individuals or organizations that might be reasonably expected.

(v) Discloses appropriate alternative procedures that may be advantageous for the subject.

(vi) Offers to answer any inquiries concerning the procedures.

(vii) Instructs that subjects are free to withdraw their consent and discontinue participation in the research project at any time.

(3) When a participant is not capable of giving informed consent, licensees shall provide an appropriate explanation, obtain agreement for participation and obtain informed consent from a participant's parent, guardian, court-appointed representative or the holder of the participant's power of attorney.

(4) Information obtained about research participants during the course of the research is confidential. The licensee shall explain to the participant whether the possibility exists that others may obtain access to the information, and also explain the plans for protecting the participant's confidentiality as part of the procedure for obtaining informed consent.

(b) *Reporting and publication of results.*

(1) Licensees may not engage in fraudulent research, distort data, misrepresent data or deliberately bias their results.

(2) Licensees shall plan, conduct, report and publish accurately and in a manner that minimizes the possibility that results will be misleading.

(c) *Other ethical obligations.* In addition to the provisions of this section, a licensee's ethical obligations with regard to research and publication are governed by this chapter and the AAMFT Code of Ethics.

**§ 48.77. Payment for services.**

(a) When setting fees, licensees shall ensure that the fees are fair, reasonable and commensurate with the services performed.

(b) Licensees may not accept goods or services as payment for professional services.

(c) Licensees shall make financial arrangements with clients/patients, third-party payors and supervisees that are reasonably understandable and conform to accepted professional practices.

(d) Prior to entering into the therapeutic or supervisory relationship, a licensee shall clearly disclose and explain to clients/patients and supervisees the following:

(1) Financial arrangements and fees related to professional services, including charges for canceled or missed appointments.

(2) The use of collection agencies or legal measures for nonpayment.

(3) The procedure for obtaining payment from the client/patient, to the extent allowed by law, if payment is denied by the third-party payor.

(e) Once services have begun, licensees shall provide reasonable notice of changes in fees or other charges.

(f) Licensees shall give reasonable notice to clients with unpaid balances of their intent to seek collection by agency or legal recourse. When this action is taken, licensees may not disclose clinical information.

(g) Licensees shall represent facts truthfully to clients, third-party payors and supervisees regarding services rendered.

(h) Licensees may not withhold records under their immediate control that are requested and needed for a

client's/patient's treatment solely because payment has not been received for past services.

**§ 48.78. Recordkeeping.**

(a) For each client/patient, a licensee shall keep records of the dates of marriage and family therapy services, types of marriage and family therapy services, details of the services provided, termination of the professional relationship and billing information.

(b) Records kept by the licensee shall be retained for at least 5 years from the date of the last entry. Records held or owned by government agencies or educational institutions are not subject to this requirement.

(c) Licensees shall take reasonable steps to ensure that documentation in records is accurate, legible and reflects the services provided.

(d) Licensees shall include sufficient and timely documentation in records to facilitate the delivery of services and to ensure continuity of services provided to the client/patient in the future.

(e) Licensees' documentation shall protect clients'/patients' privacy to the extent that it is consistent with applicable Federal and State laws and regulations and should include information that is directly relevant to the delivery of services.

(f) Licensees shall store records following termination of services to ensure reasonable future access. Records shall be retained and stored as required by applicable Federal and State law and regulations.

(g) Licensees shall provide a client/patient with reasonable access to records concerning the client/patient. Licensees who are concerned that clients'/patients' access to their records could cause serious harm to the client/patient or another person shall provide assistance in interpreting the records and consultation with the client/patient regarding the records. Licensees shall limit clients'/patients' access to their records, or portions of their records, only in exceptional circumstances when there is compelling evidence that the access would cause serious harm to the client/patient or another person. Both the clients'/patients' requests and the rationale for withholding some or all of the records shall be documented in the clients'/patients' files. When providing clients'/patients with access to their records, licensees shall take steps to protect the confidentiality of other individuals identified or discussed in such records.

(h) In the event of the licensee moving from the area or closing the licensee's practice, a licensee shall arrange for the storage, transfer or disposal of client/patient records in ways that maintain confidentiality and safeguard the welfare of clients/patients.

**§ 48.79. Mandatory reporting.**

(a) Licensees, supervisors and trainees have a responsibility to report alleged violations of the act or this chapter to the Board. If a licensee has knowledge or reason to suspect that a colleague or other licensee is incompetent, impaired or unethical, the licensee shall report that practitioner to the Board. Licensees shall make these reports in a manner that does not violate a client's/patient's right to confidentiality.

(b) Licensees shall comply with the mandatory reporting requirements in this chapter, including §§ 48.51—48.57 (relating to child abuse reporting requirements).

(c) Licensees shall notify the Board within 30 days of changes of name or mailing information to ensure that the Board has the licensee's current name and mailing address.

**§ 48.80. Advertising.**

(a) *Definition.* Advertising is defined as the engagement in general informational activities, including those that enable the public, referral sources or others to choose professional services on an informed basis.

(b) *Engagement in advertising.*

(1) Licensees may engage in advertising that accurately represents their competencies, education, training and experience relevant to their professional practice. Licensees may not advertise their services and credentials in a manner that is false, misleading, deceptive or fraudulent.

(2) Licensees shall ensure that advertisements and publications in any media, such as directories, announcements, business cards, newspapers, radio, television, internet and facsimiles, convey information that is necessary for the public to make an appropriate selection of professional services. This information may include the following:

(i) Office information, such as name, address, telephone number and credit card acceptability.

(ii) Earned degrees and state or provincial licensures or certifications.

(iii) Professional association member status.

(iv) Description of practice.

(3) Licensees may not use names that could mislead the public concerning the identity, responsibility, source or status of those practicing under that name, and may not hold themselves out as being partners or associates of a firm if they are not partners or associates of the firm.

(4) Licensees may not use any professional identification, such as a business card, office sign, letterhead, internet, or telephone or association directory listing, if it includes a statement or claim that is false, fraudulent, misleading or deceptive.

(5) In representing their educational qualifications, licensees shall list and claim only those earned degrees from institutions accredited by regional accreditation sources recognized by the United States Department of Education, from institutions recognized by states or provinces that license or certify the licensee, or from equivalent foreign institutions.

(6) A licensee shall correct, whenever possible, false, misleading or inaccurate information and representations made by others concerning the licensee's qualifications, services or products.

(7) Licensees shall make certain that the qualifications of their employees or supervisees are represented in a manner that is not false, misleading or deceptive.

(8) Licensees may not represent themselves as providing specialized services unless they have the required education, training or supervised experience.

**CHAPTER 49. STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS—LICENSURE OF PROFESSIONAL COUNSELORS**

**CODE OF ETHICAL PRACTICE AND STANDARDS OF PROFESSIONAL CONDUCT**

**§ 49.71. Code of ethical practice and professional conduct.**

(a) The Board subscribes to the code of ethics and practice standards for licensees promulgated by the

American Counseling Association (ACA). Licensed professional counselors (licensees) shall adhere to the ACA Code of Ethics, except when the ACA Code of Ethics conflict with this chapter. The Board will use the ACA Code of Ethics in resolving ambiguities that may arise in the interpretation of this chapter, except that whenever any conflict exists between this chapter and the ACA Code of Ethics, this chapter shall prevail.

(b) The Board acknowledges the codes of ethics and practice standards of the National Board for Certified Counselors, Inc., the Commission on Rehabilitation Counselor Certification, the Certification Board for Music Therapists, the Art Therapists Certification Board, the American Dance Therapy Association, the National Association for Drama Therapy, The Academy of Certified Clinical Mental Health Counselors, The North American Association of Master's in Psychology, the American School Counseling Association and The International Certification and Reciprocity Consortium/Alcohol and Other Drug Abuse, Inc., and the Board may elect to consider or refer to these codes and standards as advisory aids in resolving ambiguities which may arise in the interpretation of this chapter.

**§ 49.72. Responsibilities to clients/patients.**

(a) *Competency.*

(1) In all communications with, or regarding, specific existing or prospective clients/patients, licensees may not misrepresent directly, indirectly or by implication their professional qualifications such as education, specialized training, experience or areas of competence.

(2) Licensees may practice only within the competency areas for which they are qualified by education, training and experience. Licensees may utilize only those testing and assessment instruments relevant to the needs of the client/patient and for which the licensees have been trained.

(3) Licensees shall maintain appropriate standards of care. The appropriate standard of care is defined as what an ordinary, reasonable licensee would have done in a similar circumstance. In areas in which recognized standards do not yet exist, licensees shall take whatever precautions are necessary to protect the welfare of their clients/patients.

(4) Licensees shall maintain knowledge of current scientific and professional information related to the services they render.

(5) Licensees shall refer a client/patient to another professional and take steps to facilitate an orderly transfer of responsibility when the client's/patient's needs exceed the licensee's competence level. Licensees shall notify the client/patient promptly of the need to refer and seek the referral and transfer of services in relation to the clients'/patients' needs and preferences.

(b) *Informed consent.*

(1) Licensees shall inform clients/patients in writing of:

- (i) The purpose of the services being provided.
- (ii) Risks and limits related to the services that are known to the licensee.
- (iii) Reasonable alternatives to the services being provided.
- (iv) Relevant costs, billing and overdue collection policies and their potential effect on the continuation of the professional relationship.

(v) The clients'/patients' right to refuse or withdraw consent, and the time frame covered by the consent.

(vi) Other information the licensees reasonably might expect to affect the clients'/patients' decisions to enter into or continue the professional relationship.

(2) Licensees shall use clear and understandable language when providing the information in paragraph (1) to clients/patients.

(3) Licensees shall provide services to clients/patients only in the context of a professional relationship based on valid informed consent.

(4) In instances when the client/patient is unable to read or understand the informed consent document or has trouble understanding the primary language contained in the informed consent document, licensees shall take steps to ensure the client's/patient's comprehension including providing a detailed verbal explanation or arranging for a qualified interpreter or translator, as needed. If a client/patient is not competent to provide informed consent because of age or mental condition, the licensee shall obtain consent from the client's/patient's parent, guardian, court-appointed representative or the holder of the client's/patient's power of attorney.

(5) When a client/patient is receiving legally-mandated services, licensees shall provide information about the nature and extent of the services and about the client's/patient's rights to the client/patient, or the client's/patient's parent, guardian, court-appointed representative or the holder of the client's/patient's power of attorney, as applicable.

(6) Licensees who provide services by means of electronic means shall inform the client/patient of the reasonably foreseeable limitations and risks associated with those services.

(c) *Delegation.* A licensee may not delegate professional responsibilities to another person when the licensee delegating the responsibilities knows or has reason to know that the other person is not qualified by training, experience or licensure to perform those responsibilities.

(d) *Confidentiality and privacy.*

(1) Licensees shall have a primary obligation to protect the client's/patient's right to confidentiality and privacy as established by law and professional standards of practice. Confidential and private information shall only be revealed to others when the client/patient, or the client's/patient's parent, guardian, court-appointed representative or the holder of the client's/patient's power of attorney, has given informed consent, except in those circumstances in which failure to do so would violate a court order or specific Federal or State privacy statutes or regulations, or result in clear and present danger to the client/patient or others. Unless specifically contraindicated by such situations, a client/patient shall be informed and written consent shall be obtained before the confidential and private information is revealed.

(2) Licensees shall discuss with clients/patients and the client's/patient's parent, guardian, court-appointed representative or the holder of the client's/patient's power of attorney, the nature of confidentiality and the limitation of the clients'/patients' right to confidentiality. Licensees shall review with clients/patients circumstances when confidential information may be requested and when disclosure of confidential information is legally required. This discussion shall occur as soon as possible in the professional relationship and as needed throughout the course of the relationship.

(3) When licensees provide services to families, couples or groups, licensees shall seek agreement among the parties involved concerning each individual's right to confidentiality and obligations to preserve the confidentiality of information shared by others. Licensees shall inform participants in family, group or couples counseling that the licensee cannot guarantee that all participants will honor the agreements. In the context of couple, family or group treatment, the licensee may not reveal any individual's confidences to others in the client unit without the prior written permission of that individual.

(4) Licensees shall take reasonable steps to protect the confidentiality of information transmitted to other parties through the use of computers, electronic mail, facsimile machines, telephones and telephone answering machines, and other electronic or computer technology.

(e) *Termination of services.*

(1) Licensees may terminate services only after giving careful consideration to factors affecting the professional relationship and making an effort to minimize possible adverse effects. If an interruption or termination of services is anticipated, notification and referral for continued services shall be provided to the client/patient.

(2) Licensees may terminate services to a client/patient who has not paid an overdue fee balance if the following conditions are met:

(i) The financial contractual arrangements have been made clear to the client/patient.

(ii) The client/patient does not pose an imminent danger to self or others.

(iii) The clinical and other consequences of the current nonpayment have been addressed and discussed with the client/patient.

(f) *Discrimination.* Licensees shall comply with existing Federal and State antidiscrimination laws and may not practice, condone, facilitate or collaborate with any form of discrimination prohibited by those laws.

(g) *Conduct with clients/patients.*

(1) Licensees may not physically or verbally abuse or threaten clients/patients or family members of clients/patients.

(2) Licensees may not use derogatory language in their written or verbal communications to or about clients/patients. Licensees shall use accurate and respectful language in communications to and about clients/patients.

**§ 49.73. Dual or multiple relationships affecting the licensee's judgment.**

(a) *Dual or multiple relationships defined.* Dual or multiple relationships occur when the licensee engages in multiple or ongoing interactions with clients/patients, their romantic partners or immediate family members of clients/patients in more than one context, whether professional, social or business. Dual or multiple relationships can occur simultaneously or consecutively.

(b) *Dual or multiple relationships prohibited.*

(1) A licensee shall avoid dual or multiple relationships and conflicts of interest with any client/patient which could impair the licensee's professional judgment or increases the risk of client/patient exploitation.

(2) A licensee may not undertake or continue a professional relationship with a client/patient, supervisee or student when the objectivity or competency of the licensee

is, or could reasonably be expected to be, impaired or when the relationship with the client/patient, supervisee or student is exploitative.

(3) A licensee shall carefully consider familial, social, emotional, financial, supervisory, political, administrative and legal relationships with a client/patient or a person related to or associated with the client/patient to assure that impaired judgment or exploitation does not occur within the professional relationship.

(4) Licensees shall always carefully consider the potentially harmful effects of dual or multiple relationships on their practice and on their clients/patients. A licensee shall refrain from entering into, or promising another to enter into, professional, social or business relationships with another person if it appears reasonably likely that the relationship might impair the licensee's objectivity or otherwise interfere with the licensee's effectiveness or might harm or exploit the client/patient.

(5) When a dual or multiple relationship cannot be avoided, a licensee shall take reasonable professional precautions, such as informed consent, consultation, supervision and documentation, to ensure that judgment is not impaired and that no exploitation occurs.

(6) If a licensee finds that, due to unforeseen factors, a potentially harmful dual or multiple relationship has arisen with a client/patient, the licensee shall attempt to resolve it with due regard for the best interests of the client/patient and maximum compliance with the act and this chapter.

(c) *Conflicts of interest.* When a licensee provides services to two or more people who have a relationship with each other, such as couples or family members, the licensee shall clarify with all parties which individuals will be considered clients/patients and the nature of the licensee's professional obligation to the various individuals who are receiving services. A licensee who anticipates or should reasonably anticipate a conflict of interest among the individuals receiving services or who anticipates or should reasonably anticipate having to perform in potentially conflicting roles, such as a licensee who is asked or ordered to testify in a child custody dispute or divorce proceeding involving clients/patients, shall clarify the roles with the parties involved and take reasonable action to minimize any conflict of interest.

**§ 47.74. Sexual harassment.**

(a) Licensees may not sexually harass supervisees, students, trainees, employees, research subjects or colleagues.

(b) Sexual harassment includes unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when any one of the following occurs:

(1) Submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic association with a licensee.

(2) Submission to or rejection of the conduct by an individual is used as the basis for employment-related decisions affecting the individual or academic decisions affecting the individual.

(3) The conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile or offensive working or academic environment.

**§ 49.75. Impaired practice.**

A licensee may not undertake or continue a professional relationship with a client/patient, supervisee or student

when the objectivity or competency of the licensee is, or could reasonably be expected to be, impaired due to mental, emotional, physiological, pharmacological or substance abuse conditions. If a condition develops after a professional relationship has been initiated, the licensee shall terminate the professional relationship in an appropriate manner and shall, either himself or through an appropriate designee, notify the client/patient of termination in writing and assist the client/patient in obtaining services from another professional.

**§ 49.76. Research and publication.**

(a) *Protection of human subjects.*

(1) A licensee shall plan, design, conduct and report research in a manner consistent with this chapter, the codes of ethics in § 49.71 (relating to code of ethical practice and professional conduct), applicable Federal and State laws, host institutional rules and scientific standards governing research with human subjects.

(2) A licensee shall obtain informed consent from participants by using language that the licensee believes would be understandable to the research participants and that:

- (i) Accurately explains the purpose and procedures to be followed.
- (ii) Identifies procedures that are experimental or relatively untried.
- (iii) Describes the attendant discomforts and risks that are most likely to occur and which are known to the licensee.
- (iv) Describes the benefits or changes in individuals or organizations that might be reasonably expected.
- (v) Discloses appropriate alternative procedures that may be advantageous for the subject.
- (vi) Offers to answer any inquiries concerning the procedures.
- (vii) Instructs that subjects are free to withdraw their consent and discontinue participation in the research project at any time.

(3) When a participant is not capable of giving informed consent, licensees shall provide an appropriate explanation, obtain agreement for participation and obtain informed consent from a participant's parent, guardian, court-appointed representative or the holder of the participant's power of attorney.

(4) Information obtained about research participants during the course of the research is confidential. The licensee shall explain to the participant whether the possibility exists that others may obtain access to the information, and also explain the plans for protecting the participant's confidentiality as part of the procedure for obtaining informed consent.

(b) *Reporting and publication of results.*

(1) Licensees may not engage in fraudulent research, distort data, misrepresent data or deliberately bias their results.

(2) Licensees shall plan, conduct, report and publish accurately and in a manner that minimizes the possibility that results will be misleading.

(c) *Other ethical obligations.* In addition to the provisions of this section, a licensee's ethical obligations with regard to research and publication are governed by this chapter and those codes of ethics and standards of practice to which the Board subscribes in § 49.71.

**§ 49.77. Payment for services.**

(a) When setting fees, licensees shall ensure that the fees are fair, reasonable and commensurate with the services performed.

(b) Licensees may not accept goods or services as payment for professional services.

(c) Licensees shall make financial arrangements with clients/patients, third-party payors and supervisees that are reasonably understandable and conform to accepted professional practices.

(d) Prior to entering into the therapeutic or supervisory relationship, a licensee shall clearly disclose and explain to clients/patients and supervisees the following:

- (1) Financial arrangements and fees related to professional services, including charges for canceled or missed appointments.
- (2) The use of collection agencies or legal measures for nonpayment.

(3) The procedure for obtaining payment from the client/patient, to the extent allowed by law, if payment is denied by the third-party payor.

(e) Once services have begun, licensees shall provide reasonable notice of any changes in fees or other charges.

(f) Licensees shall give reasonable notice to clients with unpaid balances of their intent to seek collection by agency or legal recourse. When this action is taken, licensees may not disclose clinical information.

(g) Licensees shall represent facts truthfully to clients, third-party payors and supervisees regarding services rendered.

(h) Licensees may not withhold records under their immediate control that are requested and needed for a client's/patient's treatment solely because payment has not been received for past services.

**§ 49.78. Recordkeeping.**

(a) For each client/patient, a licensee shall keep records of the dates of professional counseling services, types of professional counseling services, details of the services provided, termination of the professional relationship, and billing information.

(b) Records kept by the licensee shall be retained for at least 5 years from the date of the last entry. Records held or owned by government agencies or educational institutions are not subject to this requirement.

(c) Licensees shall take reasonable steps to ensure that documentation in records is accurate, legible and reflects the services provided.

(d) Licensees shall include sufficient and timely documentation in records to facilitate the delivery of services and to ensure continuity of services provided to the client/patient in the future.

(e) Licensees' documentation shall protect clients'/patients' privacy to the extent that it is consistent with applicable Federal and State laws and regulations and should include information that is directly relevant to the delivery of services.

(f) Licensees shall store records following termination of services to ensure reasonable future access. Records shall be retained and stored as required by applicable Federal and State law and regulations.

(g) Licensees shall provide a client/patient with reasonable access to records concerning the client/patient. Lic-

ensees who are concerned that clients'/patients' access to their records could cause serious harm to the client/patient or another person shall provide assistance in interpreting the records and consultation with the client/patient regarding the records. Licensees may limit clients'/patients' access to their records, or portions of their records, only in exceptional circumstances when there is compelling evidence that the access would cause serious harm to the client/patient or another person. Both the clients'/patients' requests and the rationale for withholding some or all of the records shall be documented in the clients'/patients' files. When providing clients'/patients with access to their records, licensees shall take steps to protect the confidentiality of other individuals identified or discussed in the records.

(h) In the event of the licensee moving from the area or closing the licensee's practice, a licensee shall arrange for the storage, transfer or disposal of client/patient records in ways that maintain confidentiality and safeguard the welfare of clients/patients.

**§ 49.79. Mandatory reporting.**

(a) Licensees, supervisors and trainees have a responsibility to report alleged violations of the act or this chapter to the Board. If a licensee has knowledge or reason to suspect that a colleague or other licensee is incompetent, impaired or unethical, the licensee shall report that practitioner to the Board. Licensees shall make these reports in a manner that does not violate a client's/patient's right to confidentiality.

(b) Licensees shall comply with the mandatory reporting requirements in this chapter, including §§ 49.51—49.57 (relating to child abuse reporting requirements).

(c) A licensee shall notify the Board within 30 days of changes of name or mailing information to ensure that the Board has the licensee's current name and mailing address.

**§ 49.80. Advertising.**

(a) *Definition.* Advertising is defined as the engagement in general informational activities, including those that enable the public, referral sources or others to choose professional services on an informed basis.

(b) *Engagement in advertising.*

(1) Licensees may engage in advertising that accurately represents their competencies, education, training and experience relevant to their professional practice.

Licensees may not advertise their services and credentials in a manner that is false, misleading, deceptive or fraudulent.

(2) Licensees shall ensure that advertisements and publications in any media, such as directories, announcements, business cards, newspapers, radio, television, internet and facsimiles, convey information that is necessary for the public to make an appropriate selection of professional services. This information may include the following:

(i) Office information, such as name, address, telephone number and credit card acceptability.

(ii) Earned degrees and state or provincial licensures or certifications.

(iii) Professional association member status.

(iv) Description of practice.

(3) Licensees may not use names that could mislead the public concerning the identity, responsibility, source or status of those practicing under that name, and may not hold themselves out as being partners or associates of a firm if they are not partners or associates of the firm.

(4) Licensees may not use any professional identification, such as a business card, office sign, letterhead, internet, or telephone or association directory listing, if it includes a statement or claim that is false, fraudulent, misleading or deceptive.

(5) In representing their educational qualifications, licensees shall list and claim only those earned degrees from institutions accredited by regional accreditation sources recognized by the United States Department of Education, from institutions recognized by states or provinces that license or certify the licensee, or from equivalent foreign institutions.

(6) The licensee shall correct, whenever possible, false, misleading or inaccurate information and representations made by others concerning the licensee's qualifications, services or products.

(7) Licensees shall make certain that the qualifications of their employees or supervisees are represented in a manner that is not false, misleading or deceptive.

(8) Licensees may not represent themselves as providing specialized services unless they have the required education, training or supervised experience.

[Pa.B. Doc. No. 10-1753. Filed for public inspection September 17, 2010, 9:00 a.m.]

# STATEMENTS OF POLICY

## Title 55—PUBLIC WELFARE

### DEPARTMENT OF PUBLIC WELFARE

[ 55 PA. CODE CH. 2600 ]

#### Personal Care Homes

The subject of this statement of policy is how the Department of Public Welfare (Department) will apply the Public Welfare Code (code) (62 P. S. §§ 101—1416) to personal care homes (homes) serving persons with mobility needs.

#### *Scope*

This statement of policy applies to homes under Chapter 2600 (relating to personal care homes).

#### *Purpose*

The purpose of the Department's regulations governing homes is to protect the health, safety and well-being of the residents. See § 2600.1(a) (relating to purpose). The purpose of this statement of policy is to establish guidelines that the Department will utilize regarding the applicable use and occupancy classifications specified on Certificates of Occupancy, known as fire safety approvals under § 2600.14 (relating to fire safety approval), for an applicant applying for a new license that intends to serve residents with mobility needs and for a licensed home that serves residents with mobility needs and that currently does not possess a valid Certificate of Occupancy as required by law. This statement of policy reconciles two provisions of the code: sections 1007 and 1057.3(b) (62 P. S. §§ 1007 and 1057.3(b)).

#### *Background*

Section 1007 of the code provides: "When, after investigation, the department is satisfied that the applicant or applicants for a license are responsible persons, that the place to be used as a facility is suitable for the purpose, is appropriately equipped and that the applicant or applicants and the place to be used as a facility meet all the requirements of this act and of the applicable statutes, ordinances and regulations, it shall issue a license and shall keep a record thereof and of the application."

The Department interpreted the terms "meet all the requirements of this act and of the applicable statutes, ordinances and regulations" to require that, to obtain a license, a home shall have a Certificate of Occupancy for its premises issued by the Department of Labor and Industry, the Department of Health or the appropriate local building authority that is consistent with the actual use of those premises. See § 2600.14.

Section 1057.3(b) of the code, however, specifically provides: "[T]he department shall not prohibit immobile persons who do not require the services of a licensed long-term care facility from residing in a personal care home, provided that appropriate personal care services and health care services are available to the resident and the design, construction, staffing or operation of the personal care home allows for safe emergency evacuation."

In construing and applying these two sections of the code together, to be licensed, a home shall possess a Certificate of Occupancy that is consistent with the actual use of its premises. In recognition of the specific statutory language in section 1057.3(b) of the code, a home that

serves one or more persons with mobility needs and is unsuccessful in its attempts to obtain the appropriate Certificate of Occupancy consistent with the use of the premises to serve residents with mobility needs may meet the requirements of section 1057.3(b) of the code by demonstrating to the Department that the staffing or operation of the home allows for safe emergency evacuation of immobile residents.

Under Departmental regulations, the term "immobile person" is defined as a "resident with mobility needs" in accordance with the Department's policy to focus on the individual rather than his disability. Thus, a resident with mobility needs is defined consistently with the definition of an "immobile person" in section 1001 of the code (62 P. S. § 1001). A "resident with mobility needs" is defined as "an individual who is unable to move from one location to another, has difficulty in understanding and carrying out instructions without the continued full assistance of other individuals or is incapable of independently operating an ambulation device, such as a wheelchair, prosthesis, walker or cane to exit the building." See § 2600.4 (relating to definitions).

A secured dementia care unit (SDCU) is a home or portion of a home that provides specialized care and services for residents with Alzheimer's disease or other dementia. See § 2600.231(a) (relating to admission). A resident with Alzheimer's disease or a dementia-related disease who lives in an SDCU is considered to have mobility needs, as each resident shall be assessed by a physician or geriatric assessment team as needing to be served in an SDCU. See § 2600.231(b) and (c).

#### *Discussion*

In 1999, the Pennsylvania Construction Code Act (35 P. S. §§ 7210.101—7210.1103) was enacted to establish uniform construction code requirements for all buildings in this Commonwealth. The Department of Labor and Industry promulgated regulations to adopt the International Building Code (IBC) and other related codes such as the Uniform Construction Code (UCC), effective April 9, 2004. See 34 Pa. Code Chapter 403 (relating to administration). The regulations specify that the UCC applies to new buildings and renovations to existing buildings for which an application for a building permit was submitted and to changes in use after April 9, 2004. Buildings constructed or renovated for which an application for a building permit was submitted prior to April 9, 2004, that have not had a change in use remain subject to the applicable building code requirements in effect at the time the Certificate of Occupancy was issued. Under the 2009 edition of the IBC, effective December 31, 2009, homes must possess a Certificate of Occupancy with an I-2 use and occupancy classification to serve one or more residents with mobility needs.

The IBC uses the terms "incapable of self-preservation" rather than "mobility needs." Under the IBC "incapable of self-preservation" means incapable of responding to an emergency situation without physical assistance from staff persons. See section 308.2 of the 2009 IBC. Therefore, if a home can provide evidence through the most recent six fire drill records that a resident requires only oral assistance with only limited physical assistance from staff persons to reach safety in an emergency situation, the resident is considered "capable of self-preservation" for purpose of this statement of policy.



The Department is authorized by statute and regulation to verify that the Certificate of Occupancy for each home is valid and is consistent with the actual use of the premises, prior to the issuance of a home license. See section 1007 of the code, § 2600.14 and § 2600.18 (relating to applicable health and safety laws). This verification applies to new and renewal license applications and to increases in the maximum licensed capacity of a home.

This statement of policy describes how the process will be implemented over a gradual, phased-in approach to achieve regulatory and statutory compliance in the event that a home does not have a valid Certificate of Occupancy.

#### *Guideline*

##### *New applicants*

If a new applicant intends to serve one or more residents with mobility needs, the applicant shall submit a copy of a valid Certificate of Occupancy with the correct use and occupancy classification with its application for a license. If a valid Certificate of Occupancy with the correct use and occupancy classification is not provided by the applicant, the Department will either deny the license until the Certificate of Occupancy is provided and all of the requirements under Chapter 2600 and other applicable laws and regulations are met or issue a license stating that the home may not serve one or more persons with mobility needs, provided that requirements under Chapter 2600 and applicable laws and regulations are met.

##### *Licensed homes*

At the time a licensed home completes a renewal license application, upon request by the Department and during each license renewal inspection, the home shall submit a copy of a valid Certificate of Occupancy. If the Department determines that a home does not have a Certificate of Occupancy with the correct use and occupancy classification (consistent with the actual use of the premises) the home is to provide a plan to the Department under which the home is to do one of the following: Option (1) revise its description of services and suspend new admissions to persons with mobility needs within 12 months of the date of the Department's determination; or Option (2) obtain a new Certificate of Occupancy with a use and occupancy classification that permits persons with mobility needs to be served within 18 months of the date of the Department's determination.

The Department will examine each home's plan and will accept or reject the plan. If the Department rejects the home's plan, the Department will work with the home to develop an acceptable plan. The Department may extend the time periods in Options (1) and (2) on a case-by-case basis based on progress made by the home toward implementing the plan.

If Option (1) is chosen, the home is to submit documentation that demonstrates that the staffing or operation of the home allows for safe emergency evacuation.

If Option (2) is chosen, a step-by-step building renovation, code inspection and approval plan is to be submitted. The Department will conduct follow-up inspections to determine the progress being made by the home to obtain a Certificate of Occupancy with the correct use and occupancy classification. If, at the expiration of the time period for Option (2), the home has not obtained a correct use and occupancy classification, the Department will interpret section 1057.3(b) of the code to mean that the design and construction of the home are not sufficient to

enable safe emergency evacuation of residents with mobility needs. To provide the home an opportunity to demonstrate that the staffing or operation of the home allows for safe emergency evacuation, a home that has not obtained the correct use and occupancy classification is to submit documentation that demonstrates this statutory requirement. The Department will examine each home's documentation on a case-by-case basis and consider whether the home can achieve the statutory safe emergency evacuation standard through staffing, operation of the home, or a combination of both.

This statement of policy does not preclude the Department of Labor and Industry or local building code officials from enforcing applicable law and regulations.

#### *Fiscal Impact*

This statement of policy has no effect on the State budget.

#### *Effective Date*

For licensed homes, this statement of policy is effective November 1, 2010. For new applicants, changes in legal entity, changes in licensed capacity and new SCDUs, this statement of policy is effective upon publication in the *Pennsylvania Bulletin*.

#### *Contact Person*

Questions regarding the statement of policy should be directed to Justin Trupp, Program Analyst, Adult Residential Licensing, Department of Public Welfare, (610) 757-1422 for southeast and northeast regions; Jon Kimberland, Regional Licensing Administrator, Adult Residential Licensing, Department of Public Welfare, (412) 565-5649 for west region; or Tara Pride, Policy Director, Adult Residential Licensing, Department of Public Welfare, (717) 346-8116 for central region.

HARRIET DICHTER,  
*Secretary*

*(Editor's Note: The regulations of the Department are amended by adding a statement of policy in § 2600.14a to read as set forth in Annex A.)*

**Fiscal Note:** 14-BUL-93. No fiscal impact; (8) recommends adoption.

### **Annex A**

#### **TITLE 55. PUBLIC WELFARE**

#### **PART IV. ADULT SERVICES MANUAL**

#### **Subpart E. RESIDENTIAL AGENCIES/FACILITIES/SERVICES**

#### **CHAPTER 2600. PERSONAL CARE HOMES**

#### **GENERAL REQUIREMENTS**

#### **§ 2600.14a. Fire safety approval—statement of policy.**

(a) A new applicant applying for a license that intends to serve one or more residents with mobility needs and a licensed home that serves one or more residents with mobility needs is to possess a valid Certificate of Occupancy specifying the use and occupancy classification required by either of the following:

(1) The Pennsylvania Construction Code Act (35 P. S. §§ 7210.101—7210.1103) and regulations (34 Pa. Code Chapter 403 (relating to administration)).

(2) A previously promulgated Commonwealth fire and panic law and regulation if the home's building use has not changed since issuance of the Certificate of Occupancy and if no building renovations or alterations have

been made since issuance of the Certificate of Occupancy. (See the act of April 27, 1927 (P. L. 465, No. 299) (35 P. S. §§ 1221—1235).)

(b) The numbers and needs of the residents served in the home are to comply with the use and occupancy classification of the Certificate of Occupancy specified in subsection (a).

(c) If a licensed home does not have a Certificate of Occupancy with the correct use and occupancy classification consistent with the actual use of the premises, the home is to provide a plan to the Department under which the home is to do one of the following:

(1) Revise its description of services and suspend new admissions of persons with mobility needs, within 12 months of the date of the Department's determination.

(2) Obtain a new Certificate of Occupancy with a use and occupancy classification that permits persons with mobility needs to be served, within 18 months of the date of the Department's determination.

(d) The Department will examine each home's plan under subsection (c) and will accept or reject the plan. If the Department rejects the home's plan, the Department will work with the home to develop an acceptable plan.

(e) The Department may extend the time periods under subsection (c)(1) and (2) on a case-by-case basis, based on progress made by the home toward implementing the plan.

(f) If a home chooses the option under subsection (c)(2), a step-by-step building renovation, code inspection and approval plan is to be submitted.

(g) A home that chooses the option under subsection (c)(1) and a home that cannot obtain the use and occupancy classification specified in subsections (a) and (b) within 18 months of the Department's determination under subsection (c)(2), is to submit documentation that demonstrates that the staffing or operation of the home allows for safe emergency evacuation of residents with mobility needs.

(h) The Department will review the documentation submitted under subsection (g) on a case-by-case basis to determine if the documentation demonstrates that the home provides for the safe evacuation of residents with mobility needs.

[Pa.B. Doc. No. 10-1755. Filed for public inspection September 17, 2010, 9:00 a.m.]

# PROPOSED RULEMAKING

## ENVIRONMENTAL QUALITY BOARD

[ 25 PA. CODE CH. 93 ]

### Stream Redesignations (Fishing Creek, et al.)

The Environmental Quality Board (Board) proposes to amend §§ 93.9c, 93.9d, 93.9f, 93.9l and 93.9o to read as set forth in Annex A.

This proposed rulemaking was adopted by the Board at its meeting on July 13, 2010.

*A. Effective Date*

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

*B. Contact Persons*

For further information, contact Rodney A. Kime, Chief, Division of Water Quality Standards, Bureau of Water Standards and Facility Regulation, 11th Floor, Rachel Carson State Office Building, P. O. Box 8467, 400 Market Street, Harrisburg, PA 17105-8467, (717) 787-9637; or Michelle Moses, Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the Pennsylvania AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposed rulemaking is available electronically through the Department of Environmental Protection (Department) web site: <http://www.depweb.state.pa.us>.

*C. Statutory and Regulatory Authority*

This proposed rulemaking is being made under the authority of sections 5(b)(1) and 402 of The Clean Streams Law (35 P. S. §§ 691.5(b)(1) and 691.402), which authorize the Board to develop and adopt rules and regulations to implement The Clean Streams Law (35 P. S. §§ 691.1—691.1001), and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), which grants to the Board the power and duty to formulate, adopt and promulgate rules and regulations for the proper performance of the work of the Department. In addition, section 303 of the Clean Water Act (33 U.S.C.A. § 1313) sets forth requirements for water quality standards.

*D. Background of the Proposed Rulemaking*

Water quality standards are in-stream water quality goals that are implemented by imposing specific regulatory requirements (such as treatment requirements, effluent limits and best management practices) on individual sources of pollution. The Department may identify candidates for redesignation during routine waterbody investigations. Requests for consideration may also be initiated by other agencies. Organizations, businesses or individuals may submit a rulemaking petition to the Board.

The Department considers candidates for High Quality (HQ) or Exceptional Value (EV) Waters and other designations in its ongoing review of water quality standards. In general, HQ and EV waters must be maintained at their existing quality and permitted activities shall ensure the protection of designated and existing uses.

Existing use protection is provided when the Department determines, based on its evaluation of the best available scientific information, that a surface water attains water uses identified in §§ 93.3 and 93.4 (relating to protected water uses; and Statewide water uses). Examples of water uses protected include the following: Cold Water Fishes (CWF), Warm Water Fishes (WWF), HQ and EV. A final existing use determination is made on a surface water at the time the Department takes a permit or approval action on a request to conduct an activity that may impact surface water. If the determination demonstrates that the existing use is different than the designated use, the water body will immediately receive the best protection identified by either the attained uses or the designated uses. A stream will then be “redesignated” through the rulemaking process to match the existing uses with the designated uses. For example, if the designated use of a stream is listed as protecting WWF but the redesignation evaluation demonstrates that the water attains the use of CWF, the stream would immediately be protected for CWF, prior to a rulemaking. Once the Department determines the water uses attained by a surface water, the Department will recommend to the Board that the existing uses be made “designated” uses, through rulemaking, and be added to the list of uses identified in § 93.9 (relating to designated water uses and water quality criteria).

The streams in this proposed rulemaking that are candidates for redesignation were all evaluated in response to petitions as follows:

<i>Stream</i>	<i>County</i>	<i>Petitioner</i>
Buck Hill Creek	Monroe	Buck Hill Conservation Foundation
Lehigh River (upper)	Lackawanna, Monroe, Wayne, Luzerne	North Pocono Citizens Alert Regarding the Environment (CARE)
Little Lehigh Creek	Lehigh, Berks	Mid-Atlantic Environmental Law Center
Gallows Run	Bucks	Gallows Run Watershed Association
French Creek and Beaver Run	Chester	Green Valleys Association
Tannery Hollow Run	Cameron	Cameron County Conservation District
Fishing Creek	Lancaster	Patrick McClure
Deer Creek and Little Falls	York	Shrewsbury Township

This proposed rulemaking was developed as a result of aquatic studies conducted by the Bureau of Water Standards and Facility Regulation. The physical, chemical and biological characteristics and other information on these waterbodies were evaluated to determine the appropriateness of the current and requested designations using applicable regulatory criteria and definitions. In reviewing whether waterbodies qualify as HQ or EV waters, the Department considers the criteria in § 93.4b (relating to qualifying as High Quality or Exceptional Value Waters). Based upon the data and information collected on these waterbodies, the Department recommends the Board

adopt this proposed rulemaking as described in this preamble and as set forth in Annex A.

Copies of the Department's stream evaluation reports for these waterbodies are available on the Department's web site or from the contacts whose addresses and telephone numbers are listed in Section B.

The following is a brief explanation of the recommendations for each waterbody:

*Buck Hill Creek* (stream code 05023)—Buck Hill Creek is a tributary to Brodhead Creek in the Delaware River drainage basin. The Buck Hill Creek basin is located in Coolbaugh and Barrett Townships in Monroe County. The candidate portion of the Buck Hill Creek basin is upstream of the Buck Hill Falls and it extends from and including unnamed tributary (UNT) 05028 to and including UNT 05026. The candidate portion is currently designated HQ-CWF. It was evaluated for redesignation as EV based upon a petition submitted by the Buck Hill Conservation Foundation. Candidate stream metrics were compared to a reference station on Buck Hill Creek downstream from the candidate segment. The Buck Hill Creek reference station has a designated use of EV. The candidate portion had a biological condition score (BCS) of 100% of the reference station score, which surpasses the requirement for EV designation based on BCS greater than 92% of the reference station score (see § 93.4b(b)(1)(v)). The Department recommends that the candidate portion of the Buck Hill Creek basin be designated EV. This will affect 2.03 stream miles. Currently, the entire Buck Hill Creek basin is erroneously designated migratory fishes (MF) in § 93.9c (relating to Drainage List C). The Department recommends correcting the basin designation by deleting the MF designated use above Buck Hill Falls. Amendments to § 93.9c are also being included to accurately characterize the fluvial geomorphology of the surrounding waters. There are three named tributaries to Middle Branch Brodhead Creek and they are Spruce Mountain Run, Laurel Run and Leavitt Branch (listed in order from the source to the mouth of Middle Branch Brodhead Creek). The origin of Brodhead Creek is at the confluence of Middle Branch Brodhead Creek and Buck Hill Creek.

*Upper Lehigh River* (stream code 03335)—The upper Lehigh River, located northeast of White Haven and a tributary to the Delaware River, was evaluated for redesignation from HQ-CWF, MF to EV, MF. The North Pocono Citizens Alert Regarding the Environment (CARE) submitted a petition to redesignate the upper Lehigh River basin from the source to but not including Tobyhanna Creek. This portion of the upper Lehigh River basin is located in Buck Township, Luzerne County; Tobyhanna and Coolbaugh Townships, Monroe County; Thornhurst, Clifton, and Covington Townships, Lackawanna County; and Lehigh and Sterling Townships, Wayne County. The candidate portion of the basin qualifies for redesignation based upon several different criteria in § 93.4b:

(1) Sand Spring Creek surpassed the EV qualifying criterion in § 93.4b(b)(1)(v) with a BCS of 100%.

(2) Black Bear and Bender Swamps Natural Areas in Tobyhanna State Park and Spruce Swamp Natural Area in the Lackawanna State Forest have been designated by the Department of Conservation and Natural Resources (DCNR) to be maintained in a natural condition. Based

on the Department's review of these natural area designations, these HQ designated waters qualify for designation as EV in § 93.4b(b)(1)(ii).

(3) The water quality protective measures described in DCNR—Bureau of Forestry and Game Commission resource management plans meet the "outstanding National, State, regional, or local resource waters" definition and apply to stream segments within State Game Lands 91, 127, 135 and 312; and the Lackawanna State Forest within the upper Lehigh River basin.

(4) There are 22 ecologically significant areas in the upper Lehigh River watershed that qualify for designation as EV based upon the criteria in § 93.4b(b)(2). The exceptional ecological significance is based on the presence of several rare endemic plant and ecological community types. These areas provide an important function as ecological filtering systems for the Lehigh River and an important ecological connectance that supports the natural diversity found in the Lehigh River petition area, which has resulted in the ecology and hydrology of the upper Lehigh River basin remaining largely intact and undisturbed. The distribution and high concentration of these ecologically significant rare and unique endemic natural communities support the EV recommendation. The Department recommends that the upper Lehigh River basin from its source to but not including Tobyhanna Creek be redesignated EV, MF. The candidate portion of the basin includes 219.2 stream miles.

*Little Lehigh Creek* (stream code 03420)—Little Lehigh Creek, a combination of freestone (headwaters) and limestone influenced habitat, is a tributary to the Lehigh River in the Delaware River watershed. The candidate basin is located in Longswamp Township (Berks County) and Lower Macungie and Salisbury Townships and the City of Allentown (Lehigh County). The mainstem of the Little Lehigh Creek is currently designated HQ-CWF, MF. The Department conducted an evaluation of the Little Lehigh Creek in response to a petition that was submitted by the Mid-Atlantic Environmental Law Center on the behalf of the Little Lehigh Watershed Coalition requesting that the mainstem be redesignated to EV, MF. The petitioner originally requested that the Department redesignate Little Lehigh Creek mainstem as an Outstanding National Resource. Water based on qualifying criteria in 40 CFR 131.32(a)(3) (relating to Pennsylvania). This Federal regulation has been withdrawn by the Federal government. This request was based on candidate waters being located in the Delaware and Lehigh Canal Heritage Corridor and Heritage State Park and the presence of an exceptional recreational fishery. The integrated benthic macroinvertebrate score test in § 93.4b(b)(1)(v) was applied to Little Lehigh Creek. Candidate stream metrics were compared to Elk Creek (Centre County). None of the six sample stations had BCS that met the criteria for redesignation to EV. In addition to applying the previous antidegradation scoring test, the Department's benthic metric Index of Biotic Integrity (IBI) was also employed. The IBI scores at the six sample stations revealed stressed conditions that are consistent with aquatic life use impairment. As a result of these IBI scores, the mainstem of Little Lehigh Creek from Lower Longswamp to the mouth was listed on the Commonwealth's 2008 303(d) list of impaired waters. The Department recommends that the Little Lehigh Creek mainstem should retain its current HQ-CWF, MF designation.

*Gallows Run* (stream code 03278)—Gallows Run is a tributary to the Delaware River. Gallows Run flows through Nockamixon, Durham and Springfield Townships in Bucks County and is currently designated CWF, MF. The Gallows Run Watershed Association submitted a petition recommending that Gallows Run basin be redesignated as HQ-CWF, MF. The Department conducted an evaluation of Gallows Run and used Pine Creek in Berks County as an EV reference station. Based on applicable regulatory definitions and requirements in § 93.4b, the Department recommends that the Gallows Run basin remain designated as CWF, MF. This recommendation is based on the presence of a cold water biological community with a BCS lower than 83% of the reference score and the presence of a modest brown trout fishery and American eel population.

*French Creek and Beaver Run* (stream codes 01548 and 01573)—Beaver Run is a tributary to French Creek. French Creek is in the Schuylkill River watershed and is included in the Delaware River Basin. The French Creek basin, from and including Beaver Run to the Junction of West Vincent, East Vincent and East Pikeland Townships (except Birch Run basin, which is EV) is currently designated HQ-CWF, MF and the remaining downstream portion of the basin is currently Trout Stocking “Fishery” (TSF), MF. The Department conducted an evaluation of Beaver Run and the lower French Creek basin in response to a petition submitted by the Green Valleys Association. The qualifying criteria applied when considering this redesignation was the Department integrated benthic macroinvertebrate scoring test in § 93.4b(b)(1)(v). Selected EV reference stations included Kettle Creek in Clinton County and Rock Run, a tributary to French Creek. Based on the applicable regulatory definitions and requirements in § 93.4b, the Department recommends that the Beaver Run basin and the French Creek mainstem from Beaver Run to the T522 bridge (Kennedy Covered Bridge) be redesignated EV, MF and the UNT basins to this reach of the mainstem from Beaver Run to East Pikeland Township retain their current HQ-TSF, MF designation and the UNT in East Pikeland Township retain its current TSF, MF. This recommendation will add 16.3 miles of EV water located in West Vincent, East Vincent, East Pikeland, East Nantmeal and South Coventry Townships, all in Chester County.

*Tannery Hollow Run* (stream code 24991)—Tannery Hollow Run basin is located in Gibson, Lumber and Shippen Townships in Cameron County and Benezette Township in Elk County. Tannery Hollow Run enters Sterling Run in Lumber Township and the basin is included in the Susquehanna River watershed. Tannery Hollow Run basin includes 6.55 stream miles and is currently designated CWF, MF. In response to a petition submitted by the Cameron County Conservation District to redesignate Tannery Hollow Run basin as EV, MF, the Department conducted an evaluation. The biological use qualifying criteria applied to Tannery Hollow Run was the integrated benthic macroinvertebrate score test in § 93.4b(a)(2)(i)(A) and (b)(1)(v). Trout Run (stream code 23693; tributary to Kettle Creek; Clinton County) was selected as the EV reference stream. Tannery Hollow Run met the requirement for EV designation based on the BCS of the candidate waters being greater than 92% of the reference station score (see § 93.4b(b)(1)(v)). The Department recommends the designated use of Tannery Hollow Run basin be changed from the current CWF, MF to EV, MF.

*Fishing Creek* (stream code 07253)—Fishing Creek flows through Drumore and Providence Townships in Lancaster County before entering the Susquehanna River. The Department conducted an evaluation of Fishing Creek in response to a petition submitted by Patrick McClure. The petition requested that the entire Fishing Creek basin be redesignated from its current designation of HQ-CWF, MF to EV, MF. The integrated benthic macroinvertebrate score test in § 93.4b(b)(1)(v) was applied to Fishing Creek. Candidate stream metrics were compared to Rock Run (01591). Fishing Creek failed to meet the biological use qualifying criteria for redesignation as EV at all station locations; however, there is a rare species of darters present which qualifies the lower portion of the basin for EV because it is a surface water of exceptional ecological significance based on § 93.4b(b)(2). The darter species that is present is the Chesapeake Logperch (*Percina bimaculata*). These darters are part of a disjunct population of the Logperch (*Percina caprodes*) that was historically considered a subspecies (*Percina caprodes semifasciata*). Recent work by Near (2008) and Near and Benard (2004) has shown that this population deserves to be elevated from a subspecies to a true species. The Department recommends that the Fishing Creek basin from and including UNT 07256 (near the T434 Bridge) to the mouth be redesignated EV, MF because the population of Chesapeake Logperch inhabiting Fishing Creek represents a significant portion of the total global population of this species. This recommendation to redesignate 7.27 stream miles is in accordance with § 93.4b(b)(2), surface water of exceptional ecological significance.

*Deer Creek and Little Falls* (stream codes 06761 and 06859)—Deer Creek and Little Falls are both freestone streams with the majority of their basins in Maryland. Both streams are in the Susquehanna River watershed. Portions of Deer Creek and Little Falls that lie in this Commonwealth are situated in York County. Candidate portions of the Deer Creek basin flow through Shrewsbury, Hopewell and Fawn Townships and Shrewsbury, Stewartstown and Fawn Grove Borough. Candidate portions of Little Falls basin flow through Shrewsbury Township and New Freedom Borough. Deer Creek is currently designated CWF, MF and Little Falls is currently designated WWF, MF. Portions of both basins that lie in this Commonwealth were evaluated for redesignation as HQ-CWF in response to a petition from the Shrewsbury Township Board of Supervisors. All stations in both basins were compared to an EV reference station on Rock Run, a freestone tributary to French Creek. None of the stations qualified for redesignation as HQ based on stream metrics. Based on applicable regulatory definitions and requirements of § 93.4b, the Department recommends that the Deer Creek basin retain its current CWF, MF designation. As indicated by the available physical, benthic macroinvertebrate and fish data, the aquatic habitat found in the Little Falls Creek basin supports a cold water fishery. Portions of Little Falls basin that lie within this Commonwealth should be redesignated CWF, MF to reflect the current aquatic life use. The candidate portion of Little Falls includes 5.7 stream miles.

#### E. Benefits, Costs and Compliance

##### Benefits

Overall, this Commonwealth, its citizens and natural resources will benefit from this proposed rulemaking because it provides the appropriate level of protection to

preserve the integrity of existing and designated uses of surface waters in this Commonwealth. Protecting water quality provides economic value to present and future generations in the form of clean water for drinking, recreational opportunities and aquatic life protection. It is important to realize these benefits to ensure opportunity and development continue in a manner that is environmentally, socially and economically sound. Maintenance of water quality ensures its future availability for all uses.

#### *Compliance Costs*

This proposed rulemaking may impose additional compliance costs on the regulated community. This proposed rulemaking is necessary to improve total pollution control. The expenditures necessary to meet new compliance requirements may exceed that which is required under existing regulations.

Persons conducting or proposing activities or projects shall comply with the regulatory requirements regarding designated and existing uses. Persons expanding a discharge or adding a new discharge point to a stream could be adversely affected if they need to provide a higher level of treatment or best management practices to meet the designated and existing uses of the stream. For example, these increased costs may take the form of higher engineering, construction or operating cost for point source discharges. Treatment costs and best management practices are site-specific and depend upon the size of the discharge in relation to the size of the stream and many other factors. It is therefore not possible to precisely predict the actual change in costs. Economic impacts would primarily involve the potential for higher treatment costs for new or expanded discharges to streams that are redesignated. The initial costs resulting from the installation of technologically advanced wastewater treatment processes and best management practices may be offset by potential savings from and increased value of improved water quality through more cost-effective and efficient treatment over time.

#### *Compliance Assistance Plan*

This proposed rulemaking has been developed as part of an established program that has been implemented by the Department since the early 1980s. This proposed rulemaking is consistent with and based on existing Department regulations. This proposed rulemaking extends additional protection to selected waterbodies that exhibit exceptional water quality and are consistent with antidegradation requirements established by the Clean Water Act (33 U.S.C.A. §§ 1251–1387) and The Clean Streams Law. Surface waters in this Commonwealth are afforded a minimum level of protection through compliance with the water quality standards, which prevent pollution and protect existing water uses.

The proposed rulemaking will be implemented through the Department's permit and approval actions. For example, the National Pollutant Discharge Elimination System (NPDES) permitting program bases effluent limitations on the use designation of the stream. These permit conditions are established to assure water quality criteria are achieved and designated and existing uses are protected. New and expanded dischargers with water quality based effluent limitations are required to provide effluent treatment according to the water quality criteria associated with existing uses and amended designated water uses.

#### *Paperwork Requirements*

This proposed rulemaking should not have direct paperwork impact on the Commonwealth, local governments and political subdivisions or the private sector. This proposed rulemaking is based on existing Department regulations and simply mirrors the existing use protection that is already in place for these streams. There may be some indirect paperwork requirements for new or expanding dischargers to streams upgraded to HQ or EV. For example, NPDES general permits are not currently available for new or expanded discharges to these streams. Thus, an individual permit, and its associated paperwork, would be required. Additionally, paperwork associated with demonstrating social and economic justification may be required for new or expanded discharges to certain HQ Waters and consideration of nondischarge alternatives is required for all new or expanded discharges to EV and HQ Waters.

#### F. Pollution Prevention

The water quality standards and antidegradation program are major pollution prevention tools because the objective is to prevent degradation by maintaining and protecting existing water quality and existing uses. Although the antidegradation program does not prohibit new or expanded wastewater discharges, nondischarge alternatives are encouraged and required when environmentally sound and cost effective. Nondischarge alternatives, when implemented, remove impacts to surface water and may reduce the overall level of pollution to the environment by remediation of the effluent through the soil.

#### 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 August 31, 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 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 must be received by the Board by November 2, 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 on or before November 2, 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 rulemaking will be considered. If sufficient interest is generated as a result of this publication, a public hearing will be scheduled at an appropriate location to receive additional comments.

*Electronic comments*—Comments may be submitted electronically to the Board at RegComments@state.pa.us. A subject heading of the proposal and return name and address must be included in each transmission. Comments submitted electronically must also be received by the Board by November 2, 2010.

JOHN HANGER,  
*Chairperson*

**Fiscal Note:** 7-461. 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 II. WATER RESOURCES  
CHAPTER 93. WATER QUALITY STANDARDS  
DESIGNATED WATER USES AND WATER QUALITY CRITERIA

§ 93.9c. Drainage List C.

Delaware River Basin in Pennsylvania  
*Delaware River*

Stream	Zone	County					Water Uses Protected	Exceptions to Specific Criteria
		*	*	*	*	*		
1—Delaware River	Main Stem, Tocks Island to Lehigh River	Northampton					WWF, MF	See DRBC regulations—Water Quality Zone 1D
2—Unnamed Tributaries to Delaware River	Basins, Tocks Island to Brodhead Creek	Monroe					HQ-CWF, MF	None
<b>[ 2—Brodhead Creek</b>	<b>Main Stem, Source to LR 45060 (SR 2022) Bridge</b>	<b>Monroe</b>					<b>HQ-CWF, MF</b>	<b>None</b>
<b>3—Unnamed Tributaries to Brodhead Creek</b>	<b>Basins, Source to LR 45060 Bridge</b>	<b>Monroe</b>					<b>HQ-CWF, MF</b>	<b>None</b>
<b>3—Spruce Mountain Run</b>	<b>Basin</b>	<b>Monroe</b>					<b>HQ-CWF, MF</b>	<b>None</b>
<b>3—Leavitt Branch</b>	<b>Basin</b>	<b>Monroe</b>					<b>HQ-CWF, MF</b>	<b>None</b>
<b>3—Buck Hill Creek</b>	<b>Basin, Source to Unnamed Tributary (UNT) 05028 (RM 2.16)</b>	<b>Monroe</b>					<b>EV, MF</b>	<b>None</b>
<b>4—Unnamed Tributary 05028 to Buck Hill Creek</b>	<b>Basin</b>	<b>Monroe</b>					<b>HQ-CWF, MF</b>	<b>None</b>
<b>3—Buck Hill Creek</b>	<b>Basin, UNT 05028 to UNT 05026 (RM 1.88)</b>	<b>Monroe</b>					<b>HQ-CWF, MF</b>	<b>None</b>
<b>4—Unnamed Tributary 05026 to Buck Hill Creek</b>	<b>Basin</b>	<b>Monroe</b>					<b>HQ-CWF, MF</b>	<b>None ]</b>
<b>2—Brodhead Creek</b>								
<b>3—Middle Branch Brodhead Creek</b>	<b>Basin, source to confluence with Buck Hill Creek</b>	<b>Monroe</b>					<b>HQ-CWF, MF</b>	<b>None</b>

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions to Specific Criteria</i>
3—Buck Hill Creek	Basin, [ <b>UNT 05026</b> ] <b>Source</b> to Griscom Creek	Monroe	EV [ , MF ]	None
4—Griscom Creek	Basin	Monroe	HQ-CWF [ , MF ]	None
3—Buck Hill Creek	Basin, Griscom Creek to Buck Hill Falls	Monroe	HQ-CWF [ , MF ]	None
3—Buck Hill Creek	Basin, Buck Hill Falls to [ <b>Mouth</b> ] <b>confluence with Middle Branch Brodhead Creek</b>	Monroe	HQ-CWF, MF	None
<b>2—Brodhead Creek</b>	<b>Mainstem, confluence of Middle Branch Brodhead Creek and Buck Hill Creek to LR 45060 (SR 2022) Bridge</b>	<b>Monroe</b>	<b>HQ-CWF, MF</b>	<b>None</b>
<b>3—Unnamed Tributaries to Brodhead Creek</b>	<b>Basins, confluence of Middle Branch Brodhead Creek and Buck Hill Creek to LR 45060 Bridge</b>	<b>Monroe</b>	<b>HQ-CWF, MF</b>	<b>None</b>
3—Goose Pond Run	Basin	Monroe	HQ-CWF, MF	None
		* * * * *		

§ 93.9d. Drainage List D.

**Delaware River Basin in Pennsylvania**  
***Lehigh River***

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions to Specific Criteria</i>
1—Delaware River				
2—Lehigh River	Basin, Source to Tobyhanna Creek	Luzerne-Monroe-Carbon	[ <b>HQ-CWF</b> ] EV, MF	None
3—Tobyhanna Creek	Main Stem	Monroe-Carbon	HQ-CWF, MF	None
		* * * * *		

§ 93.9f. Drainage List F.

**Delaware River Basin in Pennsylvania**  
***Schuylkill River***

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions to Specific Criteria</i>
		* * * * *		
3—Mingo Creek	Basin	Montgomery	WWF, MF	None
3—Stony Run	Basin	Chester	HQ-TSF, MF	None
3—French Creek	Basin, Source to <b>and including</b> Beaver Run	Chester	EV, MF	None
<b>[ 4—Beaver Run</b>	<b>Basin</b>	<b>Chester</b>	<b>HQ-TSF, MF</b>	<b>None</b>
<b>3—French Creek</b>	<b>Basin, Beaver Run to Birch Run</b>	<b>Chester</b>	<b>HQ-TSF, MF</b>	<b>None ]</b>
3—French Creek	Mainstem, Beaver Run to Birch Run	Chester	EV, MF	None



<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions to Specific Criteria</i>
<b>4—Tributaries to French Creek</b>	<b>Basins, Beaver Run to Birch Run</b>	<b>Chester</b>	<b>HQ-TSE, MF</b>	<b>None</b>
4—Birch Run	Basin	Chester	EV, MF	None
<b>[ 3—French Creek</b>	<b>Basin, Birch Run to the Junction of West Vincent, East Vincent and East Pikeland Township Borders</b>	<b>Chester</b>	<b>HQ-TSE, MF</b>	<b>None</b>
<b>3—French Creek</b>	<b>Basin, Junction of West Vincent, East Vincent and East Pikeland Township Borders to Mouth</b>	<b>Chester</b>	<b>TSE, MF</b>	<b>None ]</b>
<b>3—French Creek</b>	<b>Mainstem, Birch Run to T522 bridge (Kennedy Covered Bridge)</b>	<b>Chester</b>	<b>EV, MF</b>	<b>None</b>
<b>4—Tributaries to French Creek</b>	<b>Basins, Birch Run to the Junction of West Vincent, East Vincent and East Pikeland Township Borders</b>	<b>Chester</b>	<b>HQ-TSE, MF</b>	<b>None</b>
<b>4—Tributaries to French Creek</b>	<b>Basins, Junction of West Vincent, East Vincent and East Pikeland Township Borders to T522 bridge (Kennedy Covered Bridge)</b>	<b>Chester</b>	<b>TSE, MF</b>	<b>None</b>
<b>3—French Creek</b>	<b>Basin, T522 bridge (Kennedy Covered Bridge) to Mouth</b>	<b>Chester</b>	<b>TSE, MF</b>	<b>None</b>
3—Pickering Creek	Basin, Source to Philadelphia Suburban Water Company Dam	Chester	HQ-TSE, MF	None
3—Pickering Creek	Basin, Philadelphia Suburban Water Company Dam to Mouth	Chester	WWF, MF	None

\* \* \* \* \*

**§ 93.9l. Drainage List L.**

**Susquehanna River Basin in Pennsylvania  
West Branch Susquehanna River**

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions to Specific Criteria</i>
		* * * * *		
5—Sterling Run	Basin, Confluence of Portable Run and Finley Run to [ Mouth ] Tannery Hollow Run	Cameron	CWF, MF	None
<b>6—Tannery Hollow Run</b>	<b>Basin</b>	<b>Cameron</b>	<b>EV, MF</b>	<b>None</b>

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions to Specific Criteria</i>
<b>5—Sterling Run</b>	<b>Basin, Tannery Hollow Run to Mouth</b>	<b>Cameron</b>	<b>CWF, MF</b>	<b>None</b>
5—Mason Grove Run	Basin	Cameron	HQ-CWF, MF	None
		* * * * *		

**§ 93.9o. Drainage List O.**

**Susquehanna River Basin in Pennsylvania**  
***Susquehanna River***

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions to Specific Criteria</i>
		* * * * *		
2—Muddy Creek	Basin (all sections of PA), Confluence of North and South Branches to Mouth	York	TSF, MF	None
2—Fishing Creek	Basin, <b>source to UNT 07256 (near T434 Bridge)</b>	Lancaster	HQ-CWF, MF	None
<b>3—UNT 07256 to Fishing Creek (RM 3.95)</b>	<b>Basin</b>	<b>Lancaster</b>	<b>EV, MF</b>	<b>None</b>
<b>2—Fishing Creek</b>	<b>Basin, UNT 07256 (near T434 Bridge) to Mouth</b>	<b>Lancaster</b>	<b>EV, MF</b>	<b>None</b>
2—Robinson Run	Basin	York	WWF, MF	None
		* * * * *		
1—Chesapeake Bay (MD)				
2—Gunpowder Falls	Basin, <b>source to Little Falls</b> (all sections in PA)	York	WWF, MF	None
<b>3—Little Falls</b>	<b>Basin, (all sections in PA)</b>	<b>York</b>	<b>CWF, MF</b>	<b>None</b>
2—Northeast Creek	Main Stem, Source to PA-MD State Border	Chester	WWF, MF	None
		* * * * *		

[Pa.B. Doc. No. 10-1754. Filed for public inspection September 17, 2010, 9:00 a.m.]

# NOTICES

## DEPARTMENT OF BANKING

### Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending September 7, 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

#### Conversions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
8-31-2010	<p><i>From:</i> First Keystone National Bank Berwick Columbia County</p> <p><i>To:</i> First Keystone Community Bank Berwick Columbia County</p> <p>Application for approval to convert from a national banking association to a Pennsylvania state-chartered bank and trust company.</p>	Approved

#### Holding Company Acquisitions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
9-7-2010	<p>Northwest Bancshares, Inc. Warren Warren County</p> <p>Application for approval to acquire 100% of NexTier, Inc., Butler, and thereby indirectly acquire 100% of NexTier Bank, National Association, Butler.</p>	Approved

#### Consolidations, Mergers, and Absorptions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>		
9-1-2010	<p>Citizens &amp; Northern Bank Wellsboro Tioga County</p> <p>First State Bank, Canisteo, NY, merged with and into Citizens &amp; Northern Bank, Wellsboro, PA.</p> <p>As a result of the merger, the following branch offices of First State Bank, Canisteo, NY became branch offices of Citizens &amp; Northern Bank:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">3 Main Street Canisteo Steuben County, NY</td> <td style="width: 50%;">6250 County Route 64 East Avenue Hornell Steuben County, NY</td> </tr> </table>	3 Main Street Canisteo Steuben County, NY	6250 County Route 64 East Avenue Hornell Steuben County, NY	Effective
3 Main Street Canisteo Steuben County, NY	6250 County Route 64 East Avenue Hornell Steuben County, NY			
9-7-2010	<p>Northwest Savings Bank Warren Warren County</p> <p>Application for approval to merge NexTier Bank, National Association, Butler, with and into Northwest Savings Bank, Warren.</p>	Approved		

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
9-7-2010	Royal Bank America Narberth Montgomery County Application for approval to merge Royal Asian Bank, Philadelphia, with and into Royal Bank America, Narberth.	Approved

**Branch Applications  
Branch Discontinuances**

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
9-7-2010	Susquehanna Bank Lititz Lancaster County	10211 Wincopin Circle Columbia Howard County, MD	Approved

**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. 10-1756. Filed for public inspection September 17, 2010, 9:00 a.m.]

**Maximum Lawful Rate of Interest for Residential Mortgages for the Month of October 2010**

The Department of Banking (Department), under the authority contained in section 301 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 301), determines that the maximum lawful rate of interest for residential mortgages for the month of October, 2010, is 5 1/2%.

The interest rate limitations under the State's usury statute were preempted to a great extent by Federal law, the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. 96-221). Further preemption was instituted with the signing of Pub. L. 96-399, which overrode State interest rate limitations on any individual who finances the sale or exchange of residential real property which such individual owns and which such individual occupies or has occupied as his principal residence.

Each month the Department is required by State law to compute and announce the ceiling rate on residential mortgages in this Commonwealth. This maximum rate is determined by adding 2.50 percentage points to the yield rate on long-term government bonds as published by the Federal Reserve Board and/or the United States Treasury. The latest yield rate on long-term government securities is 3.11 to which was added 2.50 percentage points for a total of 5.61 that by law is rounded off to the nearest quarter at 5 1/2%.

STEVEN KAPLAN,  
*Secretary*

[Pa.B. Doc. No. 10-1757. Filed for public inspection September 17, 2010, 9:00 a.m.]

**DEPARTMENT OF  
COMMUNITY AND  
ECONOMIC DEVELOPMENT**

**Consolidated Plan Public Meeting and Regional Housing Advisory Committee Meetings**

The Department of Community and Economic Development (Department) is preparing the Commonwealth's Action Plan for Federal Fiscal Year (FFY) 2011 and the Program Year that begins January 1, 2011. The 2011 Action Plan is an update of the Commonwealth's Consolidated Plan for FFY 2009-2013. Additionally, the Department is preparing a substantial amendment to the Consolidated Plan for the Neighborhood Stabilization Program. Both documents must be submitted to, and approved by, the United States Department of Housing and Urban Development (HUD) for the Commonwealth and organizations within this Commonwealth to receive funding under most HUD housing and community development programs. The Consolidated Plan creates a unified strategy for housing and community development programs, as well as the necessary linkages for building successful neighborhoods and communities.

The Commonwealth's 2009-2013 Consolidated Plan addresses how the Commonwealth intends to allocate funds under the following programs: Community Development Block Grant, HOME Investment Partnerships, Emergency Shelter Grant, Community and Housing Opportunities for People with AIDS and the Neighborhood Stabilization Program Grant.

*Public Meeting*

A public meeting will be conducted electronically by means of the Internet. The format will be more accessible than an in-person meeting because those who wish to make a comment or discuss policy may participate di-

rectly from their personal computer or from a computer location at their public library on Tuesday, October 12, 2010. Access to the discussion by means of the Internet will occur between 9:30 a.m. and 11:30 a.m. This more widely available personal computer access will replace the usual public meeting.

Any individual or organization may give testimony or comments by means of the Internet. Comments will be accepted about topics related to community development, housing, plans for the Neighborhood Stabilization Program, the content of the Commonwealth's Action Plan for FFY 2011 and the process by which the public input is gathered. The Commonwealth encourages public participation in this process.

Anyone who wants to participate must register in advance. Contact Daniel Fox at (717) 720-7412 to receive registration instructions for the Internet meeting at least 24 hours prior to the meeting date. During the meeting, if support is required, call (717) 720-7404. The meeting will be shortened if there is no one to testify or if there is minimal response.

Persons who have a disability and wishes to participate in the public meeting should contact Daniel Fox, Department of Community and Economic Development, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120-0225, (717) 720-7412 to discuss how the Department can accommodate their needs. Text telephone calls can be placed through the Pennsylvania AT&T Relay Service at (800) 654-5984. Calls will be relayed to the Department's number listed previously.

#### *Written Comments*

Written testimony, in lieu of Internet testimony, must be submitted by 5 p.m., Friday, October 15, 2010. Submit comments to Daniel Fox, Department of Community and Economic Development, Center for Community Financing, 400 North Street, 4th Floor, Commonwealth Keystone Building, Harrisburg, PA 17120-0225.

#### *Regional Housing Advisory Committee Meetings*

The Commonwealth has five Regional Housing Advisory Committees across this Commonwealth comprised of appointed members. Meetings of these committees are open to the public under the Sunshine Act. These committees advise the Department regarding housing and community development needs, as well as assist in fair housing planning. These meetings will be held as internet-based public forums on the following dates:

*September 20, 2010*

Southeast Regional Housing Advisory Committee Meeting  
9:30 a.m. to 11:30 a.m.

*September 20, 2010*

Central Regional Housing Advisory Committee Meeting  
1:30 p.m. to 3:30 p.m.

*September 21, 2010*

Northeast Regional Housing Advisory Committee Meeting  
9:30 a.m. to 11:30 a.m.

*September 23, 2010*

Northwest Regional Housing Advisory Committee Meeting  
9:30 a.m. to 11:30 a.m.

*September 23, 2010*

Southwest Regional Housing Advisory Committee Meeting  
1:30 p.m. to 3:30 p.m.

Anyone who wants to participate in the Regional Housing Advisory Committee meetings must register in advance. Contact Daniel Fox at (717) 720-7412 to receive registration instructions for these Internet-based meetings at least 24 hours prior to the meeting date. During the meeting, if support is required, call (717) 720-7404.

Persons with a disability who wish to participate in any of the Regional Advisory Committee meetings and requires an auxiliary aid, service or other accommodation to participate, should contact Daniel Fox, Department of Community and Economic Development, Center for Community Financing, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120-0225, (717) 720-7412, to discuss how the Department may best accommodate their needs. Text telephone calls can be placed through the Pennsylvania AT&T Relay Service at (800) 654-5984. Calls will be relayed to the Department's number listed previously.

AUSTIN J. BURKE,  
*Secretary*

[Pa.B. Doc. No. 10-1758. Filed for public inspection September 17, 2010, 9:00 a.m.]

## DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

### Proposed Exchange of Lands

The Department of Conservation and Natural Resources (Department), acting through the Bureau of Forestry (Bureau), and John G. Bomberger are proposing to negotiate an exchange of easement interests Portage Township, Potter County.

In the exchange, John G. Bomberger will convey a permanent easement to the Bureau of 188.41 feet in length and 50 feet in width. In return, the Bureau proposes to convey to John G. Bomberger an easement of 193.82 feet in length and 10 feet in width. The purpose of this proposed exchange in easement interests is to allow for better access to the Susquehannock State Forest.

As is the policy of the Department, the public is notified of this exchange. A 30-day period for public inquiry and/or comment will be in effect beginning September 18, 2010, and ending October 18, 2010. Oral or written comments or questions concerning this proposed exchange may be addressed to Dan Devlin, State Forester, Bureau of Forestry, P. O. Box 8552, Harrisburg, PA 17105-8552, (717) 787-4837. These oral and/or written comments will become part of the official document used in the final decision process.

If, in the duration of the 30-day comment period, a significant amount of public concern develops, the Secretary of the Department may schedule a public informational meeting.

JOHN QUIGLEY,  
*Secretary*

[Pa.B. Doc. No. 10-1759. Filed for public inspection September 17, 2010, 9:00 a.m.]

## DEPARTMENT OF EDUCATION

### Index Calculation Required by the Taxpayer Relief Act

Under section 333(l) of the Taxpayer Relief Act (53 P. S. § 6926.333(l)), the Department of Education (Department) has calculated the index for Fiscal Year (FY) 2011-2012.

The index is the average of the percentage increase in the Statewide average weekly wage and the Employment Cost Index. For the FY 2011-2012, the base index is 1.4%.

For school districts with a market value/income aid ratio greater than .4000, an adjusted index will be posted on the Department's web site at [www.education.state.pa.us](http://www.education.state.pa.us) by September 30, 2010.

THOMAS E. GLUCK,  
*Acting Secretary*

[Pa.B. Doc. No. 10-1760. Filed for public inspection September 17, 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>
PA0044466 (Sewage)	Lake Bryn Mawr Camp, Inc. 593 Bryn Mawr Road Honesdale, PA 18431	Wayne County Oregon Township	Unnamed Tributary to Big Brook Creek Watershed 01D High Quality- Cold Water Fishes	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>
PA0080926 (Sew)	Robert L. Schroeder 305 Sleepy Hollow Road Lititz, PA 17543	Lancaster County Elizabeth Township	UNT Hammer Creek 7-J	Y
PA0086754 (IW)	East Penn Manufacturing, Company Deka Road Lyon Station, PA 19526-0147	Berks County Richmond Township	Saony Creek 3-B	Y
PA0014648 (IW)	United Water Pennsylvania, Inc. Hummelstown Water Treatment Plant 4211 East Park Circle Harrisburg, PA 17111	Dauphin County Hummelstown Borough	Swatara Creek 7-D	Y
PA0014621 (IW)	United Water Pennsylvania, Inc. Sixth Street Water Treatment Plant 4211 East Park Circle Harrisburg, PA 17111	Dauphin County Susquehanna Township	Susquehanna River 7-C	Y
PA0082732 (Sew)	East St. Clair Township Municipal Authority—Stone Creek STP P. O. Box 55 Fishertown, PA 15539-0055	Bedford County East St. Clair Township	Dunning Creek 11-C	Y
PA0082694 (Sew)	East St. Clair Township Municipal Authority—Fishertown STP P. O. Box 55 Fishertown, PA 15539-0055	Bedford County East St. Clair Township	Dunning Creek 11-C	Y
PA0032506 (Sew)	Department of Conservation and Natural Resources—Reeds Gap State Park 1405 New Lancaster Valley Road Milroy, PA 17063-9517	Mifflin County Armagh Township	Honey Creek 12-A	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>
PA0033910 (Sewage)	Northeast Bradford School Wastewater Treatment Plant R. R. 1 Box 211b Rome, PA 18837-9505	Bradford County Orwell Township	Johnson Creek 4-D	Y
PA0209368 (Sewage)	Benton Foundry, Inc. 5297 SR 487 Benton, PA 17814-7641	Columbia County Sugarloaf Township	Coles Creek 5-C	Y
PA0228869 (Sewage)	Kettle Creek State Park Wastewater Treatment Plant 97 Kettle Creek Park Lane Renovo, PA 17764-9400	Clinton County Leidy Township	Kettle Creek 9-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>
PA0239551 (Sewage)	Westminster Highlands Camp 263 Big Bend Road Mercer, PA 16137	Venango County Scrubgrass Township	Little Scrubgrass Creek 16-C	Y
PA0210510 (Sewage)	Jody L. and Ronald D. Wright, d/b/a Jim-N-I-Park 11678 Main Street East Springfield, PA 16411	Erie County Springfield Township	Unnamed Tributary to Turkey Creek 15	Y

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

*Northwest Regional Office: Regional Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481, Telephone: 814-332-6942.*

**PA0103276**, Sewage, SIC Code 4952, **Shippenville Borough**, 106 School Street, Shippenville, PA 16254. Facility Name: Shippenville Borough STP. This existing facility is located in Shippenville Borough, **Clarion County**.

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

The receiving stream(s), Deer Creek, is located in State Water Plan watershed 17-B 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 0.05 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Weekly Average</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Weekly Average</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Residual Chlorine	XXX	XXX	XXX	0.5	XXX	1.2
CBOD <sub>5</sub>	10.5	16.7	XXX	25	40	50
Total Suspended Solids	12.5	18.8	XXX	30	45	60
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30	XXX	XXX	XXX	200 Geometric Mean	XXX	XXX
Oct 1 - Apr 30	XXX	XXX	XXX	2,000 Geometric Mean	XXX	XXX

You may make an appointment to review the Department of Environmental Protection's files on this case by calling the File Review Coordinator at 814-332-6340.

The EPA waiver is in effect.

## III. WQM Industrial Waste and Sewerage Applications under the Clean Streams Law (35 P. S. §§ 691.1—691.1001)

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

**WQM Permit No. 2110407**, Sewerage, **Upper Allen Township**, 100 Gettysburg Road, Mechanicsburg, PA 17055. This proposed facility is located in Upper Allen Township, **Cumberland County**.

Description of Proposed Action/Activity: Seeking permit approval for the construction/operation of a new pumping station and approximately 16,000 linear feet of force main and gravity sewer to provide Country Estates with public sewers. The projected peak flow for the new pumping station is approximately 50,400 gpd. The sewage will be treated at the Grantham WWTP.

**WQM Permit No. 0710201**, Industrial Waste, **BCRD, LLC**, 5429 Harding Highway, Building 500, Mays Landing, NJ 08330. This proposed facility is located in North Woodbury Township, **Blair County**.

Description of Proposed Action/Activity: Seeking permit approval for the construction/operation of a regional anaerobic digester to treat agricultural waste and further process municipal sewage sludge.



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

**WQM Permit No. 2595201**, Industrial Waste, **Amendment No. 1, Pennsylvania Electric Company**, P. O. Box 16001, Reading, PA 19612-6001. This proposed facility is located in Harborcreek Township, **Erie County**.

Description of Proposed Action/Activity: This project will upgrade the existing Iron and TSS leachate collection and treatment system. The proposed work includes dual submersible pumps, controls, piping, bulk chemical storage, a rotary fan sludge press and dual sludge storage tanks.

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#### **IV. NPDES Applications for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)**

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#### **V. Applications for NPDES Wavier Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)**

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#### **VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities**

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

*Wayne County Conservation District: Agricultural Service Center, 648 Park Street, Honesdale, PA 18431, 570-253-0930.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI026409007(1)	Central Wayne Regional Authority 100 Fourth Street Suite 8 Honesdale, PA 18431	Wayne County	Honesdale Borough	Lackawaxen River HQ-TSF, MF WB Lackawaxen River HQ-TSF, MF UNT Lackawaxen River HQ-CWF, MF Dyberry Creek HQ-CWF, MF

*Pike Conservation District: 556 Route 402, Suite 1, Hawley, PA 18428.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025210007	Sean Finan Finan Family Irrevocable Trust 830 Twin Lakes Road Shohola, PA 18458	Pike County	Shohola Township	Walker Lake Creek HQ-CWF, MF UNT to Walker Lake Creek HQ-CWF, MF Twin Lakes Creek HQ-CWF, MF UNT to Twin Lakes Creek HQ-CWF, MF Delaware River WWF, MF UNT to Delaware River HQ-CWF, MF Shohola Creek HQ-CWF, MF UNT to Shohola Creek HQ-CWF, MF

*Lackawanna County Conservation District: 1300 Old Plank Road, Mayfield, PA 18433, 570-281-9495.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023510003	William Davis Lackawanna County McDade Park 1 Bald Mountain Road Scranton, PA 18504-9779	Lackawanna	Archbald Borough	Aylesworth Creek CWF, MF EV-Wetland

*Schuylkill County Conservation District: 1206 Agricultural Center Drive, R. R. 5, Box 5810, Pottsville, PA 17901, 570-622-3742.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025410002	Raymond G. Mullady Signature Spring, LLC 600 New Hampshire Avenue NW Washington, DC 20037	Schuylkill	East Union Township	UNT to Davis Run HQ-CWF, MF

*Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

*Centre County Conservation District: 414 Holmes Avenue, Suite 4, Bellefonte, PA 16823, (814) 355-6817.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041410006	S & A Homes Fieldstone Subdivision 2121 Old Gatesburg Road State College, PA 16803	Centre	College Township Harris Township	Spring Creek HQ-CWF

*Clearfield County Conservation District: 650 Leonard Street, Clearfield, PA 16830, (814) 765-2629.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041704001R	River Hill Power Co., LLC 94 Spruce Street Indiana, PA 15701-8424	Clearfield	Karthaus Township	Mosquito Creek HQ-CWF UNT Mosquito Creek HQ-CWF Dutch Hollow Creek HQ-CWF Shingle Hollow Creek HQ-CWF

*Union County Conservation District: Union County Government Center, 155 North 15th Street, Lewisburg, PA 17837, (570) 524-3860.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI046010001	Ken Martin 3370 Forrest Hill Road Mifflinburg, PA 17844	Union	West Buffalo Township	Rapid Run HQ-CWF, MF

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#### **VII. List of NOIs for NPDES and/or Other General Permit Types**

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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)**

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.

#### NUTRIENT MANAGEMENT PLAN—PUBLIC NOTICE SPREADSHEET

<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>
Perry Meadows 2713 Fowlers Hollow Road Blain, PA 17006	Perry	0	1,342.3	Swine	HQ	Renewal

### PUBLIC WATER SUPPLY (PWS) PERMIT

Under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17), the following parties have applied for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on a permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of Environmental Protection (Department) of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

Following the comment period, the Department will make a final determination regarding the proposed permit. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The permit application and any related documents are on file at the office listed before the application and are available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability who require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

#### SAFE DRINKING WATER

#### Applications Received under the Pennsylvania Safe Drinking Water Act

*Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

#### Permit No. 3610533, Public Water Supply.

Applicant	<b>Western Heights Water Authority</b>
Municipality	Earl Township
County	<b>Lancaster</b>

Responsible Official	Fred Wissler Chairperson 517 North Railroad Avenue New Holland, PA 17557
Type of Facility	Public Water Supply
Consulting Engineer	Gary Martin, P. E. Gennett Flemming, Inc. P. O. Box 67100 Harrisburg, PA 17106-7100
Application Received:	8/17/2010
Description of Action	Construction of Well No. 5 with associated nitrate treatment and 38,000 gallon system storage

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

#### Application No. 6210501, Public Water Supply.

Applicant	<b>North Warren Municipal Authority</b>
Township or Borough	Conewango Township <b>Warren County</b>
Responsible Official	D. Melvin Jacobson Chairperson
Consulting Engineer	Dale W. Sorensen, P. E. Northwest Engineering, Inc. P. O. Box Q Tidioute, PA 16351
Application Received Date	07/30/2010
Description of Action	Chlorine contact tank addition and pipe volume increase to meet 4 Log Inactivation.

#### Application No. 2510504, Public Water Supply.

Applicant	<b>Erie City Water Authority</b>
Township or Borough	Harborcreek Township <b>Erie County</b>
Responsible Official	Craig H. Palmer, Engineering Services Manager
Consulting Engineer	Craig H. Palmer Erie Water Works 240 West 12th Street Erie, PA 16501
Application Received Date	09/02/2010
Description of Action	Installation of a Bulk Sodium Hypochlorite Feed System inside of East Lake Hydropillar.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

### PREAMBLE 1

#### **Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the Background Standard, Statewide Health Standard, the Site-Specific Standard or who intend to remediate a site as a special industrial area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a Site-Specific Standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a Site-Specific Standard or as a special industrial area, the municipality within which the site is located may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the environmental cleanup program manager in the Department regional office before which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Former Wolf Motor Company**, East Hempfield Township, **Lancaster County**. Becker Engineering, LLC, 115 Millersville Road, Lancaster, PA 17603, on behalf of Donato and Carmela Melchiorre, 1383 Beaconfield Lane, Lancaster, PA 17601; Lancaster Dodge, 1475 Manheim Pike, Lancaster, PA 17601; and the Estate of Romayne Fisher, c/o Spencer Law Firm, 320 Race Avenue, Lancaster, PA 17603, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with leaded gasoline from an underground storage tank. The site will be remediated to the Site-Specific Standard and will remain an automotive sales and maintenance facility.

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

**Duferco Farrell Corporation Facility**, City of Farrell, **Mercer County**. Cummings Riter Consultants, Inc., 10 Duff Road, Suite 500, Pittsburgh, PA 15235 on behalf of Duferco Farrell Corporation, 15 Roemer Boulevard, Farrell, PA 16121 has submitted a Notice of Intent to Remediate. Impacted material being addressed at the site consists of two material piles. One pile consists of coke breeze, the second pile consists of materials including scale and slag. The material piles are considered non-hazardous based on characterization sampling. The intended future use of the property will remain non-residential. The Notice of Intent to Remediate was published in *The Herald* on August 14, 2010. The site is to be remediated to the Site-Specific Standard.

#### **OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE**

**Permit(s) Received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.**

*Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.*

**Permit Application No. 100022. Chrin Brothers Sanitary Landfill, Chrin Brothers Sanitary Landfill, Inc.**, 635 Industrial Drive, Easton, PA 18042. A major permit modification to expand the permit boundary from 108.0 acres to 112.3 acres of this municipal waste landfill, does not include a change in the permitted disposal capacity, disposal acreage, or waste acceptance rates located in Williams Township, **Northampton County**. The application was received in the Regional Office on August 13, 2010, and as of September 7, 2010, the application was deemed to be administratively complete.

Persons interested in reviewing the application may contact William Tomayko, Program Manager, Waste Management Program, Northeast Regional Office, 2 Public Square, Wilkes-Barre, PA 18701-1915, 570-826-2511. TDD users may contact the Department of Environmental Protection through the Pennsylvania Relay AT&T Service, (800) 654-5984.

## 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 permit-

ting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

The Department has received applications for plan approvals and/or operating permits from the following facilities.

Copies of the applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the regional office identified in this notice. Persons interested in reviewing the application files should contact the appropriate regional office to schedule an appointment.

Persons wishing to receive a copy of a proposed plan approval or operating permit must indicate their interest to the Department regional office within 30 days of the date of this notice and must file protests or comments on a proposed plan approval or operating permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Comments or protests filed with the Department regional offices must include a concise statement of the objections to the issuance of the Plan approval or operating permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office identified before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121–143, the Federal Clean Air Act (act) and regulations adopted under the act.

#### PLAN APPROVALS

**Plan Approval Applications Received under the Air Pollution Control Act (35 P. S. §§ 4001–4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.**

*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: 717-949-7935.*

**07-03014A: New Enterprise Stone and Lime Co., Inc.** (P. O. Box 77, New Enterprise, PA 16664) for installation of a nonmetallic mineral processing plant at their Roaring Spring Quarry in Taylor Township, **Blair County**. The facility includes equipment subject to 40 CFR Part 60, Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plants. The estimated potentials to emit associated with this project are 39 tpy of Particulate Matter (PM) and 14.1 tpy of PM10. The

plan approval will include emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations.

Copies of the application, the Department of Environmental Protection's (Department) analysis and other documents used in the evaluation of the application are available for public review during normal business hours at:

Department of Environmental Protection  
909 Elmerton Avenue  
Harrisburg, PA 17110

Any person(s) wishing to provide the Department with additional information, which they believe should be considered prior to the issuance of this permit, may submit the information to the address shown in the preceding paragraph. The Department will consider any written comments received within 30 days of the publication of this notice.

Each written comment must contain the following:

- (i) Name, address and telephone number of the person submitting the comments.
- (ii) Identification of the proposed permit number.
- (iii) A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted based on the comments received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to:

Daniel C. Husted, P. E.  
Environmental Engineering Manager  
Department of Environmental Protection  
909 Elmerton Avenue  
Harrisburg, PA 17110  
Phone: 717-705-4863

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so, should by contacting Daniel C. Husted, P. E., or the Pennsylvania AT&T Relay Service at 1-800-654-5984 (TDD) to discuss how the Department may accommodate their needs.

**Intent to Issue 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.**

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940.*

**10-325A: VA Medical Center—Butler** (325 New Castle Road, Building 1, Suite 505W, Butler, PA 16001) for three 25.8 mmBtu/hr boilers at their facility in Butler Township, **Butler County**.

Under 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (Department) intends to issue Plan Approval 10-325A to the Butler VA Medical Center for three 25.8 mmBtu/hr boilers at their

facility located in Butler 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. 10-325A is for the three natural gas and diesel fired boilers, rated at 25.8 mmBtu/hr. Based on the information provided by the applicant and the Department's own analysis, the combined subject sources will have the potential to emit approximately 46.5 tons of nitrogen oxides, 27.6 tons of carbon monoxide, 1.8 tons of volatile organic compounds (VOCs), 4.8 tons of particulate matter, 4.8 tons of which will be particulate matter less than 10 microns (PM10) and 0.6 ton of sulfur oxides.

The Plan Approval will contain testing, recordkeeping, reporting, work practice and additional requirements designed to keep the facility operating within all applicable air quality requirements. Portions of the facility will also be subject to the requirements of New Source Performance Standards, 40 CFR Part 60, Subpart Dc, for Small Industrial-Commercial-Institutional Steam Generating Units.

**24-165B: Elkhorn Gas Processing, LLC—Whitetail Gas Processing Plant** (5422 Highland Road, Lamont, PA 16365) for modification of the CO emission limit established in plan approval 24-165A and the addition of a 30,000 gallon storage tank in Jones Township, **Elk County**. This is a State-only facility. The public notice is required for sources required to obtain a Plan Approval in accordance with 25 Pa. Code § 127.44. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the State-only operating permit through an administrative amendment at a later date. The source shall comply with the following conditions, which will satisfy the requirements of 25 Pa. Code § 127.12b (pertaining to plan approval terms and conditions) and will demonstrate Best Available Technology for the source:

- All conditions from plan approval 24-165A remain in effect unless changed below.
- Source 102: Refrigeration Compressor.
- The internal combustion engine shall be designed and operated so emissions do not exceed the following:
  - NOx at rated brake horsepower and operating at rated speed—2.0 grams per brake horsepower-hour (gms/bhp-hr) for gas fired units;
  - VOC at rated brake horsepower and operating at rated speed—1.9 gms/bhp-hr;
  - CO at rated brake horsepower and operating at rated speed—2.0 gms/bhp-hr; and,
  - At operating conditions less than rated capacity, internal combustion engines shall, on a pounds per hour basis, emit no more than they emit at rated brake horsepower and rated speed.
- Visible emissions in excess of the following limitations:
  - Equal to or greater than 10% for a period or periods aggregating more than 3 minutes in any one hour.
  - Equal to or greater than 30% at any time.
- Source 104: Storage Tanks (V-2910 and V-2920)
- Subject to 25 Pa. Code § 129.57.
- Source 105 and 106: Inlet Compressors
- The internal combustion engine shall be designed and operated so emissions do not exceed the following:

- NOx at rated brake horsepower and operating at rated speed—2.0 grams per brake horsepower-hour (gms/bhp-hr) for gas fired units;

- VOC at rated brake horsepower and operating at rated speed—1.5 gms/bhp-hr;

- CO at rated brake horsepower and operating at rated speed—2.0 gms/bhp-hr; and,

- At operating conditions less than rated capacity, internal combustion engines shall, on a pounds per hour basis, emit no more than they emit at rated brake horsepower and rated speed.

- Visible emissions in excess of the following limitations:

- Equal to or greater than 10% for a period or periods aggregating more than 3 minutes in any one hour.

- Equal to or greater than 30% at any time.

**37-307C: PSC Metals, Inc.** (5875 Landerbrook Drive, Suite 200, Mayfield Heights, OH 44124) for modifications to the dust collection system associated with existing scrap cutting activities at their facility in the City of New Castle, **Lawrence County**.

Under 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (Department) intends to issue Plan Approval 37-307C to PSC Metals, Inc. for modifications to the dust collection system associated with existing scrap cutting activities at their facility located at 214 Gardner Avenue, New Castle, PA 16107, City of New Castle, Lawrence 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. 37-307C is for modifications to the dust collection system associated with existing scrap cutting activities to provide for improved collection of particulate matter. Based on the information provided by the applicant and the Department's own analysis, the subject source will have the potential to emit approximately 7.0 tons of particulate matter, all of which will be particulate matter less than 10 microns (PM10), 9.4 tons of nitrogen oxides, 0.7 ton of carbon monoxide, 0.05 ton of volatile organic compounds (VOCs) and 0.01 ton of sulfur oxides per year.

The Plan Approval will contain additional monitoring, recordkeeping and work practice requirements designed to keep the facility operating within all applicable air quality requirements. Copies of the application, the Department's analysis, and other documents used in the evaluation are available for public inspection between 8 a.m. and 4 p.m. weekdays at the address shown. 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. 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. 37-307C.

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.

**62-032G: Ellwood National Forge Company** (One Front Street, Irvine, PA 16329) for modification of ammonia limits established in plan approval 62-032F in Brokenstraw Township, **Warren County**. This is a Title V facility. The public notice is required for sources required to obtain a Plan Approval in accordance with 25 Pa. Code § 127.44. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the State-only operating permit through an administrative amendment at a later date. The source shall comply with the following conditions, which will satisfy the requirements of 25 Pa. Code § 127.12b (relating to plan approval terms and conditions) and will demonstrate Best Available Technology for the source:

- All conditions from plan approval 62-032C issued July 31, 2008, remain in effect unless changed below.
- Sources 632, 633, 634, and 635—Nitride Furnaces
  - The emissions from the outlet of the control device shall not exceed the following:
    - Ammonia (NH<sub>3</sub>): 0.57 #/hr per furnace
    - Ammonia (NH<sub>3</sub>): 10.0 tpy based on a consecutive 12-month period for all four nitride furnaces (632, 633, 634, and 635)
    - NO<sub>x</sub>: 3.0 tpy based on a consecutive 12-month period for all four nitride furnaces (632, 633, 634, and 635)
    - Within 180 days after plan approval issuance, a stack test shall be performed in accordance with the provisions of Chapter 139 of the Rules and Regulations of the Department of Environmental Protection. The stack test shall be performed while the aforementioned source is operating at the maximum or normal rated capacity as stated on the application. The stack test shall be conducted for NO<sub>x</sub> and Ammonia (NH<sub>3</sub>) at the outlet of the control device. The initial compliance test may be performed on either control device (C632A or C634A).

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104. Contact: Edward Braun, Chief—Telephone: 215-685-9476.*

**AMS 10133: Philadelphia Navy Public Work Department** (4921 South Broad Street, Building 1, Philadelphia, PA 19112) to install to one 264,000 Btu/hr Boiler firing natural gas, one 9,200 gallon and one 9,700 gasoline storage tank both with Stage 2 vapor recovery, one Spraybooth that paints metal and plastic parts. One Torit Donalson Dust Collector, one cold cleaning degreaser in the City of Philadelphia, **Philadelphia County**. The facility will have the following combined potential annual emissions: 0.11 ton of nitrogen oxides (NO<sub>x</sub>), 1.43 tons of particulate matter, 0.25 ton of VOCs, 0.10 ton of carbon monoxide, less than 0.01 ton of sulfur dioxide and less than 0.01 ton of lead. The plan approval will contain operating, testing, monitoring, recordkeeping and reporting requirements to ensure operation within all applicable requirements.

## OPERATING PERMITS

### Intent to Issue Title V Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 717-949-7935.*

**31-05005: Containment Solutions, Inc.** (14489 Croghan Pike, Mount Union, PA 17066) for operation of a fiberglass reinforced plastic storage tank manufacturing operation in Shirley Township, **Huntingdon County**. This is a renewal of the Title V Operating Permit issued in 2005. The permit 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, Facilities Permitting Chief—Telephone: 814-332-6940.*

**10-00079: BNZ Materials, Inc.** (191 Front Street, Zelenople, PA 16063-1088) for reissuance of the Title V Operating Permit at their facility in Zelenople Borough, **Butler County**. The facility manufactures clay refractories. The facility's major emission sources include clay storage bin transfer, clay silos transfer, sawdust transfer No. 1—holding bin, sawdust transfer No. 2—sawdust silo, sawdust grinder, sawdust transfer No. 3—molding, batcher premix transfer, molding process, No. 2 finishing machine, No. 2 finishing machine feeder, No. 1 finishing machine, power shape machine, special shapes machines, degreasers, miscellaneous natural gas usage, cement fiberboard cutting operation, hot water heater, No. 2 and No. 3 dryer, No. 1, No. 2 and No. 4 kiln, laboratory test kiln. The facility is a major facility due to its potential to emit of carbon monoxide. This facility is not subject to compliance assurance monitoring because the individual source's precontrolled emission does not exceed the Title V emission threshold.

### Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428. Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.*

**09-00121: Philadelphia Macaroni Co.** (40 Jacksonville Road, Warminster, PA 18974) for a non Title-V (State-only), Natural Minor, Operating Permit Renewal. This facility manufactures pasta products in Warminster Township, **Bucks County**. The major sources of air emissions are the pneumatic conveying system controlled by five dust collectors and two boilers. The renewal will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**23-00049: PPL Interstate Energy Co.—Marcus Hook** (1111 Ridge Road, Linwood, PA 19061) for a renewal of State-only (Synthetic Minor) Operating Permit No. 23-00049, for three mainline fuel heaters, a maintenance heater and a cold parts cleaner at the facility in Linwood, **Delaware County**. The permit was originally

issued on March 10, 2005, and no physical changes have occurred at the facility since then. The renewed permit will include monitoring, recordkeeping, reporting and work practice requirements designed to keep the facility operating within all applicable air quality requirements.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507.*

**48-00094: U.S. Flock Co., LLC** (1150 Center Street, Easton, PA 18042) a State-only Operating Permit for coating and flock lines operation in William Township, **Northampton County**. The proposed State-only Operating Permit contains applicable requirements for emissions limitations, monitoring, recordkeeping, reporting and work practice standards used to maintain facility compliance with Federal and State air pollution regulations.

**40-00108: Pennsy Supply, Inc.** (1001 Paxton Street, P. O. Box 3331, Harrisburg, PA 17014-3331) a State-only Operating Permit for crushing stone plant operation in Jenkins Township, **Luzerne County**. The proposed State-only Operating Permit contains applicable requirements for emissions limitations, monitoring, recordkeeping, reporting and work practice standards used to maintain facility compliance with Federal and State air pollution regulations.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 717-949-7935.*

**36-03075: City of Lancaster AWWTP** (1220 New Danville Pike, Lancaster, PA 17603) for operation of their wastewater treatment facility in Lancaster Township, **Lancaster County**. This is a renewal of the State-only Operating permit issued in 2005.

**01-05036: Ecore International, Inc., d/b/a Recycling Technology International** (60 Filbert Street, Hanover, PA 17315) for the shredded rubber tire sizing, removal of metal and stone, and reclamation operations controlled by dust collectors in Conewago Township, **Adams County**. The primary emissions are particulate matter, with the estimated emissions of less than 21 tpy. This permit will incorporate the plan approval No 01-05036A for relocating their control exhausting indoor to the outdoor.

## PLAN APPROVALS

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**Receipt of Plan Approval Applications and Intent to Issue Plan Approvals, and Intent to Issue Amended Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B and Subchapter F. These actions may include the administrative amendments of an associated operating permit.**

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*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507.*

**54-399-044A: Future Power PA** (72 Glenmaura National Boulevard, Moosic, PA 18507) for modification and operation of an Anthracite Coal fired IGCC (Integrated Gas Combined Cycle) plant with controls at their facility to be in Porter Township, **Schuylkill County**.

In accordance with 25 Pa. Code §§ 127.44(a) and 127.45(a), the Department of Environmental Protection (Department) has received and intends to issue a Plan Approval to Future Power PA (72 Glenmaura National Boulevard, Moosic, PA 18507) for the modification and operation of an Anthracite Coal fired IGCC (Integrated Gas Combined Cycle) plant with controls at their facility to be located in Porter Township, Schuylkill County. This Plan Approval No. 54-399-044A will be incorporated into a State-only Permit through an administrative amendment at a later date. Plan Approval No. 54-399-044A is for a modification for the increase in the Megawatt output for the facility. The plant is subject to 40 CFR Part 60, Subpart Da requirements. The emergency generator and emergency fire pump are subject to 40 CFR Part 60, Subpart IIII requirements. The coal prep plant is subject to 40 CFR Part 60, Subpart Y requirements. The VOC emissions from the facility will not equal or exceed 50 tpy, based on a 12-month rolling sum. The NOx emissions from the facility will not equal or exceed 100 tpy, based on a 12-month rolling sum. Total PM, SOx and CO emissions from the facility will not equal or exceed 100 tpy, based on a 12-month rolling sum. The HAPs from the facility must never equal or exceed 10 tpy of any single HAP and must never equal or exceed 25 tpy of all aggregated HAPs, based on a 12-month rolling sum. The Plan approval and Operating Permit will include testing, monitoring, recordkeeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

Copies of the application, the Department's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711.

Any person(s) wishing to provide the Department with additional information, which they believe should be considered prior to the issuance of this permit, may submit the information to the address shown in the preceding paragraph. Each written comment must contain the following:

Name, address and telephone number of the person submitting the comments.

Identification of the proposed permit No. 54-399-044A.

A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted based on the comments received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Ray Kempa, Chief, New Source Review Section, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711, Phone 570-826-2511 within 30 days after publication date.



## COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to such applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of the application is available for inspection at the District Mining Office indicated above each application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for the certification.

Written comments or objections, or requests for an informal conference, or a public hearing, as applicable, on a mining permit application may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the address of the district mining office indicated above each application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Written comments or objections related to a mining permit application should contain the name, address and telephone number of persons submitting comments or objections; application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based.

Requests for an informal conference, or a public hearing, as applicable, on a mining permit application, as provided by 25 Pa. Code §§ 77.123 or 86.34, must contain the name, address and telephone number of the requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

When a National Pollutant Discharge Elimination System (NPDES) number is listed, the mining activity permit application was accompanied by an application for an individual NPDES permit. The Department has made a tentative determination to issue the NPDES permit in conjunction with the mining activity permit, but the issuance of the NPDES permit is contingent upon the approval of the associated mining activity permit.

For coal mining activities, NPDES permits, when issued, will contain effluent limits that do not exceed the technology-based effluent limitations. The proposed limits are listed in Table 1.

For noncoal mining activities, the proposed limits are found in Table 2. Discharges from noncoal mines located in some geologic settings (for example, in the coal fields) may require additional effluent limits. If additional effluent limits are needed for an NPDES permit associated with a noncoal mining permit, then the permit description below specifies the parameters. The limits will be in the ranges specified in Table 1.

More restrictive effluent limitations, restrictions on discharge volume, or restrictions on the extent of mining that may occur, will be incorporated into an NPDES permit when necessary for compliance with water quality standards and antidegradation requirements (in accordance with 25 Pa. Code Chapters 91—96).

The procedures for determining the final effluent limits, using a mass-balance equation or model, are found in Technical Guidance Document 362-0600-001, NPDES Program Implementation—Memorandum of Understanding Concerning Water Quality Management, NPDES Program Implementation and Related Matters. Other specific factors to be considered include public comments and Total Maximum Daily Loads (TMDLs).

Persons wishing to comment on an NPDES permit application should submit a statement to the Department at the address of the district mining office indicated previously each application within 30 days of this public notice. Comments received within the comment period will be considered in the final determinations regarding the NPDES permit applications. Comments must include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests or petitions for a public hearing on NPDES permit applications, as provided in 25 Pa. Code § 92.61. The request or petition for a public hearing shall be filed within 30 days of this public notice and shall contain the name, address, 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:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (Total)	1.5 to 3.0 mg/l	3.0 to 6.0 mg/l	3.5 to 7.0 mg/l
Manganese (Total)	1.0 to 2.0 mg/l	2.0 to 4.0 mg/l	2.5 to 5.0 mg/l

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
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.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.*

**56100104. Fieg Brothers**, 3070 Stoystown Road, Stoystown, PA 15563, commencement, operation and restoration of a bituminous surface and auger mine in Southampton and Fairhope Townships, **Somerset County**, affecting 169.1 acres. Receiving stream(s): unnamed tributaries to Wills Creek classified for the following use(s): high quality cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: July 20, 2010.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191,*

**61100105. Ben Hal Mining Company** (389 Irishtown Road, Grove City, PA 16127) Commencement, operation and restoration of a bituminous strip operation in Irwin Township, **Venango County** affecting 23.0 acres. Receiving streams: Unnamed tributary No. 2 to North Branch Slippery Rock Creek, classified for the following uses: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: August 25, 2010.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**14040101 and NPDES No. PA0243833. River Hill Coal Co., Inc.** (P. O. Box 141, Kylertown, PA 16847).

Permit renewal for the continued operation and restoration of a bituminous surface mine located in Rush Township, **Centre County** affecting 547.3 acres. Receiving streams: unnamed tributary to Trout Run (High Quality-Cold Water Fishery) and unnamed tributaries to Moshannon Creek (High Quality-Cold Water Fishery). There are no potable water supply intakes within 10 miles downstream. Application received: August 30, 2010.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**54950104R3. City of Philadelphia, Trustee, Acting by the Board of Directors of City Trusts for Girard Estate**, (21 South 12th Street, Philadelphia, PA 19107), renewal of an existing anthracite surface mine operation in West Mahanoy Township, **Schuylkill County** affecting 397.3 acres, receiving stream: none. Application received: August 20, 2010.

**40980101R2. Hazleton Materials, LLC** (P. O. Box 1467, Skippack, PA 19474), renewal of an existing anthracite surface mine operation in Foster Township, **Luzerne County** affecting 1261.0 acres, receiving stream: none. Application received: August 23, 2010.

**40840206R5. Jeddo-Highland Coal Company**, (46 Public Square, Suite 600, Wilkes-Barre, PA 18640), renewal of an existing anthracite coal refuse reprocessing and disposal operation in Plains Township, **Luzerne County** affecting 126.9 acres, receiving stream: none. Application received: August 25, 2010.

*Noncoal Applications Received*

*Effluent Limits*—The following effluent limits will apply to NPDES permits issued in conjunction with a noncoal mining permit:

<i>Parameter</i>	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Alkalinity exceeding acidity* pH*		greater than 6.0; less than 9.0	

\* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.*

**4075SM12 and NPDES Permit No. PA0248860. Penn Pocahontas Coal Company**, P. O. Box 68, Boswell, PA 15531, renewal of NPDES Permit, Summit Township, **Somerset County**. Receiving stream(s): unnamed tributary to Casselman River, classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: August 20, 2010.

**3366BSM84 and NPDES Permit No. PA0248797. Penn Pocahontas Coal Company**, P. O. Box 68, Boswell, PA 15531, renewal of NPDES Permit, Brothersvalley Township, **Somerset County**. Receiving stream(s): Buffalo Creek and Tubs Run, classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: August 20, 2010.

**4072SM11 and NPDES Permit No. PA0248886. Penn Coal Land, Inc.**, P. O. Box 68, Boswell, PA 15531, renewal of NPDES Permit, Summit Township, **Somerset County**. Receiving stream(s): unnamed tributary to Miller Run classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received: August 20, 2010.

**4072SM2 and NPDES Permit No. PA0248878. Penn Coal Land, Inc.**, P. O. Box 68, Boswell, PA 15531, renewal of NPDES Permit, Elk Lick Township, **Somerset County**. Receiving stream(s): unnamed tributary to Meadow Run classified for the following use(s): cold water fishery. The first downstream potable water supply intake from the point of discharge is Hooversville Municipal Authority. NPDES renewal application received: August 20, 2010.

**4072SM22 and NPDES Permit No. PA0248894. Penn Coal Land, Inc.**, P. O. Box 68, Boswell, PA 15531, renewal of NPDES Permit, Somerset Township, **Somerset County**. Receiving stream(s): unnamed tributary to Kimberly Run classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received: August 20, 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

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

**E38-169: Department of Transportation, Engineering District 8-0**, 2140 Herr Street, Harrisburg, PA 17103, North Cornwall Township, **Lebanon County**, ACOE Baltimore District.

To construct and maintain a non-jurisdictional dam, approximately 1,866.0 feet long by 10.0 feet wide and 3.0 feet high, in the floodplain of Snitz Creek (TSF), its associated floodway and PEM wetlands, having a permanent wetland impact of 0.01 acre, for the purpose of creating 5.2 acres of wetlands on the south side of Oak Street on the right floodplain of Snitz Creek (Lebanon, PA Quadrangle N: 9.5 inches; W: 6.75 inches, Latitude: 40° 19' 23"; Longitude: 76° 27' 2") in North Cornwall Township, Lebanon County. The applicant is required to replace 0.01 acre of PEM wetland. The wetland will be replaced at the site through creation of additional wetlands.

**E21-418: East Pennsboro Township**, 98 South Enola Drive, Enola PA 17025-2704, East Pennsboro Township, **Cumberland County**, ACOE Baltimore District.

The applicant proposes to construct and maintain portions of a new headworks and chlorine contact tanks and two 15.0-inch HDPE outfalls with associated rip-rap within the 100-year FEMA floodplain of Conodoguinet Creek (WWF), impacting 0.01 acre of floodplain. The purpose of the project is to improve the existing East Pennsboro Township Wastewater Treatment Plant. The project is located along Dulles Drive in East Pennsboro Township, Cumberland County (Harrisburg West, PA Quadrangle N: 3.9 inches; W: 6.3 inches, Latitude: 40° 16' 19"; Longitude: -76° 55' 15")

*Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636.*

**E53-429. Ultra Resources, Inc.**, 304 Inverness Way South, Englewood, CO 80112-5828. Water Obstruction and Encroachment Joint Application, Pine Creek Water Intake, in Pike Township, **Potter County**, ACOE Baltimore District (Marshlands, PA Quadrangle N: 41° 44' 16"; W: 77° 37' 21").

To construct, operate and maintain 50 linear feet of 6" water pipeline under Pine Creek (Exceptional Value). Construction of the pipeline will require one stream crossing. The pipeline crossing is to be bored under the stream. The project is located east of the Borough of Galeton off SR 0006 approximately 1.6 miles west of the intersection with SR 0144 in Pike Township, Potter County.

*Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**E02-1641. The Cobblestone Manor Associates, LP,** 772 Pine Valley Drive, Pittsburgh, PA 15239. To extend and maintain the existing culvert and place and maintain fill in wetlands and to relocate and maintain the stream channel in Ohio Township, **Allegheny County**, Pittsburgh ACOE District (Emsworth, PA Quadrangle N: 7.7 inches; W: 11.8 inches, Latitude: 40° 32' 29.6"; Longitude: 80° 5' 23.3"). The applicant proposes to extend and maintain the existing 118.0 foot long 48 inch diameter culvert in and unnamed tributary to Bear Run (TSF) approximately 13.0 feet on the upstream end and approximately 230.0 feet on the downstream end, to place and maintain fill in approximately 0.09 acre of wetlands and to relocate and maintain the channel of said stream for the purpose of constructing and providing access to the proposed Cobblestone Manor Single Family Residential Development. The project is located on the west side of SR 279, approximately 3,500.0 feet south from the intersection of SR 279 and Mt. Nebo Road and will impact approximately 368.0 linear feet of stream channel and 0.09 acre of wetlands.

**E63-627. Washington County,** 100 West Beau Street, Suite 701, Washington, PA 15301. To construct seven pedestrian bridges and a retaining wall in Nottingham Township, **Washington County**, Pittsburgh ACOE District (Hackett, PA Quadrangle N 12.1"; W 5.7", Latitude: 40° 11' 31"; Longitude: 80° 02' 29"). The applicant proposes to construct and maintain four steel beam bridges, each with a span of 30', one steel beam bridge with a span of 20', all across Mingo Creek (HQ-TSF), and to construct two wood beam bridges with spans of 10' across unnamed tributaries to Mingo Creek, all for the purpose of constructing approximately 2 miles of recreational trail for bicycles and pedestrians. The project is located in Mingo Creek Park.

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

**E24-257. Department of Transportation, District 2-0.** SR 1006 Across West Branch Clarion River and Wilson Run, in Jones Township, **Elk County**, ACOE Pittsburgh District (Wilcox, PA Quadrangle N: 41° 34' 32"; W: 78° 41' 32").

To conduct the following activities associated with the realignment of SR 1006, Section A01 immediately west of SR 321 at Wilcox:

1. To remove the existing bridge and stabilize approximately 75 feet of the right bank and 81 feet of the left bank of the West Branch Clarion River.

2. To construct and maintain a 31.4 foot long prestressed concrete beam bridge on integral abutments having a clear span of 92.7 feet and an underclearance of 12.9 feet on a 75° skew across Wilson Run on a new roadway alignment.

3. To permanently impact 0.012 acre of EV wetland adjacent to Wilson Run and West Branch Clarion River associated with fill for the roadway approach to the bridge.

4. To temporarily impact 0.045 acre of EV wetland.

5. To install and maintain a 36 inch diameter culvert to maintain flow in an existing ditch through the proposed roadway embankment and discharging into the wetland area along West Branch Clarion River.

**E62-423. Municipal Authority of the Township of Sheffield,** P. O. Box 821, Sheffield, PA 16347. Sheffield Township Sewer Lines and Treatment Plant Upgrade, in Sheffield Township, **Warren County**, ACOE Pittsburgh District (Sheffield, PA Quadrangle N: 41° 41' 40"; W: 79° 1' 48").

The applicant is proposing to extend sewer lines in Sheffield Township and upgrade the existing sewage treatment plant involving:

1. to construct and maintain 23 sanitary sewer line watercourse crossings (21 by boring/2 by open cut) including the following crossings of special protection waters by boring (unless noted):

a. Four Mile Run (HQ-CWF)—N: 41° 43' 29"; W: 79° 3' 17"

b. UNT Two Mile Run (HQ-CWF)—N: 41° 42' 18"; W: 79° 00' 51"

c. UNT South Branch Tionesta Creek by open cut (HQ-CWF)—N: 41° 40' 39"; W: 79° 1' 39"

d. UNT South Branch Tionesta Creek (HQ-CWF)—N: 41° 40' 21"; W: 79° 1' 28"

e. UNT South Branch Tionesta Creek (HQ-CWF)—N: 41° 40' 20"; W: 79° 1' 27"

f. UNT South Branch Tionesta Creek (HQ-CWF)—N: 41° 40' 11"; W: 79° 1' 26"

g. UNT South Branch Tionesta Creek (HQ-CWF)—N: 41° 39' 43"; W: 79° 1' 1"

h. UNT South Branch Tionesta Creek (HQ-CWF)—N: 41° 39' 41"; W: 79° 0' 59"

i. South Branch Tionesta Creek (HQ-CWF)—N: 41° 40' 20"; W: 79° 1' 43"

j. UNT South Branch Tionesta Creek (HQ-CWF)—N: 41° 40' 20"; W: 79° 1' 45"

k. UNT South Branch Tionesta Creek (HQ-CWF)—N: 41° 40' 20"; W: 79° 1' 45"

l. UNT South Branch Tionesta Creek (HQ-CWF)—N: 41° 39' 40"; W: 79° 1' 35"

m. UNT South Branch Tionesta Creek (HQ-CWF)—N: 41° 39' 38"; W: 79° 1' 36"

2. to construct and maintain 20 sanitary sewer line wetland crossings by boring including the following crossings of exceptional value wetlands:

a. Wetland BA 20 (S) (EV)—N: 41° 40' 50"; W: 79° 1' 44"

b. Wetland BA 4 (S) (EV)—N: 41° 39' 47"; W: 79° 1' 9"

c. Wetland BA 3 (S) (EV)—N: 41° 39' 46"; W: 79° 1' 7"

d. Wetland BA 10 (S) (EV)—N: 41° 39' 57"; W: 79° 1' 42"

e. Wetland BA 11 (S) (EV)—N: 41° 39' 53"; W: 79° 1' 41"

f. Wetland BA 12 (S) (EV)—N: 41° 39' 49"; W: 79° 1' 39"

3. to remove existing structures (having an approximate footprint of 5,225 square feet) and to construct and maintain two SBR tanks, a SBR control building, a sludge holding tank and reed bed units (having an approximate footprint of 17,225 square feet) within the FEMA 100-year floodplain of the West Branch of Tionesta Creek

4. to mitigate the floodplain fill/new structures by excavating approximately 8,330 square feet of the floodplain to a depth of one foot within the FEMA 100-year floodplain of the West Branch of Tionesta Creek

## ENVIRONMENTAL ASSESSMENTS

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**EA05-010: Broad Top Township**, P. O. Box 57, Defiance, PA 16633, Broad Top Township, **Bedford County**, ACOE Baltimore District.

The applicant proposes to: (1) install and maintain an 8.0-inch PVC pipe in an UNT to Sandy Run (WWF, MF) impacting 145.0 linear feet of stream channel; and (2) relocate and maintain 330.0 linear feet of Sandy Run (WWF, MF) impacting 485.0 linear feet of stream channel, for the purpose of constructing an acid mine drainage treatment system. The project is located along Landfill Road (Saxton, PA Quadrangle N: 0.09 inch; W: 12.93 inches, Latitude: 40° 7' 31.7"; Longitude: 78° 13' 2.9") in Broad Top Township, Bedford County.

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## ACTIONS

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### THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

#### FINAL ACTIONS TAKEN FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal wastes; discharges to groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**I. NPDES Renewal Permit Actions**

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0020168 (Sewage)	East Stroudsburg Borough Wastewater Treatment Plant P. O. Box 303 East Stroudsburg, PA 18301-0303	Monroe County East Stroudsburg Borough	Brodhead Creek 1-E Cold Water Fishes	N

*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>
PA0112585 (Sewage)	Wagon Wheel Apartments Wastewater Treatment Plant R. R. 2 Box 291 Ulster, PA 18850	Bradford County Ulster Township	Toad Hollow 4-B	Y
PA0112747 (Sewage)	Mahaffey Borough Municipal Authority Wastewater Treatment Plant P. O. Box 202 Mahaffey, PA 15757	Clearfield County Mahaffey Borough	West Branch Susquehanna River 8-B	Y
PA0115088 (POTW)	Benton Municipal Water & Sewer Authority Wastewater Treatment Plant P. O. Box 516 1a West Third Street Benton, PA 17814-0516	Columbia County Benton Borough	Fishing Creek 5-C	Y
PA0031852 (Sewage)	Central Columbia School District Wastewater Treatment Plant 4777 Old Berwick Road Bloomsburg, PA 17815	Columbia County South Centre Township	Unnamed Tributary to Susquehanna River 5-D	Y
PA0014575 (Industrial Waste)	Jersey Shore Area Joint Water Authority Water Company Road Off RT 973E Jersey Shore, PA 17740-5046	Lycoming County Anthony Township	Larrys Creek 10-A	Y
PA0014567 (Industrial Waste)	Jersey Shore Area Joint Water Authority Route 973 Jersey Shore, PA 17740-5046	Clinton County Pine Creek Township	Pine Creek 9-A	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>
PA0252557 Industrial Waste	Coen Oil Company 1100 West Chestnut Street Washington, PA 15301	Washington County Buffalo Township	UNT to Buffalo Creek	Y

**II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions**

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

**NPDES Permit No. PA02636729**, Sewage, **Nilda Flores**, 1970 Mercer Road, Fredonia, PA 16124. This proposed facility is located in Delaware Township, **Mercer County**.

Description of Proposed Action/Activity: Issuance of a new NPDES permit for treated sewage to a Small Flow Treatment Facility which is replacing a malfunctioning onlot system.

**III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)**

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

**WQM Permit No. 3510401**, Sewerage, **Sewer Authority of the City of Scranton**, 312 Adams Avenue, Scranton, PA 18503. This proposed facility is located in the City of Scranton, **Lackawanna County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit for upgrades to the Authority's wastewater treatment facility as part of a Biological Nutrient and Chemical Phosphorus Removal project.

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

**WQM Permit No. WQG01281001**, Sewage, **Twin Hill Meadows Phase II Association**, 19733 Leitersburg Pike, Hagerstown, PA 21742. This proposed facility is located in Montgomery Township, **Franklin County**.

Description of Proposed Action/Activity: Construction/Operation of a small flow sewage treatment system to serve 4 residential building lots.

**WQM Permit No. WQG02221002**, Sewage, **South Hanover Township Sewer Authority**, 111 West Third Street, Union Deposit, Hershey, PA 17033. This proposed facility is located in South Hanover Township, **Dauphin County**.

Description of Proposed Action/Activity: Construction/Operation of pump station and force main to serve the Willow Creek Farms subdivision, 40 single family lots on an existing 56.7 acre parcel.

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**WQM Permit No. 0410403**, Sewerage, **East Rochester Borough**, 760 Spruce Street, East Rochester, PA 15074. This proposed facility is located in East Rochester Borough, **Beaver County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of new sanitary sewers to separate existing combined sewers.

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

**WQM Permit No. 1610401**, Sewerage, **Borough of East Brady**, 502 Ferry Street, Suite 15, East Brady, PA 16028. This proposed facility is located in East Brady Borough, **Clarion County**.

Description of Proposed Action/Activity: This is a new WQM permit for replacing the existing East Brady STP. The new plant will be located adjacent to the existing STP and is designed for the future flow of 185,000 gallons per day.

**WQM Permit No. 4310401**, Sewerage, **Nilda Flores**, 1970 Mercer Road, Fredonia, PA 16124. This proposed facility is located in Delaware Township, **Mercer County**.

Description of Proposed Action/Activity: Construction of Single Residence Small Flow Treatment Facility to replace a malfunctioning onlot system.

#### **IV. NPDES Stormwater Discharges from MS4 Permit Actions**

#### **V. NPDES Waiver Stormwater Discharges from MS4 Actions**

#### **VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions**

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10Q200R(2)	Mark Feiertag P. O. Box 38 Macungie, PA 18062	Lehigh	Upper Milford Township	Little Lehigh Creek HQ-CWF, MF
PAS10S124R	Briland Development, LLC 8 Abeel Road East Stroudsburg, PA 18301	Monroe	Pocono Township	Pocono Creek HQ-CWF, MF Cranberry Creek HQ-CWF, MF
PAI024809011	John H. Oberly 1441 Spring Valley Road Bethlehem, PA 18015	Northampton	Lower Saucon Township	Cook Creek EV, MF
PAI024809001	Marquis Properties, LLC 416 Frederick Street Easton, PA 18042	Northampton	City of Easton	Bushkill Creek HQ-CWF, MF

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI030708001(1)	Jonathan Baker Chestnut Flats Wind, LLC Ten Penn Center 1801 Market Street Suite 2700 Philadelphia, PA 19103	Blair	Logan Township	Mill Run-Scotch Gap Run-Kittanning Run-Little Laurel Run HQ, CWF-WWF-CWF-TSF
PAI032809003	Lex and Louise Skelly 3631 North Front Street Harrisburg, PA 17110	Franklin	Guilford Township	Falling Spring Creek HQ

*Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

*Potter County Conservation District: 107 Market Street, Coudersport, PA 16915, (814) 274-8411, Ext. 4.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI045310002	Nittany Oil Co. Nittany Minit Mart 321 North Front Street Philipsburg, PA 16866	Potter	Galeton Borough	Pine Creek HQ-CWF

*Sullivan County Conservation District: R. R. 2, Box 2022B, Dushore, PA 18614, (570) 928-7057.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI045710001	George M. Jenkins Merritt Capital Corporation 467 Belrose Lane St. Davids, PA 19087	Sullivan	Laporte Township	Pole Bridge HQ-CWF Shanerburg Run EV

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI063710001	Department of Transportation Engineering District 11-0 45 Thoms Run Road Bridgeville PA 15017	Lawrence	Mahoning	Mahoning and Beaver Rivers WWF

## **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>
Orwigsburg Borough and West Brunswick Township Schuylkill County	PAG2005410005	Schuylkill County Municipal Authority 221 South Centre Street Pottsville, PA 17901	Pine Creek CWF	Schuylkill County Conservation District 570-622-3742
Deer Lake Borough and West Brunswick Township Schuylkill County	PAG2005410006	Schuylkill County Municipal Authority 221 South Centre Street Pottsville, PA 17901	Pine Creek CWF	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	PAG2004810009	Santino Calantoni Nancy Run Estates Family Limited Partnership 6065 William Penn Highway Easton, PA 18042	Nancy Run CWF, MF	Northampton County Conservation District 610-746-1971
Fairview Township York County	PAG2006710016	Matthew D'Agostino 5011 Oakcrest Drive Fairfax, VA 22030	Yellow Breeches Creek CWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
West Manheim Township York County	PAG2006705036	Michael Roepcke Northfield Joint Venture 1085 Hickory Ridge Road Suite 217 Columbia, MD 21044-9301	Furnace Run CWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
Warrington Township York County	PAG2006710026	Harry H. Fox 600 Cold Springs Road Dillsburg, PA 17019	Beaver Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
York City York County	PAG2006710020	Jason DeStiger Summit Holdings, LLC 604 Locust Street Suite 500 Des Moines, IA 50309	UNT to Willis Run-Codorus Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
Rush Township Dauphin County	PAG2002210016	Helen Bendigo 11079 Clarks Valley Road Tower City, PA 17980	Wiconisco Creek WWF-CWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717-921-8100
South Hanover Township Dauphin County	PAG2002210027	Patricia A. Miller Zug Group, LP 4458 South Castlewood Court Auburn Hills, MI 48326-1851	Manada Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717-921-8100
Conewago Township Dauphin County	PAG2002210012	Sherri Smith Lower Dauphin School District 291 East Main Street Hummelstown, PA 17036	Hoffer Creek TSF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717-921-8100
South Hanover Township Dauphin County	PAG2002210017	Cliff Weaver Landmark Builders, Inc. 1656 West Main Street Ephrata, PA 17522	Kellock Run WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717-921-8100
New Freedom Borough York County	PAG2006704071-R	Keystone Custom Homes 214-A Willow Valley Lake Drive Willow Street, PA 17584	South Branch Codorus Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430

## NOTICES

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<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
North Woodbury Township Blair County	PAG2000710005	Fred Eckert BCRD LLC 5429 Harding Highway Mays Landing, NJ 08330	UNT to Plum Creek CWF	Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 814-696-0877 Ext. 5
Shrewsbury Township York County	PAG2006705067-R	Jon P. Myers Myers & O'Neill II, LP 30 West Main Street New Freedom, PA 17349	UNT to South Branch Codorus Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
Springettsbury Township York County	PAG2006710015	John W. Woodward 738 West Market Street, LLC 1005 East King Street Suite 100 York, PA 17403	Codorus Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
York Township York County	PAG2006705061-R	Timothy F. Pasch The Paddock 55, LP 2645 Carnegie Road York, PA 17402	Mill Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
Logan Township Blair County	PAG2000710003	Mark Perry Altoona Water Authority 20 Greenwood Road Altoona, PA 16602	Little Juniata River TSF	Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 814-696-0877 Ext. 5
Washington Township Berks County	PAG2000610021	Todd Eddy Hutt's Glass Co., Inc. 105 Limekiln Road Bechtelsville, PA 19505	Swamp Creek TSF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533 610-372-4657
Hanover Borough York County	PAG2006710022	Washington Avenue Elementary School 403 Moul Avenue Hanover, PA 17331	Oil Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 717-840-7430
Womelsdorf Borough Berks County	PAG2000610020	James S. Williamson Ener-G Foods, Inc. P. O. Box 84487 Seattle, WA 98124-5787	Tulpehocken Creek TSF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 610-372-4657 Ext. 201
South Lebanon Township Lebanon County	PAG2003810010	Thaddeus S. Kocuba Department of Veterans Affairs 1700 South Lincoln Avenue Lebanon, PA 17042	Quittapahilla Creek TSF-MF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 717-272-3908 Ext. 4

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Lebanon City Lebanon County	PAG2003810002	Curtis Richards Lebanon School District 1000 South Eighth Street Lebanon, PA 17042	Quittapahilla Creek TSF-MF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 717-272-3908 Ext. 4
Heidelberg Township Lebanon County	PAG2003810001	Patrick Kreiser 2 Goodyear Lane Newmanstown, PA 17073	UNT to Middle Creek WWF-MF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 717-272-3908 Ext. 4
Swatara Township Lebanon County	PAG2003810013	Mark R. Will Woodcrest Developers, LLC 400 North Cedar Street Lititz, PA 17543	UNT to Little Swatara Creek WWF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 717-272-3908 Ext. 4
Bethel Township Lebanon County	PAG2003810011	Rick Martin Wheatland Custom Homes, Inc. 330 Millway Road Ephrata, PA 17522	Deep and Elizabeth Runs WWF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 717-272-3908 Ext. 4
Clearfield Borough Clearfield County	PAG2001710008	Clearfield Borough Council 6 South Front Street Clearfield, PA 16830	West Branch Susquehanna River WWF Clearfield Creek WWF	Clearfield County Conservation District 650 Leonard Street Clearfield, PA 16830 (814) 765-2629
Penn Township Lycoming County	PAG2004110011	Todd Arthur 25 North Main Street Muncy, PA 17756	Derr Run Little Muncy CWF-MF	Lycoming County Conservation District 542 County Farm Road Suite 202 Montoursville, PA 17754 (570) 433-3003
Blossburg Borough Tioga County	PAG2005910002	Hydro Recovery, LP 7 Riverside Plaza Blossburg, PA 16912	Tioga River Boone Run CWF	Tioga County Conservation District 50 Plaza Lane Wellsboro, PA 16901 (570) 724-1801 Ext. 3
East Buffalo Township Union County	PAG2006010001	Earl Pilling 2525 Old Route 15 P. O. Box 119 West Milton, PA 17886	West Branch Susquehanna River WWF	Union County Conservation District Union County Government Center 155 North 15th Street Lewisburg, PA 17837 (570) 524-3860

## 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>
East Buffalo Township Union County	PAG2006010004	Michael Derk Creative Plantscapes 205 Bull Run Crossing Lewisburg, PA 17837	Buffalo Township East Buffalo Township	Union County Conservation District Union County Government Center 155 North 15th Street Lewisburg, PA 17837 (570) 524-3860
Union County	PAG2006010006	Lewisburg Area Rec Authority 629 Fairground Road Lewisburg, PA 17837	Lewisburg Borough	Union County Conservation District Union County Government Center 155 North 15th Street Lewisburg, PA 17837 (570) 524-3860
Union County	PAG2006010007	Christopher Baylor 1131 Pheasant Ridge Road Lewisburg, PA 17837	East Buffalo Township	Union County Conservation District Union County Government Center 155 North 15th Street Lewisburg, PA 17837 (570) 524-3860
Indiana County Burrell Township	PAG02003210005	Byron G. Stauffer, Jr. Indiana County Development Corporation 801 Water Street Courthouse Annex Indiana, PA 15701	UNT Blacklick Creek CWF	Indiana County Conservation District 625 Kolter Drive Suite 8 Indiana, PA 15701-3571 724-471-4751
Washington County Cecil Township	PAG02006305022-R	Maple Leaf Homes, Inc. Lynn Foltz P. O. Box 401 Bridgeville, PA 15017	UNT Chartiers Creek WWF	Washington County Conservation District 602 Courthouse Square Washington, PA 15301 724-228-6774
Washington County Somerset Township	PAG02006306002-2	Gallaway Safety & Supply Colin Gallaway 207 Carlton Drive Eight-Four, PA 15330	UNT Pigeon Creek WWF	Washington County CD 602 Courthouse Square Washington, PA 15301 724-228-6774
Cranberry Township Butler County	PAG02001008003(1)	Pinnacle Resources P. O. Box 445 Clarion PA 16214	UNT Brush Creek WWF	Butler Conservation District 724-284-5270
Summit Township Erie County	PAG02002505009R	Steve Rapp 4132 Stonecreek Drive Erie PA 16509	Walnut Creek CWF; MF	Erie Conservation District 814-825-6403
Reynoldsville Borough Jefferson County	PAG02003310003	Reynoldsville Area Industrial Development Corporation 444 Main Street Reynoldsville PA 15851	Sandy Lick Creek TSF	Jefferson County Conservation 814-849-7463

*General Permit Type—PAG-3*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
East Manchester Township York County	PAR403506	Penn Waste, Inc. (Main Terminal) 85 Brickyard Road Manchester, PA 17402-3066	UNT Codorus Creek WWF 7H	DEP—SCRO—WQ 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4800
Boggs Township Centre County	PAR803847	Bestway Travel Center, Inc. P. O. Box 256 Milesburg, PA 16853-0256	Unnamed Tributary to Bald Eagle Creek 9-C	Department of Environmental Protection Northcentral Regional Office Water Management 208 West Third Street Suite 101 Williamsport, PA 17701-6448

*General Permit Type—PAG-4*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Franklin County Montgomery Township	PAG043903	Twin Hill Meadows Phase II Association 19733 Leitersburg Pike Hagerstown, MD 21742	Licking Creek TSF, MF and Conococheague Creek WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707

**STATE CONSERVATION COMMISSION**

**NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR  
NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES)  
PERMITS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFO)**

The State Conservation Commission has taken the following actions on previously received applications for nutrient management plans under the act of July 6, 2005 (Act 38 of 2005, 3 Pa.C.S. §§ 501—522) (hereinafter referred to as Act 38), for agricultural operations that have or anticipate submitting applications for new, amended or renewed NPDES permits, or Notices of Intent for coverage under a general permit, for CAFOs, under 25 Pa. Code Chapter 92. This notice is provided in accordance with 25 Pa. Code Chapter 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

Persons aggrieved by any action may appeal under section 517 of Act 38, section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) to the Environmental Hearing Board, Second Floor, 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 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>
Leon G. Burkholder 1336 Division Highway Ephrata, PA 17522	Lancaster	19.8	1,064.65	Swine	HQ	A
Lamar Moyer 180 Endsloew Road Marietta, PA 17547	Lancaster	12.4	480.36	Broilers	NA	A

<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>
Jonathan Stauffer 6430 Route 225 Elizabethville, PA 17023	Northumberland	10	288.32	Layers	None	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.*

**Permit No. 3410503 MA, Minor Amendment, Public Water Supply.**

Applicant	<b>Mifflintown Municipal Authority</b>
Municipality	Fermanagh Township
County	<b>Juniata</b>
Responsible Official	Mike Robinson, Manger P. O. Box 36 Mifflintown, PA 17059

Type of Facility	Relocation of disinfection equipment for the existing Macedonia Wells. Also included Demonstration of 4-Log Treatment of Viruses for GWR.
Consulting Engineer	John T. Mazich, P. E. Uni-Tec Consulting Engineers, Inc. 2007 Cato Avenue State College, PA 16801
Permit to Construct Issued:	8/26/2010

**Operations Permit** issued to **Wernersville Municipal Authority**, 3060076, South Heidelberg Township, **Berks County** on 8/26/2010 for the operation of facilities approved under Construction Permit No. 0607505.

**Operations Permit** issued to **The York Water Company**, 7670100, West Manheim Township, **York County** on 9/7/2010 for the operation of facilities approved under Construction Permit No. 6709509.

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

**Permit No. 2510502, Public Water Supply.**

Applicant	<b>Albion Borough</b>
Township or Borough	Albion Borough
County	<b>Erie County</b>
Type of Facility	Public Water Supply
Consulting Engineer	August E. Maas, P. E.
Permit to Construct Issued	09/07/2010

**Operation Permit** issued to **Elderberry Properties Mobile Home Park**, PWSID No. 6200078, Vernon Township, **Crawford County**, July 28, 2010, for the operation of one 40 gallon retention tank, one 80 gallon and two 120 gallon contact tanks; polyphosphate feed, sodium hypochlorite feed (4-Log). This action is in response to Department of Environmental Protection's inspections, as approved by permit 2009504, issued February 22, 2010.

**Construction/Operation Permit** issued to PA American Water Company Warren-Glade Rum Treatment Plant, PWSID No. 6620020, City of Warren, **Warren County**, September 1, 2010, for the construction/operation of one 250,000 gallon concrete clearwell and 79 LF of 16-inch diameter contact piping; establishment of PA GWR minimum operating levels (4-Log). Construction and Operation authorized simultaneously under permit 6207502-MA1 issued September 1, 2010.

**WATER ALLOCATIONS**

**Actions taken on applications received under the act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641) relating to the acquisition of rights to divert waters of this Commonwealth**

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

**WA 10-1006, Water Allocations.** Municipal Water Authority of Adams Township, 690 Valencia Road, P. O. Box 807 Mars, PA 16046-3824, Adams Township, **Butler County**. A Modification Order is issued modifying the existing Water Allocation permit. A two-way emergency interconnection is being constructed between Adams Township Butler County and Richland Township Allegheny, which will replace an existing emergency interconnection that provides water from Richland Township to Adams Township.

Permit Issued: 9/7/2010

**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 Countywide Stormwater Management Plan for Jefferson County**, submitted by **Jefferson County**, was approved on August 31, 2010. This plan applies to all watersheds and all areas within Jefferson County.

**The Act 167 Countywide Stormwater Management Plan for Lawrence County**, submitted by **Lawrence County**, was approved on September 2, 2010. This plan applies to all watersheds and all areas within Lawrence County.

**The Act 167 Countywide Stormwater Management Plan for Potter County**, submitted by **Potter County**, was approved on September 2, 2010. This plan applies to all watersheds and all areas within Potter County.

**The Act 167 Countywide Stormwater Management Plan for Venango County**, submitted by **Venango County**, was approved on September 1, 2010. This plan applies to all watersheds and all areas within Venango County.

**SEWAGE FACILITIES ACT PLAN APPROVAL**

**Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)**

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

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Franklin Township	150 Century Lane Dillsburg, PA 17019	York County

*Plan Description:* Highland Park, DEP Code No. A3-67923-285-3: The approved plan provides for a one lot 82-unit multi-family residential development with a community center on 19.105 acres with total estimated sewage flows of 18,144 gpd to be tributary to the Dillsburg Area Authority. The development will be served by a private onsite pump station. The development is located on the east side of South Mountain Road at its intersection with Rocky Ridge Road in Franklin Township, York County. Any required NPDES Permits or WQM Permits must be obtained in the name of the owner or applicant, as appropriate.

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Licking Creek Township	13064 Timber Ridge Road Needmore, PA 17238	Fulton County

*Plan Description:* The approved plan provides for construction of a Small Flow Treatment Facility, to repair a malfunctioning onlot sewage system, for the 0.42 acre property owned by Jean Davis. The proposed sewage flows are 400 gallons per day with a discharge to a surface drainage way tributary to Sindeldecker Branch. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
North Woodbury Township	113 Cranberry Road Martinsburg, PA 16662	Blair County

*Plan Description:* The approved plan provides for the construction of the Blair County Regional Digester, LLC, a new agricultural manure treatment facility on approximately 5 acres, located on the north side of Cross Cove Road. The facility will discharge effluent to an unnamed tributary to Plum Creek. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Upper Allen Township	100 Gettysburg Pike Mechanicsburg, PA 17055	Cumberland

*Plan Description:* The approved plan provides for a biological nutrient reduction upgrade to the existing sewage treatment plant in order to comply with the Chesapeake Bay Tributary Strategy. The capacity of the sewage treatment plant will remain at an annual average daily flow of 1.1 MGD. The Plan also provides for gravity sewers, a pump station and forcemain to serve approximately 78 existing homes in Country Estates, Southview Drive and Fisher Road. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Swatara Township	One Supervisor Drive Jonestown, PA 17038	Lebanon

*Plan Description:* The approved plan provides for the a gravity collection system, central pump station and force main to serve approximately 67 existing homes in the Rockwood area of Swatara Township and 9 existing

homes in North Lebanon Township. The approved plan also provides for a low pressure sewer system to serve 46 existing homes in the Mountville area of Swatara Township. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
North Lebanon Township	725 Kimmerlings Road Lebanon, PA 17046	Lebanon

*Plan Description:* The approved plan provides for the a gravity collection system, central pump station and force main to serve approximately 67 existing homes in the Rockwood area of Swatara Township and 9 existing homes in North Lebanon Township. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

## 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:

*Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Mairdale Avenue Site**, City of Pittsburgh, **Allegheny County**. D'Appolonia Engineering, 275 Center Road, Monroeville, PA 15146 on behalf of the City of Pittsburgh, 414 Grant Street, City County Building, Pittsburgh, PA 15219 has submitted a Remedial Investigation, Risk Assessment, and Cleanup Plan concerning the remediation of site soil and groundwater contaminated with asphalt millings, lead arsenic and PAH's. The combined report was noticed in the *Pittsburgh Post-Gazette* on August 24, 2010.

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Elizabeth Craver Residence**, Manheim Township, **Lancaster County**. Alternative Environmental Solutions, Inc., 480 New Holland Avenue, Suite 8203, Lancaster, PA 17602, on behalf of Elizabeth Craver, 2346 Bob White Lane, Lancaster, PA 17601, submitted a Remedial Investigation and Final Report concerning remediation of site soils and groundwater contaminated with 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.*

**Former Leigh Valley Railroad Maintenance Facility** Sayre Borough, **Bradford County**. KU Resources, Inc., 22 South Linden Street, Duquesne, PA 15110 on behalf of Brian Driscoll, Central Bradford Progress Authority, 1 Progress Plaza, Towanda, PA 18848 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with organics (TCE) in groundwater, LNAPL contamination in a confined area (diesel fuel), metals (lead) in drainage swales. The Report is intended to document remediation of the site to meet the Site-Specific Standard.

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

**Frenz Petroleum Diesel Spill Warren County**, Eldred Township, **Warren County**. Environmental Remediation and Recovery, Inc., 4250 Route 6N, Edinboro, PA 16412 on behalf of Frenze Petroleum Corporation, 2318 West State Street, New Castle, PA 16101 has submitted a Final Report concerning remediation of site soils contaminated with Benzene, Toluene, Ethylbenzene, Isopropylbenzene, Naphthalene, Methyl Tertiary Butyl Ether, 1,2,4-Trimethylbenzene and 1,3,5-Trimethylbenzene. The Report is intended to document remediation of the site to meet the Statewide Health Standard.

**Markovitz Enterprises Flowline Div**, Shenango Township and City of New Castle, **Lawrence County**. American Geosciences, Inc., 3925 Reed Boulevard, Suite 400, Murrysville, PA 15668-1848 on behalf of Markovitz Enterprises, Inc., 1400 New Butler Road, New Castle, PA 16107 has submitted a Cleanup Plan/Final Report con-



cerning remediation of site soils contaminated with Trichloroethene, cis-1,2-Dichloroethene, Vinyl Chloride and site groundwater contaminated with Trichloroethene, cis-1,2-Dichloroethene, Vinyl Chloride. The Report is intended to document remediation of the site to meet the Site-Specific Standard.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

### PREAMBLE 3

**The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a Site-Specific Standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of reuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Triple J Associates/Hydraulic Fluid Release, Manheim Township, Lancaster County.** RETTEW Associates, Inc., 3020 Columbia Avenue, Lancaster, PA 17603, on behalf of Triple J Associates LTD, 160 Valley Road, Lancaster, PA 17601, submitted a Final Report concerning remediation of site soils and groundwater contaminated with hydraulic fluid. The Final Report demonstrated attainment of the Nonresidential Statewide Health standard, and was approved by the Department of Environmental Protection on August 30, 2010

**DDSP/New Cumberland Army Depot/IRP Site 63 Building 85 Plume, Fairview Township, York County.** Weston Solutions, Inc., 1400 Weston Way, West Chester, PA 19380 and Defense Distribution Depot Susquehanna PA, 2001 Mission Drive, New Cumberland, PA 17070 submitted a Final Report concerning remediation of 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 31, 2010.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**UGI Montoursville Holder/Regulator Station, Borough of Montoursville, Lycoming County.** EPSYS, LLC, 1414 North Cameron Street, Suite A, Harrisburg, PA 17103 on behalf of UGI Utilities, Inc., P. O. Box 12677, Reading, PA 19612-2677 has submitted a Final Report concerning remediation of site soils contaminated with lead. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on August 27, 2010.

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

**Wolf's Head Prop South Parcel OLD (Former Wolf's Head Refinery South Parcel), Sugar Creek Borough, Venango County.** URS Corporation, Foster Plaza 4, 501 Holiday Drive, Suite 300, Pittsburgh, PA 15220 on behalf of Pennzoil-Quaker State Company, 910 Louisiana OSP 687, Houston, TX 77022 has submitted a Remedial Investigation/Risk Assessment Report concerning the remediation of site soil contaminated with arsenic, boron, lead, mercury, dibenzofuran, bis[2-chloroethyl]ether, isophorone; site groundwater contaminated with arsenic, barium, mercury, iron, lead, manganese, benzene, 1,2,4-trimethylbenzene, 1,3,5-trimethylbenzene, cyclohexane, benzo[a]anthracene, bis[2-ethylhexyl]phthalate, chrysene, dibenzo[a,h]anthracene, isophorone, pyrene, benzo[a]pyrene, benzo[k]fluoranthene, benzo[b]fluoranthene, benzo[g,h,i]perylene; site surface water contaminated with carbon disulfide, benzo[a]anthracene, benzo[a]pyrene, benzo[k]fluoranthene, benzo[b]fluoranthene, chrysene, copper, iron, and mercury. The Remedial Investigation/Risk Assessment Report was approved by the Department of Environmental Protection on August 31, 2010.

*Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Sunoco Logistics Partners, LP Murrysville Pipeline Release, Municipality of Murrysville, Westmoreland County.** Chad Harrison, Hull & Associates, Inc., 701 Freeport Road, South Building, Pittsburgh, PA 15238 on behalf of Sunoco Logistics Partners, LP, 5733 Butler Street, Pittsburgh, PA 15201 has submitted a Final

Report concerning the remediation of site soil contaminated with benzene, ethylbenzene, toluene, total xylenes, naphthalene, 1,2,3-trimethylbenzene, and 1,3,5-trimethylbenzene. The Final Report was published in the *Pittsburgh Post-Gazette* on August 26, 2010.

*Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Marino Brothers Scrap Yard**, Borough of Rochester, **Beaver County**. Atwell-Hicks, LLC, 30575 Bainbridge Road, Suite 180, Solon, OH 44139 on behalf of Castlebrook Development Group, 2593 Wexford Bayne Road, Building 1, Sewickley, PA 15143 had submitted a combined Remedial Investigation Report and Risk Assessment Report concerning the soil and groundwater contamination at the site. The Report was disapproved by the Department of Environmental Protection on September 2, 2010.

#### DETERMINATION FOR APPLICABILITY FOR MUNICIPAL WASTE GENERAL PERMITS

**Applications for Determination of Applicability for General Permit Issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Municipal Waste Regulations for a General Permit to Operate Municipal Waste Processing Facilities and/or the Beneficial Use of Municipal Waste.**

*Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.*

**General Permit Application No. WMGR068D003. P. H. Glatfelter Company**, 228 South Main Street, Spring Grove, PA 17362-0500.

The general permit WMGR068 is for the beneficial use of: (i) carbonaceous wastes: petroleum coke, uncontaminated, untreated wood chips and other paper and wood industry wastes comprised primarily of wood fibers, and tire-derived fuel (TDF); and (ii) the ash generated from the burning of that waste as: (a) an alternative fuel; (b) a soil additive to promote revegetation on mine sites; and (c) as prescribed in 25 Pa. Code §§ 287.661—287.666. Coal ash generated at the P. H. Glatfelter Company facility, located in Spring Grove Borough, York County is approved for beneficial use under this general permit for mine reclamation purposes. Central Office approved the determination of applicability on August 31, 2010.

Persons interested in reviewing the general permit may contact C. D. Vu, General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Waste Management, 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.

#### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

**Permits Approved under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.**

*Northwest Region: Regional Solid Waste Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**Permit Application No. 100403. Seneca Landfill, Inc.**, P. O. Box 1080 Mars, PA 16046, Jackson and Lancaster Townships, **Butler County**. The application was for a major permit modification to the landfill's permit for a demonstration period for an alternate cover system on the landfill. The demonstration period is for two years. The permit was issued by Northwest Regional Office on August 31, 2010.

#### AIR QUALITY

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507.*

**35-310-052GP3: Bell Realty, Inc.** (1301 Winola Road, Clarks Summit, PA 18411) on August 16, 2010, for construction and operation of a Portable Crushing Operation with watersprays at their site in Clarks Summit Borough, **Lackawanna County**.

**35-329-007GP9: Bell Realty, Inc.** (1301 Winola Road, Clarks Summit, PA 18411) on August 16, 2010, installation and operation of a Diesel I/C engine at their site in Clarks Summit Borough, **Lackawanna County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940.*

**GP5-24-129B: EQT Production, LLC—Benezette Compressor Station** (Quehanna Highway, Benezette, PA 15821) on August 31, 2010, to operate a natural gas fired compressor engine (BAQ-GPA/GP-5) in Benezette Township, **Elk County**. Previously permitted under American Exploration Company.

**GP5-24-171A: Seneca Resources Corp.—Boone Mountain Station** (Off Fire Tower Road, Brookville, PA 15825) on August 31, 2010, to operate a natural gas fired compressor engine (Two Dehydrators with heat input of 0.375 and 0.75 mmBtu/hr apiece), (BAQ-GPA/GP-5) in Horton Township, **Elk County**.

**GP5-42-227A: Somerset Gas Gathering of Pennsylvania, LLC—SGG Compressor Station** (East of Irons Hollow and West of Robbins Brook Roads, Smethport, PA 16749) on September 1, 2010, to operate natural gas fired compressor engines (BAQ-GPA/GP-5) in Norwich Township, **McKean County**.

**GP5-42-228A: Seneca Resources Corp.—Mt. Jewett Station** (Off Temple Drive, Mt. Jewett, PA 16740) on August 31, 2010, to operate a natural gas fired compressor engine (Two Dehydrators with heat input of 0.375 and 0.75 mmBtu/hr apiece), (BAQ-GPA/GP-5) in Sergeant Township, **McKean County**.

**Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Contact: Sachin Shankar, New Source Review Chief—Telephone: 484-250-5920.*

**46-0026F: Global Packaging, Inc.** (209 Brower Avenue, Oaks, PA 19456) on September 2, 2010, for installation of a new flexographic printing press to replace an existing printing press in their Oaks facility in Upper Providence Township, **Montgomery County**. This facility is a minor facility. The facility wide VOC emissions will stay below 25 tons per year. The combined HAP emissions will be below 25 tons per year. Each HAP emissions will stay below 10 tons per year. The Plan Approval and Operating Permit will contain recordkeeping requirements and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

**09-0124G: Fairless Energy, LLC** (50 Sinter Road, Fairless Hills, PA 19030) on September 3, 2010, for establishment of short term emission limits during automatic runback and retuning events for their natural gas fired combined cycle electric generating station in Falls Township, **Bucks County**. This is a major facility. Short-term emission limits will be established for NOX, CO, SOX, VOC, PM10, and NH4 for these non-normal modes of operation. The Plan Approval will contain recordkeeping and operating restrictions designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507.*

**39-309-077: Lafarge North America, Inc.** (5160 Main Street, Whitehall, PA 18052-1827) on August 24, 2010, for the replacement of a dust collector at their facility in Whitehall Township, **Lehigh County**.

**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Contact: Sachin Shankar, New Source Review Chief—Telephone: 484-250-5920.*

**46-0031C: SmithKline Beecham, d/b/a Glaxosmith-Kline** (1250 South Collegeville Road, Collegeville, PA 19426) on August 31, 2010, to operate two scrubbers in Upper Providence Township, **Montgomery County**.

**09-0188B: Gamesa Wind PA, LLC**, (400 Gamesa Drive, Fairless Hills, PA 19030) on August 31, 2010, to operate a new wind generator in Falls Township, **Bucks County**.

**Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507.*

**40-00117: Valley Asphalt** (215 East Saylor Avenue, Laflin, PA 18702) on August 31, 2010, to issue a new State-only (Synthetic Minor) Operating Permit for opera-

tion of a batch mix asphalt plant and associated air cleaning devices at the facility in Plains Township, **Luzerne County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Matthew Williams, Facilities Permitting Chief—Telephone: 814-332-6940.*

**37-00266: Shenango Area School District** (2501 Old Pittsburgh Road, New Castle, PA 16101-6095) on September 1, 2010, issued a renewal of the State-only Operating Permit for the two Tri-Fuel Boilers, miscellaneous natural gas combustion units, and a diesel fired emergency generator at the High School located in Cranberry Township, **Venango County**. The facility is a Natural Minor.

**43-00260: Mercer Area School District—High School** (545 West Butler Street, Mercer, PA 16137) on September 2, 2010, for a Natural Minor Permit to operate one coal fired boiler, two natural gas fired boilers, one hot water heater and one emergency diesel generator in Mercer Borough, **Mercer County**. The facility is natural minor because the emission of pollutants is less than the Title V threshold limits.

**43-00276: Mercer Area School District—Elementary School** (301 Lamor Road, Mercer, PA 16137) on September 2, 2010, for a Natural Minor Permit to operate two coal and gas fired boilers, one hot water heater and one new diesel fueled emergency generator in Mercer Borough, **Mercer County**. The facility is natural minor because the emission of pollutants from the facility is less than Title V emission threshold.

**Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.*

**09-00084: Grand View Hospital** (700 Lawn Avenue, Sellersville, PA 18960) on August 26, 2010, to administratively amend the State-only Operating Permit to incorporate conditions from the previously issued Plan Approval 09-0084A to replace the existing burners in three boilers with “low NOx” burners, which will result in a decrease in the amount of nitrogen oxide emissions from their medical facility in West Rockhill Township, **Bucks County**. This Administrative Amendment to the State-only Synthetic Minor Operating Permit is issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450.

**15-00055: Highway Materials, Inc.** (850 Quarry Road, Downingtown, PA) on August 26, 2010, this State-only operating permit was administratively amended for the incorporation of PA-15-0039A into SMOP-15-00055 for their facility in East Caln Township, **Chester County**. PA-15-0039A was for the installation of a dryer burner at their existing asphalt plant and for the removal of No. 5 fuel oil from the Operating Permit.

**09-00027: Fres-Co** (3005 State Road, Telford, PA 18969) on September 3, 2010, for a minor modification of a TVOP No. 09-00027 for their facility in West Rockhill Township, **Bucks County**. The minor modification clarifies language on two control devices, The HES Thermal Oxidizer and ADWEST Thermal oxidizer. Condition num-

ber 001 for both oxidizers was clarified to state the airflow limits shall be expressed as an hourly average. The modified TVOP includes monitoring, recordkeeping, reporting and work practice requirements designed to keep the facility operating within all applicable air quality requirements. Minor modification of TVOP No. 09-00027 is issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.462.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Matthew Williams, Facilities Permitting Chief—Telephone: 814-332-6940.*

**42-00028: Saint Gobain Containers** (1 Glass Place, Port Allegany, PA 16743-1154) on August 31, 2010, for an administrative amendment to the Title V operating permit to incorporate the requirements of plan approval 42-028C in Port Allegany Borough, **McKean County**.

**61-00191: Seneca Printing & Label Inc.** (P. O. Box 1211, Debence Drive, Franklin, PA 16323) on September 3, 2010, for administrative amendment to the State operating permit to incorporate the requirements of plan approval 61-191B in Sandycreek Township, **Venango County**.

## 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*

*California District Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100.*

**30940701 and NPDES Permit No. PA0215465, Coresco, LLC**, (308 Dents Run Road, Morgantown, WV 26501), to renew the permit and to transfer the permit for the Refuse Dump No. 4 in Monongahela Township, **Greene County** and related NPDES permit from Cobra Mining, LLC to Coresco, LLC. No additional discharges. Application received: August 1, 2008. Application withdrawn: December 11, 2009.

### *Coal Permits Actions*

*California District Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100.*

**32971302 and NPDES Permit No. PA0215040, Rosebud Mining Company**, (301 Market Street, Kittanning, PA 16201), to revise the permit for the Dutch Run Mine in Washington Township, **Indiana County** to add surface acreage to install a power borehole to supply electric to Dutch Run Mine. Surface Acres Proposed 1.7. No addi-

tional discharges. Application received: March 15, 2010. Permit issued: September 2, 2010.

**30841317 and NPDES Permit No. PA0213527, Consol PA Coal Company, LLC**, (P. O. Box J, 1525 Pleasant Grove Road, Claysville, PA 15323), to revise the permit for the Enlow Fork Mine in Morris, East Finley and South Franklin Townships, **Washington County** for an overhead power line right-of-way to install power to the E22 Airshaft. No additional discharges. Application received: November 23, 2009. Permit issued: September 2, 2010.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.*

**33100102 and NPDES Permit No. PA0258831, MSM Coal Company, Inc.** (P. O. Box 243, DuBois, PA 15801), Commencement, operation and restoration of a bituminous strip operation in Oliver Township, **Jefferson County** affecting 32.0 acres. Receiving streams: Three unnamed tributaries to Little Sandy Creek. Application received: March 8, 2010. Permit Issued: September 3, 2010.

**33090104 and NPDES Permit No. PA0258741, Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001), Commencement, operation and restoration of a bituminous strip operation in Pine Creek Township, **Jefferson County** affecting 41.1 acres. Receiving streams: Unnamed Tributary to Mill Creek. Application received: June 11, 2009. Permit Issued: September 3, 2010.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**17940107 and NPDES No. PA0243817, AMFIRE Mining Co., LLC** (One Energy Place, Latrobe, PA 15650). Renewal of an existing bituminous surface mine operation located in Girard Township, **Clearfield County** affecting 147.5 acres. Receiving streams: unnamed tributaries to Deer Creek and Deer Creek classified for Cold Water Fisheries. There are no potable water supply intakes within 10 miles downstream. Application received: June 18, 2010. Permit issued: August 27, 2010.

### *Noncoal Permits Actions*

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.*

**20102801, KEFO Corporation** (P. O. Box 418, Meadville, PA 16335) Commencement, operation and restoration of a small sand and gravel operation in Vernon Township, **Crawford County** affecting 5.0 acres. Receiving streams: Watson Run. Application received: May 28, 2010. Permit Issued: September 3, 2010.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**41100801, Dan A. Winder, Jr.** (5550 Rt. 220 Highway, Hughesville, PA 17737), commencement, operation and restoration of a small non coal shale operation in Wolf Township, **Lycoming County** affecting 1.0 acres. Receiving stream(s): Unnamed Tributary to Muncy Creek. Application received: July 7, 2010. Permit issued: August 26, 2010.

**08970818, Canfield Quarries, Inc.** (290 Country Line Road, Benton, PA 17814). Transfer of an existing small non coal bluestone and shale operation from Olin Canfield, Jr. in Tuscarora Township, **Bradford County** affecting 2.0 acres. Receiving stream(s): Tuscarora Creek and Susquehanna River. Application received: September 9, 2009. Permit issued: August 17, 2010.

**08102807. Marcus Coal, d/b/a Cole's Construction** (P. O. Box 158, Nichols, NY 13812). Transfer of an existing small non coal bluestone and shale operation from Peck Hill Farm and also upgrade from 2,000 tons to 10,000 tons in Windham Township, **Bradford County** affecting 5.0 acres. Receiving stream(s): Unnamed Tributary to Wysox Creek to Susquehanna River. Application received: September 9, 2009. Permit issued: August 30, 2010.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**58100801. JEB'S Pennsylvania Bluestone Quarry, LLC**, (850 Baptist Hill Road, Hallstead, PA 18822), commencement, operation and restoration of a quarry operation in Great Bend Township, **Susquehanna County** affecting 2.0 acres, receiving stream: none. Application received: February 8, 2010. Permit issued: August 31, 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*

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.*

**32104003. New Enterprise Stone & Lime**, P. O. Box 77, New Enterprise, PA 16664, blasting activity permit issued for a road construction project in East Wheatfield Township, **Indiana County**. Blasting activity permit end date is December 31, 2010. Permit issued: September 2, 2010.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.*

**42104014. Pennsylvania General Energy Company, LLC** (120 Market Street, Warren, PA 16365) Blasting Activity Permit for stone removal in Norwich Township, **McKean County**. This Blasting Activity Permit expires on July 1, 2011. Permit Issued: August 31, 2010.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**08104019. Doug Wathen, LLC** (16282 State Highway 13, Suite J, Branson West, MO 65737). Blasting for a gas well location—Moose 1H-6H—located in Wysox Township, **Bradford County**. Permit issued: August 31, 2010. Permit expires: August 25, 2011.

**08104117. Austin Powder Northeast, LLC** (25800 Science Park Drive, Beachwood, OH 44122). Blasting for a water holding site located in Terry Township, **Bradford County**. Permit issued: August 26, 2010. Permit expires: August 24, 2011.

**17104011. P & N Coal Co., Inc.** (P. O. Box 332, Punxsutawney, PA 15767). Blasting on GFCC #-17-08-01-Upper Slab Run-located in Sandy Township, **Clearfield County**. Permit issued: August 26, 2010. Permit expires: August 26, 2011.

**57104101. Austin Powder Northeast, LLC** (25800 Science Park Drive, Beachwood, OH 44122). Blasting for a natural gas well pad located in Forks Township,

**Sullivan County**. Permit issued: August 26, 2010. Permit expires: August 20, 2011.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**09104110. Eastern Blasting Co., Inc.**, (1292 Street Road, New Hope, PA 18938), construction blasting for Fox Hill Estates in East Rockhill Township, **Bucks County** with an expiration date of September 2, 2011. Permit issued: August 27, 2010.

**46104112. Maine Drilling & Blasting**, (P. O. Box 1140, Gardiner, ME 04345), construction blasting for Northgate in Upper Hanover Township, **Montgomery County** with an expiration date of August 20, 2011. Permit issued: August 27, 2010.

**36104150. Eastern Blasting Co., Inc.**, (1292 Street Road, New Hope, PA 18938), construction blasting for Morphy's Auction House in East Cocalico Township, **Lancaster County** with an expiration date of October 30, 2010. Permit issued: August 30, 2010.

**36104151. Maine Drilling & Blasting**, (P. O. Box 1140, Gardiner, ME 04345), construction blasting for Summerly Green in Ephrata Township and Ephrata Borough, **Lancaster County** with an expiration date of August 27, 2011. Permit issued: August 30, 2010.

**40104113. Maurer & Scott Sales, Inc.**, (P. O. Box 20843, Lehigh Valley, PA 18002), construction blasting at the Wilkes-Barre Scranton International Airport in Avoca Borough, **Luzerne County** with an expiration date of December 31, 2010. Permit issued: August 30, 2010.

**48104108. Rock Work, Inc.**, (1257 DeKalb Pike, Blue Bell, PA 19422), construction blasting for Upper Mt. Bethel Borrow Pit in Upper Mt. Bethel Township, **Northampton County** with an expiration date of September 1, 2011. Permit issued: August 30, 2010.

**64104112. Holbert Explosives, Inc.**, (237 Mast Hope Plank Road, Lackawaxen, PA 18435), construction blasting for Umlint single dwelling in Sterling Township, **Wayne County** with an expiration date of August 25, 2011. Permit issued: August 30, 2010.

**46104113. Maine Drilling & Blasting**, (P. O. Box 1140, Gardiner, ME 04345), construction blasting for Costco Wholesale Store in Limerick Township, **Montgomery County** with an expiration date of August 26, 2011. Permit issued: August 31, 2010.

**36104001. Guy F. Atkinson Construction, LLC**, (350 Indiana Street, Suite 600, Golden, CO 80234), construction blasting at the Holtwood Redevelopment Project/New PPL Power Plant, in Martic Township, **Lancaster County** with an expiration date of February 28, 2011. Permit issued: September 1, 2010.

**52104110. Holbert Explosives, Inc.**, (237 Mast Hope Plank Road, Lackawaxen, PA 18435), construction blasting for Pioneer Construction in Blooming Grove Township, **Pike County** with an expiration date of August 25, 2011. Permit issued: September 1, 2010.

**58104042. John Brainard**, (3978 SR 2073, Kingsley, PA 18826), construction blasting for the Rose Tank Farm in Dimock Township, **Susquehanna County** with an expiration date of July 1, 2011. Permit issued: September 2, 2010.

**58104043. 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 December 31, 2011. Permit issued: September 2, 2010.

**58104045. John Brainard**, (3978 SR 2073, Kingsley, PA 18826), construction blasting for the Warriner 2H and 7H Well Site and Tank Farm in Dimock Township, **Susquehanna County** with an expiration date of July 31, 2011. Permit issued: September 2, 2010.

**46104114. Maine Drilling & Blasting**, (P. O. Box 1140, Gardiner, ME 04345), construction blasting for Costco Wholesale Store in Limerick Township, **Montgomery County** with an expiration date of September 3, 2011. Permit issued: September 3, 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

*Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636.*

**E08-460. Chesapeake Appalachia, LLC**, 100 IST Center, Horseheads, NY 14845-1016. Water Obstruction and Encroachment Joint Permit, in Monroe Township, **Bradford County**, ACOE Susquehanna River Basin District (Monroeton, PA Quadrangle N: 41° 42' 1.55"; W: 76° 27' 3.59").

To construct and maintain a steel I-beam, concrete abutment, bridge having a span of 30 feet, width of 16 feet 8 inches and average underclearance of 6 feet 6 inches over a UNT to the South Branch of Towanda Creek, located 1.0 mi. east of the int. of SR 0220 along Wickam Falls Road in Monroe Township, Bradford County. This project proposes to permanently impact 25 linear feet of the UNT to South Branch of Towanda Creek, which is designated a Cold Water Fishery and does not propose to impact any jurisdictional wetlands. This permit was issued under Section 105.13(e) "Small Projects."

**E12-179. Bernard Armstrong and Wendy Armstrong**, 801 Sizerville Road, P. O. Box 121, Emporium, PA 15834-0121. Armstrong Storage Shed 100-year Floodway of Portage Branch, Sinnemahoning Creek, Shippen Township, **Cameron County**, ACOE Baltimore District (Emporium, PA Quadrangle Latitude: 41° 30' 39.2"; Longitude: 78° 13' 25.3").

The applicant is seeking authorization to construct, operate and maintain a private storage shed located within the 100-year floodway of Portage Branch, Sinnemahoning Creek. Construction of the storage shed shall be limited to a 6-foot by 12-foot structure within the floodway construction, operation and maintenance of the shed shall not include placement of any fill which may diminish flood storage capacity of the floodway. The project is located along the western right-of-way of SR 0155 approximately 4,040-feet north of SR 0120 and SR 0155 intersection. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E18-456. David J. Rickard**, 1095 Fifth Avenue, Jersey Shore, PA 17740-6948. Rickard Garage, in Pine Creek Township, **Clinton County**, ACOE Baltimore District (Jersey Shore, PA Quadrangle N: 41° 11' 11.07"; W: -77° 17' 49.02").

To construct and maintain a 26-foot by 36-foot one-story wooden frame garage in the right 100-year floodway of Pine Creek located 2,000 feet west on Fifth Avenue from its intersection with Pine Creek Avenue in Pine Creek Township, Clinton County. This permit was issued under Section 105.13(e) "Small Projects."

**E41-613. Jeffrey Goff**, 88 Old Colony Road, Selinsgrove, PA 17870-9767. Small Projects Water Obstruction and Encroachment Joint Permit, in Plunketts Creek Township, **Lycoming County**, ACOE Susquehanna River Basin District (Montoursville North, PA Quadrangle N: 41° 21' 9"; W: -76° 53' 28").

To construct and maintain a residential structure having the following floodway encroachments; residential structure impacting 538 square feet and patio impacting 1,220 square feet within the floodway of Loyalsock Creek located along SR 0087 in Plunketts Creek Township, Lycoming County. This project does not propose to impact any wetlands. This permit was issued under Section 105.13(e) "Small Projects."

**E55-227. Department of Transportation, Engineering District 3-0**, P. O. Box 218, Montoursville, PA 17754-0218. SR 2013, Section 004, Bridge Replacement Project, Union Township, **Snyder County**, ACOE Baltimore District (Dalmatia, PA Quadrangle N: 40° 41' 40"; W: 76° 52' 39").

Department of Transportation Engineering District 3-0 proposes to replace a single span concrete slab bridge with a single span concrete box culvert. The existing structure has a normal span of 7.76 Ft., Skew of 90°, an underclearance of 3.3 Ft., and a low chord elevation of 422.92 Ft. The proposed structure has a normal span of 7.0 Ft., Skew of 90°, an underclearance of 6.0 Ft., and a low chord elevation of 421.67 Ft. The proposed box culvert will impact approximately 85 Ft. of stream channel. The channel flow line drops nearly six feet in elevation over 27 horizontal feet, due to three concrete formed steps within the existing structure. These steps within the existing structure will result in a proposed box culvert slope of 7.3% and 50 Ft. of upstream channel slope changes. The upstream 50 Ft. of channel will be graded to a 7.3% slope and stabilized using grouted R-8 Rip-Rap. The culvert outlet elevation is bound by an existing private stream enclosure which outlets into the Susquehanna River. The proposed structure will be located on the same horizontal and similar vertical alignment. The project will not impact any jurisdictional wetland. This project will not require mitigation. The project is located over Herrold Run, which is a Tributary to the Susquehanna River (WWF). The project is located in Union Township, Snyder County. This permit also includes 401 Water Quality Certification.

*Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, PA 16335.*

**E25-727, Erie-Western Pennsylvania Port Authority**, 208 East Bayfront Parkway, Suite 201, Erie, PA 16507 in the City of Erie, **Erie County**, United States Army Corps of Engineers, Pittsburgh District (Erie North, PA Quadrangle Latitude: 42° 7' 50"; Longitude: 80° 6' 2").

To construct and maintain a 24 foot wide, two-way frontage road, with 26 parallel parking spaces, and a 10 foot wide pedestrian bike path, along the north side of the Bayfront Parkway between Walnut and Cherry Streets. The road will provide public access between Bay Harbor Marina and the Chestnut Street Boat Launch Ramp. The proposed land disturbance will cover approximately 0.42 acre. The project also includes construction and maintenance of one 12' wide and 50' wide dock, providing approximately 600 square feet of cover habitat for aquatic organisms and fish, by shading the water and bottom substrate in this area.

Currently, the configuration of the existing marina structures and debris (which includes concrete, blocks, docks, fill and foundations) at the proposed project location, covers about 9,061 square feet (approximately 0.49 acre) of the bottom of Presque Isle Bay. This project proposes to remove 9,061 square feet of debris from the bottom of Presque Isle Bay. The project also proposes the construction of the roadway, parking spaces and walkway that will impact approximately 6,933 feet of the bottom of Presque Isle Bay (approximately 0.42 acre) at or near the existing shoreline. Therefore, a net increase of aquatic habitat will occur, as approximately 2,128 square feet (0.078 acre) of fill material from the bottom of Presque Isle Bay will have been removed. All work is proposed to be done on water lots in Presque Isle Bay owned by the Erie-Western PA Port Authority, and not in or on submerged lands of the Commonwealth.

## ENVIRONMENTAL ASSESSMENTS

*Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.*

**D32-016EA. James Hitchings**, 407 Savan Road, Rochester Mills, PA 15771. Grant and Canoe Townships, **Indiana County**, ACOE Pittsburgh District. Project proposes to breach and remove Savan No. 3 Dam across Little Mahoning Creek (HQ-CWF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The project will restore approximately 500 feet of stream channel. The dam is located approximately 650 feet northwest of the intersection of Savan Road (T820) and Ryen Road (T793) (Rochester Mills, PA Quadrangle Latitude: 40° 49' 15"; Longitude: -78° 59' 39").

## EROSION AND SEDIMENT CONTROL

The following Erosion and Sediment Control Permits have been issued.

Any person aggrieved by these actions may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. Chapter 5, Subchapter A (relating to practice and procedure of Commonwealth agencies), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

If individuals want to challenge this action, their appeal must reach the Board within 30 days. Individuals do not need a lawyer to file an appeal with the Board. Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. If individuals cannot afford a lawyer, individuals may qualify for pro bono representation. Call the Secretary to the Board (717) 787-3483 for more information.

*Southwest Region: Oil & Gas Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

08/12/2010

ESCGP-1 No.: ESX10-125-0068

Applicant Name: Range Resources—Appalachia, LLC

Contact:

Address: 380 Southpointe Boulevard

City: Canonsburg State: PA Zip Code: 15317

County: Washington Township(s): Hopewell

Receiving Stream(s) And Classifications: UNT to Dunkle Run and Dunkle Run, HQ

Secondary Water Dunkle Run

8/4/2010

ESCGP-1 No.: ESX10-059-0058

Applicant Name: Laurel Mountain Midstream, LLC

Contact Person: Lisa Reaves

Address: 1550 Coraopolis Heights Road, Suite 140

City: Moon Township State: PA Zip Code: 15108

County: Greene Township(s): Cumberland  
Receiving Stream(s) and Classifications: UNTs to Muddy  
Creek (WWF), other

08/23/2010

ESCGP-1 No.: ESX10-129-0027

Applicant Name: RW Gathering, LLC and Williams Pro-  
duction Appalachia, LLC

Contact Person: David R. Freudenrich

Address: 1000 Town Center, Suite 130

City: Canonsburg State: PA Zip Code: 15317

County: Derry Township(s): Westmoreland

Receiving Stream(s) and Classifications: Chapter 93 Des-  
ignated Use of Use Stream Classification Other WWF  
Secondary Loyalhanna Creek

8/13/2010

ESCGP-1 No.: ESX10-051-0015 Major Revision

Applicant Name: Laurel Mountain Midstream c/o Will-  
iams Companies, Inc.

Contact Person: Lisa Reaves

Address: 2800 Post Oak Boulevard

City: Houston State: TX Zip Code: 77056

County: Fayette Township(s): German, Redstone and  
Menallen

Receiving Stream(s) and Classifications: Dunlap Creek  
WWF Middle Monongahela, other  
Secondary Water Monongahela River

8/17/2010

ESCGP-1 No.: ESX10-051-0017 Major Revision

Applicant Name: Burnett Oil Co., Inc.

Contact Person: Bart J. Walker

Address: 601 Technology Drive

City: Canonsburg State: PA Zip Code: 15401

County Fayette Township(s): Georges

Receiving Stream(s) and Classifications: York Run WWF,  
other

Secondary Water Monongahela River-WWF

08/17/2010

ESCGP-1 No.: ESX10-129-0026

Applicant Name: Phillips Exploration, Inc.

Contact Person: Gary Clark

Address: 502 Keystone Drive

City: Warrendale State: PA Zip Code: 15086

County: Westmoreland Township(s): Salem

Receiving Stream(s) and Classifications: Whitehorn  
Creek—WWF

UNT of Whitehorn Creek—WWF, other

Secondary Water Loyalhanna Lake—WWF

8/16/10

ESCGP-1 No.: ESX10-051-0025

Applicant Name: XTO Energy, Inc.

Contact Person: Bernhardt Kissel

Address: 395 Airport Road

City: Indiana State: PA Zip Code: 15701

County: Fayette Township(s): Springfield

Receiving Stream(s) and Classifications: Mill Run—HQ—  
CWF, HQ

8/17/10

ESCGP-1 No.: ESX10-129-0020

Applicant Name: RW Gathering, LLC

Contact Person: David Freudenrich

Address: 1000 Town Center, Suite 130

City: Canonsburg State: PA Zip Code: 15317

County: Westmoreland Township(s): Derry

Receiving Stream(s) and Classifications: Stony Run, other  
CWF (Cold Water Fish)

8/16/10 Major Rev.

ESCGP-1 No.: ESX10-059-0018

Applicant Name: Energy Corporation of America

Contact Person: Matt Miller

Address: 1380 Route, 286 Highway East, Suite 221

City: Indiana State: PA Zip Code: 15701

County: Greene Township(s): Cumberland

Receiving Stream(s) and Classifications: Muddy Creek,  
Monongahela, other

8/25/10

ESCGP-1 No.: ESX10-051-0028

Applicant Name: Chief Oil & Gas, LLC

Contact person: Michael Hirtz

Address: 6051 Wallace Road, Ext., Suite 210

City: Wexford State: PA Zip Code: 15090

County: Fayette Township(s): Henry Clay

Receiving Stream(s) and Classifications: Hen Run (WWF)  
and Ramcat Run (CWF), other

8/19/10

ESCGP-1 No.: ESX10-059-0063

Applicant Name: Coal Gas Recovery, LLC

Contact: Joanne Reilly

Address: 158 Portal Road, P. O. Box 1020

City: Waynesburg State: PA Zip Code: 15370

County: Greene Township(s): Franklin

Receiving Stream(s) and Classifications: UNT to Grimes  
Run/Monongahela River, other

## SPECIAL NOTICES

### Notice of Certification to Perform Radon-Related Activities in Pennsylvania

In the month of August 2010 the Department of Environmental Protection, under the Radon Certification Act (63 P. S. §§ 2001—2014) and regulations promulgated thereunder at 25 Pa. Code Chapter 240, has certified the persons listed to perform radon-related activities in this Commonwealth. The period of certification is 2 years. For a complete list of persons currently certified to perform radon-related activities in this Commonwealth and for information as to the specific testing devices that persons certified for testing or laboratory are certified to use, contact the Bureau of Radiation Protection, Radon Division, P. O. Box 8469, Harrisburg, PA 17105-8469, (800) 23RADON.

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Michael Biechler	2466 Round Top Road Middletown, PA 17057	Testing
Camelot Inspections, LLC	290 South Mill Street Milton, PA 17847	Testing
Paul Davis KEM Partners, Inc.	123 John Robert Thomas Drive Exton, PA 19341	Testing



<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Steven Haslam	824 Red Barn Lane Huntingdon Valley, PA 19006	Testing
Daniel Keogh	518 Kimberton Road Suite 311 Phoenixville, PA 19460	Testing
Russell Knarr	129 North Fifth Street Reynoldsville, PA 15851	Testing
Wade Martin	12228 Scott Road Waynesboro, PA 17268	Mitigation
Christopher Marshall	4638 Curly Hill Road Doylestown, PA 18902	Testing
Eric Mills	P. O. Box 116 Oreland, PA 19075	Testing
Karen Quick	2643 Eldridge Avenue Easton, PA 18045	Testing
Ray Ransom	55 Dam Overlook Lane Lawrenceville, PA 16929	Testing
Troy Rudy Allied Home Inspections, Inc.	P. O. Box 4214 Lancaster, PA 17604	Mitigation
Jon Shaffer	1115 Cornell Street Pittsburgh, PA 15212	Testing
Dennis Skladanowski	5140 Amherst Road Erie, PA 16506	Testing
Jeffrey Smith	1213 Allie Buck Road Nanty Glo, PA 15943	Testing
John Staz, III	1738 North Third Street Suite A Harrisburg, PA 17102	Testing
Richard Thornhill	471 Washington Street Leetsdale, PA 15056	Mitigation
Robert Wills	877 Williams Place Warminster, PA 18974	Testing

#### DRINKING WATER STATE REVOLVING FUND

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#### Special Notice under the Federal Safe Drinking Water Act (SDWA); 42 U.S.C.A. § 300f, et seq.

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

*Project Location:*

<i>Applicant</i>	<i>Applicant Address</i>	<i>County</i>
Aqua Pennsylvania, Inc. (Honesdale Consolidated Water Co.)	1775 North Main Street Honesdale, PA 18431	Honesdale Borough Wayne County

*Project Description:* The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. The Honesdale Consolidated Water Company proposes to construct treatment for arsenic at the quarry well and to replace water mains. The Department of Environmental Protection (Department) reviewed the project and the request for a categorical exclusion from the Environmental Report. The scope and location of the project do not present any potential for an adverse environmental impact. The Department hereby approves the categorical exclusion from the Environmental Assessment.

#### Approval of Registration/Applications under General Permit for Short-Term Construction Project BMR-GP-103.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**66101001. Meshoppen Stone, Inc.,** (P. O. Box 127, Meshoppen, PA 18630), authorization to extract stone in Meshoppen Township, **Wyoming County** to construct gas well pads for Chesapeake-Slumber Valley Project, receiving stream: unnamed tributary to Little Meshoppen Creek Authorization approved: September 2, 2010.

[Pa.B. Doc. No. 10-1761. Filed for public inspection September 17, 2010, 9:00 a.m.]

## Pennsylvania's Draft Phase I Chesapeake Bay Watershed Implementation Plan

The United States Environmental Protection Agency (EPA) is establishing a Chesapeake Bay Total Maximum Daily Load (TMDL) for nutrients (nitrogen and phosphorus) and sediment. The six watershed states and the District of Columbia are submitting draft Phase I Watershed Implementation Plans (WIPs) that are expected to provide a roadmap for how the states and the District, in partnership with Federal and local governments, will achieve and maintain the Chesapeake Bay TMDL nitrogen, phosphorus and sediment limits necessary to meet Chesapeake Bay water quality standards.

The Department of Environmental Protection (Department) submitted Pennsylvania's Draft Phase I Chesapeake Bay WIP (draft WIP) to the EPA on September 1, 2010. The draft WIP outlines the Commonwealth's plan to address nutrient and sediment loadings that drain to the Chesapeake Bay and was prepared following EPA's guidance that outlined their expectations for WIPs.

The draft WIP is based on a foundation that addresses three core elements: 1) milestone implementation and tracking; 2) supporting the implementation of advanced technologies and nutrient trading; and 3) enhancing common sense compliance efforts. The draft WIP was prepared through an open process that solicited significant input from a variety of constituency groups, including over 125 individuals representing a broad range of groups who volunteered to participate on workgroups that provided input throughout the development of the document.

EPA is soliciting comments on the draft TMDL. The Department is soliciting comments on the draft WIP.

### *EPA and the Draft TMDL*

The EPA will hold a public comment period on the draft TMDL from September 24, 2010, through November 8, 2010. Interested persons may submit comments on the draft TMDL directly to the EPA. Information on how to submit comments on the draft Chesapeake Bay TMDL will be available by means of the EPA's Chesapeake Bay TMDL web site: [www.epa.gov/reg3wapd/tmdl/ChesapeakeBay/index.html](http://www.epa.gov/reg3wapd/tmdl/ChesapeakeBay/index.html).

In addition, the EPA is holding a series of public meetings this fall to discuss the Chesapeake Bay TMDL. The Department will be at the meetings to provide information and answer questions on the draft WIP. Details on these meetings are posted as follows and can also be accessed on the EPA's Chesapeake Bay TMDL web site.

The EPA public meetings scheduled for this Commonwealth are as follows:

- October 18, 2010, 2 p.m. to 4 p.m., Best Western Eden Resort, 222 Eden Road, Lancaster, PA 17601.
- October 19, 2010, 2 p.m. to 4 p.m., Knights of Columbus, 850 Stratford Drive, State College, PA 16801.
- October 20, 2010, 2 p.m. to 4 p.m., Lycoming College, Wendle Hall, 700 College Place, Williamsport, PA 17701. A webinar of this meeting is also scheduled.
- October 21, 2010, 2 p.m. to 4 p.m., Bentley's of Northern Pennsylvania, 2300 Route 309, Ashley, PA 18706.

### *The Department and the Draft WIP*

Written Comments: Interested persons are invited to submit written comments regarding the draft WIP from September 24, 2010, through November 8, 2010. Notice of availability of the draft WIP for public comment has been posted on the Department's web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keywords: Chesapeake Bay). Comments submitted by facsimile will not be accepted. Written comments should be submitted to the Department of Environmental Protection, Water Planning Office, P. O. Box 2063, Harrisburg, PA 17105-2063, [ep-chesapeakebay.program@state.pa.us](mailto:ep-chesapeakebay.program@state.pa.us). A return name and address must be included in each e-mail transmission. Contact: Questions regarding the draft WIP should be directed to the Water Planning Office at (717) 772-4785 or at the e-mail address provided previously.

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 10-1762. Filed for public inspection September 17, 2010, 9:00 a.m.]

## Proposed Revisions to General Plan Approval and/or General Operating Permit for Natural Gas, Coal Bed Methane or Gob Gas Production or Recovery Facilities (BAQ-GPA/GP-5)

The Department of Environmental Protection (Department) proposes to modify the General Plan Approval and Operating Permit BAQ-GPA/GP-5 (GP-5) for Natural Gas, Coal Bed Methane or Gob Gas Production or Recovery Facilities (General Permit) in accordance with 25 Pa. Code § 127.611 (relating to general plan approvals and general operating permits).

The modifications to GP-5 include the following: Condition No. 2 is revised to include language to limit a source's potential to emit; Condition No. 4 is revised to require compliance with the specifications in the Application for Authorization to Use GP-5; the fee schedule in Condition No. 8 is revised to include a separate fee for general plan approvals; and Condition No. 10 clarifies that the permittee must comply with all applicable laws including new source performance standards and national standards for hazardous air pollutants.

### *Opportunity to Comment*

A copy of the draft revised General Permit will be made available on the Department's web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keyword: Public Participation; select Proposals Open for Comment). A copy of the draft revised General Permit may also be obtained by contacting Jeanette Van Skike, Division of Permits, Bureau of Air Quality, 12th Floor, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-4325. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

The Department requests written comments on the proposed revisions to this General Permit by November 2, 2010. Comments received by facsimile will not be accepted. Notice and opportunity for comment will also be provided to the United States Environmental Protection Agency and Delaware, Maryland, New Jersey, New York, Ohio, Virginia and West Virginia. Interested persons may submit written comments, suggestions or objections to Virendra Trivedi, Environmental Engineering Manager, Division of Permits, Bureau of Air Quality, 12th Floor, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-4325 or [vtrivedi@](mailto:vtrivedi@)

state.pa.us. The Department will also consider written requests that a public hearing be held concerning this proposed General Permit.

Upon issuance of the modified GP-5, the Department will publish a notice in the *Pennsylvania Bulletin* of the issuance of the modified General Permit.

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 10-1763. Filed for public inspection September 17, 2010, 9:00 a.m.]

## DEPARTMENT OF GENERAL SERVICES

### Real Estate for Sale

#### Northampton County

The Department of General Services (Department) will accept bids for the purchase of 0.48 acre ± of land and building formerly known as the Easton Job Center located at 220 Ferry Street, City of Easton, Northampton County. Bids are due Tuesday, October 19, 2010. Interested parties wishing to receive a copy of Solicitation No. 94352 should view the Jackson Cross Partners, LLC web site at [www.jacksoncross.com/220\\_Ferry\\_Street\\_Bid](http://www.jacksoncross.com/220_Ferry_Street_Bid) or call John Morrissey at (610) 265-7700, Ext. 124.

ELIZABETH O'REILLY,  
*Acting Secretary*

[Pa.B. Doc. No. 10-1764. Filed for public inspection September 15, 2010, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Application of Allegheny General Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Allegheny General Hospital has requested an exception to the requirements of 28 Pa. Code §§ 107.2 and 107.26(b)(1) (relating to medical staff membership; and additional committees).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, [paexcept@health.state.pa.us](mailto:paexcept@health.state.pa.us).

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Division at the previously

listed address or phone numbers, or for speech and/or hearing impaired persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1765. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Application of Allegheny General Hospital— Suburban Campus ASF for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Allegheny General Hospital—Suburban Campus ASF has requested an exception to the requirements of 28 Pa. Code §§ 553.1, 553.3, 553.4, 553.31, 555.3, 555.4, 557.1—557.4, 559.1, 559.2 and 567.1—567.3.

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, [paexcept@health.state.pa.us](mailto:paexcept@health.state.pa.us).

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Division at the previously listed address or phone numbers, or for speech and/or hearing impaired persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1766. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Application of Calcagno & Rossi Vein Surgery Center, LLC for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Calcagno & Rossi Vein Surgery Center, LLC has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospitals and Healthcare Facilities*. The facility specifically requests exception from the following standards contained in this publication: 3.7-2.5.3(2) (relating to drug distribution station), 3.7-2.5.5(1) (relating to sterilizing facilities), 3.7-2.5.7.4 (relating to stretcher storage and 3.7-4.2.1 (relating to interview space).

These requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Divi-

sion of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, for speech and/or hearing impaired persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1767. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Application of Center for Same Day Surgery at Wilkes-Barre General Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Center for Same Day Surgery at Wilkes-Barre General Hospital has requested an exception to the requirements of 28 Pa. Code §§ 553.1, 553.4, 553.31, 555.1—555.4, 557.2—557.4, 561.2, 563.1, 563.2 and 567.2.

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Division at the previously listed address or phone numbers, or for speech and/or hearing impaired persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1768. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Application of Chestnut Hill Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Chestnut Hill Hospital has requested an exception to the requirements of 28 Pa. Code § 153.1

(relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospitals and Healthcare Facilities*. The facility specifically requests exception from the following standard contained in this publication: 5.5.6.2 (relating to patient toilets).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, for speech and/or hearing impaired persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1769. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Application of Coordinated Health Orthopedic Hospital, LLC for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Coordinated Health Orthopedic Hospital, LLC has requested an exception to the requirements of 28 Pa. Code § 105.11(b) (relating to access).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Division at the previously listed address or phone numbers, or for speech and/or hearing impaired persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1770. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Application of Digestive Health and Endoscopy Center, Inc. for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Digestive Health and Endoscopy Center, Inc. has requested an exception to the requirements of 28 Pa. Code § 551.3 (relating to definitions).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Division at the previously listed address or phone numbers, or for speech and/or hearing impaired persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1771. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Application of Gateway Surgery Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Gateway Surgery Center has requested an exception to the requirements of 28 Pa. Code §§ 551.31(e) and 555.31(a) (relating to licensure; and principle).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Division at the previously listed address or phone numbers, or for speech and/or hearing impaired persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1773. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Applications for Exception to 28 Pa. Code § 569.35

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that the following facilities have requested an exception to the requirements of 28 Pa. Code § 569.35 (relating to general safety precautions):

Proserpi-Schlechter Center for Plastic Surgery  
Riddle Surgical Center  
Riverview Surgery Center at the Navy Yard

These requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

These facilities are requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Division at the previously listed address or phone numbers, or for speech and/or hearing impaired persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1772. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Application of Gnadon Huetten Memorial Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Gnadon Huetten Memorial Hospital has requested an exception to the requirements of 28 Pa. Code §§ 138.15 and 138.18(b) (relating to high-risk cardiac catheterizations; and EPS studies).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Division at the previously

listed address or phone numbers, or for speech and/or hearing impaired persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,  
Secretary

[Pa.B. Doc. No. 10-1774. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Application of Grand View Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Grand View Hospital has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospitals and Healthcare Facilities*. The facility specifically requests exception from the following standard contained in this publication: 2.1-4.3.3.2 (relating to space requirements).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, or for speech and/or hearing impaired persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,  
Secretary

[Pa.B. Doc. No. 10-1775. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Application of Guthrie Clinic, Ltd. for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Guthrie Clinic, Ltd. has requested an exception to the requirements of 28 Pa. Code § 571.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospitals and Healthcare Facilities*. The facility specifically requests exemption from the following standard contained in this publication: Table 2.1-2 (relating to ventilation requirements).

This request is on file with the Department. Persons may receive a copy of a request for exception by request-

ing a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532 Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Division at the previously listed address or phone numbers, or for speech and/or hearing impaired persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,  
Secretary

[Pa.B. Doc. No. 10-1776. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Application of Hazleton General Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Hazleton General Hospital has requested an exception to the requirements of 28 Pa. Code §§ 138.15 and 138.18(b) (relating to high-risk cardiac catheterizations; and EPS studies).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Division at the previously listed address or phone numbers, or for speech and/or hearing impaired persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,  
Secretary

[Pa.B. Doc. No. 10-1777. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Application of Lehigh Valley Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Lehigh Valley Hospital has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospitals and Healthcare Facilities*. The facility specifically requests exception from the following standard contained in this publication: 2.1-5.1.3.7 (relating to counter or shelf for writing).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, or for speech and/or hearing impaired persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,  
Secretary

[Pa.B. Doc. No. 10-1778. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Application of LifeCare Hospitals of Pittsburgh for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that LifeCare Hospitals of Pittsburgh has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospitals and Healthcare Facilities*. The facility specifically requests exception from the following standards contained in this publication: 2.1-8.2.1.1 (relating to ventilation), 2.1-8.7.2.3(1) and 2.1-8.7.2.3(3) (relating to elevator cabs), 2.2-2.2.2.2, 2.2-2.2.2.2(b) and 2.2-2.2.2.2(3) (relating to multi-bed rooms), 2.2-2.2.2.5(1)(b) (relating to hand washing stations) and 2.2-2.2.2.5(3) (relating to hand sanitizers).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, or for speech and/or hearing impaired persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,  
Secretary

[Pa.B. Doc. No. 10-1779. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Application of LifeCare Hospitals of Pittsburgh—North for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that LifeCare Hospitals of Pittsburgh—North has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospitals and Healthcare Facilities*. The facility specifically requests exception from the following standards contained in this publication: 2.1-2.4.3.5(4) (relating to high ceiling in new seclusion room), 2.1-8.2.1.1 (relating to ventilation), 2.2-2.2.2.5(1)(b) (relating to hand washing stations) and 2.2-2.2.2.5(3) (relating to hand sanitizers) and 2.2-2.2.2.7(2)(a)(i) (relating to shower or bathtub in toilet rooms).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,  
Secretary

[Pa.B. Doc. No. 10-1780. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Application of Mountain Laurel Surgery Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Mountain Laurel Surgery Center has requested an exception to the requirements of 28 Pa. Code § 551.52 (relating to ASF responsibilities).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Division at the previously listed address or phone numbers, or for speech and/or hearing impaired persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1781. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Application of Nazareth Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Nazareth Hospital has requested an exception to the requirements of 28 Pa. Code § 138.17 (relating to PTCA).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Division at the previously listed address or phone numbers, or for speech and/or hearing impaired persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1782. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Application of Palmerton Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Palmerton Hospital has requested an exception to the requirements of 28 Pa. Code §§ 138.15 and 138.18(b) (relating to high-risk cardiac catheterizations; and EPS studies).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Division at the previously listed address or phone numbers, or for speech and/or hearing impaired persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1783. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Application of Saint Vincent Health Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Saint Vincent Health Center has requested an exception to the requirements of 28 Pa. Code §§ 107.32 and 127.32 (relating to meetings and attendance; and written orders).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Division at the previously



listed address or phone numbers, or for speech and/or hearing impaired persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1784. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Application of Sunbury Community Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Sunbury Community Hospital has requested an exception to the requirements of 28 Pa. Code § 123.25 (relating to regulations for control of anesthetic explosion hazards).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Division at the previously listed address or phone numbers, or for speech and/or hearing impaired persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1785. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Application of Surgical Specialty Center of Northeastern Pennsylvania for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Surgical Specialty Center of Northeastern Pennsylvania has requested an exception to the requirements of 28 Pa. Code § 551.21 (relating to criteria for ambulatory surgery).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

This facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Division at the previously listed address or phone numbers, or for Speech and/or

Hearing Impaired Persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1786. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Application of Thomas Jefferson University Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Thomas Jefferson University Hospital has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospitals and Healthcare Facilities*. The facility specifically requests exception from the following standard contained in this publication: 2.2-3.1.3.6(1)(b) (relating to medical gases) and 2.2-3.1.3.6(1)(i) (relating to work counter).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact, Director, Division of Acute and Ambulatory Care at (717) 783-8980, for Speech and/or Hearing Impaired Persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1787. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Application of UPMC East for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that UPMC East has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospitals and Healthcare Facilities*. The facility specifically requests exception from the following standards contained in this publication: 2.1-3.1.5.9 (relating to special bathing facilities).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and

Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact, Director, Division of Acute and Ambulatory Care at (717) 783-8980, for Speech and/or Hearing Impaired Persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1788. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Application of The Western Pennsylvania Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that The Western Pennsylvania Hospital has requested an exception to the requirements of 28 Pa. Code § 107.26 (relating to additional committees).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the division at the address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Division at the previously listed address or phone numbers, or for Speech and/or Hearing Impaired Persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1789. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Application of The Western Pennsylvania Hospital—Forbes Regional Campus for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that The Western Pennsylvania Hospital—Forbes

Regional Campus has requested an exception to the requirements of 28 Pa. Code § 107.2 (relating to medical staff membership).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the division at the address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Division at the previously listed address or phone numbers, or for Speech and/or Hearing Impaired Persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1790. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Application of Westfield Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Westfield Hospital has requested an exception to the requirements of 28 Pa. Code § 119.42 (relating to facilities for reception and processing of short-stay surgery patients).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the division at the address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Division at the previously listed address or phone numbers, or for Speech and/or Hearing Impaired Persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1791. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Application of Williamsport Regional Medical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Williamsport Regional Medical Center has requested an exception to the requirements of 28 Pa. Code § 103.22(b)(3) (relating to implementation).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the division at the address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Division at the previously listed address or phone numbers, or for Speech and/or Hearing Impaired Persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1792. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Application of York Endoscopy Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that York Endoscopy Center has requested an exception to the requirements of 28 Pa. Code § 551.3 (relating to definitions).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the division at the address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Division at the previously listed address or phone numbers, or for Speech and/or Hearing Impaired Persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1793. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Application of York Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that York Hospital has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospitals and Healthcare Facilities*. The facility specifically requests exception from the following standards contained in this publication: 3.9-2.3.2.2(1) (relating to area and dimensions), 3.9-2.5.1.1 (relating to patient changing areas) and 3.9-3.6.11.1 (relating to clean utility room).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact, Director, Division of Acute and Ambulatory Care at (717) 783-8980, for Speech and/or Hearing Impaired Persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1794. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Organ Donation Advisory Committee Meeting

The Organ Donation Advisory Committee, established under 20 Pa.C.S. § 8622 (relating to The Governor Robert P. Casey Memorial Organ and Tissue Donation Awareness Trust Fund), will hold a public meeting on October 7, 2010, from 10 a.m. to 3 p.m. The meeting will be held at the Giant Community Center, 2nd Floor, Giant Food Store, 3301 Trindle Road, Camp Hill, PA 17011.

For additional information, or for persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so, contact Cyndi Malinen, Public Health Program Administrator, Division of Nutrition and Physical Activity, Bureau of Health Promotion and Risk Reduction, Room 1000, Health and Welfare Building, Harrisburg, PA, (717) 787-5876, or for speech and/or hearing impaired persons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

This meeting is subject to cancellation without notice.

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1795. Filed for public inspection September 17, 2010, 9:00 a.m.]

**Special Supplemental Nutrition Program for Women, Infants and Children (WIC Program); Maximum Allowable Prices and Competitive Prices**

*Maximum Allowable Price*

**Maximum Allowable Prices and Competitive Prices for Type 1 Stores in Regular Cost Counties**

Under 28 Pa. Code §§ 1103.4(5) and 1105.3(a)(1) (relating to selection criteria for authorization and reauthorization; and terms and conditions of participation) and 7 CFR 246.12 (relating to food delivery systems), the WIC Program hereby publishes notice of the Maximum Allowable Prices and Competitive Prices for Type 1 Stores in Regular Cost Counties.

**Maximum Allowable Prices**

Effective October 1, 2010, through December 31, 2010, the Maximum Allowable Prices the Department of Health (Department) will pay Type 1 Stores in Regular Cost Counties for WIC allowable foods are as follows:

<i>Description</i>	<i>Maximum Allowable Price</i>
Beans, Canned—15.5/16 oz. ....	\$1.52
Beans/Peas—Dry—16 oz. ....	\$2.05
Canned Fish—Pink Salmon ....	\$2.06
Canned Fish—Sardines ....	\$1.40
Canned Fish—Tuna ....	\$1.11
Cereal (per oz.) ....	\$0.32
Cheese, 16 oz. ....	\$6.17
Eggs ....	\$1.98
Gerber Infant Cereal—8 oz. ....	\$2.01
Infant Fruits, 100%—4 oz. ....	\$0.63
Infant Vegetables, 100%—4 oz. ....	\$0.63
Infant Meats, 100%—2.5 oz. ....	\$1.09
Juice—11.5/12 oz. ....	\$2.15
Juice—48 oz. ....	\$2.83
Juice—64 oz. ....	\$3.84
Kosher Cheese—16 oz. ....	\$6.99
Kosher Low Fat Milk—quart ....	\$1.54
Kosher Low Fat Milk—1/2 gallon ....	\$2.36
Kosher Whole Milk—quart ....	\$1.54
Kosher Whole Milk—1/2 gallon ....	\$2.61
Milk, Dry—9.6 oz. ....	\$4.74
Milk, Dry—25.6 oz. ....	\$8.99
Milk, Evaporated—12 oz. ....	\$1.24
Milk, Low Fat—quart ....	\$1.29
Milk, Low Fat—1/2 gallon ....	\$2.33
Milk, Low Fat Lactose Free—quart ....	\$2.09
Milk, Low Fat Lactose Free—1/2 gallon ....	\$3.81
Milk, Whole—quart ....	\$1.33
Milk, Whole—1/2 gallon ....	\$2.28
Milk, Whole Lactose Free—quart ....	\$2.20
Milk, Whole Lactose Free—1/2 gallon ....	\$3.78
Peanut Butter—18 oz. ....	\$3.07
Soy Beverage—Pacific Natural Foods 32 oz. ....	\$3.03
Soy Beverage—8th Continent 64 oz. ....	\$3.09
Tofu—Soy Boy/House Premium 15/16 oz. ....	\$2.12
Whole Grain—Bread, 16 oz. ....	\$3.65
Whole Grain—Bread, 24 oz. ....	\$3.69
Whole Grain—Brown Rice, 16 oz. ....	\$1.42
Whole Grain—Brown Rice, 24 oz. ....	\$2.99
Whole Grain—Oats, 16 oz. ....	\$1.94
Whole Grain—Oats, 24 oz. ....	\$5.61
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz. ....	\$2.41

<i>Description</i>	<i>Maximum Allowable Price</i>
Alimentum Advance RTF/Similac Expert Care Alimentum Formula—32 oz. ....	\$9.14
Alimentum Advance Powder Formula/Similac Expert Care Alimentum—16 oz. ....	\$26.02
Boost RTF Formula—8 oz. ....	\$2.00
EnfaCare LIPIL RTF—32 oz. ....	\$7.01
EnfaCare LIPIL Powder Formula—12.8 oz. ....	\$13.99
Enfamil LIPIL Concentrate Formula/Enfamil Premium Infant Concentrate—13 oz. ....	\$4.57
Enfamil LIPIL RTF Formula/Enfamil Premium Infant RTF—32 oz. ....	\$6.75
Enfamil LIPIL Powder Formula—12.9 oz. ....	\$13.48
Enfamil Premium Infant Powder—12.5 oz. ....	\$13.85
Isomil DF RTF/Similac Expert Care for Diarrhea Formula—32 oz. ....	\$6.21
Good Start Gentle PLUS Concentrate—Orange Formula—13 oz. ....	\$4.30
Good Start Gentle PLUS RTF—Orange Formula—32 oz. ....	\$6.35
Good Start Gentle PLUS Powder—Orange Formula—12 oz. ....	\$14.11
Good Start Soy PLUS Concentrate—Blue Formula—13 oz. ....	\$4.51
Good Start Soy PLUS RTF—Blue Formula—32 oz. ....	\$6.56
Good Start Soy PLUS Powder—Blue Formula—12.9 oz. ....	\$15.21
Good Start 2 Soy PLUS Powder—Blue w/blue—24 oz. ....	\$20.82
Good Start 2 Gentle PLUS Powder—Blue w/orange—24 oz. ....	\$20.65
Good Start 2 Protect PLUS Powder—Blue w/green—24 oz. ....	\$26.41
Good Start Protect PLUS Powder—Green—12 oz. ....	\$14.61
Nutramigen LIPIL Concentrate Formula—13 oz. ....	\$7.01
Nutramigen LIPIL RTF Formula—32 oz. ....	\$8.98
Nutramigen LIPIL Powder Formula—16 oz. ....	\$25.59
Nutramigen LIPIL w/Enflora Powder Formula—12.6 oz. ....	\$23.16
Pediasure RTF Formula—8 oz. ....	\$1.93
Pediasure w/Fiber RTF Formula—8 oz. ....	\$1.86
Similac Advance Concentrate Formula—13 oz. ....	\$4.32
Similac Advance RTF Formula—32 oz. ....	\$6.34
Similac Advance Powder Formula—12.9 oz. ....	\$13.33
Similac Advance Powder Formula—12.4 oz. ....	\$13.33
Similac Neosure Advance RTF/Similac Expert Care NeoSure RTF Formula—32 oz. ....	\$7.48
Similac Neosure Advance Powder Formula—12.8 oz. ....	\$15.49
Similac Expert Care NeoSure—13.1 oz. ....	\$15.49
Store Brand Milk Based Formula Concentrate—13 oz. ....	\$2.84
Store Brand Milk Based Formula—Ready-to-Feed—32 oz. ....	\$3.79
Store Brand Milk Based Formula—Powder—25.75 oz. ....	\$16.13

A store must permit purchase of WIC allowable foods that exceed the maximum allowable price to WIC participants using a WIC check; however, the amounts that exceed the maximum allowable price of any WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2 (relating to price adjustments).

**Competitive Prices**

To remain WIC Authorized, each store must maintain the minimum inventory of the following WIC food items at, or below, the Competitive Prices listed for the store's peer group. Effective October 1, 2010, through December 31, 2010, the Competitive Prices for WIC Authorization for Type 1 Stores in Regular Cost Counties are as follows:

<i>Description</i>	<i>Competitive Prices</i>
Beans, Canned—15.5/16 oz. ....	\$1.33
Beans/Peas—Dry—16 oz. ....	\$1.82
Canned Fish—Pink Salmon ....	\$1.95
Canned Fish—Sardines ....	\$1.31
Canned Fish—Tuna ....	\$1.03
Cereal (per oz.) ....	\$0.32
Cheese, 16 oz. ....	\$5.41
Eggs ....	\$1.98
Gerber Infant Cereal—8 oz. ....	\$2.01
Infant Fruits, 100%—4 oz. ....	\$0.61
Infant Vegetables, 100%—4 oz. ....	\$0.61
Infant Meats, 100%—2.5 oz. ....	\$1.00
Juice—11.5/12 oz. ....	\$2.00
Juice—48 oz. ....	\$2.73
Juice—64 oz. ....	\$3.44
Kosher Cheese—16 oz. ....	\$6.99
Kosher Low Fat Milk—1/2 gallon ....	\$2.45
Kosher Whole Milk—1/2 gallon ....	\$2.50
Milk, Low Fat—1/2 gallon ....	\$2.14
Milk, Whole—1/2 gallon ....	\$2.22
Peanut Butter—18 oz. ....	\$2.79
Whole Grain—Bread, 16 oz. ....	\$3.35
Whole Grain—Brown Rice, 16 oz. ....	\$1.42
Whole Grain—Oats, 16 oz. ....	\$1.90
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz. ....	\$2.24
Good Start Gentle PLUS Concentrate—Orange Formula—13 oz. ....	\$4.30
Good Start Gentle PLUS Powder—Orange Formula—12 oz. ....	\$14.11
Good Start Soy PLUS Concentrate—Blue Formula—13 oz. ....	\$4.51
Good Start Soy PLUS Powder—Blue Formula—12.9 oz. ....	\$15.21

**Maximum Allowable Prices and Competitive Prices for Type 2 Stores in Regular Cost Counties**

Under 28 Pa. Code §§ 1103.4(5) and 1105.3(a)(1) and 7 CFR 246.12, the WIC Program hereby publishes notice of the Maximum Allowable Prices and Competitive Prices for Type 2 Stores in Regular Cost Counties.

**Maximum Allowable Prices**

Effective October 1, 2010, through December 31, 2010, the Maximum Allowable Prices the Department will pay Type 2 Stores in Regular Cost Counties for WIC allowable foods are as follows:

<i>Description</i>	<i>Maximum Allowable Price</i>
Beans, Canned—15.5/16 oz. ....	\$1.52
Beans/Peas—Dry—16 oz. ....	\$2.05
Canned Fish—Pink Salmon ....	\$2.07
Canned Fish—Sardines ....	\$1.40
Canned Fish—Tuna ....	\$1.15
Cereal (per oz.) ....	\$0.33
Cheese, 16 oz. ....	\$6.17
Eggs ....	\$1.98

*Maximum Allowable Price*

<i>Description</i>	<i>Maximum Allowable Price</i>
Gerber Infant Cereal—8 oz. ....	\$2.13
Infant Fruits, 100%—4 oz. ....	\$0.70
Infant Vegetables, 100%—4 oz. ....	\$0.70
Infant Meats, 100%—2.5 oz. ....	\$1.14
Juice—11.5/12 oz. ....	\$2.41
Juice—48 oz. ....	\$3.05
Juice—64 oz. ....	\$4.14
Kosher Cheese—16 oz. ....	\$7.01
Kosher Low Fat Milk—quart ....	\$1.54
Kosher Low Fat Milk—1/2 gallon ....	\$2.36
Kosher Whole Milk—quart ....	\$1.54
Kosher Whole Milk—1/2 gallon ....	\$2.61
Milk, Dry—9.6 oz. ....	\$4.74
Milk, Dry—25.6 oz. ....	\$8.99
Milk, Evaporated—12 oz. ....	\$1.35
Milk, Low Fat—quart ....	\$1.29
Milk, Low Fat—1/2 gallon ....	\$2.33
Milk, Low Fat Lactose Free—quart ....	\$2.27
Milk, Low Fat Lactose Free—1/2 gallon ....	\$4.04
Milk, Whole—quart ....	\$1.33
Milk, Whole—1/2 gallon ....	\$2.28
Milk, Whole Lactose Free—quart ....	\$2.35
Milk, Whole Lactose Free—1/2 gallon ....	\$4.01
Peanut Butter—18 oz. ....	\$3.07
Soy Beverage—Pacific Natural Foods 32 oz. ....	\$3.24
Soy Beverage—8th Continent 64 oz. ....	\$3.34
Tofu—Soy Boy/House Premium 15/16 oz. ....	\$2.12
Whole Grain—Bread, 16 oz. ....	\$3.75
Whole Grain—Bread, 24 oz. ....	\$3.91
Whole Grain—Brown Rice, 16 oz. ....	\$1.93
Whole Grain—Brown Rice, 24 oz. ....	\$2.99
Whole Grain—Oats, 16 oz. ....	\$1.94
Whole Grain—Oats, 24 oz. ....	\$5.61
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz. ....	\$2.41
Alimentum Advance RTF/Similac Expert Care Alimentum Formula—32 oz. ....	\$9.43
Alimentum Advance Powder Formula/Similac Expert Care Alimentum—16 oz. ....	\$26.86
Boost RTF Formula—8 oz. ....	\$2.19
EnfaCare LIPIL RTF—32 oz. ....	\$7.49
EnfaCare LIPIL Powder Formula—12.8 oz. ....	\$14.44
Enfamil LIPIL Concentrate Formula/Enfamil Premium Infant Concentrate—13 oz. ....	\$4.92
Enfamil LIPIL RTF Formula/Enfamil Premium Infant RTF—32 oz. ....	\$7.12
Enfamil LIPIL Powder Formula—12.9 oz. ....	\$13.91
Enfamil Premium Infant Powder—12.5 oz. ....	\$13.95
Isomil DF RTF/Similac Expert Care for Diarrhea Formula—32 oz. ....	\$6.49
Good Start Gentle PLUS Concentrate—Orange Formula—13 oz. ....	\$4.73
Good Start Gentle PLUS RTF—Orange Formula—32 oz. ....	\$6.57
Good Start Gentle PLUS Powder—Orange Formula—12 oz. ....	\$15.16
Good Start Soy PLUS Concentrate—Blue Formula—13 oz. ....	\$4.90
Good Start Soy PLUS RTF—Blue Formula— 32 oz. ....	\$6.91
Good Start Soy PLUS Powder—Blue Formula—12.9 oz. ....	\$15.21
Good Start 2 Soy PLUS Powder—Blue w/blue— 24 oz. ....	\$22.19
Good Start 2 Gentle PLUS Powder—Blue w/orange—24 oz. ....	\$22.79

<i>Description</i>	<i>Maximum Allowable Price</i>
Good Start 2 Protect PLUS Powder—Blue w/green—24 oz. ....	\$26.44
Good Start Protect PLUS Powder—Green—12 oz. ....	\$16.28
Nutramigen LIPIL Concentrate Formula—13 oz. ....	\$7.30
Nutramigen LIPIL RTF Formula—32 oz. ....	\$9.20
Nutramigen LIPIL Powder Formula—16 oz. ....	\$26.93
Nutramigen LIPIL w/Enflora Powder Formula—12.6 oz. ....	\$23.56
Pediasure RTF Formula—8 oz. ....	\$2.13
Pediasure w/Fiber RTF Formula—8 oz. ....	\$2.09
Similac Advance Concentrate Formula—13 oz. ...	\$4.49
Similac Advance RTF Formula—32 oz. ....	\$6.38
Similac Advance Powder Formula—12.9 oz. ....	\$13.72
Similac Advance Powder Formula—12.4 oz. ....	\$13.72
Similac Neosure Advance RTF/Similac Expert Care NeoSure RTF Formula—32 oz. ....	\$7.65
Similac Neosure Advance Powder Formula—12.8 oz. ....	\$15.89
Similac Expert Care NeoSure—13.1 oz. ....	\$15.89
Store Brand Milk Based Formula Concentrate—13 oz. ....	\$2.89
Store Brand Milk Based Formula—Ready-to-Feed—32 oz. ....	\$3.86
Store Brand Milk Based Formula—Powder—25.75 oz. ....	\$16.99

A store must permit purchase of WIC allowable foods that exceed the maximum allowable price to WIC participants using a WIC check; however, the amounts that exceed the maximum allowable price of any WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2.

**Competitive Prices**

To remain WIC Authorized, each store must maintain the minimum inventory of the following WIC food items at, or below, the Competitive Prices listed for the store's peer group. Effective October 1, 2010, through December 31, 2010, the Competitive Prices for WIC Authorization for Type 2 Stores in Regular Cost Counties are as follows:

<i>Description</i>	<i>Competitive Prices</i>
Beans, Canned—15.5/16 oz. ....	\$1.33
Beans/Peas—Dry—16 oz. ....	\$1.82
Canned Fish—Pink Salmon ....	\$2.02
Canned Fish—Sardines ....	\$1.35
Canned Fish—Tuna ....	\$1.07
Cereal (per oz.) ....	\$0.33
Cheese, 16 oz. ....	\$5.41
Eggs ....	\$1.98
Gerber Infant Cereal—8 oz. ....	\$2.13
Infant Fruits, 100%—4 oz. ....	\$0.67
Infant Vegetables, 100%—4 oz. ....	\$0.67
Infant Meats, 100%—2.5 oz. ....	\$1.09
Juice—11.5/12 oz. ....	\$2.36
Juice—48 oz. ....	\$2.92
Juice—64 oz. ....	\$3.76
Kosher Cheese—16 oz. ....	\$7.01
Kosher Low Fat Milk—1/2 gallon ....	\$2.45
Kosher Whole Milk—1/2 gallon ....	\$2.50
Milk, Low Fat—1/2 gallon ....	\$2.14
Milk, Whole—1/2 gallon ....	\$2.22
Peanut Butter—18 oz. ....	\$2.79

<i>Description</i>	<i>Competitive Prices</i>
Whole Grain—Bread, 16 oz. ....	\$3.55
Whole Grain—Brown Rice, 16 oz. ....	\$1.93
Whole Grain—Oats, 16 oz. ....	\$1.90
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz. ....	\$2.24
Good Start Gentle PLUS Concentrate—Orange Formula—13 oz. ....	\$4.73
Good Start Gentle PLUS Powder—Orange Formula—12 oz. ....	\$15.16
Good Start Soy PLUS Concentrate—Blue Formula—13 oz. ....	\$4.90
Good Start Soy PLUS Powder—Blue Formula—12.9 oz. ....	\$15.21

**Maximum Allowable Prices and Competitive Prices for Type 3 Stores in Regular Cost Counties**

Under 28 Pa. Code §§ 1103.4(5) and 1105.3(a)(1) and 7 CFR 246.12, the WIC Program hereby publishes notice of the Maximum Allowable Prices and Competitive Prices for Type 3 Stores in Regular Cost Counties.

**Maximum Allowable Prices**

Effective October 1, 2010, through December 31, 2010, the Maximum Allowable Prices the Department will pay Type 3 Stores in Regular Cost Counties for WIC allowable foods are as follows:

<i>Description</i>	<i>Maximum Allowable Price</i>
Beans, Canned—15.5/16 oz. ....	\$1.52
Beans/Peas—Dry—16 oz. ....	\$2.05
Canned Fish—Pink Salmon ....	\$2.20
Canned Fish—Sardines ....	\$1.56
Canned Fish—Tuna ....	\$1.24
Cereal (per oz.) ....	\$0.36
Cheese, 16 oz. ....	\$6.17
Eggs ....	\$1.98
Gerber Infant Cereal—8 oz. ....	\$2.28
Infant Fruits, 100%—4 oz. ....	\$0.79
Infant Vegetables, 100%—4 oz. ....	\$0.79
Infant Meats, 100%—2.5 oz. ....	\$1.26
Juice—11.5/12 oz. ....	\$2.53
Juice—48 oz. ....	\$3.22
Juice—64 oz. ....	\$4.14
Kosher Cheese—16 oz. ....	\$7.01
Kosher Low Fat Milk—quart ....	\$1.59
Kosher Low Fat Milk—1/2 gallon ....	\$2.95
Kosher Whole Milk—quart ....	\$1.59
Kosher Whole Milk—1/2 gallon ....	\$2.95
Milk, Dry—9.6 oz. ....	\$4.74
Milk, Dry—25.6 oz. ....	\$8.99
Milk, Evaporated—12 oz. ....	\$1.45
Milk, Low Fat—quart ....	\$1.29
Milk, Low Fat—1/2 gallon ....	\$2.33
Milk, Low Fat Lactose Free—quart ....	\$2.27
Milk, Low Fat Lactose Free—1/2 gallon ....	\$4.04
Milk, Whole—quart ....	\$1.33
Milk, Whole—1/2 gallon ....	\$2.28
Milk, Whole Lactose Free—quart ....	\$2.35
Milk, Whole Lactose Free—1/2 gallon ....	\$4.13
Peanut Butter—18 oz. ....	\$3.07
Soy Beverage—Pacific Natural Foods 32 oz. ....	\$3.24
Soy Beverage—8th Continent 64 oz. ....	\$3.34
Tofu—Soy Boy/House Premium 15/16 oz. ....	\$2.12
Whole Grain—Bread, 16 oz. ....	\$3.75
Whole Grain—Bread, 24 oz. ....	\$3.91

<i>Description</i>	<i>Maximum Allowable Price</i>
Whole Grain—Brown Rice, 16 oz. ....	\$1.94
Whole Grain—Brown Rice, 24 oz. ....	\$2.99
Whole Grain—Oats, 16 oz. ....	\$1.94
Whole Grain—Oats, 24 oz. ....	\$6.29
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz. ....	\$2.41
Alimentum Advance RTF/Similac Expert Care Alimentum Formula—32 oz. ....	\$9.48
Alimentum Advance Powder Formula/Similac Expert Care Alimentum—16 oz. ....	\$27.28
Boost RTF Formula—8 oz. ....	\$2.19
EnfaCare LIPIL RTF—32 oz. ....	\$7.54
EnfaCare LIPIL Powder Formula—12.8 oz. ....	\$16.35
Enfamil LIPIL Concentrate Formula/Enfamil Premium Infant Concentrate—13 oz. ....	\$6.15
Enfamil LIPIL RTF Formula/ Enfamil Premium Infant RTF—32 oz. ....	\$7.54
Enfamil LIPIL Powder Formula—12.9 oz. ....	\$15.19
Enfamil Premium Infant Powder—12.5 oz. ....	\$15.19
Isomil DF RTF/Similac Expert Care for Diarrhea Formula—32 oz. ....	\$8.19
Good Start Gentle PLUS Concentrate—Orange Formula—13 oz. ....	\$4.85
Good Start Gentle PLUS RTF—Orange Formula—32 oz. ....	\$6.94
Good Start Gentle PLUS Powder—Orange Formula—12 oz. ....	\$15.45
Good Start Soy PLUS Concentrate—Blue Formula—13 oz. ....	\$5.12
Good Start Soy PLUS RTF—Blue Formula— 32 oz. ....	\$7.28
Good Start Soy PLUS Powder—Blue Formula—12.9 oz. ....	\$15.21
Good Start 2 Soy PLUS Powder—Blue w/blue— 24 oz. ....	\$22.19
Good Start 2 Gentle PLUS Powder—Blue w/orange—24 oz. ....	\$22.79
Good Start 2 Protect PLUS Powder—Blue w/green—24 oz. ....	\$26.44
Good Start Protect PLUS Powder—Green— 12 oz. ....	\$16.28
Nutramigen LIPIL Concentrate Formula— 13 oz. ....	\$7.82
Nutramigen LIPIL RTF Formula—32 oz. ....	\$9.49
Nutramigen LIPIL Powder Formula—16 oz. ....	\$28.36
Nutramigen LIPIL w/Enflora Powder Formula—12.6 oz. ....	\$23.56
Pediasure RTF Formula—8 oz. ....	\$2.53
Pediasure w/Fiber RTF Formula—8 oz. ....	\$2.63
Similac Advance Concentrate Formula—13 oz. ...	\$5.17
Similac Advance RTF Formula—32 oz. ....	\$7.18
Similac Advance Powder Formula—12.9 oz. ....	\$15.02
Similac Advance Powder Formula—12.4 oz. ....	\$15.02
Similac Neosure Advance RTF/Similac Expert Care NeoSure RTF Formula—32 oz. ....	\$9.23
Similac Neosure Advance Powder Formula— 12.8 oz. ....	\$15.89
Similac Expert Care NeoSure—13.1 oz. ....	\$15.89
Store Brand Milk Based Formula Concentrate—13 oz. ....	\$3.10
Store Brand Milk Based Formula—Ready-to-Feed—32 oz. ....	\$4.32
Store Brand Milk Based Formula—Powder— 25.75 oz. ....	\$17.99

A store must permit purchase of WIC allowable foods that exceed the maximum allowable price to WIC partici-

pants using a WIC check; however, the amounts that exceed the maximum allowable price of any WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2.

**Competitive Prices**

To remain WIC Authorized, each store must maintain the minimum inventory of the following WIC food items at, or below, the Competitive Prices listed for the store's peer group. Effective October 1, 2010, through December 31, 2010, the Competitive Prices for WIC Authorization for Type 3 Stores in Regular Cost Counties are as follows:

<i>Description</i>	<i>Competitive Prices</i>
Beans, Canned—15.5/16 oz. ....	\$1.33
Beans/Peas—Dry—16 oz. ....	\$1.82
Canned Fish—Pink Salmon ....	\$2.20
Canned Fish—Sardines ....	\$1.51
Canned Fish—Tuna ....	\$1.18
Cereal (per oz.) ....	\$0.36
Cheese, 16 oz. ....	\$5.41
Eggs ....	\$1.98
Gerber Infant Cereal—8 oz. ....	\$2.28
Infant Fruits, 100%—4 oz. ....	\$0.78
Infant Vegetables, 100%—4 oz. ....	\$0.78
Infant Meats, 100%—2.5 oz. ....	\$1.21
Juice—11.5/12 oz. ....	\$2.40
Juice—48 oz. ....	\$3.10
Juice—64 oz. ....	\$3.85
Kosher Cheese—16 oz. ....	\$7.01
Kosher Low Fat Milk—1/2 gallon ....	\$2.95
Kosher Whole Milk—1/2 gallon ....	\$2.95
Milk, Low Fat—1/2 gallon ....	\$2.14
Milk, Whole—1/2 gallon ....	\$2.22
Peanut Butter—18 oz. ....	\$2.79
Whole Grain—Bread, 16 oz. ....	\$3.55
Whole Grain—Brown Rice, 16 oz. ....	\$1.93
Whole Grain—Oats, 16 oz. ....	\$1.90
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz. ....	\$2.27
Good Start Gentle PLUS Concentrate—Orange Formula—13 oz. ....	\$4.85
Good Start Gentle PLUS Powder—Orange Formula—12 oz. ....	\$15.45
Good Start Soy PLUS Concentrate—Blue Formula—13 oz. ....	\$5.12
Good Start Soy PLUS Powder—Blue Formula—12.9 oz. ....	\$15.21

**Maximum Allowable Prices and Competitive Prices for Type 1 Stores in High Cost Counties**

Under 28 Pa. Code §§ 1103.4(5) and 1105.3(a)(1) and 7 CFR 246.12, the WIC Program hereby publishes notice of the Maximum Allowable Prices and Competitive Prices for Type 1 Stores in High Cost Counties.

**Maximum Allowable Prices**

Effective October 1, 2010, through December 31, 2010, the Maximum Allowable Prices the Department will pay Type 1 Stores in High Cost Counties for WIC allowable foods are as follows:

<i>Description</i>	<i>Maximum Allowable Price</i>
Beans, Canned—15.5/16 oz. ....	\$1.58
Beans/Peas—Dry—16 oz. ....	\$2.11
Canned Fish—Pink Salmon ....	\$2.06

<i>Description</i>	<i>Maximum Allowable Price</i>
Canned Fish—Sardines	\$1.44
Canned Fish—Tuna	\$1.14
Cereal (per oz.)	\$0.33
Cheese, 16 oz.	\$6.23
Eggs	\$2.08
Gerber Infant Cereal—8 oz.	\$2.13
Infant Fruits, 100%—4 oz.	\$0.65
Infant Vegetables, 100%—4 oz.	\$0.65
Infant Meats, 100%—2.5 oz.	\$1.09
Juice—11.5/12 oz.	\$2.27
Juice—48 oz.	\$2.90
Juice—64 oz.	\$3.98
Kosher Cheese—16 oz.	\$7.89
Kosher Low Fat Milk—quart	\$1.54
Kosher Low Fat Milk—1/2 gallon	\$2.36
Kosher Whole Milk—quart	\$1.54
Kosher Whole Milk—1/2 gallon	\$2.61
Milk, Dry—9.6 oz.	\$4.74
Milk, Dry—25.6 oz.	\$8.99
Milk, Evaporated—12 oz.	\$1.30
Milk, Low Fat—quart	\$1.33
Milk, Low Fat—1/2 gallon	\$2.35
Milk, Low Fat Lactose Free—quart	\$2.21
Milk, Low Fat Lactose Free—1/2 gallon	\$4.03
Milk, Whole—quart	\$1.36
Milk, Whole—1/2 gallon	\$2.35
Milk, Whole Lactose Free—quart	\$2.37
Milk, Whole Lactose Free—1/2 gallon	\$3.95
Peanut Butter—18 oz.	\$3.07
Soy Beverage—Pacific Natural Foods 32 oz.	\$3.16
Soy Beverage—8th Continent 64 oz.	\$3.20
Tofu—Soy Boy/House Premium 15/16 oz.	\$2.12
Whole Grain—Bread, 16 oz.	\$3.75
Whole Grain—Bread, 24 oz.	\$3.69
Whole Grain—Brown Rice, 16 oz.	\$1.51
Whole Grain—Brown Rice, 24 oz.	\$3.29
Whole Grain—Oats, 16 oz.	\$2.05
Whole Grain—Oats, 24 oz.	\$5.61
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz.	\$2.41
Alimentum Advance RTF/Similac Expert Care Alimentum Formula—32 oz.	\$9.33
Alimentum Advance Powder Formula/Similac Expert Care Alimentum—16 oz.	\$27.01
Boost RTF Formula—8 oz.	\$2.00
EnfaCare LIPIL RTF—32 oz.	\$7.29
EnfaCare LIPIL Powder Formula—12.8 oz.	\$14.91
Enfamil LIPIL Concentrate Formula/Enfamil Premium Infant Concentrate—13 oz.	\$4.63
Enfamil LIPIL RTF Formula/ Enfamil Premium Infant RTF—32 oz.	\$6.80
Enfamil LIPIL Powder Formula—12.9 oz.	\$14.65
Enfamil Premium Infant Powder—12.5 oz.	\$13.98
Isomil DF RTF/Similac Expert Care for Diarrhea Formula—32 oz.	\$6.34
Good Start Gentle PLUS Concentrate—Orange Formula—13 oz.	\$ 4.52
Good Start Gentle PLUS RTF—Orange Formula—32 oz.	\$6.49
Good Start Gentle PLUS Powder—Orange Formula—12 oz.	\$14.84
Good Start Soy PLUS Concentrate—Blue Formula—13 oz.	\$4.82
Good Start Soy PLUS RTF—Blue Formula—32 oz.	\$6.64

<i>Description</i>	<i>Maximum Allowable Price</i>
Good Start Soy PLUS Powder—Blue Formula—12.9 oz.	\$15.21
Good Start 2 Soy PLUS Powder—Blue w/blue—24 oz.	\$21.65
Good Start 2 Gentle PLUS Powder—Blue w/orange—24 oz.	\$21.47
Good Start 2 Protect PLUS Powder—Blue w/green—24 oz.	\$26.44
Good Start Protect PLUS Powder—Green—12 oz.	\$15.48
Nutramigen LIPIL Concentrate Formula—13 oz.	\$7.17
Nutramigen LIPIL RTF Formula—32 oz.	\$9.02
Nutramigen LIPIL Powder Formula—16 oz.	\$26.33
Nutramigen LIPIL w/Enflora Powder Formula—12.6 oz.	\$23.67
Pediasure RTF Formula—8 oz.	\$1.93
Pediasure w/Fiber RTF Formula—8 oz.	\$2.04
Similac Advance Concentrate Formula—13 oz.	\$4.43
Similac Advance RTF Formula—32 oz.	\$6.43
Similac Advance Powder Formula—12.9 oz.	\$13.60
Similac Advance Powder Formula—12.4 oz.	\$13.60
Similac Neosure Advance RTF/Similac Expert Care NeoSure RTF Formula—32 oz.	\$7.81
Similac Neosure Advance Powder Formula—12.8 oz.	\$16.16
Similac Expert Care NeoSure—13.1 oz.	\$16.16
Store Brand Milk Based Formula Concentrate—13 oz.	\$2.87
Store Brand Milk Based Formula—Ready-to-Feed—32 oz.	\$3.85
Store Brand Milk Based Formula—Powder—25.75 oz.	\$16.19

A store must permit purchase of WIC allowable foods that exceed the maximum allowable price to WIC participants using a WIC check; however, the amounts that exceed the maximum allowable price of any WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2.

**Competitive Prices**

To remain WIC Authorized, each store must maintain the minimum inventory of the following WIC food items at, or below, the Competitive Prices listed for the store's peer group. Effective October 1, 2010, through December 31, 2010, the Competitive Prices for WIC Authorization for Type 1 Stores in High Cost Counties are as follows:

<i>Description</i>	<i>Competitive Prices</i>
Beans, Canned—15.5/16 oz.	\$1.38
Beans/Peas—Dry—16 oz.	\$1.85
Canned Fish—Pink Salmon	\$1.98
Canned Fish—Sardines	\$1.37
Canned Fish—Tuna	\$1.05
Cereal (per oz.)	\$0.33
Cheese, 16 oz.	\$5.51
Eggs	\$2.08
Gerber Infant Cereal—8 oz.	\$2.13
Infant Fruits, 100%—4 oz.	\$0.63
Infant Vegetables, 100%—4 oz.	\$0.63
Infant Meats, 100%—2.5 oz.	\$1.02
Juice—11.5/12 oz.	\$2.08
Juice—48 oz.	\$2.81
Juice—64 oz.	\$3.57



<i>Description</i>	<i>Competitive Prices</i>
Kosher Cheese—16 oz. ....	\$7.89
Kosher Low Fat Milk—1/2 gallon .....	\$2.45
Kosher Whole Milk—1/2 gallon .....	\$2.50
Milk, Low Fat—1/2 gallon .....	\$2.18
Milk, Whole—1/2 gallon .....	\$2.28
Peanut Butter—18 oz. ....	\$2.79
Whole Grain—Bread, 16 oz. ....	\$3.41
Whole Grain—Brown Rice, 16 oz. ....	\$1.50
Whole Grain—Oats, 16 oz. ....	\$2.04
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz. ....	\$2.27
Good Start Gentle PLUS Concentrate—Orange Formula—13 oz. ....	\$4.52
Good Start Gentle PLUS Powder—Orange Formula—12 oz. ....	\$14.84
Good Start Soy PLUS Concentrate—Blue Formula—13 oz. ....	\$4.82
Good Start Soy PLUS Powder—Blue Formula—12.9 oz. ....	\$15.21

**Maximum Allowable Prices and Competitive Prices for Type 2 Stores in High Cost Counties**

Under 28 Pa. Code §§ 1103.4(5) and 1105.3(a)(1) and 7 CFR 246.12, the WIC Program hereby publishes notice of the Maximum Allowable Prices and Competitive Prices for Type 2 Stores in High Cost Counties.

**Maximum Allowable Prices**

Effective October 1, 2010, through December 31, 2010, the Maximum Allowable Prices the Department will pay Type 2 Stores in High Cost Counties for WIC allowable foods are as follows:

<i>Description</i>	<i>Maximum Allowable Price</i>
Beans, Canned—15.5/16 oz. ....	\$1.58
Beans/Peas—Dry—16 oz. ....	\$2.11
Canned Fish—Pink Salmon .....	\$2.09
Canned Fish—Sardines .....	\$1.46
Canned Fish—Tuna .....	\$1.17
Cereal (per oz.) .....	\$0.35
Cheese, 16 oz. ....	\$6.23
Eggs .....	\$2.08
Gerber Infant Cereal—8 oz. ....	\$2.21
Infant Fruits, 100%—4 oz. ....	\$0.72
Infant Vegetables, 100%—4 oz. ....	\$0.72
Infant Meats, 100%—2.5 oz. ....	\$1.18
Juice—11.5/12 oz. ....	\$2.43
Juice—48 oz. ....	\$3.11
Juice—64 oz. ....	\$4.14
Kosher Cheese—16 oz. ....	\$7.89
Kosher Low Fat Milk—quart .....	\$1.54
Kosher Low Fat Milk—1/2 gallon .....	\$2.36
Kosher Whole Milk—quart .....	\$1.54
Kosher Whole Milk—1/2 gallon .....	\$2.61
Milk, Dry—9.6 oz. ....	\$4.74
Milk, Dry—25.6 oz. ....	\$8.99
Milk, Evaporated—12 oz. ....	\$1.40
Milk, Low Fat—quart .....	\$1.33
Milk, Low Fat—1/2 gallon .....	\$2.35
Milk, Low Fat Lactose Free—quart .....	\$2.36
Milk, Low Fat Lactose Free—1/2 gallon .....	\$4.12
Milk, Whole—quart .....	\$1.36
Milk, Whole—1/2 gallon .....	\$2.35
Milk, Whole Lactose Free—quart .....	\$2.37
Milk, Whole Lactose Free—1/2 gallon .....	\$4.08

<i>Description</i>	<i>Maximum Allowable Price</i>
Peanut Butter—18 oz. ....	\$3.07
Soy Beverage—Pacific Natural Foods 32 oz. ....	\$3.39
Soy Beverage—8th Continent 64 oz. ....	\$3.39
Tofu—Soy Boy/House Premium 15/16 oz. ....	\$2.12
Whole Grain—Bread, 16 oz. ....	\$3.75
Whole Grain—Bread, 24 oz. ....	\$3.91
Whole Grain—Brown Rice, 16 oz. ....	\$1.93
Whole Grain—Brown Rice, 24 oz. ....	\$3.29
Whole Grain—Oats, 16 oz. ....	\$2.05
Whole Grain—Oats, 24 oz. ....	\$5.61
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz. ....	\$2.41
Alimentum Advance RTF/Similac Expert Care Alimentum Formula—32 oz. ....	\$9.74
Alimentum Advance Powder Formula/Similac Expert Care Alimentum—16 oz. ....	\$27.51
Boost RTF Formula—8 oz. ....	\$2.19
EnfaCare LIPIL RTF—32 oz. ....	\$7.74
EnfaCare LIPIL Powder Formula—12.8 oz. ....	\$15.30
Enfamil LIPIL Concentrate Formula/Enfamil Premium Infant Concentrate—13 oz. ....	\$4.92
Enfamil LIPIL RTF Formula/ Enfamil Premium Infant RTF—32 oz. ....	\$7.12
Enfamil LIPIL Powder Formula—12.9 oz. ....	\$14.65
Enfamil Premium Infant Powder—12.5 oz. ....	\$14.63
Isomil DF RTF/Similac Expert Care for Diarrhea Formula—32 oz. ....	\$6.49
Good Start Gentle PLUS Concentrate—Orange Formula—13 oz. ....	\$4.78
Good Start Gentle PLUS RTF—Orange Formula—32 oz. ....	\$6.86
Good Start Gentle PLUS Powder—Orange Formula—12 oz. ....	\$15.39
Good Start Soy PLUS Concentrate—Blue Formula—13 oz. ....	\$4.95
Good Start Soy PLUS RTF—Blue Formula— 32 oz. ....	\$6.91
Good Start Soy PLUS Powder—Blue Formula—12.9 oz. ....	\$15.39
Good Start 2 Soy PLUS Powder—Blue w/blue— 24 oz. ....	\$22.38
Good Start 2 Gentle PLUS Powder—Blue w/orange—24 oz. ....	\$22.79
Good Start 2 Protect PLUS Powder—Blue w/green—24 oz. ....	\$26.44
Good Start Protect PLUS Powder—Green— 12 oz. ....	\$16.28
Nutramigen LIPIL Concentrate Formula— 13 oz. ....	\$7.51
Nutramigen LIPIL RTF Formula—32 oz. ....	\$9.20
Nutramigen LIPIL Powder Formula—16 oz. ....	\$27.39
Nutramigen LIPIL w/Enflora Powder Formula—12.6 oz. ....	\$23.82
Pediasure RTF Formula—8 oz. ....	\$2.29
Pediasure w/Fiber RTF Formula—8 oz. ....	\$2.22
Similac Advance Concentrate Formula—13 oz. ...	\$4.70
Similac Advance RTF Formula—32 oz. ....	\$6.71
Similac Advance Powder Formula—12.9 oz. ....	\$14.44
Similac Advance Powder Formula—12.4 oz. ....	\$14.44
Similac Neosure Advance RTF/Similac Expert Care NeoSure RTF Formula—32 oz. ....	\$7.93
Similac Neosure Advance Powder Formula— 12.8 oz. ....	\$16.68
Similac Expert Care NeoSure—13.1 oz. ....	\$16.68
Store Brand Milk Based Formula Concentrate—13 oz. ....	\$2.95

Type 3 Stores in High Cost Counties for WIC allowable foods are as follows:

*Maximum Allowable Price*

*Description*

Store Brand Milk Based Formula—Ready-to-Feed—32 oz. ....	\$4.05
Store Brand Milk Based Formula—Powder—25.75 oz. ....	\$16.99

A store must permit purchase of WIC allowable foods that exceed the maximum allowable price to WIC participants using a WIC check; however, the amounts that exceed the maximum allowable price of any WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2.

**Competitive Prices**

To remain WIC Authorized, each store must maintain the minimum inventory of the following WIC food items at, or below, the Competitive Prices listed for the store's peer group. Effective October 1, 2010, through December 31, 2010, the Competitive Prices for WIC Authorization for Type 2 Stores in High Cost Counties are as follows:

<i>Description</i>	<i>Competitive Prices</i>
Beans, Canned—15.5/16 oz. ....	\$1.38
Beans/Peas—Dry—16 oz. ....	\$1.85
Canned Fish—Pink Salmon ....	\$2.09
Canned Fish—Sardines ....	\$1.42
Canned Fish—Tuna ....	\$1.09
Cereal (per oz.) ....	\$0.35
Cheese, 16 oz. ....	\$5.51
Eggs ....	\$2.08
Gerber Infant Cereal—8 oz. ....	\$2.21
Infant Fruits, 100%—4 oz. ....	\$0.69
Infant Vegetables, 100%—4 oz. ....	\$0.69
Infant Meats, 100%—2.5 oz. ....	\$1.13
Juice—11.5/12 oz. ....	\$2.36
Juice—48 oz. ....	\$2.99
Juice—64 oz. ....	\$3.82
Kosher Cheese—16 oz. ....	\$7.89
Kosher Low Fat Milk—1/2 gallon ....	\$2.45
Kosher Whole Milk—1/2 gallon ....	\$2.50
Milk, Low Fat—1/2 gallon ....	\$2.18
Milk, Whole—1/2 gallon ....	\$2.28
Peanut Butter—18 oz. ....	\$2.79
Whole Grain—Bread, 16 oz. ....	\$3.55
Whole Grain—Brown Rice, 16 oz. ....	\$1.93
Whole Grain—Oats, 16 oz. ....	\$2.04
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz. ....	\$2.28
Good Start Gentle PLUS Concentrate—Orange Formula—13 oz. ....	\$4.78
Good Start Gentle PLUS Powder—Orange Formula—12 oz. ....	\$15.39
Good Start Soy PLUS Concentrate—Blue Formula—13 oz. ....	\$4.95
Good Start Soy PLUS Powder—Blue Formula—12.9 oz. ....	\$15.39

**Maximum Allowable Prices and Competitive Prices for Type 3 Stores in High Cost Counties**

Under 28 Pa. Code §§ 1103.4(5) and 1105.3(a)(1) and 7 CFR 246.12, the WIC Program hereby publishes notice of the Maximum Allowable Prices and Competitive Prices for Type 3 Stores in High Cost Counties.

**Maximum Allowable Prices**

Effective October 1, 2010, through December 31, 2010, the Maximum Allowable Prices the Department will pay

*Maximum Allowable Price*

*Description*

Beans, Canned—15.5/16 oz. ....	\$1.58
Beans/Peas—Dry—16 oz. ....	\$2.11
Canned Fish—Pink Salmon ....	\$2.21
Canned Fish—Sardines ....	\$1.56
Canned Fish—Tuna ....	\$1.25
Cereal (per oz.) ....	\$0.37
Cheese, 16 oz. ....	\$7.09
Eggs ....	\$2.08
Gerber Infant Cereal—8 oz. ....	\$2.42
Infant Fruits, 100%—4 oz. ....	\$0.85
Infant Vegetables, 100%—4 oz. ....	\$0.85
Infant Meats, 100%—2.5 oz. ....	\$1.26
Juice—11.5/12 oz. ....	\$2.67
Juice—48 oz. ....	\$3.22
Juice—64 oz. ....	\$4.14
Kosher Cheese—16 oz. ....	\$7.89
Kosher Low Fat Milk—quart ....	\$1.67
Kosher Low Fat Milk—1/2 gallon ....	\$2.95
Kosher Whole Milk—quart ....	\$1.67
Kosher Whole Milk—1/2 gallon ....	\$2.97
Milk, Dry—9.6 oz. ....	\$4.74
Milk, Dry—25.6 oz. ....	\$8.99
Milk, Evaporated—12 oz. ....	\$1.45
Milk, Low Fat—quart ....	\$1.54
Milk, Low Fat—1/2 gallon ....	\$2.55
Milk, Low Fat Lactose Free—quart ....	\$2.36
Milk, Low Fat Lactose Free—1/2 gallon ....	\$4.12
Milk, Whole—quart ....	\$1.59
Milk, Whole—1/2 gallon ....	\$2.35
Milk, Whole Lactose Free—quart ....	\$2.37
Milk, Whole Lactose Free—1/2 gallon ....	\$4.13
Peanut Butter—18 oz. ....	\$3.07
Soy Beverage—Pacific Natural Foods 32 oz. ....	\$3.39
Soy Beverage—8th Continent 64 oz. ....	\$3.75
Tofu—Soy Boy/House Premium 15/16 oz. ....	\$2.44
Whole Grain—Bread, 16 oz. ....	\$3.75
Whole Grain—Bread, 24 oz. ....	\$3.91
Whole Grain—Brown Rice, 16 oz. ....	\$2.29
Whole Grain—Brown Rice, 24 oz. ....	\$3.29
Whole Grain—Oats, 16 oz. ....	\$2.70
Whole Grain—Oats, 24 oz. ....	\$6.29
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz. ....	\$2.43
Alimentum Advance RTF/Similac Expert Care Alimentum Formula—32 oz. ....	\$10.33
Alimentum Advance Powder Formula/Similac Expert Care Alimentum—16 oz. ....	\$30.11
Boost RTF Formula—8 oz. ....	\$2.19
EnfaCare LIPIL RTF—32 oz. ....	\$9.01
EnfaCare LIPIL Powder Formula—12.8 oz. ....	\$17.26
Enfamil LIPIL Concentrate Formula/Enfamil Premium Infant Concentrate—13 oz. ....	\$6.15
Enfamil LIPIL RTF Formula/ Enfamil Premium Infant RTF—32 oz. ....	\$8.45
Enfamil LIPIL Powder Formula—12.9 oz. ....	\$16.20
Enfamil Premium Infant Powder—12.5 oz. ....	\$15.76
Isomil DF RTF/Similac Expert Care for Diarrhea Formula—32 oz. ....	\$9.48
Good Start Gentle PLUS Concentrate—Orange Formula—13 oz. ....	\$5.74
Good Start Gentle PLUS RTF—Orange Formula—32 oz. ....	\$8.14
Good Start Gentle PLUS Powder—Orange Formula—12 oz. ....	\$18.08

Description	Maximum Allowable Price
Good Start Soy PLUS Concentrate—Blue Formula—13 oz. ....	\$5.53
Good Start Soy PLUS RTF—Blue Formula—32 oz. ....	\$7.47
Good Start Soy PLUS Powder—Blue Formula—12.9 oz. ....	\$17.59
Good Start 2 Soy PLUS Powder—Blue w/blue—24 oz. ....	\$22.68
Good Start 2 Gentle PLUS Powder—Blue w/orange—24 oz. ....	\$22.79
Good Start 2 Protect PLUS Powder—Blue w/green—24 oz. ....	\$26.49
Good Start Protect PLUS Powder—Green—12 oz. ....	\$16.57
Nutramigen LIPIL Concentrate Formula—13 oz. ....	\$8.63
Nutramigen LIPIL RTF Formula—32 oz. ....	\$10.94
Nutramigen LIPIL Powder Formula—16 oz. ....	\$30.29
Nutramigen LIPIL w/Enflora Powder Formula—12.6 oz. ....	\$25.15
Pediasure RTF Formula—8 oz. ....	\$2.64
Pediasure w/Fiber RTF Formula—8 oz. ....	\$2.63
Similac Advance Concentrate Formula—13 oz. ...	\$5.59
Similac Advance RTF Formula—32 oz. ....	\$8.04
Similac Advance Powder Formula—12.9 oz. ....	\$16.51
Similac Advance Powder Formula—12.4 oz. ....	\$16.51
Similac Neosure Advance RTF/Similac Expert Care NeoSure RTF Formula—32 oz. ....	\$9.99
Similac Neosure Advance Powder Formula—12.8 oz. ....	\$17.19
Similac Expert Care NeoSure—13.1 oz. ....	\$17.19
Store Brand Milk Based Formula Concentrate—13 oz. ....	\$3.24
Store Brand Milk Based Formula—Ready-to-Feed—32 oz. ....	\$4.82
Store Brand Milk Based Formula—Powder—25.75 oz. ....	\$17.99

A store must permit purchase of WIC allowable foods that exceed the maximum allowable price to WIC participants using a WIC check; however, the amounts that exceed the maximum allowable price of any WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2.

**Competitive Prices**

To remain WIC Authorized, each store must maintain the minimum inventory of the following WIC food items at, or below, the Competitive Prices listed for the store's peer group. Effective October 1, 2010, through December 31, 2010, the Competitive Prices for WIC Authorization for Type 3 Stores in High Cost Counties are as follows:

Description	Competitive Prices
Beans, Canned—15.5/16 oz. ....	\$1.38
Beans/Peas—Dry—16 oz. ....	\$1.85
Canned Fish—Pink Salmon ....	\$2.20
Canned Fish—Sardines ....	\$1.51
Canned Fish—Tuna ....	\$1.24
Cereal (per oz.) ....	\$0.37
Cheese, 16 oz. ....	\$5.83
Eggs ....	\$2.08
Gerber Infant Cereal—8 oz. ....	\$2.42
Infant Fruits, 100%—4 oz. ....	\$0.84

Description	Competitive Prices
Infant Vegetables, 100%—4 oz. ....	\$0.84
Infant Meats, 100%—2.5 oz. ....	\$1.20
Juice—11.5/12 oz. ....	\$2.63
Juice—48 oz. ....	\$3.16
Juice—64 oz. ....	\$4.02
Kosher Cheese—16 oz. ....	\$7.89
Kosher Low Fat Milk—1/2 gallon ....	\$2.95
Kosher Whole Milk—1/2 gallon ....	\$2.95
Milk, Low Fat—1/2 gallon ....	\$2.49
Milk, Whole—1/2 gallon ....	\$2.53
Peanut Butter—18 oz. ....	\$2.96
Whole Grain—Bread, 16 oz. ....	\$3.55
Whole Grain—Brown Rice, 16 oz. ....	\$2.27
Whole Grain—Oats, 16 oz. ....	\$2.68
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz. ....	\$2.41
Good Start Gentle PLUS Concentrate—Orange Formula—13 oz. ....	\$5.74
Good Start Gentle PLUS Powder—Orange Formula—12 oz. ....	\$18.08
Good Start Soy PLUS Concentrate—Blue Formula—13 oz. ....	\$5.53
Good Start Soy PLUS Powder—Blue Formula—12.9 oz. ....	\$17.59

Persons with a disability who require an alternative format of this listing (for example, large print, audiotape, Braille), should contact Chris Harr, Department of Health, Division of WIC, 2150 Herr Street, 1st Floor, Harrisburg, PA 17105, (717) 783-1289, or for speech and/or hearing impaired persons V/TT (717) 783-6514, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,  
Secretary

[Pa.B. Doc. No. 10-1796. Filed for public inspection September 17, 2010, 9:00 a.m.]

**Updating the List of Citations to ACIP Recommendations Prescribing Child Immunization Practices and Immunizing Agents and Doses**

In accordance with 31 Pa. Code §§ 89.806(a) and 89.807(b) (relating to coverage of child immunizations; and immunizing agents, doses and AWP's), the Department of Health (Department), Bureau of Communicable Diseases, Division of Immunization is updating 31 Pa. Code Chapter 89, Appendices G and H (relating to ACIP recommendations prescribing child immunization practices; and immunizing agents and doses). The Department has primary responsibility for the interpretation and the implementation of 31 Pa. Code §§ 89.806 and 89.807. See 31 Pa. Code § 89.801(b) (relating to authority and purpose; implementation).

Health insurance policies are required by the Childhood Immunization Insurance Act (act) (40 P.S. §§ 3501—3508) and regulations promulgated thereunder, 31 Pa. Code Chapter 89, Subchapter L (relating to childhood immunization insurance) to include coverage for certain childhood immunizations, unless the policies are exempted by the act and 31 Pa. Code § 89.809 (relating to exempt policies). The childhood immunizations covered are those that meet Advisory Committee on Immunization Practices (ACIP) standards in effect on May 21, 1992. See 31 Pa. Code § 89.806(a). A list of the MMWR publications

containing ACIP recommendations issued under the ACIP standards in effect on May 21, 1992, appears in 31 Pa. Code Chapter 89, Appendix G.

The Department is required to update the list of these MMWR publications appearing in 31 Pa. Code Chapter 89, Appendix G. See 31 Pa. Code § 89.806(a). The additions to the list are as follows, the remainder of the list at 31 Pa. Code Chapter 89, Appendix G remains in full force and effect:

*January 15, 2010, Vol. 59(01); 1-4*

*Recommended Adult Immunization Schedule—United States, 2010*

The Advisory Committee on Immunization Practices (ACIP) annually reviews the recommended Adult Immunization Schedule to ensure that the schedule reflects current recommendations for the licensed vaccines. In October 2009, ACIP approved the Adult Immunization Schedule for 2010, which includes several changes. A bivalent human papillomavirus vaccine (HPV2) was licensed for use in females in October 2009. ACIP recommends vaccination of females with either HPV2 or the quadrivalent human papillomavirus vaccine (HPV4). HPV4 was licensed for use in males in October 2009, and ACIP issued a permissive recommendation for use in males. Introductory sentences were added to the footnotes for measles, mumps, rubella, influenza, pneumococcal, hepatitis A, hepatitis B, and meningococcal vaccines. Clarifications were made to the footnotes for measles, mumps, rubella, influenza, hepatitis A, meningococcal, and Haemophilus influenzae type b vaccines, and schedule information was added to the hepatitis B vaccine footnote.

Additional information is available as follows: schedule (in English and Spanish) at <http://www.cdc.gov/vaccines/recs/schedules/adult-schedule.htm>; adult vaccination at <http://www.cdc.gov/vaccines/default.htm>; ACIP statements for specific vaccines at <http://www.cdc.gov/vaccine/pubs/acip-list.htm>; and reporting adverse events at <http://www.vaers.hhs.gov> or by telephone, 800-822-7967.

*January 22, 2010, Vol. 59(02); 38-43*

*Update: Influenza Activity—United States, August 30, 2009-January 9, 2010*

The emergence and spread of the 2009 pandemic influenza A (H1N1) virus (2009 H1N1) resulted in extraordinary influenza activity in the United States throughout the summer and fall months of 2009. During this period, influenza activity reached its highest level in the week ending October 24, 2009, with 49 of 50 states reporting geographically widespread disease. As of January 9, 2010, overall influenza activity had declined substantially. Since April 2009, the dominant circulating influenza virus in the United States has been 2009 H1N1. This report summarizes U.S. influenza activity from August 30, 2009, through January 9, 2010.

*February 12, 2010, Vol. 59(05); 125-129*

*Update: Mumps Outbreak—New York and New Jersey, June 2009-January 2010*

State and local health departments, in collaboration with CDC, continue to investigate a mumps outbreak that began in New York in June 2009. The index case occurred in a boy aged 11 years who had returned on June 17 from a trip to the United Kingdom, where approximately 7,400 reports of laboratory-confirmed mumps were received by

the Health Protection Agency in 2009. He then attended a New York summer camp for tradition-observant Jewish boys, where he became symptomatic on June 28. Subsequently, other camp attendees and a staff member were reported to have mumps, and transmission continued in multiple locations when the camp attendees returned home. As of January 29, 2010, a total of 1,521 cases had been reported, with onset dates from June 28, 2009, through January 29, 2010, a substantial increase from the 179 cases reported as of October 30, 2009. The outbreak has remained confined primarily to the tradition-observant Jewish community, with <3% of cases occurring among persons outside the community. The largest percentage of cases (61%) has occurred among persons aged 7-18 years, and 76% of the patients are male. Among the patients for whom vaccination status was reported, 88% had received at least 1 dose of mumps-containing vaccine, and 75% had received 2 doses. This is the largest mumps outbreak that has occurred in the United States since 2006. Although mumps vaccination alone was not sufficient to prevent this outbreak, maintaining high measles, mumps, and rubella (MMR) vaccination coverage remains the most effective way to prevent outbreaks and limit their size when they occur.

*February 12, 2010, Vol. 59(05); 133-135*

*Progress in Immunization Information Systems—United States, 2008*

Immunization information systems (IISs) are confidential, computerized information systems that collect and consolidate vaccination data from multiple health-care providers, generate reminder and recall notifications, and assess vaccination coverage within a defined geographic area. A CDC program goal for 2010 is to achieve >95% participation in an IIS (defined as having two or more recorded vaccinations) among children aged <6 years. To monitor progress toward this goal, CDC annually surveys immunization grantees in 50 states, five cities, and the District of Columbia, using the Immunization Information Systems Annual Report (IISAR). All 56 grantees were asked to complete the IISAR; 52 did so for 2008. This report highlights results from the 2008 IISAR, which indicated that 75% of all United States children aged <6 years (approximately 18 million children) participated in an IIS in 2008, an increase from 65% in 2006. The majority of grantees (82%) reported that their IIS had the capacity to track vaccinations for persons of all ages, compared with 70% in 2006. Data-quality measures of timeliness and completeness indicated that in 2008, 67% of IIS data were received and processed within 30 days of vaccine administration, and data were reported for six of 17 core data elements in >90% of IIS records (both measures are similar to 2006 results). Increased provider use of electronic health record systems can benefit IISs and their users by producing immunization records that are more timely and complete.

*March 12, 2010, Vol. 59(09); 258-261*

*Licensure of a 13-Valent Pneumococcal Conjugate Vaccine (PCV13) and Recommendations for Use Among Children—Advisory Committee on Immunization Practices (ACIP), 2010*

On February 24, 2010, a 13-valent pneumococcal conjugate vaccine (PCV13 (Prenar 13, Wyeth Pharmaceuticals, Inc., a subsidiary of Pfizer, Inc.)) was licensed by the

Food and Drug Administration (FDA) for prevention of invasive pneumococcal disease (IPD) caused by the 13 pneumococcal serotypes covered by the vaccine and for prevention of otitis media caused by serotypes in the 7-valent pneumococcal conjugate vaccine formulation (PCV7 (Pneumovax, Wyeth)). PCV13 is approved for use among children aged 6 weeks-71 months and succeeds PCV7, which was licensed by FDA in 2000. The Pneumococcal Vaccines Work Group of the Advisory Committee on Immunization Practices (ACIP) reviewed available data on the immunogenicity, safety and cost-effectiveness of PCV13, and on estimates of the vaccine-preventable pneumococcal disease burden. The working group then presented policy options for consideration of the full ACIP. This report summarizes recommendations approved by ACIP on February 24, 2010, for: 1) routine vaccination of all children aged 2-59 months with PCV13; 2) vaccination with PCV13 of children aged 60-71 months with underlying medical conditions that increase their risk for pneumococcal disease or complications; and 3) PCV13 vaccination of children who previously received 1 or more doses of PCV7. CDC guidance for vaccination providers regarding transition from PCV7 to the PCV13 immunization program also is included.

#### *Pneumovax 13 Licensure*

**Vaccine formulation.** PCV13 contains polysaccharides of the capsular antigens of *Streptococcus pneumoniae* serotypes 1, 3, 4, 5, 6A, 6B, 7F, 9V, 14, 18C, 19A, 19F and 23F, individually conjugated to a nontoxic diphtheria CRM<sub>197</sub> (CRM, cross-reactive material) carrier protein. A 0.5-mL PCV13 dose contains approximately 2 µg of polysaccharide from each of 12 serotypes and approximately 4 µg of polysaccharide from serotype 6B; the total concentration of CRM<sub>197</sub> is approximately 34 µg. The vaccine contains 0.125 mg of aluminum as aluminum phosphate adjuvant and no thimerosal preservative. PCV13 is administered intramuscularly and is available in single-dose, prefilled syringes that do not contain latex.

*March 12, 2010, Vol. 59(09); 273*

#### *Licensure of a Meningococcal Conjugate Vaccine (Menveo) and Guidance for Use Advisory Committee on Immunization Practices (ACIP), 2010*

On February 19, 2010, the Food and Drug Administration (FDA) licensed a quadrivalent meningococcal conjugate vaccine, MenACWY-CRM (Menveo, Novartis Vaccines and Diagnostics). MenACWY-CRM is licensed as a single dose for use among persons aged 11-55 years. The Advisory Committee on Immunization Practices (ACIP) reviewed data from prelicensure clinical trials on the safety and immunogenicity of MenACWY-CRM.

This report summarizes the approved indications for MenACWY-CRM and provides guidance from ACIP for its use. The following guidance for use of MenACWY-CRM is consistent with licensed indications and ACIP recommendations for meningococcal conjugate vaccines. MenACWY-CRM consists of two components: 1) 10 µg of lyophilized meningococcal serogroup A capsular polysaccharide conjugated to CRM<sub>197</sub> (MenA) and 2) 5 µg each of capsular polysaccharide of serogroup C, Y, and W135 conjugated to CRM<sub>197</sub> in 0.5 ml of phosphate buffered saline, which is used to reconstitute the lyophilized MenA component before injection. The reconstituted vaccine should be used immediately, but may be held at or below 77° F (25° C) for up to 8 hours. MenACWY-CRM is administered as an intramuscular injection, preferably into the deltoid region.

The capsular polysaccharide serogroups included in MenACWY-CRM are the same as those contained in Sanofi Pasteur's MCV4 (Menactra). In study participants aged 11-18 years, noninferiority of MenACWY-CRM to MCV4 was demonstrated for all four serogroups using the primary endpoint, hSBA seroresponse (serum bactericidal assay using human complement). The proportions of subjects with hSBA seroresponse were statistically higher for serogroups A, W and Y in the MenACWY-CRM group, compared with the MCV4 group. The clinical relevance of higher postvaccination immune responses is not known. Safety and reactogenicity profiles were comparable to those observed with MCV4.

*March 26, 2010, Vol. 59(11); 321-326*

#### *2009 Pandemic Influenza A (H1N1) in Pregnant Women Requiring Intensive Care—New York City, 2009*

Pregnant women are at increased risk for severe illness and complications from infection with seasonal influenza and 2009 pandemic influenza A (H1N1). To characterize the severity of 2009 H1N1 infection in pregnant women, the New York City Department of Health and Mental Hygiene (DOHMH) conducted active and passive surveillance for cases of 2009 H1N1 infection in pregnant women requiring intensive care. This report summarizes the results of that surveillance, which found that, during 2009, 16 pregnant women and one who was postpartum were admitted to New York City intensive-care units (ICUs). Two women died. Of the 17 women, 12 had no recognized risk factors for severe influenza complications other than pregnancy. All 17 women received antiviral treatment with oseltamivir; however, treatment was initiated ≤2 days after symptom onset in only one woman and was begun ≥5 days after symptom onset in four women. Because initiation of antiviral treatment ≤2 days after onset is associated with better outcomes, pregnant women should be encouraged to seek medical care immediately if they develop influenza-like symptoms, and health-care providers should initiate empiric antiviral therapy for these women as soon as possible, even if >2 days after symptom onset. Health departments and health-care providers should educate pregnant and postpartum women regarding the risks posed by influenza and highlight the effectiveness and safety of influenza vaccination. Obstetricians and other health-care providers should offer influenza vaccination to their pregnant patients.

To identify cases of 2009 H1N1 infection in pregnant and postpartum women, beginning April 25, 2009, DOHMH conducted surveillance for hospitalizations and deaths during three separate periods. Surveillance methods varied as the 2009 H1N1 pandemic evolved and influenza activity changed in New York City. During April to June, DOHMH conducted citywide active surveillance for deaths from 2009 H1N1 and enhanced citywide surveillance for hospitalized cases of influenza in pregnant and postpartum women, actively requesting specimens and testing for 2009 H1N1 at the New York City Public Health Laboratory. During July to September, influenza activity was low in New York City; however, ongoing passive surveillance was conducted for hospitalized patients who tested positive for influenza A. During October to December, citywide surveillance was passive, except active surveillance was reestablished at five sentinel hospitals. During all three periods, data on pregnancy, ICU status, and vital status were collected for all patients hospitalized with 2009 H1N1 throughout New York City. Chart abstractions for all identified cases were conducted

by medical epidemiologists at DOHMH. For this case series, a case was defined as severe illness with laboratory-confirmed or probable 2009 H1N1 infection in a woman who was pregnant or postpartum (within 6 weeks of delivery), resulting in admission to an ICU or death.

*April 2, 2010, Vol. 59(12); 363-368*

*Interim Results: State-Specific Influenza A (H1N1) 2009 Monovalent Vaccination Coverage—United States, October 2009 to January 2010*

In July 2009, the Advisory Committee on Immunization Practices (ACIP) issued recommendations for the use of influenza A (H1N1) 2009 monovalent vaccine. Distribution of 2009 H1N1 vaccine in the United States began on October 5, using a system that allocated available vaccine to states proportional to their populations. By the end of 2009, approximately 61 million persons had been vaccinated. By January 29, 2010, approximately 124 million doses had been distributed. To provide preliminary state-specific estimates of 2009 H1N1 vaccination coverage as of the end of January, CDC analyzed results from the Behavioral Risk Factor Surveillance System (BRFSS) and the National 2009 H1N1 Flu Survey (NHFS), using data collected during November 2009 to February 2010. This report summarizes the results of that analysis, which found that, by state, estimated 2009 H1N1 vaccination coverage as of the end of January among persons aged  $\geq 6$  months ranged from 12.9% to 38.8% (median: 23.9%). Median coverage was 36.8% for children aged 6 months to 17 years, 20.1% for adults aged  $\geq 18$  years, and 33.2% for persons in the ACIP initial target group. The wide variation in 2009 H1N1 vaccination rates among states suggests opportunities for improvement in future seasons, such as maintaining and increasing the reach of networks of private providers as vaccinators and distributing more vaccine through public venues (e.g., schools).

*April 30, 2010, Vol. 59(16); 477-484*

*Interim Results: State-Specific Seasonal Influenza Vaccination Coverage—United States, August 2009 to January 2010*

The advent of the 2009 influenza A (H1N1) pandemic in April 2009 made the 2009-10 influenza season highly unusual. Public awareness of the potential seriousness of influenza was heightened by media coverage of pandemic-associated hospitalizations and deaths, especially among younger persons. In the fall, the distribution of two separate influenza vaccines began, with distinct, although overlapping, recommendations from the Advisory Committee on Immunization Practices (ACIP). In addition, 2009-10 was the first full season in which ACIP's recommendation to vaccinate all children aged 5-18 years was implemented. To provide preliminary state-specific estimates of seasonal influenza vaccination coverage, CDC analyzed Behavioral Risk Factor Surveillance System (BRFSS) and National 2009 H1N1 Flu Survey (NHFS) data collected during October 2009-February 2010. By January 31, estimated state seasonal influenza vaccination coverage among persons aged  $\geq 6$  months ranged from 30.3% to 54.5% (median: 40.6%). Median coverage was 41.2% for children aged 6 months-17 years, 38.3% for adults aged 18-49 years with high-risk conditions, 28.8% for adults aged 18-49 years without high-risk conditions, 45.5% for adults aged 50-64 years, and 69.3% for adults aged  $\geq 65$  years. These results, compared with the previous season, suggest large increases in coverage for children and a moderate increase for adults aged 18-49 years without high-risk conditions. Health departments should

identify best practices that lead to higher vaccination coverage and should support effective vaccination services (for example, school-located vaccination programs and office-based protocols, such as reminder/recall and standing orders).

*May 28, 2010, Vol. 59(20); 626-629*

*FDA Licensure of Bivalent Human Papillomavirus Vaccine (HPV2, Cervarix) for Use in Females and Updated HPV Vaccination Recommendations from the Advisory Committee on Immunization Practices (ACIP)*

On October 16, 2009, the Food and Drug Administration (FDA) licensed bivalent human papillomavirus vaccine (HPV2; Cervarix, GlaxoSmithKline) for use in females aged 10 through 25 years. Cervarix is the second human papillomavirus (HPV) vaccine licensed for use in females in the United States. Quadrivalent HPV vaccine (HPV4; Gardasil, Merck & Co, Inc.) was licensed in 2006 for use in females aged 9 through 26 years, and the Advisory Committee on Immunization Practices (ACIP) recommended routine HPV4 vaccination of females aged 11 or 12 years, and catch-up vaccination for females aged 13 through 26 years. This report provides updated recommendations for routine and catch-up vaccination of females with either HPV2 or HPV4.

Both HPV2 and HPV4 are composed of virus-like particles (VLPs) prepared from recombinant L1 capsid protein of HPV; the two vaccines are not live vaccines. HPV2 is directed against two oncogenic types (HPV 16 and 18). HPV4 is directed against two oncogenic types (HPV 16 and 18) and two nononcogenic types (HPV 6 and 11). Both vaccines have high efficacy against HPV 16 and 18-related cervical precancer lesions. HPV4 also has high efficacy against HPV 6 and HPV 11-related genital warts and HPV 16 and 18-related vaginal and vulvar precancer lesions.

HPV 16 and 18 cause about 70% of cervical cancers; each of the other oncogenic HPV types accounts for a small percentage of all cervical cancers. Other HPV-associated cancers in females include a subset of vulvar, vaginal, anal and oropharyngeal and oral cavity cancers, caused primarily by HPV 16. HPV 6 and 11 cause approximately 90% of genital warts and most cases of recurrent respiratory papillomatosis.

In anticipation of FDA licensure of HPV2, ACIP reviewed data on the immunogenicity, efficacy, and safety of HPV2, as well as information on HPV4. At its October 21, 2009, meeting, ACIP approved updated recommendations for use of HPV vaccines in females.

*May 28, 2010, Vol. 59(20); 630-632*

*FDA Licensure of Quadrivalent Human Papillomavirus Vaccine (HPV4, Gardasil) for Use in Males and Guidance from the Advisory Committee on Immunization Practices (ACIP)*

On October 16, 2009, the Food and Drug Administration licensed quadrivalent human papillomavirus vaccine (HPV4; Gardasil, Merck & Co. Inc.) for use in males aged 9 through 26 years for prevention of genital warts caused by human papillomavirus (HPV) types 6 and 11. HPV4 had been licensed previously for use in females aged 9 through 26 years for prevention of HPV 6, 11, 16 and 18-related outcomes (that is, vaginal, vulvar and cervical

precancers and cancers and genital warts). The Advisory Committee on Immunization Practices (ACIP) recommends routine vaccination of females at age 11 or 12 years and catch-up vaccination for females aged 13 through 26 years. On October 21, 2009, ACIP provided guidance that HPV4 may be given to males aged 9 through 26 years to reduce their likelihood of acquiring genital warts; ACIP does not recommend HPV4 for routine use among males. This report presents the ACIP policy statement and summarizes background data. Issues reviewed by ACIP included efficacy, immunogenicity, and safety of the HPV4 vaccine in males, epidemiology of HPV and burden of HPV-associated diseases and cancers in males, cost-effectiveness of male vaccination, and programmatic considerations.

HPV types 6 and 11 cause approximately 90% of genital warts and most cases of recurrent respiratory papillomatosis. Approximately 500,000 cases of genital warts are estimated to occur each year in the United States among sexually active men and women. Direct medical costs related to genital warts are estimated at \$200 million per year in addition, genital warts can have an adverse impact on quality of life. HPV-associated cancers in males include certain anal, penile, and oropharyngeal and oral cavity cancers caused primarily by HPV 16.

HPV4 has high efficacy for prevention of genital warts. The phase III efficacy study enrolled 4,065 males aged 16 through 26 years. Participants were enrolled from North America, South America, Europe, Australia and Asia. The efficacy for prevention of genital warts related to HPV types 6, 11, 16 or 18 among males who received all 3 vaccine doses and were seronegative at day 1, and DNA negative day 1 through month 7 to the respective HPV type (per protocol population) was 89.4%; the efficacy for HPV 6 or 11-related genital warts alone was approximately the same. The efficacy for prevention of HPV 6, 11, 16 or 18-related genital warts among males who received at least 1 vaccine dose and regardless of baseline DNA or serology (intent to treat population), was 67.2%, and the efficacy for prevention of genital warts related to any HPV type was 62.1%. No evidence of efficacy was observed among males who were infected with the respective HPV type at baseline. The median duration of follow-up at the time of the study's interim analysis was approximately 2.3 years.

*June 4, 2010, Vol. 59(21); 657-661*

*Preliminary Results: Surveillance for Guillain-Barré Syndrome After Receipt of Influenza A (H1N1) 2009 Monovalent Vaccine—United States, 2009-2010*

Guillain-Barré syndrome (GBS) is an uncommon peripheral neuropathy causing paralysis and in severe cases respiratory failure and death. GBS often follows an antecedent gastrointestinal or upper respiratory illness but, in rare cases, can follow vaccination. In 1976, vaccination against a novel swine-origin influenza A (H1N1) virus was associated with a statistically significant increased risk for GBS in the 42 days after vaccination (approximately 10 excess cases per 1 million vaccinations), a consideration in halting the vaccination program in the context of limited influenza virus transmission. To monitor influenza A (H1N1) 2009 monovalent vaccine safety, several Federal surveillance systems, including CDC's Emerging Infections Program (EIP), are being used. In October 2009, EIP began active surveillance to assess the risk for GBS after 2009 H1N1 vaccination.

Preliminary results from an analysis in EIP comparing GBS patients hospitalized through March 31, 2010, who did and did not receive 2009 H1N1 vaccination showed an estimated age-adjusted rate ratio of 1.77 (GBS incidence of 1.92 per 100,000 person-years among vaccinated persons and 1.21 per 100,000 person-years among unvaccinated persons). If end-of-surveillance analysis confirms this finding, this would correspond to 0.8 excess cases of GBS per 1 million vaccinations, similar to that found in seasonal influenza vaccines. No other Federal system to date has detected a statistically significant association between GBS and 2009 H1N1 vaccination. Surveillance and further analyses are ongoing. The 2009 H1N1 vaccine safety profile is similar to that for seasonal influenza vaccines, which have an excellent safety record. Vaccination remains the most effective method to prevent serious illness and death from 2009 H1N1 influenza infection; illness from the 2009 H1N1 influenza virus has been associated with a hospitalization rate of 222 per 1 million and a death rate of 9.7 per 1 million population.

*June 11, 2010, Vol. 59(22); 687-688*

*Addition of Severe Combined Immunodeficiency as a Contraindication for Administration of Rotavirus Vaccine*

In response to reported cases of vaccine-acquired rotavirus infection in infants with severe combined immunodeficiency (SCID) following rotavirus vaccine administration, both Merck & Co. and GlaxoSmithKline Biologicals have revised the prescribing information and patient labeling for their respective rotavirus vaccine products, pentavalent rotavirus vaccine (RV5) and monovalent rotavirus vaccine (RV1), with approval from the Food and Drug Administration. Merck revised the prescribing information and patient labeling for RV5 in December 2009, and GlaxoSmithKline Biologicals did so for RV1 in February 2010. After the revision to the RV5 prescribing information, CDC sought consultation from members of the former Rotavirus Vaccine Work Group of the Advisory Committee on Immunization Practices (ACIP). On the basis of that consultation and available data, CDC is updating the list of contraindications for rotavirus vaccine. Rotavirus vaccine (both RV5 and RV1) is contraindicated in infants diagnosed with SCID.

SCID includes a group of rare, life-threatening disorders caused by at least 15 different single gene defects that result in profound deficiencies in T- and B- lymphocyte function. The estimated annual incidence of SCID is one case per 40,000-100,000 live births, or a total of approximately 40-100 new cases among infants in the United States each year. SCID usually is diagnosed after an infant has acquired a severe, potentially life-threatening infection caused by one or more pathogens. Infants with SCID commonly experience chronic diarrhea, failure to thrive, and early onset of infections. Chronic, wild-type rotavirus infection has been reported in infants with SCID, with resulting prolonged diarrhea or shedding of rotavirus. Diagnosis and hematopoietic stem cell transplantation before onset of severe infections offer the best chance for long-term survival of SCID patients.

The Department is also required to update information relating to immunizing agents and doses that the Department has extracted from ACIP recommendations issued under the standards in 31 Pa. Code §§ 89.801—89.809, Appendix H (relating to immunizing agents and doses). The updated information is as follows:

## 2010 List of Immunizing Agents and Average Wholesale Prices

<i>Product Name, Company</i>	<i>Brand/Product Name</i>	<i>NDC Number</i>	<i>Unit</i>	<i>Dose</i>	<i>AWP/Dose*</i>
<b>Diphtheria Tetanus acellular Pertussis Vaccine (DTaP):</b>					
sanofi pasteur	Tripedia	49281-0298-10	10 x 1	0.5 ml	\$27.22
sanofi pasteur	Daptacel	49281-0286-10	10 x 1	0.5 ml	\$28.06
GlaxoSmithKline	Infanrix—syringe	58160-0812-46	10 x 1	0.5 ml	\$23.02
GlaxoSmithKline	Infanrix	58160-0810-11	10 x 1	0.5 ml	\$24.70
<b>Tetanus Diphtheria acellular Pertussis Vaccine (Tdap):</b>					
sanofi pasteur	Adacel	49281-0400-10	10 x 1	0.5 ml	\$44.46
sanofi pasteur	Adacel	49281-0400-15	5 x 1	0.5 ml	\$44.46
GlaxoSmithKline	Boostrix	58160-0842-11	10 x 1	0.5 ml	\$44.61
GlaxoSmithKline	Boostrix—syringe	58160-0842-46	5 x 1	0.5 ml	\$44.61
<b>Diphtheria Tetanus pediatric Vaccine (DT pediatric):</b>					
sanofi pasteur	DT Pediatric	49281-0278-10	10 x 1	0.5 ml	\$36.23
<b>Diphtheria Tetanus acellular Pertussis/Haemophilus Influenzae B (DTaP-HIB):</b>					
sanofi pasteur	TriHIBit	49281-0597-05	5 x 1	0.5 ml	\$55.02
<b>Tetanus Diphtheria adult Vaccine (Td adult):</b>					
sanofi pasteur	Decavac	49281-0291-83	10 x 1	0.5 ml	\$23.09
sanofi pasteur	Decavac	49281-0291-10	10 x 1	0.5 ml	\$23.09
<b>Diphtheria, Tetanus, acellular Pertussis, Haemophilus Influenzae B, Polio (DTaP, HIB, IPV):</b>					
sanofi pasteur	Pentacel	49281-0510-05	5 x 1	0.5 ml	\$89.65
<b>Diphtheria, Tetanus, acellular Pertussis, Polio (DTap, IPV):</b>					
GlaxoSmithKline	Kinrix—syringe	58160-0812-46	5 x 1	0.5 ml	\$57.00
GlaxoSmithKline	Kinrix	58160-0812-11	10 x 1	0.5 ml	\$57.00
<b>Diphtheria, Tetanus, acellular Pertussis, Hepatitis B, Polio (DTaP, Hep B, IPV):</b>					
GlaxoSmithKline	Pediarix	58160-0811-11	10 x 1	0.5 ml	\$84.12
GlaxoSmithKline	Pediarix—syringe	58160-0811-46	5 x 1	0.5 ml	\$84.12
<b>Tetanus Toxoid:</b>					
sanofi pasteur	Tetanus toxoid	49281-0820-10	10 x 1	0.5 ml	\$32.30
<b>Haemophilus Influenzae Type B Vaccine (HIB):</b>					
sanofi pasteur	ActHIB	49281-0545-05	5 x 1	10 mcg	\$28.18
Merck & Co.	Pedvax HIB	00006-4897-00	10 x 1	7.5 mcg	\$27.32
GlaxoSmithKline	Hiberix	58160-0806-05	10 x 1	0.5 ml	\$8.66
<b>Injectable Polio Vaccine Inactivated (Salk Enhanced IPV):</b>					
sanofi pasteur	IPOL	49281-0860-55	10 x 1	0.5 ml	\$29.50
sanofi pasteur	IPOL	49281-0860-10	5.0 ml	0.5 ml	\$29.50
<b>Measles Mumps Rubella Vaccine (MMR):</b>					
Merck & Co.	MMR II	00006-4681-00	10 x 0.5	0.5 ml	\$55.40
<b>Measles Vaccine (Rubeola):</b>					
Merck & Co.	Attenuvax	0006-4589-00	10 x 0.5	0.5 ml	\$20.48
<b>Meningococcal Conjugate Vaccine (MCV4):</b>					
sanofi pasteur	Menactra	49281-0589-05	5 x 1	0.5 ml	\$123.94
sanofi pasteur	Menactra	49281-0589-15	5 x 1	0.5 ml	\$123.94
Novartis	Menveo	46028-0208-01	5 x 1	0.5 ml	\$103.41



<i>Product Name, Company</i>	<i>Brand/Product Name</i>	<i>NDC Number</i>	<i>Unit</i>	<i>Dose</i>	<i>AWP/Dose*</i>
<b>Meningococcal Polysaccharide Vaccine:</b>					
sanofi pasteur	Menomune-A/C/Y/ W-135	49281-0489-91	10 x 1	0.5 ml	\$123.94
sanofi pasteur	Menomune-A/C/Y/ W-135	49281-0489-01	each	0.5 ml	\$126.34
<b>Mumps Vaccine:</b>					
Merck & Co.	Mumpsvox	00006-4584-00	10 x 0.5	0.5 ml	\$26.54
<b>Rubella Vaccine:</b>					
Merck & Co.	Meruvax II	00006-4673-00	10 x 0.5	0.5 ml	\$22.83
<b>Hepatitis A Vaccine (HEP-A):</b>					
Merck & Co.	VAQTA—syringe	00006-4096-31	1.0 ml	1.0 ml	\$77.89
Merck & Co.	VAQTA—syringe	00006-4096-06	6 x 1	1.0 ml	\$77.87
Merck & Co.	VAQTA	00006-4841-00	1.0 ml	1.0 ml	\$76.21
Merck & Co.	VAQTA	00006-4841-41	10 x 1	1.0 ml	\$71.99
Merck & Co.	VAQTA Pediatric	00006-4831-41	10 x 0.5	0.5 ml	\$36.44
GlaxoSmithKline	Havrix Ped— syringe	58160-0825-52	10 x 1	0.5 ml	\$34.34
GlaxoSmithKline	Havrix Pediatric	58160-0825-11	10 x 1	0.5 ml	\$34.34
GlaxoSmithKline	Havrix—syringe	58160-0826-46	5 x 1	1 ml	\$72.68
GlaxoSmithKline	Havrix	58160-0826-11	10 x 1	1 ml	\$72.68
<b>Varicella Virus Vaccine:</b>					
Merck & Co.	Varivax	00006-4826-00	each	1350 pfu	\$97.41
Merck & Co.	Varivax	00006-4827-00	10 x 1	1350 pfu	\$92.86
Merck & Co.	Zostavax	00006-4963-00	each	19400 pfu	\$193.80
Merck & Co.	Zostavax	00006-4963-41	10 x 1	19400 pfu	\$184.72
<b>Human Papilloma Virus Vaccine:</b>					
Merck & Co.	Gardasil	00006-4045-00	each	0.5 ml	\$150.51
Merck & Co.	Gardasil	00006-4045-41	10 x 1	0.5 ml	\$150.18
Merck & Co.	Gardasil—syringe	00006-4109-06	6 x 1	0.5 ml	\$152.54
Merck & Co.	Gardasil—syringe w/o needle	00006-4109-09	6 x 1	0.5 ml	\$152.54
GlaxoSmithKline	Cervarix	58160-0830-11	10 x 1	0.5 ml	\$128.75
GlaxoSmithKline	Cervarix—syringe	58160-0830-46	5 x 1	0.5 ml	\$128.75
<b>Rotavirus Vaccine:</b>					
Merck & Co.	Rotateq	00006-4047-41	10 x 1	2 ml	\$83.35
GlaxoSmithKline	Rotarix	58160-0805-11	10 x 1	1.0 ml	\$122.85
<b>Influenza Virus Vaccine:</b>					
Novartis	Fluvirin	66521-113-02	10 x 1	0.5 ml	\$18.24
Novartis	Fluvirin	66521-113-10	10 x 1	0.5 ml	\$14.81
Sanofi pasteur	Fluzone	49281-0010-10	10 x 1	0.5 ml	\$14.74
Sanofi pasteur	Fluzone	49281-0010-50	10 x 1	0.5 ml	\$14.74
Sanofi pasteur	Fluzone	49281-0386-15	10 x 1	0.5 ml	\$13.56
Sanofi pasteur	Fluzone Pediatric	49281-0010-25	10 x 1	0.25 ml	\$15.64
GlaxoSmithKline	Fluarix	58160-0873-46	5 x 1	0.5 ml	\$15.75

<i>Product Name, Company</i>	<i>Brand/Product Name</i>	<i>NDC Number</i>	<i>Unit</i>	<i>Dose</i>	<i>AWP/Dose*</i>
MedImmune	Flumist	66019-0107-01	10 x 1	0.2 ml	\$19.70
Merck & Co.	Afluria	33332-010-01	10 x 1	0.5 ml	\$11.00
Merck & Co.	Afluria	33332-110-10	Multidose	0.5 ml	\$10.25
<b>Hepatitis B Vaccine (HEP-B):</b>					
Merck & Co.	Recombivax HB Hepatitis B vaccine (Recombinant) Dialysis Formulation	00006-4992-00	each	1.0 ml	\$165.29
Merck & Co.	Recombivax HB Pediatric	00006-4981-00	10 x 0.5 ml	0.5 ml	\$27.85
Merck & Co.	Recombivax HB	00006-4995-00	1.0 ml	1.0 ml	\$71.64
Merck & Co.	Recombivax HB	00006-4995-41	10 x 1.0 ml	1.0 ml	\$70.81
Merck & Co.	Recombivax HB syringe	00006-4094-31	1.0 ml	1.0 ml	\$73.31
Merck & Co.	Recombivax HB syringe	00006-4094-06	6 x 1.0 ml	1.0 ml	\$73.31
Merck & Co.	Recombivax HB syringe w/o needle	00006-4094-09	6 x 1.0 ml	1.0 ml	\$73.31
GlaxoSmithKline	Engerix-B Pediatric	58160-0820-11	10 x 1	0.5 ml	\$25.49
GlaxoSmithKline	Engerix-B Pediatric	58160-0820-46	5 x 1	0.5 ml	\$25.49
GlaxoSmithKline	Engerix-B Pediatric	58160-0856-35	5 x 1	0.5 ml	\$25.49
GlaxoSmithKline	Engerix-B syringe	58160-0821-51	10 x 1	1.0 ml	\$62.85
GlaxoSmithKline	Engerix-B syringe	58160-0821-11	10 x 1	1.0 ml	\$62.85
<b>Hepatitis B / Hib:</b>					
Merck & Co.	COMVAX	00006-4898-00	10 x 0.5 ml	0.5 ml	\$52.27
<b>Hepatitis A &amp; Hepatitis B Vaccine:</b>					
GlaxoSmithKline	Twinrix	58160-0815-11	10 x 1.0	1.0 ml	\$103.43
GlaxoSmithKline	Twinrix—syringe	58160-0815-46	5 x 1.0	1.0 ml	\$103.43
<b>Pneumococcal Vaccine:</b>					
Pfizer	Prevnar 13	0005-1971-02	10 x 1	0.5 ml	\$135.00
Merck & Co.	Pneumovax 23	00006-4739-00	2.5 ml	2.5 ml	\$197.93
Merck & Co.	Pneumovax 23	00006-4943-00	10 x 1	0.5 ml	\$44.43
<b>Measles, Mumps, Rubella, and Varicella Vaccine</b>					
Merck & Co.	ProQuad	00006-4999-00	10 x 0.5	0.5 ml	\$149.24

\* Indicates the Estimated Acquisition Cost (EAC) as stated in the Department of Public Welfare, Office of Medical Assistance Programs, Medical Assistance Regulations at 55 Pa. Code § 1121.55 (relating to method of payment).

Persons with disability who require an alternative format of this notice (for example, large print, audiotape, Braille), should contact the Department of Health, Division of Immunizations, Room 1026, Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120-0701, (717) 787-5681, or for speech and/or hearing impaired persons V/TT (717) 783-6514, or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,  
Secretary

[Pa.B. Doc. No. 10-1797. Filed for public inspection September 17, 2010, 9:00 a.m.]

## DEPARTMENT OF LABOR AND INDUSTRY

### Determination of the Usual and Customary Charge for Medical Treatment by the Department

The Department of Labor and Industry (Department), Bureau of Workers' Compensation, gives notice that, effective November 1, 2010, when resolving applications for fee review under 34 Pa. Code § 127.256 (relating to administrative decision on an application for fee review), the Department will utilize the 85th percentile of the MDR database published by INGENIX, Inc. of Eden Prairie, MN, to determine the "usual and customary charge" as defined in 34 Pa. Code § 127.3 (relating to definitions).

SANDI VITO,  
*Secretary*

[Pa.B. Doc. No. 10-1798. Filed for public inspection September 17, 2010, 9:00 a.m.]

## DEPARTMENT OF PUBLIC WELFARE

### Finalized Rate-Setting Methodology for the Consolidated and Person/Family Directed Support Waivers and Targeted Services Management for Persons with Mental Retardation

The purpose of this notice is to announce the rate-setting methodology used in the Prospective Payment System (PPS) to develop the Fiscal Year (FY) 2010-2011 finalized payment rates for community-based services, including supports coordination, funded through the Consolidated and Person/Family Directed Support waivers (waivers) and for Targeted Service Management not funded by the waivers. The methodology described in this notice to finalize the FY 2010-2011 payment rates in the PPS, excludes payment rates for the select waiver services added to the Medical Assistance program fee schedule.

#### *Rate-Setting Methodology*

The methodologies used to develop the proposed rates for FY 2010-2011 were published in the *Pennsylvania Bulletin* at 40 Pa.B. 3632 (June 26, 2010). To finalize the FY 2010-2011 payment rates, the Department of Public Welfare (Department) made adjustments to the proposed payment rates as described as follows. The final payment rates are effective for services delivered between July 1, 2010 and June 30, 2011.

To finalize the FY 2010-2011 payment rates, the Department made the following adjustments to the proposed payment rates:

- Rates were updated based on the enacted budget.
- The utilization of services projected for FY 2010-2011 was updated. When the proposed rates were calculated, the projected utilization was based on actual paid claims for services delivered from July 1, 2009, through February 28, 2010. These paid claims were then adjusted to account for a full year of utilization. The final payment rates were calculated using pro-

jected utilization based on actual claims paid for services delivered from July 1, 2009, through April 30, 2010, adjusted to account for a full year of utilization.

- Upward adjustments were made to the payment rates for the following services:
  - W7060, home and community habilitation—unlicensed, level 3.
  - W7075, community habilitation—licensed day habilitation—ATF, level 3.
  - W7235, supported employment.
  - W7258, respite—unlicensed, in home, level 2.
  - W7291, family living, 1—individual home adult.

The adjustments were made to ensure that assigned rates for these services provided for adequate funding to meet minimum wage standards.
- Adjustments were made to some outlier costs, where proposed rates for individuals with high needs had been incorrectly reduced.
- Based on the enacted budget and updated utilization information, the Rate Adjustment Factor (RAF) utilized to calculate the final payment rates was -2.5%. The initial RAF utilized for the proposed payment rates was -4.73%.

#### *Fiscal Impact*

There is no anticipated fiscal impact.

#### *Public Comment*

Copies of this notice may be obtained at the local Mental Health/Mental Retardation (MH/MR) County Program, Administrative Entity (AE) or regional Office of Developmental Programs (ODP) in the corresponding regions:

- *Western region:* Piatt Place, Room 4900, 301 5th Avenue, Pittsburgh, PA 15222, (412) 565-5144
- *Northeast region:* Room 315, Scranton State Office Building, 100 Lackawanna Avenue, Scranton, PA 18503, (570) 963-4749
- *Southeast region:* 801 Market Street, Suite 5071, Philadelphia, PA 19107, (215) 560-2242 or (215) 560-2245
- *Central region:* Room 430, Willow Oak Building, P. O. Box 2675, DGS Annex Complex, Harrisburg, PA 17105, (717) 772-6507

Contact information for the local MH/MR County Program or AE may be accessed through <http://www.dpw.state.pa.us/PartnersProviders/MentalRetardation/003679539.htm> or contact the previously referenced regional ODP.

Interested persons are invited to submit written comments regarding this notice to the Department at the following addresses:

#### *By e-mail:*

Use subject header "PN Final Rates" to ODP's rate-setting mailbox at [ra-ratesetting@state.pa.us](mailto:ra-ratesetting@state.pa.us).

#### *By postal mail:*

Department of Public Welfare  
Office of Developmental Programs  
Division of Provider Assistance and Rate Setting  
4th Floor, Health and Welfare Building  
Forster and Commonwealth Avenues  
Harrisburg, PA 17120

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or 1-800-654-5988 (voice users).

HARRIET DICHTER,  
Secretary

**Fiscal Note:** 14-NOT-658. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 10-1799. Filed for public inspection September 17, 2010, 9:00 a.m.]

**Medical Assistance Program Fee Schedule for Select Services in the Consolidated and Person/Family Directed Support Waivers and Community Mental Retardation Base Program**

This notice announces the Department of Public Welfare's (Department) finalized payment rates for select services provided in the Consolidated and Person/Family Directed Support waivers (waivers) to the Medical Assistance (MA) Program Fee Schedule effective July 1, 2010. These fee schedule final payment rates also serve as the Department's established fees under 55 Pa. Code § 4300.115(a) (relating to Department established fees) for base-funded services managed through county programs for individuals with mental retardation under the Mental Health and Mental Retardation Act of 1966 (50 P. S. §§ 4104—4704) and 55 Pa. Code Chapter 4300 (relating to county mental health and mental retardation fiscal manual).

The services selected for inclusion on the MA fee schedule are listed under the following categories: Select Community-Based Services; Unlicensed Out-of-Home Respite and Respite Camp "Ineligible" Services (Room and

Board); Agency with Choice/Financial Management Services, Excluding Benefits; and Agency With Choice/Financial Management Services, Including Benefits.

The Department established proposed rates for each of the selected services on the MA fee schedule and published those proposed rates at 40 Pa.B. 3621 (June 26, 2010). The Department finalized these payment rates for the MA Program Fee Schedule effective July 1, 2010, based on the enacted budget. As a result of the increase to the appropriation, the finalized rates were adjusted from the proposed rates accordingly.

The Unlicensed Out-of-Home Respite and Respite Camp Ineligible proposed payment rates did not provide for the impact of the 1% cost containment initiative assumed in the Governor's Executive Budget for Fiscal Year (FY) 2010-2011. However, the enacted budget also did not provide for a 1% cost containment initiative. Therefore, as a result, the final payment rates for these services are the same as the initial proposed payment rates.

**Geographic Areas:**

- Area 1:** Bucks, Chester, Delaware, Lehigh, Montgomery, Northampton, Philadelphia
- Area 2:** Adams, Allegheny, Beaver, Berks, Carbon, Cumberland, Dauphin, Erie, Franklin, Fulton, Greene, Lancaster, Lawrence, Lebanon, Monroe, Perry, Pike, Schuylkill, Washington, York
- Area 3:** Armstrong, Bradford, Butler, Cameron, Centre, Clarion, Clinton, Columbia, Crawford, Elk, Forest, Indiana, Huntingdon, Juniata, Lackawanna, Luzerne, Lycoming, McKean, Mercer, Mifflin, Montour, Northumberland, Potter, Snyder, Sullivan, Susquehanna, Tioga, Union, Venango, Warren, Wayne, Westmoreland, Wyoming
- Area 4:** Bedford, Blair, Cambria, Clearfield, Fayette, Jefferson, Somerset

**Fee Schedule Rates Tables:**

**Select Community-Based Services\***

\* Modifier ET must be used with applicable procedure code when billing for temporary base-funded services.

(PA) Prior authorization by the Office of Developmental Programs (ODP) must be obtained for this service.

Service	Procedure Code	Modifier	Provider Type	Specialty Code	Unit	Area 1	Area 2	Area 3	Area 4
Nursing Services: LPN	T2025	TE	05	051	15 minutes	\$11.02	\$10.31	\$9.78	\$8.89
		TE & ET							
		TE	16	161					
		TE & ET							
Nursing Services: RN	T2025	TD	05	051	15 minutes	\$16.55	\$15.48	\$14.68	\$13.35
		TD & ET							
		TD	16	160					
		TD & ET							
Physical Therapy	T2025	GP	17	170	15 minutes	\$20.20	\$18.90	\$17.92	\$16.29
		GP & ET							

<i>Service</i>	<i>Procedure Code</i>	<i>Modifier</i>	<i>Provider Type</i>	<i>Specialty Code</i>	<i>Unit</i>	<i>Area 1</i>	<i>Area 2</i>	<i>Area 3</i>	<i>Area 4</i>
Occupational Therapy	T2025	GO	17	171	15 minutes	\$21.29	\$19.92	\$18.89	\$17.17
		GO & ET							
Speech and Language Therapy	T2025	GN	17	173	15 minutes	\$21.72	\$20.32	\$19.27	\$17.52
		GN & ET							
Individual Behavioral Therapy	T2025	HE	19	208	15 minutes	\$20.79	\$19.45	\$18.44	\$16.77
		HE & ET							
Group Behavioral Therapy	T2025	HE & HQ	19	208	15 minutes	\$5.20	\$4.86	\$4.61	\$4.19
		HE, HQ & ET							
Visual/Mobility Therapy	W7246		51	517	15 minutes	\$21.73	\$20.33	\$19.28	\$17.52
		ET							
Companion Services, Basic staff support	W1724		51	363	15 minutes	\$ .78	\$ .73	\$ .69	\$ .63
		ET							
Companion Services, level 1	W1725		51	363	15 minutes	\$ .98	\$ .92	\$ .87	\$ .79
		ET							
Companion Services, level 2	W1726		51	363	15 minutes	\$2.07	\$1.94	\$1.84	\$1.67
		ET							
Companion Services, level 3	W1727		51	363	15 minutes	\$4.65	\$4.35	\$4.13	\$3.75
		ET							
Supplemental Habilitation, 1:1 (PA)	W7070		52	456, 520, 521 or 522	15 minutes	\$4.87	\$4.56	\$4.32	\$3.93
		ET							
Supplemental Habilitation, 2:1 (PA)	W7084		52	456, 520, 521 or 522	15 minutes	\$9.75	\$9.12	\$8.65	\$7.86
		ET							
Additional Individualized Staffing, 1:1 (PA)	W7085		52	456, 520, 521 or 522	15 minutes	\$4.87	\$4.56	\$4.32	\$3.93
Additional Individualized Staffing, 2:1 (PA)	W7086		52	456, 520, 521 or 522	15 minutes	\$9.75	\$9.12	\$8.65	\$7.86
Older Adult Day Habilitation	W7094		51	410	15 minutes	\$2.88	\$2.69	\$2.55	\$2.32
		ET							
Behavioral Support	W7095		51	510	15 minutes	\$21.52	\$20.13	\$19.09	\$17.35
		ET							
Supports Broker	W7096		51	510	15 minutes	\$10.85	\$10.15	\$9.63	\$8.75

<i>Service</i>	<i>Procedure Code</i>	<i>Modifier</i>	<i>Provider Type</i>	<i>Specialty Code</i>	<i>Unit</i>	<i>Area 1</i>	<i>Area 2</i>	<i>Area 3</i>	<i>Area 4</i>
Homemaker/Chore (permanent)	W7283		43	430	1 hour	\$22.87	\$21.39	\$20.29	\$18.44
			51	430 or 431					
			55	430 or 431					
Homemaker/Chore (temporary)	W7283	UA	43	430					
		UA & ET							
		UA	51	430 or 431					
		UA & ET							
		UA	45	430 or 431					
		UA & ET							

**Unlicensed Out-of-Home Respite and Respite Camp Ineligible Services (Room and Board)**

<i>Service</i>	<i>Procedure Code</i>	<i>Provider Type</i>	<i>Specialty Code</i>	<i>Unit</i>	<i>Areas 1 through 4</i>	
Respite—unlicensed, out of home, ineligible	W6060	51	513	1 day	\$12.00/unit, max of 1 ineligible unit per day	
	W6061	51	513			
	W6062	51	513			
		54	540 or 541			
	W6063	51	513			
		54	540 or 541			
	W6064	51	513			
		54	540 or 541			
	W6065	51	513			
		54	540 or 541			
	Respite—camp, ineligible	W6066	51	513	15 minutes	\$4.00/unit, max of 3 ineligible units per day
		W6067	51	513		
		W6068	51	513		
			54	540 or 541		
		W6069	51	513		
54			540 or 541			
W6070		51	513			
		54	540 or 541			
W6071		51	513			
		54	540 or 541			
Respite—camp, ineligible	W8400	55	555	15 minutes	\$4.00/unit, max of 3 ineligible units per day	
		54	540 or 541			
	W8401	55	554			1 day
54		540 or 541				

**Agency with Choice Financial Management Services, Excluding Benefits\*\***

\*\*Modifier U4 must be used with all procedure code when billing for services excluding benefits.

<i>Service</i>	<i>Procedure code</i>	<i>Modifier**</i>	<i>Provider Type</i>	<i>Specialty Code</i>	<i>Unit</i>	<i>Area 1</i>	<i>Area 2</i>	<i>Area 3</i>	<i>Area 4</i>
Companion, level 3	W1727	U4	54	540	15 minutes	\$3.06	\$2.87	\$2.72	\$2.47
Home & Community Habilitation—unlicensed, level 3	W7060	U4	54	540	15 minutes	\$5.07	\$4.74	\$4.50	\$4.09
Home & Community Habilitation—unlicensed, level 3, enhanced	W7061	U4	54	540	15 minutes	\$8.39	\$7.85	\$7.44	\$6.77
		TD & U4							
		TE & U4							
Home & Community Habilitation—unlicensed, level 4	W7068	U4	54	540	15 minutes	\$10.13	\$9.48	\$8.99	\$8.17
Home & Community Habilitation—unlicensed, level 4, enhanced	W7069	U4	54	540	15 minutes	\$16.77	\$15.69	\$14.88	\$13.52
		TD & U4							
		TE & U4							
Supports Broker	W7096	U4	54	540	15 minutes	\$6.15	\$5.76	\$5.46	\$4.96
Respite—unlicensed, in home, level 2	W7250	U4	54	540	1 day	\$223.14	\$208.74	\$197.94	\$179.95
	W7258	U4	54	540	15 minutes	\$3.48	\$3.26	\$3.09	\$2.81
Respite—unlicensed, in home, level 2, enhanced	W7251	U4	54	540	1 day	\$478.66	\$447.77	\$424.61	\$386.01
		TD & U4							
		TE & U4							
	W7264	U4	54	540	15 minutes	\$7.48	\$7.00	\$6.64	\$6.03
Respite—unlicensed in home, level 3	W7252	U4	54	540	1 day	\$446.27	\$417.48	\$395.89	\$359.90
	W7265	U4	54	540	15 minutes	\$6.97	\$6.52	\$6.19	\$5.62
Respite—unlicensed, in home, level 3, enhanced	W7253	U4	54	540	1 day	\$957.31	\$895.55	\$849.23	\$772.02
		TD & U4							
		TE & U4							
	W7266	U4	54	540	15 minutes	\$14.95	\$13.99	\$13.26	\$12.06
		TD & U4							
		TE & U4							
		TD & U4							
		TE & U4							

<i>Service</i>	<i>Procedure code</i>	<i>Modifier**</i>	<i>Provider Type</i>	<i>Specialty Code</i>	<i>Unit</i>	<i>Area 1</i>	<i>Area 2</i>	<i>Area 3</i>	<i>Area 4</i>
Respite—unlicensed, out of home, level 2	W8002	U4	54	540	1 day	\$223.14	\$208.74	\$197.94	\$179.95
	W8012	U4	54	540	15 minutes	\$3.48	\$3.26	\$3.09	\$2.81
Respite—unlicensed, out of home, level 2, enhanced	W8003	U4	54	540	1 day	\$478.66	\$447.77	\$424.61	\$386.01
		TD & U4							
		TE & U4							
	W8013	U4	54	540	15 minutes	\$7.48	\$7.00	\$6.64	\$6.03
		TD & U4							
		TE & U4							
Respite—unlicensed, out of home, level 3	W8004	U4	54	540	1 day	\$446.27	\$417.48	\$395.89	\$359.90
	W8014	U4	54	540	15 minutes	\$6.97	\$6.52	\$6.19	\$5.62
Respite—unlicensed, out of home, level 3, enhanced	W8005	U4	54	540	1 day	\$957.31	\$895.55	\$849.23	\$772.02
		TD & U4							
		TE & U4							
	W8015	U4	54	540	15 minutes	\$14.95	\$13.99	\$13.26	\$12.06
		TD & U4							
		TE & U4							

**Agency with Choice Financial Management Services, Including Benefits\*\*\***

\*\*\*No modifier is needed to indicate the benefit allowance is included.

<i>Service</i>	<i>Procedure Code</i>	<i>Modifier***</i>	<i>Provider Type</i>	<i>Specialty Code</i>	<i>Unit</i>	<i>Area 1</i>	<i>Area 2</i>	<i>Area 3</i>	<i>Area 4</i>
Companion, level 3	W1727		54	540	15 minutes	\$3.88	\$3.63	\$3.44	\$3.13
Home & Community Habilitation—unlicensed, level 3	W7060		54	540	15 minutes	\$6.42	\$6.01	\$5.70	\$5.18
Home & Community Habilitation—unlicensed, level 3, enhanced	W7061		54	540	15 minutes	\$10.62	\$9.93	\$9.42	\$8.56
		TD							
		TE							
Home & Community Habilitation—unlicensed, level 4	W7068		54	540	15 minutes	\$12.83	\$12.00	\$11.38	\$10.35
Home & Community Habilitation—unlicensed, level 4, enhanced	W7069		54	540	15 minutes	\$21.23	\$19.86	\$18.83	\$17.12
		TD							
		TE							
Supports Broker	W7096		54	540	15 minutes	\$7.79	\$7.29	\$6.91	\$6.28



<i>Service</i>	<i>Procedure Code</i>	<i>Modifier ***</i>	<i>Provider Type</i>	<i>Specialty Code</i>	<i>Unit</i>	<i>Area 1</i>	<i>Area 2</i>	<i>Area 3</i>	<i>Area 4</i>
Respite—unlicensed, in home, level 2	W7250		54	540	1 day	\$282.49	\$264.26	\$250.60	\$227.81
	W7258		54	540	15 minutes	\$4.41	\$4.13	\$3.91	\$3.56
Respite—unlicensed, in home, level 2, enhanced	W7251		54	540	1 day	\$605.98	\$566.88	\$537.56	\$488.69
		TD							
		TE							
	W7264		54	540	15 minutes	\$9.47	\$8.86	\$8.40	\$7.64
		TD							
		TE							
Respite—unlicensed, in home, level 3	W7252		54	540	1 day	\$564.98	\$528.53	\$501.19	\$455.63
	W7265		54	540	15 minutes	\$8.83	\$8.26	\$7.83	\$7.12
Respite—unlicensed, in home, level 3, enhanced	W7253		54	540	1 day	\$1,211.96	\$1,133.76	\$1,075.12	\$977.38
		TD							
		TE							
	W7266		54	540	15 min.	\$18.93	\$17.71	\$16.79	\$15.27
		TD							
		TE							
Homemaker/ Chore	W7283		54	540	1 hour	\$16.99	\$15.89	\$15.07	\$13.70
		UA							
Respite—unlicensed, out of home, level 2	W8002		54	540	1 day	\$282.49	\$264.26	\$250.60	\$227.81
	W8012		54	540	15 minutes	\$4.41	\$4.13	\$3.91	\$3.56
Respite—unlicensed, out of home, level 2, enhanced	W8003		54	540	1 day	\$605.98	\$566.88	\$537.56	\$488.69
		TD							
		TE							
	W8013		54	540	15 minutes	\$9.47	\$8.86	\$8.40	\$7.64
		TD							
		TE							
Respite—unlicensed, out of home, level 3	W8004		54	540	1 day	\$564.98	\$528.53	\$501.19	\$455.63
	W8014		54	540	15 minutes	\$8.83	\$8.26	\$7.83	\$7.12
Respite—unlicensed, out of home, level 3, enhanced	W8005		54	540	1 day	\$1,211.96	\$1,133.76	\$1,075.12	\$977.38
		TD							
		TE							
	W8015		54	540	15 minutes	\$18.93	\$17.71	\$16.79	\$15.27
		TD							
		TE							

*Fiscal Impact*

It is estimated that implementation of the MA Program Fee Schedule final rates, with the exception of the supplemental habilitation rates, will result in increased State-fund costs totaling approximately \$0.346 million.

The increase State-fund costs will be offset by a projected reduction in the provision of supplemental habilitation staffing. Supplemental habilitation must be pre-authorized in FY 2010-2011. The preauthorization will significantly reduce the units utilized from the number of units utilized during FY 2009-2010.

*Public Comment*

Copies of this notice may be obtained at the local Mental Health/Mental Retardation (MH/MR) County Program, Administrative Entity (AE) or regional ODP in the corresponding regions:

- *Western region:* Piatt Place, Room 4900, 301 5th Avenue, Pittsburgh, PA 15222, (412) 565-5144
- *Northeast region:* Room 315, Scranton State Office Building, 100 Lackawanna Avenue, Scranton, PA 18503 (570) 963-4749
- *Southeast region:* 801 Market Street, Suite 5071, Philadelphia, PA 19107, (215) 560-2242 or (215) 560-2245
- *Central region:* Room 430, Willow Oak Building, P. O. Box 2675, DGS Annex Complex, Harrisburg, PA 17105, (717) 772-6507

Contact information for the local MH/MR County Program or AE may be accessed through <https://www.hcsis.state.pa.us/hcsis-ssd/pgm/asp/PRCNT.ASP>, or contact the previously referenced regional ODP.

Interested persons are invited to submit written comments regarding this notice to the Department at the following addresses:

*By e-mail:*

Use subject header "PN Fee Schedule" to ODP's rate-setting mailbox at [ra-ratesetting@state.pa.us](mailto:ra-ratesetting@state.pa.us).

*By postal mail:*

Department of Public Welfare  
Office of Developmental Programs  
Division of Provider Assistance and Rate Setting  
4th Floor, Health and Welfare Building  
Forster and Commonwealth Avenues  
Harrisburg, PA 17120

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

HARRIET DICHTER,  
*Secretary*

**Fiscal Note:** 14-NOT-657. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 10-1800. Filed for public inspection September 17, 2010, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Pennsylvania Spooky Loot Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Spooky Loot.

2. *Price:* The price of a Pennsylvania Spooky Loot instant lottery game ticket is \$2.

3. *Play Symbols:* Each Pennsylvania Spooky Loot instant lottery game ticket will contain one play area featuring a "SCARY SYMBOLS" area and a "YOUR SYMBOLS" area. The play symbols and their captions, printed in black ink and located in the "SCARY SYMBOLS" area are: Candle (CANDLE) symbol, Candy corn (CANDY) symbol, Cauldron (CAULDRN) symbol, Frog (FROG) symbol, Hat (HAT) symbol, Moon (MOON) symbol, Owl (OWL) symbol, Pumpkin (PUMPKIN) symbol, Snake (SNAKE) symbol, Skull (SKULL) symbol, Spider (SPIDER) symbol and a 13 (THRTN) symbol. The play symbols and their captions, printed in green ink and located in the "SCARY SYMBOLS" area are: Candle (CANDLE) symbol, Candy corn (CANDY) symbol, Cauldron (CAULDRN) symbol, Frog (FROG) symbol, Hat (HAT) symbol, Moon (MOON) symbol, Owl (OWL) symbol, Pumpkin (PUMPKIN) symbol, Snake (SNAKE) symbol, Skull (SKULL) symbol, Spider (SPIDER) symbol and a 13 (THRTN) symbol. The play symbols and their captions, printed in black ink and located in the "YOUR SYMBOLS" area are: Candle (CANDLE) symbol, Candy corn (CANDY) symbol, Cauldron (CAULDRN) symbol, Frog (FROG) symbol, Hat (HAT) symbol, Moon (MOON) symbol, Owl (OWL) symbol, Pumpkin (PUMPKIN) symbol, Snake (SNAKE) symbol, Skull (SKULL) symbol, Spider (SPIDER) symbol, 13 (THRTN) symbol and a Black cat (BLKCAT) symbol. The play symbols and their captions, printed in green ink and located in the "YOUR SYMBOLS" area are: Candle (CANDLE) symbol, Candy corn (CANDY) symbol, Cauldron (CAULDRN) symbol, Frog (FROG) symbol, Hat (HAT) symbol, Moon (MOON) symbol, Owl (OWL) symbol, Pumpkin (PUMPKIN) symbol, Snake (SNAKE) symbol, Skull (SKULL) symbol, Spider (SPIDER) symbol and a 13 (THRTN) symbol.

4. *Prize Symbols:* The prize symbols and their captions located in the "YOUR SYMBOLS" area are: Free (TICKET), \$1<sup>00</sup> (ONE DOL), \$2<sup>00</sup> (TWO DOL), \$3<sup>00</sup> (THR DOL), \$5<sup>00</sup> (FIV DOL), \$8<sup>00</sup> (EGT DOL), \$9<sup>00</sup> (NIN DOL), \$15<sup>00</sup> (FIFTN), \$24<sup>00</sup> (TWY FOR), \$27<sup>00</sup> (TWY SVN), \$45<sup>00</sup> (FRY FIV), \$100 (ONE HUN), \$300 (THR HUN), \$900 (NIN HUN) and \$13,000 (THRTN THO).

5. *Prizes:* The prizes that can be won in this game are: Free \$2 ticket, \$1, \$2, \$3, \$5, \$8, \$9, \$15, \$24, \$27, \$45, \$100, \$300, \$900 and \$13,000. A player can win up to 8 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 5,400,000 tickets will be printed for the Pennsylvania Spooky Loot instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols, with the symbol and

caption printed in black ink, matches either of the "SCARY SYMBOLS" play symbols, with the symbol and caption printed in black ink, and a prize symbol of \$13,000 (THRTN THO) appears to the right of the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$13,000.

(b) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols, with the symbol and caption printed in black ink, matches either of the "SCARY SYMBOLS" play symbols, with the symbol and caption printed in black ink, and a prize symbol of \$900 (NIN HUN) appears to the right of the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$900.

(c) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols, with the symbol and caption printed in green ink, matches either of the "SCARY SYMBOLS" play symbols, with the symbol and caption printed in green ink, and a prize symbol of \$300 (THR HUN) appears to the right of the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$900.

(d) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols, with the symbol and caption printed in black ink, matches either of the "SCARY SYMBOLS" play symbols, with the symbol and caption printed in black ink, and a prize symbol of \$300 (THR HUN) appears to the right of the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$300.

(e) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols, with the symbol and caption printed in green ink, matches either of the "SCARY SYMBOLS" play symbols, with the symbol and caption printed in green ink, and a prize symbol of \$100 (ONE HUN) appears to the right of the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$300.

(f) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols is a Black cat (BLKCAT) symbol, and a prize symbol of \$45<sup>00</sup> (FRY FIV) appears in six of the "Prize" areas and a prize symbol of \$15<sup>00</sup> (FIFTN) appears in two of the "Prize" areas, on a single ticket, shall be entitled to a prize of \$300.

(g) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols, with the symbol and caption printed in black ink, matches either of the "SCARY SYMBOLS" play symbols, with the symbol and caption printed in black ink, and a prize symbol of \$100 (ONE HUN) appears to the right of the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(h) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols is a Black cat (BLKCAT) symbol, and a prize symbol of \$1<sup>00</sup> (ONE DOL) appears in three of the "Prize" areas, a prize symbol of \$8<sup>00</sup> (EGT DOL) appears in two of the "Prize" areas and a prize symbol of \$27<sup>00</sup> (TWY SVN) appears in three of the "Prize" areas, on a single ticket, shall be entitled to a prize of \$100.

(i) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols, with the symbol and caption printed in black ink, matches either of the "SCARY SYMBOLS" play symbols, with the symbol and caption printed in black ink, and a prize symbol of \$45<sup>00</sup> (FRY

FIV) appears to the right of the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$45.

(j) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols, with the symbol and caption printed in green ink, matches either of the "SCARY SYMBOLS" play symbols, with the symbol and caption printed in green ink, and a prize symbol of \$15<sup>00</sup> (FIFTN) appears to the right of the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$45.

(k) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols is a Black cat (BLKCAT) symbol, and a prize symbol of \$2<sup>00</sup> (TWO DOL) appears in one of the "Prize" areas, a prize symbol of \$5<sup>00</sup> (FIV DOL) appears in five of the "Prize" areas and a prize symbol of \$9<sup>00</sup> (NIN DOL) appears in two of the "Prize" areas, on a single ticket, shall be entitled to a prize of \$45.

(l) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols, with the symbol and caption printed in black ink, matches either of the "SCARY SYMBOLS" play symbols, with the symbol and caption printed in black ink, and a prize symbol of \$27<sup>00</sup> (TWY SVN) appears to the right of the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$27.

(m) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols, with the symbol and caption printed in green ink, matches either of the "SCARY SYMBOLS" play symbols, with the symbol and caption printed in green ink, and a prize symbol of \$9<sup>00</sup> (NIN DOL) appears to the right of the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$27.

(n) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols is a Black cat (BLKCAT) symbol, and a prize symbol of \$1<sup>00</sup> (ONE DOL) appears in one of the "Prize" areas, a prize symbol of \$2<sup>00</sup> (TWO DOL) appears in five of the "Prize" areas and a prize symbol of \$8<sup>00</sup> (EGT DOL) appears in two of the "Prize" areas, on a single ticket, shall be entitled to a prize of \$27.

(o) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols is a Black cat (BLKCAT) symbol, and a prize symbol of \$2<sup>00</sup> (TWO DOL) appears in one of the "Prize" areas, a prize symbol of \$3<sup>00</sup> (THR DOL) appears in five of the "Prize" areas and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears in two of the "Prize" areas, on a single ticket, shall be entitled to a prize of \$27.

(p) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols, with the symbol and caption printed in black ink, matches either of the "SCARY SYMBOLS" play symbols, with the symbol and caption printed in black ink, and a prize symbol of \$24<sup>00</sup> (TWY FOR) appears to the right of the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$24.

(q) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols, with the symbol and caption printed in green ink, matches either of the "SCARY SYMBOLS" play symbols, with the symbol and caption printed in green ink, and a prize symbol of \$8<sup>00</sup> (EGT DOL) appears to the right of the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$24.

(r) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols is a Black cat (BLKCAT) symbol, and a prize symbol of \$3<sup>.00</sup> (THR DOL) appears in eight of the "Prize" areas, on a single ticket, shall be entitled to a prize of \$24.

(s) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols, with the symbol and caption printed in black ink, matches either of the "SCARY SYMBOLS" play symbols, with the symbol and caption printed in black ink, and a prize symbol of \$15<sup>.00</sup> (FIFTN) appears to the right of the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$15.

(t) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols, with the symbol and caption printed in green ink, matches either of the "SCARY SYMBOLS" play symbols, with the symbol and caption printed in green ink, and a prize symbol of \$5<sup>.00</sup> (FIV DOL) appears to the right of the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$15.

(u) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols is a Black cat (BLKCAT) symbol, and a prize symbol of \$2<sup>.00</sup> (TWO DOL) appears in seven of the "Prize" areas and a prize symbol of \$1<sup>.00</sup> (ONE DOL) appears in one of the "Prize" areas, on a single ticket, shall be entitled to a prize of \$15.

(v) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols, with the symbol and caption printed in black ink, matches either of the "SCARY SYMBOLS" play symbols, with the symbol and caption printed in black ink, and a prize symbol of \$9<sup>.00</sup> (NIN DOL) appears to the right of the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$9.

(w) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols, with the symbol and caption printed in green ink, matches either of the "SCARY SYMBOLS" play symbols, with the symbol and caption printed in green ink, and a prize symbol of \$3<sup>.00</sup> (THR DOL) appears to the right of the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$9.

(x) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols is a Black cat (BLKCAT) symbol, and a prize symbol of \$1<sup>.00</sup> (ONE DOL) appears in seven of the "Prize" areas and a prize symbol of \$2<sup>.00</sup> (TWO DOL) appears in one of the "Prize" areas, on a single ticket, shall be entitled to a prize of \$9.

(y) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols, with the symbol and caption printed in black ink, matches either of the "SCARY SYMBOLS" play symbols, with the symbol and caption printed in black ink, and a prize symbol of \$8<sup>.00</sup> (EGT DOL) appears to the right of the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$8.

(z) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols is a Black cat (BLKCAT) symbol, and a prize symbol of \$1<sup>.00</sup> (ONE DOL) appears in eight of the "Prize" areas, on a single ticket, shall be entitled to a prize of \$8.

(aa) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols, with the symbol and caption printed in green ink, matches either of the "SCARY SYMBOLS" play symbols, with the symbol and caption printed in green ink, and a prize symbol of \$2<sup>.00</sup> (TWO DOL) appears to the right of the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$6.

(bb) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols, with the symbol and caption printed in black ink, matches either of the "SCARY SYMBOLS" play symbols, with the symbol and caption printed in black ink, and a prize symbol of \$5<sup>.00</sup> (FIV DOL) appears to the right of the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(cc) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols, with the symbol and caption printed in black ink, matches either of the "SCARY SYMBOLS" play symbols, with the symbol and caption printed in black ink, and a prize symbol of \$3<sup>.00</sup> (THR DOL) appears to the right of the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$3.

(dd) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols, with the symbol and caption printed in green ink, matches either of the "SCARY SYMBOLS" play symbols, with the symbol and caption printed in green ink, and a prize symbol of \$1<sup>.00</sup> (ONE DOL) appears to the right of the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$3.

(ee) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols, with the symbol and caption printed in black ink, matches either of the "SCARY SYMBOLS" play symbols, with the symbol and caption printed in black ink, and a prize symbol of \$2<sup>.00</sup> (TWO DOL) appears to the right of the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$2.

(ff) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols, with the symbol and caption printed in black ink, matches either of the "SCARY SYMBOLS" play symbols, with the symbol and caption printed in black ink, and a prize symbol of FREE (TICKET) appears to the right of the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of one Pennsylvania Spooky Loot instant game ticket or one Pennsylvania Lottery instant game ticket of equivalent sale price which is currently on sale.

(gg) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols, with the symbol and caption printed in black ink, matches either of the "SCARY SYMBOLS" play symbols, with the symbol and caption printed in black ink, and a prize symbol of \$1<sup>.00</sup> (ONE DOL) appears to the right of the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$1.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

*When Any Of Your Symbols  
Match Either Scary Symbol,  
Win Prize To The Right Of  
The Matching Symbol. Win  
With Prize(s) Of:*

	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 5,400,000 Tickets</i>
FREE TICKET	FREE	12.50	432,000
\$1 × 2	\$2	150	36,000
\$2	\$2	150	36,000
\$1 × 3	\$3	50	108,000
\$1 w/GREEN SYMBOL MATCH	\$3	50	108,000
\$3	\$3	50	108,000
\$1 × 5	\$5	150	36,000
(\$1 × 2) + (\$1 w/GREEN SYMBOL MATCH)	\$5	150	36,000
(\$1 w/GREEN SYMBOL MATCH) + \$2	\$5	150	36,000
\$5	\$5	75	72,000
BLACK CAT w/(\$1 × 8)	\$8	375	14,400
\$2 × 4	\$8	1,500	3,600
(\$2 w/GREEN SYMBOL MATCH) + (\$1 × 2)	\$8	750	7,200
\$5 + \$3	\$8	1,500	3,600
\$8	\$8	750	7,200
BLACK CAT w/(\$1 × 7) + \$2	\$9	500	10,800
(\$2 w/GREEN SYMBOL MATCH) + (\$1 × 3)	\$9	750	7,200
\$3 w/ GREEN SYMBOL MATCH	\$9	750	7,200
\$5 + (\$2 × 2)	\$9	1,500	3,600
\$9	\$9	750	7,200
BLACK CAT w/(\$2 × 7) + \$1	\$15	750	7,200
\$3 × 5	\$15	750	7,200
\$5 × 3	\$15	1,500	3,600
\$5 w/GREEN SYMBOL MATCH	\$15	750	7,200
\$9 + (\$3 × 2)	\$15	1,500	3,600
\$15	\$15	750	7,200
BLACK CAT w/(\$3 × 8)	\$24	2,000	2,700
(\$2 × 4) + (\$8 × 2)	\$24	4,000	1,350
\$8 w/GREEN SYMBOL MATCH	\$24	4,000	1,350
(\$3 × 2) + (\$9 × 2)	\$24	4,000	1,350
\$15 + (\$3 w/GREEN SYMBOL MATCH)	\$24	4,000	1,350
\$24	\$24	4,000	1,350
BLACK CAT w/\$2 + (\$3 × 5) + (\$5 × 2)	\$27	4,000	1,350
BLACK CAT w/\$1 + (\$2 × 5) + (\$8 × 2)	\$27	4,000	1,350
(\$3 w/GREEN SYMBOL MATCH) + (\$9 × 2)	\$27	4,000	1,350
\$9 w/GREEN SYMBOL MATCH	\$27	4,000	1,350
\$27	\$27	4,000	1,350
BLACK CAT w/\$2 + (\$5 × 5) + (\$9 × 2)	\$45	960	5,625
(\$5 × 6) + \$15	\$45	1,200	4,500
\$9 × 5	\$45	1,200	4,500
(\$9 × 2) + \$27	\$45	1,200	4,500
\$15 w/GREEN SYMBOL MATCH	\$45	991.74	5,445
\$45	\$45	960	5,625
BLACK CAT w/(\$1 × 3) + (\$8 × 2) + (\$27 × 3)	\$100	4,800	1,125
(\$5 × 2) + (\$15 w/GREEN SYMBOL MATCH) + \$45	\$100	4,800	1,125
(\$24 × 4) + (\$1 × 4)	\$100	4,800	1,125
(\$45 × 2) + (\$2 × 5)	\$100	4,800	1,125

*When Any Of Your Symbols Match Either Scary Symbol, Win Prize To The Right Of The Matching Symbol. Win With Prize(s) Of:*

	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 5,400,000 Tickets</i>
\$100	\$100	4,800	1,125
BLACK CAT (\$45 × 6) + (\$15 × 2)	\$300	120,000	45
\$100 w/GREEN SYMBOL MATCH	\$300	120,000	45
\$300	\$300	120,000	45
\$300 w/GREEN SYMBOL MATCH	\$900	180,000	30
\$900	\$900	180,000	30
\$13,000	\$13,000	415,385	13

Green Symbol Match = When the matching symbols are in green, win triple the prize shown to the right of that symbol.  
"BLACK CAT" (BLKCAT) symbol = Win all 8 prizes shown automatically.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Spooky Loot instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentive).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Spooky Loot, prize money from winning Pennsylvania Spooky Loot instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Spooky Loot instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Spooky Loot or through normal communications methods.

C. DANIEL HASSELL,  
*Secretary*

[Pa.B. Doc. No. 10-1801. Filed for public inspection September 17, 2010, 9:00 a.m.]

### **Public Utility Realty Tax Act (PURTA); Surcharge Rate Notice for the Tax Year Beginning January 1, 2011**

72 P. S. § 8111-A(d) requires the Secretary of Revenue to publish the rate of the Public Utility Realty Tax Act (PURTA) surcharge in the form of a notice in the *Pennsylvania Bulletin* by October 1, 2003, and by each October 1 thereafter. The tax rate established in 72 P. S.

§ 8111-A(d) shall be imposed upon gross receipts taxes as provided in 72 P. S. § 8111-A(d) for the period beginning the next January 1.

The result of the PURTA surcharge calculation provided in 72 P. S. § 8111-A for the tax year beginning January 1, 2011, is 1.8 mills (0.0018). Therefore, a surcharge pursuant to 72 P. S. § 8111-A(d) will be imposed for the taxable period beginning January 1, 2011. The additional 1.8 mills (0.0018) shall be paid upon each dollar of gross receipts reported and settled in accordance with 72 P. S. § 8101, except gross receipts from providing mobile telecommunication services and telegraph or telephone messages transmitted in interstate commerce.

C. DANIEL HASSELL,  
*Secretary*

[Pa.B. Doc. No. 10-1802. Filed for public inspection September 17, 2010, 9:00 a.m.]

## **DEPARTMENT OF TRANSPORTATION**

### **Receipt of Applications for Funding under the Section 5310 Program for Fiscal Year 2010-2011**

The Department of Transportation, Bureau of Public Transportation, under the authority contained in Section 5310 of the Federal Transit Laws (49 U.S.C.A. § 5310), gives notice that it will receive applications for the State-administered Section 5310 Program (program). Under this program, private nonprofit organizations and designated public bodies may apply for Federal capital assistance to pay up to 80% of the purchase cost of new wheelchair accessible small transit vehicles and other equipment used to provide needed transportation services for senior citizens and persons with disabilities who cannot be reasonably accommodated by existing transportation providers. Additional information can be obtained by calling Ben Brosius of the Bureau of Public Transportation at (717) 787-1211 or by e-mailing [bbrosius@state.pa.us](mailto:bbrosius@state.pa.us).

ALLEN D. BIEHLER, P. E.,  
*Secretary*

[Pa.B. Doc. No. 10-1803. Filed for public inspection September 17, 2010, 9:00 a.m.]

## ENVIRONMENTAL HEARING BOARD

### **Penn Environment, Defenders of Wildlife and Sierra Club v. DEP and RRI Energy, Permittee; EHB Doc. No. 2010-137-R**

Penn Environment, Defenders of Wildlife and Sierra Club have appealed the issuance by the Department of Environmental Protection of an NPDES permit to RRI Energy for a facility in East Wheatfield Township, Indiana County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the Pennsylvania AT&T Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

THOMAS W. RENWAND,  
*Chairperson*

[Pa.B. Doc. No. 10-1804. Filed for public inspection September 17, 2010, 9:00 a.m.]

### **RRI Energy Mid-Atlantic Power Holdings, LLC v. DEP; EHB Doc. No. 2010-135-M**

RRI Energy Mid-Atlantic Power Holdings, LLC has appealed the issuance by the Department of Environmental Protection of an NPDES permit to RRI Energy Mid-Atlantic Power Holdings, LLC for a facility in Bradford Township, Clearfield County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the Pennsylvania AT&T Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's

rules of practice and procedure are available upon request from the Board.

THOMAS W. RENWAND,  
*Chairperson*

[Pa.B. Doc. No. 10-1805. Filed for public inspection September 17, 2010, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### **Action Taken by the Commission**

The Independent Regulatory Review Commission met publicly at 10 a.m., Thursday, August 19, 2010, and announced the following:

#### *Action Taken—Regulation Approved:*

Environmental Quality Board #7-444: Outdoor Wood-Fired Boilers (amends 25 Pa. Code Chapters 121 and 123) (Revised)

#### **Revised Approval Order**

Public Meeting held  
August 19, 2010

*Commissioners Voting:* Arthur Coccodrilli, Chairperson; George D. Bedwick, Vice Chairperson; S. David Fineman, Esq., by Phone; Silvan B. Lutkewitte, III; John F. Mizner, Esq.

*Environmental Quality Board—Outdoor Wood-Fired Boilers; Regulation No. 7-444 (#2802)*

On October 6, 2009, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Environmental Quality Board (Board). This rulemaking amends 25 Pa. Code Chapters 121 and 123. The proposed regulation was published in the October 17, 2009 *Pennsylvania Bulletin* with a 79-day public comment period. The final-form regulation was submitted to the Commission on July 16, 2010.

This final-form rulemaking establishes particulate matter emission standards, setback, stack height, and allowable fuel requirements for installed outdoor wood-fired boilers (OWBs). It provides exemptions for existing OWBs, OWBs shipped and used outside of the Commonwealth, and existing inventory sold or received before June 1, 2011.

We have determined this regulation is consistent with the statutory authority of the Board (35 P. S. §§ 4004.2 and 4005(a)(1)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

ARTHUR COCCODRILLI,  
*Chairperson*

[Pa.B. Doc. No. 10-1806. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Act (71 P. S. § 645.5b).

The Commission has issued comments on the following proposed regulation. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
7-459	Environmental Quality Board Oil and Gas Wells 40 Pa.B. 3845, July 10, 2010	8/9/10	9/8/10

**Environmental Quality Board**  
**Regulation #7-459 (IRRC #2857)**  
**Oil and Gas Wells**  
**September 8, 2010**

We submit for your consideration the following comments on the proposed rulemaking published in the July 10, 2010 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Environmental Quality Board (Board) to respond to all comments received from us or any other source.

#### 1. Advanced Notice of Final-Form Rulemaking.

In the Preamble to the proposed regulation, the Board has expressly asked for input on five specific areas. Those five areas include the following:

- Definition of “deepest fresh groundwater;”
- Requirements for additional safety equipment and procedures;
- Placement of centralizers;
- The concept of creating a zone of critical cement at the casing seat; and
- 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.

In order to give the regulated community and other interested parties an opportunity to provide input on any revisions made as a result of the Board’s requests, we recommend that the Board publish an Advanced Notice of Final Rulemaking (ANFR). An ANFR would provide the opportunity to review and resolve remaining issues before submittal of a final-form regulation.

#### 2. Additional casing string—Need; Fiscal impact.

This proposed regulation provides standards for proper construction of oil and gas wells, including cement and casing installation. The Preamble states that if cement is not returned to the surface or when excessive pressure is placed on the surface casing seat, the regulation requires the operator to install an additional string of casing. The Marcellus Shale Coalition (Coalition) and several of its supporters express a general concern with the use of an additional casing string. According to the Coalition, there are two reasons for their concern. First, in the Preamble (Summary of Comments and Response Section) the Board states, “it is the Department’s experience that poorly cemented casing is the reason for many gas migration

cases.” However, these commentators contend that there is no technical justification for the additional casing string. Second, the Preamble also states that the “construction cost for the additional string [if cement is not returned to the surface] of casing is about \$10,000 per well.” However, commentators suggest that actual costs range from \$300,000 to \$500,000 per well, depending on depth and area.

The Board should explain the apparent cost discrepancy for construction, and provide the technical justification for the additional string of casing in the final-form regulation.

#### 3. Clarity; Implementation procedures; Compliance.

Commentators indicate that it is unclear whether the regulation applies to both existing and new wells, and the varying types of wells (for example, shallow gas wells, oil wells, Marcellus Shale wells, etc). The Lycoming Audubon Society suggests that the regulation be revised so that there are separate provisions for each well type. We note that the Regulatory Analysis Form (RAF# 15) indicates that the regulation applies to both new and existing wells. However, to improve clarity, we recommend that the Board define “new” and “existing” wells, and use the terms, when appropriate, throughout the final-form regulation.

While the regulation imposes standards for various well types, it does not set forth the consequences for failure to comply. The Oil and Gas Act (58 P. S. §§ 601.101—601.605) defines both unlawful conduct as well as collections of fines and penalties. See 58 P. S. §§ 601.509 and 601.510. We recommend that the final-form regulation provide penalties and, where appropriate, include cross-references to these sections of the Oil and Gas Act. The final-form regulation also should clarify the amount of time necessary for existing wells to comply with the new standards imposed by the regulation.

#### 4. Section 78.1.—Definitions.—Implementation procedures; Clarity.

##### *General*

The following terms are used in the regulation but are not defined: “anticipated fresh groundwater zones;” “blow-out prevention equipment;” “shallowest productive horizon;” “area of alternative methods;” “natural gas migration incident;” “centralizers;” “agricultural water supplies;” “shoe test;” “operating well;” and “pressure rating.” We recommend that the Board include definitions for these terms in the final-form regulation.

##### *Deepest fresh groundwater*

In the Preamble to the proposed regulation, the Board requested public comments concerning this existing definition. We raise three issues.



First, Associated Petroleum Industries of PA commented that the term itself is included within the body of the definition. According to the *PA Code and Bulletin Style Manual* (Manual), the term being defined may not be included as part of the definition. See *PA Code and Bulletin Style Manual* § 1.7(e). Accordingly, we recommend that the revised definition be written in a manner that complies with the Manual.

Second, the Coalition and several of its supporters commented that the definition is confusing because there are no water well construction standards in this Commonwealth, and that several of the terms used in the definition are out of date. Commentators urge that the definition be linked to numerical water standards and production of sufficient water quality and quantity for intended use. The Board should address the commentators' concerns in the revised definition of "deepest fresh groundwater."

Finally, we recommend that the term "drillers log" be replaced with a more current term such as "IADC Daily Drilling Report."

#### *Cement job log*

Both Earthjustice and Highland Sewer and Water Authority suggest that the log should be sealed or certified by an expert, such as a registered professional geologist or engineer. Has the Board considered requiring such certification of compliance?

#### *Surface casing*

The proposed regulation defines this term as: "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." Commentators suggest that these provisions conflict with other sections of the regulation because they result in re-defining surface casing as a water string, as opposed to a pressure containing casing string. The Board needs to clarify how it intended to define this term and if necessary, remove the term "water string" and replace it with "pressure containing casing string."

#### **5. Section 78.51.—Protection of water supplies.—Protection of public health, safety and welfare; Conflict with statute; Implementation procedures; Clarity.**

##### *Subsection (d)(1)(iii)*

In Subsection (d)(1)(iii), what will be considered "excessive maintenance" and who makes that determination? The final-form regulation should clarify these issues.

##### *Subsection (d)(2)*

This subsection states: "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) (Act) or is comparable to the unaffected water supply if that water supply did not meet these standards." We raise two issues.

First, commentators question whether Subsection (d)(2) conflicts with Section 208 of the Oil and Gas Act (58 P. S. §§ 601.208(a)), which states that "any 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 in quantity or quality for the purposes served by the supply." The Preamble to

the final-form regulation should explain how Subsection (d)(2) is consistent with provisions contained in the Oil and Gas Act.

Second, Section 206 of the Oil and Gas Act states that: "restoration activities required by this act or in regulations promulgated hereunder shall also comply with all applicable provisions of the Clean Streams Law." § 601.206(e). However, Subsection (d)(2) makes no reference to this section of the Oil and Gas Act. The Preamble to the final-form regulation should also clarify how this subsection is properly conformed with the Clean Streams Law.

##### *Subsection (d)(3)(ii)*

This Subsection defines "reasonably foreseeable uses." Who will determine what meets the definition of "reasonably foreseeable uses?" The Board needs to clarify whether it is the duty of the operator or the Department to determine compliance with this definition.

Also, what is considered the "reasonable expansion of use" and who makes that determination?

##### *Subsection (h)*

This subsection requires a well operator who receives notice of pollution in a water supply to notify the Department within 10 calendar days. Several commentators object that this is too long for the Department to be alerted about a possible threat to public health, safety and welfare, and suggest that the timeframe for notification be one day. We share the concern that the 10-day period may not be protective of public health and safety, and recommend that the final-form regulation either include a shorter timeframe, or an explanation of why the 10-day timeframe is appropriate.

#### **6. Section 78.72.—Use of safety devices—blow-out prevention equipment.—Clarity.**

The citation to the Oil and Gas Conservation Law (Law) in Subsection (a)(4) appears incorrect, as it only references a portion of the Law. In the final-form regulation, the citation should be changed to (58 P. S. §§ 401—419).

The Coalition and several of its supporters also point out a typographical error in Subsection (h). The "Independent" Association of Drilling Contractors is actually the "International" Association of Drilling Contractors. The final-form regulation should correct this error.

#### **7. Section 78.73.—General provisions for well construction and operation.—Clarity.**

In Subsection (e), how does the Board intend for excess gas to be diverted away from a drilling rig "in a manner that does not create a hazard to the public health or safety?" This phrase is vague and should be clarified in the final-form regulation.

#### **8. Section 78.75a.—Area of alternative methods.—Statutory authority; Clarity.**

Subsection (a) permits the Department to unilaterally designate an area of alternative methods. However, Section 211 of the Oil and Gas Act states that a "well operator may request the authority to use an alternative method." 58 P. S. § 601.211. What is the Department's statutory authority for making this designation without an initial request from a well operator?

PA American Water also indicates that the references to the "Department" actually refer to both the Bureau of Oil and Gas and the regional Bureau of Water Supply. The final-form regulation should clarify this issue.

**9. Section 78.82.—Use of conductor pipe.—Clarity.**

In Paragraph (3), the final-form regulation should clarify under what circumstances the Department would approve material other than steel to make a conductor pipe.

**10. Section 78.83a.—Casing and cementing plan.—Implementation procedures; Clarity.**

This section requires the operator to create a casing and cementing plan for how the well should be drilled and completed. We raise three issues.

First, Subsection (c) states that the operator provides the plan for Department approval upon request. Several commentators question the absence of requirements that the Department always approve the plan. Why doesn't the Department review and approve every casing and cementing plan?

Second, Highland Sewer and Water Authority suggests that the plan be sealed by an expert. Has the Department considered such a requirement?

Finally, commentators note that the regulation does not address how to revise a casing and cementing plan. We agree and recommend that the final-form regulation provide a process for revision, including whether Department approval is necessary and when drilling can begin subsequent to a change in the plan.

**11. Section 78.83b.—Casing and cementing-lost circulation.—Implementation procedures.; Clarity.**

Subsection (a) provides a list of four options for what an operator should do if cement in a well is not circulated to the surface. Commentators suggest that a 5th alternative should be added based on the language in Subsection 78.83(j), which states that: "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 anticipated lost circulation zone." Has the Board considered adding this option?

Subsection (a) also states that the operator must notify the Department of lost circulation. Within what timeframe must the operator provide such notification? The final-form regulation should provide a specific timeframe.

Subsection (b) states that the Department may require the operator to determine the amount of casing cemented by logging "or other suitable method." This phrase is vague and should be defined further in the final-form regulation.

**12. Section 78.84.—Casing standards.—Reasonableness; Need; Implementation procedures; Clarity.**

This section sets forth standards for installing casing. We have four concerns.

First, Subsections (b) and (c) refer to the "anticipated maximum pressure" to which the surface casing can be exposed. However, Subsection (f) refers to the "highest expected working pressure." To improve clarity, the final-form regulation should use one term consistently throughout the section.

Second, Subsection (c) relates to the requirements for used casing. Both the US National Park Service and Group Against Smog and Pollution express concerns with wells constructed with used casing. We request that the Board explain how it determined the standard for a passing pressure test for used casing.

Third, the Lycoming Audubon Society points out that once the used casing is tested in Subsection (c), there is no requirement for repairs or notification to the Department. Has the Board considered including such requirements?

Finally, Subsection (d)(3) requires a welder to be "certified in the applicable American Petroleum Institute's standards for welding casing and pipe or an equivalent training and certification program. . . ." The regulation should specify what constitutes "an equivalent training and certification program."

**13. Section 78.85.—Cementing standards.—Reasonableness; Need; Implementation procedures; Clarity.**

This section establishes the standards for cementing. We raise three issues.

First, Subsection (c) requires that after cementing operations are complete, the casing cannot be disturbed for a minimum of 8 hours. Several commentators question whether the 8-hour requirement is necessary. The Preamble to the final-form regulation should explain how the Board determined this was an appropriate timeframe.

Second, Meiser and Earl, Inc. questioned whether the Department would allow the use of cement additives within the fresh groundwater zone in the vicinity of drinking water wells, and whether the additives meet the requirements of the Act. The Board needs to clarify this issue.

Finally, Subsection (f) requires an operator to maintain a copy of a cement job log for at least 5 years. How did the Board determine this was an appropriate timeframe?

**14. Section 78.88.—Mechanical integrity of operating wells.—Implementation procedures; Clarity.**

Subsection (a) requires operators to conduct quarterly inspections of a well. Several commentators dispute the amount of time between inspections. Some think inspections should occur weekly and others believe only annual inspections are necessary unless a problem is identified. How did the Board determine that quarterly inspections were appropriate?

Subsection (a) also requires inspection results to be retained for 5 years and available for review by the Department. The Board should explain how it determined 5 years was an appropriate timeframe.

Subsection (d)(2) requires the operator to notify the Department at least 7 days prior to initiating a corrective measure on a well. Will the Department approve that measure during this timeframe and must the operator obtain Department approval prior to initiating the corrective measure?

In Subsection (e), what does the Board consider to be a "similar manner approved by the Department?" This phrase is vague and should be clarified in the final-form regulation.

**15. Section 78.89.—Gas migration response.—Implementation procedures; Clarity.**

Subsection (a) sets forth the required response to a gas migration incident. The Allegheny Defense Project suggests that this response not be limited to just natural gas migration, but also to "byproducts of the drilling, hydrofracturing, and production process such as methane; and to the substances created by the interaction of oil and gas development and the natural and human environment." Has the Board considered including the responses to these incidents as well?

A commentator also suggests that in the last sentence of Subsection (a), the last phrase should read: "shall *immediately* take measures necessary to ensure public health and safety." (Emphasis added.) We agree and recommend the term "immediately" be added to the final-form regulation.

In Subsection (e), the Board should explain why the 12-hour reporting requirement for a phone call to the Department and the 3-day timeframe for filing the follow-up report with the Department are appropriate timeframes.

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

Subsection (a)(1) refers to methods for separating casing and "other method approved by the Department." This term is vague and we recommend that the final-form regulation include "other method approved *in writing* by the Department." (Emphasis added.) The same phrase is used in Subsections 78.93 (a)(3), 78.94(a)(1), 78.94 (a)(3) and 78.95 (a)(1).

**17. Section 78.121.—Production reporting.—Reasonableness; Implementation procedures; Clarity.**

This section requires well operators to submit production reports. Are these reports confidential or are they

available to the public? The final-form regulation should clarify this issue.

**18. Section 78.122.—Well record and completion report.—Statutory authority; Consistency with other statutes; Clarity.**

Subsection (b)(6) lists all of the information from a stimulation record that must be included in a well completion report, including a "list of hydraulic fracturing chemicals used." While some commentators support the disclosure of chemicals, others, like Halliburton Energy Services, Inc., object that this listing would result in the release of confidential/proprietary information. Does the Board have a mechanism for determining what information, if any, is to be considered confidential or proprietary? Also, does the Board consider the information raised by commentators to be proprietary and would it be exempt from the PA Right-to-Know Law? See 65 Pa.C.S.A. § 67.708(b)(11). If not, what is the Board's statutory authority for its release?

A commentator also suggests that the completion report be sealed by an expert. Has the Board considered this option?

ARTHUR COCCODRILLI,  
*Chairperson*

[Pa.B. Doc. No. 10-1807. Filed for public inspection September 17, 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 you can obtain a copy from our web site, [www.irrc.state.pa.us](http://www.irrc.state.pa.us).

*Final-Form*

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Public Meeting</i>
2-149	Department of Agriculture Pesticides	8/31/10	10/7/10
16A-4318	State Board of Chiropractic Continuing Education Violations	9/3/10	10/7/10
16-44	Department of State Schedule of Civil Penalties— Chiropractors	9/3/10	10/7/10
2-160	Department of Agriculture Milk Sanitation	9/3/10	10/7/10
16-43	Department of State Schedule of Civil Penalties— Engineers, Land Surveyors and Geologists	9/3/10	10/7/10
16A-4710	State Registration Board for Professional Engineers, Land Surveyors and Geologists Continuing Education	9/3/10	10/7/10

ARTHUR COCCODRILLI,  
*Chairperson*

[Pa.B. Doc. No. 10-1808. Filed for public inspection September 17, 2010, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Application for Approval to Acquire Control of Bravo Health Pennsylvania, Inc.

HealthSpring, Inc., a Delaware corporation, has filed an application to acquire control of Bravo Health Pennsylvania, Inc., a Pennsylvania domiciled health maintenance organization. The initial filing was received on September 3, 2010, and was made in accordance with requirements set forth under Article XIV of The Insurance Company Law of 1921 (40 P.S. §§ 991.1401—991.1403).

Persons wishing to comment on the grounds of public or private interest in this acquisition are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of publication of this notice in the *Pennsylvania Bulletin*. Each written statement must include the name, address and telephone number of the interested party; identification of the application to which the statement is addressed; and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Cressinda Bybee, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557 or e-mail cbybee@state.pa.us.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 10-1809. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Capital Advantage Insurance Company; Rate Increase Filing for the Individual 1990 Standardized Medicare Supplement Program

By filing 10-FFFF, Capital Advantage Insurance Company is requesting the Insurance Department's (Department) approval to increase the current monthly rates for the Individual 1990 Standardized Plan A Package by 12.5% effective January 1, 2011. This increase will impact approximately 491 members.

Unless formal administrative action is taken prior to December 2, 2010, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at [www.insurance.pa.gov](http://www.insurance.pa.gov). To access the filing, under "How to Find..." click on "View Current Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to James Lavery, Actuary, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [jlavery@state.pa.us](mailto:jlavery@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

ROBERT L. PRATTER,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 10-1810. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Capital Advantage Insurance Company; Rate Increase Filing for the Individual 1990 Standardized Medicare Supplement Program

By filing 10-GGGG, Capital Advantage Insurance Company is requesting the Insurance Department's (Department) approval to increase the current monthly rates for the Individual 1990 Standardized Plan B Package by 9.74% effective January 1, 2011. This increase will impact approximately 7,174 members.

Unless formal administrative action is taken prior to December 2, 2010, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at [www.insurance.pa.gov](http://www.insurance.pa.gov). To access the filing, under "How to Find..." click on "View Current Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to James Lavery, Actuary, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [jlavery@state.pa.us](mailto:jlavery@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

ROBERT L. PRATTER,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 10-1811. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Capital Advantage Insurance Company; Rate Increase Filing for the Individual 1990 Standardized Medicare Supplement Program

By filing 10-HHHH, Capital Advantage Insurance Company is requesting the Insurance Department's (Department) approval to increase the current monthly rates for the Individual 1990 Standardized Plan C Package by 13.99% effective January 1, 2011. This increase will impact approximately 18,933 members.

Unless formal administrative action is taken prior to December 2, 2010, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at [www.insurance.pa.gov](http://www.insurance.pa.gov). To access the filing, under "How to Find..." click on "View Current Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to James Lavery, Actuary, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [jlavery@state.pa.us](mailto:jlavery@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

ROBERT L. PRATTER,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 10-1812. Filed for public inspection September 17, 2010, 9:00 a.m.]

**Capital Advantage Insurance Company; Rate Increase Filing for the Individual 1990 Standardized Medicare Supplement Program**

By filing 10-III, Capital Advantage Insurance Company is requesting the Insurance Department's (Department) approval to increase the current monthly rates for the Individual 1990 Standardized Plan F Package by 13.4% effective January 1, 2011. This increase will impact approximately 1,598 members.

Unless formal administrative action is taken prior to December 2, 2010, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at [www.insurance.pa.gov](http://www.insurance.pa.gov). To access the filing, under "How to Find..." click on "View Current Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [jlaverty@state.pa.us](mailto:jlaverty@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

ROBERT L. PRATTER,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 10-1813. Filed for public inspection September 17, 2010, 9:00 a.m.]

**Capital Advantage Insurance Company; Rate Increase Filing for the Individual 1990 Standardized Medicare Supplement Program**

By filing 10-JJJJ, Capital Advantage Insurance Company is requesting the Insurance Department's (Department) approval to increase the current monthly rates for the Individual 1990 Standardized Plan H with Rx Package by 11.36% and the Plan H without Rx Package by 13.29% effective January 1, 2011. This increase will impact approximately 1,478 members.

Unless formal administrative action is taken prior to December 2, 2010, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at [www.insurance.pa.gov](http://www.insurance.pa.gov). To access the filing, under "How to Find..." click on "View Current Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [jlaverty@state.pa.us](mailto:jlaverty@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

ROBERT L. PRATTER,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 10-1814. Filed for public inspection September 17, 2010, 9:00 a.m.]

**Capital BlueCross and Capital Advantage Insurance Company; Individual Direct Pay Comprehensive Major Medical Program; Rate Filing**

On September 2, 2010, Capital BlueCross and Capital Advantage Insurance Company submitted a rate filing (No. 10-KKK) to increase the premium rates for the Comprehensive Major Medical Program by 14.4%. This will affect approximately 5,489 contracts and produce additional premium income of about \$4.8 million annually. The requested effective date of the change is January 1, 2011.

In addition to the rate increase, the filing proposes the following benefit changes: (1) discontinue the \$750 deductible plan and transition these members to the \$1,500 deductible plan; (2) adopt benefit changes required by the Patient Protection and Affordable Care Act; and (3) other benefit changes.

Unless formal administrative action is taken prior to December 1, 2010, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) web site at [www.insurance.pa.gov](http://www.insurance.pa.gov). Under the tab "How to Find..." click on the link "View Current Rate Filings."

A copy of the filing is also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

Interested parties are invited to submit written or e-mail comments, suggestions or objections to Cheri Sanders-Jones, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [csandersjo@state.pa.us](mailto:csandersjo@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

ROBERT L. PRATTER,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 10-1815. Filed for public inspection September 17, 2010, 9:00 a.m.]

**Capital Blue Cross; Rate Increase Filing for the Individual 1990 Standardized Medicare Supplement Program**

By filing 10-KKKK, Capital Blue Cross is requesting the Insurance Department's (Department) approval to increase the current monthly rates for the Individual 1990 Standardized Plan A Package by 12.5% effective January 1, 2011. This increase will impact approximately 491 members.

Unless formal administrative action is taken prior to December 2, 2010, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at [www.insurance.pa.gov](http://www.insurance.pa.gov). To access the filing, under "How to Find..." click on "View Current Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation,

tion, 1311 Strawberry Square, Harrisburg, PA 17120, jlavery@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

ROBERT L. PRATTER,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 10-1816. Filed for public inspection September 17, 2010, 9:00 a.m.]

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**Capital Blue Cross; Rate Increase Filing for the Individual 1990 Standardized Medicare Supplement Program**

By filing 10-LLLL, Capital Blue Cross is requesting the Insurance Department's (Department) approval to increase the current monthly rates for the Individual 1990 Standardized Plan B Package by 9.74% effective January 1, 2011. This increase will impact approximately 7,174 members.

Unless formal administrative action is taken prior to December 2, 2010, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at [www.insurance.pa.gov](http://www.insurance.pa.gov). To access the filing, under "How to Find..." click on "View Current Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, jlavery@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

ROBERT L. PRATTER,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 10-1817. Filed for public inspection September 17, 2010, 9:00 a.m.]

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**Capital Blue Cross; Rate Increase Filing for the Individual 1990 Standardized Medicare Supplement Program**

By filing 10-MMMM, Capital Blue Cross is requesting the Insurance Department's (Department) approval to increase the current monthly rates for the Individual 1990 Standardized Plan C Package by 13.99% effective January 1, 2011. This increase will impact approximately 18,933 members.

Unless formal administrative action is taken prior to December 2, 2010, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at [www.insurance.pa.gov](http://www.insurance.pa.gov). To access the filing, under "How to Find..." click on "View Current Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regula-

tion, 1311 Strawberry Square, Harrisburg, PA 17120, jlavery@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

ROBERT L. PRATTER,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 10-1818. Filed for public inspection September 17, 2010, 9:00 a.m.]

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**Capital Blue Cross; Rate Increase Filing for the Individual 1990 Standardized Medicare Supplement Program**

By filing 10-NNNN, Capital Blue Cross is requesting the Insurance Department's (Department) approval to increase the current monthly rates for the Individual 1990 Standardized Plan F Package by 13.4% effective January 1, 2011. This increase will impact approximately 1,598 members.

Unless formal administrative action is taken prior to December 2, 2010, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at [www.insurance.pa.gov](http://www.insurance.pa.gov). To access the filing, under "How to Find..." click on "View Current Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, jlavery@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

ROBERT L. PRATTER,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 10-1819. Filed for public inspection September 17, 2010, 9:00 a.m.]

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**Capital Blue Cross; Rate Increase Filing for the Individual 1990 Standardized Medicare Supplement Program**

By filing 10-OOOO, Capital Blue Cross is requesting the Insurance Department's (Department) approval to increase the current monthly rates for the Individual 1990 Standardized Plan H with Rx Package by 11.36% and the Plan H without Rx Package by 13.29% effective January 1, 2011. This increase will impact approximately 1,478 members.

Unless formal administrative action is taken prior to December 2, 2010, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at [www.insurance.pa.gov](http://www.insurance.pa.gov). To access the filing, under "How to Find..." click on "View Current Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actu-

ary, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, jlaverty@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

ROBERT L. PRATTER,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 10-1820. Filed for public inspection September 17, 2010, 9:00 a.m.]

### **Geisinger Quality Options; Patient Protection and Affordable Care Act Factors Filing for Individual PPO; Rate Filing**

On August 20, 2010, the Insurance Department (Department) received a filing from Geisinger Quality Options, Inc. requesting approval to adjust its Individual PPO rates to reflect the anticipated cost of the Patient Protection and Affordable Care Act, signed into law on March 23, 2010.

The requested effective date of the change is October 1, 2010, or upon contract renewal.

Unless formal administrative action is taken prior to November 25, 2010, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at [www.insurance.pa.gov](http://www.insurance.pa.gov). To access the filing, under "How to Find..." click on "View Current Rate Filings."

A copy of the filing is also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

Interested parties are invited to submit written or e-mail comments, suggestions or objections to J. Sabater, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, jsabater@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

ROBERT L. PRATTER,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 10-1821. Filed for public inspection September 17, 2010, 9:00 a.m.]

### **Mennonite Mutual Aid Association; Patient Protection and Affordable Care Act Rates Filing for Non-Grandfathered Plans**

On September 1, 2010, the Insurance Department (Department) received a filing from the Mennonite Mutual Aid Association requesting approval to adjust its Team Care Advantage health product rates to reflect the anticipated cost of the Patient Protection and Affordable Care Act, signed into law on March 23, 2010.

The requested effective date of the change is September 23, 2010.

Unless formal administrative action is taken prior to November 25, 2010, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at [www.insurance.pa.gov](http://www.insurance.pa.gov). To access the filing, under "How to Find..." click on "View Current Rate Filings."

A copy of the filing is also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

Interested parties are invited to submit written or e-mail comments, suggestions or objections to J. Sabater, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, jsabater@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

ROBERT L. PRATTER,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 10-1822. Filed for public inspection September 17, 2010, 9:00 a.m.]

### **PMSLIC Insurance Company Rate and Rule Filing**

On September 2, 2010, the Insurance Department (Department) received from PMSLIC Insurance Company a filing for rate level changes for Physicians and Surgeons Professional Liability insurance. The company requests an overall rate level decrease of 5.0% to be effective January 1, 2011. The filing includes the following revisions:

- Changes to manual base rates.
- Changes to territory relativities.
- Changes to the Experience Rating Plan.

Unless formal administrative action is taken prior to October 17, 2010, the rates within the subject filing may be deemed into use upon the effective date, January 1, 2011, by operation of law.

A copy of the filing is available on the Department's web site at [www.insurance.pa.gov](http://www.insurance.pa.gov). To access the filing, under "How to Find..." click on "View Current Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to Gang (Eric) Zhou, Insurance Department, Office of Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, gzhou@state.pa.us within 15 days after publication of this notice in the *Pennsylvania Bulletin*.

ROBERT L. PRATTER,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 10-1823. Filed for public inspection September 17, 2010, 9:00 a.m.]

### **Progressive Advanced Insurance Company; Private Passenger Automobile; Usage Based Insurance Program; Rate and Rule Filing**

On August 31, 2010, the Insurance Department (Department) received from Progressive Advanced Insurance Company a private passenger automobile rate and rule filing to introduce its Usage Based Insurance Program.

At the insured's request, the company will provide a device that plugs into the on-board diagnostic port found on all vehicles sold in the United States since model year 1996. The device records vehicle information including, but not limited to, the date and time of installation and disconnection, and the time of day and speed at which the vehicle is operated. A usage factor is derived from the

vehicle information data recorded by the device and applied to the policy's premium. Effective dates of November 1, 2010, for new business and December 11, 2010, for renewal business are requested.

Unless formal administrative action is taken prior to October 30, 2010, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at [www.insurance.pa.gov](http://www.insurance.pa.gov). To access the filing, under "How to Find..." click on "View Current Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to Michael McKenney, Insurance Department, Office of Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [mmckenney@state.pa.us](mailto:mmckenney@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

ROBERT L. PRATTER,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 10-1824. Filed for public inspection September 17, 2010, 9:00 a.m.]

## LEGISLATIVE REFERENCE BUREAU

### Documents Filed But Not Published

The Legislative Reference Bureau (Bureau) accepted the following documents during the preceding calendar month for filing without publication under 1 Pa. Code § 3.13(b) (relating to contents of *Bulletin*). The Bureau will continue to publish on a monthly basis either a summary table identifying the documents accepted during the preceding calendar month under this subsection or a statement that no documents have been received. For questions concerning or copies of documents filed, but not published, call (717) 783-1530.

#### *Executive Board*

Resolution No. CB-10-006, Dated August 10, 2010. Authorizes the Collective Bargaining Agreement entered into between the Commonwealth and the Fraternal Order of Police, Fish and Boat Officers, for the period July 1, 2007 through June 30, 2012. The agreement provides for wage increases of 1.75% effective January 1, 2009; 1.5% effective July 1, 2009; 1.5% effective January 1, 2010.

Resolution No. CB-10-007, Dated August 10, 2010. Authorizes the memorandum of understanding entered into between the Commonwealth and the Fraternal Order of Police, Fish and Boat Officers for the period July 1, 2007 through June 30, 2012. The memorandum provides for wage increases of 1.75% effective January 1, 2009; 1.5% effective July 1, 2009; 1.5% effective January 1, 2010.

#### *Governor's Office*

Management Directive No. 230.7—Remittance of Witness Fees, Amended August 6, 2010.

Management Directive No. 505.18—Maintenance, Access, and Release of Employee Information, Amended July 26, 2010.

MARY JANE PHELPS,  
*Director*  
*Pennsylvania Code and Bulletin*

[Pa.B. Doc. No. 10-1825. Filed for public inspection September 17, 2010, 9:00 a.m.]

## MILK MARKETING BOARD

### Notice of Hearing and Presubmission Schedule; Milk Marketing Area No. 1

Under the Milk Marketing Law (31 P. S. §§ 700j-101—700j-1302), the Milk Marketing Board (Board) will conduct a public hearing for Milk Marketing Area No. 1 on November 3, 2010, commencing at 10 a.m. in Room 202 of the Agriculture Building, 2301 North Cameron Street, Harrisburg, PA.

The purpose of the hearing is to receive testimony and exhibits concerning cost replacement in Milk Marketing Area No. 1. Evidence will be limited to the following: annualized processing, packaging and delivery costs; updated costs for containers, ingredients and Class II products; updated labor, utility and insurance costs based on comparisons between costs per point for the second quarters of calendar years 2009 and 2010; skim and butterfat contents of products regulated by the Board; adjustment for shrinkage, sales of bulk products and cream processing costs; monthly adjustments to in-store handling costs; and a reasonable rate of return to milk dealers and stores. In accordance with OGO A-937, evidence and testimony will be considered regarding the heating fuel adjuster in Area 1. In accordance with OGO A-939, evidence and testimony will be considered regarding the diesel fuel cost adjuster in Area 1.

The staff of the Board is deemed to be a party to this hearing, and the attorney representing staff is deemed to have entered his appearance. Other persons who wish to present evidence may be included on the Board's list of parties by: (1) having their attorney file with the Board on or before 4 p.m. on October 5, 2010, a notice of appearance substantially in the form prescribed by 1 Pa. Code § 31.25 (relating to form of notice of appearance); or (2) if unrepresented by counsel, filing with the Board on or before 4 p.m. on October 5, 2010, notification of their desire to be included as a party. Parties should indicate in their notices of appearance if alternate means of service, that is, e-mail or fax, are acceptable. Notices of appearance filed electronically should be directed to [deberly@state.pa.us](mailto:deberly@state.pa.us).

The parties shall observe the following requirements for advance filing of witness information and exhibits:

1. By 4 p.m. on October 8, 2010, Board Staff shall file with the Board, in person or by mail, one original and six copies and ensure receipt by all other parties of one copy of:

a. A list of witnesses who will testify for the party, along with a statement of the subjects concerning which each witness will testify. A witness who will be offered as an expert shall be so identified, along with the witness's area or areas of proposed expertise. For expert witnesses there shall also be filed a statement of the substance of



the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

b. Each exhibit to be presented, including testimony to be offered in written form.

2. By 4 p.m. on October 21, 2010, each responding party shall file and serve as set forth in paragraph 1 information concerning rebuttal witnesses and copies of rebuttal exhibits.

3. By 4 p.m. on October 28, 2010, each party shall file and serve as set forth in paragraph 1 information concerning surrebuttal witnesses and copies of surrebuttal exhibits.

Parties that wish to offer in evidence documents on file with the Board, public documents, or records in other proceedings before the Board, or who wish the Board to take official notice of facts, shall comply with, respectively, 1 Pa. Code § 35.164, § 35.165, § 35.167, or § 35.173. Whenever these rules require production of a document as an exhibit, copies shall be provided to each Board member and to all other parties; in addition, at least 20 copies shall be available for distribution to nonparties attending the hearing.

Requests by parties for Board staff to provide data pertinent to the hearing shall be made in writing and received in the Board office by 1 p.m. on October 22, 2010.

The filing address for the Board is Milk Marketing Board, Room 110, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110.

KEITH BIERLY,  
*Secretary*

[Pa.B. Doc. No. 10-1826. Filed for public inspection September 17, 2010, 9:00 a.m.]

### Notice of Hearing and Presubmission Schedule; Milk Marketing Area No. 2

Under the Milk Marketing Law (31 P. S. §§ 700j-101—700j-1302), the Milk Marketing Board (Board) will conduct a public hearing for Milk Marketing Area No. 2 on November 3, 2010, commencing at 11 a.m. in Room 202 of the Agriculture Building, 2301 North Cameron Street, Harrisburg, PA.

The purpose of the hearing is to receive testimony and exhibits concerning cost replacement in Milk Marketing Area No. 2. Evidence will be limited to the following: annualized processing, packaging and delivery costs; updated costs for containers, ingredients and Class II products; updated labor, utility and insurance costs based on comparisons between costs per point for the second quarters of calendar years 2009 and 2010; skim and butterfat contents of products regulated by the Board; adjustment for shrinkage, sales of bulk products and cream processing costs; monthly adjustments to in-store handling costs; and a reasonable rate of return to milk dealers and stores. In accordance with OGO A-937, evidence and testimony will be considered regarding the heating fuel adjuster in Area 2. In accordance with OGO A-939, evidence and testimony will be considered regarding the diesel fuel cost adjuster in Area 2.

The staff of the Board is deemed to be a party to this hearing, and the attorney representing staff is deemed to have entered his appearance. Other persons who wish to present evidence may be included on the Board's list of parties by: (1) having their attorney file with the Board on or before 4 p.m. on October 5, 2010, a notice of appearance substantially in the form prescribed by 1 Pa. Code § 31.25 (relating to form of notice of appearance); or (2) if unrepresented by counsel, filing with the Board on or before 4 p.m. on October 5, 2010, notification of their desire to be included as a party. Parties should indicate in their notices of appearance if alternate means of service, that is, e-mail or fax, are acceptable. Notices of appearance filed electronically should be directed to [deberly@state.pa.us](mailto:deberly@state.pa.us).

The parties shall observe the following requirements for advance filing of witness information and exhibits:

1. By 4 p.m. on October 8, 2010, Board Staff shall file with the Board, in person or by mail, one original and six copies and ensure receipt by all other parties of one copy of:

a. A list of witnesses who will testify for the party, along with a statement of the subjects concerning which each witness will testify. A witness who will be offered as an expert shall be so identified, along with the witness's area or areas of proposed expertise. For expert witnesses there shall also be filed a statement of the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

b. Each exhibit to be presented, including testimony to be offered in written form.

2. By 4 p.m. on October 21, 2010, each responding party shall file and serve as set forth in paragraph 1 information concerning rebuttal witnesses and copies of rebuttal exhibits.

3. By 4 p.m. on October 28, 2010, each party shall file and serve as set forth in paragraph 1 information concerning surrebuttal witnesses and copies of surrebuttal exhibits.

Parties that wish to offer in evidence documents on file with the Board, public documents, or records in other proceedings before the Board, or who wish the Board to take official notice of facts, shall comply with, respectively, 1 Pa. Code § 35.164, § 35.165, § 35.167 or § 35.173. Whenever these rules require production of a document as an exhibit, copies shall be provided to each Board member and to all other parties; in addition, at least 20 copies shall be available for distribution to nonparties attending the hearing.

Requests by parties for Board staff to provide data pertinent to the hearing shall be made in writing and received in the Board office by 1 p.m. on October 22, 2010.

The filing address for the Board is Milk Marketing Board, Room 110, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110.

KEITH BIERLY,  
*Secretary*

[Pa.B. Doc. No. 10-1827. Filed for public inspection September 17, 2010, 9:00 a.m.]

# PENNSYLVANIA PUBLIC UTILITY COMMISSION

## Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by October 27, 2010. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

### Application of the following for approval to *begin operating as common carriers for transportation of persons as described under the application.*

**A-2010-2195771. Shirley A. Rice** (411 Berky Hill Lane, Ickesburg, Perry County, PA 17037), for the right to begin to transport persons, in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in Perry County, to points in Pennsylvania, and return.

*Pennsylvania Public Utility Commission, Bureau of  
Transportation and Safety v. Yannis Cab Co.;  
Doc. No. C-2010-2135198, A-00120932*

### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Yannis Cab Co., Respondent, maintains a principal place of business at 918 Canal Street, Philadelphia, PA 19123.
2. That Respondent was issued a Certificate of Public Convenience by this Commission on August 30, 2004, at A-00120932.
3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.
4. That Respondent was advised by letter dated September 11, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable

tariff. To date, Respondent has not filed an acceptable tariff. The penalty is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Yannis Cab Co., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

### VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement  
Bureau of Transportation and Safety

### NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. Each day you continue to violate any regulation, direction, requirement or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this complaint by filing an acceptable tariff and by paying the fine proposed in this Complaint by certified check or money order. The tariff must be filed with the:

Compliance Office, Bureau of Transportation and Safety  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

The fine payment must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta  
 Pennsylvania Public Utility Commission  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of an acceptable tariff and payment of the proposed fine, the complaint proceeding shall be closed.

D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of  
 Transportation and Safety v. Rizvi Enterprises, Inc.;*  
*Doc. No. C-2010-2132476, A-00113326*

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Rizvi Enterprises, Inc., Respondent, maintains a principal place of business at 3807 State Road, Drexel Hill, PA 19026.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on March 9, 1999, at A-00113326.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 11, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The penalty is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Rizvi Enterprises, Inc., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
 Motor Carrier Services & Enforcement Division  
 Bureau of Transportation and Safety  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

#### VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
 Motor Carrier Services and Enforcement  
 Bureau of Transportation and Safety

#### NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

Rosemary Chiavetta, Secretary  
 Pennsylvania Public Utility Commission  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. Each day you continue to violate any regulation, direction, requirement or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this complaint by filing an acceptable tariff and by paying the fine proposed in this Complaint by certified check or money order. The tariff must be filed with the:

Compliance Office, Bureau of Transportation and Safety  
 Pennsylvania Public Utility Commission  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

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Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of an acceptable tariff and payment of the proposed fine, the complaint proceeding shall be closed.

D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of  
Transportation and Safety v. Desh United Corp.;  
Doc. No. C-2010-2129820, A-00120509*

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Desh United Corp., Respondent, maintains a principal place of business at 1 Fern Road, Turnersville, NJ 08012.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on May 5, 1992, at A-00120509.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated August 31, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The penalty is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Desh United Corp., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

#### VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts

above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement  
Bureau of Transportation and Safety

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Harrisburg, PA 17105-3265

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and Safety  
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D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint

(for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of  
Transportation and Safety v. Laobina, Inc.;*  
*Doc. No. C-2010-2131235, A-00120641*

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Laobina, Inc., Respondent, maintains a principal place of business at 10817 Academy Road, Philadelphia, PA 19154.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on June 3, 2004, at A-00120641.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 4, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The penalty is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Laobina, Inc., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

#### VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement  
Bureau of Transportation and Safety

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Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

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C. You may elect not to contest this complaint by filing an acceptable tariff and by paying the fine proposed in this Complaint by certified check or money order. The tariff must be filed with the:

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Pennsylvania Public Utility Commission  
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Harrisburg, PA 17105-3265

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E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of  
Transportation and Safety v. Jones Cab Co.;*  
*Doc. No. C-2010-2131184, A-00109806*

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has del-

egated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Jones Cab, Co., Respondent, maintains a principal place of business at 1253 South 49th Street, Philadelphia, PA 19143.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on July 3, 1991, at A-00109806.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 4, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The penalty is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Jones Cab Co., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

#### VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement  
Bureau of Transportation and Safety

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Pennsylvania Public Utility Commission  
P. O. Box 3265  
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Harrisburg, PA 17105-3265

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D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of  
Transportation and Safety v. A D Cab Co.;*  
*Doc. No. C-2010-2133709, A-00113233*

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That A. D. Cab Co., Respondent, maintains a principal place of business at 5803 North 13th Street, Philadelphia, PA 19141.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on October 3, 1996, at A-00113233.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 11, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The penalty is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine A. D. Cab Co., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

#### VERIFICATION

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Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement  
Bureau of Transportation and Safety

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*Pennsylvania Public Utility Commission, Bureau of  
Transportation and Safety v. J & E Cab Co.;*  
*Doc. No. C-2010-2131190, A-00111118*

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That J & E Cab, Co., Respondent, maintains a principal place of business at 29 South Carol Boulevard, Upper Darby, PA 19082

2. That Respondent was issued a Certificate of Public Convenience by this Commission on August 30, 2002, at A-00111118.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 4, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The penalty is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine J & E Cab Co., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

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Date: \_\_\_\_\_

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Motor Carrier Services and Enforcement  
Bureau of Transportation and Safety

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ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1828. Filed for public inspection September 17, 2010, 9:00 a.m.]

#### **Transfer of Control**

**A-2010-2196709. Fiber Technologies Networks, LLC and Firefox Acquisition Corporation.** Joint application of Fiber Technologies Networks, LLC and Firefox Acquisition Corporation for approval of a transfer of control.

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 October 4, 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, on the Pennsylvania Public Utility Commission's web site at [www.puc.state.pa.us](http://www.puc.state.pa.us) and at the applicant's business address.

*Applicant:* Fiber Technologies Networks, LLC

*Through and By Counsel:* Jean L. Kiddoo, Esquire, Charles A. Rohe, Esquire, Danielle Burt, Esquire, Bingham McCutchen, LLP, 2020 K Street, NW, Washington, DC 20006-1806

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1829. Filed for public inspection September 17, 2010, 9:00 a.m.]



### Transfer of Control

**A-2010-2197058. Inmate Calling Solutions, LLC, d/b/a ICSolutions.** Application of Inmate Calling Solutions, LLC, d/b/a ICSolutions for authority to transfer control.

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 October 4, 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, on the Pennsylvania Public Utility Commission's web site at [www.puc.state.pa.us](http://www.puc.state.pa.us), and at the applicant's business address.

*Applicant:* Inmate Calling Solutions, LLC, d/b/a ICSolutions

*Through:* Robin Norton, Consultant, Technologies Management, Inc., 2600 Maitland Center Parkway, Suite 300, Maitland, FL 32751

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1830. Filed for public inspection September 17, 2010, 9:00 a.m.]

## PHILADELPHIA REGIONAL PORT AUTHORITY

### Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept bids for the Installation of Prefab Guard House at Marine Terminal (concrete, blacktop, plumbing, electrical, automated gates and fencing) for Project No. 10-112.P until 2 p.m. on Thursday, October 14, 2010. All information concerning this project can be obtained from the PRPA web site [www.philaport.com](http://www.philaport.com) under Procurement and will be available Tuesday, September 21, 2010. PRPA is an equal opportunity employer. Firms must comply with all applicable equal employment opportunity laws and regulations.

Mandatory prebid job site meeting will be held September 30, 2010, 10 a.m. at Pier 98 Annex—East Oregon Avenue, Philadelphia, PA 19148. Bidders must provide to the Procurement Department in writing (24 hours prior to the meeting), the names of individuals that will be attending. Fax to (215) 426-6800, Attn: Procurement Department.

JAMES T. McDERMOTT, Jr.,  
*Executive Director*

[Pa.B. Doc. No. 10-1831. Filed for public inspection September 17, 2010, 9:00 a.m.]