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# PENNSYLVANIA BULLETIN

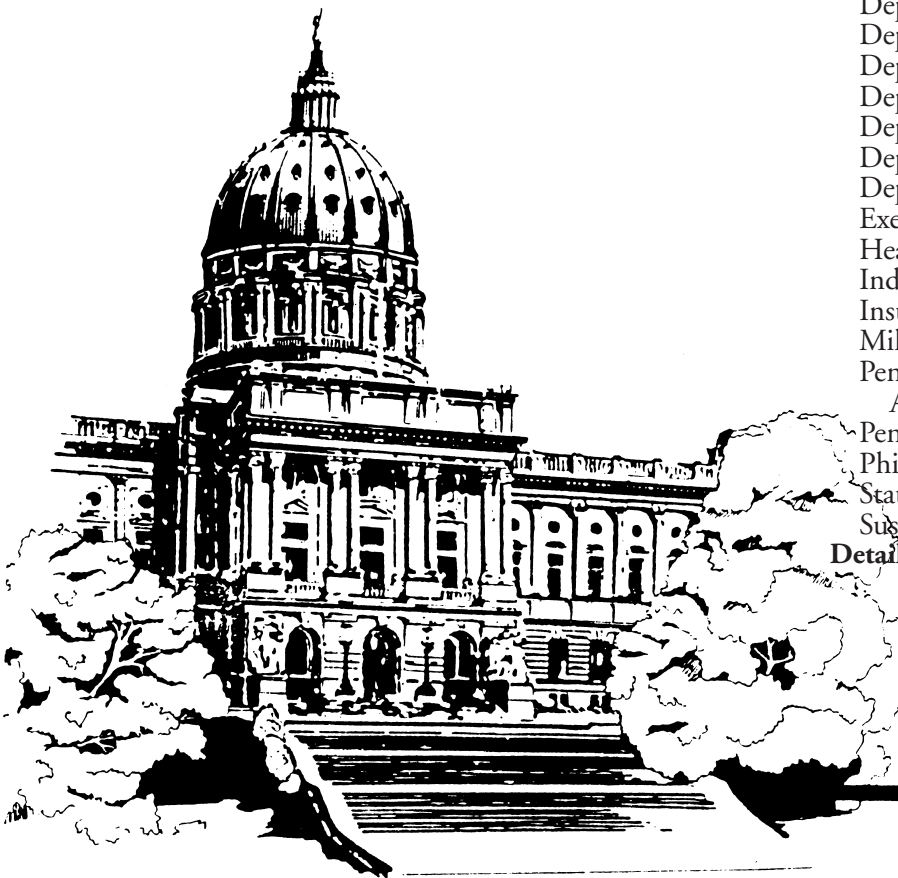
Volume 40  
Saturday, November 27, 2010 • Harrisburg, PA  
Number 48  
Pages 6763—6922

See Part II page 6903  
for the Department of Agriculture's  
Commercial Kennel Canine  
Health Regulation

## Part I

### Agencies in this issue

The General Assembly  
The Courts  
Delaware River Basin Commission  
Department of Agriculture  
Department of Banking  
Department of Education  
Department of Environmental Protection  
Department of Health  
Department of Public Welfare  
Department of Revenue  
Department of State  
Executive Board  
Health Care Cost Containment Council  
Independent Regulatory Review Commission  
Insurance Department  
Milk Marketing Board  
Pennsylvania Intergovernmental Cooperation  
Authority  
Pennsylvania Public Utility Commission  
Philadelphia Regional Port Authority  
State Board of Nursing  
Susquehanna River Basin Commission  
**Detailed list of contents appears inside.**



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

**No. 432, November 2010**

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# CONTENTS

## THE GENERAL ASSEMBLY

Cost-of-living factor under the Public Official Compensation Law ..... 6773

### COMMISSION ON SENTENCING

Meetings scheduled ..... 6773

## THE COURTS

### JUDICIAL SYSTEM GENERAL PROVISIONS

Amendments to the rules of disciplinary enforcement and the Disciplinary Board rules relating to grounds for discipline and notification to respondent-attorney of complaint and duty to respond ..... 6775

Promulgation of consumer price index pursuant to 42 Pa.C.S. 1725.1(f) and 3571(c)(4); no. 358 judicial administration doc. .... 6777

Promulgation of financial regulations pursuant to 42 Pa.C.S. 3502(a); no. 357 judicial administration doc. .... 6774

### LOCAL COURT RULES

#### Bucks County

Drug court supervision fee assessment; administrative order no. 62 ..... 6778

#### Crawford County

In the matter of the adoption of a local court rule for setting fee schedule for public access of official case records in the magisterial district courts; MD AD 2010 1890 ..... 6778

#### Dauphin County

Booking center fee; AO-26-2010; no. 0010-18-MD-2010 ..... 6778

### SUPREME COURT

Establishment of the eighth emergency regional administrative unit and authorizing the temporary assignment of active judges and magisterial judges from the 1st, 7th, 15th, 32nd and 38th judicial districts in the event of an emergency; no. 356 judicial administration doc. .... 6781

Establishment of the fifth emergency regional administrative unit and authorizing the temporary assignment of active judges and magisterial judges from the 11th, 22nd, 34th, 43rd, 44th, 45th, 56th and 60th judicial districts in the event of an emergency; no. 353 judicial administration doc. .... 6780

Establishment of the first emergency regional administrative unit and authorizing the temporary assignment of active judges and magisterial judges from the 4th, 8th, 17th, 26th, 29th, 42nd and 55th judicial districts in the event of an emergency; no. 349 judicial administration doc. . 6779

Establishment of the fourth emergency regional administrative unit and authorizing the temporary assignment of active judges and magisterial judges from the 9th, 19th, 39th, 41st, 51st and 57th judicial districts in the event of an emergency; no. 352 judicial administration doc. .... 6780

Establishment of the second emergency regional administrative unit and authorizing the temporary assignment of active judges and magisterial judges from the 20th, 24th, 25th, 40th, 46th, 47th, 49th and 58th judicial districts in the event of an emergency; no. 350 judicial administration doc. . 6779

Establishment of the seventh emergency regional administrative unit and authorizing the temporary assignment of active judges and magisterial judges from the 2nd, 3rd, 12th, 21st, 23rd, 31st and 52nd judicial districts in the event of an emergency; no. 355 judicial administration doc. . 6780

Establishment of the sixth emergency regional administrative unit and authorizing the temporary assignment of active judges and magisterial judges from the 5th, 10th, 13th, 14th, 16th, 27th, 36th, 50th and 53rd judicial districts in the event of an emergency; no. 354 judicial administration doc. .... 6780

Establishment of the third emergency regional administrative unit and authorizing the temporary assignment of active judges and magisterial judges from the 6th, 18th, 28th, 30th, 33rd, 35th, 37th, 48th, 54th and 59th judicial districts in the event of an emergency; no. 351 judicial administration doc. .... 6779

## EXECUTIVE AGENCIES

### DELAWARE RIVER BASIN COMMISSION

#### Notices

Meeting and public hearing ..... 6793

### DEPARTMENT OF AGRICULTURE

#### Rules and Regulations

Commercial kennel canine health regulation ..... 6903

### DEPARTMENT OF BANKING

#### Notices

Actions on applications ..... 6795

### DEPARTMENT OF EDUCATION

#### Notices

Eligible partnerships, Postsecondary Grant Application; guidelines for assistance for regular and special education, mathematics, science, English/language arts, social studies, art/music and foreign languages teachers ..... 6796

### DEPARTMENT OF ENVIRONMENTAL PROTECTION

#### Notices

Applications, actions and special notices ..... 6797

Availability of technical guidance ..... 6844

Coal and Clay Mine Subsidence Insurance Board; meeting change ..... 6844

Storage Tank Advisory Committee meeting cancellation ..... 6845

---

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---

**DEPARTMENT OF HEALTH****Notices**

Long term-care nursing facilities; request for exception .....	6845
Recognized lifeguard certifying authorities for 2011 .....	6845

**DEPARTMENT OF PUBLIC WELFARE****Rules and Regulations**

Nonpublic and county nursing facilities .....	6782
---	------

**Notices**

Additional class of disproportionate share payments to qualifying teaching hospitals .....	6845
Changes to an additional class of disproportionate share payments .....	6846
Pharmacy prior authorization .....	6846

**DEPARTMENT OF REVENUE****Notices**

Mega Millions® terminal-based lottery game; change to game rules .....	6846
--	------

**DEPARTMENT OF STATE****Notices**

Corporation Bureau; official forms .....	6847
--	------

**EXECUTIVE BOARD****Statements of Policy**

Reorganization of the Department of Conservation and Natural Resources .....	6791
--	------

**HEALTH CARE COST CONTAINMENT COUNCIL****Notices**

Meeting scheduled .....	6883
-------------------------	------

**INDEPENDENT REGULATORY REVIEW COMMISSION****Notices**

Notice of comments issued .....	6883
---------------------------------	------

**INSURANCE DEPARTMENT****Notices**

Application for the merger of Capital City Insurance Company, Inc. with and into North Pointe Insurance Company .....	6884
---	------

Pennsylvania Contributionship Insurance Company; homeowners program; rate revision; rate filing ..	6885
Review procedure hearings under the Unfair Insurance Practices Act (2 documents) .....	6885
Transamerica Life Insurance Company; rate increase filing for several long-term care policies ..	6886

**MILK MARKETING BOARD****Proposed rulemaking**

Public hearing on proposed amendments to 7 Pa. Code Chapter 150—milk marketing fees ...	6790
---	------

**PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY****Notices**

Financial statement .....	6886
---------------------------	------

**PENNSYLVANIA PUBLIC UTILITY COMMISSION****Notices**

Change in control .....	6892
Corporate restructuring .....	6892
Pipeline assets .....	6892
Service of notice of motor carrier applications ....	6892
Wastewater service .....	6895

**PHILADELPHIA REGIONAL PORT AUTHORITY****Notices**

Condensed statement of changes in net assets ....	6896
---	------

**STATE BOARD OF NURSING****Notices**

Bureau of Professional and Occupational Affairs vs. Angela Cornelis O'Dell, LPN; Doc. No. 1594-51-09 .....	6896
--	------

**SUSQUEHANNA RIVER BASIN COMMISSION****Notices**

Projects approved for consumptive uses of water ..	6896
Public hearing and meeting .....	6899

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

## *Pennsylvania Bulletin*

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

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

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

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

### **Adoption, Amendment or Repeal of Regulations**

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

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

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

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

### **Citation to the *Pennsylvania Bulletin***

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

### ***Pennsylvania Code***

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

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

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

### **How to Find Documents**

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

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

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

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#### **Printing Format**

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

#### **Fiscal Notes**

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

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

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# List of Pa. Code Chapters Affected

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

## 1 Pa. Code (General Provisions)

### Proposed Rules

1 ..... 4392

## 4 Pa. Code (Administration)

### Adopted Rules

1 ..... 8, 2513, 6637  
 5 ..... 11, 398  
 6 ..... 12, 212, 399, 3078, 4630, 4908  
 7a ..... 14, 16, 6071, 6074  
 241 ..... 971  
 247 ..... 972, 973, 4926  
 249 ..... 2015

### Proposed Rules

249 ..... 3859

### Statements of Policy

1 ..... 4287  
 9 ..... 888, 1406, 1926, 2135, 2287, 2979, 3361, 3672,  
           3866, 4394, 4650, 5476, 6154, 6413, 6791  
 165 ..... 4396

## 7 Pa. Code (Agriculture)

### Adopted Rules

28 ..... 6903  
 28a ..... 6903

### Proposed Rules

143 ..... 3127  
 150 ..... 6790

### Statements of Policy

28b ..... 4304

## 10 Pa. Code (Banks and Banking)

### Adopted Rules

3 ..... 2939  
 44 ..... 2940

### Statements of Policy

47 ..... 3868  
 49 ..... 3869

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

### Adopted Rules

145 ..... 2421

### Proposed Rules

36 ..... 5816

### Statements of Policy

123 ..... 2772

## 22 Pa. Code (Education)

### Adopted Rules

4 ..... 240, 5903  
 405 ..... 2940

## 25 Pa. Code (Environmental Protection)

### Adopted Rules

92a ..... 5767  
 93 ..... 1734  
 95 ..... 4835

96 ..... 5790  
 102 ..... 4861, 5294  
 121 ..... 3328, 5571, 6646  
 123 ..... 5571, 6517  
 129 ..... 3328, 5132, 6646  
 145 ..... 3346  
 252 ..... 1898  
 253 ..... 6654  
 261a ..... 5139  
 301 ..... 5294, 5454  
 302 ..... 5294, 5454  
 303 ..... 5294, 5454  
 305 ..... 5294, 5454  
 806 ..... 6399  
 808 ..... 6399

### Proposed Rules

23 ..... 1635  
 77 ..... 4963  
 78 ..... 623, 3845, 4154  
 86 ..... 2373, 2425  
 87 ..... 2373  
 88 ..... 2373  
 89 ..... 2373  
 90 ..... 2373  
 92 ..... 847  
 92a ..... 847  
 93 ..... 2211, 2264, 5337  
 96 ..... 876  
 105 ..... 2211  
 121 ..... 703, 5456  
 123 ..... 5456  
 127 ..... 703  
 129 ..... 420  
 139 ..... 5456  
 208 ..... 1749, 3836  
 250 ..... 1297  
 253 ..... 1379  
 806 ..... 3860  
 808 ..... 3860  
 901 ..... 1201, 4278

## 28 Pa. Code (Health and Safety)

### Adopted Rules

23 ..... 2747  
 27 ..... 2747  
 211 ..... 5578

## 31 Pa. Code (Insurance)

### Adopted Rules

160 ..... 6661

### Proposed Rules

84b ..... 5066  
 84c ..... 5069  
 84d ..... 5067  
 118a ..... 4966  
 160 ..... 2976

## 34 Pa. Code (Labor and Industry)

### Adopted Rules

13 ..... 4927  
 125 ..... 5147



**Proposed Rules**

61 ..... 2639  
 63 ..... 5179  
 65 ..... 2643

**37 Pa. Code (Law)**

**Adopted Rules**

93 ..... 2759

**40 Pa. Code (Liquor)**

**Adopted Rules**

1 ..... 1149  
 3 ..... 1149  
 5 ..... 1149, 3494, 4254  
 7 ..... 1149  
 11 ..... 1149  
 13 ..... 1149  
 17 ..... 1149

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

**Adopted Rules**

15 ..... 5808  
 16 ..... 250  
 18 ..... 250  
 21 ..... 3944, 4755  
 25 ..... 1404  
 27 ..... 842  
 29 ..... 5805  
 31 ..... 3952, 4757  
 33 ..... 1082, 2532  
 35 ..... 4759  
 36 ..... 3956, 4254  
 39 ..... 3090, 3092  
 40 ..... 6265  
 41 ..... 2947  
 43b ..... 6663, 6664  
 47 ..... 5320  
 48 ..... 5320  
 49 ..... 5320

**Proposed Rules**

5 ..... 1641, 2128  
 6 ..... 3041  
 15 ..... 623  
 16 ..... 884, 2652  
 18 ..... 884, 2652  
 20 ..... 2428  
 21 ..... 2276  
 25 ..... 2660  
 29 ..... 440  
 31 ..... 4154, 4970  
 35 ..... 2281, 5195  
 43b ..... 2263, 2423, 5175  
 47 ..... 2131  
 48 ..... 2131  
 49 ..... 2131

**Statements of Policy**

5 ..... 1534  
 43b ..... 5478

**51 Pa. Code (Public Officers)**

**Adopted Rules**

53 ..... 3825

**52 Pa. Code (Public Utilities)**

**Adopted Rules**

63 ..... 4254

**Proposed Rules**

23 ..... 1531  
 54 ..... 1763, 1764, 2267, 3669

57 ..... 1203, 1635  
 59 ..... 1203  
 62 ..... 1764  
 63 ..... 5819  
 64 ..... 3499  
 65 ..... 1203  
 67 ..... 1203  
 76 ..... 1764

**Statements of Policy**

69 ..... 1210, 2289, 2443, 2668, 5586, 6157

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

**Adopted Rules**

108 ..... 2762  
 165 ..... 6665  
 187 ..... 2762  
 501 ..... 29  
 1187 ..... 6782  
 1189 ..... 6782  
 2380 ..... 4935  
 2390 ..... 4935  
 2800 ..... 4073  
 6400 ..... 4935  
 6500 ..... 4935

**Proposed Rules**

23 ..... 6109  
 165 ..... 2111  
 1187 ..... 6405, 6525  
 1189 ..... 6405, 6525  
 3270 ..... 3527  
 3280 ..... 3527  
 3290 ..... 3527  
 3800 ..... 6109  
 5230 ..... 6101  
 5310 ..... 6109

**Statement of Policy**

1101 ..... 3963  
 1102 ..... 3963  
 1121 ..... 3963  
 1123 ..... 3963  
 1149 ..... 3963  
 1151 ..... 3963  
 1153 ..... 1644  
 1163 ..... 3963  
 1181 ..... 3963  
 1187 ..... 1766, 3963  
 1230 ..... 3963  
 1243 ..... 3963  
 2380 ..... 1644  
 2390 ..... 4974  
 2600 ..... 1411, 5345  
 5200 ..... 1644  
 5210 ..... 1644  
 6400 ..... 1644  
 6500 ..... 1644

**58 Pa. Code (Recreation)**

**Adopted Rules**

61 ..... 254, 3663  
 65 ..... 3663  
 69 ..... 6082  
 73 ..... 257  
 75 ..... 620, 1500, 3664  
 79 ..... 1500  
 111 ..... 1503  
 131 ..... 4386  
 135 ..... 3095  
 137 ..... 1736



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

**Proposed Rules**

ART. I ..... 3325

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

**Adopted Rules**

200 ..... 19, 518, 1395, 1490  
 1000 ..... 1395  
 1910 ..... 413, 586, 4140, 4634  
 1915 ..... 3492, 4140, 4634  
 1920 ..... 4140  
 3000 ..... 19, 700, 2243, 4635

**Proposed Rules**

200 ..... 2242, 6259  
 1915 ..... 6512  
 3000 ..... 413, 1892

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

**Adopted Rules**

1 ..... 1396  
 2 ..... 1397  
 5 ..... 1068, 1397, 5900  
 10 ..... 1068, 2012

**Proposed Rules**

1 ..... 2397, 2517, 2519, 4143, 4636  
 2 ..... 2394  
 4 ..... 2519  
 5 ..... 21, 4636  
 8 ..... 2397  
 9 ..... 4147  
 10 ..... 4150  
 11 ..... 4143

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

**Adopted Rules**

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

**Proposed Rules**

1 ..... 2245, 4742, 4910, 5562  
 2 ..... 4646  
 3 ..... 4646, 4742  
 4 ..... 4910  
 8 ..... 4742, 4910  
 11 ..... 2245  
 15 ..... 2245  
 16 ..... 2245

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

**Adopted Rules**

100 ..... 1146

**Proposed Rules**

300 ..... 5566  
 500 ..... 522, 5566

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

Unclassified .... 237, 1075, 1629, 1730, 2013, 3326, 4917, 6390

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

Unclassified ..... 838, 1399, 2934, 6641

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

Unclassified ..... 23, 24, 237, 238, 414, 415, 523, 701, 702, 838, 840, 969, 1079, 1080, 1147, 1403, 1490, 1498, 1629, 1630, 1632, 1633, 1730, 1731, 1732, 1733, 1893, 1896, 1897, 2014, 2254, 2257, 2414, 2416, 2418, 2419, 2420, 2531, 2635, 2636, 2742, 2743, 2745, 2934, 2935, 2938, 3083, 3087, 3089, 3327, 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, 5453, 5567, 5568, 5569, 5570, 5762, 5764, 6079, 6080, 6259, 6260, 6261, 6262, 6397, 6515, 6516, 6641, 6643, 6645, 6778

# THE GENERAL ASSEMBLY

## Cost-of-Living Factor Under the Public Official Compensation Law

Under section 4(d) of the Public Official Compensation Law (Act 72 of 2005), for the 12-month period beginning December 1, 2010, through November 30, 2011, the salary of the members of the General Assembly shall be increased by a cost-of-living factor which is determined by increasing the amount of the salary by the percentage change in the Consumer Price Index for all Urban Consumers (CPI-U) for the Pennsylvania, New Jersey, Delaware and Maryland area, officially reported by the United States Department of Labor, Bureau of Labor Statistics for the period of November 1, 2009, through October 31, 2010.

The percentage increase and the new salary amount have been determined jointly by the Chief Clerk of the Senate and the Chief Clerk of the House of Representatives as follows:

The CPI-U for the period November 1, 2009, through October 31, 2010, increased by 1.6709%. Therefore, the salary for legislators for the period beginning December 1, 2010, through November 30, 2011, will be \$79,623.23.

Under section 4(d.1) of the Act 72 of 2005, for the 12-month period beginning December 1, 2010, through November 30, 2011, the additional compensation of the officers and leaders of the General Assembly shall be increased by a cost-of-living factor which is determined by increasing the amount of the salary by the percentage change in the CPI-U for the Pennsylvania, New Jersey, Delaware and Maryland area, officially reported by the United States Department of Labor, Bureau of Labor Statistics for the period from November 1, 2009, through October 31, 2010.

The percentage change and the new compensation amounts have been determined jointly by the Chief Clerk of the Senate and the Chief Clerk of the House of Representatives as follows:

<i>Leadership Position</i>	<i>% Increase</i>	<i>New Compensation</i>
President pro tempore/Speaker	1.6709%	\$ 44,673.72
Majority Floor Leader	1.6709%	\$ 35,740.67
Minority Floor Leader	1.6709%	\$ 35,740.67
Majority Whip	1.6709%	\$ 27,124.42
Minority Whip	1.6709%	\$ 27,124.42
Majority Caucus Chairman	1.6709%	\$ 16,912.31
Minority Caucus Chairman	1.6709%	\$ 16,912.31
Appropriations Chairman	1.6709%	\$ 27,124.42
Minority Appropriations Chairman	1.6709%	\$ 27,124.42
Majority Caucus Secretary	1.6709%	\$ 11,169.28
Minority Caucus Secretary	1.6709%	\$ 11,169.28
Majority Caucus Policy Chairman	1.6709%	\$ 11,169.28
Minority Caucus Policy Chairman	1.6709%	\$ 11,169.28
Majority Caucus Administrator	1.6709%	\$ 11,169.28
Minority Caucus Administrator	1.6709%	\$ 11,169.28

W. RUSSELL FABER,  
*Chief Clerk*  
*Senate of Pennsylvania*

ANTHONY FRANK BARBUSH,  
*Chief Clerk*  
*House of Representatives*

[Pa.B. Doc. No. 10-2254. Filed for public inspection November 24, 2010, 9:00 a.m.]

## COMMISSION ON SENTENCING

### Meetings Scheduled

The Commission on Sentencing announces the following public meetings, to be held at The Penn State Dickinson School of Law, Carlisle Campus, 333 West South Street, Carlisle, PA 17013:

Thursday, December 9, 2010	9 a.m.—12 p.m.	Policy Committee Meeting
Thursday, December 9, 2010	1 p.m.—4 p.m.	Regular Commission Meeting

MARK H. BERGSTROM,  
*Executive Director*

[Pa.B. Doc. No. 10-2255. Filed for public inspection November 24, 2010, 9:00 a.m.]

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART II. GENERAL ADMINISTRATION [ 204 PA. CODE CH. 29 ]

#### Promulgation of Financial Regulations Pursuant to 42 Pa.C.S. § 3502(a); No. 357 Judicial Administration Doc.

#### Order

*Per Curiam:*

And now, this 17th day of November, 2010 it is *Ordered* pursuant to Article V, Section 10(c) of the Constitution of Pennsylvania and Section 3502(a) of the Judicial Code, 42 Pa.C.S. § 3502(a), that the Court Administrator of Pennsylvania is authorized to promulgate the following Financial Regulations. The costs outlined in the Financial Regulations are effective as of January 1, 2011.

To the extent that notice of proposed rule-making may be required by Pa.R.J.A. No. 103, the immediate promulgation of the regulations is hereby found to be in the interests of efficient administration.

This Order is to be processed in accordance with Pa.R.J.A. No. 103(b) and is effective immediately.

#### Annex A

### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

#### PART II. GENERAL ADMINISTRATION

#### CHAPTER 29. MISCELLANEOUS PROVISIONS

#### Subchapter K. COSTS, FINES AND FEES

#### TITLE 42. JUDICIARY AND JUDICIAL PROCEDURE

#### PART IV. FINANCIAL MATTERS

#### CHAPTER 17. GOVERNANCE OF THE SYSTEM

#### CHAPTER 35. BUDGET AND FINANCE

#### Subchapter A. GENERAL PROVISIONS

The Pennsylvania Supreme Court, pursuant to Art. V, § 10 of the Pennsylvania Constitution, and 42 Pa.C.S. § 1721, has authorized by Administrative Order, the Court Administrator of Pennsylvania to promulgate regulations relating to the accounting methods to be utilized in connection with the collection of fees and costs charged and collected by prothonotaries, and clerks of courts of all courts of common pleas, or by any officials designated to perform the functions thereof, as well as by the minor judiciary, including magisterial district judges, Philadelphia Municipal Court and Philadelphia Traffic Court.

Under authority of said Administrative Order and pursuant to the authority vested in the governing authority under 42 Pa.C.S. § 3502(a) of the Judicial Code, the following regulations are adopted to implement Act 96 of 2010, 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4)(as amended).

#### § 29.402. 42 Pa.C.S. § 1725.1. Costs.

(a) *Civil cases.*—In calendar year 2011, the costs to be charged by magisterial district judges in every civil case, except as otherwise provided in this section, shall be as follows:

(1) Actions involving \$500 or less . . . . .	\$47.00
(2) Actions involving more than \$500 but not more than \$2,000 . . . . .	\$63.00
(3) Actions involving more than \$2,000 but not more than \$4,000 . . . . .	\$78.50
(4) Actions involving between \$4,001 and \$8,000 . . . . .	\$117.50
(5) Landlord-tenant actions involving less than \$2,000 . . . . .	\$70.50
(6) Landlord-tenant actions involving more than \$2,000 but not more than \$4,000 . . . . .	\$86.50
(7) Landlord-tenant actions involving more than \$4,000 but not more than \$8,000 . . . . .	\$117.50
(8) Order of execution . . . . .	\$35.50
(9) Objection to levy . . . . .	\$16.00
(10) Reinstatement of complaint . . . . .	\$8.00
(11) Entering Transcript on Appeal or Certiorari . . . . .	\$4.00

Said costs shall not include, however, the cost of postage and registered mail which shall be borne by the plaintiff.

(a.1) *Custody cases.*—In calendar year 2011, the cost (in addition to the cost provided by general rule) to be charged by the court of common pleas shall be as follows:

(1) Custody cases, except as provided in section 1725(c)(2)(v) . . . . .	\$7.50
--	--------

(b) *Criminal cases.*—In calendar year 2011, the costs to be charged by the minor judiciary or by the court of common pleas where appropriate in every criminal case, except as otherwise provided in this section, shall be as follows:

(1) Summary conviction, except motor vehicle cases . . . . .	\$45.00
(2) Summary conviction, motor vehicle cases, other than paragraph (3) . . . . .	\$35.50
(3) Summary conviction, motor vehicle cases, hearing demanded . . . . .	\$42.50
(4) Misdemeanor . . . . .	\$51.00
(5) Felony . . . . .	\$51.00

Such costs shall not include, however, the cost of postage and registered mail which shall be paid by the defendant upon conviction.

(c) *Unclassified costs or charges.*—In calendar year 2011, the costs to be charged by the minor judiciary in the following instances not readily classifiable shall be as follows:

(1) Entering transcript of judgment from another member of the minor judiciary . . . . .	\$8.00
(2) Marrying each couple, making record thereof, and certificate to the parties . . . . .	\$39.50

(3) Granting emergency relief pursuant to 23 Pa.C.S. Ch. 61 (relating to protection from abuse) ..... \$16.00

(4) Issuing a search warrant (except as provided in subsection (d)) ..... \$16.00

(5) Any other issuance not otherwise provided in this subsection ..... \$16.00

§ 29.403. 42 Pa.C.S. § 3571.

In calendar year 2011, Commonwealth portion of fines, etc.

\* \* \* \* \*

(c) *Costs in magisterial district judge proceedings.*

(2) Amounts payable to the Commonwealth:

(i) Summary conviction, except motor vehicle cases ..... \$15.80

(ii) Summary conviction, motor vehicle cases other than subparagraph (iii) ..... \$15.80

(iii) Summary conviction, motor vehicle cases, hearing demanded ..... \$15.80

(iv) Misdemeanor ..... \$20.40

(v) Felony ..... \$31.50

(vi) Assumpsit or trespass involving:

(A) \$500 or less ..... \$19.60

(B) More than \$500 but not more than \$2,000 ..... \$31.50

(C) More than \$2,000 but not more than \$4,000 ..... \$47.10

(D) Between \$4,001 and \$8,000 ..... \$78.35

(vii) Landlord-tenant proceeding involving:

(A) \$2,000 or less ..... \$31.40

(B) More than \$2,000 but not more than \$4,000 ..... \$39.35

(C) More than \$4,000 but not more than \$8,000 ..... \$54.85

(viii) Objection to levy ..... \$8.00

(ix) Order of execution ..... \$23.65

(x) Issuing a search warrant (except as provided in section 1725.1(d) (relating to costs)) ..... \$11.20

(xi) Order of possession ..... \$15.00

(xii) Custody cases (except as provided in section 1725 (c)(2)(v)) ..... \$6.00

[Pa.B. Doc. No. 10-2256. Filed for public inspection November 24, 2010, 9:00 a.m.]

**PART V. PROFESSIONAL ETHICS AND CONDUCT**  
**[ 204 PA. CODE CHS. 83, 85 AND 87 ]**

**Amendments to the Rules of Disciplinary Enforcement and the Disciplinary Board Rules Relating to Grounds for Discipline and Notification to Respondent-Attorney of Complaint and Duty to Respond**

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania is considering recom-

mending to the Pennsylvania Supreme Court that the Court amend subsection (b) of Pennsylvania Rule of Disciplinary Enforcement 203 as set forth in Annex A.

Notice is also given that if the Supreme Court were to adopt the proposed amendment as set forth in Annex A, the Disciplinary Board's intent would be to amend its Rules of Organization and Procedure as set forth in Annex B.

In order to accommodate its system of self-regulation while maintaining the highest of ethical standards, the legal profession imposes certain obligations upon its members.

Some obligations applicable to Pennsylvania lawyers assist the Disciplinary Board in identifying activities that require investigation and possible disciplinary action. Pennsylvania lawyers are obligated to report substantially serious professional misconduct of another lawyer (RPC 8.3(a)) or judge (RPC 8.3(b)), to self-report a conviction for a serious crime (Pa.R.D.E. 214(a)), and to self-report certain types of professional discipline imposed in another jurisdiction (Pa.R.D.E. 216(e)).

Other obligations impose documentation requirements upon lawyers that facilitate Disciplinary Counsel's investigation and resolution of an ethics complaint that might be filed against the lawyer. Pennsylvania lawyers are obligated to communicate in writing to a client the basis or rate of the legal fee unless the lawyer has regularly represented the client (RPC 1.5(b)), to maintain a Trust Account in a financial institution licensed to do business in the Commonwealth of Pennsylvania (RPC 1.15(a)(4)), to maintain and preserve records of financial transactions involving fiduciary funds (RPC 1.15(c)), and to memorialize any business transaction with a client or one in which the lawyer acquires an interest adverse to the client (RPC 1.8(a)).

A third category of obligations of a self-regulatory nature attach after the commencement of a disciplinary inquiry and require the respondent-attorney's cooperation during the investigatory or prosecutorial stages. One such obligation was created by Enforcement Rule 208(b)(3). By Order dated September 19, 2003, effective October 4, 2003, the Supreme Court amended Enforcement Rule 208(b)(3) to provide that any factual allegation in a petition for discipline that is not timely answered by the respondent-attorney shall be deemed admitted, which amendment essentially imposed a requirement that a respondent-attorney file an answer to a petition for discipline. The Notice of Proposed Rulemaking that preceded the amendment, which was captioned "Amendments to the Pennsylvania Rules of Disciplinary Enforcement Relating to Cooperation by Respondent-Attorneys in Disciplinary Proceedings," noted that in every jurisdiction that had adopted a form of the Model Rules of Professional Conduct, except Pennsylvania, "there is either a Rule of Professional Conduct that requires cooperation with the disciplinary authorities or a procedural rule that requires responses to inquiries from the disciplinary authorities." (*PA BULLETIN*, Vol. 33, No. 6, p. 744, 2/8/2003) Since the time of the amendment to Rule 208(b)(3), the experience of the Disciplinary Board has been that the resolution of formal charges against a respondent-attorney is greatly facilitated by requiring a respondent-attorney to file an answer to the charges.

The Disciplinary Board has now decided that cooperation of the respondent-attorney should be mandatory at an earlier stage in the disciplinary process. Absent Disciplinary Counsel's serving a respondent-attorney with a

subpoena for records or documents, there is no requirement in the current rules that a respondent-attorney cooperate with a disciplinary investigation prior to the filing and service of a petition for discipline. Complaints that survive Office of Disciplinary Counsel’s initial screening and investigative process proceed under Disciplinary Board Rules (“D.Bd. Rules”) § 87.7(b), which requires Disciplinary Counsel to give the respondent-attorney written notice (DB-7 Letter) of the nature of the grievance and 20 days to respond by filing in the district office a statement of position. A respondent-attorney’s ability to ignore a DB-7 Letter or to decline to provide a statement of position, without consequence, is inconsistent with those obligations requiring attorneys to participate in the profession’s process of self-regulation. As a practical matter, experience has shown that a respondent-attorney, by virtue of the present or former professional relationship with the client and the case-related information received during that relationship, is uniquely positioned to respond to complaints filed by a client; the information that the respondent-attorney provides in the statement of position oftentimes provides a defense to some or all of the allegations, which results in a resolution favorable to the respondent-attorney, including dismissal of the complaint, or serves to mitigate any discipline that may result. A rule requiring a respondent-attorney to participate during the early stages of an investigation will also encourage the respondent-attorney to secure counsel at that point in the process, and the prompt retention of counsel will in most instances be of benefit to the respondent-attorney.

Proposed Enforcement Rule 203(b)(7), when read in conjunction with D.Bd. Rules § 87.7(b), which is referenced in the proposed Enforcement Rule, provides that a respondent-attorney’s failure without good cause to respond to Disciplinary Counsel’s DB-7 Letter or a later supplemental letter (DB-7A Letter) by providing a statement of the respondent-attorney’s position would be an independent ground for discipline, regardless of the lack of merit of the underlying complaint that prompted Disciplinary Counsel to prepare and forward to the respondent-attorney a DB-7 or DB-7A Letter. Subsection (c) of D.Bd. Rules § 87.7 would require that the respondent-attorney’s statement of position be in writing and sufficiently detailed as to advise Disciplinary Counsel and any reviewing member of a hearing committee of the nature of any defense. That same subsection would give the respondent-attorney the option of submitting documentation that supports a defense and an opportunity to provide a statement and evidence of relevant or mitigating facts or circumstances.

The proposed Note that accompanies subsection (d) of § 87.7 of the Disciplinary Board Rules clarifies that the respondent-attorney’s obligation to provide a statement of position does not include a duty to produce records or documents in response to a request for production that Disciplinary Counsel might include in the DB-7 or DB-7A Letter. The Note, however, explains that nonproduction may be viewed as evidence of non-cooperation with Disciplinary Counsel’s inquiry and warns that the willful failure to comply with a subpoena obtained by Disciplinary Counsel for those same records or documents will serve as a basis for discipline under RPC 8.4(d), which prohibits conduct prejudicial to the administration of justice, and under various provisions of the Enforcement Rules. See Pa.R.D.E. 203(b)(4). Thus, the Note encourages the respondent-attorney, upon receipt of a DB-7 Letter, to provide Disciplinary Counsel with the fullest cooperation.

The “without good cause” standard in proposed subsection (b)(7) of Enforcement Rule 203 is the same standard that currently appears in subsection (b)(4) of Enforcement Rule 203, which latter subsection requires a respondent-attorney to comply with any order under the Enforcement Rules of the Supreme Court, the Board, a hearing committee or special master. The Board anticipates that under new Enforcement Rule 203(b)(7), Disciplinary Counsel will establish a *prima facie* violation by proving that Disciplinary Counsel complied with the substantive requirements of D.Bd. Rules § 87.7(b)(1) and the notice requirements of § 87.7(b)(2), at which point the burden will shift to the respondent-attorney to establish “good cause” for noncompliance, as the reasons for noncompliance and any supporting evidence will almost universally be within the exclusive knowledge and control of the respondent-attorney.

By including the admonition that “failure to respond may also be a violation of Rule of Professional Conduct 8.1(b),” subsection (d) of proposed D.Bd. Rules § 87.7(d) leaves open the possibility that a respondent-attorney may also be charged with, and found to have violated, RPC 8.1(b) when the failure to provide a statement of position is “knowing,” as that term is defined in PA RPC 1.0(f). RPC 8.1(b) provides, in pertinent part, that “a lawyer . . . in connection with a disciplinary matter, shall not . . . knowingly fail to respond to a lawful demand for information from a [ ] . . . disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6.” Comment [1] to RPC 8.1(b) makes clear that the duty imposed by RPC 8.1 applies to a lawyer’s own discipline as well as that of others.

Interested persons are invited to submit written comments by mail or facsimile regarding the proposed amendments to the Office of the Secretary, The Disciplinary Board of the Supreme Court of Pennsylvania, 601 Commonwealth Avenue, Suite 5600, P. O. Box 62625, Harrisburg, PA 17106-2625, Facsimile number (717-231-3382) on or before December 30, 2010.

*By The Disciplinary Board of the  
Supreme Court of Pennsylvania*

ELAINE M. BIXLER,  
*Secretary*

**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 203. Grounds for discipline.**

\* \* \* \* \*

(b) The following shall also be grounds for discipline:

\* \* \* \* \*

**(7) Failure by a respondent-attorney without good cause to respond to Disciplinary Counsel’s request or supplemental request under Disciplinary Board Rules, § 87.7(b) for a statement of the respondent-attorney’s position.**

\* \* \* \* \*

Annex B

Subpart C. DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA

CHAPTER 85. GENERAL PROVISIONS

§ 85.7. Grounds for discipline.

\* \* \* \* \*

(b) Enforcement Rule 203(b) provides that the following shall also be grounds for discipline:

\* \* \* \* \*

(7) Failure by a respondent-attorney without good cause to respond to Disciplinary Counsel's request (Form DB-7) or supplemental request (Form DB-7A) under § 87.7(b) of these Rules for a statement of the respondent-attorney's position.

\* \* \* \* \*

CHAPTER 87. INVESTIGATIONS AND INFORMAL PROCEEDINGS

Subchapter A. PRELIMINARY PROVISIONS

COMPLAINTS

§ 87.7. Notification to respondent-attorney of complaint and duty to respond.

\* \* \* \* \*

(b) Transmission of notice. Except as provided in subsection (a) of this section, the district office shall prepare and forward to the respondent-attorney Form DB-7 (Request for Statement of Respondent's Position), advising the respondent-attorney of:

\* \* \* \* \*

(2) the [ right to state his position with respect ] requirement that the respondent-attorney respond to the allegations against the respondent-attorney by filing with the district office a statement of position. Unless a shorter time is fixed by the Chief Disciplinary Counsel in such notice, the respondent-attorney shall have 20 days from the date of such notice within which to file a statement of position in the district office.

The notice requirements of this subdivision (b) shall be applicable to any Form DB-7A (Supplemental Request for Statement of Respondent's Position), in which case the notice shall advise the respondent-attorney of the requirement that the respondent-attorney respond to the supplemental allegations by filing with the district office a statement of position with respect thereto.

(c) Contents of statement of position. All statements of position shall be in writing and sufficiently detailed as to advise Disciplinary Counsel and any reviewing hearing committee member that the Board Secretary may appoint under § 87.32 (relating to action by reviewing hearing committee member) of the nature of any defense. The respondent-attorney should include with the statement any corroborating documentation and may include in the statement mitigating factors and any relevant facts or circumstances that may assist Disciplinary Counsel in determining under § 87.8(b) the action to be taken or the disposition recommended.

(d) Effect of failure to respond. Enforcement Rule 203(b)(7) provides that failure by a respondent-attorney without good cause to respond to a request (Form DB-7) or supplemental request (Form

DB-7A) by Disciplinary Counsel for a statement of the respondent-attorney's position shall be grounds for discipline. Failure to respond may also be a violation of Rule of Professional Conduct 8.1(b).

Official Note: If Disciplinary Counsel's request or supplemental request for a statement of position contains a separate request for production of records or documents, the respondent-attorney's nonproduction shall not be a basis for discipline under Enforcement Rule 203(b)(7) but may constitute evidence of non-cooperation with Disciplinary Counsel's inquiry. Disciplinary Counsel may obtain a subpoena to compel production of the records and documents requested in the Form DB-7 or DB-7A, and the respondent-attorney's wilful failure to comply with the subpoena would serve as a basis for discipline under RPC 8.4(d) and various provisions of the Enforcement Rules.

[Pa.B. Doc. No. 10-2257. Filed for public inspection November 24, 2010, 9:00 a.m.]

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

[ 204 PA. CODE CH. 211 ]

Promulgation of Consumer Price Index Pursuant to 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4); No. 358 Judicial Administration Doc.

Order

Per Curiam:

And now, this 17th day of November, 2010, it is Ordered pursuant to Article V, Section 10(c) of the Constitution of Pennsylvania and Section 3502(a) of the Judicial Code, 42 Pa.C.S. § 3502(a), that the Court Administrator of Pennsylvania is authorized to obtain and publish in the Pennsylvania Bulletin the percentage increase in the Consumer Price Index for calendar year 2009 as required by Act 96 of 2010, 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4) (as amended).

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

CHAPTER 211. CONSUMER PRICE INDEX

§ 211.1. Consumer Price Index.

Pursuant to Article V, Section 10 of the Pennsylvania Constitution, and 42 Pa.C.S. § 1721, the Supreme Court has authorized the Court Administrator of Pennsylvania to obtain and publish in the Pennsylvania Bulletin on or before November 30 the percentage increase in the Consumer Price Index for calendar year 2009 as required by Act 96 of 2010, 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4) (as amended). See, No. 358 Judicial Administration Docket.

The Court Administrator of Pennsylvania reports that the percentage increase in the Consumer Price Index, All Urban Consumers, U.S. City Average, for calendar year 2009 was 2.7% percent. (See, U.S. Department of Labor, Bureau of Labor Statistics, Series CUUROOOSAO, April 9, 2010.)

[Pa.B. Doc. No. 10-2258. Filed for public inspection November 24, 2010, 9:00 a.m.]



# Title 255—LOCAL COURT RULES

## BUCKS COUNTY

### Drug Court Supervision Fee Assessment; Administration Order No. 62

#### Order

*And Now, To Wit*, this 9th day of November, 2010, it is hereby *Ordered* that a weekly supervision fee be imposed on any offender participating in the Bucks County Drug Court Program. This fee will be in lieu of regular court costs and probation supervision fees. This fee will be no less than \$2.00 a week nor more than \$10.00 a week and will be determined by the Drug Court Judge. The effective date of this Order is December 1, 2010 and shall apply to all offenders placed in the Bucks County Drug Court program on or after the effective date. If an offender is removed from the Drug Court Program unsuccessfully, all appropriate court fees will be assessed upon re-sentencing.

This Administrative Fee shall be deposited into an imprest account established by the Chief Adult Probation Officer as the Adult Probation and Parole Office Administrative Fee Account. Said account shall be audited not less than annually by the Office of the Controller. Disbursement of the funds collected from the assessment of this fee shall be made only in the discretion of the President Judge.

*By the Court*

SUSAN DEVLIN SCOTT,  
*President Judge*

[Pa.B. Doc. No. 10-2259. Filed for public inspection November 24, 2010, 9:00 a.m.]

## CRAWFORD COUNTY

### In the Matter of the Adoption of a Local Court Rule for Setting Fee Schedule for Public Access of Official Case Records in the Magisterial District Courts; MD AD 2010 1890

#### Order

*And Now*, this 19th day of October, 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* and *Directed* that the Magisterial District Courts within the Thirtieth Judicial District of the Commonwealth of Pennsylvania shall utilize the following procedures to govern public access to the records of those courts:

(1) The price per page of photocopying/printing shall be \$.25.

(2) There shall be a charge of \$8.00 for each quarter hour associated with the preparation/copying and re-filing of court documents 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) A Magisterial District Court may, in that Court's discretion, require that a request for "complex or voluminous" records be made in writing on a form provided by the Administrative Office of Pennsylvania Courts.

(5) Magisterial District Courts shall have discretion to determine what is a "complex or voluminous" request as "complex or voluminous" may vary from Court to Court depending on factors including, but not limited to, the available Court resources at the time of the request.

(6) Fees paid for services are non-refundable, except any overpayments made as a result of estimated pre-payment required.

(7) Fees may be waived if the Magisterial District Judge determines that the requester is indigent.

(8) All fees received pursuant to this rule shall be remitted monthly to the Crawford County General Fund.

(9) This rule shall take effect thirty (30) days after it is published in the *Pennsylvania Bulletin*.

(10) The Prothonotary of Crawford County, pursuant to Pa.R.J.A. No. 103(c)(1), shall provide ten (10) certified copies of this Order to the Administrative Office of Pennsylvania Courts so that office may then make distribution consistent with Pa.R.J.A. No. 103(c)(2).

*By the Court*

ANTHONY J. VARDARO,  
*President Judge*

[Pa.B. Doc. No. 10-2260. Filed for public inspection November 24, 2010, 9:00 a.m.]

## DAUPHIN COUNTY

### Booking Center Fee; AO-26-2010; No. 0010-18-MD-2010

#### Administrative Order

*And Now*, this 5th day of November, 2010, in accordance with 42 Pa.C.S.A. § 1725.5 et seq., and following the adoption of a countywide booking center plan, it is hereby ordered that the Clerk of Court shall assess, in addition to any other fines, penalties or costs imposed by law, a Booking Center Fee in the amount of \$200.00 (Two Hundred Dollars) against any person processed through a Dauphin County Booking Center who is

1. placed on probation without verdict pursuant to Section 17 of the Act of April 14, 1972 (P. L. 223, No. 64), known as The Controlled Substance, Drug, Device, and Cosmetic Act or

2. receives Accelerated Rehabilitative Disposition for, pleads guilty or nolo contendere to, or is convicted of a crime under the following:

a. 18 Pa.C.S. § 106(a) (relating to classes of offenses);

b. 75 Pa.C.S. § 3735 (relating to homicide by vehicle while driving under the influence);

c. 75 Pa.C.S. § 3802 (relating to driving under the influence of alcohol or controlled substance)

d. A violation of The Controlled Substance, Drug, Device, and Cosmetic Act.

Booking Center fees shall be paid to the County of Dauphin and deposited into a special booking fee cost center. Receipts shall be dispersed monthly to the municipalities supporting the respective Booking Centers, minus a 5% administrative fee which shall be retained by the County.

Any fees dispersed to the municipalities shall be used solely for the start up, operation, or maintenance of the Booking Center.

This Order shall be effective on January 1, 2011, for defendants processed on or after that date.

*By the Court*

TODD A. HOOVER,  
*President Judge*

[Pa.B. Doc. No. 10-2261. Filed for public inspection November 24, 2010, 9:00 a.m.]

## SUPREME COURT

**Establishment of the First Emergency Regional Administrative Unit and Authorizing the Temporary Assignment of Active Judges and Magisterial Judges from the 4th, 8th, 17th, 26th, 29th, 42nd and 55th Judicial Districts in the Event of an Emergency; No. 349 Judicial Administration Doc.**

### Order

*And Now*, this 28th day of October, 2010, pursuant this Court's authority under Article V, Section 10 of the Pennsylvania Constitution and pursuant to Rule of Judicial Administration No. 1953(B), to promote continuous judicial coverage in the event of an emergency as defined in Rule of Judicial Administration No. 1950, the first emergency regional administrative unit, consisting of the 4th, 8th, 17th, 26th, 29th, 42nd and 55th judicial districts, is hereby established. If an emergency pursuant to Rules of Judicial Administration Nos. 1950—1953 is declared, the president judges of the courts of common pleas of the aforementioned judicial districts are authorized to provide for the temporary assignment of said judges and magisterial district judges to any of the other judicial districts referred to in this Order. Judges and magisterial district judges, when so assigned, shall exercise the same power and authority as are vested in a judge or magisterial district judge of the assigned judicial district and their expenses shall be reimbursed as provided by law.

RONALD D. CASTILLE,  
*Chief Justice of Pennsylvania*

[Pa.B. Doc. No. 10-2262. Filed for public inspection November 24, 2010, 9:00 a.m.]

**Establishment of the Second Emergency Regional Administrative Unit and Authorizing the Temporary Assignment of Active Judges and Magisterial Judges from the 20th, 24th, 25th, 40th, 46th, 47th, 49th and 58th Judicial Districts in the Event of an Emergency; No. 350 Judicial Administration Doc.**

### Order

*And Now*, this 28th day of October, 2010, pursuant this Court's authority under Article V, Section 10 of the Pennsylvania Constitution and pursuant to Rule of Judicial Administration No. 1953(B), to promote continuous judicial coverage in the event of an emergency as defined in Rule of Judicial Administration No. 1950, the second emergency regional administrative unit, consisting of the 20th, 24th, 25th, 40th, 46th, 47th, 49th and 58th judicial districts, is hereby established. If an emergency pursuant to Rules of Judicial Administration Nos. 1950—1953 is declared, the president judges of the courts of common pleas of the aforementioned judicial districts are authorized to provide for the temporary assignment of said judges and magisterial district judges to any of the other judicial districts referred to in this Order. Judges and magisterial district judges, when so assigned, shall exercise the same power and authority as are vested in a judge or magisterial district judge of the assigned judicial district and their expenses shall be reimbursed as provided by law.

RONALD D. CASTILLE,  
*Chief Justice of Pennsylvania*

[Pa.B. Doc. No. 10-2263. Filed for public inspection November 24, 2010, 9:00 a.m.]

**Establishment of the Third Emergency Regional Administrative Unit and Authorizing the Temporary Assignment of Active Judges and Magisterial Judges from the 6th, 18th, 28th, 30th, 33rd, 35th, 37th, 48th, 54th and 59th Judicial Districts in the Event of an Emergency; No. 351 Judicial Administration Doc.**

### Order

*And Now*, this 28th day of October, 2010, pursuant this Court's authority under Article V, Section 10 of the Pennsylvania Constitution and pursuant to Rule of Judicial Administration No. 1953(B), to promote continuous judicial coverage in the event of an emergency as defined in Rule of Judicial Administration No. 1950, the third emergency regional administrative unit, consisting of the 6th, 18th, 28th, 30th, 33rd, 35th, 37th, 48th, 54th and 59th judicial districts, is hereby established. If an emergency pursuant to Rules of Judicial Administration Nos. 1950—1953 is declared, the president judges of the courts of common pleas of the aforementioned judicial districts are authorized to provide for the temporary assignment of said judges and magisterial district judges to any of the other judicial districts referred to in this Order. Judges and magisterial district judges, when so assigned, shall

exercise the same power and authority as are vested in a judge or magisterial district judge of the assigned judicial district and their expenses shall be reimbursed as provided by law.

RONALD D. CASTILLE,  
*Chief Justice of Pennsylvania*

[Pa.B. Doc. No. 10-2264. Filed for public inspection November 24, 2010, 9:00 a.m.]

**Establishment of the Fourth Emergency Regional Administrative Unit and Authorizing the Temporary Assignment of Active Judges and Magisterial Judges from the 9th, 19th, 39th, 41st, 51st and 57th Judicial Districts in the Event of an Emergency; No. 352 Judicial Administration Doc.**

**Order**

*And Now*, this 28th day of October, 2010, pursuant this Court's authority under Article V, Section 10 of the Pennsylvania Constitution and pursuant to Rule of Judicial Administration No. 1953(B), to promote continuous judicial coverage in the event of an emergency as defined in Rule of Judicial Administration No. 1950, the fourth emergency regional administrative unit, consisting of the 9th, 19th, 39th, 41st, 51st and 57th judicial districts, is hereby established. If an emergency pursuant to Rules of Judicial Administration Nos. 1950—1953 is declared, the president judges of the courts of common pleas of the aforementioned judicial districts are authorized to provide for the temporary assignment of said judges and magisterial district judges to any of the other judicial districts referred to in this Order. Judges and magisterial district judges, when so assigned, shall exercise the same power and authority as are vested in a judge or magisterial district judge of the assigned judicial district and their expenses shall be reimbursed as provided by law.

RONALD D. CASTILLE,  
*Chief Justice of Pennsylvania*

[Pa.B. Doc. No. 10-2265. Filed for public inspection November 24, 2010, 9:00 a.m.]

**Establishment of the Fifth Emergency Regional Administrative Unit and Authorizing the Temporary Assignment of Active Judges and Magisterial Judges from the 11th, 22nd, 34th, 43rd, 44th, 45th, 56th and 60th Judicial Districts in the Event of an Emergency; No. 353 Judicial Administration Doc.**

**Order**

*And Now*, this 28th day of October, 2010, pursuant this Court's authority under Article V, Section 10 of the Pennsylvania Constitution and pursuant to Rule of Judicial Administration No. 1953(B), to promote continuous judicial coverage in the event of an emergency as defined in Rule of Judicial Administration No. 1950, the fifth emergency regional administrative unit, consisting of the 11th, 22nd, 34th, 43rd, 44th, 45th, 56th and 60th judicial districts, is hereby established. If an emergency pursuant to Rules of Judicial Administration Nos. 1950—1953 is declared, the president judges of the courts of common

pleas of the aforementioned judicial districts are authorized to provide for the temporary assignment of said judges and magisterial district judges to any of the other judicial districts referred to in this Order. Judges and magisterial district judges, when so assigned, shall exercise the same power and authority as are vested in a judge or magisterial district judge of the assigned judicial district and their expenses shall be reimbursed as provided by law.

RONALD D. CASTILLE,  
*Chief Justice of Pennsylvania*

[Pa.B. Doc. No. 10-2266. Filed for public inspection November 24, 2010, 9:00 a.m.]

**Establishment of the Sixth Emergency Regional Administrative Unit and Authorizing the Temporary Assignment of Active Judges and Magisterial Judges from the 5th, 10th, 13th, 14th, 16th, 27th, 36th, 50th and 53rd Judicial Districts in the Event of an Emergency; No. 354 Judicial Administration Doc.**

**Order**

*And Now*, this 28th day of October, 2010, pursuant this Court's authority under Article V, Section 10 of the Pennsylvania Constitution and pursuant to Rule of Judicial Administration No. 1953(B), to promote continuous judicial coverage in the event of an emergency as defined in Rule of Judicial Administration No. 1950, the sixth emergency regional administrative unit, consisting of the 5th, 10th, 13th, 14th, 16th, 27th, 36th, 50th and 53rd judicial districts, is hereby established. If an emergency pursuant to Rules of Judicial Administration Nos. 1950—1953 is declared, the president judges of the courts of common pleas of the aforementioned judicial districts are authorized to provide for the temporary assignment of said judges and magisterial district judges to any of the other judicial districts referred to in this Order. Judges and magisterial district judges, when so assigned, shall exercise the same power and authority as are vested in a judge or magisterial district judge of the assigned judicial district and their expenses shall be reimbursed as provided by law.

RONALD D. CASTILLE,  
*Chief Justice of Pennsylvania*

[Pa.B. Doc. No. 10-2267. Filed for public inspection November 24, 2010, 9:00 a.m.]

**Establishment of the Seventh Emergency Regional Administrative Unit and Authorizing the Temporary Assignment of Active Judges and Magisterial Judges from the 2nd, 3rd, 12th, 21st, 23rd, 31st and 52nd Judicial Districts in the Event of an Emergency; No. 355 Judicial Administration Doc.**

**Order**

*And Now*, this 28th day of October, 2010, pursuant this Court's authority under Article V, Section 10 of the Pennsylvania Constitution and pursuant to Rule of Judicial Administration No. 1953(B), to promote continuous judicial coverage in the event of an emergency as defined

in Rule of Judicial Administration No. 1950, the seventh emergency regional administrative unit, consisting of the 2nd, 3rd, 12th, 21st, 23rd, 31st and 52nd judicial districts, is hereby established. If an emergency pursuant to Rules of Judicial Administration Nos. 1950—1953 is declared, the president judges of the courts of common pleas of the aforementioned judicial districts are authorized to provide for the temporary assignment of said judges and magisterial district judges to any of the other judicial districts referred to in this Order. Judges and magisterial district judges, when so assigned, shall exercise the same power and authority as are vested in a judge or magisterial district judge of the assigned judicial district and their expenses shall be reimbursed as provided by law.

RONALD D. CASTILLE,  
*Chief Justice of Pennsylvania*

[Pa.B. Doc. No. 10-2268. Filed for public inspection November 24, 2010, 9:00 a.m.]

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**Establishment of the Eighth Emergency Regional Administrative Unit and Authorizing the Temporary Assignment of Active Judges and Magisterial Judges from the 1st, 7th, 15th, 32nd and 38th Judicial Districts in the Event of an Emergency; No. 356 Judicial Administration Doc.**

**Order**

*And Now*, this 28th day of October, 2010, pursuant this Court's authority under Article V, Section 10 of the Pennsylvania Constitution and pursuant to Rule of Judicial Administration No. 1953(B), to promote continuous judicial coverage in the event of an emergency as defined in Rule of Judicial Administration No. 1950, the eighth emergency regional administrative unit, consisting of the 1st, 7th, 15th, 32nd and 38th judicial districts, is hereby established. If an emergency pursuant to Rules of Judicial Administration Nos. 1950—1953 is declared, the president judges of the courts of common pleas of the aforementioned judicial districts are authorized to provide for the temporary assignment of said judges and magisterial district judges to any of the other judicial districts referred to in this Order. Judges and magisterial district judges, when so assigned, shall exercise the same power and authority as are vested in a judge or magisterial district judge of the assigned judicial district and their expenses shall be reimbursed as provided by law.

RONALD D. CASTILLE,  
*Chief Justice of Pennsylvania*

[Pa.B. Doc. No. 10-2269. Filed for public inspection November 24, 2010, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 55—PUBLIC WELFARE

### DEPARTMENT OF PUBLIC WELFARE

#### [ 55 PA. CODE CHS. 1187 AND 1189 ]

#### Nonpublic and County Nursing Facilities

The Department of Public Welfare (Department) amends Chapters 1187 and 1189 (relating to nursing facility services; and county nursing facility services) to read as set forth in Annex A under the authority of sections 201(2), 206(2), 403(b) and 443.1 of the Public Welfare Code (code) (62 P. S. §§ 201(2), 206(2), 403(b) and 443.1) as amended by the act of July 4, 2008 (P. L. 557, No. 44) (Act 44) (62 P. S. § 443.1(7)). Notice of proposed rulemaking was published at 39 Pa.B. 4428 (August 1, 2009).

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

The purpose of this final-form rulemaking is to amend the payment methodology for Medical Assistance (MA) nursing facility services as directed by Act 44 and to make other revisions to streamline and simplify rate-setting for nonpublic and county nursing facilities and to eliminate obsolete regulatory provisions.

The following is a summary of the specific provisions in the final-form rulemaking under Act 44.

#### *1. Phase-out of county costs in nonpublic nursing facility rate setting—§§ 1187.96, 1187.97 and 1187.98*

Act 44 directs the Department to include county costs in calculating rates for nonpublic nursing facilities for an additional rate year and to promulgate regulations to phase-out the use of county costs over a 3-year period beginning July 1, 2009, and ending June 30, 2012. To comply with Act 44, the Department amends the rate-setting methodology in §§ 1187.96 and 1187.98 (relating to price- and rate-setting computations; and phase-out median determination) and a related amendment to § 1187.97 (relating to rates for new nursing facilities, nursing facilities with a change of ownership, reorganized nursing facilities and former prospective payment nursing facilities). The Department amends § 1187.96 to specify that it will use phase-out medians, as determined in accordance with § 1187.98, to set prices for the net operating cost centers (resident care, other resident related and administrative) for each peer group that contains a county nursing facility for the 3-year phase out period, rate years 2009-2010, 2010-2011 and 2011-2012.

The Department amends § 1187.98 to specify how phase-out medians will be calculated for the 3-year phase-out period. Under the amendments, the Department will continue to include county nursing facilities in determining peer groups in accordance with § 1187.94(1) (relating to peer grouping for price setting) for rate years 2009-2010, 2010-2011 and 2011-2012. Once peer groups have been determined, the Department will calculate an interim median by adding each county nursing facility's costs from the three most recent audited cost reports to a noncollapsed peer group based on bed size and Metropolitan Statistical Area group. The Department will then calculate the phase-out median as follows:

For rate year 2009-2010, the phase-out median will equal 75% of the interim median plus 25% of the median calculated in accordance with § 1187.96.

For rate year 2010-2011, the phase-out median will equal 50% of the interim median plus 50% of the median calculated in accordance with § 1187.96.

For rate year 2011-2012, the phase-out median will equal 25% of the interim median plus 75% of the median calculated in accordance with § 1187.96.

For rate year 2012-2013 and thereafter, county nursing facility MA—allowable costs will not be used in the rate-setting process for nonpublic nursing facilities.

The 3-year phase-out of the use of county nursing facility costs provides a transition period for nonpublic nursing facilities to adjust their business practices accordingly.

In addition to providing authority for calculation and use of phase-out medians, the Department makes a related amendment to § 1187.97 to extend application of this provision, which specifies how payments for county nursing facilities that privatize are calculated, to coincide with the phase-out of the county nursing facility costs in setting nonpublic nursing facility payment rates.

#### *2. Bed hold day, otherwise referred to as a hospital reserved bed day—§§ 1187.97 and 1187.104 and 1189.103*

Act 44 directs the Department to promulgate regulations to establish minimum occupancy requirements as a condition for MA nonpublic and county nursing facilities to receive reserved bed day payments for MA residents, and to phase-in the use of these requirements over a period of 2 rate years beginning July 1, 2009, and ending June 30, 2011. To comply with Act 44, the Department amends the rate-setting methodology in § 1187.97 and §§ 1187.104 and 1189.103 (relating to limitations on payment for reserved beds) as follows.

Beginning July 1, 2009, and ending June 30, 2010, the Department amends §§ 1187.104 and 1189.103 to specify that it will only pay a nonpublic or county MA nursing facility for a hospital reserved bed day if the facility's overall total occupancy for the applicable picture date is equal to or greater than 75%. Beginning July 1, 2010, and thereafter, the Department will pay a facility for a hospital reserved bed day only if the facility's overall total occupancy for the applicable picture date is equal to or greater than 85%. The Department also amends §§ 1187.97 and 1189.103 to exempt a new nursing facility from these occupancy requirements until Case-Mix Index Reports for the three picture dates used to calculate overall occupancy are available for the rate quarter.

The intent of these amendments is to ensure that MA recipients continue to receive access to medically necessary nursing facility services while encouraging nursing facility efficiency and economy associated with nursing facility occupancy levels.

The Department also added language to §§ 1187.104 and 1189.103, based on public comments, to ensure that a resident's bed is held regardless of whether the MA nursing facility has met the minimum occupancy requirement for payment. Further, as a result of this amendment, the Department added language to these sections that hospital reserve bed days may not be billed to the resident.

Following are other amendments in the final-form rulemaking.

#### *1. Fixed property component of a nonpublic nursing facility's capital rate—§§ 1187.2, 1187.51, 1187.57, 1187.91, 1187.96 and 1187.112*

Beginning in Fiscal Year 2009-2010, the Department amends § 1187.96 and §§ 1187.51, 1187.57 and 1187.91 (relating to scope; selected capital cost policies; and database) to delete references to the use of appraisals in the establishment of the fixed property component of a nonpublic nursing facility's capital rate and to specify instead that the fixed property component of a nonpublic nursing facility's capital rate will be based on the number of MA allowable beds multiplied by an assigned per bed cost of \$26,000. The result of this calculation will then be multiplied by the financial yield rate. The Department also added a definition of "allowable bed" in § 1187.2 (relating to definitions).

The elimination of the use of appraisals in the establishment of the fixed property component of a nonpublic nursing facility's capital rate will make certain terms and other provisions in Chapter 1187 obsolete. Specifically, the terms "appraisal," "bed cost limitation," "FRV—fair rental value," "initial appraisal," "limited appraisal," "movable property appraisal," "reappraisal" and "updated appraisal" will no longer be used in the payment methodology. In addition, because all allowable beds will be assigned a fixed value of \$26,000, the cost per bed maximum limitation in § 1187.112 will be obsolete. Therefore, the Department deletes these definitions from § 1187.2 and rescinds § 1187.112.

*2. Obsolete moveable property provisions—§§ 1187.57, 1187.91, 1187.96 and 1187.97*

The Department deletes the major movable property provisions that relate to cost report periods prior to January 1, 2001, in §§ 1187.57, 1187.91, 1187.96 and 1187.97. All nursing facility cost reports in the database used for rate setting are for a period beginning after January 1, 2001; therefore, the provisions regarding the cost report periods prior to January 1, 2001, are obsolete. This deletion does not change the method used by the Department to determine a nonpublic nursing facility's major movable component of its capital rate. In accordance with regulation, a nonpublic nursing facility's major movable property component will be based on the nursing facility's audited cost of major movable property. Each nursing facility shall report the acquisition cost of all major movable property on the major movable property line of its MA-11 and report the cost of minor movable property and the cost of supplies as net operating costs in accordance with § 1187.51 and instructions for the MA-11.

*Affected Individuals and Organizations*

This final-form rulemaking affects all nonpublic and county nursing facilities enrolled in the MA Program.

*Accomplishments and Benefits*

This final-form rulemaking benefits this Commonwealth's MA nursing facility residents by assuring they will continue to have access to medically necessary nursing facility services while providing for reasonable and adequate payments to MA nursing facility providers consistent with the fiscal resources of this Commonwealth.

*Fiscal Impact*

Fiscal impact is not anticipated as a result of this final-form rulemaking through June 30, 2011.

*Paperwork Requirements*

There are no new or additional paperwork requirements.

*Public Comment*

Three commentators (two advocacy groups and one nursing facility association) commented on the proposed rulemaking. Two of these commentators requested changes to the reserved bed days provisions. The other commentator did not oppose the proposed rulemaking. Comments were not received from the Independent Regulatory Review Commission (IRRC), the House Committee on Health and Human Services, the Senate Committee on Public Health and Welfare or other State agencies.

*Discussion of Comments and Major Changes*

*§§ 1187.97, 1187.104 and 1189.103*

Commentators requested provisions be added to §§ 1187.97, 1187.104 and 1189.103 to ensure that a resident's bed is held regardless of whether the MA nursing facility has met the minimum occupancy requirement for payment.

*Response*

The Department agrees and revised § 1187.104, which pertains to nonpublic facilities, and § 1189.103, which pertains to county facilities. The Department, however, did not revise § 1187.97 because an amendment to this section is unnecessary. Since the amendments to the bed hold provisions in § 1187.104 apply to all nonpublic facilities, it would be duplicative to add this language to § 1187.97.

In addition to the major changes discussed previously, the Department added language to §§ 1187.104 and 1189.103 stating that hospital reserve bed days may not be billed to the resident. This language was added to ensure that nursing facilities do not avoid the impact of this final-form rulemaking by charging residents for hospital reserve bed days for which MA payment is no longer available because of their failure to meet the minimum occupancy requirements in §§ 1187.104 and 1189.103. As noted in the proposed rulemaking, the intent of the minimum occupancy requirements is to "encourag[e] nursing facility efficiency and economy associated with nursing facility occupancy levels." If nursing facilities are permitted to charge and receive bed reserve payments for beds that would otherwise remain empty, the purpose of the statutory requirement and implementing regulation would be defeated. Further, MA recipients and their families should not be made to subsidize inefficiencies in nursing facility operation.

*Regulatory Review Act*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on July 21, 2009, the Department submitted a copy of the notice of proposed rulemaking, published at 39 Pa.B. 4428, to IRRC and the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the House and Senate 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 House and Senate Committees and the public.

Under section 5.1(j.1) and (j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.1) and (j.2)), on October 4, 2010, the final-form rulemaking was approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on October 21, 2010, and approved the final-form rulemaking.

Findings

The Department finds that:

(1) Public notice of intention to amend the regulations has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) Adoption of this final-form rulemaking in the manner provided by this order is necessary and appropriate for the administration and enforcement of sections 201(2), 206(2), 403(b) and 443.1 of the code as amended by Act 44.

Order

The Department, acting under sections 201(2), 206(2), 403(b) and 443.1 of the code as amended by Act 44, orders that:

(a) The regulations of the Department, 55 Pa. Code Chapters 1187 and 1189, are amended by amending §§ 1187.2, 1187.51, 1187.57, 1187.91, 1187.94, 1197.96—1197.98, 1187.104 and 1189.103 and by deleting § 1187.112 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

(d) This order shall take effect July 1, 2009.

HARRIET DICHTER, Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 40 Pa.B. 6487 (November 6, 2010).)

Fiscal Note: 14-516. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 55. PUBLIC WELFARE

PART III. MEDICAL ASSISTANCE MANUAL

CHAPTER 1187. NURSING FACILITY SERVICES

Subchapter A. GENERAL PROVISIONS

§ 1187.2. Definitions.

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

\* \* \* \* \*

Allowable bed—A nursing facility bed that is not subject to the limitation in § 1187.113 (relating to capital component payment limitation).

\* \* \* \* \*

Amortization—capital costs—Preopening and ongoing costs directly related to capital formation and development which are expended over a period greater than 1 year. These costs include loan acquisition expenses as well as interest paid during the construction or preopening purchase period on a debt to acquire, build or carry real property.

Audited MA-11 cost reports—MA-11 cost reports that have been subjected to desk or field audit procedures by the Commonwealth and issued to providers.

Benefits, fringe—Nondiscriminatory employee benefits which are normally provided to nursing facility employees in conjunction with their employment status.

\* \* \* \* \*

Depreciation—A loss of utility and a reduction in value caused by obsolescence or physical deterioration such as wear and tear, decay, dry rot, cracks, encrustation or structural defects of property, plant and equipment.

Facility MA CMI—The arithmetic mean CMI for MA residents in the nursing facility for whom the Department paid an MA day of care on the picture date.

\* \* \* \* \*

Independent assessor—An agent of the Department who performs comprehensive evaluations and makes recommendations to the Department regarding the need for nursing facility services or the need for specialized services, or both, for individuals seeking admission to or residing in nursing facilities.

Initial Federally-approved PA Specific MDS—The first assessment or tracking form completed for a resident upon admission.

\* \* \* \* \*

LTCCAP—Long-Term Care Capitated Assistance Program—The Department's community-based managed care program for the frail elderly based on the Federal Program of All-inclusive Care for the Elderly (PACE) (see section 1894 of the Social Security Act (42 U.S.C.A. § 1395eee)).

MA MCO—Medical Assistance Managed Care Organization—An entity under contract with the Department that manages the purchase and provision of health services, including nursing facility services, for MA recipients who are enrolled as members in the entity's health service plan.

\* \* \* \* \*

Movable property—A tangible item that is used in a nursing facility in the course of providing nursing facility services to residents and that is not fixed property or a supply. There are two classes of movable property:

(i) Major movable property. Any movable property that has an acquisition cost of \$500 or more.

(ii) Minor movable property. Any movable property that has an acquisition cost of less than \$500.

NIS—Nursing Information System—The comprehensive automated database of nursing facility, resident and fiscal information needed to operate the Pennsylvania Case-Mix Payment System.

\* \* \* \* \*

Real estate tax cost—The cost of real estate taxes assessed against a nursing facility for a 12-month period, except that, if the nursing facility is contractually or otherwise required to make a payment in lieu of real estate taxes, that nursing facility's "cost of real estate taxes" is deemed to be the amount it is required to pay for a 12-month period.

Rebasing—The process of updating cost data for subsequent rate years.

\* \* \* \* \*

*UMR—Utilization Management Review*—An audit conducted by the Department’s medical and other professional personnel to monitor the accuracy and appropriateness of payments to nursing facilities and to determine the necessity for continued stay of residents.

*Year one of implementation*—The period of January 1, 1996, through June 30, 1996.

\* \* \* \* \*

**Subchapter E. ALLOWABLE PROGRAM COSTS AND POLICIES**

**§ 1187.51. Scope.**

\* \* \* \* \*

(e) Within the limits of this subchapter, allowable costs for purposes of cost reporting include those costs necessary to provide nursing facility services. These may include costs related to the following:

\* \* \* \* \*

(4) *Capital costs.*

- (i) Assigned cost of fixed property.
- (ii) Acquisition cost of major movable property.
- (iii) Real estate tax cost.

**§ 1187.57. Selected capital cost policies.**

The Department will establish a prospective facility-specific capital rate annually for each nursing facility. That rate will consist of three components: the fixed property component, the movable property component and the real estate tax component.

(1) *Fixed property component.* The Department will base the nursing facility’s fixed property component on an assigned cost of \$26,000 per allowable bed.

(2) *Movable property component.* The Department will determine the movable property component of each nursing facility’s capital rate as follows:

(i) The Department will base the nursing facility’s movable property component on the nursing facility’s audited cost of major movable property, as set forth in that MA-11.

(ii) Each nursing facility shall report the acquisition cost of all major movable property on the major movable property line of its MA-11 and shall report the cost of minor movable property and the cost of supplies as net operating costs in accordance with § 1187.51 (relating to scope) and instructions for the MA-11.

(3) *Real estate tax cost component.* A nursing facility’s real estate tax component will be based solely upon the audited cost of that nursing facility’s 12-month real estate tax cost, as set forth on the most recent audited MA-11 cost report available in the NIS database.

**Subchapter G. RATE SETTING**

**§ 1187.91. Database.**

The Department will set rates for the case-mix payment system based on the following data:

(1) *Net operating costs.*

(i) The net operating prices will be established based on the following:

(A) Audited nursing facility costs for the 3 most recent years available in the NIS database adjusted for inflation. This database includes audited MA-11 cost reports that are issued by the Department on or before March 31 of each July 1 price setting period.

(B) If a nursing facility that has participated in the MA Program for 3 or more consecutive years has fewer than three audited cost reports in the NIS database that are issued by the Department on or before March 31 of each July 1 price setting period, the Department will use reported costs, as adjusted to conform to Department regulations, for those years not audited within 15 months of the date of acceptance, until audits have been completed and are available in the NIS database for price setting.

(C) If a nursing facility, that has not participated in the MA Program for 3 or more consecutive years, has fewer than three audited cost reports in the NIS database that are issued by the Department on or before March 31 of each July 1 price setting period, the Department will use all available audited cost reports in the NIS database.

(D) For net operating prices effective on or after July 1, 2001, the Department will revise the audited costs specified in clauses (A)—(C) by disregarding audit adjustments disallowing or reclassifying to capital costs, the costs of minor movable property (as defined in § 1187.2 (relating to definitions), effective on July 1, 2001) or linens reported as net operating costs on cost reports for fiscal periods beginning prior to January 1, 2001. The Department will not adjust the audited statistics when revising the nursing facility audited resident care, other resident care and administrative allowable costs to disregard the adjustments relating to minor movable property and linen costs. After revising the audited costs to disregard these adjustments, the Department will recalculate the maximum allowable administrative cost, and will disallow administrative costs in excess of the 12% limitation as specified in § 1187.56(1)(i) (relating to selected administrative cost policies).

(ii) Subparagraph (i)(B) does not apply if a nursing facility is under investigation by the Office of Attorney General. In this situation, the Department will use a maximum of the three most recent available audited cost reports in the NIS database used for price setting.

(iii) A cost report for a period of less than 12 months will not be included in the NIS database used for each price setting year.

(iv) Prior to price setting, cost report information will be indexed forward to the 6th month of the 12-month period for which the prices are set. The index used is the 1st Quarter issue of the CMS Nursing Home Without Capital Market Basket Index.

(v) Total facility and MA CMI averages from the quarterly CMI reports will be used to determine case-mix adjustments for each price-setting and rate-setting period as specified in § 1187.96(a)(1)(i) and (5) (relating to price- and rate-setting computations).

(2) *Capital costs.*

(i) *Fixed property component.* The fixed property component of a nursing facility’s capital rate will be based upon the total assigned cost of the nursing facility’s allowable beds.

(ii) *Movable property component.* The movable property component of a nursing facility’s capital rate will be based upon the audited costs of the nursing facility’s major movable property as set forth in the nursing facility’s most recent audited MA-11 cost report available in the NIS database.

(iii) *Real estate tax cost component.* The real estate tax component of a nursing facility’s capital rate will be based upon the nursing facility’s actual audited real estate tax



costs as set forth in the nursing facility's most recent audited MA-11 cost report available in the NIS database.

**§ 1187.94. Peer grouping for price setting.**

To set net operating prices under the case-mix payment system, the Department will classify the nursing facilities participating in the MA Program into 14 mutually exclusive groups as follows:

(1) Nursing facilities participating in the MA Program, except those nursing facilities that meet the definition of a special rehabilitation facility or hospital-based nursing facility, will be classified into 12 mutually exclusive groups based on MSA group classification and nursing facility certified bed complement.

(i) Effective for rate setting periods commencing July 1, 2004, the Department will use the MSA group classification published by the Federal Office of Management and Budget in the OMB Bulletin No. 99-04 (relating to revised definitions of Metropolitan Areas and guidance on uses of Metropolitan Area definitions), to classify each nursing facility into one of three MSA groups or one non-MSA group.

(ii) The Department will use the bed complement of the nursing facility on the final day of the reporting period of the most recent audited MA-11 used in the NIS database to classify nursing facilities into one of three bed complement groups.

(iii) The Department will classify each nursing facility into one of the following 12 peer groups:

Peer Group #	MSA Group	# Beds
1	A	> or = 270
2	A	120—269
3	A	3—119
4	B	> or = 270
5	B	120—269
6	B	3—119
7	C	> or = 270
8	C	120—269
9	C	3—119
10	non-MSA	> or = 270
11	non-MSA	120—269
12	non-MSA	3—119

(iv) A peer group with fewer than seven nursing facilities will be collapsed into the adjacent peer group with the same bed size. If the peer group with fewer than seven nursing facilities is a peer group in MSA B or MSA C and there is a choice of two peer groups with which to merge, the peer group with fewer than seven nursing facilities will be collapsed into the peer group with the larger population MSA group.

(v) For rate years 2009-2010, 2010-2011 and 2011-2012, county nursing facilities will be included when determining the number of nursing facilities in a peer group in accordance with subparagraph (iv).

(2) To set net operating prices under the case-mix payment system, the Department will classify the nursing facilities participating in the MA Program that meet the definition of a special rehabilitation facility into one peer group, peer group number 13. Regardless of the number of facilities in this peer group, the Department will not collapse the peer group of special rehabilitation facilities.

(3) To set net operating prices under the case-mix payment system, the Department will classify the nursing facilities participating in the MA Program that meet the definition of a hospital-based nursing facility into one peer group, peer group number 14. Regardless of the number of facilities in this peer group, the Department will not collapse the peer group of hospital-based nursing facilities.

(4) Once nursing facilities have been classified into peer groups for price setting, the nursing facility costs will remain in that peer group until prices are rebased, unless paragraph (5) applies.

(5) Paragraph (3) sunsets on the date that amendments are effective in Chapter 1163 (relating to inpatient hospital services), to allow for the inclusion of costs previously allocated to hospital-based nursing facilities. Subsequent to the effective date of the amendments to Chapter 1163, the Department will classify hospital-based nursing facilities in accordance with paragraph (1).

**§ 1187.96. Price- and rate-setting computations.**

(a) Using the NIS database in accordance with this subsection and § 1187.91 (relating to database), the Department will set prices for the resident care cost category.

\* \* \* \* \*

(3) For rate years 2006-2007, 2007-2008, 2009-2010, 2010-2011 and 2011-2012, the median used to set the resident care price will be the phase-out median as determined in accordance with § 1187.98 (relating to phase-out median determination).

\* \* \* \* \*

(b) Using the NIS database in accordance with this subsection and § 1187.91, the Department will set prices for the other resident related cost category.

\* \* \* \* \*

(3) For rate years 2006-2007, 2007-2008, 2009-2010, 2010-2011 and 2011-2012, the median used to set the other resident related price will be the phase-out median as determined in accordance with § 1187.98.

\* \* \* \* \*

(c) Using the NIS database in accordance with this subsection and § 1187.91, the Department will set prices for the administrative cost category.

\* \* \* \* \*

(3) For rate years 2006-2007, 2007-2008, 2009-2010, 2010-2011 and 2011-2012, the median used to set the administrative price will be the phase-out median as determined in accordance with § 1187.98.

\* \* \* \* \*

(d) Using the NIS database in accordance with this subsection and § 1187.91, the Department will set a rate for the capital cost category for each nursing facility by adding the nursing facility's fixed property component, movable property component and real estate tax component and dividing the sum of the three components by the nursing facility's total actual resident days, adjusted to 90% occupancy, if applicable.

(1) The Department will determine the fixed property component of each nursing facility's capital rate as follows:

(i) The Department will multiply the total number of the nursing facility's allowable beds as of April 1, immedi-

ately preceding the rate year, by \$26,000 to determine the nursing facility's allowable fixed property cost.

(ii) The Department will multiply the result by the financial yield rate.

(2) The Department will determine the movable property component of each nursing facility's capital rate based on the audited actual costs of major movable property as set forth in the most recent audited MA-11 cost report available in the NIS database in accordance with § 1187.91(a)(ii). This amount is referred to as the nursing facility's allowable movable property cost.

\* \* \* \* \*

**§ 1187.97. Rates for new nursing facilities, nursing facilities with a change of ownership, reorganized nursing facilities and former prospective payment nursing facilities.**

The Department will establish rates for new nursing facilities, nursing facilities with a change of ownership, reorganized nursing facilities and former prospective payment nursing facilities as follows:

(1) *New nursing facilities.*

\* \* \* \* \*

(ii) The three components of the capital portion of the case-mix rate are determined as follows:

(A) *Fixed property component.* The fixed property component will be determined in accordance with § 1187.96(d)(1).

(B) *Movable property component.* The movable property component will be determined as follows:

(I) The nursing facility's acquisition cost, as determined in accordance with § 1187.61(b) (relating to movable property cost policies), for any new items of movable property acquired on or before the date of enrollment in the MA program, will be added to the nursing facility's remaining book value for any used movable property as of the date of enrollment in the MA program to arrive at the nursing facility's movable property cost.

\* \* \* \* \*

(iii) Newly constructed nursing facilities are exempt from the adjustment to 90% occupancy until the nursing facility has participated in the MA Program for one full annual price setting period as described in § 1187.95 (relating to general principles for rate and price setting).

(iv) A new nursing facility is exempt from the occupancy requirements in § 1187.104 (1)(ii) (relating to limitations on payment for reserved beds) until a CMI Report for each of the three picture dates used to calculate overall occupancy as set forth in § 1187.104(1)(iii) is available for the rate quarter.

(2) *Nursing facilities with a change of ownership and reorganized nursing facilities.*

(i) *New provider.* The new nursing facility provider will be paid exactly as the old nursing facility provider, except that, if a county nursing facility becomes a nursing facility between July 1, 2006, and June 30, 2012, the per diem rate for the nursing facility will be computed in accordance with § 1187.96, using the data contained in the NIS database. Net operating and capital rates for the old nursing facility provider will be assigned to the new nursing facility provider.

\* \* \* \* \*

**§ 1187.98. Phase-out median determination.**

(a) For rate years 2006-2007 and 2007-2008, the Department will determine a phase-out median for each net operating cost center for each peer group to calculate a peer group price. The Department will establish the phase-out median as follows:

(1) Peer groups will be established in accordance with §§ 1187.91 and 1187.94 (relating to database; and peer grouping for price setting).

(2) County nursing facilities will be included when determining the number of nursing facilities in a peer group in accordance with § 1187.94(1)(iv).

(3) Audited county nursing facilities' costs from the 3 most recent audited cost reports audited in accordance with this chapter, will be included in the established peer groups when determining a median in accordance with § 1187.96 (relating to price- and rate-setting computations).

(b) For rate years, 2009-2010, 2010-2011 and 2011-2012, the Department will determine a phase-out median for each net operating cost center for each peer group to calculate a peer group price. The Department will establish the phase-out median as follows:

(1) The Department will establish an interim phase out median for the rate year as specified in subsection (a).

(2) The phase-out median for the 2009-2010 rate year will equal 75% of the interim median calculated in accordance with paragraph (1) plus 25% of the median calculated in accordance with § 1187.96.

(3) The phase-out median for the 2010-2011 rate year will equal 50% of the interim median calculated in accordance with paragraph (1) plus 50% of the median calculated in accordance with § 1187.96.

(4) The phase-out median for the 2011-2012 rate year will equal 25% of the interim median calculated in accordance with paragraph (1) plus 75% of the median calculated in accordance with § 1187.96.

(c) For the rate year, 2012-2013 and thereafter, county nursing facility MA allowable costs will not be used in the rate-setting process for nonpublic nursing facilities.

**Subchapter H. PAYMENT CONDITIONS, LIMITATIONS AND ADJUSTMENTS**

**§ 1187.104. Limitations on payment for reserved beds.**

(a) The Department will make payment to a nursing facility for a reserved bed when the resident is absent from the nursing facility for a continuous 24-hour period because of hospitalization or therapeutic leave subject to the limits in subsection (b). A nursing facility shall record each reserved bed for therapeutic leave on the nursing facility's daily census record and MA invoice. When the bed reserved for a resident who is hospitalized is temporarily occupied by another resident, a nursing facility shall record the occupied bed on the nursing facility's daily MA census record and the MA invoice. During the reserved bed period the same bed shall be available for the resident upon the resident's return to the nursing facility.

(b) The payment for reserved bed days is subject to the following limits:

(1) *Hospitalization.*

(i) A resident receiving nursing facility services is eligible for a maximum of 15 consecutive reserved bed

days per hospitalization. The Department will pay a nursing facility at a rate of 1/3 of the nursing facility's current per diem rate on file with the Department for a hospital reserved bed day if the nursing facility meets the overall occupancy requirements of subparagraph (ii).

(ii) A nursing facility's overall occupancy rate shall equal or exceed the following:

(A) During the rate year 2009-2010, the nursing facility's overall occupancy rate for the rate quarter in which the hospital reserved bed day occurs must equal or exceed 75%.

(B) Beginning with the rate year 2010-2011 and thereafter, the nursing facility's overall occupancy rate for the rate quarter in which the hospital reserved bed day occurs must equal or exceed 85%.

(iii) The Department will calculate a nursing facility's overall occupancy rate for a rate quarter as follows:

(A) The Department will identify the picture date for the rate quarter as specified in § 1187.96(a)(5) (relating to price- and rate-setting computations) and the two picture dates immediately preceding this picture date.

(B) The Department will calculate the nursing facility's occupancy rate for each of the picture dates identified in clause (A) by dividing the total number of assessments listed in the facility's CMI report for that picture date by the number of the facility's certified beds on file with the Department on the picture date and multiplying the result by 100%. The Department will assign the highest of the three picture date occupancy rates as the nursing facility's overall occupancy rate for the rate quarter.

(C) The Department will only use information contained on a valid CMI report to calculate a nursing facility's overall occupancy rate. If a nursing facility did not submit a valid CMI report for a picture date identified in clause (A), the Department will calculate the nursing facility's overall occupancy rate based upon the valid CMI reports that are available for the identified picture dates. If no valid CMI reports are available for the picture dates identified in clause (A), the nursing facility is not eligible to receive payment for hospital reserve bed days in the rate quarter.

(D) For purposes of this subsection, a valid CMI report is a CMI report that meets the requirements of § 1187.33(a)(5) and (6) (relating to resident data and picture date reporting requirements).

(iv) If the resident's hospital stay exceeds 15 consecutive days, the nursing facility shall readmit the resident to the nursing facility upon the first availability of a bed in the nursing facility if, at the time of readmission, the resident requires the services provided by the nursing facility.

(v) If the resident's hospital stay is less than or equal to 15 consecutive days, the nursing facility shall readmit the resident to the same bed the resident occupied before the hospital stay regardless whether the nursing facility is eligible for payment for hospital reserved beds under subparagraph (b)(1)(i), if, at the time of readmission, the resident requires the services provided by the nursing facility.

(vi) Hospital reserved bed days may not be billed as therapeutic leave days and may not be billed to the resident if the resident's hospital stay is less than or equal to 15 consecutive days regardless whether the nursing facility is eligible for payment for hospital reserved beds under subparagraph (b)(1)(i).

(2) *Therapeutic leave.* A resident receiving nursing facility services is eligible for a maximum of 30 days per calendar year of therapeutic leave outside the nursing facility if the leave is included in the resident's plan of care and is ordered by the attending physician. The Department will pay a nursing facility the nursing facility's current per diem rate on file with the Department for a therapeutic leave day.

§ 1187.112. (Reserved).

## CHAPTER 1189. COUNTY NURSING FACILITY SERVICES

### Subchapter E. PAYMENT CONDITIONS, LIMITATIONS AND ADJUSTMENTS

#### § 1189.103. Limitations on payment for reserved beds.

(a) A county facility may be eligible for payments for a reserved bed when the resident is absent from the nursing facility for a continuous 24-hour period because of hospitalization or therapeutic leave. A county nursing facility shall record each reserved bed for therapeutic leave on the nursing facility's daily census record and MA invoice. When the bed reserved for a resident who is hospitalized is temporarily occupied by another resident, a county nursing facility shall record the occupied bed on the nursing facility's daily MA census record and the MA invoice. During the reserved bed period the same bed shall be available for the resident upon the resident's return to the nursing facility.

(b) The following limits on payment for reserved bed days apply:

##### (1) *Hospitalization.*

(i) A resident receiving nursing facility services is eligible for a maximum of 15 consecutive reserved bed days per hospitalization. The Department will pay a county nursing facility at a rate of 1/3 of the county nursing facility's current per diem rate on file with the Department for a hospital reserved bed day.

(ii) A county nursing facility's overall occupancy must meet the occupancy requirements in this subparagraph. For each rate quarter, the criteria for meeting the overall occupancy limits will be calculated and applied to the rate quarter based on the highest of the overall occupancy calculated for three picture dates. The three picture dates will be the picture date for the current rate quarter (July 1 rate quarter—February 1 picture date; October 1 rate quarter—May 1 picture date; January 1 rate quarter—August 1 picture date; and April 1 rate quarter—November 1 picture date) and the two picture dates directly preceding this picture date. Overall occupancy for each picture date will be calculated by dividing the total number of assessments listed in the facility's CMI report for the picture date by the number of the facility's certified beds on file with the Department on the picture date. The highest of the results will be used to determine whether the county nursing facility meets the overall occupancy criteria set forth as follows:

(A) During rate year 2009-2010, the county nursing facility's overall occupancy rate for the rate quarter in which the hospital reserved bed day occurred must be equal or exceed 75%.

(B) Beginning with rate year 2010-2011 and thereafter, the county nursing facility's overall occupancy rate for the rate quarter in which the hospital reserved bed day occurs must equal or exceed 85%.

(iii) County nursing facilities not submitting a valid CMI report for the three picture dates do not meet the criteria for payment for reserved bed days, unless subparagraph (iv) applies.

(iv) New county nursing facilities are eligible for payment for reserved bed days as set forth in subparagraph (i) until CMI Reports for the three picture dates used to calculate overall occupancy as set forth in subparagraph (ii) are available for the rate quarter.

(v) If the resident's hospital stay exceeds 15 consecutive days, the county nursing facility shall readmit the resident to the nursing facility upon the first availability of a bed in the county nursing facility if, at the time of readmission, the resident requires the services provided by the county nursing facility.

(vi) If the resident's hospital stay is less than or equal to 15 consecutive days, the county nursing facility shall readmit the resident to the same bed the resident occupied before the hospital stay regardless whether the county nursing facility is eligible for payment for hospital

reserved beds under subparagraph (b)(1)(ii), if, at the time of readmission, the resident requires the services provided by the nursing facility.

(vii) Hospital reserved bed days may not be billed as therapeutic leave days and may not be billed to the resident if the resident's hospital stay is less than or equal to 15 consecutive days regardless whether the county nursing facility is eligible for payment for hospital reserved beds under subparagraph (b)(1)(ii).

(2) *Therapeutic leave.* A resident receiving nursing facility services is eligible for a maximum of 30 days per calendar year of therapeutic leave outside the county nursing facility if the leave is included in the resident's plan of care and is ordered by the attending physician. The Department will pay a county nursing facility the county nursing facility's current per diem rate on file with the Department for a therapeutic leave day.

[Pa.B. Doc. No. 10-2270. Filed for public inspection November 24, 2010, 9:00 a.m.]

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# PROPOSED RULEMAKING

## MILK MARKETING BOARD

[ 7 PA. CODE CH. 150 ]

### Public Hearing on Proposed Amendments to 7 Pa. Code Chapter 150—Milk Marketing Fees

Under the Milk Marketing Law (31 P. S. §§ 700j-101—700j-1302), the Milk Marketing Board (Board) will conduct a public hearing on December 15, 2010, at 2:10 p.m. in Room 309 of the Agriculture Building, 2301 North Cameron Street, Harrisburg, PA.

The purpose of the hearing is to receive testimony and comments regarding proposed amendments to 7 Pa. Code Chapter 150 (relating to milk marketing fees). The proposed amendments relate to per hundredweight license fees paid by milk dealers.

There is no requirement for prior notification or entry of appearance to be able to provide testimony or comments at the hearing. A draft of the proposed amendments may be obtained by contacting the Board office.

KEITH BIERLY,  
*Secretary*

[Pa.B. Doc. No. 10-2271. Filed for public inspection November 24, 2010, 9:00 a.m.]

# STATEMENTS OF POLICY

## Title 4—ADMINISTRATION

### PART II. EXECUTIVE BOARD

#### [ 4 PA. CODE CH. 9 ]

#### **Reorganization of the Department of Conservation and Natural Resources**

The Executive Board approved a reorganization of the Department of Conservation and Natural Resources effective November 9, 2010.

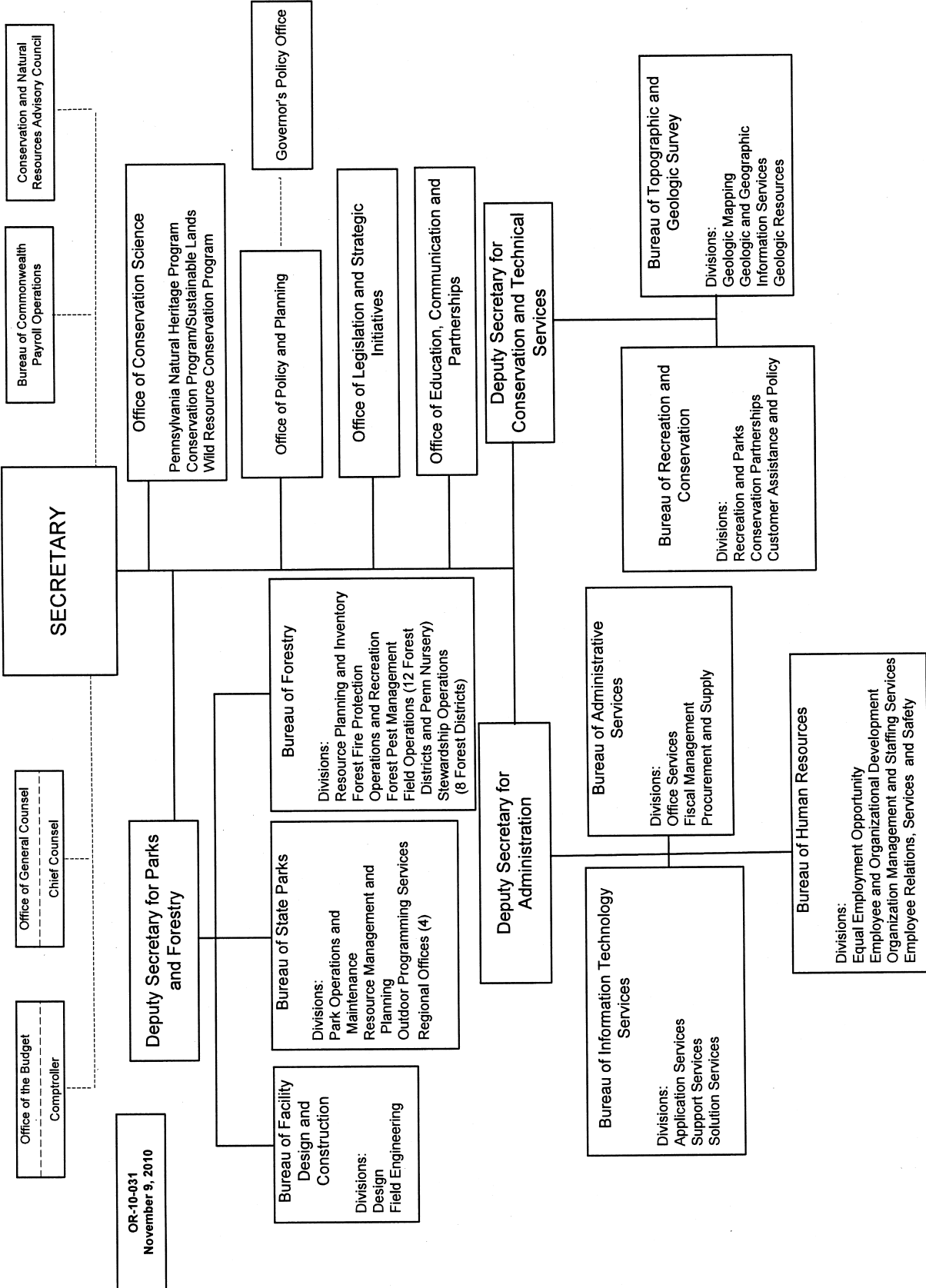
The organization chart at 40 Pa.B. 6792 (November 27, 2010) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

*(Editor's Note:* The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of *Pennsylvania Code*) as a document general and permanent in nature which shall be codified in the *Pennsylvania Code*.)

[Pa.B. Doc. No. 10-2272. Filed for public inspection November 24, 2010, 9:00 a.m.]

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DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES



# NOTICES

## DELAWARE RIVER BASIN COMMISSION

### Meeting and Public Hearing

The Delaware River Basin Commission (Commission) will hold an informal conference followed by a public hearing on Wednesday, December 8, 2010. The hearing will be part of the Commission's regular business meeting. The conference session and business meeting both are open to the public and will be held at the West Trenton Volunteer Fire Company, 40 West Upper Ferry Road, West Trenton, NJ.

The conference among the commissioners and staff will begin at 10:30 a.m. and will consist of: a report by a representative of the National Weather Service (NWS) on inundation mapping available on the web pages of the NWS Advanced Hydrologic Prediction Service; and a report by staff on historical and ongoing efforts to restore dissolved oxygen in the Delaware Estuary.

The subjects of the public hearing to be held during the 1:30 p.m. business meeting include the dockets listed as follows:

1. *Pennsylvania Utility Company, D-1975-093 CP-4*. An application for renewal of the Tamiment Wastewater Treatment Plant (WWTP). The existing 0.25 million gallons per day (mgd) WWTP will continue to spray irrigate treated effluent at the Tamiment Golf Course. Treated effluent that is not spray irrigated discharges to an unnamed tributary to Little Bush Kill, a tributary of the Delaware River. The facility is located in Lehman Township, Pike County, PA and is located within the drainage area of the section of the nontidal Delaware River known as the Middle Delaware, which is classified as Special Protection Waters. The project discharge is located at River Mile 226.9-0.8-1.5-1.85. The project outfall is located in the Bush Kill Watershed.

2. *Pilgrim's Pride—Franconia, D-1989-065-3*. An application to renew the discharge of up to 0.3 mgd of treated effluent from Outfall No. 001 at the Franconia Industrial Wastewater Treatment Plant (IWTP). The IWTP will continue to discharge to an unnamed tributary of Indian Creek at River Mile 92.47—32.3—11.3—5.5—3.4—0.8 (Delaware River—Schuylkill River—Perkiomen Creek—East Branch Perkiomen Creek—Indian Creek—UNT), in Franconia Township, Montgomery County, PA.

3. *Amity Township, D-1990-078 CP-3*. An application to renew the approval of the existing 4.0 mgd Amity WWTP. Effluent limits required by Department of Environmental Protection and the Commission are based upon an average monthly discharge flow of up to 2.2 mgd. Treated effluent will continue to discharge to the Schuylkill River by means of existing Outfall No. 001 at River Mile 92.47—58.35 (Delaware River—Schuylkill River), in Amity Township, Berks County, PA.

4. *Shoemakersville Borough Authority, D-1993-074 CP-3*. An application to renew the discharge of up to 0.75 mgd of treated effluent from existing Outfall No. 001 at the Shoemakersville WWTP. The WWTP discharges to the

Schuylkill River at River Mile 92.47—92.3 (Delaware River—Schuylkill River), in the Borough of Shoemakersville, Berks County, PA.

5. *Exelon Generation Company, LLC—Fairless Hills Generating Station, D-1996-063 CP-2*. An application to renew approval of the Fairless Hills Generating Station (FHGS), which includes a subsidiary water allocation of 4,795.7 million gallons per month (mgm), provided by U. S. Steel Real Estate (U. S. Steel) to the Exelon FHGS. The water is used for cooling purposes associated with power generation. The FHGS is located within the U. S. Steel complex in Falls Township, Bucks County, PA.

6. *Dominion Energy Company—Fairless Hills Generation Energy Generating Facility, D-2001-028 CP-2*. An application to renew approval of the Fairless Hills Generation Energy Generating Facility (FHG-EGF) and the subsidiary water allocation of 356.5 mgm provided by U. S. Steel Real Estate (U. S. Steel) to the Dominion FHG-EGF. The water is used for cooling purposes associated with power generation. The FHG-EGF is located within the U. S. Steel complex in Falls Township, Bucks County, PA.

7. *Penns Grove Sewerage Authority, D-2005-029 CP-2*. An application for approval to continue discharging 0.75 mgd of treated effluent from the Penns Grove WWTP. The Penns Grove WWTP will continue to discharge to Water Quality Zone 5 at River Mile 72.0 (Delaware River). The Penns Grove WWTP is located in Penns Grove Borough, Salem County, NJ.

8. *Exide Technologies, D-1976-097-2*. Exide Technologies (Exide) applied to the Commission on February 27, 2007, for renewed approval of the discharge of up to 0.325 mgd of treated wastewater from the existing 0.7 mgd IWTP by means of Outfall No. 101, and the continuance of its current limits for Total Dissolved Solids (TDS). Exide proposes to reduce its average discharge from Outfall No. 101 from 0.325 mgd to 0.25 mgd, while maintaining its current approved monthly and daily average TDS effluent concentration limits of 6,000 mg/l and 7,500 mg/l. Additionally, Exide has requested approval to construct a 1.1 mgd stormwater treatment plant (SWTP). The SWTP is designed to remove lead and other heavy metals from contaminated stormwater runoff. The SWTP will discharge an average monthly flow of 0.4 mgd of treated stormwater by means of Outfall No. 201. The existing IWTP and proposed SWTP will discharge to a stormwater conveyance system that discharges to the Schuylkill River at River Mile 92.47—78.29 (Delaware River—Schuylkill River), in Muhlenberg Township, Berks County, PA.

9. *Valley Forge Sewer Authority, D-1995-006 CP-3*. An application for approval of the expansion of the Valley Forge Sewer Authority WWTP. The hydraulic design capacity of the existing WWTP is proposed to be expanded from 9.2 mgd to 11.75 mgd. The expansion includes the addition of a second aeration tank and a fourth final clarifier and upgrading the headworks, primary clarifier system, secondary treatment system, sludge handling, and operations facilities of the existing WWTP. The WWTP will continue to discharge to the Schuylkill River. The facility is located in Schuylkill Township, Chester County, PA.



10. *Portland Borough Authority, D-1997-029 CP-2*. Application for approval of a ground water withdrawal (GWD) project to supply up to 4.32 mgm of water to the applicant's public water supply system from new Well No. 4 and to increase the existing withdrawal from all wells from 5.7 million gallons per 30 days (mg/30 days) to 12.4 mgm. The increased allocation is requested in order to meet projected increases in service area demand and to replace lost yield from Well No. 3. The project well is completed in the Martinsburg Formation and is located in the Slateford Creek Watershed in Upper Mount Bethel Township, Northampton County, PA. The site is located within the drainage area of the section of the nontidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters.

11. *United States Steel, LLC, D-2009-006-1*. An application for approval of an existing surface water withdrawal project (SWWD) to continue to supply up to 15,772.43 mgm of water to the applicant's U. S. Steel Real Estate Complex. The complex houses four existing users and one new user, which are supplied from two existing intakes. The project SWWD is located in Water Quality Zone 2 of the Delaware River at River Mile 127.0, in Falls Township, Bucks County, PA.

12. *Deb-El Foods, D-2009-036-1*. An application for approval to construct a 0.05 mgd IWTP that will discharge to the Neversink River at River Mile 253.64—28.7 (Delaware River—Neversink River) in the drainage area of the section of the Nontidal Delaware River known as the Middle Delaware, which is designated as Special Protection Waters. The IWTP is located in the Town of Thompson, Sullivan County, NY.

13. *Frenchtown Borough, D-2010-021 CP-1*. An application for approval of the upgrade and expansion of the existing Frenchtown Borough WWTP. The proposed upgrade to the WWTP consists of replacing the existing trickling filter treatment system with a new oxidation ditch treatment system. The hydraulic design capacity of the upgraded WWTP is also being expanded from 0.15 mgd to 0.26 mgd; however, the WWTP does not have planning approval to expand beyond 0.15 mgd, and therefore the WWTP will remain at a permitted flow of 0.15 mgd. The project WWTP was not previously approved by the Commission. The WWTP will continue to discharge to the section of the nontidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters, at River Mile 164.5 in Delaware River Water Quality Zone 1E. The facility is located in Frenchtown Borough, Hunterdon County, NJ.

14. *Exelon Generation Company, LLC—Fairless Hills, D-2010-036 CP-1*. An application for the approval of an existing discharge of up to 37.4 mgd of Power Plant Condenser Cooling Water (PPCCW), noncontact cooling water (NCCW) and stormwater from the Fairless Hills Generating Station (FHGS) by means of Outfall No. 001. Outfall No. 001 discharges to Water Quality Zone 2 of the Delaware River at River Mile 126.85. The FHGS is located within the U. S. Steel complex in Falls Township, Bucks County, PA.

In addition to the standard business meeting items, consisting of adoption of the Minutes of the Commission's

September 15, 2010, business meeting, announcements of upcoming meetings and events, a report on hydrologic conditions, reports by the Executive Director and the Commission's General Counsel, and public dialogue, the business meeting also will include public hearings: (a) on a resolution extending Docket No. D-69-210 CP Final (Revision 12) for the Exelon Limerick Generating Station Water Supply Modification Demonstration Project and Wadesville Mine Pool Withdrawal and Streamflow Augmentation Demonstration Project; (b) on a resolution authorizing the Executive Director to enter into an agreement for the management of comments received on a proposed rulemaking; (c) for Lambertville Municipal Utility Authority to show cause why its wastewater treatment plant improvements should not be subject to review in accordance with Section 3.8 of the *Delaware River Basin Compact* and Commission Regulations; (d) on a resolution authorizing the Executive Director to enter into an agreement for the analysis of periphyton samples from the nontidal Delaware River; and (e) on a resolution to adopt the Commission's operating and capital budgets for fiscal year 2012. Consideration by the Commission also will be given to a resolution amending the *Water Quality Regulations, Water Code* and Comprehensive Plan to update water quality criteria for toxic pollutants in the Delaware Estuary and extend these criteria to Delaware Bay (a proposal on which a public hearing was conducted on September 23, 2010), and a resolution to correct a technical error in the September 15, 2010, amendment of the water charging rates.

Draft dockets scheduled for public hearing on September 15, 2010, can be accessed through the Notice of Commission Meeting and Public Hearing on the Commission's web site, drbc.net, 10 days prior to the meeting date. Additional public records relating to the dockets may be examined at the Commission's offices. Contact William Muszynski at (609) 883-9500, Ext. 221, with any docket-related questions.

Note that conference items are subject to change and items scheduled for hearing are occasionally postponed to allow more time for the Commission to consider them. Check the Commission's web site, closer to the meeting date for changes that may be made after the deadline for filing this notice.

Individuals who wish to comment for the record on a hearing item or to address the Commissioners informally during the public dialogue portion of the meeting are asked to sign up in advance by contacting Paula Schmitt of the Commission staff, at paula.schmitt@drbc.state.nj.us or (609) 883-9500, Ext. 224.

Individuals in need of an accommodation as provided for in the Americans with Disabilities Act of 1990 who wish to attend the informational meeting, conference session or hearings should contact the Commission Secretary directly at (609) 883-9500, Ext. 203 or through the Telecommunications Relay Services (TRS) at 711, to discuss how the Commission can accommodate their needs.

PAMELA M. BUSH, Esq.,  
Secretary

[Pa.B. Doc. No. 10-2273. Filed for public inspection November 24, 2010, 9:00 a.m.]

# DEPARTMENT OF BANKING

## Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending November 9, 2010.

Under section 503.E of the Department of Banking Code (71 P. S. § 733-503.E), any person wishing to comment on the following applications, with the exception of branch applications, may file their comments in writing with the Department of Banking, Corporate Applications Division, 17 North Second Street, Suite 1300, Harrisburg, PA 17101-2290. Comments must be received no later than 30 days from the date notice regarding receipt of the application is published in the *Pennsylvania Bulletin*. The nonconfidential portions of the applications are on file at the Department and are available for public inspection, by appointment only, during regular business hours. To schedule an appointment, contact the Corporate Applications Division at (717) 783-2253. Photocopies of the nonconfidential portions of the applications may be requested consistent with the Department's Right-to-Know Law Records Request policy.

### BANKING INSTITUTIONS

#### Section 112 Acquisitions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
10-28-2010	Warburg Pincus Private Equity X, LP and Warburg Pincus X Partners, LP New York, NY  Application for approval to acquire up to 19.7% of the common stock of National Penn Bancshares, Inc., Boyertown, PA, the parent bank holding company of National Penn Bank, Boyertown, PA, and Christiana Bank & Trust Company, Greenville, DE.	Filed

#### Holding Company Acquisitions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
11-1-2010	F.N.B. Corporation Hermitage Mercer County  Application for approval to acquire 100% of Comm Bancorp, Inc., Clarks Summit, and thereby indirectly acquire 100% of Community Bank and Trust Company, Clarks Summit.	Filed
11-8-2010	Alliance Bancorp, Inc. of Pennsylvania Broomall Delaware County  Application for approval to acquire 100% of Greater Delaware Valley Savings Bank (doing business as Alliance Bank), Broomall.	Approved

#### Branch Applications

##### De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
11-1-2010	Susquehanna Bank Lititz Lancaster County	5002 Lincoln Drive West Evesham Township Burlington County, NJ	Opened

##### Branch Relocations

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
11-8-2010	Susquehanna Bank Lititz Lancaster County	<i>To:</i> Via Bella and Hepburn Streets Williamsport Lycoming County  <i>From:</i> 329 Pine Street Williamsport Lycoming County	Filed

##### Branch Discontinuances

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
10-29-2010	NOVA Bank Berwyn Chester County	1819 John F. Kennedy Boulevard Philadelphia Philadelphia County	Closed

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
11-8-2010	Susquehanna Bank Lititz Lancaster County	225 Williams Street Williamsport Lycoming County	Filed

**SAVINGS INSTITUTIONS**

No activity.

**CREDIT UNIONS**

No activity.

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

STEVEN KAPLAN,  
*Secretary*

[Pa.B. Doc. No. 10-2274. Filed for public inspection November 24, 2010, 9:00 a.m.]

## DEPARTMENT OF EDUCATION

### Eligible Partnerships, Postsecondary Grant Application, Guidelines for Assistance for Regular and Special Education, Mathematics, Science, English/Language Arts, Social Studies, Art/Music and Foreign Languages Teachers

The Department of Education (Department) has established grant application guidelines to provide direction to eligible partnerships for submitting applications targeting assistance for regular and/or special education teachers to become highly qualified in the core academic subjects of mathematics, science, English/language arts, social studies, art/music and/or foreign languages as defined by the No Child Left Behind Act. An eligible partnership that receives a grant under these guidelines shall limit its programs to those that provide an innovative approach for current regular and/or special education classroom teachers teaching in a high need local educational agency (LEA) to demonstrate content mastery to become highly qualified in the core academic subjects of mathematics, science, English/language arts, social studies, art/music, and/or foreign languages. Approximately \$1.7 million is available on a competitive basis under this grant application for up to three funding cycles beginning in spring 2011 and ending September 30, 2014. A maximum per participant cost is established by the application guidelines for each of the possible ways for assisting teachers to become highly qualified.

#### 1. Eligibility Requirements

An eligible partnership shall include at a minimum:

1. An institution of higher education (IHE) in this Commonwealth which is approved by the Department to prepare teachers.
2. An IHE in this Commonwealth that has arts and sciences faculty.
3. At least one high-need LEA included on the "List of LEAs That Meet the 'High Need' Definition In No Child Left Behind." A high-need LEA is one of the following:
  - Serves not fewer than 10,000 children from families with incomes below the poverty line.
  - Not less than 20% of the children served by the agency are from families with incomes below the poverty line.

- For which there is a high percentage of teachers not teaching in the academic subjects or grade levels that the teachers were trained to teach.

- For which there is a high percentage of teachers with emergency, provisional, or temporary certification or licensing (Section 2102(3)).

Other partners may include:

1. Other LEAs.
2. An elementary or secondary school.
3. Other educational service agency or nonprofit cultural or educational organization.
4. Teacher organizations.
5. Principal organizations.
6. Businesses.

Each partnership must designate an IHE as the fiscal agent to execute a contract or memorandum of understanding on behalf of the partnership with the Commonwealth.

#### 2. Application Deadline

Grant applications are due by 5 p.m., Monday, January 24, 2011.

#### 3. How to Apply

Copies of the Eligible Partnerships Postsecondary Grant Application guidelines and forms are available on the Department's web site at <http://www.pde.state.pa.us> or from the Issuing Office, which is the sole point of contact for the guidelines: Division of Teacher Quality, Bureau of School Leadership and Teacher Quality, Department of Education, 333 Market Street, Third Floor, Harrisburg, PA 17126-0333, (717) 772-3566, TDD (717) 783-8445.

#### 4. Questions Concerning the Grant Application

Questions concerning the grant application should be addressed to Jamal Wakeem, Division of Teacher Quality, Bureau of School Leadership and Teacher Quality, Department of Education, 333 Market Street, Third Floor, Harrisburg, PA 17126-0333, (717) 525-5559, TDD (717) 783-8445.

THOMAS E. GLUCK,  
*Acting Secretary*

[Pa.B. Doc. No. 10-2275. Filed for public inspection November 24, 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 regarding 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 (CAFO). This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92a and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act (33 U.S.C.A. §§ 1251—1376).

<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 tentative determinations 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 United States 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 NPDES applications are invited to submit statements to the contact office noted before the application within 30 days from the date of this public notice. Persons wishing to comment on WQM permit applications are invited to submit statements to the 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. A comment submittal 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 public hearings 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 No.)</i>	<i>EPA Waived Y/N?</i>
PAS232211 (Storm Water)	Consolidated Container Company LP 405 Nestles Way Breinigsville, PA 18031	Lehigh County Upper Macungie Township	Iron Run (2-C) HQ-CWF	Y

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0063894 (Industrial Waste)	Minersville Borough Municipal Authority WTP Water Dam Road Minersville, PA 17954	Schuylkill County Cass Township	Dyer Run Reservoir (3-A) CWF	N

*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>
PA0088226 (SEW)	South Woodbury Township 125 North Road New Enterprise, PA 16664	Bedford County / South Woodbury Township	Yellow Creek / 11-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>
PAG124801	Pfleegor Farm, 560 Goodman Road, Lewisburg, PA 17837-7589	Union County, Kelly Township	Trib to Little Buffalo Creek, Watershed 10C	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>
PA0104078 Sewage	Anderson MHP 326 Vernon Road Greenville, PA 16125-8632	Mercer County West Salem Township	Unnamed tributary of Big Run 20-A	Y
PA0022373 Sewage	Lakeview Joint Sewer Authority 5394 Franklin Street Sandy Lake, PA 16145	Mercer Sandy Lake Borough	Sandy Creek 16-G	Y

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

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

**PA0061590**, Sewage, SIC Code 4939, **Little Washington Wastewater Company**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489. Facility Name: Eagle Rock Wastewater Treatment Facility. This existing facility is located in North Union Township, **Schuylkill County**.

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

The receiving stream, Tomhicken Creek, is located in State Water Plan watershed 05E 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 1.318 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
Total Residual Chlorine	XXX	XXX	XXX	0.26	XXX	0.62
CBOD <sub>5</sub>	270	XXX	XXX	25	XXX	50
Total Suspended Solids	325	XXX	XXX	30	XXX	60
Fecal Coliform (CFU/100 ml)	XXX	XXX	XXX	200	XXX	1000
May 1 - Sep 30				Geo Mean		
Fecal Coliform (CFU/100 ml)	XXX	XXX	XXX	2000	XXX	10000
Oct 1 - Apr 30				Geo Mean		
Ammonia-Nitrogen	27	XXX	XXX	2.5	XXX	5.0
May 1 - Oct 31						
Ammonia-Nitrogen	82	XXX	XXX	7.5	XXX	15
Nov 1 - Apr 30						

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

<i>Parameters</i>	<i>Mass (lbs)</i>		<i>Concentration (mg/l)</i>		
	<i>Monthly</i>	<i>Annual</i>	<i>Minimum</i>	<i>Monthly Average</i>	<i>Maximum</i>
Ammonia—N	Report	Report **		Report	
Kjeldahl—N	Report			Report	
Nitrate-Nitrite as N	Report			Report	
Total Nitrogen	Report	Report		Report	
Total Phosphorus	Report	Report		Report	
Net Total Nitrogen	Report	24,073*			
Net Total Phosphorus	Report	3,210*			

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

\* The compliance date for Net Total Nitrogen and Net Total Phosphorus will begin on October 1, 2013. Since these reporting requirements are annual loads, the reporting on compliance with the annual limitations will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2014. This facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until September 30, 2013.

\*\* Total Annual Ammonia Load will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2014.

The permit contains the following major special conditions:

- Chesapeake Bay Schedule
- Chesapeake Bay Nutrient Schedule
- Whole effluent Toxicity Testing

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 570-826-5472.

The EPA Waiver is not in effect.

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

**PA0028088**, Sewage, SIC Code 4952, **Brown Township Municipal Authority**, 7748 State Route 655, Reedsville, PA 17084-9148. Facility Name: Brown Township STP. This existing facility is located in Brown Township, **Mifflin County**.

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

The receiving stream(s), Kishacoquillas Creek, is located in State Water Plan watershed 12-A and is classified for Trout Stocking, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.6 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>Instant. Maximum</i>
Flow (MGD)	Report	Report Daily Max	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
Total Residual Chlorine	XXX	XXX	XXX	0.5	XXX	1.6
CBOD <sub>5</sub>	125	185	XXX	25	40	50
BOD <sub>5</sub>						
Raw Sewage Influent	Report	XXX	XXX	Report	XXX	XXX
Total Suspended Solids						
Raw Sewage Influent	Report	XXX	XXX	Report	XXX	XXX
Total Suspended Solids	150	225	XXX	30	45	60
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30	XXX	XXX	XXX	200	XXX	XXX
				Geo Mean		
Fecal Coliform (CFU/100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2000	XXX	XXX
				Geo Mean		

<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>Instant. Maximum</i>
Nitrate-Nitrite as N	XXX Report	XXX	XXX	Report	XXX	XXX
Nitrate-Nitrite as N Total Nitrogen	Total Mo XXX	XXX XXX	XXX XXX	XXX Report	XXX XXX	XXX XXX
Total Nitrogen	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Total Nitrogen Total Nitrogen Effluent Net	XXX Report Total Mo	Total Annual XXX	XXX XXX	XXX XXX	XXX XXX	XXX XXX
Total Nitrogen Effluent Net (Interim)	XXX	Report Total Annual	XXX	XXX	XXX	XXX
Total Nitrogen Effluent Net (Final)	XXX	10,959 Total Annual	XXX	XXX	XXX	XXX
Ammonia-Nitrogen Ammonia-Nitrogen	Report XXX	XXX Report	XXX XXX	Report XXX	XXX XXX	XXX XXX
Ammonia-Nitrogen	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Kjeldahl Nitrogen	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Total Phosphorus Total Phosphorus	XXX Report Total Mo	XXX XXX	XXX XXX	Report XXX	XXX XXX	4.0 XXX
Total Phosphorus	XXX	Report Total Annual	XXX	XXX	XXX	XXX
Total Phosphorus Effluent Net	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Total Phosphorus Effluent Net (Interim)	XXX	Report Total Annual	XXX	XXX	XXX	XXX
Total Phosphorus Effluent Net (Final)	XXX	1,461 Total Annual	XXX	XXX	XXX	XXX

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 717-705-4732.

The EPA Waiver is in effect.

**PA0084247**, Sewage, SIC Code 3357, **Nexans Inc.**, 132 White Oak Road, New Holland, PA 17557-8303. Facility Name: Berk Tek. This existing facility is located in Earl Township, **Lancaster County**.

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

The receiving stream, Unnamed Tributary to Conestoga River, is located in State Water Plan watershed 7-J and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0075 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
Total Residual Chlorine (Interim)	XXX	XXX	XXX	1.0	XXX	2.0
Total Residual Chlorine (Final)	XXX	XXX	XXX	0.5	XXX	1.6
CBOD <sub>5</sub>	XXX	XXX	XXX	25	XXX	50

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	Instant. Maximum
Total Suspended Solids	XXX	XXX	XXX	30	XXX	60
Fecal Coliform (CFU/100 ml) May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	XXX
Fecal Coliform (CFU/100 ml) Oct 1 - Apr 30	XXX	XXX	XXX	2000 Geo Mean	XXX	XXX
Ammonia-Nitrogen May 1 - Oct 31	XXX	XXX	XXX	20	XXX	400

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 717-705-4732.

The EPA Waiver is in effect.

**PA0020664**, Sewage, SIC Code 4952, **Middletown Borough Authority**, 60 W Emaus Street, Middletown, PA 17057-1407. Facility Name: Middletown Borough Authority STP. This existing facility is located in Middletown Borough, **Dauphin County**.

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

The receiving stream(s), Susquehanna River, is located in State Water Plan watershed 7-C and is classified for Warm Water Fishes, Migratory Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 2.2 MGD.

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Weekly Average	Instant. Maximum
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
Total Residual Chlorine	XXX	XXX	XXX	0.5	XXX	1.6
CBOD <sub>5</sub>	459	Wkly Avg	XXX	25	40	50
BOD <sub>5</sub> Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
Total Suspended Solids Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
Total Suspended Solids	550	826 Wkly Avg	XXX	30	45	60
Fecal Coliform (CFU/100 ml) May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	XXX
Fecal Coliform (CFU/100 ml) Oct 1 - Apr 30	XXX	XXX	XXX	2000 Geo Mean	XXX	XXX
Ammonia-Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Phosphorus	37	XXX	XXX	2.0	XXX	4.0

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

Parameters	Mass (lbs)		Minimum	Concentration (mg/l)	
	Monthly	Annual		Monthly Average	Maximum
Ammonia—N	Report	Report		Report	
Kjeldahl—N	Report			Report	
Nitrate-Nitrite as N	Report			Report	
Total Nitrogen	Report	Report		Report	
Total Phosphorus	Report	Report		Report	
Net Total Nitrogen (Interim)	Report	Report			
Net Total Nitrogen (Interim)	Report	26,788			
Net Total Nitrogen (Final)	Report	40,182			
Net Total Phosphorus (Interim)	Report	3,572			
Net Total Phosphorus (Interim)	Report	Report			
Net Total Phosphorus (Final)	Report	5,358			



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

\* The compliance date for Net Total Nitrogen and Net Total Phosphorus will begin on February 1, 2011. Since these reporting requirements are annual loads, the reporting on compliance with the annual limitations will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2011. This facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until January 31, 2011.

\*\* Total Annual Ammonia Load will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2011.

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 717-705-4732.

The EPA Waiver is not in effect.

*Northcentral Regional Office: Regional Water Management Program Manager, 208 W Third Street Suite 101, Williamsport, PA 17701-6448, Telephone: 570.327.0532.*

**PA0008591**, Industrial Waste, SIC Code 2631, **NGC Industries, LLC**, PO Box 210, Milton, PA 17847-0210. Facility Name: NGC Industries, LLC—Milton Plant. This existing facility is located in White Deer Township, **Union County**.

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

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

The proposed effluent limits for Outfall 001 are based on a design flow of 0.128 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
BOD <sub>5</sub>	980	1,960	XXX	915	1,835	2,285
Total Suspended Solids	1,630	3,265	XXX	1,525	3,055	3,810
Total Dissolved Solids	XXX	XXX	XXX	XXX	Report	XXX
Oil and Grease	16	32	XXX	15	30	30
Ammonia-Nitrogen	Report	XXX	XXX	Report	XXX	XXX
Total Phosphorus	Report	XXX	XXX	Report	XXX	XXX

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

<i>Parameters</i>	<i>Mass (lbs)</i>		<i>Minimum</i>	<i>Concentration (mg/l)</i>		<i>Monitoring Requirements</i>
	<i>Monthly</i>	<i>Annual</i>		<i>Monthly Average</i>	<i>Maximum</i>	
Ammonia—N	Report	Report		Report		8-Hr Composite
Kjeldahl—N	Report			Report		8-Hr Composite
Nitrate-Nitrite as N	Report			Report		8-Hr Composite
Total Nitrogen	Report	Report		Report		Calculation
Total Phosphorus	Report	Report		Report		8-Hr Composite
Net Total Nitrogen (Interim)	Report	Report				Calculation
Net Total Nitrogen (Final)	Report	2,213				Calculation
Net Total Phosphorus (Interim)	Report	Report				Calculation
Net Total Phosphorus (Final)	Report	106				Calculation

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

\* The compliance date for Net Total Nitrogen and Net Total Phosphorus will begin on October 1, 2011. Since these reporting requirements are annual loads, the reporting on compliance with the annual limitations will be required to be

reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2012. This facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until September 30, 2011.

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

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 570-327-3693.

The EPA Waiver is not in effect.

**PAS314802**, Storm Water, SIC Code 1389, **Halliburton Energy Services, Inc.**, 11545 State Route 120, Emporium, PA 15834. Facility Name: Baroid Facility. This proposed facility is located in Emporium Borough, **Cameron County**.

Description of Proposed Activity: The application is for a new NPDES permit for a new discharge of stormwater.

The receiving stream(s), West Creek, is located in State Water Plan watershed 8-A and is classified for High Quality Waters—Cold Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed stormwater monitoring requirements for Outfall 001 are as follows

Parameters	Mass (lb/day)			Concentration (mg/l)			Minimum Measurement Frequency
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	Instant. Maximum	
pH (S.U.)	XXX	XXX	XXX	XXX	Report	XXX	1/year
CBOD <sub>5</sub>	XXX	XXX	XXX	XXX	Report	XXX	1/year
Chemical Oxygen Demand	XXX	XXX	XXX	XXX	Report	XXX	1/year
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX	1/year
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX	1/year
Total Kjeldahl Nitrogen	XXX	XXX	XXX	XXX	Report	XXX	1/year
Total Phosphorus	XXX	XXX	XXX	XXX	Report	XXX	1/year
Total Iron	XXX	XXX	XXX	XXX	Report	XXX	1/year

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 570-327-3693.

The EPA Waiver is in effect.

### III. WQM Industrial Waste and Sewerage Applications under The Clean Streams Law

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

**WQM Permit No. 6710407**, Sewerage, **Springettsbury Township**, 1501 Mt. Zion Road, York, PA 17402.

This proposed facility is located in Springettsbury Township, **York County**.

Description of Proposed Action/Activity: Seeking approval for the construction/operation of the Meadowlands Interceptor.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701*

**WQM Permit No. 1810201**, CAFO Operation, SIC0241, **Paul Dotterer & Sons, Inc.**, 6795 Nittany Valley Drive, Mill Hall, 17751. This proposed facility is located in Porter Township, **Centre County**.

Description of Proposed Action/Activity: Paul Dotterer & Sons, Inc., an existing dairy farm, proposes the issuance of a WQM permit for construction and operation of two reinforced concrete manure storage tanks and modification of the existing manure management system. The manure storage tanks will each provide a holding capacity of 1.287 million gallons of manure.

**WQM Permit No. 5510402**, Sewerage [SIC 4952], **Middleburg Municipal Authority**, 13 North Main Street, Middleburg, PA 17842.

This proposed facility is located in Middleburg Borough, **Snyder County**.

Description of Proposed Action/Activity: The WWTP will be modified to achieve enhanced nutrient removal (ENR) of total nitrogen (TN) and total phosphorous (TP) from influent wastewater. Modifications will include; overhauling the Biolac treatment method to perform denitrification along with existing nitrification processes, the addition of chemical precipitation to remove TP from the wastewater, artificial alkalinity and organic carbon enhancement via chemical additions, installation of a precast concrete chemical feed equipment storage building, and flocculator rake maintenance.

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745*

**WQM Permit No. 0210407**, Sewerage, **Simon Robbie**, 32 Meeting House Lane, Bradford Woods, PA 15015

This proposed facility is located in the Plum Borough, **Allegheny County**

Description of Proposed Action/Activity: Application for the construction and operation of a single residence sewage treatment plant.

**WQM Permit No. 0205409-A1**, Sewerage, **Findlay Township Municipal Authority**, 1271 Route 30, PO Box 409, Clinton, PA 15026

This existing facility is located in Findlay Township, **Allegheny County**

Description of Proposed Action/Activity: Application for permit amendment to replace 8-inch sewer with 18-inch sewer interceptor.

**WQM Permit No. 0310401**, Sewerage, **West Hills Area Water Pollution Control Authority**, 257 Linde Road, Kittanning, PA 16201-4719

This proposed facility is located in East Franklin and North Buffalo Townships, **Armstrong County**

Description of Proposed Action/Activity: Application for the construction and operation of a sanitary sewer system.

#### IV. NPDES Applications for Stormwater Discharges from MS4

#### V. Applications for NPDES Waiver Stormwater Discharges from MS4

#### VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 151035	Lion Associates, LP 100 Plaza Drive, Unit 8 Downingtown, PA 19335	Chester	Uwchlan Township	Pickering Creek (HQ-TSF)
PAI01 151036	Jerrehian, a PA General Partnership 101 West Washington Street Conshohocken, PA 19428	Chester	West Goshen Township	Taylor's Run (TSF-MF)
PAI01 151037	University of Pennsylvania 3101 Walnut Street Philadelphia, PA 19104	Chester	East and West Marlborough Townships	Red Clay Creek (TSF)

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

*Susquehanna County Conservation District: County Office Building, 31 Public Avenue, Montrose, PA 18801, 570-278-4600.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025810002	PA Dept. of Transportation Engineering District 4-0 55 Keystone Industrial Park Dunmore, PA 18512	Susquehanna	Montrose Borough - and - Bridgewater Twp.	UNT to Pettis Creek, WWF, MF; Snake Creek, WWF, MF; UNT to Snake Creek, EV Wetlands; Meshoppen Creek, CWF, MF

*Schuylkill County Conservation District: 1206 Ag Center Drive, RR 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>
PAI025410004	SBA Communications, Inc. 5900 Broken Sound Parkway Boca Raton, FL 33487	Schuylkill	Union Twp., - and - Ringtown Bor.	Dark Run, HQ-CWF, MF

*Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

*Indiana County Conservation District, 625 Kolter Drive, Suite 8, Indiana, PA 15701-3571 (724-471-4751)*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI053210001	Lucerne Landings 4600 Lucerne Road Indiana, PA 15701	Indiana	White Township	UNT to Two Lick Creek (CWF)

Washington County Conservation District, 602 Courthouse Square, Washington, PA 15301 (724-228-6774).

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI056310010	Chris Sidick 104 Wilson Avenue Cecil, PA 15321	Washington	North Strabane Township	UNT to Little Chartiers Creek (HQ-EWWF)

**VII. List of NOIs for NPDES and/or Other General Permit Types**

PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

**PUBLIC WATER SUPPLY (PWS) PERMITS**

Under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17), the following parties have applied for PWS permits to construct or substantially modify public water systems.

Persons wishing to comment on permit applications are invited to submit statements to the office listed before the application within 30 days of this public notice. Comments received within this 30-day comment period will be considered in the formulation of the final determinations regarding an application. A comment 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. 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 related documents are on file at the office listed before the application and available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability that 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 may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

**SAFE DRINKING WATER**

**Applications Received under the Pennsylvania Safe Drinking Water Act**

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

**Application No. 4810507**, Public Water Supply.

Applicant	<b>East Allen Township Municipal Authority</b> 5340 Nor-Bath Blvd Northampton, Pa
[Township or Borough]	East Allen Twp, <b>Northampton County</b>
Responsible Official	Donald Heiney
Type of Facility	Public Water System

Consulting Engineer	Hanover Engineering Associates 5920 Hamilton Blvd Allentown Pa
Application Received Date	11/1/2010
Description of Action	Water line extension and pump station for east Allen gardens.

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

**Application No. 2010504**, Public Water Supply

Applicant	<b>Aristocrat Spring Water Inc</b>
Township or Borough	Saegertown Borough/ <b>Crawford County</b>
Responsible Official	Kevin Schlosser, President
Consulting Engineer	Douglas C. Sceiford, PE Hill Engineering Inc 8 Gibson Street North East PA 16428-1012
Application Received Date	10/25/2010
Description of Action	Addition of Ozone treatment equipment at water bottling plant.

**MINOR AMENDMENT**

**Applications Received under the Pennsylvania Safe Drinking Water Act**

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

**Application No. 6610503 MA**, Minor Amendment.

Applicant	<b>Aqua Pennsylvania, Inc. Rivercrest</b>
[Township or Borough]	Tunkhannock Township, <b>Wyoming County</b>
Responsible Official	Patrick R. Burke, Regional Manager NE 1 Aqua Way White Haven, Pa. 18611 (570) 443-7099
Type of Facility	Public Water Supply
Consulting Engineer	William A. LaDieu, PE CET Engineering Associates 1240 N. Mountain Road Harrisburg, Pa. 17112 (717) 541-0622
Application Received Date	9/27/2010

Description of Action This project provides for the construction of 36 feet of 3 feet diameter ductile iron water main to provide additional chlorination contact time for 4-Log disinfection requirements before the entry point.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

### PREAMBLE 1

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#### **Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.907)**

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Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) (35 P. S. §§ 6026.302—6026.305) require the 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. A person intending to use the background standard, Statewide health standard, the site-specific standard or intend to remediate a site as a special industrial area shall 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 or a combination of cleanup standards or 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 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 following site, 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 as follows. 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 listed before the notice. 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 AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701*

**Bucknell University Dewitt Building**, Lewisburg Borough, **Union County**. JMT Environmental Technologies, Inc., 3353-C Gun Club Road, Nazareth, PA 18064 on behalf of Bucknell University, Facilities Management Office, Lewisburg, PA 17837 has submitted a Notice of Intent to Remediate soil contaminated with No. 2 fuel oil. The applicant proposes to remediate the site to meet the Statewide Health Standard. The future use of the property is as a commercial storefront.

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#### **OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE**

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**Application received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate a Solid Waste Processing or Disposal Area or Site.**

*Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Telephone 412-442-4000.*

**Permit IDNo. 300837. RRI Energy Northeast Management Company**, 121 Champion Way, Suite 200, Canonsburg, PA 15317. Keystone Generating Station Ash/Mine Refuse Disposal Site, 313 Keystone Drive, Shelocta, PA 15774-7625. Application for a major modification to add waste (limestone solids and gypsum pond solids) to the existing permit for a residual waste landfill in Plumcreek Township, **Armstrong County** was received in the Regional Office on November 8, 2010.

*Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401*

**Permit Application No. WMGM039SE002A. Allan A Myers, LP, dba Independence Construction Materials**, 638 Lancaster Avenue, Malvern, PA 19355. This permit modification application is for increasing the total storage of waste asphalt shingles from 500 to 3,000 tons for the purpose of processing and beneficial use at the Devault Asphalt Plant located at 4042 State Road, Devault PA 19432, in Charlestown Township, **Chester County**. The application was received at the Southeast Regional Office on October 8, 2010.

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#### **REGISTRATION FOR GENERAL PERMIT—RESIDUAL WASTE**

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**Registration Received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Residual Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and/or the Beneficial Use of Residual Waste Other Than Coal Ash.**

*Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401*

**General Permit Application No. WMGR025SE003. Penn Organic, LLC**, 2 Brown Drive, Spring City, PA 19475. This application is for registration under Residual Waste General Permit WMGR025 from Penn Organic, LLC., located at located at Old Pennhurst State Hospital and School, 250 Service Road, Spring City, PA 19475, in East Vincent Township, **Chester County**. The application was received by the Southeast Regional Office on September 3, 2010.

## AIR QUALITY

### PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

#### NEW SOURCES AND MODIFICATIONS

The Department has developed an "integrated" plan approval, State Operating Permit and Title V Operating Permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit 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 received applications for Plan Approvals or Operating Permits from the following facilities.

Copies of these applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the regional office listed before the applications. Persons interested in reviewing the application files should contact the appropriate regional office to schedule appointments.

Persons wishing to receive a copy of a proposed Plan Approval or Operating Permit shall indicate interests to the Department regional office within 30 days of the date of this notice and shall file protests or comments on a proposed Plan Approval or Operating Permit within 30 days of the Department providing a copy of the proposed documents to persons or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that hearings be held concerning a proposed Plan Approval or Operating Permit. A comment or protest filed with the Department regional office shall 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 listed before the application. TDD users may 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 (42 U.S.C.A. §§ 7401—7671q) and regulations adopted under the Federal Clean Air 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.**

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481*

*Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940*

**62-185A: Berenfield Containers, Inc.** (304 Main Avenue, Warren, PA 16365) for construction of a metal container manufacturing facility in the City of Warren, **Warren County**. The inside liner coating and exterior paint will be applied using high volume, low pressure (HVLP) spray guns in spray booths. Emissions from spray booths will be controlled by fiber filter pads. A recuperative thermal oxidizer (RTO) will be used to control VOC emissions from the curing process.

**Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.**

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110*

*Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 717-949-7935*

**67-05117A: York Building Products Co., Inc.—Masonry Division** (5952 Lincoln Highway West, Thomasville, PA 17362) for a 30 tph fluidized bed sand and gravel dryer controlled by a baghouse in Jackson Township, **York County**.

In accordance with 25 Pa. Code §§ 127.44(a) and 127.45(a), the Department of Environmental Protection (DEP) has received and intends to issue a Plan Approval to the above mentioned company for the above mentioned project. This plan approval may be incorporated into the company's facility-wide permit via an administrative amendment at a later date.

This plan approval will increase the operating hours, from the existing 2,000 hours, for the unit installed with de minimis emissions increase of PM and NO<sub>x</sub>. The company shall be subject to and comply with the relevant provisions of Title 25 of the PA Code including chapters 123, 127, and 129. The Plan Approval and Operating permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

Copies of the application, DEP'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, 909 Elmerton Avenue, Harrisburg, PA 17110.

A person may oppose the proposed plan approval, or may provide the Department with additional information to consider in its review, by filing a written protest with the Department at the address listed above. Each written comment must contain the following:

- Name, address and telephone number of the person submitting the comments.

- Identification of the proposed permit by the permit number listed above.

- A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A 30-day comment period, from the date of publication of this notice in the *Pennsylvania Bulletin*, will exist for the submission of comments or protests.

Daniel C. Husted may be contacted at 717-705-4863, or at PA DEP Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, for additional information or for the submission of comments or protests.

Plan approvals issues to sources identified in 25 Pa. Code Section 127.44(b)(1)-(4) or plan approvals issued to sources with limitations on the potential to emit may become part of the SIP, and will be submitted to EPA for review and approval.

### OPERATING PERMITS

#### Intent to Issue Title V Operating Permits under the Air Pollution Control Act 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*

**01-05007: Schindler Elevator Corp.** (1200 Biglerville Road, Gettysburg, PA 17325-4449) for their elevator and moving stairways manufacturing operations facility in Cumberland Township, **Adams County**. This is a renewal of the Title V operating permit issued in 2005.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481*

*Contact: Matthew Williams, Facilities Permitting Chief—Telephone: 814-332-6940*

**10-00037: Sonneborn, Inc.—Petrolia Plant** (100 Sonneborn Lane, Petrolia, PA 16050) for a Title V Operating Permit for this petroleum products processing facility is being proposed to be re-issued in the Borough of Petrolia, **Butler County**.

#### Intent to Issue Operating Permits under the Air Pollution Control Act 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*

**09-00193: Basic Chemical Solutions, LLC** (5 Steel Road East, Morrisville, PA 19067) for issuance of a State Only Operating Permit to operate Above Ground Acid Storage Tanks at the Basic Chemical Solutions, LLC, chemicals manufacturing facility located at 5 Steel Road East, Falls Township, **Bucks County**. Plan Approval, 09-0193, is being incorporated into the facility natural minor initial operating permit, 09-00193. This Operating Permit shall include monitoring and recordkeeping requirements to ensure that this facility complies with all applicable air quality regulations.

**15-00094: Metallurgical Products Co.** (P. O. Box 598, West Chester, PA 19381) for a metal alloying facility at

810 Lincoln Avenue, West Chester, PA 19380, West Goshen Township, **Chester County**, for operation of metal alloying processes. This action is a renewal of the State Only Operating Permit. Three Plan Approvals, PA-15-0094, 15-0094A, and 15-0094B are also being incorporated along with this renewal. The facility will continue to be a synthetic minor facility. The original State Only Operating Permit was issued on December 21, 2005. The renewal contains all applicable requirements including monitoring, recordkeeping and reporting.

**46-00172: Gemalto, Inc.** (101 Park Drive, Montgomeryville, PA 18936), for renewal of a State Only, Synthetic Minor Operating Permit in Montgomery Township, **Montgomery County**. The facility operates both lithographic and silk screen printing presses. The primary pollutant of concern is volatile organic compounds (VOC) from the printing processes which have the potential to exceed major thresholds. The company has elected to take appropriate operating and emission restrictions to limit VOC emissions to below 24.9 tons per year and maintain a synthetic minor operating status. The current operating permit expires March 31, 2011. There have been some changes at the facility since the issuance of the original operating permit. Plan Approval No. 46-0172B and General Plan Approval/Operating Permit, 46-320-038GP are being incorporated into the state only operating permit during the renewal. Monitoring, record keeping and reporting requirements are included in the permit to address applicable limitations.

**09-00004: Oliver-Tolas Healthcare Packaging, Inc.** (905 Pennsylvania Boulevard, Feasterville, PA 19053), for a State Only, Synthetic Minor Operating Permit Renewal in Lower Southampton Township, **Bucks County**. The facility operates rotogravure and flexographic printing presses, and cold degreasers. The primary pollutant of concern is volatile organic compounds (VOC) from the printing and degreasing processes which have the potential to exceed major thresholds. The company has elected to take appropriate operating and emission restrictions to limit VOC emissions to below 24.9 tons per year and maintain a synthetic minor operating status. The current operating permit expires on April 30, 2011. There have been no changes at the facility since the last operating permit was issued. Monitoring, record keeping and reporting requirements are included in the permit to address applicable limitations.

*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*

**22-05023: Pittsburgh Terminal Corp.** (P. O. Box 2621, Harrisburg, PA 17105) for operation of their petroleum terminal in Swatara Township, **Dauphin County**. This is a renewal of the synthetic minor operating permit issued in 2005.

**36-03005: Intelligencer Printing Co., Inc.** (330 Eden Road, P. O. Box 1768, Lancaster, PA 17608) for operation of their printing operation in Manheim Township, **Lancaster County**. This is a renewal of the natural minor operating permit issued in 2005.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745*

*Contact: Barbara Hatch, Facilities Permitting Chief—Telephone: 412-442-4174*

**03-00197: Nature's Blend Wood Product, Inc.—Ford City Plant** (P. O. Box 392, Ford City, PA 16226) for

manufacturing wood furniture components in Ford City Borough, **Armstrong County**. The operation of the facility's air contamination source consisting of miscellaneous natural gas usages, surface coating operations, and wood working operation. The facility is limited 49 tpy VOC and 4.14 tpy HAPs. The permit includes operation requirements, monitoring requirements, and recordkeeping requirements for the facility located in Ford City Borough, Armstrong County.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481*

*Contact: Matthew Williams, New Source Review Chief—Telephone: 814-332-6940*

**42-00216: Catalyst Energy, Inc.—Kane Plant** (Route 6, Kane, PA 16735) for an initial natural minor permit for a natural gas compression, refrigeration and dehydration station in Wetmore Township, **McKean County**. The facility's major emission sources included Ajax (2802LE) 296 BHP compressor with refrigeration dehydrator and equipment leaks. This facility is natural minor because the emissions are less than the Title V threshold.

## 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; 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—1406.20a). Mining activity permits issued in response to applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4014); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1002).

The following permit applications to conduct mining activities have been received by the Department. A copy of an application is available for inspection at the district mining office indicated before each application. Notices of requests for 401 Water Quality Certifications are included in individual application notices, as noted.

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 a person or an officer or head of Federal, state or local government agency or authority to the Department at the address of the district mining office indicated before 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 regarding a mining permit application should contain the name, address and telephone number of the person submitting comments or objections, the 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.

A request 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 an 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 in Table 2. Discharges from noncoal mines located in some geologic settings (for example, in 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 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 in Technical Guidance Document 362-0600-001, NPDES Program Implementation-Memorandum of Understanding (MOU) Concerning Water Quality Management, NPDES Program Implementation, and Related Matters. Other specific factors to be considered include public comments and Total Maximum Daily Loads.

Persons wishing to comment on NPDES permit applications should submit statements to the Department at the address of the district mining office indicated before 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. A comment 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 contain the name, address, telephone number and the interest of the party filing the request and 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. When a public hearing is held, the Department will consider comments from the public hearing in the final determination on the NPDES permit application.

### *Coal Applications Received*

*Effluent Limits*—The following range of effluent limits will apply to NPDES permits issued in conjunction with the associated coal mining activity permit and, in some cases, noncoal mining permits:



Parameter	30-Day Average	Daily Maximum	Instantaneous Maximum
Iron (total)	1.5 to 3.0 mg/l	3.0 to 6.0 mg/l	3.5 to 7.0 mg/l
Manganese (total)	1.0 to 2.0 mg/l	2.0 to 4.0 mg/l	2.5 to 5.0 mg/l
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Aluminum (Total)	0.75 to 2.0 mg/l	1.5 to 4.0 mg/l	2.0 to 5.0 mg/l
pH <sup>1</sup>		greater than 6.0; less than 9.0	
Alkalinity greater than acidity <sup>1</sup>			

<sup>1</sup>The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; and mined areas backfilled and revegetated; and drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

*California District Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100*

**02841304 and NPDES Permit # PA0041785, Tesone Land Company**, (P. O. Box 630, 5316 William Flynn Highway, Suite 301, Gibsonia, PA 15044), to renew the permit for the Allegheny Mine and Preparation Plant in Fawn Township, **Allegheny County** and related NPDES permit for water treatment. NO additional discharges. Application received: July 22, 2010.

**30841317 and NPDES Permit # PA0213527, Consol PA Coal Company, LLC**, (P. O. Box J, 1525 Pleasant Grove Road, Claysville, PA 15323), to renew the permit for the Enlow Fork Mine in Richhill and Morris Townships, **Greene County** and Morris, East Finley, and West Finley Townships, **Washington County** and related NPDES permit. Application received: June 29, 2010.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900*

**56080108 and NPDES No. PA0262692. PBS Coals, Inc.**, P. O. Box 260, Friedens, PA 15541, revision of an existing bituminous surface and auger mine to conduct auger mining activities within 100 feet and beneath of SR 2024, Walker School Road in Brothersvalley Township, **Somerset County**, affecting 377.7 acres. Receiving stream(s): unnamed tributary to Blue Lick Creek; unnamed trib to Swamp Creek; UT to Buffalo Creek classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: October 13, 2010.

**31000301 and NPDES No. PA0599174. New Enterprise Stone & Lime Company, Inc.**, P. O. Box 77, New Enterprise, PA 16664, permit renewal for the continued operation and restoration of a bituminous surface mine in Cromwell Township, **Huntingdon County**, affecting 72.6 acres. Receiving stream(s): Shade Creek classified for the following use(s): trout stocked fishery. There are no potable water supply intakes within 10 miles downstream. Application received: October 29, 2010.

**56100106 and NPDES No. PA0263095. PBS Coals, Inc.**, P. O. Box 260, 1576 Stoystown Road, Friedens, PA 15541, commencement, operation and restoration of a bituminous surface and auger mine in Jenner Township, **Somerset County**, affecting 122.9 acres. Receiving stream(s): unnamed tributaries to Hoffman Run and unnamed tributaries to Quemahoning Creek classified for

the following use(s): cold water fishery. The first downstream potable water supply intake from the point of discharge is Quemahoning Reservoir—Somerset Authority. The application includes a stream encroachment for a haul road crossing of an unnamed tributary to Hoffman Run designated as Unnamed Tributary "F". Application received: November 2, 2010.

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500*

**02070105 and NPDES Permit No. PA0251275. Neiswonger Construction, Inc.** (17592 Route 322, Strattanville, PA 16258). Revision application for land use change from forestland to pastureland and/or land occasionally cut for hay of an existing bituminous surface mine, located in Jefferson Hills Borough, **Allegheny County**, affecting 56.6 acres. Receiving streams: unnamed tributaries to Monongahela River, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received: November 4, 2010.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200*

**17950113 and NPDES No. PA0220159. Waroquier Coal Co.** (P. O. Box 128, Clearfield, PA 16830). Permit renewal of an existing bituminous surface mine located in Greenwood Township, **Clearfield County** affecting 60.2 acres. Receiving streams: unnamed tributaries to Watts Creek, Watts Creek classified for High Quality Cold Water Fisheries to Clearfield Creek classified for Warm Water Fishery. Application received: November 5, 2010.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118*

**54840105T3 and NPDES Permit No. 54840105 GP104. Olde Buck Run Coal Co., Inc.**, (P. O. Box 4210, Seltzer, PA 17974), transfer of an existing anthracite surface mine operation from Mine Hill Coal Co. #7, Inc. and adding an NPDES Permit (GP104) in Cass Township, **Schuylkill County** affecting 372.2 acres, receiving stream: West Branch Schuylkill River, classified for the following use: cold water fishes. Application received: November 2, 2010.

**13743002R5. Pagnotti Enterprises, Inc.**, (46 Public Squire, Suite 600, Wilkes-Barre, PA 18701), renewal of an existing anthracite coal refuse reprocessing and disposal operation in Banks and Hazle Townships, **Carbon and Luzerne Counties** affecting 984.5 acres, receiving stream: none. Application received: November 5, 2010.

#### *Noncoal Applications Received*

*Effluent Limits*—The following effluent limits will apply to NPDES permits issued in conjunction with a noncoal mining permit:

Parameter	Table 2 30-day Average	Daily Maximum	Instantaneous Maximum
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Alkalinity exceeding acidity* pH*		greater than 6.0; less than 9.0	

\* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191*

**16060303. Star Mining Corporation** (8100 Ohio River Boulevard, Emsworth, PA 15202) Renewal of NPDES Permit No. PA0258130, Perry Township, **Clarion County**. Receiving streams: Allegheny River, classified for the following uses: WWF. There are no potable surface water supply intakes within 10 miles downstream. NPDES Renewal application received: November 8, 2010.

**3075SM6. Glacial Sand & Gravel Co.** (P. O. Box 1022, Kittanning, PA 16201) Transfer of an existing sand and gravel pit from Ennstone d/b/a Three Rivers Aggregates in Worth Township and West Liberty Borough, **Butler County** affecting 114.5 acres. Receiving streams: Black Run and Hogue Run to Slippery Rock Creek, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: November 8, 2010.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200*

**14920301 and NPDES No PA0207039. Con-Stone Inc.** (P. O. Box 28, Bellefonte, PA 16823). Renewal of a large non-coal surface mine located in Haines Township, **Centre County** affecting 96.7 acres. Receiving streams: None (infiltration basin discharge to groundwater). Application received: November 5, 2010.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118*

**40920301C4 and NPDES Permit No. PA0224863. Riverview Block, Inc.**, (1507 Salem Boulevard, Berwick, PA 18603), correction to an existing quarry operation to add 18.2 acres for a total of 118.5 acres and add an NPDES Permit for discharge of treated mine drainage in Salem Township, **Luzerne County**, receiving streams: Salem Creek and unnamed tributary to Susquehanna River, classified for the following use: cold water fishes. Application received: November 2, 2010.

**64030811. Johnston & Rhodes Bluestone Co.**, (P. O. Box 130, East Branch, NY), Stage I & II bond release of a quarry operation in Scott Township, **Wayne County** affecting 4.0 acres on property owned by Gerald Delaurentis. Application received: November 9, 2010.

**58010855. Joseph Panzitta & Thomas J. Reilly**, (49 S. Main Street, Pittston, PA 18640), Stage I & II bond

release of a quarry operation in Oakland Township, **Susquehanna County** affecting 5.0 acres on property owned by Thomas, Theresa and John Reilly. Application received: November 10, 2010.

## FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department. Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the Commonwealth to certify that the involved projects will not violate the 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, the issuance of a Dam Permit or Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment shall submit comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the office noted before an 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. Each individual 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 working days at the office noted before the application.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users may 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 Flood Plain Management Act (32 P. S. § 679.302) and Requests for Certification under section 401(a) of the FWPCA.**

## WATER OBSTRUCTIONS AND ENCROACHMENTS

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

**E36-879: Pennsylvania Department of Transportation, Engineering District 8-0**, 2140 Herr Street, Harrisburg, PA 17103, East Cocalico Township, **Lancaster County**, ACOE Baltimore District

To (1) remove the existing structure and to construct and maintain a 55.5-foot wide, single span bridge having a normal span of 93.5 feet, a skew of 90°00'00", and a minimum underclearance of 8.5 feet over Cocalico Creek (WWF, MF); (2) permanently impact 0.01 acre of PEM wetland; and (3) temporarily impact 0.01 acre of PEM wetland all for the purpose of improving transportation safety and roadway standards. The project is located on SR 0272 Section 003 (North Reading Road) approximately 150 feet west of its intersection with Cocalico Creek Road (Ephrata, PA Quadrangle; N: 15.2 inches, W: 1.5 inches; Latitude: 40°12'31", Longitude: -76°8'9") in East Cocalico Township, Lancaster County. The project will involve the use of a temporary causeway. The wetland impact is considered a de minimus impact of 0.01 acre and replacement is not required.

**E38-171: Pennsylvania Department of Transportation, Engineering District 8-0**, 2140 Herr Street, Harrisburg, PA 17103, East Hanover Township, **Lebanon County**, ACOE Baltimore District

To remove the existing structure and to construct and maintain a 31.38-foot wide, single span bridge having a normal span of 57.10 feet, a skew of 80°00'00", and a minimum underclearance of 9.99 feet over Raccoon Creek (WWF, MF) for the purpose of improving transportation safety and roadway standards. The project is located on SR 4013 Section 005 (Lindley Murray Road) approximately 500 feet east of its intersection with Woods Lane (Palmyra, PA Quadrangle; N: 21.5 inches, W: 16.1 inches; Latitude: 40°22'7", Longitude: -76°36'56") in East Hanover Township, Lebanon County. The project will involve the use of temporary cofferdams in Raccoon Creek and a temporary access road in the floodplain of Raccoon Creek.

**E22-568: Cider Press Associates, LLC**, 474 Mount Sidney Road, Lancaster, PA 17602, Lower Paxton Township, **Dauphin County**, ACOE Baltimore District

To place and maintain fill in 0.269 acre of PEM wetlands (Harrisburg East, PA Quadrangle N: 7.29 inches, W: 3.65 inches; Latitude: 40° 17' 24.55", Longitude: 76° 46' 34.29"), and 0.093 acre of PFO wetlands (Harrisburg East, PA Quadrangle N: 7.35 inches, W: 3.37 inches; Latitude: 40° 17' 25.74", Longitude: 76° 46' 26.89"), and to construct and maintain a 155.0-foot long 36.0-inch diameter HDPE culvert pipe in an UNT to Nyes Run (WWF) (Harrisburg East, PA Quadrangle N: 7.03 inches, W: 3.20 inches; Latitude: 40° 17' 19.46", Longitude: 76° 46' 22.69"), an 8.0-inch diameter DIP sanitary sewer line in and across an unnamed tributary to Nyes Run (WWF) (Harrisburg East, PA Quadrangle N: 7.03 inches, W: 3.20 inches; Latitude: 40° 17' 19.46", Longitude: 76° 46' 22.69"), an 8.0-inch diameter DIP waterline in and across an unnamed tributary to Nyes Run (WWF) (Harrisburg East, PA Quadrangle N: 7.03 inches, W: 3.20 inches; Latitude: 40° 17' 19.29", Longitude: 76° 46' 22.67"), a 24.0-inch diameter HDPE outfall pipe and swale along an open water pond (Harrisburg East, PA

Quadrangle N: 7.36 inches, W: 3.20 inches; Latitude: 40° 17' 25.99", Longitude: 76° 46' 22.69"), a 30.0-inch diameter HDPE and swale along an unnamed tributary to Nyes Run (WWF) (Harrisburg East, PA Quadrangle N: 6.89 inches, W: 2.93 inches; Latitude: 40( 17' 16.63", Longitude: 76° 46' 15.74"), and a headwall structure on an existing 36.0-inch culvert pipe in an unnamed tributary to Nyes Run (WWF) (Harrisburg East, PA Quadrangle N: 7.11 inches, W: 3.83 inches; Latitude: 40° 17' 20.87", Longitude: 76° 46' 38.98") all for the purpose of developing a residential and commercial subdivision located at the intersection of Fairmont Drive and Cider Press Road in Lower Paxton Township, Dauphin County. Wetland mitigation in the amount of 0.539-acres of PEM/PFO wetlands will occur onsite.

*Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**E02-1645. The Urban Redevelopment Authority of Pittsburgh**, 200 Ross Street, Pittsburgh, PA 15219-2069.

To remove a portion of the existing river wall and construct flood walls and outfalls in the City of Pittsburgh, **Allegheny County**, Pittsburgh ACOE District. (Pittsburgh East, PA Quadrangle N: 9.8 inches; W: 12.3 inches; Latitude: 40° 25' 40"; Longitude: 79° 57' 4"). The applicant proposes to remove a portion of the existing river wall and to construct and maintain the South Shore Riverfront Park along the left bank of the Monongahela River (WWF) consisting of a river landing that will consist of pedestrian walkways, landscaped and lawn areas, an outfall structure and mooring areas, to dredge the left bank of said stream for the purpose of constructing a sheet pile wall and placing fill in the channel and along the left bank of said stream for the purpose of mooring recreational boats and providing ADA accessibility to the edge of said stream and to stabilize and maintain the left bank of said stream directly adjacent to the proposed river landing. The project is located approximately 3,000.0 feet upstream from the Brady Bridge and will impact approximately 610.0 linear feet of stream channel.

#### ENVIRONMENTAL ASSESSMENTS

*Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105*

**D63-067EA. Pennsylvania Fish & Boat Commission**, P. O. Box 67000, 1601 Elmerton Avenue, Harrisburg, PA 17106-7000, Donegal Township, **Washington County**, ACOE Pittsburgh District.

To modify, operate and maintain Dutch Fork Lake Dam across Dutch Fork Creek (HQ-WWF) in order to enhance public safety. Modifications include spillway reconstruction, overtopping protection, and outlet structure enhancement. The dam is located approximately 2600-feet southeast of the intersection of Lake Road and Valley Road (West Middletown, PA Quadrangle, Latitude: 40°08'44"; Longitude: -80°28'03"). The project proposes permanent impacts to 150 lineal feet of Dutch Fork Creek and 0.048-acre of PEM wetland. The wetland impact is considered de minimus and replacement is not required.

## ACTIONS

**THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT**  
**FINAL ACTIONS TAKEN FOR NATIONAL POLLUTION DISCHARGE**  
**ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY**  
**MANAGEMENT (WQM) PERMITS**

The Department has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and NOIs for coverage under General Permits. This notice of final action is provided in accordance with 25 Pa. Code Chapters 91 and 92a and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P.S. §§ 691.1—691.101) and the Federal Clean Water Act (33 U.S.C.A. §§ 1251—1376).

<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 regarding industrial, animal or sewage wastes discharges, discharges to groundwater, and discharges associated with MS4, stormwater associated with construction activities and CAFOs. Section VII contains notices for parties who have submitted NOIs for Coverage under General NPDES Permits. The approval for coverage under these General NPDES Permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions 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 in the respective permit. The 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 that action to the Environmental Hearing Board (Board) 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 Administrative Agency Law). The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, PO Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania 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 a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal 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 contact a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

### **I. NPDES Renewal Permit Actions**

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0051632 (Industrial Waste)	Easton Suburban Water Authority 3700 Hartley Avenue Easton, PA 18043	Northampton County City of Easton	Delaware River (01F)	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 No.)</i>	<i>EPA Waived Y/N?</i>
PA0228176 (Sewage)	Harrison Township Wastewater Treatment Plant PO Box 9 Mills, PA 16937-0009	Potter County Harrison Township	Cowanesque River (4-A)	Y

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**II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions**


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

**PA0064041**, Industrial Waste, **Lehigh Heavy Forge Corp**, 275 Emery Street, Bethlehem, PA 18015-1984.

This proposed facility is located in Bethlehem City, **Northampton County**.

Description of Proposed Activity: Issuance of NPDES Permit.

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

**NPDES Permit No. PA0082392**, Sewage, **Derry Township Municipal Authority**, 670 Clearwater Road, Hershey, PA 17033-2453.

This proposed facility is located in Derry Township, **Dauphin County**.

Description of Proposed Action/Activity: Authorization to discharge from Southwest STP to Swatara Creek in Watershed 7-D.

**NPDES Permit No. PA0026280, Amendment No. 1**, Sewage, **Lewistown Borough**, 2 East 3rd Street, Lewistown, PA 17044-1701.

This proposed facility is located in Lewistown Borough, **Mifflin County**.

Description of Proposed Action/Activity: Authorization to discharge to Juniata River and Kishoquillas Creek in Watershed 12-A.

*Northcentral Regional Office: Regional Water Management Program Manager, 208 W Third Street Suite 101, Williamsport, PA 17701-6448, Telephone: 570.327.0532.*

**PA0008915**, Industrial Waste, SIC Code 3229, **OSRAM SYLVANIA Inc.**, 1 Jackson Street, Wellsboro, PA 16901-1769. Facility Name: OSRAM SYLVANIA Inc.—Wellsboro Plant. This existing facility is located in Wellsboro Borough, **Tioga County**.

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

The receiving stream(s), Charleston Creek, is located in State Water Plan watershed 9-A and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.19 MGD.

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	Instant. Maximum
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Temperature (° F)	XXX	XXX	XXX	XXX	Report	XXX
Heat Rejection Rate (MBTUs/day)						
Jan 1-31	XXX	107	XXX	XXX	XXX	XXX
Heat Rejection Rate (MBTUs/day)						
Feb 1-29	XXX	118	XXX	XXX	XXX	XXX
Heat Rejection Rate (MBTUs/day)						
Mar 1-31	XXX	283	XXX	XXX	XXX	XXX
Heat Rejection Rate (MBTUs/day)						
Apr 1-15	XXX	313	XXX	XXX	XXX	XXX
Heat Rejection Rate (MBTUs/day)						
Apr 16-30	XXX	313	XXX	XXX	XXX	XXX
Heat Rejection Rate (MBTUs/day)						
May 1-15	XXX	206	XXX	XXX	XXX	XXX
Heat Rejection Rate (MBTUs/day)						
May 16-31	XXX	343	XXX	XXX	XXX	XXX
Heat Rejection Rate (MBTUs/day)						
Jun 1-15	XXX	262	XXX	XXX	XXX	XXX
Heat Rejection Rate (MBTUs/day)						
Jun 16-30	XXX	262	XXX	XXX	XXX	XXX

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Heat Rejection Rate (MBTUs/day) Jul 1-31	XXX	137	XXX	XXX	XXX	XXX
Heat Rejection Rate (MBTUs/day) Aug 1-15	XXX	122	XXX	XXX	XXX	XXX
Heat Rejection Rate (MBTUs/day) Aug 16-31	XXX	122	XXX	XXX	XXX	XXX
Heat Rejection Rate (MBTUs/day) Sep 1-15	XXX	96	XXX	XXX	XXX	XXX
Heat Rejection Rate (MBTUs/day) Sep 16-30	XXX	96	XXX	XXX	XXX	XXX
Heat Rejection Rate (MBTUs/day) Oct 1-15	XXX	96	XXX	XXX	XXX	XXX
Heat Rejection Rate (MBTUs/day) Oct 16-31	XXX	96	XXX	XXX	XXX	XXX
Heat Rejection Rate (MBTUs/day) Nov 1-15	XXX	107	XXX	XXX	XXX	XXX
Heat Rejection Rate (MBTUs/day) Nov 16-30	XXX	86	XXX	XXX	XXX	XXX
Heat Rejection Rate (MBTUs/day) Dec 1-31	XXX	81	XXX	XXX	XXX	XXX
CBOD <sub>5</sub>	XXX	XXX	XXX	XXX	Report	XXX
Chemical Oxygen Demand	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	56	110	XXX	35	70	85
Oil and Grease	23	47	XXX	15	30	30
Total Copper	0.07	0.12	XXX	0.05	0.08	0.12
Fluoride	XXX	XXX	XXX	XXX	Report	XXX
Total Iron	XXX	XXX	XXX	XXX	Report	XXX

The proposed stormwater monitoring requirements for Outfall 002 are as follows:

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH (S.U.)	XXX	XXX	XXX	XXX	Report	XXX
CBOD <sub>5</sub>	XXX	XXX	XXX	XXX	Report	XXX
Chemical Oxygen Demand	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX
Total Phosphorus	XXX	XXX	XXX	XXX	Report	XXX
Fluoride	XXX	XXX	XXX	XXX	Report	XXX
Total Iron	XXX	XXX	XXX	XXX	Report	XXX

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

<i>Parameters</i>	<i>Mass (lbs)</i>		<i>Minimum</i>	<i>Concentration (mg/l)</i>	
	<i>Monthly</i>	<i>Annual</i>		<i>Monthly Average</i>	<i>Maximum</i>
Ammonia—N	Report			Report	
Kjeldahl—N	Report			Report	
Nitrate-Nitrite as N	Report			Report	
Total Nitrogen	Report	Report		Report	
Total Phosphorus	Report	Report		Report	

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 570-327-3693.

The EPA Waiver is in effect.

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**III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law**


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

**WQM Permit No. WQG02051001**, Sewerage, **Broad Top Township**, 187 Municipal Road, PO Box 57, Defiance, PA 16633-0057.

This proposed facility is located in Broad Top Township, **Bedford County**.

Description of Proposed Action/Activity: Seeking approval to construct a gravity sanitary sewer collection system. This system will convey the wastewater to a new pump station.

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745*

**WQM Permit No. 6510409**, Sewerage, **Municipal Authority of Washington Township**, 285 Pine Run Church Road, Apollo, PA 15613

This proposed facility is located in Washington Township, **Westmoreland County**

Description of Proposed Action/Activity: Permit issuance for the construction and operation of sanitary sewers, new pump stations and force mains.

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

**WQM Permit No. WQG018779**, Sewerage, **John Peluso**, 205 Cunningham Road, New Castle, PA 16105

This proposed facility is located in Neshannock Township, **Lawrence County**.

Description of Proposed Action/Activity: A Single Residence Small Flow Treatment Facility.

**WQM Permit No. WQG018780**, Sewerage, **Robert Witherow**, 2060 Davison Road, Harborcreek, PA 16421

This proposed facility is located in Harborcreek Township, **Erie County**.

Description of Proposed Action/Activity: A Single Residence Small Flow Treatment Facility.

**WQM Permit No. WQG018783**, Sewerage, **Jerry R. McCauley**, 9595 New Road, North East, PA 16428

This existing facility is located in Greenfield Township, **Erie County**.

Description of Proposed Action/Activity: Construction of Single Residence Small Flow Treatment Facility to replace a malfunctioning onlot system.

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**IV. NPDES Stormwater Discharges from MS4 Permit Actions**


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**V. NPDES Waiver Stormwater Discharges from MS4 Actions**


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**VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions**


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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 0904024-R	RB Quakertown, LP 810 Seventh Avenue, 28th Fl New York, NY 10019	Bucks	Richland Township	Unnamed Tributary Unami Creek (HQ- MF-TSF); Tohickon Creek (TSF-MF)
PAI01 1508006	Saratoga Management 1120 Clover Lane Glen Mills, PA 19342	Chester	West Bradford Township	Unnamed Tributary Board Run Creek (EV)
PAI01 1509024	Kennett Business Park, LP 649 West South Street Kennett Square, PA 19348	Chester	Kennett Township and Kennett Square Borough	West Branch Red Clay Creek (TSF)

*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>
PAI033610004	Kenneth Wiker 993 Truce Road Holtwood, PA 17532	Lancaster	Providence Township	Fishing Creek/HQ-CWF

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**VII. Approvals to Use NPDES and/or Other General Permits**


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The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision in 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
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	CAFOs
PAG-13	Stormwater Discharges from MS4

*General Permit Type—PAG-02**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>
Hilltown Township Bucks County	PAG0200 091043	RSA, Inc. 214 Camars Drive Warwick, PA 18974-3976	Morris Run (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Upper Makefield Township Bucks County	PAG0200 0909084	Washington Crossing United Methodist Church 1895 Wrightstown Road Washington Crossing, PA	Unnamed Tributary Delaware River (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Nockamixon Township Bucks County	PAG0200 091014	PA Department of Transportation 7000 Geerdes Boulevard King of Prussia, PA 19406	Gallows Run (CWF-MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Hilltown Township Bucks County	PAG0200 0909091-1	Chester Chzanowski 2505 Spring Creek Road Lansdale, PA 19446	Perkiomen/ Neshaminy Creek (TSF-MF-WWF-MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Durham Township Bucks County	PAG0200 091061	Arnold H. Patterson 1456 Chestnut Ridge Road Upper Black Eddy, PA 18972	Delaware River— Rodgers Run (WWF-MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Upper Makefield Township Bucks County	PAG0200 091006	Commonwealth of Pennsylvania Bureau of Historic Site & Museum 400 North St. Plaza Level, Rm N118 Harrisburg, PA 17120-0053	Delaware River (WWF-MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
South Coatesville Borough Chester County	PAG0200 1505066-R	Southview Place, LP 1657 Warpath Road West Chester, PA 19382	Unnamed Tributary West Branch Brandywine Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900



<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Kennett Township Chester	PAG0200 151033	Schoolhouse Realty, LP Suite 201, PO Box 1906 West Chester, PA 19380	Tributary Red Clay Creek (CWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Chester and Aston Townships Delaware County	PAG0200 231011	PA Department of Transportation 7000 Geerdes Boulevard King of Prussia, PA 19406-1525	Baldwin Run (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Bethel Township Delaware County	PAG0200 231015	Garnet Valley School District 80 Station Road Glen Mills, PA 19342	Naamans Creek (WWF-MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Chadds Ford Township Delaware County	PAG0200 231006	Ridge Road Commercial, LP 234 North James St Newport, DE 19804	Beaver Creek— Harvey Run (CWF-MF-WWF-MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Upper Providence Township Delaware County	PAG0200 231016	Puzzle Face Properties, LLC PO Box 1789 Media, PA 19063	Unnamed Tributary Ridley Creek (TSF-MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Marlborough Township Montgomery County	PAG0200 461070	MacIntosh Builders, Inc. 602 East Broad Street Souderton, PA 18960	Unnamed Tributary Green Lane, Reser and Macoby Creeks (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Franconia Township Montgomery County	PAG0200 4609030	Ronald M. Moyer 276 West Cherry Lane Souderton, PA 18964	Unnamed Tributary Skippack Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Limerick Township Montgomery County	PAG0200 461014	Cold Springs Development, LLC 602 Borough Line Road Collegeville, PA 19426	Swamp Creek (TSF-MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Lower Merion Township Montgomery County	PAG0200 461048	Lower Merion Township 75 East Lancaster Avenue Ardmore, PA 19003	Schuylkill River (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
City of Philadelphia Philadelphia County	PAG0201 511032	3501 Island Avenue-SRE, LP 1515 Market Street, Ste 900 Philadelphia, PA 19102	Lower Schuylkill River (WWF-MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
City of Philadelphia Philadelphia County	PAG0201 511033	Philadelphia Live, LLP c/o The Cordish Company 601 East Pratt Street, 6th Floor Baltimore, MD 21202	Delaware River— Lower Schuylkill River (WWF-MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
City of Philadelphia Philadelphia County	PAG0201 511034	Global Leadership Academy Charter School 5151 Warren Street Philadelphia, PA 19131	Schuylkill River (WWF-MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900

NOTICES

6819

<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>
Fell Township, Lackawanna Co.	PAG02003510015	Robert Thornton 2 Rittenhouse St. Simpson, Pa 18407	UNT to Lackawanna River, CWF, MF	Lackawanna Co. Cons. Dist. 570-281-9495
Throop Borough, Lackawanna Co.	PAG02003510016	BGM Enterprises, Inc. 930 Dunmore St. Throop, PA 18512	Eddy Creek, WWF, MF	Lackawanna Co. Cons. Dist. 570-281-9495
Upper Saucon Twp. Lehigh Co.	PAG02003910006	Thaddeus Fields Jeffrey Strauss Capstone ResDev, LLC 718 N. Glenwood St. Allentown, PA 18104	Laurel Run trib to Saucon Creek, CWF, MF	Lehigh Co. Cons. Dist. 610-391-9583
Eaton Twp., Wyoming Co.	PAG02006610005	Skyhaven Airport 17 Runway Rd. Tunkhannock, PA 18657	Susquehanna River, WWF,MF	Wyoming Co. Cons. Dist. 570-836-2589
Dillsburg Borough York County	PAG2006709019	Ironwood Dillsburg Tract 4 Barlo Circle P. O. Box 432 Dillsburg, PA 17019	Fishers Run/CWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 717-840-7430
Fairview Township York County	PAG2006710028	Pennsylvania Department of Transportation 2140 Herr Street Harrisburg, PA 17103	Yellow Breeches/CWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 717-840-7430
Spring Garden Township York County	PAG2006707076-1	York College of Pennsylvania 441 Country Club Road York, PA 17403	Oil Creek/WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 717-840-7430
York Township York County	PAG2006709021	Clark P. Drenning Aikon, LP 2520 Knob Hill Road York, PA 17403	Mill Creek/WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 717-840-7430
West Cocalico Township Lancaster County	PAG2003610062	Walter Augsberger 700 Swamp Church Road Reinholds, PA 17569	UNT to Cocalico Creek/WWF	Lancaster County Conservation District 1383 Arcadia Road, Room 200 Lancaster, PA 17601 717-299-5361 Ext 5
Lemoyne Borough Cumberland County	PAG2002104042R-1	John Huenke Cornerstone Development Group, Inc. 200 Bailey Drive, Suite 202 Stewartstown, PA 17363	UNT to Susquehanna River/WWF	Cumberland County Conservation District 310 Allen Road, Suite 301 Carlisle, PA 17013 717-240-7812
North Towanda Township Bradford County	PAG2000810014	Healthy Properties Inc of Towanda RR 1 Box 140C Towanda, PA 18848	Sugar Creek WWF Susquehanna River WWF	Bradford County Conservation District Stoll Natural Resource Center RR 5, Box 5030C Towanda, PA 18848 (570) 265-5539, X 6

*Facility Location:  
Municipality &  
County*

*Permit No.*

*Applicant Name &  
Address*

*Receiving  
Water / Use*

*Contact Office &  
Phone No.*

Armstrong County  
Kittanning Borough

PAG2000310003

Trek Development Group, Inc.  
130 Seventh Street, Suite 300  
Pittsburgh, PA 15213

Allegheny River  
(WWF)

Armstrong County  
CD  
Armsdale  
Administration  
Building  
124 Armsdale Road  
Kittanning, PA 16201  
724-548-3435

*General Permit Type—PAG-3*

*Facility Location:  
Municipality &  
County*

*Permit No.*

*Applicant Name &  
Address*

*Receiving  
Water / Use*

*Contact Office &  
Phone No.*

Dauphin County /  
Williams Township

PAR803724

Tower Sales, Inc.  
(Williamstown Bulk Petroleum  
Storage Facility)  
PO Box A  
Tower City, PA 17980

Wiconisco Creek /  
WWF

DEP - SCRO - WQ  
909 Elmerton Avenue  
Harrisburg, PA  
171110  
717-705-4707

Latrobe Borough  
Westmoreland  
County

PAR806271

First Student, Inc.  
110 Perimeter Park  
Suite E  
Knoxville, TN 37922

UNT to Monastery  
Run

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

Hamlin Township  
McKean County

PAR228325

Domtar Paper Company, LLC  
100 Center Street  
Johnsonburg, PA 15845

Lanigan Brook

DEP  
NWRO  
Water Management  
230 Chestnut Street  
Meadville, PA  
16335-3481  
814/332-6942

*Permit Type—PAG-4*

*Facility Location:  
Municipality &  
County*

*Permit No.*

*Applicant Name &  
Address*

*Receiving  
Water / Use*

*Contact Office &  
Phone No.*

Neshannock  
Township  
Lawrence County

PAG041012

John Peluso  
205 Cunningham Road  
New Castle, PA 16105

Unnamed tributary  
of Neshannock Creek  
20-A

DEP  
NWRO  
Water Management  
230 Chestnut Street  
Meadville, PA  
16335-3481  
814/332-6942

Harborcreek  
Township  
Erie County

PAG041013

Robert Witherow  
2060 Davison Road  
Harborcreek, PA 16421

Elliotts Run 15

DEP  
NWRO  
Water Management  
230 Chestnut Street  
Meadville, PA  
16335-3481  
814/332-6942

Greenfield  
Township  
Erie County

PAG041016

Jerry R. McCauley  
9595 New Road  
North East, PA 16428

Unnamed Tributary  
to West Branch  
French Creek 16-A

DEP  
NWRO  
Water Management  
230 Chestnut Street  
Meadville, PA  
16335-3481  
814/332-6942

Permit Type—PAG-5

Facility Location:

Municipality & County	Permit No.	Applicant Name & Address	Receiving Water/Use	Contact Office & Phone No.
Bedford County / West Providence Township	PAG053601	Barkman Oil Company PO Box 175 Woodbury, PA 16695	UNT Raystown Branch Juniata River / 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 3 Pa.C.S. Chapter 5, for agricultural operations that have or anticipate submitting applications for new, amended or renewed NPDES permits or NOIs for coverage under a general permit for CAFOs under 25 Pa. Code Chapter 92a. This notice is provided in accordance with 25 Pa. Code Chapter 92a and 40 CFR Part 122, implementing The Clean Streams Law and the Federal Clean Water Act.

Persons aggrieved by an action may appeal under 3 Pa.C.S. § 517, section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704 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 a right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge actions, 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>
David Zimmerman 2151 Mt. Zion Rd Lebanon, PA 17046	Lebanon	271	400.81	Beef & Poultry	NA	Approved
New Hope Farm Country View Family Farms 23177 Back Rd. Concord, PA 17217	Franklin	29	2,715.95	Swine	NA	Approved
Melvin Huber 457 Coldsprings Rd Elizabethtown, PA 17022	Lancaster	61.3	348.0	Layers	NA	R

**PUBLIC WATER SUPPLY (PWS) PERMITS**

The Department 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 that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704. The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, PO Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania

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 a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal 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 document to a lawyer at once.

Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

### SAFE DRINKING WATER

#### Actions taken under the Pennsylvania Safe Drinking Water Act

*Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110*

**Operations Permit** issued to: **City of Lancaster—Susquehanna Water Treatment Plant**, West Hempfield Township, **Lancaster County** on 10/27/2010 for the operation of facilities approved under Construction Permit No. 3606501.

**Operations Permit** issued to: **City of Lancaster—Conestoga Water Treatment Plant**, 7360058, Lancaster, **Lancaster County** on 11/8/2010 for the operation of facilities approved under Construction Permit No. 3606502.

**Operations Permit** issued to: **South Middleton Township Municipal Authority**, 7210050, South Middleton Township, **Cumberland County** on 11/9/2010 for the operation of facilities approved under Construction Permit No. 2110501 MA.

**Operations Permit** issued to: **Washington Township Municipal Authority**, 7280026, Washington Township, **Franklin County** on 11/8/2010 for the operation of facilities approved under Construction Permit No. 2809521 MA.

**Operations Permit** issued to: **Washington Township Municipal Authority**, 7280026, Washington Township, **Franklin County** on 11/8/2010 for the operation of facilities approved under Construction Permit No. 2809520 MA.

**Operations Permit** issued to: **Washington Township Municipal Authority**, 7280026, Washington Township, **Franklin County** on 11/8/2010 for the operation of facilities approved under Construction Permit No. 2809518 MA.

**Operations Permit** issued to: **Washington Township Municipal Authority**, 7280026, Washington Township, **Franklin County** on 11/8/2010 for the operation of facilities approved under Construction Permit No. 2809519 MA.

*Northcentral Region: Water Supply Management Program Manager, 208 West Third Street, Williamsport, PA 17701*

**Permit No. Minor Amendment—Operation** Public Water Supply.

Applicant	<b>Shinglehouse Borough</b>
[Township or Borough]	Shinglehouse Borough
County	<b>Potter</b>
Responsible Official	Mr. Shawn J. Metcalf Borough of Shinglehouse P. O. Box 156 Shinglehouse, PA 16748
Type of Facility	Public Water Supply—Operation

Consulting Engineer	Dale Sorensen, P.E. Northwest Engineering P. O. Box Q Tidioute, PA 16351
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Permit Issued Date	November 10, 2010
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Description of Action	4-log inactivation of viruses at Entry Point 101 (Well No. 3) and Entry Point 102 (Well No. 2).
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**Permit No. 5310501—Construction** Public Water Supply.

Applicant	<b>Galeton Borough Authority</b>
[Township or Borough]	West Branch Township

County	<b>Potter</b>
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Responsible Official	Bernard Hoppe, Vice Chairman Galeton Borough Authority 4 Sherman Street Galeton, PA 16922
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Type of Facility	Public Water Supply—Construction
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Consulting Engineer	Michael J. Peleschak, P.E. Alfred Benesch & Company 400 One Norwegian Plaza Pottsville, PA 17901
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Permit Issued Date	November 10, 2010
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Description of Action	Construction of infiltration galleries within the stream channels of both Wetmore Run and Right Branch Wetmore Run.
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**Permit No. 5910502—Construction and Operation** Public Water Supply.

Applicant	<b>Leonard Harrison State Park</b>
[Township or Borough]	Shippen Township

County	<b>Tioga</b>
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Responsible Official	John Norbeck, Director DCNR-Facility Design & Construction P. O. Box 8551 Harrisburg, PA 17105
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Type of Facility	Public Water Supply—Construction and Operation
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Consulting Engineer	Shawn D. Beeler, P.E. DCNR-Facility Design RCSOB P. O. Box 8551 Harrisburg, PA 17105
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Permit Issued Date	November 10, 2010
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Description of Action	Construction and operation of the recently installed cartridge filtration system to treat the surface water influenced spring at Leonard Harrison State Park.
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**Permit No. Minor Amendment—Operation** Public Water Supply.

Applicant	<b>Dushore Water Authority</b>
[Township or Borough]	Dushore Borough

County	<b>Sullivan</b>
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Responsible Official Mr. Scot C. Sample  
Dushore Water Authority  
P. O. Box 248  
Dushore, PA 18614

Type of Facility Public Water Supply—Operation

Consulting Engineer N/A

Permit Issued Date November 12, 2010

Description of Action 4-log inactivation of viruses at Entry Point 102 (Well No. 2), Entry Point 103 (Well No. 4) and Entry Point 104 (Well Nos. 5 and 6).

**Permit No. 5910503—Construction and Operation**  
Public Water Supply.

Applicant **Mansfield University**  
[Township or Borough] Mansfield Borough

County **Tioga**

Responsible Official Mr. Richard Nelson  
Mansfield University  
Brooks Maintenance Building  
115 Sherwood Street  
Mansfield, PA 16933

Type of Facility Public Water Supply—  
Construction and Operation

Consulting Engineer Mark Glenn, P.E.  
Gwin, Dobson and Foreman, Inc.  
3121 Fairway Drive  
Altoona, PA 16602

Permit Issued Date November 12, 2010

Description of Action Construction and operation of a transmission line to convey finished water from Mansfield Boro. Mun. Auth. water system to Mansfield University water system.

*Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, Pa 15222-4745*

**Operations Permit** issued to: **Conemaugh Township Municipal Authority**, Box 429, 113 South Main Street, Davidsville, PA 15928, (PWSID #4560048) Paint and Quemahoning Townships, **Somerset County** on October 28, 2010 for the operation of facilities approved under Construction Permit # 5609503MA.

**Operations Permit** issued to: **Church Communities in PA**, New Meadow Run, PO Box 240, 101 New Meadow Run Road, Farmington, PA 15437, (PWSID #5260042) Wharton Township, **Fayette County** on November 4, 2010 for the operation of facilities approved under Construction Permit # 2610505MA.

**Operations Permit** issued to: **Beaver Falls Municipal Authority**, 1425 Eighth Avenue, Beaver Falls, PA 15010, (PWSID #5040012) Eastvale Borough, **Beaver County** on November 4, 2010 for the operation of facilities approved under Construction Permit # 0410514.

**Operations Permit** issued to: **Beaver Falls Municipal Authority**, 1425 Eighth Avenue, Beaver Falls, PA 15010, (PWSID #5040012) Eastvale Borough, **Beaver County** on November 4, 2010 for the operation of facilities approved under Construction Permit # 0409506MA.

**Operations Permit** issued to: **Beaver Falls Municipal Authority**, 1425 Eighth Avenue, Beaver Falls, PA 15010, (PWSID #5040012) Eastvale Borough, **Beaver County** on November 4, 2010 for the operation of facilities approved under Construction Permit # 0409501.

**Permit No. 0209526GWR, Minor Amendment.** Public Water Supply.

Applicant **Shaler Township**  
300 Wetzel Road  
Glenshaw, PA 15116

[Borough or Township] Shaler Township

County **Allegheny**

Type of Facility Water treatment plant

Consulting Engineer

Permit to Operate Issued November 9, 2010

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

**Operations Permit** issued to **Paint Township Municipal Water Authority**, Paint Township, **Clarion County** on November 2, 2010. Action is for operation of newly installed waterline to service residents & businesses situated along Route 66, Doe Run Road, McClain-Watson, Myers & Manor Church Roads within the Township. Project involved installation of a pipeline infrastructure from existing waterline; source is PA American Water, and in accordance with construction permit 1607501, issued May 22, 2008.

**Permit No. 1684501-MA4**, Public Water Supply

Applicant **Rimersburg Borough Municipal Authority**

Township or Borough Rimersburg Borough

County **Clarion County**

Type of Facility Public Water Supply

Consulting Engineer Kenneth Orie, PE

Permit to Construct Issued 11/10/2010

### SEWAGE FACILITIES ACT PLAN APPROVAL

#### Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

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

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Summit Township	8900 Old French Road— Suite 102 Erie, PA 16509-5470	Erie

*Plan Description:* The approved plan provides for the extension of sewers to serve areas of documented need within Summit Township. The three initial areas to be served are: Dorn Road west off State Route 19, New Road west off State Route 19, and Proctor Avenue/Merle Avenue/Melvin Road extending off E. Johnson Road east

of State Route 97. Approximately 43 existing homes will be served through the construction of approximately 9,200 linear feet of gravity sewer and 1,800 feet of force main with a new pumping station. Potential exists for connection of approximately 60 total EDU's when considering undeveloped lots. 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>
Millcreek Township	3608 West 26th Street Erie, PA 16506-2059	Erie

*Plan Description:* The approved plan provides for extension of the existing sanitary sewer system including construction of a sanitary sewer main and duplex pump station. Service is planned for 20 residential properties along Arbuckle Road and a redirection of 280 existing units in the Sterling Ridge subdivision to the proposed sewerage facilities. The total EDU's is 300, and will generate 75,000 GPD. The proposed pump station will be located near the intersection of Arbuckle Road and Foote Mill Road. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

*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>
Newberry Township	1915 Old Trail Road, Etters, PA 17319	York County

*Plan Description:* Mulligan Drive Interceptor, DEP Code No. A3-67945-382-3m: The approved plan provides for a proposed interceptor within Newberry Township, York County that will eliminate the Mulligan Drive Pump Station. The interceptor will be constructed in two sections. The first section, beginning at Mulligan Drive and ending at Manhole 68, will have a capacity of 1,403,961 gpd. The second section, beginning at Manhole 68 and ending at the Fox Farm Interceptor near Pines Road, will have a capacity of 3,432,480 gpd. All flows will ultimately be tributary to the Newberry Township Wastewater Treatment Plant. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

*Plan Location:* Borough or

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
East St Clair Township	1445 Quaker Valley Road New Paris, PA 15554	Bedford County

*Plan Description:* The approved plan provides for the upgrade to the Camp Pleasant Pump Station to relieve a hydraulic overload and connection ban. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

**HAZARDOUS SITES CLEAN-UP  
UNDER THE ACT OF  
OCTOBER 18, 1988**

**Proposed Interim Response Revised  
Plumstead Fire HSCA Site,  
Plumstead Township, Bucks County**

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P.S. §§ 6020.102—6020.1303), has initiated a prompt interim response at the Plumstead Fire HSCA Site, Plumstead Township, Bucks County, Pennsylvania.

The Plumstead Fire Site is located northeast of the intersection of Easton Road (Rt 611) and Stump Road in Plumstead Township Bucks County. On June 29, 2010 a building caught on fire at 5189 Stump Road, Pipersville, PA. An alternate address for the property is 5189 Stump Road, Plumsteadville, PA ("Site").

As a result of the fire and firefighting activities, in the course of which large quantities of water were sprayed on the fire, various chemical constituents that were stored on the property were released with the firefighting water runoff.

Inspections by the Department at the time of the fire and in subsequent visits revealed that contaminated runoff from the fire fighting activities flowed into one of the adjacent ponds and, from that pond into the second adjacent pond, via a connecting culvert. When the water level in the second pond reached an overflow pipe, the water entered a previously dry swale and flowed into nearby fields, where it was observed seeping into the ground. In August 2010, soil samples collected from the edge of the ponds revealed elevated levels of Antimony. In September 2010, samples collected from the sediment on the bottom of the pond revealed elevated concentrations of Benzene, Benzoic Acid, Antimony, Sodium, and Manganese.

Following the fire, the Bucks County Department of Health visited the homes of the residents and observed that the appearance and odor of the water from their wells were similar to the appearance and odor of water in the ponds. Samples were collected from these wells on various occasions between July and October. In several residential homes, the results revealed elevated levels of Benzene, Benzoic Acid, Antimony, Sodium, and Manganese. The wells serving many of these homes are considered shallow as they are less than 90 feet deep.

To address the release and threat of release of hazardous substances at the Site, and corresponding threats to human health and the environment, the Department initiated a prompt interim response action at the Site under Sections 501(a) of HSCA, 35 P.S. § 6020.501(a). In August 2010, a tanker truck was provided to 11 homes as a whole house water source. In addition, the Department has initiated the installation of deeper wells and/or treatment systems to address the contaminated water supplies and has initiated the draining and excavation of the ponds. The Department has determined that these actions are protective of human health and the environment, comply with Applicable, Relevant and Appropriate Requirements (ARARs) and are feasible and cost-effective. Other possible alternatives with regard to the contaminated water supplies included no action, continued use of the tanker trucks, treatment only, and the installation of a waterline. The only alternative to draining and excavation of the ponds was no action.

An Administrative Record, which contains more detailed information concerning this prompt interim response action, is available for public inspection. The Administrative Record may be examined from 8 a.m. until 4 p.m. at the Department's office at 2 East Main Street, Norristown PA 19401. Those interested in examining the Administrative Record should contact the Department's Records Management Section (484) 250-5910 to arrange for an appointment. An additional copy of the Administrative Record is available for review at the Plumstead Township Municipal Building at 5186 Stump Rd., Plumsteadville, PA 18949.

Pursuant to Sections 505(b) and 506(d) of HSCA, 35 P. S. § 6020.505(b) and 6020.506(d), the Department will conduct a public hearing on December 14, 2010 at 7:00 pm at the Plumstead Township Municipal Building located at Plumstead Township Municipal Building at 5186 Stump Road, Plumsteadville, PA 18949. Anyone who would like to present formal oral comments regarding this proposed response may do so by registering with the Department before the meeting. Individuals may register by calling the Department's Community Relations Supervisor Deborah Fries (484) 250-5808.

Any person with a disability who wishes to attend the public hearing and will require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Deborah Fries at the telephone number listed above or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs. The public may also submit written comments regarding the Department's Prompt Interim Response action during the period of public comment. In accordance with Section 506(c) of HSCA, 35 P. S. § 6020.506(c), the Department has established a period for public comment that is now open until close of business February 14, 2011. Written comments should be addressed to Bonnie McClennen, Project Officer, Pennsylvania Department of Environmental Protection, 2 East Main Street, Norristown, PA 19401.

Anyone with questions regarding this notice should contact Bonnie McClennen at (484) 250-5965.

## 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—6026.907).**

Provisions of Sections 301—308 of the Land Recycling and Environmental Remediation Standards Act (act) (35 P. S. §§ 6026.301—6026.308) require the 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, will 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 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.

For further information concerning plans or reports, contact the environmental cleanup program manager in the Department regional office under 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 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*

**Richard and Cynthia Newcomer Residence**, Jackson Township, **York County**. Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073, on behalf of Richard and Cynthia Newcomer, 230 Perry Avenue, York, PA 17408; James Martin 228 Perry Avenue, York, PA 17408, and State Farm Insurance Company, PO Box 8061, Ballston Spa, NY 12020-8061, submitted a Final Report concerning remediation of site soils contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Residential Statewide Health standard.

**Reading School District/Windsor & Ritter Streets Property**, City of Reading, **Berks County**. Barry Isett & Associates, Inc., PO Box 147, Trexlertown, PA 18087, on behalf of the Reading School District, 800 Washington Street, Reading, PA 19601, submitted a Remedial Investigation Report and a Cleanup (Capping) Plan for site soils contaminated with Inorganics and PAHs. The site will be remediated to the Site-Specific Standard.

*Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481*

**John Maneely Company—Wheatland Tube Cold Draw Facility**, Wheatland Borough, **Mercer County**. ENVIRON International Corporation, 1760 Market Street, Suite 1000, Philadelphia, PA 19103 and The Payne Firm, Inc., 11231 Cornell Park Drive, Cincinnati, OH 45242 has submitted a Remedial Investigation/Risk Assessment Report concerning remediation of site soil contaminated with Benzene, 1,1-dichloroethene, methylene chloride, cis-1,2-dichloroethene, trans-1,2-dichloroethene, 1,1,1-trichloroethane, tetrachloroethene, trichloroethene and site groundwater contaminated with Benzene, Carbon Tetrachloride, Chloroform 1,3-dichlorobenzene, 1,1-dichloroethane, 1,2-dichloroethane, 1,1-dichloroethene, cis-1,2-dichloroethene, Methylene Chloride, Tetrachloroethene, Toluene, 1,1,1-trichloroethane, 1,1,2-trichloroethane, Trichloroethene, and Sulfate. The report is intended to document the remediation of the site to meet the Statewide Health and Site-Specific Standards.



## 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—6026.907).**

Section 250.8 of 25 Pa. Code and administration of the Land Recycling and Environmental Remediation Standards Act (act) require the Department to publish in the *Pennsylvania Bulletin* a notice of its 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 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 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 under 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 AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401*

**Former Mutter and Stauffer Facility**, Borough of East Greenville **Montgomery County**. Richard D. Trimpi, Trimpi Associates, Inc. 1635 Old Plains Road, Pennsburg, PA 18073 on behalf of Andrew W. Meadows, CCM LLC, 1511 North Adam Street, Pottstown, PA 19464

has submitted a Final Report concerning the remediation of site groundwater and soil contaminated with unleaded gasoline. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on October 29, 2010.

**Pottstown Industrial Complex**, Borough of Pottstown **Montgomery County**. Craig Herr, RT Environmental Services, Inc., 215 West Church Road, King of Prussia, PA 19406, Walter H. Hungarter II, RT Environmental Services, Inc., 215 West Church Road, King of Prussia, PA 19406 on behalf of Jay Brown, Pottstown Industrial Complex, LP, 261 South Keim Street, Pottstown, PA 91464 has submitted a Remedial Investigation/Cleanup Plan concerning the remediation of site groundwater and soil contaminated with chlorinated solvents. The Remedial Investigation/Cleanup Plan was approved by the Department on October 13, 2010.

**Former MA Bruder & Sons, Inc.**, City of Philadelphia **Philadelphia County**. David R. Kerschner, KU Resource, Inc., 22 South Linden Street, Duquesne, PA 15110 on behalf of Kenneth H. Stroebel, The Sherwin-Williams Company, 101 Prospect Avenue, NW Cleveland, OH 44115-1075 has submitted a Final Report concerning the remediation of site groundwater and soil contaminated with other organics. The Final report did not demonstrate attainment of the Statewide Health Standard and was placed on hold by the Department on October 27, 2010.

**919 Wallace Street**, City of Philadelphia, **Philadelphia County**. Thomas Jones, Penn E&R, Inc. 2755 Bergey Road, Hatfield, PA 19440, Darryl D. Borrelli, Manko Gold, Katcher & Fox, LLP, 401 City Avenue, Suite 500, Bala Cynwyd, PA 19004 on behalf of Jack Levin, Roselawn Abstract LP, 1411 Walnut Street Third Floor, Philadelphia, PA 19102 has submitted a Final Report concerning the remediation of site soil contaminated with inorganic. The Final report demonstrated attainment of the Site Specific Standard and was approved by the Department on October 18, 2010.

**200 North American Street**, City of Philadelphia, **Philadelphia County**. Michelle Flowers, REPSG, 6901 Kingessing Avenue, Suite 201, Philadelphia, PA 19142, Mark Kuczynski, REPSG, 6901 Kingessing Avenue, Suite 201, Philadelphia, PA 19142 on behalf of Stephanie Hernandez, Congreso de Latinos Unidos, Inc./2800 American Street Company, Philadelphia, PA 19133 has submitted a Remedial Investigation Report concerning the remediation of site groundwater and soil contaminated with organics. The Remedial Investigation Report was approved by the Department on October 19, 2010.

**Universal Concrete**, West Pottsgrove Township **Montgomery County**. Richard D. Trimpi, Trimpi Associates Inc. 1635 Old Plains Road, Pennsburg, PA 18073 Andre W. Meadows, CCM LLC, 1511 North Adam, Street, Pottstown, PA 19464 on behalf of Donald L. Faust, 400 Old Reading Pike, Inc., 400 Old Pike Reading Pike, Suite 100, Stowe, PA 19464 has submitted a Final Report concerning the remediation of site groundwater and soil contaminated with no. 6 fuel oil. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on October 27, 2010.

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Buske Lines, Inc. Diesel Fuel Release/Pilot Travel Center Carlisle**, Middlesex Township, **Cumberland County**. Taylor GeoServices, Inc., 38 Bishop Hollow Road, Newtown Square, PA 19073, on behalf of Buske

Lines, Inc., 7 Gateway Commons Center Drive, Edwardsville, IL 62025 and Pilot Travel Centers, LLC, 5508 Lonas Drive, Knoxville, TN 37909-3221, submitted a Final Report concerning remediation of site soils contaminated with diesel fuel released from a ruptured saddle tank. The Final Report demonstrated attainment of the Residential Statewide Health standard, and was approved by the Department on November 4, 2010.

**DETERMINATION FOR APPLICABILITY FOR MUNICIPAL WASTE GENERAL PERMITS**

**Application Issued for Determination of Applicability for General Permit under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Municipal Waste Regulations for a General Permit to Operate Municipal Waste Processing Facilities and/or the Beneficial Use of Municipal Waste.**

*Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401*

**General Permit Application No. WMGM039SE 002B. Allan A Myers, LP, dba Independence Construction Materials**, 638 Lancaster Avenue, Malvern, PA 19355. This approval is for determination of applicability for the processing and beneficial use of pre-and post-consumer asphalt shingles as an ingredient in hot-mix and cold-mix asphalt paving material at the Coatesville Asphalt Plant located at 410 Doe Run Road in East Fallowfield Township, **Chester County**. The application for determination of applicability was issued by the Southeast Regional Office on October 7, 2010.

**OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE**

**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 Regulations to Operate Solid Waste Processing or Disposal Area or Site.**

*Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401*

**Permit No. 101477. 58th Street Transfer Station**, 2209 S 58th St, Philadelphia PA 19143. This minor permit modification is for approving the operation of an electronic waste (e-waste) recycling center in two existing buildings located within the permit area of 58th Street Transfer Station, a municipal solid waste transfer facility located in the City of Philadelphia, **Philadelphia County**. The permit was issued by the Southeast Regional Office on November 12, 2010.

**Permit No. 101549. Bucks County Resource Recovery Inc**, 701 Penn Avenue, Marcus Hook PA 19061-4604. This permit is for the 10-year renewal and the major permit modification to accept "Sharps" as a new waste stream for on-site processing at the Bucks County Resource Recovery, Inc. ("BCRRRI"), facility, an infectious waste transfer and processing facility located in the Borough of Marcus Hook, **Delaware County**. The permit was issued by the Southeast Regional Office on November 10, 2010.

**AIR QUALITY**

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401*

*Contact: Sachin Shankar, New Source Review Chief—Telephone: 484-250-5920*

**GP3-09-0097: Brandenburg Industrial Service Co.** (2217 Spillman Drive, Bethlehem, PA 18015) on November 10, 2010, to operate a portable nonmetallic mineral processing plant in Sellersville Township, **Bucks County**.

**GP9-09-0027: Brandenburg Industrial Service Co.** (2217 Spillman Drive, Bethlehem, PA 18015) on November 10, 2010, to operate diesel-fired internal combustion engines in Sellersville Township, **Bucks County**.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes Barre, PA 18711-0790*

*Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507*

**66-310-018GP3: Meshoppen Stone, Inc.** (PO BOX 127, Frantz Road, Meshoppen, PA 18630) on November 5, 2010, to construct and operate a Portable Crushing Operation with watersprays at Nealy Quarry in Braintrim Township, **Wyoming County**.

**66-329-005GP9: Meshoppen Stone, Inc.** (PO BOX 127, Frantz Road, Meshoppen, PA 18630) on November 5, 2010, to install and operate a Diesel I/C engine at Nealy Quarry in Braintrim Township, **Wyoming County**.

**40-310-084GP3: Moore Materials LLC** (615 Moorestown Drive, Bath PA 18014) on November 5, 2010, to construct and operate a Portable Crushing Operation with watersprays at their site in Hunlock Township, **Luzerne County**.

**40-329-011GP9: Moore Materials LLC** (615 Moorestown Drive, Bath PA 18014) on November 5, 2010, to install and operate a Diesel I/C Engine at their site in Hunlock Township, **Luzerne County**.

**58-399-012GP5: Appalachia Midstream Services LLC** (6100 North Western Avenue, PO Box 54382, Oklahoma City, OK 73154-1382) on November 5, 2010, to construct and operate a Natural Gas Compressor Station (Koromlon Facility) at their site in Rush Township, **Susquehanna County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745*

*Contact: Mark Gorog and Barb Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226*

**GP1-65-00921: North Side Foods Corp.** (2200 Rivers Edge Drive, Arnold, PA 15068) on November 2, 2010, to allow the continued operation of small natural gas-fired boilers and combustion units at their Arnold Plant located in Arnold City, **Westmoreland County**. This is a renewal of the GP-1 authorization.

**GP5-63-00959: Chesapeake Appalachia, LLC** (P. O. Box 18496, Oklahoma City, OK, 73154) on November 3, 2010, received authorization for operation of a natural gas production facility at the Avolio Pad Dehy in Independence Township, **Washington County**.

**Plan Approvals Issued under the Air Pollution Control Act and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401*

*Contact: Sachin Shankar, New Source Review Chief—Telephone: 484-250-5920*

**09-0187A: Sims Metal Management** (300 South Steel Road, Morrisville, PA 19067) on November 5, 2010, for installation of two (2) scrap metal conveyor lines for the recovery of non-ferrous wire and non-ferrous fines at an existing metal recycling facility in Falls Township, **Bucks County**. The fines recovery line will have two cyclone separators used to capture additional recyclable metals from the automobile shredding operation that has been previously permitted. Potential emissions of Total Suspended Particulate (TSP) matter emissions are estimated to increase by 1.11 tons per year. The plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**46-0267A: SmithKline Beecham Research Co.—d/b/a/ GlaxoSmith Kline** (1250 South Collegeville Road, Collegeville, PA 19426) on November 9, 2010, for modification to the fuel usage and emissions limits for eight (8) nominally 2000 kW #2 fuel oil/diesel generators authorized to be constructed under Plan Approval 46-0267 in Upper Providence Township, **Montgomery County**. The facility is a non-Title V. The increase in permitted fuel usage will be 13,990 gallons/year. The increases in carbon monoxide (CO), particulate matter (PM) and volatile organic compounds (VOC) are below de minimis levels for the facility, as defined by 25 Pa. Code 127.449. The increase in permitted emissions for formaldehyde is equivalent to 0.08 tons per year. The permittee is not authorized to modify the engine nor change any method of operation other than the CO, PM, VOC and formaldehyde emissions rate and the fuel usage as authorized under this Plan Approval modification.

**46-0273: Titanium Finishing Co.** (248 Main Street, East Greenville, PA 18041) On November 10, 2010, for operation of a Trichloroethylene Vapor Degreaser unit with an interface area of 18 square feet in East Greenville Borough, **Montgomery County**. The source is subject to the National Emissions Standard for Halogenated Solvent Cleaning (NESHAPs), 40 C.F.R. Part 63 Subpart T. This facility is a non-Title V (State-only), Natural Minor facility, as it has the potential to emit less than 10 tons of individual HAP per year. The Plan Approval will contain monitoring and record keeping requirements, and operating conditions designed to keep the facility operating within the allowable emission limitations 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*

**52-303-002: Eureka Stone Quarry, Inc.** (PO Box 249, Chalfont, PA 18914) on November 15, 2010 for installation of a new baghouse on their existing asphalt plant at their facility in Milford Borough, **Pike County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110*

*Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 717-949-7935*

**36-05154A: Mount Joy Wire Corp.** (1000 East Main Street, Mount Joy, PA 17552-9332) on November 9, 2010, to install a spark ignition Reciprocating Internal Combustion Engine (RICE) for a combined heat and power project at their wire manufacturing facility in Mount Joy Borough, **Lancaster County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481*

*Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940*

**24-166B: National Fuel Gas—Bowen Station** (1100 State Street, Erie, PA 16512) on November 5, 2010, to install two (2) 1775 bhp natural gas compressor engines at their facility in Highland Township, **Elk County**.

**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act 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*

**23-0066B: Pyropure, Inc.—t.a. Pyromet** (5 Commerce Drive, Aston, PA 19014) On November 4, 2010, to operate (5) five existing baghouses in Chester Township, **Delaware County**.

**09-0211: Pennridge High School** (410 East Walnut Street, Perkasio, PA 18944) on November 10, 2010, minor modification of the Plan Approval No. 09-0211 for their boiler operation in East Rockhill Township, **Bucks County**. The original Plan Approval required for the permittee to conduct the boiler stack testing before October 8, 2010. The modified has proposed to complete the boiler stack testing on or before January 8, 2011.

*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*

**06-05109A: Atlas Minerals & Chemicals** (1227 Valley Road, PO Box 38, Mertztown, PA 19539) on May 7, 2010, to construct and modify a second asphalt processing line controlled by an oil knockout tank and an afterburner, at their facility in Longswamp Township, **Berks County**. This plan approval was extended.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745*

*Contact: M. Gorog & B. Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226*

**26-00573A: Johnson Matthey, Inc.** (605 Mountain View Drive, Smithfield, PA 15478) on November 8, 2010, to extend the period of temporary operation of the catalyst production facility covered under plan approval 26-00573A until June 8, 2011 located in Smithfield Borough, **Fayette County**. The Plan Approval has been extended.

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**Title V Operating Permits Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.**

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*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, Zelienople, PA 16063-1088) on November 10, 2010, to re-issue the Title V Operating Permit for their facility in Zelienople 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, #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.

**24-00083: Mersen USA—St Marys** (215 Stackpole Street, St. Marys, PA 15857-1401) on November 3, 2010, issued an administrative amendment to the Title V Operating Permit to incorporate the conditions from plan approvals 24-083P and 24-083R into the permit for the facility located in St. Marys City, **Elk County**.

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**Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.**

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*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401*

*Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920*

**46-00221: Upper Moreland—Hatboro Joint Sewer Authority** (2875 Terwood Road, Willow Grove, PA 19090) on November 4, 2010, is a non-Title V, Natural Minor facility in Upper Moreland Township, **Montgomery County**. The facility owns and operates a sewage treatment plant, a sewage sludge incinerator with a venturi scrubber, an impingement scrubber, and an afterburner, and a 2,000 KW emergency generator. The facility's potential to emit criteria pollutants is less than major thresholds. The sewage sludge incinerator is subject to the requirements of 40 C.F.R. Part 503 Subpart E. The emergency generator is subject to the requirements of 40 C.F.R. Part 60 Subpart IIII. Monitoring and recordkeeping requirements have been added to the permit to address applicable limitations.

**09-00163: H & K Materials, Inc.—Blooming Glen Quarry** (901 Minsi Trail, Blooming Glen, PA 18911) on November 9, 2010, this facility is a non-Title V facility. Renewal of a Synthetic Minor Operating Permit issued under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code § 127.450 in Hilltown Township, **Bucks County**. The Operating Permit will contain record keeping requirements, monitoring requirements and operating conditions designed to keep the facility operating within the allowable emission limits and all applicable air quality requirements.

**09-00182: Armoloy Co. of Philadelphia** (1105 Miller Avenue, Croydon, PA 19028) on November 10, 2010, for operation of their facility in Bristol Township, **Bucks County**. This action is a renewal of the permit for a non-Title V (Natural Minor) facility. The facility is a basic manufacturing industry, specializing in various types of electroplating, plating, anodizing, and finishing of metals products. There are no proposed changes to equipment or operating conditions. The permit will continue to include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

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**ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS**

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**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; 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—1406.20a). The final action on each application also constitutes action on the NPDES permit application and, if noted, the request for a Section 401 Water Quality Certification. Mining activity permits issued in response to applications will also address the application permitting requirements of the following statutes: the Air Quality Pollution Act (35 P. S. §§ 4001—4014); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1002).**

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*Coal Permits Actions*

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900*

**32980106 and NPDES No. PA0234770. M & S Mining, Inc.**, Box 343, Punxsutawney, PA 15767, permit renewal for reclamation only of a bituminous surface mine in East Mahoning Township, **Indiana County**, affecting 81.4 acres. Receiving stream(s): unnamed tributaries to Dixon Run classified for the following use(s): high quality cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: September 17, 2010. Permit issued: November 9, 2010.

**32090103 and NPDES No. PA0262889. Alverda Enterprises, Inc.**, P. O. Box 245, Alverda, PA 15710, commencement, operation and restoration of a bituminous surface and auger mine in Pine Township, **Indiana County**, affecting 20.4 acres. Receiving stream(s): Yellow Creek classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: October 7, 2009. Permit issued: November 10, 2010.

**32790103 and NPDES No. PA0079791. Keystone Coal Mining Corporation**, P. O. Box 219, 400 Overview Drive, Shelocta, PA 15774, permit renewal of a bituminous surface mine in Young Township, **Indiana County**, affecting 19.0 acres. Receiving stream(s): Unnamed tributaries to Big Run classified for the following use(s): cold water fishery. There are no potable water supply intakes

within 10 miles downstream. Application received: June 21, 2010. Permit issued: November 10, 2010.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191*

**24930102 and NPDES Permit No. PA0211788. Fairview Coal Company** (P. O. Box R, Ridgway, PA 15853) Renewal of an existing bituminous strip operation in Horton Township, **Elk County** affecting 236.7 acres. Receiving streams: Unnamed tributary to Johnson Run, unnamed tributary to Brandy Camp Creek. This renewal is issued for reclamation only. Application received: September 10, 2010. Permit Issued: November 8, 2010.

**16080108 and NPDES Permit No. PA0258652. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001) Commencement, operation and restoration of a bituminous strip operation in Perry Township, **Clarion County** affecting 222.2 acres. Receiving streams: Unnamed tributaries to the Allegheny River and unnamed tributaries to the Clarion River. Application received: August 25, 2008. Permit Issued: November 8, 2010.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118*

**54851315R5 and NPDES Permit No. PA0224464. Summit Anthracite, Inc.,** (196 Vista Road, Klingerstown, PA 17941), renewal for reclamation activities only of an anthracite underground mine operation in Schuylkill Township, **Schuylkill County** affecting 9.8 acres, receiving stream: Big Creek. Application received: September 17, 2010. Renewal issued: November 10, 2010.

#### *Noncoal Permits Actions*

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191*

**24102802. Red Hill Stone Quarry, LLC** (311 West Center Street, Johnsonburg, PA 15845) Commencement, operation and restoration of a small sandstone operation in Jay Township, **Elk County** affecting 5.0 acres. Receiving streams: Spring Run. Application received: September 29, 2010. Permit Issued: November 9, 2010.

**24102803. Red Hill Stone Quarry, LLC** (311 West Center Street, Johnsonburg, PA 15845) Commencement, operation and restoration of a small sandstone operation in Jay Township, **Elk County** affecting 5.0 acres. Receiving streams: Spring Run. Application received: September 29, 2010. Permit Issued: November 9, 2010.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118*

**35090801. Donald J. Vaverchak**, (907 Route 6, Mayfield, PA 18433), commencement, operation and restoration of a quarry operation in Mayfield Borough, **Lackawanna County** affecting 1.0 acre, receiving stream: none. Application received: May 1, 2009. Permit issued: November 8, 2010.

**45100801. Pocono Manor Investors, LP**, (P. O. Box 38, Pocono Manor, PA 18349), commencement, operation and restoration of a quarry operation in Tobyhanna Township, **Monroe County** affecting 5.0 acres, receiving stream: none. Application received: May 3, 2010. Permit issued: November 10, 2010.

## ACTIONS ON BLASTING ACTIVITY APPLICATIONS

**Actions on applications under the Explosives Acts of 1937 and 1957 and 25 Pa. Code § 211.124. Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.**

#### *Blasting Permits Actions*

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191*

**61104002. Otto Cupler Torpedo Company** (P. O. Box 119, Pleasantville, PA 16341) Blasting Activity Permit for oil well stimulation in President Township, **Venango County**. This blasting activity permit expires on November 15, 2010. Application received: November 8, 2010. Permit Issued: November 10, 2010.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200*

**08104128. Austin Powder Northeast, LLC** (25800 Science Park Drive, Beachwood, OH 44122). Blasting for a gas well pad located in Smithfield Township, **Bradford County**. Permit issued: November 4, 2010. Permit expires: October 25, 2011.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118*

**48104113. American Rock Mechanics, Inc.,** (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for LVSC Warehouse in Forks Township, **Northampton County** with an expiration date of October 27, 2011. Permit issued: November 5, 2010.

**58104122. Gregory General Contracting**, (P. O. Box 2237, Pulaski, VA 24301), construction blasting for Phelps to Polovitch Natural Gas Pipeline in Lathrop Township, **Susquehanna County** and Nicholson Township, **Wyoming County** with an expiration date of October 26, 2011. Permit issued: November 5, 2010.

**66104003. Mike Kipar**, (6005 SR 267, Meshoppen, PA 18630) and Brainard Explosives, (3978 SR 2073, Kingsley, PA 18826), construction blasting for the Adams Well Pad in Windham Township, **Wyoming County** with an expiration date of November 1, 2011. Permit issued: November 8, 2010.

**58104123. Hayduk Enterprises, Inc.,** (257 Riverside Drive, Factoryville, PA 18419), construction blasting for the Stalter Well Pad in Lenox Township, **Susquehanna County** with an expiration date of December 31, 2011. Permit issued: November 9, 2010.

## FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The 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 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 that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704. The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, PO Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania 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 a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal 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 free 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 Flood Plain Management Act (32 P. S. § 679.302) and The Clean Streams Law and Notice of Final Action for Certification under section 401 of the FWPCA.**

*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*

**E08-468. Michael A. Greenough**, RR2 Box 213B, Columbia Crossroads, PA 16914. Water Obstruction and Encroachment Joint Permit, in Smithfield Township, **Bradford County**, ACOE Susquehanna River Basin District (Ulster, PA Quadrangle N: 41° 50' 30"; W: 76° 37' 6").

To construct and maintain a bridge having a span of 45 feet, width of 13 feet and an underclearance of 7.5 feet over Tomjack Creek (WWF). The bridge is located off Smithfield Road, 1.5 miles southwest of East Smithfield in Smithfield Township, Bradford County. This project proposes to permanently impact 13 linear feet of Tomjack Creek, which is designated a Warm Water Fishery and impact 0.0 acres jurisdictional wetlands. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

*Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**E04-330. Independence Conservancy**, PO Box 248, Industry, PA 15052-0248. To construct and maintain a stream restoration project in two reaches of Raredon Run (WWF) between Potts Hollow Road and Raccoon Creek in Independence Township, **Beaver County**, Pittsburgh ACOE District as follows:

1. Area 1: To remove the existing stone and concrete wall and to construct and maintain stream bank protection for a length of 110 feet on the right bank upstream of the Bocktown Cork Road bridge. The project includes realignment of the channel at the bridge and to construct and maintain floodplain for a total length of 160 feet along Potts Hollow Road (Aliquippa, PA Quadrangle N: 7.5 inches; W: 7.05 inches; Latitude: 40° 32' 29"; Longitude: 80° 18' 03").

2. Area 2: To relocate and maintain 1950 linear feet of Raredon Run along Ridge Road, starting from the bridge near Raccoon Creek for the purpose of removing the curves, to reduce flooding of the Road and to reduce stream erosion and sedimentation. The new channel is approximately 1510 feet long and consists of construction of a 5-foot wide, 4-inch deep low-flow channel, floodplain, ten (10) rock cross-vane structures, two (2) saw-tooth deflectors with rock bank stabilization, and riparian buffer seed, shrub, and tree planting (Aliquippa, PA Quadrangle N: 9.2 inches; W: 7.4 inches; Latitude: 40° 33' 02"; Longitude: 80° 18' 12").

**EROSION AND SEDIMENT CONTROL**

The following Erosion and Sediment Control permits have been issued.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704. The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, PO Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania 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 a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal 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 free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

*Southwest Region: Oil & Gas Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

09/28/2010  
ESCGP-1 No.: ESX10-059-0075  
Applicant Name: EQT Production  
CONTACT: Todd Klaner  
Address: 455 Racetrack Road City: Washington State: PA  
Zip Code: 15301  
County: Greene Township(s): Morgan  
Receiving Stream(s) And Classifications: Browns Run/  
UNT to South Fork Tenmile Creek WWF, Other

09/20/2010  
ESCGP-1 No.: ESX10-059-0070  
Applicant Name: Coal Gas Recovery, LLC  
Contact Person: Joanne Reilly  
Address: 158 Portal Road, P. O. Box 1020

City: Waynesburg State: PA Zip Code: 15370  
 County: Greene Township(s): Wayne  
 Receiving Stream(s) and Classifications: Maple Run &  
 UNT Tenmile Creek/Monongahela River HQ

09/22/2010

ESCGP-1 No.: ESX10-051-0026 Major Revision  
 Applicant Name: Burnett Oil Company, Inc  
 Contact Person: Robert Hilliard  
 Address: 601 Technology Dirve, Pointe Plaza Bldg. Suite  
 120

City: Canonsburg State: PA Zip Code: 15317  
 County: Fayette Township(s): German and Nicholson  
 Receiving Stream(s) and Classifications: South Branch  
 Browns Run, UNT to South Branck Browns Run/Lower  
 Monongahela Watershed, Other

10/07/2010

ESCGP-1 No.: ESX10-059-0068 Major Revision  
 Applicant Name: CNX Gas Company, LLC  
 Contact Person: Daniel Bitz  
 Address: 200 Evergreene Drive  
 City: Waynesburg State: PA Zip Code: 15370  
 County: Greene Township(s): Morris  
 Receiving Stream(s) and Classifications: Boothe Run and  
 UNT to Enlow Stream/Wheeling Creek Watershed,  
 Other

10/12/2010

ESCGP-1 No.: ESX10-051-0039  
 Applicant Name: Laurel Mountain Midstresam 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, Menallen and  
 Redstone  
 Receiving Stream(s) and Classifications: UNT to Salt  
 Lick, Franklin, Rows Run and Dunlap Creek

10/14/2010

ESCGP-1 No.: ESX10-059-0080  
 Applicant Name: Alpha Shale Resources, L. P.  
 Contact Person: Toby Z. Toby  
 Address: 171 Hillpointe Drive  
 City: Canonsburg State: PA Zip Code: 15317  
 County: Greene Township(s): Center  
 Receiving Stream(s) and Classifications: Turkey Hollow,  
 UNT to Turkey Hollow Other

10/13/2010

ESCGP-1 No.: ESX10-059-0063 Major Revision  
 Applicant Name: Coal Gas Recovery, LLC  
 Contact Person: Joanne Reilly  
 Address: 158 Portal Rd. P. O. Box 1020  
 City: Waynesburg State: PA Zip Code: 15370  
 County: Greene Township(s): Franklin  
 Receiving Stream(s) and Classifications: UNT to Grimes  
 to Grimes Run and Grimes Run/Monongahela River

09/30/2010

ESCGP-1 No.: ESX10-125-0085  
 Applicant Name: CNX Gas Company, LLC  
 Contact Person: Daniel Bitz  
 Address: 200 Evergreene Drive  
 City: Waynesburg State: PA Zip Code: 15370  
 County: Washington Township(s): Morris  
 Receiving Stream(s) and Classifications: Tenmile Creek &  
 UNT to Tenmile Creek, Other Secondary Water:  
 Monongahela River

09/15/2010

ESCGP-1 No.: ESX10-125-0078  
 Applicant Name: CNX Gas Company, LLC

Contact Person: Daniel Bitz  
 Address: 200 Evergreen Drive City: Waynesburg State:  
 PA Zip Code: 15370

County: Washington Township(s): North and South  
 Franklin

Receiving Stream(s) and Classifications: Fork to Bane  
 Creek (Trout Stock Fishery, TSF); Tributary to  
 Chartiers Creek (WWF) Reservoir Number 4, HQ—  
 WWF

09/28/2010

ESCGP-1 NO.: ESX10-059-0074  
 Applicant Name: Coal Gas Recovery LLC  
 CONTACT PERSON: Joanne Reilly  
 ADDRESS: 158 Portal Road, P. O. Box 1020  
 City: Waynesburg State: PA Zip Code: 15370  
 County: Greene Township(s): Center  
 Receiving Stream(s) and Classifications: UNT to Harqus  
 Creek, which flow to Southfork Tenmile Creek/  
 Monongahela River

10/07/2010

ESCGP-1 NO.: ESX10-125-0087  
 Applicant Name: CNX Gas Company, LLC  
 CONTACT: Daniel Bitz  
 ADDRESS: 200 Evergreene Drive  
 City: Waynesburg State: PA 15370  
 County: Washington Township(s): Morris  
 Receiving Stream(s) and Classifications: UNT to Tenmile  
 Creek HW

09/27/2010

ESCGP-1 NO.: ESX10-125-0082  
 Applicant Name: Boord, Benckek & Associates, Inc.  
 CONTACT:  
 ADDRESS: 345 Southpointe Blvd. Suite 202  
 City: Canonsburg State: PA Zip Code: 15317  
 County: Washington Township(s): Smith  
 Receiving Stream(s) and Classifications: UNT WWF-  
 Raccoon Creek, WWF-Ohio River

10/05/2010

ESCGP-1 NO.: ESX10-059-0079  
 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): Center  
 Receiving Stream(s) and Classifications: Hargus Creek  
 which flow to Southfork Tenmile Creek/Monongahela  
 River HQ

09/27/2010

ESCGP-1 NO.: ESX10-059-0072  
 Applicant Name: Energy Corporation of America  
 CONTACT: Seth Burdette  
 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: UNT to Muddy  
 Creek, / Lower Monongahela, Other  
 Secondary Water: Stone Coal Run WWF

10/05/2010

ESCGP-1 NO.: ESX10/059/0078  
 Applicant Name: Atlas Energy Resources, LLC  
 CONTACT: Jeremy Hirtz  
 ADDRESS: 800 Mountain View Drive  
 City: Smith field State: PA Zip Code: 15478  
 County: Greene Township(s): Monongahela  
 Receiving Stream(s) and Classifications: UNT 41161 to  
 Little Whitely Creek, Other  
 Secondary Water Little Whiteley Creek

ESCGP-1 NO.:rec'd 10/12/2010 ESX10-005-0007 major Revision

Applicant Name: EXCO Resources (PA) LLC  
 CONTACT: Larry Sanders  
 ADDRESS: 3000 Ericsson Drive, Suite 200  
 City: Warrendale State: PA Zip Code: 15086  
 County: Armstrong Township(s): Cowanshannock  
 Receiving Stream(s) and Classifications: UNT to Cowanshannock Creek, Other

10/02/2010

ESCGP-1 NO.: ESX10-059-0082  
 Applicant Name: Chesapeake Appalachia, LLC  
 CONTACT: Tal Oden  
 ADDRESS: 179 Chesapeake Drive P. O. Box 1300  
 City: Jane Lew State: PA Zip Code: 26378  
 County: Greene Township(s): Aleppo  
 Receiving Stream(s) and Classifications: UNT to Dunkard Fork, UNT to Mudlick Fork & UNT to Harts Run WV/Ohio River Basin, Other WWF & TSF(Trout Stocked Fishes)

09/27/2010

ESCGP-1 NO.: ESX10-125-0083  
 Applicant Name: John Kosky Contracting, Inc.  
 CONTACT: John Kosky  
 ADDRESS: P. O. Box 136  
 City: Cuddy State: PA Zip Code: 15031  
 County: Washington Township(s): Deemston  
 Receiving Stream(s) and Classifications: Ten Mile Creek, Other  
 Secondary Water—Monongahela River (WWF)

10/21/2010

ESCGP-1 NO.: ESX10-125-0092  
 Applicant Name: Chesapeake Appalachia, LLC  
 CONTACT: Tal Oden  
 ADDRESS: 179 Chesapeake Drive, P. O. Box 1300  
 City: Jane Lew State: WV Zip Code: 26378  
 County: Washington Township(s): Carroll  
 Receiving Stream(s) and Classifications: Pigeon Creek/ UNT to Pigeon Creek, Other  
 Secondary WWF

09/27/2010

ESCGP-1 NO.: ESX10-059-0073  
 Applicant Name: Chesapeake Appalachia, LLC  
 CONTACT: Tal Oden  
 ADDRESS: 179 Chesapeake Appalachia, LLC  
 City: Jane Lew State: WV Zip Code: 26378  
 County: Greene Township(s): Aleppo  
 Receiving Stream(s) and Classifications: UNT to Mudlick Fork, UNT to Grave Creek (WWF), Grave Creek (WWF) Confluence, Other  
 Secondary Water: Mudlick Fork

10/20/2010

ESCGP-1 NO.: ESX10-059-0081  
 Applicant Name: EQT Production  
 CONTACT: Todd Klaner  
 ADDRESS: 455 Racetrack Road  
 City: Washington State: PA Zip Code: 15301  
 County: Greene Township(s): Morgan  
 Receiving Stream(s) and Classifications: Poverty Run (WWF) and UNT to Poverty Run (WWF)  
 Secondary Water: South Fork Ten Mile Creek (WWF)

10/22/2010

ESCGP-1 NO.: ESX09-129-0001 Major Revision  
 Applicant Name: Williams Production Appalachia LLC  
 CONTACT: David R. Freudenrich  
 ADDRESS: 1000 Town Center Suite 130  
 City: Canonsburg State: PA Zip Code: 15317

County: Westmoreland Township(s): Canonsburg  
 Receiving Stream(s) and Classifications: Stony Run & Union Run, Other CWF and WWF (Cold and Warm Water Fishes)  
 Secondary Waters: Conemaugh River & Loyalhanna Creek

09/27/2010

ESCGP-1 NO.: ESX10-059-0012 Major Revision  
 Applicant Name: EQT Production  
 CONTACT: Todd Klaner  
 ADDRESS: 455 Racetrack Road  
 City: Washington State: PA Zip Code: 15301  
 County: Greene Township(s): Morgan  
 Receiving Stream(s) and Classifications: Browns Run— Warm Water Fishery (WWF), Other  
 Secondary Water: South Fork Ten Mile Creek—WWF

09/23/2010

ESCGP-1 NO.: ESX10-051-0035  
 Applicant Name: Burnett Oil Co., Inc  
 CONTACT: Bart K. Walker  
 ADDRESS: 601 Technology Drive, Pointe Plaza Bldg Suite 120  
 City: Canonsburg State: PA Zip Code: 15317  
 County: Fayette Township(s): Springhill  
 Receiving Stream(s) and Classifications: Rubles Run, CWF, Other  
 Secondary Water: Lake Lynn

09/24/2010

ESCGP-1 NO.: ESX10-125-0075  
 Applicant Name: MarkWest Liberty Midstream & Resources LLC  
 CONTACT: Robert Mchale  
 ADDRESS: 100 Plaza Drive Suite 102  
 City: Atlasburg State: PA Zip Code: 15004  
 County: Washington Township(s): Chartiers  
 Receiving Stream(s) and Classifications: Chartiers Run & UNTs to Chartiers Run, Other

*Northcentral Region: Oil & Gas Management Program Manager, 208 West Third Street, Williamsport, PA 17701*

ESCGP-1 # ESX10-027-0021

Applicant Name EXCO Resources (PA), LLC  
 Contact Person Larry Sanders  
 Address 3000 Ericsson Drive, Ste 200  
 City, State, Zip Warrendale, PA 15086  
 County Centre  
 Township(s) Burnside Twp.  
 Receiving Stream(s) and Classification(s) Spruce Run

ESCGP-1 # ESX10-081-0066(01)

Applicant Name Range Resources—Appalachia, LLC  
 Contact Person Carla Suskowski  
 Address 380 Southpointe Blvd  
 City, State, Zip Canonsburg, PA 15317  
 County Lycoming  
 Township(s) Cogan House Twp.  
 Receiving Stream(s) and Classification(s) Roaring Run, UNT to Larry's Creek, Larry's Creek

ESCGP-1 # ESX10-015-0296

Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Bradford  
 Township(s) Terry Twp.  
 Receiving Stream(s) and Classification(s) UNT to Susquehanna River, UNT to Durell Creek

ESCGP-1 # ESX10-015-0227(01)

Applicant Name Talisman Energy USA, Inc



Contact Person Tracy Gregory/Eric Potter  
Address 337 Daniel Zenker Drive  
City, State, Zip Horseheads, NY 14845  
County Bradford  
Township(s) Canton, Granville, Troy Twps.  
Receiving Stream(s) and Classification(s) Wallace Brook,  
North Branch of Towanda Creek, Alba Creek

ESCGP-1 # ESX10-117-0105(01)  
Applicant Name East Resources Management, LLC  
Contact Person Jefferson Long  
Address 190 Thorn Hill Road  
City, State, Zip Warrendale, PA 15086  
County Tioga  
Township(s) Charleston Twp.  
Receiving Stream(s) and Classification(s) Catlin Hollow,  
Susquehanna River Basin in PA, Crooked Creek

ESCGP-1 # ESX10-117-0219  
Applicant Name East Resources Management, LLC  
Contact Person Jefferson Long  
Address 190 Thorn Hill Road  
City, State, Zip Warrendale, PA 15086  
County Tioga  
Township(s) Chatham Twp.  
Receiving Stream(s) and Classification(s) UNT to Crooked  
Creek/Susquehanna River Basin in PA, Crooked Creek,  
Tioga River

ESCGP-1 # ESX10-117-0227  
Applicant Name East Resources Management, LLC  
Contact Person Jefferson Long  
Address 190 Thorn Hill Road  
City, State, Zip Warrendale, PA 15086  
County Tioga  
Township(s) Delmar Twp.  
Receiving Stream(s) and Classification(s) W. Br. Stony  
Fork, W. Br. Susquehanna R. Basin, E. Br. Stony Fork

ESCGP-1 # ESX10-033-0004  
Applicant Name Caiman Penn Midstream, LLC  
Contact Person Steve Skellie  
Address 5949 Sherry Lane, Suite 645  
City, State, Zip Dallas, TX 75225  
County Clearfield  
Township(s) Chest Twp.  
Receiving Stream(s) and Classification(s) UNT to Wilson  
Run, Wilson Run

ESCGP-1 # ESX10-115-0052  
Applicant Name Cabot Oil & Gas Corp  
Contact Person Jeffrey Keim  
Address 5 Penn Center West, Ste 401  
City, State, Zip Pittsburgh, PA 15276  
County Susquehanna  
Township(s) Springville Twp.  
Receiving Stream(s) and Classification(s) Thomas Creek

ESCGP-1 # ESX10-015-0322  
Applicant Name Talisman Energy USA, Inc.  
Contact Person Tracy Gregory  
Address 337 Daniel Zenker Drive  
City, State, Zip Horseheads, NY 14845  
County Bradford  
Township(s) Orwell Twp.  
Receiving Stream(s) and Classification(s) UNT to Trout  
Stream

ESCGP-1 # ESX10-015-0319  
Applicant Name Talisman Energy USA, Inc.  
Contact Person Tracy Gregory  
Address 337 Daniel Zenker Drive  
City, State, Zip Horseheads, NY 14845  
County Bradford

Township(s) Warren Twp.  
Receiving Stream(s) and Classification(s) Pendleton Creek

ESCGP-1 # ESX10-015-0318  
Applicant Name Talisman Energy USA, Inc.  
Contact Person Tracy Gregory  
Address 337 Daniel Zenker Drive  
City, State, Zip Horseheads, NY 14845  
County Bradford  
Township(s) Warren Twp.  
Receiving Stream(s) and Classification(s) Wappasening  
Creek

ESCGP-1 # ESX10-015-0266  
Applicant Name Talisman Energy USA, Inc.  
Contact Person Tracy Gregory  
Address 337 Daniel Zenker Drive  
City, State, Zip Horseheads, NY 14845  
County Bradford  
Township(s) Stevens and Tuscarora Twps.  
Receiving Stream(s) and Classification(s) Trib. to  
Tuscarora Creek and Bennett Creek, Wyalusing Creek

ESCGP-1 # ESX10-035-0012  
Applicant Name Anadarko Marcellus Midstream, LLC  
Contact Person Bertha Nefe  
Address P. O. Box 1330  
City, State, Zip Houston, TX 77251-1330  
County Clinton  
Township(s) Grugan and Chapman Twps.  
Receiving Stream(s) and Classification(s) UNTs to Right  
Br. Hyner Run,

ESCGP-1 # ESX10-035-0013  
Applicant Name Anadarko Marcellus Midstream, LLC  
Contact Person Bertha Nefe  
Address P. O. Box 1330  
City, State, Zip Houston, TX 77251-1330  
County Clinton  
Township(s) Beech Creek Twp.  
Receiving Stream(s) and Classification(s) East Branch Big  
Run, Big Run

ESCGP-1 # ESX10-015-0294  
Applicant Name Chesapeake Appalachia, LLC  
Contact Person Eric Haskins  
Address 101 North Main Street  
City, State, Zip Athens, PA 18810  
County Bradford  
Township(s) Towanda Twp.  
Receiving Stream(s) and Classification(s) UNT to  
Towanda Creek, Towanda Creek

ESCGP-1 # ESX10-015-0309  
Applicant Name Chesapeake Appalachia, LLC  
Contact Person Eric Haskins  
Address 101 North Main Street  
City, State, Zip Athens, PA 18810  
County Bradford  
Township(s) Litchfield Twp.  
Receiving Stream(s) and Classification(s) UNT to Sackett  
Creek, UNT to Parks Creek, Sackett Creek/Parks Creek

ESCGP-1 # ESX10-015-0317  
Applicant Name EOG Resources Inc.  
Contact Person Nathan Wells  
Address 400 Southpoint Blvd, Plaza 1, Suite 300  
City, State, Zip Canonsburg, PA 15317  
County Bradford  
Township(s) Ridgebury Twp.  
Receiving Stream(s) and Classification(s) Justice Run,  
Three Falls Glen, Bentley Creek, W. Br. Susquehanna  
River

- ESCGP-1 # 17-09-801(01) PHASE 8  
 Applicant Name EOG Resources Inc.  
 Contact Person Nathan Wells  
 Address 400 Southpoint Blvd, Plaza 1, Suite 300  
 City, State, Zip Canonsburg, PA 15317  
 County Clearfield  
 Township(s) Lawrence Twp.  
 Receiving Stream(s) and Classification(s) Coldstream,  
 Stone Run
- ESCGP-1 # ESX10-015-0293  
 Applicant Name EOG Resources Inc.  
 Contact Person Nathan Wells  
 Address 400 Southpoint Blvd, Plaza 1, Suite 300  
 City, State, Zip Canonsburg, PA 15317  
 County Bradford  
 Township(s) Springfield Twp.  
 Receiving Stream(s) and Classification(s) Miller Run,  
 Bentley Creek
- ESCGP-1 # ESX10-081-0100  
 Applicant Name XTO Energy, Inc.  
 Contact Person Bernhardt Kissel  
 Address 395 Airport Road  
 City, State, Zip Indiana, PA 15701  
 County Lycoming  
 Township(s) Moreland Twp.  
 Receiving Stream(s) and Classification(s) Broad Run and  
 Little Muncy Creek, Muncy Creek
- ESCGP-1 # ESX10-081-0039(01)  
 Applicant Name XTO Energy, Inc.  
 Contact Person Bernhardt Kissel  
 Address 395 Airport Road  
 City, State, Zip Indiana, PA 15701  
 County Lycoming  
 Township(s) Moreland Twp.  
 Receiving Stream(s) and Classification(s) Broad Run,  
 Little Sugar Run, Muncy Creek, Little Muncy Creek
- ESCGP-1 # ESX10-037-0002  
 Applicant Name XTO Energy, Inc.  
 Contact Person Bernhardt Kissel  
 Address 395 Airport Road  
 City, State, Zip Indiana, PA 15701  
 County Columbia  
 Township(s) Pine Twp  
 Receiving Stream(s) and Classification(s) Little Brier  
 Run, Little Fishing Creek
- ESCGP-1 # ESX10-081-0102  
 Applicant Name Range Resources, Appalachia, LLC  
 Contact Person Carla Suszkowski  
 Address 380 Southpointe Blvd  
 City, State, Zip Canonsburg, PA 15317  
 County Lycoming  
 Township(s) Cummings Twp.  
 Receiving Stream(s) and Classification(s) Buckhorn Run  
 and First Fork Larrys Creek, Larrys Creek
- ESCGP-1 # ESX10-081-0090  
 Applicant Name Range Resources, Appalachia, LLC  
 Contact Person Carla Suszkowski  
 Address 380 Southpointe Blvd  
 City, State, Zip Canonsburg, PA 15317  
 County Lycoming  
 Township(s) Mifflin Twp.  
 Receiving Stream(s) and Classification(s) UNTs to Larrys  
 Creek
- ESCGP-1 # ESX10-081-0095  
 Applicant Name Range Resources, Appalachia, LLC  
 Contact Person Carla Suszkowski  
 Address 380 Southpointe Blvd  
 City, State, Zip Canonsburg, PA 15317  
 County Lycoming  
 Township(s) Mifflin Twp.  
 Receiving Stream(s) and Classification(s) Second Fork  
 Larrys Creek, Larrys Creek
- ESCGP-1 # ESX10-081-0098  
 Applicant Name Range Resources, Appalachia, LLC  
 Contact Person Carla Suszkowski  
 Address 380 Southpointe Blvd  
 City, State, Zip Canonsburg, PA 15317  
 County Lycoming  
 Township(s) Mifflin Twp.  
 Receiving Stream(s) and Classification(s) UNTs to Larrys  
 Creek and UNT to Second Fork Larrys Creek
- ESCGP-1 # ESX10-015-0226(01)  
 Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Bradford  
 Township(s) Wysox Twp.  
 Receiving Stream(s) and Classification(s) UNT of the  
 Laning Creek, Laning Creek
- ESCGP-1 # ESX10-131-0033  
 Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Wyoming  
 Township(s) Windham Twp.  
 Receiving Stream(s) and Classification(s) Litte Mehoo-  
 pany Creek, Susquehanna River
- ESCGP-1 # ESX10-105-0013(01)  
 Applicant Name Triana Energy, LLC  
 Contact Person Rachelle King  
 Address 900 Virginia Street East, Suite 400  
 City, State, Zip Charleston, WV 25301  
 County Potter  
 Township(s) Hector Twp.  
 Receiving Stream(s) and Classification(s) UNT to Genesee  
 Fork, Genesee Fork
- ESCGP-1 # ESX10-127-0012  
 Applicant Name Hess Corporation  
 Contact Person Eugene Linscomb  
 Address 910 Church Street  
 City, State, Zip Honesdale, PA 18439  
 County Wayne  
 Township(s) Preston Twp.  
 Receiving Stream(s) and Classification(s) UNT to  
 Shadigee Creek
- ESCGP-1 # ESX10-117-0220  
 Applicant Name EQT Production Company  
 Contact Person Todd Klaner  
 Address 445 Racetrack Road  
 City, State, Zip Washington, PA 15301  
 County Tioga  
 Township(s) Duncan  
 Receiving Stream(s) and Classification(s) Rock Run, UNT  
 to Rock Run - both part of Pine Creek Watershed
- ESCGP-1 # ESX10-115-0057  
 Applicant Name Southwestern Energy Production  
 Company  
 Contact Person Dave Sweeley  
 Address 181 W. Tioga Street, Suite 2  
 City, State, Zip Tunkhannock, PA 18657  
 County Susquehanna  
 Township(s) Clifford Twp.

Receiving Stream(s) and Classification(s) UNT to E. Br.  
Tunkhannock Cr, Idlewild Cr, Tunkhannock Cr

ESCGP-1 # ESX10-115-0056

Applicant Name Southwestern Energy Production  
Company

Contact Person Dave Sweeley  
Address 181 W. Tioga Street, Suite 2  
City, State, Zip Tunkhannock, PA 18657

County Susquehanna

Township(s) Lenox Twp.

Receiving Stream(s) and Classification(s) UNT 29104,  
Tunkhannock Cr

ESCGP-1 # ESG10-117-0200

Applicant Name Ultra Resources, Inc.

Contact Person Belinda Salinas

Address 5 East Avenue, #108  
City, State, Zip Wellsboro, PA 16901-1613

County Tioga

Township(s) Gaines Twp.

Receiving Stream(s) and Classification(s) Elk Run

ESCGP-1 # ESX10-015-0314

Applicant Name Chesapeake Appalachia, LLC

Contact Person Eric Haskins

Address 101 North Main Street  
City, State, Zip Athens, PA 18810

County Bradford

Township(s) Sheshequin Twp.

Receiving Stream(s) and Classification(s) UNT to  
Susquehanna River, Susquehanna River

ESCGP-1 # ESX10-105-0028

Applicant Name Triana Energy, LLC

Contact Person Rachelle King

Address 900 Virginia Street East, Suite 400  
City, State, Zip Charleston, WV 25301

County Potter

Township(s) Summit Twp.

Receiving Stream(s) and Classification(s) Prouty Run,  
Nelson Run, and UNT of Nelson Run

ESCGP-1 # ESX10-105-0029

Applicant Name Triana Energy, LLC

Contact Person Rachelle King

Address 900 Virginia Street East, Suite 400  
City, State, Zip Charleston, WV 25301

County Potter

Township(s) Hector Twp.

Receiving Stream(s) and Classification(s) Trib. to Genesee  
Forks, Dry Run, Genesee Forks

ESCGP-1 # ESX10-081-0099

Applicant Name Range Resources—Appalachia, LLC

Contact Person Carla Suszkowski

Address 380 Southpointe Blvd  
City, State, Zip Canonsburg, PA 15317

County Lycoming

Township(s) Cummings Twp.

Receiving Stream(s) and Classification(s) First Fork  
Larry's Creek and Jacobs Hollow

ESCGP-1 # ESX10-035-0014

Applicant Name Anadarko E&P Company, LP

Contact Person Bertha Nefe

Address P. O. Box 1330  
City, State, Zip Houston, TX 77251-1330

County Clinton

Township(s) Grugan Twp.

Receiving Stream(s) and Classification(s) UNT to Hyner  
Run, Hyner Run

ESCGP-1 # ESX10-105-0016(01)

Applicant Name SM Energy Company

Contact Person Marlon Wells

Address 7060 S. Yale, Ste 800  
City, State, Zip Tulsa, OK 74136-5741

County Potter

Township(s) Portage Twp.

Receiving Stream(s) and Classification(s) Main Stem and  
South Branch Little Portage Creek, Freeman Run

ESCGP-1 # ESX10-015-0312

Applicant Name Chesapeake Appalachia, LLC

Contact Person Eric Haskins

Address 101 North Main Street  
City, State, Zip Athens, PA 18810

County Bradford

Township(s) Athens Twp.

Receiving Stream(s) and Classification(s) UNT to Wolcott  
Creek, Wolcott Creek

ESCGP-1 # ESX10-015-0313

Applicant Name Chesapeake Appalachia, LLC

Contact Person Eric Haskins

Address 101 North Main Street  
City, State, Zip Athens, PA 18810

County Bradford

Township(s) Sheshequin Twp.

Receiving Stream(s) and Classification(s) UNT of Horn  
Brook, Horn Brook

ESCGP-1 # ESX10-015-0315

Applicant Name Chesapeake Appalachia, LLC

Contact Person Eric Haskins

Address 101 North Main Street  
City, State, Zip Athens, PA 18810

County Bradford

Township(s) Wyalusing Twp.

Receiving Stream(s) and Classification(s) Susquehanna  
River

ESCGP-1 # ESX10-115-0060

Applicant Name Chesapeake Appalachia, LLC

Contact Person Eric Haskins

Address 101 North Main Street  
City, State, Zip Athens, PA 18810

County Susquehanna

Township(s) Rush Twp.

Receiving Stream(s) and Classification(s) UNT to East  
Branch Wyalusing Creek, Wyalusing Creek

ESCGP-1 # ESX10-081-0101

Applicant Name Anadarko E&P Company LP

Contact Person Rane Wilson

Address 33 West 3rd Street, Ste 200  
City, State, Zip Williamsport, PA 17701

County Lycoming

Township(s) Cummings Twp.

Receiving Stream(s) and Classification(s) Bull Run and  
Lower Pine Bottom Run

ESCGP-1 # ESX10-117-0233

Applicant Name East Resources Management, LLC

Contact Person Jefferson Long

Address 190 Thorn Hill Road  
City, State, Zip Warrendale, PA 15086

County Tioga

Township(s) Richmond Twp.

Receiving Stream(s) and Classification(s) UNT Hills  
Creek, Susquehanna River Basin in PA—Tioga River,  
Hills Creek to Crooked Creek

ESCGP-1 # ESX10-117-0230  
 Applicant Name East Resources Management, LLC  
 Contact Person Jefferson Long  
 Address 190 Thorn Hill Road  
 City, State, Zip Warrendale, PA 15086  
 County Tioga  
 Township(s) Union Twp.  
 Receiving Stream(s) and Classification(s) UNT Lycoming  
 Creek/W. Br. Susquehanna River Basin, Lycoming  
 Creek—W. Br. Susquehanna

ESCGP-1 # ESX10-117-0232  
 Applicant Name East Resources Management, LLC  
 Contact Person Jefferson Long  
 Address 190 Thorn Hill Road  
 City, State, Zip Warrendale, PA 15086  
 County Tioga  
 Township(s) Farmington Twp.  
 Receiving Stream(s) and Classification(s) Thornbottom  
 Creek / Susquehanna River Basin In PA—Tioga River,  
 Cowanesque River

ESCGP-1 # ESX10-117-0231  
 Applicant Name East Resources Management, LLC  
 Contact Person Jefferson Long  
 Address 190 Thorn Hill Road  
 City, State, Zip Warrendale, PA 15086  
 County Tioga  
 Township(s) Covington Twp.  
 Receiving Stream(s) and Classification(s) Marvin Creek—  
 Susquehanna River Basin in PA—Tioga River

ESCGP-1 # ESX10-015-0326  
 Applicant Name EOG Resources Inc  
 Contact Person Nathan Wells  
 Address 400 Southpoint Blvd, Plaza 1, Ste 300  
 City, State, Zip Canonsburg, PA 15317  
 County Bradford  
 Township(s) Ridgebury Twp.  
 Receiving Stream(s) and Classification(s) Three Falls  
 Glen Run, Bentley Creek

ESCGP-1 # ESX10-117-0223  
 Applicant Name EQT Production Company  
 Contact Person Todd Klaner  
 Address 455 Racetrack Road, Suite 101  
 City, State, Zip Washington, PA 15301  
 County Tioga  
 Township(s) Duncan Twp.  
 Receiving Stream(s) and Classification(s) Rock Run, UNT  
 to Rock Run—both part of the Pine Creek Watershed

ESCGP-1 # ESX10-113-0034  
 Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Sullivan  
 Township(s) Cherry Twp.  
 Receiving Stream(s) and Classification(s) Two UNTs to  
 Loyalsock Creek, Loyalsock Creek

ESCGP-1 # ESX10-015-0320  
 Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Bradford  
 Township(s) Smithfield Twp.  
 Receiving Stream(s) and Classification(s) Browns Creek  
 and UNT to Browns Creek

ESCGP-1 # ESX10-113-0032  
 Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Sullivan  
 Township(s) Fox Twp.  
 Receiving Stream(s) and Classification(s) UNT to  
 Hoagland Branch, Hoagland Branch

ESCGP-1 # ESX10-015-0324  
 Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Bradford  
 Township(s) Asylum Twp.  
 Receiving Stream(s) and Classification(s) UNT to Durell  
 Creek, Susquehanna River

*Northwest Region: Oil and Gas Program Manager, 230  
 Chestnut St., Meadville, PA 16335*

ESCGP-1 #ESX10-019-0047—Mark C. Rutledge 1H, 2H,  
 3H, 4H  
 Applicant Phillips Exploration Inc  
 Contact Gary Clark  
 Address 502 Keystone Drive  
 City Warrendale State PA Zip Code 15086  
 County Butler Township(s) Forward  
 Receiving Stream(s) and Classification(s) UNT of  
 Connoquenessing Creek

ESCGP-1 #ESX10-065-0014—Dannic ESCGP-1 #4  
 Applicant Flatirons Development, LLC  
 Contact Todd A. Huey  
 Address 910 Beaver Drive  
 City Dubois State PA Zip Code 15801  
 County Elk and Jefferson Township(s) Horton and Snyder  
 Receiving Stream(s) and Classification(s) Rattlesnake  
 Creek (minor section is HQ-CWF above Brockway  
 Reservoir, most runoff directed to CWF section below  
 Brockway Reservoir), Whetstone Branch (CWF), Sec-  
 ondary Water Little Toby Creek—HQ

ESCGP-1 #ESX10-031-0013  
 Applicant Stone Energy Corporation  
 Contact Richard Toothman  
 Address 6000 Hampton Center, Suite B  
 City Morgantown State WV Zip Code 26505  
 County Clarion Township(s) Ashland(s)  
 Receiving Stream(s) and Classification(s) Unnamed tribu-  
 taries to Beaver Creek—HQ

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**STORAGE TANKS**


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**SITE-SPECTIFIC INSTALLATION PERMITS**


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The following Storage Tank Site-Specific Installation Permits, under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 504, 1101—1102) and under 25 Pa. Code Chapter 245, Subchapter C, have been issued by the Bureau of Waste Management, Director, PO Box 8763, Harrisburg, PA 17105-8763.

<i>SSIP Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
10-11-003	Warren Oil Company of PA, L.P. 100 Pennzoil Drive Johnstown, PA 15909 Attn: Steve Balog	Cambria	Jackson Township	4 ASTs storing petroleum products	118,444 gallons total

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**SPECIAL NOTICES**


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**Request for Proposals for Cultural Resources Consulting Services**

Issuing Office: Bureau of Waterways Engineering, Department of Environmental Protection, Commonwealth of Pennsylvania, 3rd Floor Rachel Carson State Office Building, 400 Market Street, P. O. Box 8460, Harrisburg, PA 17105-8460

RFP Number BWE-10-03

Date of Issuance: November 27, 2010

**Request for Proposals for**

BWE-10-03

Calendar of Events

The Commonwealth will make every effort to adhere to the following schedule:

<i>Activity</i>	<i>Responsibility</i>	<i>Date</i>
Advertise RFP	Issuing Office	11/27/2010
Deadline to submit Questions via email to <a href="mailto:sccox@state.pa.us">sccox@state.pa.us</a>	Potential Offerors	12/08/2010
Answers to Potential Offeror questions e-mailed to the Offerors no later than this date	Issuing Office	12/22/2010
Sealed Proposal must be received by the Issuing Office at PA Department of Environmental Protection Bureau of Waterways Engineering P. O. Box 8460 Harrisburg, PA 17105-8460	Offerors	4:00 PM 01/14/2011
Proposed Contract Award Date	Issuing Office	03/01/2011

**Part I. General Information**

I-1. Authority and Objective. The Department of Environmental Protection (Department) is authorized under Section 905 of the Commonwealth Procurement Code (62 Pa.C.S.101 et seq.) ("CPC") to procure professional services. Pursuant to this authority, the Department will retain a Cultural Resources Consulting Firm to perform Archaeological and Historic Property investigations on an as-needed basis throughout Pennsylvania.

I-2. Specific. It is the intent of the Department that the contract awarded as a result of this RFP will be for a five (5) year period. Funding for the first year will be \$60,000, with additional years' funding dependent upon the availability of funds, with an anticipated contract total of \$300,000. The contract will be based on the hours of service and qualifying expenses not exceeding the contract amount. Projects will be assigned on an as-needed basis.

I-3. Response Date. To be considered for selection, hard copies of proposals must arrive at the Issuing Office on or before the time and date specified in the RFP Calendar of Events. The Issuing Office will not accept proposals via email or facsimile transmission. Offerors who send pro-

posals by mail or other delivery service should allow sufficient delivery time to ensure timely receipt of their proposals. If, due to inclement weather, natural disaster, or any other cause, the Commonwealth office location to which proposals are to be returned is closed on the proposal response date, the deadline for submission will be automatically extended until the next Commonwealth business day on which the office is open, unless the Issuing Office otherwise notifies Offerors. The hour for submission of proposals shall remain the same. The Issuing Office will reject unopened, any late proposals.

I-4. Type of Contract. It is proposed that if the Issuing Office enters into a contract as a result of this RFP, it will be a standard professional services contract, with payment to be made on a time and materials basis. The Issuing Office, in its sole discretion, may undertake negotiations with Offerors whose proposals, in the judgment of the Issuing Office, show them to be qualified, responsible and capable of performing the Project.

I-5. Addenda to the RFP. If the Issuing Office deems it necessary to revise any part of this RFP before the proposal response date, the Issuing Office will issue an addendum to all proposers who have requested a copy of the RFP.

I-6. Discussions for Clarification. Offerors may be required to make an oral or written clarification of their proposals to the Issuing Office to ensure thorough mutual understanding and Offeror responsiveness to the solicitation requirements. The Issuing Office will initiate requests for clarification.

I-7. Issuing Office. The Department of Environmental Protection ("Issuing Office") has issued this RFP on behalf of the Commonwealth. The sole point of contact and Issuing Officer in the Commonwealth for this RFP shall be:

Scott Cox, Geologist 2  
Environmental & Geological Services Section  
Bureau of Waterways Engineering  
Department of Environmental Protection,  
400 Market Street, 3rd Floor RCSOB  
P. O. Box 8460  
Harrisburg, PA 17105-8460

E-mail address: sccox@state.pa.us  
Please refer all inquiries to the Issuing Officer.

I-8. Rejection of Proposals. The Issuing Office reserves the right, in its sole and complete discretion, to reject any proposals received as a result of this RFP.

## Part II. Scope of Work

II-1. Nature and Scope of the Project. Services will be performed for the Bureau of Waterways Engineering (Bureau). The Bureau designs stream improvement, flood protection and dam removal projects. These projects often have the potential to affect archaeological resources and historic properties. The Bureau wishes to retain a Cultural Resources Consulting Firm to perform cultural resource studies at its projects, in order to comply with state and federal laws and regulations. The selected Consultant will aid the Bureau by performing studies, advising the Bureau on appropriate treatment of resources, and by presenting results to the Pennsylvania Historical and Museum Commission, Bureau for Historic Preservation.

The Consultant will perform cultural resource investigations on an as-needed basis, on projects which may be located anywhere in Pennsylvania. The workload may be highly variable, and the Consultant must be able to undertake investigations at multiple sites, concurrently. Construction schedules and memorandums with other agencies will often impose deadlines for completion of cultural resource work. The ability to respond rapidly to work requests and to complete projects in a timely fashion is essential. A single point of contact for all projects is essential for effective communication and for project management, especially if subcontractors are used. Investigation methods, reports and documents must be acceptable to the Bureau of Waterways Engineering and the Pennsylvania Historical and Museum Commission, Bureau for Historic Preservation.

II-2. Requirements. The Consultant may perform all phases of Historic Property and Archaeology investigations. Experience performing work in Pennsylvania and knowledge of the specific requirements of the Pennsylvania Historical and Museum Commission, Bureau for Historic Preservation is essential. The Consultant's capability to perform this work should be reflected in the personnel available for this project. Essential Archaeology personnel are typically referred to as Principal Investigator, Field Supervisor, Field Technician, and Geomorphologist. Historic Property investigations require personnel typically referred to as Preservation Planner or Architectural Historian, and Historic Architect.

Personnel involved in providing Archaeological services shall have at least the minimum educational and professional experience as defined by the Pennsylvania Historical and Museum Commission in Appendix B of *A Comprehensive State Plan for the Conservation of Archaeological Resources*, Volume 1, PHMC, 1985. The Preservation Planner/Architectural Historian shall have at least the minimum educational and professional experience set forth in 36 CFR Part 61 for Architectural History professionals, and four years experience with Section 106 review procedures. The Historic Architect must have the minimum educational and professional experience set forth in 36 CFR Part 61 for Historic Architecture professionals and experience preparing Historic American Engineering Record and Historic American Building Survey drawings.

## II-3. Tasks and Reports

Each project will begin with a work plan produced by the Consultant. The work plan will identify the elements of each project, the resources assigned to the project, and the time allotted to each element and the deliverable items to be produced. Costs should be estimated for each work element. A periodic progress report covering activities, problems, and recommendations may be required for complex projects or those of a long duration. The Bureau requires a draft copy of the final report for its review, prior to submission to the Bureau for Historic Preservation, other government agencies, or consulting parties. For Archaeological work, written reports will follow guidelines provided by the Bureau for Historic Preservation in *Cultural Resource Management in Pennsylvania: Guidelines for Archaeological Investigations*, Pa. Historical and Museum Commission, 1991. For Historic Properties work, written reports will be developed from guidelines provided in *How to Complete the Pennsylvania Historic Resource Survey Form*, Pa. Historical and Museum Commission, 1990 and the procedures and guidelines of the Advisory Council on Historic Preservation, Section 106 Review Process, 36 CFR Part 800.

## Part III. Disadvantaged Business Participation

### PART III-1. General Information

#### Disadvantaged Business Information

The Issuing Office encourages participation by small disadvantaged businesses as prime contractors, joint ventures, and subcontractors/suppliers and by socially disadvantaged businesses as prime contractors.

Small Disadvantaged Businesses are small businesses that are owned or controlled by a majority of persons, not limited to members of minority groups, who have been deprived of the opportunity to develop and maintain a competitive position in the economy because of social disadvantages. The term includes:

- a. Department of General Services Bureau of Minority and Women Business Opportunities (BMWBO)-certified minority business enterprises (MBEs) and women business enterprises (WBEs) that qualify as small businesses; and
- b. United States Small Business Administration certified 8(a) small disadvantaged business concerns.
- c. Businesses that BMWBO determines meet the Small Business Administration criteria for designation as a small disadvantaged business.

Small businesses are businesses in the United States which are independently owned, are not dominant in their field of operation, employ no more than 100 full-

time or full-time equivalent employees, and earn less than \$20 million in gross annual revenues (\$25 million in gross annual revenues for those businesses in the information technology sales or service business).

Socially disadvantaged businesses are businesses in the United States that BMWBO determines are owned or controlled by a majority of persons, not limited to members of minority groups, who are subject to racial or ethnic prejudice or cultural bias, but which do not qualify as small businesses. In order for a business to qualify as "socially disadvantaged," the offeror must include in its proposal clear and convincing evidence to establish that the business has personally suffered racial or ethnic prejudice or cultural bias stemming from the business person's color, ethnic origin or gender.

Questions regarding this Program can be directed to:

Department of General Services  
Bureau of Minority & Women Business Opportunities  
Room 611, North Office Building  
Harrisburg, PA 17125  
Phone: (717) 783-3119  
FAX: (717) 787-7052  
Email: gs-bmwbo@state.pa.us  
Website:  
[www.portal.state.pa.us/portal/server.pt?open=512&objID=1360&mode=2](http://www.portal.state.pa.us/portal/server.pt?open=512&objID=1360&mode=2)

A database of BMWBO-certified minority- and women-owned businesses can be accessed at [www.dgsweb.state.pa.us/mbewbe/VendorSearch.aspx](http://www.dgsweb.state.pa.us/mbewbe/VendorSearch.aspx). The federal vendor database can be accessed at [www.ccr.gov](http://www.ccr.gov) by clicking on *Dynamic Small Business Search* (certified companies are so indicated).

Information Concerning Small Businesses in Enterprise Zones:

The Issuing Office encourages participation by small businesses, whose primary or headquarters facility is physically located in areas the Commonwealth has identified as Designated Enterprise Zones, as prime contractors, joint ventures, and subcontractors/suppliers.

The definition of headquarters includes but is not limited to an office or location that is the administrative center of a business or enterprise where most of the important functions of the business are conducted or concentrated and location where employees are conducting the business of the company on a regular and routine basis so as to contribute to the economic development of the geographical area in which the office or business is geographically located.

Small businesses are businesses in the United States that are independently owned, are not dominant in their field of operation, employ no more than 100 persons and earn less than \$20 million in gross annual revenues (\$25 million in gross annual revenues for those businesses in the information technology sales or service business).

There is no database or directory of small business located in Designated Enterprise Zones. Information on the location of Designated Enterprise Zones can be obtained by contacting:

Aldona M. Kartorie  
Center for Community Building  
PA Department of Community and Economic  
Development  
4th Floor Keystone Building  
400 North Street  
Harrisburg, PA 17120-0225  
Phone: (717) 720-7409

Fax: (717) 787-4088

Email: [akartorie@state.pa.us](mailto:akartorie@state.pa.us)

[www.newpa.com/programDetail.aspx?id=76](http://www.newpa.com/programDetail.aspx?id=76)

#### Part III-2. Disadvantaged Businesses Submittal

##### a. Disadvantaged Business Information

i) To receive credit for being a Small Disadvantaged Business or a Socially Disadvantaged Business or for entering into a joint venture agreement with a Small Disadvantaged Business or for subcontracting with a Small Disadvantaged Business (including purchasing supplies and/or services through a purchase agreement), an Offeror must include proof of Disadvantaged Business qualification in the Disadvantaged Business Submittal of the proposal, as indicated below:

1) A Small Disadvantaged Business certified by BMWBO as an MBE/WBE must provide a photocopy of their BMWBO certificate.

2) Businesses certified by the U.S. Small Business Administration pursuant to Section 8(a) of the Small Business Act (15 U.S.C. § 636(a)) as an 8(a) small disadvantaged business must submit proof of U.S. Small Business Administration certification. The owners of such businesses must also submit proof of United States citizenship.

3) Businesses, which assert that they meet the U.S. Small Business Administration criteria for designation as a small disadvantaged business, must submit: a) self-certification that the business meets the Small Business Administration criteria, and b) documentary proof to support the self-certification. The owners of such businesses must also submit proof of United States citizenship, and provide any relevant disadvantaged business certifications by other certifying entities.

4) All businesses claiming Small Disadvantaged Business status, whether as a result of BMWBO certification, or U.S. Small Business Administration certification as an 8(a) or self-certification as a U.S. Small Business Administration small disadvantaged business, must attest to the fact that the business has 100 or fewer employees.

5) All businesses claiming Small Disadvantaged Business status, whether as a result of BMWBO certification, or U.S. Small Business Administration certification as an 8(a) or self-certification as a U.S. Small Business Administration small disadvantaged business, must submit proof that their gross annual revenues are less than \$20,000,000 (\$25,000,000 for those businesses in the information technology sales or service business). This can be accomplished by including a recent tax return or audited financial statement.

ii) All companies claiming status as a Socially Disadvantaged Business must include in the Disadvantaged Business submittal of the proposal clear and convincing evidence to establish that the business has personally suffered racial or ethnic prejudice or cultural bias stemming from the business person's color, ethnic origin, or gender. The submitted evidence of prejudice or bias must:

1) Be rooted in treatment which the business person has experienced in American society, not in other countries.

2) Show prejudice or bias that is chronic and substantial, not fleeting or insignificant.

3) Indicate that the business person's experience with the racial or ethnic prejudice or cultural bias has negatively impacted on his or her entry into and/or advancement in the business world.

BMWBO shall determine whether the contractor has established that a business is socially disadvantaged by clear and convincing evidence.

iii) In addition to the above verifications, the Offeror must include in the Disadvantaged Business Submittal of the proposal the following information:

1) Those Small Disadvantaged Businesses submitting a proposal as the Offeror, must include a numerical percentage which represents the total percentage of the work (as a percentage of the total cost in the Cost Submittal) to be performed by the Offeror and not by subcontractors and suppliers.

2) Those Small Disadvantaged Businesses submitting a proposal as a part of a joint venture partnership, must include a numerical percentage which represents the total percentage of the work (as a percentage of the total cost in the Cost Submittal) to be performed by the Small Disadvantaged Business joint venture partner and not by subcontractors and suppliers or by joint venture partners who are not Small Disadvantaged Businesses. Offeror must also provide:

a) The amount of capital, if any, each Small Disadvantaged Business joint venture partner will be expected to provide.

b) A copy of the joint venture agreement signed by all parties.

c) The business name, address, name and telephone number of the primary contact person for the Small Disadvantaged Business joint venture partner.

3) All Offerors must include a numerical percentage which represents the total percentage of the total cost in the Cost Submittal that the Offeror commits to paying to Small Disadvantaged Businesses as subcontractors. To support its total percentage DB subcontractor commitment, Offeror must also include:

a) The dollar amount of each subcontract commitment to a Small Disadvantaged Business;

b) The name of each Small Disadvantaged Business. The Offeror will not receive credit for stating that after the contract is awarded it will find a Small Disadvantaged Business.

c) The services or supplies each Small Disadvantaged Business will provide, including the timeframe for providing the services or supplies.

d) The location where each Small Disadvantaged Business will perform services.

e) The timeframe for each Small Disadvantaged Business to provide or deliver the goods or services.

f) A signed subcontract or letter of intent for each Small Disadvantaged Business. The subcontract or letter of intent must identify the specific work, goods or services the Small Disadvantaged Business will perform and how the work, goods or services relates to the project.

g) The name, address and telephone number of the primary contact person for each Small Disadvantaged Business.

4) The total percentages and each subcontractor commitment will become contractual obligations once the contract is fully executed.

5) The name and telephone number of the Offeror's project (contact) person for the Small Disadvantaged Business information.

iv) The Offeror is required to submit two copies of its Disadvantaged Business Submittal. The submittal shall be clearly identified as Disadvantaged Business information and sealed in its own envelope, separate from the remainder of the proposal.

v) A Small Disadvantaged Business can be included as a subcontractor with as many prime contractors as it chooses in separate proposals.

vi) An Offeror that qualifies as a Small Disadvantaged Business and submits a proposal as a prime contractor is not prohibited from being included as a subcontractor in separate proposals submitted by other Offerors.

#### b. Enterprise Zone Small Business Participation

i) To receive credit for being an enterprise zone small business or entering into a joint venture agreement with an enterprise zone small business or subcontracting with an enterprise zone small business, an Offeror must include the following information in the Disadvantaged Business Submittal of the proposal:

1) Proof of the location of the business' headquarters (such as a lease or deed or Department of State corporate registration), including a description of those activities that occur at the site to support the other businesses in the enterprise zone.

2) Confirmation of the enterprise zone in which it is located (obtained from the local enterprise zone office).

3) Proof of United States citizenship of the owners of the business.

4) Certification that the business employs 100 or fewer employees.

5) Proof that the business' gross annual revenues are less than \$20,000,000 (\$25,000,000 for those businesses in the information technology sales or service business). This can be accomplished by including a recent tax return or audited financial statement.

6) Documentation of business organization, if applicable, such as articles of incorporation, partnership agreement or other documents of organization.

ii) In addition to the above verifications, the Offeror must include in the Disadvantaged Business Submittal of the proposal the following information:

1) The name and telephone number of the Offeror's project (contact) person for the Enterprise Zone Small Business.

2) The business name, address, name and telephone number of the primary contact person for each Enterprise Zone Small Business included in the proposal. The Offeror must specify each Enterprise Zone Small Business to which it is making commitments. The Offeror will not receive credit for stating that it will find an Enterprise Zone Small Business after the contract is awarded or for listing several businesses and stating that one will be selected later.

3) The specific work, goods or services each Enterprise Zone Small Business will perform or provide.

4) The total cost amount submitted in the Offeror's cost proposal and the estimated dollar value of the contract to each Enterprise Zone Small Business.

5) Of the estimated dollar value of the contract to each Enterprise Zone Small Business, the percent of the total value of services or products purchased or subcontracted that each Enterprise Zone Small Business will provide.



6) The location where each Enterprise Zone Small Business will perform these services.

7) The timeframe for each Enterprise Zone Small Business to provide or deliver the goods or services.

8) The amount of capital, if any, each Enterprise Zone Small Business will be expected to provide.

9) The form and amount of compensation each Enterprise Zone Small Business will receive.

10) For a joint venture agreement, a copy of the agreement, signed by all parties.

11) For a subcontract, a signed subcontract or letter of intent.

iii) The dollar value of the commitment to each Enterprise Zone Small Business must be included in the same sealed envelope with the Disadvantaged Business Submittal of the proposal. The following will become a contractual obligation once the contract is fully executed:

1) The amount of the selected Offeror's Enterprise Zone Small Business commitment;

2) The name of each Enterprise Zone Small Business; and

3) The services each Enterprise Zone Small Business will provide, including the timeframe for performing the services.

#### Part III-3. Criteria for Selection

##### Disadvantaged Business Participation:

BMWBO has established the weight for the Disadvantaged Business Participation criterion for this RFP as 20% of the total points. Evaluation will be based upon the following in order of priority:

Priority Rank 1	Proposals submitted by Small Disadvantaged Businesses.
Priority Rank 2	Proposals submitted from a joint venture with a Small Disadvantaged Business as a joint venture partner.
Priority Rank 3	Proposals submitted with subcontracting commitments to Small Disadvantaged Businesses.
Priority Rank 4	Proposals submitted by Socially Disadvantaged Businesses.

Each proposal will be rated for its approach to enhancing the utilization of Small Disadvantaged Businesses and/or Socially Disadvantaged Businesses. Each approach will be evaluated, with Priority Rank 1 receiving the highest score and the succeeding options receiving scores in accordance with the above-listed priority ranking.

To the extent that an Offeror qualifies as a Small Disadvantaged Business or a Socially Disadvantaged Business, the Small Disadvantaged Business or Socially Disadvantaged Business cannot enter into subcontract arrangements for more than 40% of the total estimated dollar amount of the contract. If a Small Disadvantaged Business or a Socially Disadvantaged Business subcontracts more than 40% of the total estimated dollar amount of the contract to other contractors, the Disadvantaged Business Participation scoring shall be proportionally lower for that proposal.

##### Enterprise Zone Small Business Participation:

In accordance with the priority ranks listed below, bonus points in addition to the total points for this RFP,

will be given for the Enterprise Zone Small Business Participation criterion. The maximum bonus points for this criterion is 3% of the total points for this RFP. The following options will be considered as part of the final criteria for selection:

Priority Rank 1	Proposals submitted by an Enterprise Zone Small Business will receive the highest score.
Priority Rank 2	Proposals submitted by a joint venture with an Enterprise Zone Small Business as a joint venture partner will receive the next highest score for this criterion.
Priority Rank 3	Proposals submitted with a subcontracting commitment to an Enterprise Zone Small Business will receive the lowest score for this criterion.
Priority Rank 4	Proposals with no Enterprise Zone Small Business Utilization shall receive no points under this criterion.

To the extent that an Offeror is an Enterprise Zone Small Business, the Offeror cannot enter into contract or subcontract arrangements for more than 40% of the total estimated dollar amount of the contract in order to qualify as an Enterprise Zone Small Business for purposes of this RFP.

#### Part III-4. Work Statement

Contract Requirements—Disadvantaged Business Participation and Enterprise Zone Small Business Participation:

All contracts containing Disadvantaged Business participation and/or Enterprise Zone Small Business participation must also include a provision requiring the selected contractor to meet and maintain those commitments made to Disadvantaged Businesses and/or Enterprise Zone Small Businesses at the time of proposal submittal or contract negotiation, unless a change in the commitment is approved by the BMWBO. All contracts containing Disadvantaged Business participation and/or Enterprise Zone Small Business participation must include a provision requiring Small Disadvantaged Business subcontractors, Enterprise Zone Small Business subcontractors and Small Disadvantaged Businesses or Enterprise Zone Small Businesses in a joint venture to perform at least 50% of the subcontract or Small Disadvantaged Business/Enterprise Zone Small Business participation portion of the joint venture.

The selected contractor's commitments to Disadvantaged Businesses and/or Enterprise Zone Small Businesses made at the time of proposal submittal or contract negotiation shall be maintained throughout the term of the contract. Any proposed change must be submitted to BMWBO, which will make a recommendation to the Contracting Officer regarding a course of action.

If a contract is assigned to another contractor, the new contractor must maintain the Disadvantaged Business participation and/or Enterprise Zone Small Business participation of the original contract.

The selected contractor shall complete the Prime Contractor's Quarterly Utilization Report (or similar type document containing the same information) and submit it

to the contracting officer of the Issuing Office and BMWBO within 10 workdays at the end of each quarter the contract is in force. This information will be used to determine the actual dollar amount paid to Small Disadvantaged Business and/or Enterprise Zone Small Business subcontractors and suppliers, and Small Disadvantaged Business and/or Enterprise Zone Small Business participants involved in joint ventures. Also, this information will serve as a record of fulfillment of the commitment the selected contractor made and for which it received Disadvantaged Business and Enterprise Zone Small Business points. If there was no activity during the quarter then the form must be completed by stating "No activity in this quarter."

Note: Equal employment opportunity and contract compliance statements referring to company equal employment opportunity policies or past contract compliance practices do not constitute proof of disadvantaged businesses status or entitle an offeror to receive credit for disadvantaged businesses utilization.

#### **Part IV. Criteria for Selection of Highest Qualified Firm; Fee Negotiation**

##### **IV-1. Highest Qualified Firm Determination**

All proposals received from Professionals will be reviewed and evaluated by the Department in accordance with the selection method set forth in Section 905 of the CPC. The Department will select a firm based on qualifications, demonstrated competence, and the Department's opinion as to the firms' ability to respond and complete a requested service in a timely manner. The following factors will be considered by the technical review committee during evaluation of proposals. These factors are for guidance only and are not necessarily listed in order of weight. Each proposal shall be related to these factors.

###### **1. Technical:**

Evaluation will be based upon the following:

- a. Past Record of Performance, with respect to quality of work, meeting established time schedules, and cost efficiency.
- b. Experience, competence, and specialized technical skills of key personnel.
- c. Ability to satisfactorily perform the services contemplated in this solicitation.
- d. Projected workload and manpower availability, and how they may affect response time and the completion of requested services.
- e. Equitable Distribution of Contracts to Design Professionals. The Commonwealth will make a reasonable attempt to equalize the assignment of contracts to qualified professionals.

###### **2. Non-Technical**

- a. Disadvantaged Businesses participation (Evaluated by DGS).
- b. Enterprise Zone Small Business participation (Evaluated by DGS).

Proposers shall relate their proposal to the above criteria.

##### **IV-2. Fee Negotiation**

In accordance with the selection method set forth in Section 905(g) of the Commonwealth Procurement Code (62 Pa.C.S. Section 101 et seq.), the Department shall select the highest qualified firm and negotiate a fee determined to be fair and reasonable to the Common-

wealth. Each proposal shall include a fee schedule consisting of a single copy of the hourly rates of pay and classifications for staff members and other appropriate fees and charges. The fee schedule shall be submitted in a sealed envelope clearly identified as to its contents, the name of the proposer, and the project reference number. The fee schedules will be opened after the highest qualified firm is selected and will serve as the starting point for fee negotiations with the selected firm. If a satisfactory contract with this firm is not negotiated, negotiations shall be formally terminated and the Department shall begin negotiations with the firm determined to be the second highest qualified firm, and so forth, until a contract is negotiated with a firm determined to be qualified.

#### **Part V. General Requirements For Submissions**

Firms interested in performing the required services for this project are invited to submit Proposals to Patricia McSparran, Director, Bureau of Waterways Engineering, Department of Environmental Protection, Rachel Carson State Office Building, 3rd Floor, 400 Market Street, P. O. Box 8460 Harrisburg, PA 17105-8460. Contact Scott Cox at 717.783.7995 for general information concerning the work.

Each Letter of Interest must include the firm's federal identification number and the project reference number. The Letter of Interest shall indicate the firm's capability of working on multiple projects at the same time and understanding of the Department's needs; and shall address all technical criteria for selection set forth in Section IV-1.1. A standard DGS Form 150-ASP must accompany the Letter of Interest and shall indicate the individual in charge. Form 150-ASP may be obtained from the DGS website or by contacting the Issuing Officer. Additional information pertinent to the firm's qualifications to do the work of this contract shall be included with the Letter of Interest. Direct costs other than payroll, such as travel and subsistence, shall be based on the current state rates. The Department shall reimburse miscellaneous expenses such as copies, prints, sepias, postage and film at cost upon approval.

A complete Proposal shall consist of the following:

###### **1. Non-Technical Submittal**

One copy of the Disadvantaged Business/Enterprise Zone Small Business section, bound and sealed separately from the remainder of the proposal; and

###### **2. Technical Submittal**

Six (6) copies of the complete set consisting of the Letter of Interest and the required form 150- ASP.

###### **3. Sealed Fee Schedule**

One (1) copy of the Fee Schedule as described in Section IV-2, bound and sealed separately from the remainder of the proposal

Proposals must be received no later than 4:00 p.m. on 01/14/2011. The six (6) copies of the Technical Submittal shall be submitted in six (6) complete sets that shall be spiral bound or in folders or secured by binder clips. The assignment of services will be made, if at all, to one or more of the firms responding to this notice. However, the Department reserves the right to reject all Proposals submitted, cancel the solicitation requested under this notice, and/or re-advertise solicitation for this service.

The Department will not offer a debriefing session to the unsuccessful firms. The Department disclaims any liability whatsoever as to its review of the proposal

submitted and in formulating a recommendation for selections. Recommendations made by the Department shall be final.

#### Reclamation of Abandoned Mine Land

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200*

**Earthmovers Unlimited, Inc.**, GFCC No. 17-09-03, NPDES No. PA-0257371, Bloom Operation, Knox Township, **Clearfield County** (Unnamed Tributary to Clearfield Creek—Upper West Branch Watershed): A no-cost construction contract has been awarded to Earthmovers Unlimited, Inc., that will result in the reclamation of approximately 9.2 acres of abandoned mine land, the reclamation of 600-feet of abandoned highwall, the reclamation of 3.6 acres of abandoned underground mines and the recovery of approximately 12,000 tons of remaining coal reserves. The site will be reclaimed and regraded to approximate original contour. Alkaline addition will be added to the mining area at a rate of 139 tons per acre. A total of at least 500 tons of alkaline material will be placed on the site. The estimated value of the reclamation work is \$64,400 which will be done at no cost to the Commonwealth. The site is located approximately 1 mile southeast of Oshanter along Mays Road on lands formerly mined and subsequently abandoned by Clyde G. Thompson Coal Company in the late 1940's. Blasting and refuse reprocessing are prohibited at the site.

[Pa.B. Doc. No. 10-2276. Filed for public inspection November 24, 2010, 9:00 a.m.]

#### Availability of Technical Guidance

Technical guidance documents are available on the Department of Environmental Protection's (Department) web site at <http://www.depweb.state.pa.us> (DEP Keywords: "eLibrary"). The "Technical Guidance Final Documents" heading is the link to a menu of the various Department bureaus where each bureau's final technical guidance documents are posted. The "Technical Guidance Draft Documents" heading is the link to the Department's draft technical guidance documents.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2010.

#### Ordering Paper Copies of Department Technical Guidance

The Department encourages the use of the Internet to view and download technical guidance documents. When this option is not available, persons can order a paper copy of any of the Department's draft or final technical guidance documents by contacting the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

#### Changes to Technical Guidance Documents

Following is the current list of recent changes. Persons who have questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

#### Final Technical Guidance

DEP ID: 394-5600-001. Title: Riparian Forest Buffer Guidance. Description: The Department published the

proposed Riparian Forest Buffer Guidance (Guidance) at 39 Pa.B. 5663 (September 26, 2009), announcing a 60-day public comment period. Comments were received from 20 commentators through the public comment period and the Guidance was revised to address comments. Revisions to the Guidance include the addition of a section for definitions, many of which were taken directly from 25 Pa. Code Chapters 102 and 105 (relating to erosion and sediment control; and dam safety and waterway management). Also, diagrams were added to illustrate a variety of common scenarios on the measurement of riparian buffers inland from the shoreline of a lake, pond or reservoir and inland from the top of streambank or top of slope. In addition the Department added recommendations on the development of a riparian forest buffer management plan consistent with 25 Pa. Code Chapter 102.

The Guidance outlines recommendations for installation and protection of riparian forest buffers that are useful in mitigating or controlling point and nonpoint source pollution to waters of the Commonwealth. The primary purpose of this guidance is to assist Department staff in providing and further developing general buffer recommendations for regulatory, voluntary and grant programs. It will also serve to assist any interested entities in: understanding the functions and values of riparian forest buffers and the importance of sustaining and enhancing riparian forest buffers; and in developing appropriate science-based guidelines or policies. Contact: Questions regarding the policy document should be directed to Diane Wilson at [diawilson@state.pa.us](mailto:diawilson@state.pa.us) or (717) 772-5807.

Effective Date: November 27, 2010.

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 10-2277. Filed for public inspection November 24, 2010, 9:00 a.m.]

#### Coal and Clay Mine Subsidence Insurance Board; Meeting Change

The December 10, 2010, meeting of the Coal and Clay Mine Subsidence Insurance Board has been rescheduled to December 9, 2010. The meeting will begin at 10 a.m. in the 10th Floor Conference Room of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning this meeting should be directed to Lawrence Ruane at (717) 783-9590 or [lruane@state.pa.us](mailto:lruane@state.pa.us). The agenda and meeting materials for this meeting will be available through the Public Participation Center on the Department of Environmental Protection's (Department) web site at <http://www.depweb.state.pa.us> (DEP Keywords: "Public Participation, Participate").

Persons in need of accommodations as provided for in the Americans with Disabilities Act of 1990 should contact the Department at (717) 783-9590 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 10-2278. Filed for public inspection November 24, 2010, 9:00 a.m.]

### Storage Tank Advisory Committee Meeting Cancellation

The December 7, 2010, meeting of the Storage Tank Advisory Committee (Committee) is cancelled. The next meeting is scheduled for March 8, 2011, at 10 a.m. in the 14th Floor Conference Room of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105.

Questions concerning the next scheduled meeting of the Committee can be directed to Charles M. Swokel at (717) 772-5806 or [cswokel@state.pa.us](mailto:cswokel@state.pa.us). The agenda and meeting materials for the March 8, 2011, meeting will be available through the Public Participation Center on the Department of Environmental Protection's (Department) web site at <http://www.depweb.state.pa.us> (DEP Keywords: "Public Participation, Participate").

Persons in need of accommodations as provided for in the Americans with Disabilities Act of 1990 should contact the Department at (717) 772-5551 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 10-2279. Filed for public inspection November 24, 2010, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Long-Term Care Nursing Facilities; Request for Exception

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 201.18(e) (relating to management).

Sacred Heart Hospital Transitional Care Facility  
421 Chew Street  
Allentown, PA 18102  
FAC ID 195502

The request is on file with the Department of Health (Department). Persons may receive a copy of the request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, [ra-paexcept@state.pa.us](mailto:ra-paexcept@state.pa.us).

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

MICHAEL K. HUFF, R.N.,  
*Acting Secretary*

[Pa.B. Doc. No. 10-2280. Filed for public inspection November 24, 2010, 9:00 a.m.]

### Recognized Lifeguard Certifying Authorities for 2011

The Department of Health has determined that the following lifeguard certifying authorities meet the requirements in 28 Pa. Code § 18.42 (relating to certified lifeguards) and are recognized as lifeguard certifying authorities for 2011: The American Red Cross, Jeff Ellis and Associates, YMCA, The Boy Scouts of America, Starfish Aquatics Institute and National Aquatic Safety Company.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotape, Braille) should contact the Department of Health, Bureau of Community Health Systems, Room 628, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-4366, or for speech and/or hearing impaired persons V/TT (717) 783-6514, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

MICHAEL K. HUFF, R.N.,  
*Acting Secretary*

[Pa.B. Doc. No. 10-2281. Filed for public inspection November 24, 2010, 9:00 a.m.]

## DEPARTMENT OF PUBLIC WELFARE

### Additional Class of Disproportionate Share Payments to Qualifying Teaching Hospitals

The Department of Public Welfare is announcing its intent to allocate funding for Fiscal Year (FY) 2010-2011 for disproportionate share hospital (DSH) payments to qualifying teaching hospitals that provide psychiatric services to Medical Assistance recipients at the same level as was allocated for FY 2009-2010. There will be no change in the current qualifying criteria or methodology for determining eligibility for these payments.

#### *Fiscal Impact*

The FY 2010-2011 fiscal impact, as a result of this additional class of DSH payments is \$0.500 million (\$0.223 million in State General Funds and \$0.277 million in Federal Funds upon approval by the Centers for Medicare and Medicaid Services).

#### *Public Comment*

Interested persons are invited to submit written comments regarding this notice to the Department of Public Welfare, Office of Medical Assistance Programs, c/o Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120. Comments received within 30 days will be reviewed and considered for any subsequent revision of the notice.

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

MICHAEL P. NARDONE,  
*Acting Secretary*

**Fiscal Note:** 14-NOT-667. (1) General Fund; (2) Implementing Year 2010-11 is \$223,000; (3) 1st Succeeding Year 2011-12 is \$224,000; 2nd Succeeding Year 2012-13 is \$224,000; 3rd Succeeding Year 2013-14 is \$224,000; 4th

Succeeding Year 2014-15 is \$224,000; 5th Succeeding Year 2015-16 is \$224,000; (4) 2007-08 Program—\$468,589,000; 2008-09 Program—\$426,822,000; 2009-10 Program—\$373,515,000; (7) Medical Assistance—Inpatient; (8) recommends adoption. Funds have been included in the budget to cover this increase.

[Pa.B. Doc. No. 10-2282. Filed for public inspection November 24, 2010, 9:00 a.m.]

### Changes to an Additional Class of Disproportionate Share Payments

The Department of Public Welfare (Department) is providing final notice of an increase to the allocation of funding for Fiscal Year (FY) 2009-2010 for disproportionate share hospital (DSH) payments to certain qualifying Medical Assistance enrolled hospitals that advance the Department's goal of enhancing access to multiple types of medical care in economically distressed areas of this Commonwealth. There is no change in the current qualifying criteria or methodology for determining eligibility for these payments.

In making these payments, the Department ensures that no acute care general hospital receives any DSH payment that is in excess of its hospital specific DSH upper payment limit and the Commonwealth does not exceed its aggregate annual DSH allotment.

The Department published notice of its intent to increase the allocation of funding for DSH payments to certain qualifying Medical Assistance (MA) enrolled hospitals at 40 Pa.B. 2359 (May 1, 2010). The Department received no public comments during the 30-day comment period, and will implement the change described in its notice of intent.

#### *Fiscal Impact*

The FY 2009-2010 fiscal impact, as a result of this increase in the allocation for the additional class of DSH payments is \$21.491 million (\$9.712 million in State funds).

MICHAEL P. NARDONE,  
*Acting Secretary*

**Fiscal Note:** 14-NOT-668. (1) General Fund; (2) Implementing Year 2009-10 is \$9,712,000; (3) 1st Succeeding Year 2010-11 is \$0; 2nd Succeeding Year 2011-12 is \$0; 3rd Succeeding Year 2012-13 is \$0; 4th Succeeding Year 2013-14 is \$0; 5th Succeeding Year 2014-15 is \$0; (4) 2009-10 Program—\$373,515,000; 2008-09 Program—\$426,822,000; 2007-08 Program—\$468,589,000; (7) MA—Inpatient; (8) recommends adoption. Funds have been included in the budget to cover this increase.

[Pa.B. Doc. No. 10-2283. Filed for public inspection November 24, 2010, 9:00 a.m.]

### Pharmacy Prior Authorization

The Department of Public Welfare (Department) announces it will add Onglyza and Victoza to the Medical Assistance (MA) Program's list of services and items requiring prior authorization, effective December 1, 2010.

Section 443.6(b)(7) of the Public Welfare Code (62 P. S. § 443.6(b)(7)) authorizes the Department to add items

and services to the list of services requiring prior authorization by publication of notice in the *Pennsylvania Bulletin*.

The MA Program will require prior authorization of prescriptions for the medications listed previously that are dispensed on or after December 1, 2010.

The Department will issue MA Bulletins to providers enrolled in the MA Program specifying the procedures for obtaining prior authorization of prescriptions for the medications previously listed.

#### *Fiscal Impact*

It is estimated that the change will result in minimal savings in the MA—Outpatient Program.

#### *Public Comment*

Interested persons are invited to submit written comments regarding this notice to the Department of Public Welfare, Office of Medical Assistance Programs, c/o Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120. Comments received within 30 days will be reviewed and considered for any subsequent revisions to these prior authorization requirements.

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).

MICHAEL P. NARDONE,  
*Acting Secretary*

**Fiscal Note:** 14-NOT-669. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 10-2284. Filed for public inspection November 24, 2010, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Mega Millions® Terminal-Based Lottery Game; Change to Game Rules

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 875.4 (relating to notice of terminal-based lottery game rules), the Secretary of Revenue hereby provides public notice of changes to the Mega Millions® terminal-based lottery game rules that were published at 40 Pa.B. 676 (January 30, 2010) and amended at 40 Pa.B. 5263 (September 11, 2010).

The following changes to the Mega Millions® terminal-based lottery game will be effective December 1, 2010.

This amendment provides that an amount up to five percent of Mega Millions® sales shall be placed in prize reserve accounts.

This amendment also specifies that an amount up to fifty-five percent of the Megaplier® sales shall be allocated for the payment of Megaplier® prizes.

The correct version of this document is as follows, with ellipses referring to the existing text as it appeared at 40 Pa.B. 676—681 and amended at 40 Pa.B. 5263 and 5264:

\* \* \* \* \*

7. Prizes available to be won and determination of prize winners:

\* \* \* \* \*

(c) An amount up to five percent of a MUSL Mega Millions® Product Group member's sales shall be placed in trust in one or more prize reserve accounts held by the MUSL Mega Millions® Product Group at any time that the MUSL Mega Millions® Product Group member's share of the prize reserve account or accounts is below the amounts designated by the MUSL Mega Millions® Product Group. The MUSL Mega Millions® Product Group, with approval of the MUSL Finance and Audit Committee, may establish a maximum balance for the prize reserve account or accounts. The MUSL Mega Millions® Product Group may determine to expend all or a portion of the funds in the accounts for the payment of prizes in the game subject to the approval of the MUSL Finance and Audit Committee. The shares of a member of the MUSL Mega Millions® Product Group may be adjusted with refunds to the member from the prize reserve account or accounts as may be needed to maintain the approved maximum balance and shares of the MUSL Mega Millions® Product Group member. Any amount remaining in a prize reserve account at the end of this game shall be carried forward to a replacement prize reserve account or expended in a manner as directed by the MUSL Mega Millions® Product Group in accordance with jurisdiction law.

\* \* \* \* \*

10. Megaplier® promotion.

\* \* \* \* \*

(e) As determined by the MUSL Mega Millions® Product Group, an amount up to fifty-five percent of the Megaplier® sales shall be allocated for the payment of Megaplier® prizes. Any amount not used to pay multiplied prizes may be carried forward to subsequent draws or may be collected and placed in prize reserve accounts until the prize reserve accounts reach the amounts designated by the MUSL Mega Millions® Product Group.

\* \* \* \* \*

C. DANIEL HASSELL,  
Secretary

[Pa.B. Doc. No. 10-2285. Filed for public inspection November 24, 2010, 9:00 a.m.]

**DEPARTMENT OF STATE**

**Corporation Bureau; Official Forms**

The Department of State (Department), Corporation Bureau (Bureau) proposes to amend 19 Pa. Code Appendix B (relating to official forms).

A. Effective Date

The proposed forms will be effective upon final-form publication in the *Pennsylvania Bulletin*.

B. Statutory Authority

The Department has the authority to promulgate Bureau sample forms and instructions under 15 Pa.C.S. § 133 (relating to powers of Department of State). Section 133(a)(1) of 15 Pa.C.S. specifies that sample filing forms shall not be agency regulations and are therefore explicitly excluded from section 612 of The Administrative Code

of 1929 (71 P. S. § 232) and review under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506) and the Regulatory Review Act (71 P. S. §§ 745.1—745.12). Section 133(a)(1) of 15 Pa.C.S. does, however, require that the forms and instructions be subject to the opportunity for public comments under section 201 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1201), known as the Commonwealth Documents Law (CDL).

C. Description of Proposed Amendments

This proposal amends seven of the existing forms and instructions promulgated by the Department currently published in the *Pennsylvania Code*.

*Form DSCB: 54-503 (Decennial Report of Association Continued Existence)*

*Form DSCB: 54-1314/1515 (Decennial Report/Insignia/Mark Used With Articles of Supplies)*

The forms DSCB: 54-503 and DSCB: 54-1314/1515 relate to filings required by law to be made every 10 years with the Bureau. The last decennial reports took place in 2001 and the next decennial filings shall be made in calendar year 2011. The Department has updated the existing forms to reflect the new decennial period, as well as to provide greater clarity about the purpose and time period for the filing.

*Form DSCB: 54-3.104 (Statement of Unpaid Fee)*

This form is revised to correct a previous error in the legal citations contained in the name of the form. The proper name is DSCB: 15-154 (Statement of Unpaid Fee).

*Form DSCB: 54-1112 (Application for Registration of Trademark or Service Mark)*

This form relates to registration of trademarks and service marks under 54 Pa.C.S. Chapter 11 (relating to Pennsylvania Trademark Act) (act). The act adopts the general classes of goods and services established by the United States Patent and Trademark Office in accordance with the International Classification System. The form is amended to reflect revisions to the International Classification System listing of classes.

*Form DSCB: 15-4126/6126 (Application for Amended Certificate of Authority Foreign Corporation)*

This form relates to amendments of certificates of authority for foreign corporations. The Department has updated the form so that it better comports with 15 Pa.C.S. §§ 4126 and 6126 (relating to amended certificate of authority).

*Form DSCB: 15-8221/8998 (Certificate of Annual Registration)*

This form is updated every 3 years to reflect the change in base annual registration fees payable by limited liability partnerships and restricted professional companies in accordance with 15 Pa.C.S. §§ 8221(b) and 8998(b) (relating to annual registration).

*Form DSCB: 15-8981/8211/8582 (Application for Registration—Foreign)*

This form is updated to better indicate that a foreign limited liability company, foreign limited liability partnership or foreign limited partnership may adopt a name to register and do business in this Commonwealth that is different from the name in its formation documents filed in its state of domicile.

This proposal also republishes all Uniform Commercial Code forms used by the Bureau's Uniform Commercial Code Unit (Unit). The Unit accepts and makes available on its web site ([www.dos.state.pa.us/corps](http://www.dos.state.pa.us/corps)) the National Uniform Commercial Code forms as promulgated by The American Law Institute and the National Conference of Commissioners on Uniform State Laws. This complies with 13 Pa.C.S. § 9521 (relating to uniform form of written financing statement and amendment), which provides that a filing office which accepts written records may not refuse to accept a written initial financing statement or an amendment "in the form and format set forth in the final official text of the 1999 revisions of the Uniform Commercial Code promulgated by The American Law Institute and the National Conference of Commissioners on Uniform State Laws, except for a reason set forth in section 9516(b) (relating to refusal to accept record; filing does not occur)." The National Uniform Commercial Code forms currently in use are as follows:

- Form DSCB:UCC-1 (Uniform Commercial Code-Financing Statement)
- Form DSCB:UCC-1ad (Uniform Commercial Code-Financing Statement Addendum)
- Form DSCB:UCC-1ap (Uniform Commercial Code-Financing Statement Additional Party)
- Form DSCB:UCC-3 (Uniform Commercial Code-Financing Statement Change)
- Form DSCB:UCC-3ad (Uniform Commercial Code-Financing Statement Change Addendum)
- Form DSCB:UCC-3ap (Uniform Commercial Code-Financing Statement Change Additional Party)
- Form DSCB:UCC-11 (Uniform Commercial Code-Request for Information or Copies)
- Form DCSB:UCC-5 (Statement of Claim)

The previously-referenced forms and instructions, which are codified in 19 Pa. Code (relating to corporations and business associations), are being deleted and replaced with the following revised forms. Even though Rule 2.10(a) of the *Pennsylvania Code* and *Bulletin Style Manual* recommends that forms be referenced in regulations rather than adopted in regulations, 15 Pa.C.S. § 133 requires that the forms and instructions be published in the *Pennsylvania Code*.

#### D. *Fiscal Impact*

Although this proposal would not have measurable fiscal impact upon the Commonwealth, its political subdivisions or the private sector, a formal fiscal analysis was not conducted because these forms are exempt from section 612 of The Administrative Code of 1929.

#### E. *Paperwork Requirements*

This proposal would not create new paperwork.

#### F. *Regulatory Review*

Under 15 Pa.C.S. § 133(a), sample forms are exempt from the requirements of the Regulatory Review Act but shall be subject to the opportunity of public comment requirement under section 201 of the CDL.

#### G. *Public Comment*

Under 15 Pa.C.S. § 133(a)(1), which requires that publication of these forms be subject to the opportunity for public comment, the Department invites interested persons to submit written comments, suggestions or objections regarding this proposal to Martha H. Brown, Assistant Counsel, Department of State, 301 North Office Building, Harrisburg, PA 17120, within 30 days following publication of this notice in the *Pennsylvania Bulletin*. Reference Corporation Bureau—Official Forms when submitting comments.

BASIL L. MERENDA,  
*Secretary*

**PENNSYLVANIA DEPARTMENT OF STATE  
CORPORATION BUREAU**

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Decennial Report of  
Association Continued Existence  
(54 Pa.C.S. § 503)

Name
Address
City                      State                      Zip Code

Document will be returned to the name and address you enter to the left.  
←

Fee: \$70

In compliance with the requirements of 54 Pa.C.S. § 503 (relating to decennial filings required) the undersigned association hereby states that:

1. The name of the association to which this report relates is:

\_\_\_\_\_

2. The address of this association's current registered office in the Commonwealth or name of its commercial registered office provider and the county of venue is:

Number and Street/Commercial Registered Office Provider      City                      State                      Zip                      County

3. Complete part A **or** B if applicable:

A. The address to which the registered office of the association in this Commonwealth is to be changed to:

Number and Street                      City                      State                      Zip                      County

B. The registered office of the association shall be provided by:

Name of Commercial Registered Office Provider                      County

4. The association has not made any filing in the Department from January 1, 2002 through December 31, 2011, in accordance with 54 Pa.C.S. § 503(b).

5. The Association continues to exist.

IN TESTIMONY WHEREOF, the undersigned association has caused this Decennial Report of Association Continued Existence to be signed by a duly authorized officer this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Name of Association

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

Rev. 11/2010





**Department of State  
Corporation Bureau  
P.O. Box 8039  
Harrisburg, PA 17105-8039  
(717) 787-1057  
web site: [www.dos.state.pa.us/corps](http://www.dos.state.pa.us/corps)**

**Instructions for Completion of Form:**

- A. Typewritten is preferred. If not, the form shall be completed in black or blue ink in order to permit reproduction. The filing fee for this form is \$70 with check or money order made payable to the Department of State.
- B. The entity name as identified in the records of the Department of State Corporation Bureau has been entered in Item 1. If the name has been changed, an Amendment form must be filed separately to effect this change on the Department's records.
- C. The registered office as identified in the records of the Department of State Corporation Bureau has been entered in Item 2. If the address has been changed, the current registered office or Commercial Registered Office Provider and County of Venue should be identified in Item 3. Under 15 Pa.C.S. § 135(c) (relating to addresses), an actual street or rural route box number must be used as an address, and the Department of State is required to refuse to receive or file any document that sets forth only a post office box address.
- D. In accordance with 54 Pa.C.S. § 503(b), no filing of this form is required if the association has made any filing in the Department from January 1, 2002 through December 31, 2011, other than a decennial report, application for registration of fictitious name, consent to appropriation of name, name searches or name reservations. Additionally, no filing of this form is required if the association has had officer information forwarded to the department by the Department of Revenue from January 1, 2002 through December 31, 2011, under 15 Pa.C.S. § 1110 (relating to annual report information).
- E. This form and all accompanying documents shall be mailed to the address shown above.

**PENNSYLVANIA DEPARTMENT OF STATE  
CORPORATION BUREAU**

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**Decennial Report**

Insignia (54 Pa.C.S. §1314)  
 Mark Used with Articles or Supplies (54 Pa.C.S. §1515)

Name		
Address		
City	State	Zip Code

**Document will be returned to the name and address you enter to the left.**  
←

Fee: \$70

In compliance with the requirements of 54 Pa.C.S. §1314 and §1515 (relating to decennial filings required) the undersigned organization/person having heretofore duly registered its insignia/mark used with articles or supplies in this Commonwealth and desiring to continue such registration, hereby states that:

1. The name of the registrant is:

\_\_\_\_\_

2. The residence, location or place of business of the registrant is:

Number and Street	City	State	Zip	County
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3. Complete if applicable:

The address to which the residence, location or place of business of the registrant is to be changed:

Number and Street	City	State	Zip	County
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4. The date on which the last preceding filing was made in the Department with respect to the insignia/mark is:

\_\_\_\_\_

5. Check one of the following:

The insignia shall continue to be registered in the Department.

The mark continues to be used in connection with the articles or supplies specified in the registration.

IN TESTIMONY WHEREOF, the undersigned registrant has caused this Decennial Report to be signed by a duly authorized officer this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Name of Registrant

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

Rev. 11/2010



**Department of State  
Corporation Bureau  
P.O. Box 8039  
Harrisburg, PA 17105-8039  
(717) 787-1057  
web site: [www.dos.state.pa.us/corps](http://www.dos.state.pa.us/corps)**

**Instructions for Completion of Form:**

- A. Typewritten is preferred. If not, the form shall be completed in black or blue ink in order to permit reproduction. The filing fee for this form is \$70 with check or money order made payable to the Department of State.
- B. The registrant name as identified in the records of the Department of State Corporation Bureau has been entered in Item 1. If the name has been changed, an Amendment form must be filed separately to effect this change on the Department's records.
- C. The registrant address as identified in the records of the Department of State Corporation Bureau has been entered in Item 2. If the address has been changed, the new address should be identified in Item 3. Under 15 Pa.C.S. § 135(c) (relating to addresses), an actual street or rural route box number must be used as an address, and the Department of State is required to refuse to receive or file any document that sets forth only a post office box address.
- D. In accordance with 54 Pa.C.S. §1314(b) and §1515(b), no filing of this form is required if the registrant has made any filing with respect to insignia/mark in the Department from January 1, 2002 through December 31, 2010, other than a decennial report. This Decennial Report shall be filed during the year 2011 and every tenth year thereafter (e.g. 2021, 2031, etc.)
- E. This form and all accompanying documents shall be mailed to the address shown above.

**PENNSYLVANIA DEPARTMENT OF STATE  
CORPORATION BUREAU**

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**Statement of Unpaid Fee**

15 Pa.C.S. § 154  
19 Pa. Code § 3.104

In compliance with the requirements of 15 Pa.C.S. § 154(a) (relating to enforcement and collection) and 19 Pa. Code § 3.104(d) (relating to returned checks; effect on filing), the Department of State hereby states that:

- 1. The name of the association or other entity to which this statement relates is:  

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- 2. The filing to which this statement relates was filed in the Department of State on \_\_\_\_\_ and recorded in the records of the Department.
  
- 3. By reason of the failure of the Department to receive payment in full for the filing fee payable with respect to the filing to which this statement relates; and any related invoice fee, in the manner and within the time prescribed by 19 Pa. Code Ch. 3, the filing to which this statement relates has become void.

Department of State  
Corporation Bureau

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Authorized Signature



DSCB:54-1112- 2

5. The goods or services on or in connection with which the mark is used and the mode or manner in which the mark is used on or in connection with such goods or services are:

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6. The date when the mark was first used anywhere is:

---

7. The date when the mark was first used in this Commonwealth by the applicant or the predecessor in interest is:

---

8. The date, if any, an application to register the mark, or portions or a composite thereof, was filed by the applicant or a predecessor in interest in the United States Patent and Trademark Office. Also provide filing date and serial number of each application, the status thereof and, if any application was finally refused registration, or has otherwise not resulted in a registration, the reasons therefore. *(Please attach 8½ x 11 sheet(s) if more space is needed.)*

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9. Applicant is the owner of the mark, the mark is in use and, to the applicant's knowledge, no other person has registered, either federally or in this Commonwealth or has the right to use such mark, either in the identical form thereof or in such near resemblance thereto as to be likely, when applied to the goods or services of such other person, to cause confusion or to cause mistake, or to deceive.

IN TESTIMONY WHEREOF, the undersigned person has caused this Application for Registration of Mark to be executed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_

Name of Applicant

\_\_\_\_\_

Signature

\_\_\_\_\_

Title

Rev 11/2010

DSCB:54-1112-3



**Department of State**  
**Corporation Bureau**  
**P.O. Box 8722**  
**Harrisburg, PA 17105-8722**  
**(717) 787-1057**  
**web site: [www.dos.state.pa.us/corps](http://www.dos.state.pa.us/corps)**

**Instructions for Completion of Form:**

- A. If a corporation, set forth the name in Paragraph 1 and also give jurisdiction of incorporation. If a partnership, set forth the name in Paragraph 1 and also give the jurisdiction in which the partnership is organized and the names of the general partners.
- B. The name of a commercial registered office provider may not be used in Paragraph 2 in lieu of an address.
- C. An application for registration of a mark is limited to a single general class of goods or services, but a mark may be made the subject of multiple registrations in two or more general classes. (See general classes of goods and services established by the United States Patent and Trademark Office in accordance with the International Classification System, as listed in G below).
- D. Typewritten is preferred. If not, the form must be completed in black ink in order to permit reproduction. The filing fee for this form is \$50 made payable to the Department of State.
- E. This registration is effective for a term of five years from the date of registration. Application to renew for a similar term must be made on form DSCB:54-1114 (Application for Renewal of Registration of Mark) within six months prior to the expiration of such term.
- F. This form and all accompanying documents shall be mailed to the address listed above.
- G. Schedule of classes of goods and services

**GOODS**

**CLASS 1 – Chemicals**

Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry.

**CLASS 2 – Paints**

Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants; mordants; raw natural resins; metals in foil and powder form for painters, decorators, printers and artists.

**CLASS 3 – Cosmetics and cleaning preparations**

Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices.

**CLASS 4 – Lubricants and fuels**

Industrial oils and greases; lubricants; dust absorbing, wetting and binding compositions; fuels (including motor spirit) and illuminants; candles and wicks for lighting.

**CLASS 5 – Pharmaceuticals**

Pharmaceutical and veterinary preparations; sanitary preparations for medical purposes; dietetic substances adapted for medical use, food for babies; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides.

- CLASS 6 – Metal goods  
Common metals and their alloys; metal building materials; transportable buildings of metal; materials of metal for railway tracks; non-electric cables and wires of common metal; ironmongery, small items of metal hardware; pipes and tubes of metal; safes; goods of common metal not included in other classes; ores.
- CLASS 7 – Machinery  
Machines and machine tools; motors and engines (except for land vehicles); machine coupling and transmission components (except for land vehicles); agricultural implements other than hand-operated; incubators for eggs.
- CLASS 8 – Hand tools  
Hand tools and implements (hand-operated); cutlery; side arms; razors.
- CLASS 9 – Electrical and scientific apparatus  
Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signaling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment and computers; fire-extinguishing apparatus.
- CLASS 10 – Medical apparatus  
Surgical, medical, dental and veterinary apparatus and instruments, artificial limbs, eyes and teeth; orthopedic articles; suture materials.
- CLASS 11 – Environmental control apparatus  
Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.
- CLASS 12 – Vehicles  
Vehicles; apparatus for locomotion by land, air or water.
- CLASS 13 – Firearms  
Firearms; ammunition and projectiles; explosives; fireworks.
- CLASS 14 – Jewelry  
Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewelry, precious stones; horological and chronometric instruments.
- CLASS 15 – Musical Instruments
- CLASS 16 – Paper goods and printed matter  
Paper, cardboard and goods made from these materials, not included in other classes; printed matter; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); printers' type; printing blocks.
- CLASS 17 – Rubber goods  
Rubber, gutta-percha, gum, asbestos, mica and goods made from these materials and not included in other classes; plastics in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, not of metal.
- CLASS 18 – Leather goods  
Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides; trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery.
- CLASS 19 – Nonmetallic building materials  
Building materials (non-metallic); non-metallic rigid pipes for building; asphalt, pitch and bitumen; non-metallic transportable buildings; monuments, not of metal.
- CLASS 20 – Furniture and articles not otherwise classified  
Furniture, mirrors, picture frames; goods (not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics.
- CLASS 21 – Housewares and glass  
Household or kitchen utensils and containers; combs and sponges; brushes (except paint brushes); brush-making materials; articles for cleaning purposes; steelwool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware not included in other classes.
- CLASS 22 – Cordage and fibers  
Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags (not included in other classes); padding and stuffing materials (except of rubber or plastics); raw fibrous textile materials.
- CLASS 23 – Yarns and threads  
Yarns and threads for textile use.
- CLASS 24 – Fabrics  
Textiles and textile goods, not included in other classes; bed and table covers.
- CLASS 25 – Clothing  
Clothing, footwear, headgear.
- CLASS 26 – Fancy goods  
Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers.
- CLASS 27 – Floor coverings  
Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings (non-textile).
- CLASS 28 – Toys and sporting goods  
Games and playthings; gymnastic and sporting articles not included in other classes; decorations for Christmas trees.
- CLASS 29 – Meats and processed foods  
Meat, fish, poultry and game; meat extracts; preserved, frozen, dried and cooked fruits and vegetables; jellies, jams, compotes; eggs, milk and milk products; edible oils and fats.
- CLASS 30 – Staple foods  
Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery, ices; honey, treacle; yeast, baking-powder; salt, mustard; vinegar, sauces (condiments); spices; ice.



**CLASS 31 – Natural agricultural products**

Agricultural, horticultural and forestry products and grains not included in other classes; live animals; fresh fruits and vegetables; seeds, natural plants and flowers; foodstuffs for animals, malt.

**CLASS 32 – Light beverages**

Beers; mineral and aerated waters and other non-alcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages.

**CLASS 33 – Wine and spirits**

Alcoholic beverages (except beers).

**CLASS 34 – Smokers' articles**

Tobacco; smokers' articles; matches.

**SERVICES****CLASS 35 – Advertising and business**

Advertising; business management; business administration; office functions.

**CLASS 36 – Insurance and financial**

Insurance; financial affairs; monetary affairs; real estate affairs.

**CLASS 37 – Building construction and repair**

Building construction; repair; installation services.

**CLASS 38 – Telecommunications****CLASS 39 – Transportation and storage**

Transport; packaging and storage of goods; travel arrangement.

**CLASS 40 – Treatment of materials****CLASS 41 – Education and entertainment**

Education; providing of training; entertainment; sporting and cultural activities.

**CLASS 42 – Computer and scientific**

Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software.

**CLASS 43 – Hotels and restaurants**

Services for providing food and drink; temporary accommodation.

**CLASS 44 – Medical, beauty and agricultural**

Medical services; veterinary services; hygienic and beauty care for human beings or animals; agriculture, horticulture and forestry services.

**CLASS 45 – Personal**

Legal services; security services for the protection of property and individuals; personal and social services rendered by others to meet the needs of individuals.

**PENNSYLVANIA DEPARTMENT OF STATE  
CORPORATION BUREAU**

**Application for Amended Certificate of Authority  
Foreign Corporation  
(15 Pa.C.S.)**

- Foreign Business Corporation (§ 4126)  
 Foreign Nonprofit Corporation (§ 6126)

Name		
_____		
Address		
_____		
City	State	Zip Code
_____	_____	_____

Document will be returned to the name and address you enter to the left.



Fee: \$250

In compliance with the requirements of the applicable provisions of 15 Pa.C.S. (relating to corporations and unincorporated associations), the undersigned foreign corporation, desiring to receive an amended certificate of authority, hereby states that:

1. The name under which the corporation currently holds a certificate of authority to do business within the Commonwealth of Pennsylvania is:

\_\_\_\_\_

2. The name of the jurisdiction under the laws of which the corporation is incorporated is:

\_\_\_\_\_

3. The address of its principal office under the laws of the jurisdiction in which it is incorporated is:

Number and Street	City	State	Zip
_____	_____	_____	_____

4. The (a) address of this corporation's registered office in this Commonwealth or (b) name of its commercial registered office provider and the county of venue is:

(a) Number and Street	City	State	Zip	County
_____	_____	_____	_____	_____
(b) Name of Commercial Registered Office Provider				County
c/o: _____				_____

*Check if applicable:*

The foregoing reflects a change in Pennsylvania registered office.

DSCB:15-4126/6126-2

5. The corporation desires that its certificate of authority be amended to change or correct the following information:

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The amendment adopted by the corporation is set forth in full in Exhibit A attached hereto and made a part hereof.

6. If the amendment set forth in Paragraph 5 reflects a change in the name of the corporation to one not available for use in this Commonwealth, complete the following:

The fictitious name which the corporation adopts for use in transacting business in this Commonwealth is:

---

The corporation shall do business in Pennsylvania only under such fictitious name pursuant to the attached resolution of the board of directors under the applicable provisions of 15 Pa.C.S. (relating to corporations and unincorporated associations) and the attached form DSCB:54-311 (Application for Registration of Fictitious Name).

7. If the amendment set forth in Paragraph 5 reflects a change in the name of the corporation, check one of the following:

The change of name reflects a change effected in the jurisdiction of incorporation.

Documents complying with the applicable provisions of 15 Pa.C.S. § 4123(b) or 6123(b) (relating to exception; name) accompany this application.

IN TESTIMONY WHEREOF, the undersigned corporation has caused this Application for an Amended Certificate of Authority to be signed by a duly authorized officer thereof this

\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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Name of Corporation

---

Signature

---

Title

Rev. 11/2010

DSCB: 15-4126/6126



**Department of State  
Corporation Bureau  
P.O. Box 8722  
Harrisburg, PA 17105-8722  
(717) 787-1057**

**Web site: [www.dos.state.pa.us/corps](http://www.dos.state.pa.us/corps)**

**Instructions for Completion of Form:**

- A. Typewritten is preferred. If not, the form shall be completed in black or blue-black ink in order to permit reproduction. The filing fee for this form is \$250 made payable to the Department of State.
- B. Under 15 Pa.C.S. § 135(c) (relating to addresses) an actual street or rural route box number must be used as an address, and the Department of State is required to refuse to receive or file any document that sets forth only a post office box address.
- C. The following, in addition to the filing fee, shall accompany this form:
- (1) Two copies of a completed form DSCB:15-134B (Docketing Statement-Changes).
  - (2) Any necessary copies of form DSCB:17.2.3 (Consent to Appropriation of Name). If Letter of Consent cannot be obtained, the applicant may file in the Department a resolution of its board of directors adopting a fictitious name for use in transacting business in the Commonwealth of Pennsylvania which fictitious name is distinguishable upon the record to the name of any conflicting profit or nonprofit corporation or other association and that is otherwise available for use by a domestic business or nonprofit corporation. See 15 Pa.C.S. §§ 4123(b)(1)(i) and 6123(b)(1)(i). An additional filing fee of \$70 shall accompany form DSCB:54-311 (Application for Registration of Fictitious Name).
  - (3) Any necessary governmental approvals. If required governmental approvals for the use of the name cannot be obtained, the applicant may file in the Department a resolution of its board of directors adopting a fictitious name that is otherwise available for use by a domestic business or nonprofit corporation. See 15 Pa.C.S. §§ 4123(b)(2) and 6123(b)(2).
- D. Where the name of the corporation does not comply with 19 Pa. Code § 23.3 (relating to business corporation names) or with 19 Pa. Code § 41.3 (relating to nonprofit corporation names) the corporation must adopt a corporate designator for use in Pennsylvania and set forth the resulting name in Paragraph 5. See also 19 Pa. Code § 17.41 (relating to foreign association names).
- E. This form and all accompanying documents shall be mailed to the address stated above.

Under 15 Pa.C.S. §§ 4126(b) or 6126(b) upon the filing of this form the applicant corporation shall be deemed to hold an amended certificate of authority, and no actual amended certificate will be issued to the applicant by the Department.

**PENNSYLVANIA DEPARTMENT OF STATE  
CORPORATION BUREAU**

**Certificate of Annual Registration**  
(15 Pa.C.S.)

- Registered Limited Liability Partnership (§ 8221)  
 Limited Liability Company (§ 8998)

Name		
Address		
City	State	Zip Code

**Document will be returned to the name and address you enter to the left.**  
←

Fee: See Instructions C. and E.

In compliance with the requirements of the applicable provisions (relating to annual registration), the undersigned domestic or foreign registered limited liability partnership/limited liability company, hereby states that:

1. The name of the registered limited liability partnership/limited liability company is:

---

**Limited Liability Partnership: complete only paragraph 2**

2. The prescribed annual base fee of \$310 times \_\_\_\_\_ (the number of persons who were general partners of this partnership on December 31, \_\_\_\_\_ (year) and who are described in § 8221(b)(1)) accompanies this Certificate of Annual Registration.

**Limited Liability Company: complete only paragraphs 3 and 4**

3. Check, and if appropriate complete, one of the following:

The company did not engage in any business not permitted by § 8996(a) (relating to purposes of restricted professional companies) during the year with respect to which this certificate is being filed.

The company did engage in business not permitted by § 8996(a) (relating to purposes of restricted professional companies) during the year with respect to which this certificate is being filed.

4. The prescribed annual base fee of \$460 times \_\_\_\_\_ (the number of persons who were members of this company on December 31, \_\_\_\_\_ (year) and who are described in § 8998(b)(1)) accompanies this Certificate of Annual Registration.

IN TESTIMONY WHEREOF, the undersigned general partner/member has executed this Certificate of Annual Registration this

\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

---

Signature

DSCB: 15-8221/8998



**Department of State  
Corporation Bureau  
P.O. Box 8722  
Harrisburg, PA 17105-8722  
(717) 787-1057  
Web site: [www.dos.state.pa.us/corps](http://www.dos.state.pa.us/corps)**

**General Instructions for Completion of Form:**

- A. This form must be filed on or before April 15 of each year following the year with respect to which it is being filed.
- B. This form and all accompanying documents shall be mailed to the address stated above.

**Instructions for Annual Registration for Registered Limited Liability Partnership**

- C. Typewritten is preferred. If not, the form shall be completed in black or blue-black ink in order to permit reproduction. The annual fee of \$310 times the number of persons who were general partners of the partnership on December 31 shall accompany this form and shall be made payable to the Department of State. The base fee of \$310 was increased on December 31, 2009. See § 8221(b)(2). Failure to file the annual registration by April 15 will result in a lien on the assets of the partnership. If a certificate of annual registration is not filed by May 15, a penalty of \$500 will be assessed against the partnership, which will create a second lien on the assets of the partnership.
- D. The annual fee is required to be paid only with respect to a general partner who:
  - (1) in the case of a natural person, had his principal residence in Pennsylvania, or
  - (2) in the case of any other person, was incorporated or otherwise organized or existing under the laws of Pennsylvania. See § 8221(b)(1).

**Instructions for Annual Registration for Limited Liability Company**

- E. Typewritten is preferred. If not, the form shall be completed in black or blue-black ink in order to permit reproduction. The annual fee of \$460 times the number of persons who were members of the company on December 31 shall accompany this form and shall be made payable to the Department of State. The base fee of \$460 was increased on December 31, 2009. See § 8998(b)(2). Failure to file the annual registration by April 15 will result in a lien on the assets of the company. If a certificate of annual registration is not filed by May 15, a penalty of \$500 will be assessed against the company, which will create a second lien on the assets of the company.
- F. The annual fee is required to be paid only with respect to a member who:
  - (1) was licensed to practice the professional service rendered by the company; and
  - (2) had principal residence in Pennsylvania. See § 8998(b)(1).

**PENNSYLVANIA DEPARTMENT OF STATE  
CORPORATION BUREAU**

**Application for Registration - Foreign**

(15 Pa.C.S.)

- Registered Limited Liability General Partnership (§ 8211)
- Registered Limited Liability Limited Partnership (§ 8211)
- Limited Partnership (§ 8582)
- Limited Liability Company (§ 8981)

Name		
_____		
Address		
_____		
City	State	Zip Code
_____	_____	_____

**Document will be returned to the name and address you enter to the left.**



Fee: \$250

In compliance with the requirements of the applicable provisions (relating to registration), the undersigned, desiring to register to do business in this Commonwealth, hereby states that:

1. The name of the limited liability company/limited liability partnership/limited partnership in the jurisdiction in which it is formed:

\_\_\_\_\_

2. The name under which the limited liability company/limited liability partnership/limited partnership proposes to register and do business in this Commonwealth is:

\_\_\_\_\_

3. The name of the jurisdiction under the laws of which it was organized and the date of its formation:

Jurisdiction: \_\_\_\_\_ Date of Formation: \_\_\_\_\_.

4. The (a) address of its initial registered office in this Commonwealth or (b) name of its commercial registered office provider and the county of venue is:

(a) Number and street	City	State	Zip	County
_____				
(b) Name of Commercial Registered Office Provider				County
_____				

DSCB:15-8981/8211/8582-2

5. Check and complete one of the following:

\_\_\_ The address of the office required to be maintained by it in the jurisdiction of its organization by the laws of that jurisdiction is:

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Number and street	City	State	Zip
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\_\_\_ It is not required by the laws of its jurisdiction of organization to maintain an office therein and the address of its principal office is:

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Number and street	City	State	Zip
-------------------	------	-------	-----

6. For Restricted Professional Limited Liability Company Only. Strike out if inapplicable: The company is a restricted professional company organized to render the following professional service(s):

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**Limited Liability Partnership and Limited Partnership: Complete paragraphs 7 and 8**

7. The name and business address of each general partner.

Name	Business Address
------	------------------

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8. The address of the office at which is kept a list of the names and addresses of the limited partners and their capital contribution is:

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Number and street	City	State	Zip	County
-------------------	------	-------	-----	--------

The registered partnership hereby undertakes to keep those records until its registration to do business in the Commonwealth is canceled or withdrawn.

IN TESTIMONY WHEREOF, the undersigned has caused this Application for Registration to be signed by a duly authorized officer/member or manager thereof this

\_\_\_ day of \_\_\_\_, \_\_\_\_.

---

Name of Partnership/Company

---

Signature

---

Title

Rev. 11/2010



DSCB: 15-8981/8211/8582



**Department of State  
Corporation Bureau  
P.O. Box 8722  
Harrisburg, PA 17105-8722  
(717) 787-1057  
Web site: [www.dos.state.pa.us/corps](http://www.dos.state.pa.us/corps)**

**Instructions for Completion of Form:**

- A. Typewritten is preferred. If not, the form shall be completed in black or blue-black ink in order to permit reproduction. The filing fee for this form is \$250 made payable to the Department of State.
- B. A foreign limited liability company/limited liability partnership/limited partnership may adopt a name to register and do business in the Commonwealth of Pennsylvania that is different from the name in its formation documents filed in its state of domicile. Both boxes 1 and 2 should be completed, even if the name of the entity will be the same in both jurisdictions.
- C. *Designators: Limited Partnership:* The name may contain the word “company”, “limited” or “limited partnership” or abbreviation. *Limited Liability Partnership:* The name must contain the word “company”, “limited” or “limited liability partnership” or abbreviation. *Limited Liability Company:* The name must contain the word “company,” “limited” or “limited liability company” or abbreviation.
- D. Under 15 Pa.C.S. § 135(c) (relating to addresses) an actual street or rural route box number must be used as an address, and the Department of State is required to refuse to receive or file any document that sets forth only a post office box address.
- E. The following, in addition to the filing fee, shall accompany this form:
  - (1) *For Limited Liability Company Only:* One copy of a completed form DSCB:15-134A (Docketing Statement).
  - (2) Any necessary copies of form DSCB:17.2.3 (Consent to Appropriation of Name).
  - (3) Any necessary governmental approvals.
- F. Under 15 Pa.C.S. § 8981 or § 8583, upon the filing of this form the applicant shall be authorized to do business in the Commonwealth of Pennsylvania and no certificate of authority will be issued to the applicant by the Department.
- G. This form and all accompanying documents shall be mailed to the address stated above.



**UCC FINANCING STATEMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

---

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME

OR

1b. INDIVIDUAL'S LAST NAME      FIRST NAME      MIDDLE NAME      SUFFIX

1c. MAILING ADDRESS      CITY      STATE      POSTAL CODE      COUNTRY

1d. **SEE INSTRUCTIONS**      ADD'L INFO RE ORGANIZATION DEBTOR      1e. TYPE OF ORGANIZATION      1f. JURISDICTION OF ORGANIZATION      1g. ORGANIZATIONAL ID #, if any

NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME

OR

2b. INDIVIDUAL'S LAST NAME      FIRST NAME      MIDDLE NAME      SUFFIX

2c. MAILING ADDRESS      CITY      STATE      POSTAL CODE      COUNTRY

2d. **SEE INSTRUCTIONS**      ADD'L INFO RE ORGANIZATION DEBTOR      2e. TYPE OF ORGANIZATION      2f. JURISDICTION OF ORGANIZATION      2g. ORGANIZATIONAL ID #, if any

NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME

OR

3b. INDIVIDUAL'S LAST NAME      FIRST NAME      MIDDLE NAME      SUFFIX

3c. MAILING ADDRESS      CITY      STATE      POSTAL CODE      COUNTRY

4. This FINANCING STATEMENT covers the following collateral:

5. ALTERNATIVE DESIGNATION [if applicable]:  LESSEE/LESSOR     CONSIGNEE/CONSIGNOR     BAILEE/BAILOR     SELLER/BUYER     AG. LIEN     NON-UCC FILING

6.  This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS. Attach Addendum. [if applicable]    7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) [optional]     All Debtors     Debtor 1     Debtor 2

8. OPTIONAL FILER REFERENCE DATA

### Instructions for UCC Financing Statement (Form UCC1)

Please type or laser-print this form. Be sure it is completely legible. Read all Instructions, especially Instruction 1; correct Debtor name is crucial. Follow Instructions completely.

Fill in form very carefully; mistakes may have important legal consequences. If you have questions, consult your attorney. Filing office cannot give legal advice. Do not insert anything in the open space in the upper portion of this form; it is reserved for filing office use.

When properly completed, send Filing Office Copy, with required fee, to filing office. If you want an acknowledgment, complete item B and, if filing in a filing office that returns an acknowledgment copy furnished by filer, you may also send Acknowledgment Copy; otherwise detach. If you want to make a search request, complete item 7 (after reading Instruction 7 below) and send Search Report Copy, otherwise detach. Always detach Debtor and Secured Party Copies.

If you need to use attachments, you are encouraged to use either Addendum (Form UCC1Ad) or Additional Party (Form UCC1AP).

A. To assist filing offices that might wish to communicate with filer, filer may provide information in item A. This item is optional.

B. Complete item B if you want an acknowledgment sent to you. If filing in a filing office that returns an acknowledgment copy furnished by filer, present simultaneously with this form a carbon or other copy of this form for use as an acknowledgment copy.

1. **Debtor name:** Enter only one Debtor name in item 1, an organization's name (1a) or an individual's name (1b). Enter Debtor's exact full legal name. Don't abbreviate.
  - 1a. **Organization Debtor.** "Organization" means an entity having a legal identity separate from its owner. A partnership is an organization; a sole proprietorship is not an organization, even if it does business under a trade name. If Debtor is a partnership, enter exact full legal name of partnership; you need not enter names of partners as additional Debtors. If Debtor is a registered organization (e.g., corporation, limited partnership, limited liability company), it is advisable to examine Debtor's current filed charter documents to determine Debtor's correct name, organization type, and jurisdiction of organization.
  - 1b. **Individual Debtor.** "Individual" means a natural person; this includes a sole proprietorship, whether or not operating under a trade name. Don't use prefixes (Mr., Mrs., Ms.). Use suffix box only for titles of lineage (Jr., Sr., III) and not for other suffixes or titles (e.g., M.D.). Use married woman's personal name (Mary Smith, not Mrs. John Smith). Enter individual Debtor's family name (surname) in Last Name box, first given name in First Name box, and all additional given names in Middle Name box.  
For both organization and individual Debtors: Don't use Debtor's trade name, DBA, AKA, FKA, Division name, etc. in place of or combined with Debtor's legal name; you may add such other names as additional Debtors if you wish (but this is neither required nor recommended).
  - 1c. An address is always required for the Debtor named in 1a or 1b.
  - 1d. Reserved for Financing Statements to be filed in North Dakota or South Dakota only. If this Financing Statement is to be filed in North Dakota or South Dakota, the Debtor's taxpayer identification number (tax ID#) — social security number or employer identification number must be placed in this box.
  - 1e,f,g. "Additional information re organization Debtor" is always required. Type of organization and jurisdiction of organization as well as Debtor's exact legal name can be determined from Debtor's current filed charter document. Organizational ID #, if any, is assigned by the agency where the charter document was filed; this is different from tax ID #; this should be entered preceded by the 2-character U.S. Postal identification of state of organization if one of the United States (e.g., CA12345, for a California corporation whose organizational ID # is 12345); if agency does not assign organizational ID #, check box in item 1g indicating "none."

*Note:* If Debtor is a trust or a trustee acting with respect to property held in trust, enter Debtor's name in item 1 and attach Addendum (Form UCC1Ad) and check appropriate box in item 17. If Debtor is a decedent's estate, enter name of deceased individual in item 1b and attach Addendum (Form UCC1Ad) and check appropriate box in item 17. If Debtor is a transmitting utility or this Financing Statement is filed in connection with a Manufactured-Home Transaction or a Public-Finance Transaction as defined in applicable Commercial Code, attach Addendum (Form UCC1Ad) and check appropriate box in item 18.
2. If an additional Debtor is included, complete item 2, determined and formatted per Instruction 1. To include further additional Debtors, attach either Addendum (Form UCC1Ad) or Additional Party (Form UCC1AP) and follow Instruction 1 for determining and formatting additional names.
3. Enter information for Secured Party or Total Assignee, determined and formatted per Instruction 1. To include further additional Secured Parties, attach either Addendum (Form UCC1Ad) or Additional Party (Form UCC1AP) and follow Instruction 1 for determining and formatting additional names. If there has been a total assignment of the Secured Party's interest prior to filing this form, you may either (1) enter Assignor S/P's name and address in item 3 and file an Amendment (Form UCC3) [see item 5 of that form]; or (2) enter Total Assignee's name and address in item 3 and, if you wish, also attaching Addendum (Form UCC1Ad) giving Assignor S/P's name and address in item 12.
4. Use item 4 to indicate the collateral covered by this Financing Statement. If space in item 4 is insufficient, put the entire collateral description or continuation of the collateral description on either Addendum (Form UCC1Ad) or other attached additional page(s).
5. If filer desires (at filer's option) to use titles of lessee and lessor, or consignee and consignor, or seller and buyer (in the case of accounts or chattel paper), or bailee and bailor instead of Debtor and Secured Party, check the appropriate box in item 5. If this is an agricultural lien (as defined in applicable Commercial Code) filing or is otherwise not a UCC security interest filing (e.g., a tax lien, judgment lien, etc.), check the appropriate box in item 5, complete items 1-7 as applicable and attach any other items required under other law.
6. If this Financing Statement is filed as a fixture filing or if the collateral consists of timber to be cut or as-extracted collateral, complete items 1-5, check the box in item 6, and complete the required information (items 13, 14 and/or 15) on Addendum (Form UCC1Ad).
7. This item is optional. Check appropriate box in item 7 to request Search Report(s) on all or some of the Debtors named in this Financing Statement. The Report will list all Financing Statements on file against the designated Debtor on the date of the Report, including this Financing Statement. There is an additional fee for each Report. If you have checked a box in item 7, file Search Report Copy together with Filing Officer Copy (and Acknowledgment Copy). Note: Not all states do searches and not all states will honor a search request made via this form; some states require a separate request form.
8. This item is optional and is for filer's use only. For filer's convenience of reference, filer may enter in item 8 any identifying information (e.g., Secured Party's loan number, law firm file number, Debtor's name or other identification, state in which form is being filed, etc.) that filer may find useful.

**UCC FINANCING STATEMENT ADDENDUM**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

9a. ORGANIZATION'S NAME		
OR	9b. INDIVIDUAL'S LAST NAME	
	FIRST NAME	MIDDLE NAME,SUFFIX

10. MISCELLANEOUS:

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**THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY**

11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one name (11a or 11b) - do not abbreviate or combine names

11a. ORGANIZATION'S NAME			
OR	11b. INDIVIDUAL'S LAST NAME		FIRST NAME
		MIDDLE NAME	SUFFIX
11c. MAILING ADDRESS		CITY	STATE
		POSTAL CODE	COUNTRY
11d. <b>SEE INSTRUCTIONS</b>	ADD'L INFO RE ORGANIZATION DEBTOR	11e. TYPE OF ORGANIZATION	11f. JURISDICTION OF ORGANIZATION
			11g. ORGANIZATIONAL ID #, if any <input type="checkbox"/> NONE

12.  ADDITIONAL SECURED PARTY'S *or*  ASSIGNOR S/P'S NAME - insert only one name (12a or 12b)

12a. ORGANIZATION'S NAME			
OR	12b. INDIVIDUAL'S LAST NAME		FIRST NAME
		MIDDLE NAME	SUFFIX
12c. MAILING ADDRESS		CITY	STATE
		POSTAL CODE	COUNTRY

13. This FINANCING STATEMENT covers <input type="checkbox"/> timber to be cut or <input type="checkbox"/> as-extracted collateral, or is filed as a <input type="checkbox"/> fixture filing.	16. Additional collateral description:
14. Description of real estate:	
15. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest):	

17. Check only if applicable and check only one box.  
 Debtor is a  Trust or  Trustee acting with respect to property held in trust or  Decedent's Estate

18. Check only if applicable and check only one box.  
 Debtor is a TRANSMITTING UTILITY  
 Filed in connection with a Manufactured-Home Transaction  
 Filed in connection with a Public-Finance Transaction

International Association of Commercial Administrators (IACA)

FILING OFFICE COPY — UCC FINANCING STATEMENT ADDENDUM (FORM UCC1Ad) (REV. 05/21/09)

**Instructions for UCC Financing Statement Addendum (Form UCC1Ad)**

9. Insert name of first Debtor shown on Financing Statement to which this Addendum relates, exactly as shown in item 1 of Financing Statement.
10. Miscellaneous: Under certain circumstances, additional information not provided on Financing Statement may be required. Also, some states have non-uniform requirements. Use this space to provide such additional information or to comply with such requirements; otherwise, leave blank.
11. If this Addendum adds an additional Debtor, complete item 11 in accordance with Instruction 1 of Financing Statement. To include further additional Debtors, attach either an additional Addendum (Form UCC1Ad) or Additional Party (Form UCC1AP) and follow Instruction 1 of Financing Statement for determining and formatting additional names.
12. If this Addendum adds an additional Secured Party, complete item 12 in accordance with Instruction 3 of Financing Statement. To include further additional Secured Parties, attach either an additional Addendum (Form UCC1Ad) or Additional Party (Form UCC1AP) and follow Instruction 1 of Financing Statement for determining and formatting additional names. In the case of a total assignment of the Secured Party's interest before the filing of this Financing Statement, if filer has given the name and address of the Total Assignee in item 3 of Financing Statement, filer may give the Assignor S/P's name and address in item 12.
- 13-15. If collateral is timber to be cut or as-extracted collateral, or if this Financing Statement is filed as a fixture filing, check appropriate box in item 13; provide description of real estate in item 14; and, if Debtor is not a record owner of the described real estate, also provide, in item 15, the name and address of a record owner. Also provide collateral description in item 4 of Financing Statement. Also check box 6 on Financing Statement. Description of real estate must be sufficient under the applicable law of the jurisdiction where the real estate is located.
16. Use this space to provide continued description of collateral, if you cannot complete description in item 4 of Financing Statement.
17. If Debtor is a trust or a trustee acting with respect to property held in trust or is a decedent's estate, check the appropriate box.
18. If Debtor is a transmitting utility or if the Financing Statement relates to a Manufactured-Home Transaction or a Public-Finance Transaction as defined in the applicable Commercial Code, check the appropriate box.

**UCC FINANCING STATEMENT ADDITIONAL PARTY**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

<b>19. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT</b>		
19a. ORGANIZATION'S NAME		
OR		
19b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME, SUFFIX

**20. MISCELLANEOUS:**

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

<b>21. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME</b> - insert only <u>one</u> name (21a or 21b) - do not abbreviate or combine names					
21a. ORGANIZATION'S NAME					
OR					
21b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX	
21c. MAILING ADDRESS			CITY	STATE	POSTAL CODE COUNTRY
21d. <b>SEE INSTRUCTIONS</b>	ADD'L INFO RE ORGANIZATION DEBTOR	21e. TYPE OF ORGANIZATION	21f. JURISDICTION OF ORGANIZATION	21g. ORGANIZATIONAL ID #, if any <input type="checkbox"/> NONE	

<b>22. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME</b> - insert only <u>one</u> name (22a or 22b) - do not abbreviate or combine names					
22a. ORGANIZATION'S NAME					
OR					
22b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX	
22c. MAILING ADDRESS			CITY	STATE	POSTAL CODE COUNTRY
22d. <b>SEE INSTRUCTIONS</b>	ADD'L INFO RE ORGANIZATION DEBTOR	22e. TYPE OF ORGANIZATION	22f. JURISDICTION OF ORGANIZATION	22g. ORGANIZATIONAL ID #, if any <input type="checkbox"/> NONE	

<b>23. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME</b> - insert only <u>one</u> name (23a or 23b) - do not abbreviate or combine names					
23a. ORGANIZATION'S NAME					
OR					
23b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX	
23c. MAILING ADDRESS			CITY	STATE	POSTAL CODE COUNTRY
23d. <b>SEE INSTRUCTIONS</b>	ADD'L INFO RE ORGANIZATION DEBTOR	23e. TYPE OF ORGANIZATION	23f. JURISDICTION OF ORGANIZATION	23g. ORGANIZATIONAL ID #, if any <input type="checkbox"/> NONE	

<b>24. ADDITIONAL SECURED PARTY'S NAME</b> (or Name of TOTAL ASSIGNEE) - insert only <u>one</u> name (24a or 24b)					
24a. ORGANIZATION'S NAME					
OR					
24b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX	
24c. MAILING ADDRESS			CITY	STATE	POSTAL CODE COUNTRY

<b>25. ADDITIONAL SECURED PARTY'S NAME</b> (or Name of TOTAL ASSIGNEE) - insert only <u>one</u> name (25a or 25b)					
25a. ORGANIZATION'S NAME					
OR					
25b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX	
25c. MAILING ADDRESS			CITY	STATE	POSTAL CODE COUNTRY

FILING OFFICE COPY — UCC FINANCING STATEMENT ADDITIONAL PARTY (FORM UCC1AP) (REV. 05/22/02) International Association of Commercial Administrators (IACA)

**Instructions for UCC Financing Statement Additional Party (Form UCC1AP)**

Use this form to continue adding additional Debtor or Secured Party names as needed when filing a UCC Financing Statement (Form UCC1).

19. Insert name of first Debtor shown on Financing Statement to which this Additional Party relates, exactly as shown in item 1 of Financing Statement.
20. Miscellaneous: Under certain circumstances, additional information not provided on Financing Statement may be required. Also, some states have non-uniform requirements. Use this space to provide such additional information or to comply with such requirements; otherwise, leave blank.
- 21-23. If this Additional Party adds additional Debtors, complete items 21, 22, and 23 in accordance with Instruction 1 of Financing Statement and give complete information for each additional Debtor. Be sure to complete either the organization's name or individual's name items.
- 24-25. If this Additional Party adds additional Secured Parties, complete items 24 and 25 in accordance with Instruction 3 of Financing Statement and give complete information for each additional Secured Party.

**UCC FINANCING STATEMENT AMENDMENT ADDENDUM**

**FOLLOW INSTRUCTIONS (front and back) CAREFULLY**

11. INITIAL FINANCING STATEMENT FILE # (same as item 1a on Amendment form)

12. NAME OF PARTY AUTHORIZING THIS AMENDMENT (same as item 9 on Amendment form)

12a. ORGANIZATION'S NAME

OR

12b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME, SUFFIX
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13. Use this space for additional information

**THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY**



**Instructions for National UCC Financing Statement AMENDMENT Addendum (Form UCC3Ad)**

11. Enter information exactly as given in item 1a on Amendment form.
12. Enter information exactly as given in item 9 on Amendment form.
13. If space on Amendment form is insufficient or you must provide additional information, enter additional information in item 13.



UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

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B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE # \_\_\_\_\_

1b. This FINANCING STATEMENT AMENDMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS.

2.  **TERMINATION:** Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3.  **CONTINUATION:** Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4.  **ASSIGNMENT** (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 9.

5. **AMENDMENT (PARTY INFORMATION):** This Amendment affects  Debtor or  Secured Party of record. Check only one of these two boxes.  
 Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

CHANGE name and/or address; Please refer to the detailed instructions in regards to changing the name/address of a party.  DELETE name: Give record name to be deleted in item 6a or 6b.  ADD name: Complete item 7a or 7b, and also item 7c; also complete items 7e-7g (if applicable).

6. **CURRENT RECORD INFORMATION:**

6a. ORGANIZATION'S NAME \_\_\_\_\_

OR

6b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
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7. **CHANGED (NEW) OR ADDED INFORMATION:**

7a. ORGANIZATION'S NAME \_\_\_\_\_

OR

7b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
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7c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
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7d. <b>SEE INSTRUCTIONS</b>	ADD'L INFO RE ORGANIZATION DEBTOR	7e. TYPE OF ORGANIZATION	7f. JURISDICTION OF ORGANIZATION	7g. ORGANIZATIONAL ID #, if any <input type="checkbox"/> NONE
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8. **AMENDMENT (COLLATERAL CHANGE):** check only one box.  
 Describe collateral  deleted or  added, or give entire  restated collateral description, or describe collateral  assigned.

9. **NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT** (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here  and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME \_\_\_\_\_

OR

9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
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10. OPTIONAL FILER REFERENCE DATA \_\_\_\_\_

### Instructions for UCC Financing Statement Amendment (Form UCC3)

Please type or laser-print this form. Be sure it is completely legible. Read all Instructions, especially Instruction 1a; correct file number of initial financing statement is crucial. Follow Instructions completely.

Fill in form very carefully; mistakes may have important legal consequences. If you have questions, consult your attorney. Filing office cannot give legal advice. Do not insert anything in the open space in the upper portion of this form; it is reserved for filing office use.

An Amendment may relate to only one financing statement. Do not enter more than one file number in item 1a.

When properly completed, send Filing Office Copy, with required fee, to filing office. If you want an acknowledgment, complete item B and, if filing in a filing office that returns an acknowledgment copy furnished by filer, you may also send Acknowledgment Copy, otherwise detach. Always detach Debtor and Secured Party Copies.

If you need to use attachments, you are encouraged to use either Amendment Addendum (Form UCC3Ad) or Amendment Additional Party (Form UCC3AP). Always complete items 1a and 9.

A. To assist filing offices that might wish to communicate with filer, filer may provide information in item A. This item is optional.

B. Complete item B if you want an acknowledgment sent to you. If filing in a filing office that returns an acknowledgment copy furnished by filer, present simultaneously with this form a carbon or other copy of this form for use as an acknowledgment copy.

1a. **File number:** Enter file number of initial financing statement to which this Amendment relates. Enter only one file number. In some states, the file number is not unique; in those states, also enter in item 1a, after the file number, the date that the initial financing statement was filed.

1b. Only if this Amendment is to be filed or recorded in the real estate records, check box 1b and also, in item 13 of Amendment Addendum, enter Debtor's name, in proper format exactly identical to the format of item 1 of financing statement, and name of record owner if Debtor does not have a record interest.

*Note:* Show purpose of this Amendment by checking box 2, 3, 4, 5 (in item 5 you must check two boxes) or 8; also complete items 6, 7 and/or 8 as appropriate. Filer may use this Amendment form to simultaneously accomplish both data changes (items 4, 5, and/or 8) and a Continuation (item 3), although in some states filer may have to pay a separate fee for each purpose.

2. To terminate the effectiveness of the identified financing statement with respect to security interest(s) of authorizing Secured Party, check box 2. See Instruction 9 below.

3. To continue the effectiveness of the identified financing statement with respect to security interest(s) of authorizing Secured Party, check box 3. See Instruction 9 below.

4. To assign (i) all of assignor's interest under the identified financing statement, or (ii) a partial interest in the security interest covered by the identified financing statement, or (iii) assignor's full interest in some (but not all) of the collateral covered by the identified financing statement: Check box in item 4 and enter name of assignee in item 7a if assignee is an organization, or in item 7b, formatted as indicated, if assignee is an individual. Complete 7a or 7b, but not both. Also enter assignee's address in item 7c. Also enter name of assignor in item 9. If partial Assignment affects only some (but not all) of the collateral covered by the identified financing statement, filer may check appropriate box in item 8 and indicate affected collateral in item 8.

5,6,7. To change the name of a party: Check box in item 5 to indicate whether this Amendment amends information relating to a Debtor or a Secured Party; also check box in item 5 to indicate that this is a name change; also enter name of affected party (current record name) in item 6a or 6b as appropriate; and enter new name (7a or 7b). If the new name refers to a Debtor complete (7c); also complete 7e-7g if 7a was completed.

5,6,7. To change the address of a party: Check box in item 5 to indicate whether this Amendment amends information relating to a Debtor or a Secured Party; also check box in item 5 to indicate that this is an address change; also enter name of affected party (current record name) in item 6a or 6b as appropriate; and enter new address (7c) in item 7.

5,6,7. To change the name and address of a party: Check box in item 5 to indicate whether this Amendment amends information relating to a Debtor or a Secured Party; also check box in item 5 to indicate that this is a name/address change; also enter name of affected party (current record name) in items 6a or 6b as appropriate; and enter the new name (7a or 7b). If the new name refers to a Debtor complete item 7c; also complete 7e-7g if 7a was completed.

5.6. To delete a party: Check box in item 5 to indicate whether deleting a Debtor or a Secured Party; also check box in item 5 to indicate that this is a deletion of a party; and also enter name (6a or 6b) of deleted party in item 6.

5.7. To add a party: Check box in item 5 to indicate whether adding a Debtor or Secured Party; also check box in item 5 to indicate that this is an addition of a party and enter the new name (7a or 7b). If the new name refers to a Debtor complete item 7c; also complete 7e-7g if 7a was completed. To include further additional Debtors or Secured Parties, attach Amendment Additional Party (Form UCC3AP), using correct name format.

*Note:* The preferred method for filing against a new Debtor (an individual or organization not previously of record as a Debtor under this file number) is to file a new Financing Statement (UCC1) and not an Amendment (UCC3).

7d. Reserved for Financing Statement Amendments to be filed in North Dakota or South Dakota only. If this Financing Statement Amendment is to be filed in North Dakota or South Dakota, the Debtor's taxpayer identification number (tax ID#) — social security number or employer identification number must be placed in this box.

8. Collateral change. To change the collateral covered by the identified financing statement, describe the change in item 8. This may be accomplished either by describing the collateral to be added or deleted, or by setting forth in full the collateral description as it is to be effective after the filing of this Amendment, indicating clearly the method chosen (check the appropriate box). If the space in item 8 is insufficient, use item 13 of Amendment Addendum (Form UCC3Ad). A partial release of collateral is a deletion. If, due to a full release of all collateral, filer no longer claims a security interest under the identified financing statement, check box 2 (Termination) and not box 8 (Collateral Change). If a partial assignment consists of the assignment of some (but not all) of the collateral covered by the identified financing statement, filer may indicate the assigned collateral in item 8, check the appropriate box in item 8, and also comply with instruction 4 above.

9. Always enter name of party of record authorizing this Amendment; in most cases, this will be a Secured Party of record. If more than one authorizing Secured Party, give additional name(s), properly formatted, in item 13 of Amendment Addendum (Form UCC3Ad). If the indicated financing statement refers to the parties as lessee and lessor, or consignee and consignor, or seller and buyer, instead of Debtor and Secured Party, references in this Amendment shall be deemed likewise so to refer to the parties. If this is an assignment, enter assignor's name. If this is an Amendment authorized by a Debtor that adds collateral or adds a Debtor, or if this is a Termination authorized by a Debtor, check the box in item 9 and enter the name, properly formatted, of the Debtor authorizing this Amendment, and, if this Amendment or Termination is to be filed or recorded in the real estate records, also enter, in item 13 of Amendment Addendum, name of Secured Party of record.

10. This item is optional and is for filer's use only. For filer's convenience of reference, filer may enter in item 10 any identifying information (e.g., Secured Party's loan number, law firm file number, Debtor's name or other identification, state in which form is being filed, etc.) that filer may find useful.

**UCC FINANCING STATEMENT AMENDMENT ADDITIONAL PARTY**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

14. INITIAL FINANCING STATEMENT FILE # (same as item 1a on Amendment form)

15. NAME OF PARTY AUTHORIZING THIS AMENDMENT (same as item 9 on Amendment form)

15a. ORGANIZATION'S NAME			
OR	15b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME, SUFFIX

16. MISCELLANEOUS

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

17. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one name (17a or 17b) - do not abbreviate or combine names

17a. ORGANIZATION'S NAME						
OR	17b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX	
17c. MAILING ADDRESS			CITY	STATE	POSTAL CODE	COUNTRY
17d. SEE INSTRUCTIONS	ADD'L INFO RE ORGANIZATION DEBTOR	17e. TYPE OF ORGANIZATION	17f. JURISDICTION OF ORGANIZATION	17g. ORGANIZATIONAL ID #, if any		
					<input type="checkbox"/> NONE	

18. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one name (18a or 18b) - do not abbreviate or combine names

18a. ORGANIZATION'S NAME						
OR	18b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX	
18c. MAILING ADDRESS			CITY	STATE	POSTAL CODE	COUNTRY
18d. SEE INSTRUCTIONS	ADD'L INFO RE ORGANIZATION DEBTOR	18e. TYPE OF ORGANIZATION	18f. JURISDICTION OF ORGANIZATION	18g. ORGANIZATIONAL ID #, if any		
					<input type="checkbox"/> NONE	

19. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one name (19a or 19b) - do not abbreviate or combine names

19a. ORGANIZATION'S NAME						
OR	19b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX	
19c. MAILING ADDRESS			CITY	STATE	POSTAL CODE	COUNTRY
19d. SEE INSTRUCTIONS	ADD'L INFO RE ORGANIZATION DEBTOR	19e. TYPE OF ORGANIZATION	19f. JURISDICTION OF ORGANIZATION	19g. ORGANIZATIONAL ID #, if any		
					<input type="checkbox"/> NONE	

20. ADDITIONAL SECURED PARTY'S NAME (or Name of TOTAL ASSIGNEE) - insert only one name (20a or 20b)

20a. ORGANIZATION'S NAME						
OR	20b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX	
20c. MAILING ADDRESS			CITY	STATE	POSTAL CODE	COUNTRY

21. ADDITIONAL SECURED PARTY'S NAME (or Name of TOTAL ASSIGNEE) - insert only one name (21a or 21b)

21a. ORGANIZATION'S NAME						
OR	21b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX	
21c. MAILING ADDRESS			CITY	STATE	POSTAL CODE	COUNTRY

FILING OFFICE COPY — UCC FINANCING STATEMENT AMENDMENT ADDITIONAL PARTY (FORM UCC3AP) (REV. 05/22/02) International Association of Commercial Administrators (IACA)

**Instructions for UCC Financing Statement Amendment Additional Party (Form UCC3AP)**

Use this form to continue adding additional Debtor or Secured Party names as needed when filing a UCC Financing Statement Amendment (Form UCC3).

14. Enter file number of Financing Statement as shown on the Amendment to which this Amendment Additional Party relates, exactly as shown in item 1a of Amendment.
15. Enter information exactly as shown in item 9 of Amendment.
16. Miscellaneous: Under certain circumstances, additional information not provided on Amendment may be required. Also, some states have non-uniform requirements. Use this space to provide such additional information or to comply with such requirements; otherwise, leave blank.
- 17-19. If this Amendment Additional Party adds additional Debtors, complete items 17, 18, and 19 in accordance with Instruction 1 of Financing Statement and give complete information for each additional Debtor. Be sure to complete either the organization's name or individual's name items.
- 20-21. If this Amendment Additional Party adds additional Secured Parties, complete items 20 and 21 in accordance with Instruction 3 of Financing Statement and give complete information for each additional Secured Party.



The filing of this statement of claim does not affect the effectiveness of an initial financing statement or other filed record.

**STATEMENT OF CLAIM**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF PERSON FILING THIS STATEMENT [optional]	
B. SEND ACKNOWLEDGMENT TO: (Name and Address)	
<div style="border: 1px solid black; width: 100%; height: 100%; margin: 5px;"></div>	<div style="border: 1px solid black; width: 100%; height: 100%; margin: 5px;"></div>

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. Identification of the RECORD to which this STATEMENT OF CLAIM relates.

1a. INITIAL FINANCING STATEMENT FILE NUMBER	1b. RECORD INFORMATION TO WHICH THIS STATEMENT OF CLAIM RELATES
---	---

2a.  RECORD is inaccurate.

Provide the basis for the belief of the person identified in item 4 that the RECORD identified in item 1 is inaccurate and indicate the manner in which the person believes the RECORD should be amended to cure the inaccuracy.

2b.  RECORD was wrongfully filed.

Provide the basis for the belief of the person identified in item 4 that the RECORD identified in item 1 was wrongfully filed.

3. If this STATEMENT OF CLAIM relates to a RECORD filed [or recorded] in a filing office described in Section 9-501(a)(1) and this STATEMENT OF CLAIM is filed in such a filing office, provide the date [and time] on which the INITIAL FINANCING STATEMENT identified in item 1a above was filed [or recorded].

3a. DATE	3b. TIME
----------	----------

4. NAME OF PERSON AUTHORIZING THE FILING OF THIS STATEMENT OF CLAIM — The RECORD identified in item 1 must be indexed under this name.

4a. ORGANIZATION'S NAME			
OR			
4b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

International Association of Commercial Administrators (IACA)

FILING OFFICE COPY — STATEMENT OF CLAIM (FORM UCC5) (REV. 05/21/09)

**Instructions for Statement of Claim (Form UCC5)**

Please type or laser-print this form. Be sure it is completely legible. Read all Instructions, especially Instructions 1a and 1b; correct identification of the initial Record to which this Statement of Claim relates is crucial. Follow Instructions completely. Fill in form very carefully. If you have questions, consult your attorney. Filing office cannot give legal advice. Do not insert anything in the open space in the upper portion of this form; it is reserved for filing office use. When properly completed, send Filing Office Copy to filing office. Always detach Debtor and Secured Party Copies.

**ITEM INSTRUCTIONS**

- A. To assist filing offices that might wish to communicate with filer, filer may provide information in item A. This item is optional.
- B. Complete item B if you want an acknowledgment sent to you. If filing in a filing office that returns an acknowledgment copy furnished by filer, present simultaneously with this form a carbon or other copy of this form for use as an acknowledgment copy.

General — You must always complete items 1 and 4 and either 2a or 2b. You may also be required to complete item 3.

- 1a. **File number:** Enter file number of initial financing statement to which the Record that is the object of this Statement of Claim relates. Enter only one file number.
- 1b. Enter record information to which this Statement of Claim relates. Indicate the type of Record to which this Statement of Claim relates (e.g., Financing Statement or Amendment) or you may also insert additional information that you believe will assist in identifying the Record (e.g., the Record file number or the filing date of the Record).
- 2a. If this Statement of Claim is filed based on the filer's belief that the Record identified in item 1 is inaccurate, check box 2a, provide the basis for that belief, and indicate the manner in which the Record should be amended to cure the inaccuracy.
- 2b. If this Statement of Claim is filed based on the filer's belief that the Record identified in item 1 was wrongfully filed, check box 2b and provide the basis for that belief.
- 3. If this Statement of Claim relates to a Record filed [or recorded] in a filing office described in Section 9-501(a)(1) and this Statement of Claim is filed in such a filing office, provide the date [and time] on which the initial financing statement identified in item 1a above was filed [or recorded].
- 4. Always enter name of the person who authorized the filing of this Statement of Claim. This name must be the same as the name under which the Record is indexed.



**INFORMATION REQUEST**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT [optional]	FILING OFFICE ACCT #
B. RETURN TO: (Name and Address)	
<div style="border: 1px solid black; width: 100%; height: 100%;"></div>	

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR NAME to be searched - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME			
OR			
1b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

2. INFORMATION OPTIONS relating to UCC filings and other notices on file in the filing office that include as a Debtor name the name identified in item 1:

2a. SEARCH RESPONSE  CERTIFIED (Optional)  
 Select one of the following two options:  ALL (Check this box to request a response that is complete, including filings that have lapsed.)  UNLAPSED

2b. COPY REQUEST  CERTIFIED (Optional)  
 Select one of the following two options:  ALL  UNLAPSED

2c. SPECIFIED COPIES ONLY  CERTIFIED (Optional)

Record Number	Date Record Filed (if required)	Type of Record and Additional Identifying Information (if required)

3. ADDITIONAL SERVICES:

4. DELIVERY INSTRUCTIONS (request will be completed and mailed to the address shown in item B unless otherwise instructed here).

4a.  Pick Up  
 4b.  Other

Specify desired method here (if available from this office); provide delivery information (e.g., delivery service's name, addressee's account # with delivery service, addressee's phone #, etc.)

FILING OFFICE COPY (1) — NATIONAL INFORMATION REQUEST (FORM UCC11) (REV. 05/09/01)



### Instructions for National Information Request (Form UCC11)

Please type or laser-print this form. Be sure it is completely legible. Read all Instructions. Follow Instructions completely. Fill in form very carefully; mistakes may have important legal consequences. If you have questions, consult your attorney. Filing office cannot give legal advice. Do not insert anything in the open space in the upper portion of this form; it is reserved for filing office use.

When properly completed, send form parts 1 and 2 (labeled Filing Office Copy (1) and (2)), with required fee, to filing office. Always detach Requestor Copy. Filing office may offer additional information options. Contact filing office or use form specially designed by filing office to obtain additional information options.

A. To assist filing officers that might wish to communicate with requestor, requestor may provide information in item A. This item is optional.

B. Enter name and address of requestor in item B. This item is NOT optional.

1. **Debtor name:** Enter only one Debtor name in item 1, an organization's name (1a) or an individual's name (1b). Enter Debtor's exact full legal name. Don't abbreviate.
  - 1a. **Organization Debtor.** "Organization" means an entity having a legal identity separate from its owner. A partnership is an organization; a sole proprietorship is not an organization, even if it does business under a trade name. If Debtor is a partnership, enter exact full legal name of partnership; you need not enter names of partners as additional Debtors. If Debtor is a registered organization (e.g., corporation, limited partnership, limited liability company), it is advisable to examine Debtor's current filed charter documents to determine Debtor's correct name, organization type, and jurisdiction of organization.
  - 1b. **Individual Debtor.** "Individual" means a natural person; this includes a sole proprietorship, whether or not operating under a trade name. Don't use prefixes (Mr., Mrs., Ms.). Use suffix box only for titles of lineage (Jr., Sr., III) and not for other suffixes or titles (e.g., M.D.). Use married woman's personal name (Mary Smith, not Mrs. John Smith). Enter individual Debtor's family name (surname) in Last Name box, first given name in First Name box, and all additional given names in Middle Name box.
 

For both organization and individual Debtors: Don't use Debtor's trade name, DBA, AKA, FKA, Division name, etc. in place of or combined with Debtor's legal name; you may add such other names as additional Debtors if you wish (but this is neither required nor recommended).
2. Information options relating to UCC filings and other notices on file in the filing office that include as a Debtor name the name identified in item 1. Please note that it is permissible to select an option in 2a and also check an option in 2b. Check the "CERTIFIED (Optional)" box appropriately in items 2a, 2b, or 2c.
  - 2a. Check appropriate box in item 2a; the box "ALL" if you are requesting a search of all active records, including lapsed filings, or the box "UNLAPSED" if you are requesting a search of only active records that have not lapsed.
  - 2b. Check appropriate box in item 2b to request copies of records appearing on the search response; the box "ALL" if you are requesting copies of all active records, including lapsed filings, or the box "UNLAPSED" if you are requesting copies of only active records that have not lapsed.
  - 2c. Complete item 2c if you are ordering copies of specific records by record number.
3. Some filing offices offer service options in addition to those offered in item 2. These may be shown on the face of this form or may otherwise be publicized by the particular filing office. **Caution:** if any of these additional service options introduces a search criterion (e.g., limiting search to named Debtor at an address in a specified city and state) that narrows the scope of the search, this may result in an incomplete search (that fails to list all filings against the named Debtor) and you may fail to learn information that might be of value to you.
4. Delivery Instructions: Unless otherwise instructed, filing office will mail information to the name and address in item B. If information will be picked up from the filing office, check the "Pick Up" box. Contact filing office concerning availability of other delivery options. For other than mail or pick up, check the "Other" box and specify the other delivery method that you are requesting. If requesting delivery service, provide delivery service's name and requestor's account number to bill for delivery charge. Filing office will not deliver by delivery service unless prepaid waybill or account number for billing is provided.

[Pa.B. Doc. No. 10-2286. Filed for public inspection November 24, 2010, 9:00 a.m.]

# HEALTH CARE COST CONTAINMENT COUNCIL

## Meeting Scheduled

The Health Care Cost Containment Council (Council) has scheduled the following meeting: Technical Advisory Group Teleconference, Tuesday, November 30, 2010, at 2 p.m.

The teleconference will be accessible from the conference room at the Council Office, 225 Market Street, Suite 400, Harrisburg, PA 17101. The public is invited to attend. Persons who need accommodations due to a disability and wish to attend the meeting should contact René Greenawalt, (717) 232-6787 at least 24 hours in advance so that arrangements can be made.

JOE MARTIN,  
*Executive Director*

[Pa.B. Doc. No. 10-2287. Filed for public inspection November 24, 2010, 9:00 a.m.]

# INDEPENDENT REGULATORY REVIEW COMMISSION

## Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b).

The Commission has issued comments on the following proposed regulations. The agencies must consider these comments in preparing the final-form regulation. The final-form regulations 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 Issues</i>
12-93	Department of Labor and Industry Responsibilities of Employers 40 Pa.B. 5179 (September 11, 2010)	10/12/10	11/12/10
16A-5613	State Real Estate Commission Education 40 Pa.B. 5195 (September 11, 2010)	10/12/10	11/12/10

Department of Labor and Industry  
**Regulation #12-93 (IRRC #2869)**  
**Responsibilities of Employers**  
**November 12, 2010**

We submit for your consideration the following comments on the proposed rulemaking published in the September 11, 2010 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Department of Labor and Industry (Department) to respond to all comments received from us or any other source.

**1. Section 63.25. Filing methods.—Reasonableness; Clarity.**

*Additional and suspended methods for filing documents*

Subsections (a) through (f) specify acceptable methods for filing documents. The requirements of these subsections establish a binding norm for both the regulated community and the Department. However, Subsection (g) (relating to Additional and suspended methods) allows the Department to prescribe additional filing methods and to suspend filing methods established in prior subsections. If the Department wants to change the filing methods and how filing dates will be determined, that must be done through the rulemaking process. Therefore, the Department should delete Subsection (g).

**2. Section 63.31. Applicability and definitions.—Need; Clarity.**

*Material change*

Subsection (c) defines the term “Material change.” In our review we were unable to find this term used in Sections 63.31—63.37, as amended. The Department should delete the definition or explain why it is needed. If the definition is needed, the specific meaning of the phrase “substantial reduction” is unclear. The Department should replace this phrase in the regulation with a quantifiable provision.

**3. Section 63.63. Agreement to compromise.—Clarity.**

*Filing method and required information*

Existing Subsection (a) provides specific information for filing an application. This provision is being amended to include the vague requirement to file “in the manner that the Department prescribes, and containing the information that the Department requires.” How can a person reading this provision know how to comply? We recommend amending this provision to provide clear direction on how to file the document and how the applicant will know what information to provide.

**State Real Estate Commission  
Regulation #16A-5613 (IRRC #2871)**

**Education**

**November 12, 2010**

We submit for your consideration the following comments on the proposed rulemaking published in the September 11, 2010 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the State Real Estate Commission (Real Estate Commission) to respond to all comments received from us or any other source.

**1. Section 35.201.—Definitions.—Clarity.**

*Accredited college*

The proposed regulation defines “accredited college” as an institution that is accredited by the Middle States Commission on Higher Education (Middle States) or “an equivalent accrediting body.” Who will determine and what criteria will be used to determine that an accrediting body is “equivalent” to Middle States? The final-form regulation should clarify these issues.

**2. Section 35.272.—Examination for salesperson’s license.—Clarity.**

Subsection (b) establishes certain standards the Real Estate Commission will use to determine whether examination candidates meet the necessary education requirements for licensure. Subsection (b)(2)(ii) permits credits offered by a provider “approved by the Commission,” but it does not explain the process for approval. We note that Section 35.341 of the existing regulation includes a process for approval of real estate education providers. To improve clarity, we recommend that the final-form regulation include a cross-reference to this section. The same concern applies to Sections 35.273(b)(2)(ii) and 35.275 (b)(2)(ii).

**3. Section 35.359.—Course documentation.—Fiscal impact; Implementation procedures; Clarity.**

Subsection (b) requires continuing education providers to provide, within 30 days after a course has ended, transcripts/certificates of instruction to each licensee who completed/taught the course. We raise three issues.

First, both the School Directors within the Pennsylvania Association of Realtors (School Directors) and Greater Harrisburg Association of Realtors and its related Realtors Institute (GHAR/GHRI) express concerns that this subsection does not specify whether these transcripts must be paper, or if an electronic version is acceptable. The School Directors also question whether these provisions will require a school seal on every transcript/certificate and an original signature. The final-form regulation should clarify these issues.

Second, both commentators also question the possible costs imposed by these provisions. If paper transcripts are required, commentators indicate that this will result in increased administrative and operating costs, with GHAR/GHRI estimating their costs to be approximately \$1500—\$2000 each continuing education cycle. However, the Real Estate Commission indicates in the Preamble that these transcripts will result in a “slight” fiscal impact on the regulated community. The Real Estate Commission should further explain how it determined the fiscal impact of the regulation in light of the cost estimates provided by commentators.

Finally, Subsection (b) states that these transcripts/certificates of instruction contain the information in existing Section 35.360(a)(5)(i)—(viii). However, Section 35.360 (a) also contains paragraph (ix), which requires that the transcript include: “the fact that the course will be accepted by the Commission towards fulfillment of the education requirement for either the real estate broker’s examination or real estate salesperson’s examination. . . .” Why doesn’t the cross-reference in Subsection 35.359(b) include a citation to paragraph (ix)? The final-form regulation should include this paragraph, or the Real Estate Commission should explain why it is not necessary.

**4. Section 35.385.—Continuing education providers.—Need; Clarity.**

Subsection (b) requires continuing education providers to comply with various standards for real estate education providers, and contains cross-references to existing provisions of Chapter 35, including references to specific subsections. Why does the Real Estate Commission intend for providers to comply with certain subsections rather than entire sections? The final-form regulation should clarify why the citations listed are the only references necessary.

ARTHUR COCCODRILLI,  
*Chairperson*

[Pa.B. Doc. No. 10-2288. Filed for public inspection November 24, 2010, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Application for the Merger of Capital City Insurance Company, Inc. with and into North Pointe Insurance Company

An application has been received requesting approval of the merger of Capital City Insurance Company, Inc., a stock casualty insurance company organized under the laws of the State of South Carolina, with and into North Pointe Insurance Company, a stock casualty insurance company organized under the laws of the Commonwealth of Pennsylvania. The filing was made under Article XIV of The Insurance Company Law of 1921 (40 P.S. §§ 991.1401—991.1413); 15 Pa.C.S. §§ 1921—1932 (relating to merger, consolidation, share exchanges and sale of assets) and the GAA Amendments Act of 1990 (15 P.S. §§ 21101—21208).

Persons wishing to comment on the merger are invited to submit a written statement to the Insurance Department (Department) within 14 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party; identification of the application to which the statement is addressed; and a concise statement with sufficient detail 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, cbybee@state.pa.us.

ROBERT L. PRATTER,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 10-2289. Filed for public inspection November 24, 2010, 9:00 a.m.]

### **Pennsylvania Contributionship Insurance Company; Homeowners Program; Rate Revision; Rate Filing**

On November 4, 2010, the Insurance Department (Department) received from Pennsylvania Contributionship Insurance Company a filing for a rate level change for homeowners insurance.

The company requests an overall 3.3% decrease amounting to \$821,000 annually, to be effective January 1, 2011, for new business and February 15, 2011, for renewal business.

Unless formal administrative action is taken prior to January 3, 2011, 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 Xiaofeng Lu, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [xlu@state.pa.us](mailto:xlu@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. 10-2290. Filed for public inspection November 24, 2010, 9:00 a.m.]

### **Review Procedure Hearings under the Unfair Insurance Practices Act**

The following insurer has requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with their company's termination of the insurer's policy. The hearing will be held in accordance with the requirements of the act; 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearing will be held in the Insurance Department's regional office in Harrisburg, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102.

Appeal of USAA Casualty Insurance Company; file no. 10-169-94269; Carolyn A. Hocker; Doc. No. P10-11-002; January 4, 2011, 9:30 a.m.

Parties may appear with or without counsel and offer relevant testimony and/or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons

participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Donna R. Fleischauer, Human Resources Director at (717) 705-4194.

ROBERT L. PRATTER,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 10-2291. Filed for public inspection November 24, 2010, 9:00 a.m.]

### **Review Procedure Hearings under the Unfair Insurance Practices Act**

The following insureds have requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with their companies' termination of the insureds' homeowner policy. The hearing will be held in accordance with the requirements of the act; 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearing will be held in the Insurance Department's regional office in Harrisburg, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102.

Appeal of Frank and Michelle Warner; file no. 10-183-95291; Metropolitan Direct Property & Casualty; Doc. No. P10-11-003; January 6, 2011, 10 a.m.

Parties may appear with or without counsel and offer relevant testimony and/or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

Following the hearing and receipt of the stenographic transcript, the Insurance Commissioner (Commissioner) will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Donna R. Fleischauer, Human Resources Director at (717) 705-4194.

ROBERT L. PRATTER,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 10-2292. Filed for public inspection November 24, 2010, 9:00 a.m.]

**Transamerica Life Insurance Company; Rate Increase Filing for Several Long-Term Care Policies**

Transamerica Life Insurance Company is requesting a 14% increase on several LTC forms. The increase will affect policies written by Transamerica Life Insurance Company as well as policies originally written by Transamerica Occidental Life Insurance Company and Life Investors Insurance Company of America. The increase will affect only policyholders with benefit periods of 6 or more years. The following forms will be affected by the increase:

Transamerica Life Insurance Company Forms: IP-70-PA-494, IP-71-PA-494, FP-70-PA-494, FP-71-PA-494, 6222 (PA) 289, LTC 2 (PA) 1290, LTC 3 (PA) 1091, LTC 3 (PA) 1091 (GR194), LTC 3 (PA) 1091 (GR195), LTC 3 (PA) 1091 (REV195), LTC 5 TQ NH (PA) 1096, LTC 5 TQ COM(PA) 1096, LTC 5 TQ NH (PA-FP) 1096 and LTC 5 TQ COM (PA-FP) 1096.

Life Investors Insurance Company of America Forms: GCPLUS 1290 (PA), GCPLUS 2 1290 (PA), GCPRO (PA) 193, GCPRO (PA-FR) 193, GCPRO (PA) 995, GCPRO (PA-FR) 995, GCPRO-II (PA) 794, GCPRO-II (PA-FR) 794, GCPRO-II (PA) 995, GCPRO-II (PA-FR) 995, KLTC 1 (PA) 490, LI-LTCP (PA) 192, LI-LTCP (PA) 195, LI-LTCP (PA-FR) 195, LI-LTCP TQ (PA) 898 and LI-LTCP TQ (PA-FR) 898.

Transamerica Occidental Life Insurance Company Forms: 1-812 44-190, 1-820 44-991, 1-822 44-991, LTC-104-194-PA, LTC-105-194-PA, LTC-106-194-PA, LTC 124-197-PA, LTC 224-197-PA, LTC125-197-PA, LTC 225-197-PA, LTC 126-197-PA, LTC 226-197-PA, LTC 304-198-PA and LTC 305-198-PA.

This increase will impact 1,118 policyholders in this Commonwealth.

Unless formal administrative action is taken prior to February 9, 2011, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance 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. 10-2293. Filed for public inspection November 24, 2010, 9:00 a.m.]

## PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY

### Financial Statement

Under section 207 of the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class (53 P. S. § 12720.207), the Pennsylvania Intergovernmental Cooperation Authority (Authority) is required to publish a "concise financial statement" annually in the *Pennsylvania Bulletin*. The Authority has issued its annual report for its fiscal year ended June 30, 2010, which includes an audit for this period performed in accordance with generally accepted auditing standards by an independent firm of certified public accountants. The complete annual report of the Authority may be obtained from the Authority's web site, [www.picapa.org](http://www.picapa.org) or at 1500 Walnut Street, Suite 1600, Philadelphia, PA 19102, (215) 561-9160.

URI Z. MONSON,  
*Executive Director*

**PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY**  
**STATEMENT OF NET ASSETS**  
**JUNE 30, 2010**

**ASSETS**

	<b>Governmental Activities</b>
Cash, cash equivalents and short-term investments:	
Held by trustee	\$121,764,489
Other	7,695,103
PICA taxes receivable	1,268,218
Accrued interest receivable	14,471
Other assets	2,868,455
	<b>\$133,610,736</b>

**LIABILITIES AND NET ASSETS (DEFICIT)**

<b>Liabilities:</b>	
Accounts payable and accrued expenses	\$ 214,860
Due to City of Philadelphia	7,287,255
Deferred revenue	1,970,000
Fair value of derivative instruments	3,757,651
Bonds payable	582,719,597
Total liabilities	<b>595,949,263</b>
<b>Net assets (deficit):</b>	
Restricted for debt service	77,028,536
Restricted for benefit of City of Philadelphia	21,567,734
Restricted for subsequent PICA administration	600,000
Unrestricted net assets (deficit)	(561,534,797)
Total net assets (deficit)	<b>(462,338,527)</b>
	<b>\$133,610,736</b>

The accompanying notes are an integral part of this statement.

**PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY**  
**STATEMENT OF ACTIVITIES**  
**YEAR ENDED JUNE 30, 2010**

	<u>Governmental Activities</u>
<b>Expenses:</b>	
Grants to City of Philadelphia	\$309,051,230
General management and support— general operations	877,070
Interest on long-term debt	20,805,603
Investment expenses	2,356,658
Amortization of bond costs	<u>2,897,684</u>
Total expenses	<u>335,988,245</u>
<b>Revenues:</b>	
PICA taxes	342,660,623
Amortization of bond premium	2,156,481
Investment income	3,939,620
Other	<u>11,885,282</u>
Total revenues	<u>360,642,006</u>
Change in net assets (deficit)	24,653,761
<b>Net assets (deficit)—Beginning of year</b>	
As previously reported	(\$439,781,360)
Cumulative effect of change in accounting principle	(45,240,928)
Prior period adjustment	<u>(1,970,000)</u>
As restated	<u>(486,992,288)</u>
Net assets (deficit)—end of year	<u><u>(\$462,338,527)</u></u>

The accompanying notes are an integral part of this statement.

PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY  
BALANCE SHEET-GOVERNMENTAL FUNDS  
June 30, 2010

	PICA Tax Revenue		Debit Service Funds		Debit Service Reserve Fund	Rebate Fund	Expendable Trust Funds		Total Governmental Funds
	General	2010	2010	2009			1993	1994	
<b>Assets</b>									
Cash, cash equivalents and short-term investments	\$ 22,278,324	\$ 6,017,499	\$ 3,420,354	\$ 71,851,017	\$ 1,989,462	\$ 16,733,161	\$ 1,496,660	\$ 129,459,592	
PICA Taxes receivable	1,268,218	1,538	287	2,018	-	-	-	1,268,218	
Accrued interest receivable	10,434	196	-	-	-	-	-	14,473	
Interfund receivable	-	-	-	-	-	-	-	-	
Other assets	30,891	-	-	-	-	-	-	30,891	
<b>Total Assets</b>	<b>\$ 22,319,649</b>	<b>\$ 7,287,255</b>	<b>\$ 3,420,641</b>	<b>\$ 71,853,035</b>	<b>\$ 1,989,462</b>	<b>\$ 16,733,161</b>	<b>\$ 1,496,660</b>	<b>\$ 130,773,174</b>	
<b>Liabilities and fund equity</b>									
Accounts payable	\$ 105,910	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 105,910	
Accrued payroll and taxes	108,930	-	-	-	-	-	-	108,930	
Due to the City of Philadelphia	-	7,287,255	-	-	-	-	-	7,287,255	
Deferred revenue	-	-	-	1,970,000	-	-	-	1,970,000	
Interfund payable	-	-	-	-	-	-	-	-	
<b>Total Liabilities</b>	<b>214,860</b>	<b>7,287,255</b>	<b>-</b>	<b>1,970,000</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>9,472,115</b>	
<b>Fund balances:</b>									
Unreserved	7,521,604	-	-	-	-	-	-	7,521,604	
Reserved for debt service of Philadelphia	-	2,335,398	3,420,641	69,283,035	1,989,462	-	-	77,028,536	
Reserved for subsequent PICA administration	1,342,844	-	-	-	-	-	1,496,660	22,910,578	
Designated for future swap option activity	-	-	-	-	-	-	-	600,000	
<b>Total fund balances</b>	<b>22,104,789</b>	<b>2,335,398</b>	<b>3,420,641</b>	<b>69,883,035</b>	<b>1,989,462</b>	<b>16,733,161</b>	<b>1,496,660</b>	<b>121,301,059</b>	
	\$ 22,319,649	\$ 7,287,255	\$ 3,420,641	\$ 71,853,035	\$ 1,989,462	\$ 16,733,161	\$ 1,496,660	\$ 130,773,174	

Amounts reported for governmental activities in the statement of net assets are different due to:

Long-term liabilities are not due and payable in the current period and therefore are not reported in the governmental funds statements	(533,945,000)
Fair value derivative instruments not reported in the governmental funds statements	(3,757,651)
Bond issuance costs are accrued and amortized in the governmental wide statements	3,824,643
Fiscal assets are depreciated in the governmental wide statements	12,919
Premium on bonds is reported in the governmental wide statements	(35,723,627)
<b>Net assets of governmental activities</b>	<b>\$ (462,338,577)</b>

The accompanying notes are an integral part of this statement



PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY  
STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE - GOVERNMENTAL FUNDS  
YEAR ENDED JUNE 30, 2010

	Council	PICA Tax Revenue			Debt Service Funds			Debt Service Reserve Fund	Relate Fund	Expendable Trust Funds Capital Projects Fund		Total Governmental Funds
		2010	2009	2008	2009	2008	2007			2009	2008	
<b>Revenues:</b>												
PICA Taxes	\$ 316,936	\$ 342,660,623	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 342,660,623
Investment income - net		18,568	287	-	-	-	1,262,703	-	-	-	-	1,281,271
Other		-	-	-	-	-	4,250,000	-	-	-	-	4,250,000
<b>Total revenues</b>	\$ 316,936	\$ 342,679,191	\$ 287	\$ -	\$ -	\$ -	\$ 5,512,703	\$ -	\$ -	\$ -	\$ -	\$ 348,191,894
<b>Expenditures:</b>												
Grants to the City of Philadelphia	\$ 23,000,000	\$ 274,476,439	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 9,031,482	\$ 243,210	\$ 283,751,131
Debt service:												
Principal	-	-	27,940,000	12,775,681	-	-	-	-	-	-	-	40,715,681
Interest	-	-	16,362,775	4,062,828	-	-	-	-	-	-	-	20,425,603
Other financing sources (uses) -												
Proceeds from debt issuance, excluding premium	-	-	981,615	-	-	-	-	-	-	-	-	981,615
Premium on bonds	-	-	-	-	-	-	-	-	-	-	-	-
Requirement of debt	-	-	-	-	-	-	-	-	-	-	-	-
Investment expenses	-	-	39,678,000	2,346,643	-	-	-	-	-	-	-	42,024,643
Operations	864,151	-	-	-	-	-	-	-	-	-	-	864,151
<b>Total expenditures</b>	\$ 23,864,151	\$ 274,476,439	\$ 40,666,815	\$ 18,673,167	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 9,031,482	\$ 243,210	\$ 322,987,934
<b>Excess of revenues over (under) expenditures</b>	\$ 8,072,785	\$ 68,202,752	\$ (40,666,419)	\$ (18,673,167)	\$ -	\$ -	\$ 5,512,703	\$ -	\$ -	\$ (9,031,482)	\$ (143,210)	\$ 65,303,660
<b>Other financing sources (uses) -</b>												
Proceeds from debt issuance, excluding premium	-	-	206,560,000	-	-	-	-	-	-	-	-	206,560,000
Premium on bonds	-	-	24,322,706	-	-	-	-	-	-	-	-	24,322,706
Requirement of debt	-	-	(190,538,319)	-	-	-	-	-	-	-	-	(190,538,319)
<b>Net operating transfers in (out)</b>	\$ 239,681	\$ (68,202,692)	\$ 2,328,430	\$ 18,272,248	\$ (29)	\$ -	\$ (7,668,929)	\$ -	\$ -	\$ -	\$ -	\$ 14,903,720
<b>Change in fund balance</b>	\$ 12,337,314	\$ -	\$ 2,335,396	\$ (242,899)	\$ (29)	\$ (29)	\$ (1,856,203)	\$ -	\$ -	\$ (9,031,482)	\$ (143,210)	\$ 12,337,314
<b>Fund balances, July 1, 2009</b>	\$ 39,562,333	\$ -	\$ 1,396,006	\$ 242,879	\$ 21	\$ -	\$ 21,273,318	\$ 1,989,462	\$ -	\$ 12,846,025	\$ 2,039,820	\$ 54,733,814
<b>Fund balances, June 30, 2010</b>	\$ 27,225,019	\$ -	\$ 2,335,396	\$ 3,420,641	\$ -	\$ -	\$ 60,881,035	\$ 1,989,462	\$ -	\$ 3,317,543	\$ 1,496,610	\$ 33,468,066

This accompanying notes are an integral part of these statements.

PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY  
 STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE - GOVERNMENTAL FUNDS  
 YEAR ENDED JUNE 30, 2010

<u>Reconciliation of change in fund balance to change in net assets:</u>	
Change in fund balance	\$ (24,677,299)
Repayment of bond principal is an expenditure in the governmental funds, but the repayment reduces long-term liabilities in the government wide statements	40,215,681
Bond premium is amortized over the life of bonds in the government wide statements but recognized when received in the governmental funds statements	2,156,481
Derivative valuation adjustment is recognized as a liability and an expense in the government wide statements	(3,757,651)
Derivative termination payment and valuation are accrued in the government wide statements	45,240,928
Depreciation on capitalized assets is recognized in the government wide statements	(12,919)
Previously deferred revenue on derivative instruments is recognized on termination of the contract in the government wide statements	11,885,282
Deferred revenue from forward delivery contract amortized in the government wide statements	(3,814,286)
Issuance of bonds is an increase in long term debt in the government wide statements	(206,960,000)
Refunding bonds is a decrease in long term debt in the government wide statements	190,539,319
Premium on 2010 bond issuance is deferred in government wide statements	(24,252,706)
Bond issuance costs paid and capitalized in government wide statements	988,615
Bond issuance costs are amortized in the government wide statements	<u>(2,897,684)</u>
Change in net assets	<u>\$ 24,653,761</u>

NOTICES

[Pa.B. Doc. No. 10-2294. Filed for public inspection November 24, 2010, 9:00 a.m.]

The accompanying notes are an integral part of this statement

# PENNSYLVANIA PUBLIC UTILITY COMMISSION

## Change in Control

**A-2010-2210326. T. W. Phillips Gas and Oil Company and LDC Holdings II, LLC.** Joint application for all of the authority and the necessary certificates of public convenience to transfer all of the issued and outstanding shares of capital stock of T. W. Phillips Gas and Oil Company, currently owned by TWP, Inc., to LDC Holdings II, LLC, an indirect subsidiary of SteelRiver Infrastructure Fund North America, LP, and to approve the resulting change in control of T. W. Phillips Gas and Oil Company.

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 December 13, 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:* T. W. Phillips Gas and Oil Company

*Through and By Counsel:* Michael W. Gang, Attorney, Michael W. Hassell, Attorney, David P. Zambito, Attorney, Christopher T. Wright, Attorney, Post & Schell, PC, 17 North Second Street, 12th Floor, Harrisburg, PA 17101-1601

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-2295. Filed for public inspection November 24, 2010, 9:00 a.m.]

## Corporate Restructuring

**A-2010-2210382. Full Service Computing Corporation, t/a Full Service Network and Full Service Network, LP.** Joint application of Full Service Computing Corporation, t/a Full Service Network and Full Service Network, LP for approval of a pro forma corporate restructuring.

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 December 13, 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:* Full Service Computing Corporation, t/a Full Service Network

*Through and By Counsel:* Deanne M. O'Dell, Esquire, Eckert Seamans Cherin & Mellott, LLC, 213 Market Street, 8th Floor, Harrisburg, PA 17101

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-2296. Filed for public inspection November 24, 2010, 9:00 a.m.]

## Pipeline Assets

**A-2010-2210236. UGI Utilities Corporation.** Application of UGI Utilities Corporation, Gas Division, for approval to acquire certain pipeline assets located in Northampton County, from the Hellertown Pipeline Company.

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 December 13, 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:* UGI Utilities Corporation

*Through and By Counsel:* Mark C. Morrow, Esquire, Melanie J. Tambolas, Esquire, 460 North Gulph Road, King of Prussia, PA 19406

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-2297. Filed for public inspection November 24, 2010, 9:00 a.m.]

## Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by December 13, 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 of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of persons by transfer of rights as described under the application.**

**A-2010-2176038. Saber Elnaggar** (2304 Walnut Street, Harrisburg, Dauphin County, PA 17303), for the right to begin to transport, as a common carrier, by motor

vehicle, persons upon call or demand, in the City of Harrisburg, and within an airline distance of 10 statute miles of the limits of said city, which is to be a transfer of all the rights authorized under the Certificate issued at A-00122535, to Erin E. Miranda, now known as AAAA Yellow Cab, LLC. *Attorney:* Craig A. Doll, Esquire, 25 West Second Street, Hummelstown, PA 17036.

*Pennsylvania Public Utility Commission, Bureau of  
Transportation and Safety v. Main Line Limousine, Inc.,  
t/a Elegante Limousine Service; C-2010-2180241,  
A-00108501*

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 Main Line Limousine, Inc., t/a Elegant Limousine Service, respondent, maintains its principal place of business at 41 Claremont Boulevard, Havertown, PA 19083.
2. That respondent was issued a certificate of public convenience by this Commission, for Limousine service, on October 11, 1989, at Application Docket No. A-00108501.
3. That on June 11, 2010, a driver vehicle compliance inspection was performed on respondent by Enforcement Officer Russell Harrison, a duly authorized officer of this Commission. During said inspection the driver log sheet from May 23, 2010, was found to be missing the notation of fares for trips provided.
4. That respondent, by failing to require its driver to record the number of passengers and fare collected for each trip, violated 52 Pa. Code § 29.313(c)(5). The proposed penalty is \$50.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Main Line Limousine, Inc., t/a Elegante Limousine Service, the sum of fifty dollars (\$50.00) for the illegal activity described in this complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_  
Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement  
Division  
Bureau of Transportation and Safety

NOTICE

A. You must file an Answer within twenty (20) days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An Answer is a written explanation of circumstances wished to be considered in determining the outcome. The Answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your Answer must be verified and the original and three (3) copies sent to:

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, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

C. You may elect not to contest this complaint by paying the fine proposed in this Complaint by certified check or money order. Payment must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of your payment, the complaint proceeding shall be closed.

D. If you file an Answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format of this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of  
Transportation and Safety v. Carol A. Deberardinis;  
Doc. No. C-2010-2192010*

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 Carol A. Deberardinis, t/a White Star Limousine Service, Respondent, maintains a principal place of business at 3831 Kelly Hollow Road, Monongahela, PA 15063.

2. That Respondent was issued a certificate of public convenience by this Commission on September 5, 2003, at Docket No. A-00119298, for limousine authority.

3. That, between December 1 and December 31 of 2006, 2007, 2008, and 2009, Respondent did not provide this Commission with a current list of all of his vehicles utilized under his limousine authority. The list must contain the year, make, vehicle identification number and registration number for each vehicle. It shall be mailed to: Director, Bureau of Transportation and Safety, PA Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105.

4. That, Respondent, by failing to provide this Commission with a current vehicle list, violated 52 Pa. Code § 29.333(d). The Bureau of Transportation and Safety Motor Carrier Services and Enforcement's Prosecutory Staff's proposed civil penalty for this violation is \$250.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Carol A. Deberardinis, t/a White Star Line Limousine Service the sum of two hundred and fifty dollars (\$250) for the illegal activity described in this complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

#### VERIFICATION

I, Wendy J. Keezel, 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 that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement  
Division  
Bureau of Transportation and Safety

#### NOTICE

A. You must file an answer within twenty 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 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 days, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. Pursuant to 66 Pa.C.S. § 3301(a), the penalty could include a fine of up to \$1,000 for each violation, the revocation of your Certificate of Public Convenience, or any other remedy as may be appropriate. Each day you continue to violate any regulation, direction, requirement, determination 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 paying the fine proposed in this Complaint by certified check or money order within twenty (20) days. Your certified check or money order should be payable to the Commonwealth of Pennsylvania and should be forwarded to:

Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of your payment, the complaint proceeding shall be closed.

D. If you file an answer which either admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request the Commission to issue a Secretarial Letter imposing a penalty (see Paragraph B). Should the Commission cancel your Certificate of Public Convenience, it may also impose an additional fine of up to \$1,000.

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 penalty set forth in this Complaint.

F. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at (717) 787-1227.

\_\_\_\_\_  
*Pennsylvania Public Utility Commission, Bureau of  
Transportation and Safety v. Host Services, LLC,  
t/a Host Limousine & Transportation;  
Doc. No. C-2010-2194070*

#### 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 Host Services, LLC, t/a Host Limousine & Transportation, Respondent, maintains a principal place of business at 555 Industrial Park Drive, Yeadon, PA 19050.

2. That Respondent was issued a certificate of public convenience by this Commission on July 24, 2008, at Docket No. A-649638, for limousine authority.

3. That, between December 1 and December 31 of 2008 and 2009, Respondent did not provide this Commission with a current list of all of its vehicles utilized under its limousine authority. The list must contain the year, make, vehicle identification number and registration number for each vehicle. It shall be mailed to: Director, Bureau of Transportation and Safety, PA Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105.

4. That, Respondent, by failing to provide this Commission with a current vehicle list, violated 52 Pa. Code § 29.333(d). The Bureau of Transportation and Safety Motor Carrier Services and Enforcement's Prosecutory Staff's proposed civil penalty for this violation is \$250.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Host Services, LLC, t/a Host Limousine & Transportation the sum of two hundred and fifty dollars (\$250) for the illegal activity described in this complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

#### VERIFICATION

I, Wendy J. Keezel, 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 that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement  
Division  
Bureau of Transportation and Safety

#### NOTICE

A. You must file an answer within twenty 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 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 days, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. Pursuant to 66 Pa.C.S. § 3301(a), the penalty could include a fine of up to \$1,000 for each violation, the revocation of your Certificate of Public Convenience, or any other remedy as may be appropriate. Each day you continue to violate any regulation, direc-

tion, requirement, determination 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 paying the fine proposed in this Complaint by certified check or money order within twenty (20) days. Your certified check or money order should be payable to the Commonwealth of Pennsylvania and should be forwarded to:

Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of your payment, the complaint proceeding shall be closed.

D. If you file an answer which either admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request the Commission to issue a Secretarial Letter imposing a penalty (see Paragraph B). Should the Commission cancel your Certificate of Public Convenience, it may also impose an additional fine of up to \$1,000.

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 penalty set forth in this Complaint.

F. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at (717) 787-1227.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-2298. Filed for public inspection November 24, 2010, 9:00 a.m.]

### **Wastewater Service**

**A-2010-2210320. Pennsylvania American Water Company—Wastewater Division.** Application of Pennsylvania American Water Company—Wastewater Division, for approval to offer, render, furnish or supply wastewater service to the public in a portion of South Coatesville Borough, Chester County.

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 December 13, 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:* Pennsylvania American Water Company—Wastewater Division

*Through and By Counsel:* Velma A. Redmond, Esquire, Susan Simms Marsh, Esquire, Seth A. Mendelsohn, Esquire, 800 West Hersheypark Drive, Hershey, PA 17033

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-2299. Filed for public inspection November 24, 2010, 9:00 a.m.]

# PHILADELPHIA REGIONAL PORT AUTHORITY

## Condensed Statement of Changes in Net Assets

June 30, 2010 and 2009  
AUDITED

	<i>Year to Date June 30, 2010</i>	<i>Year to Date June 30, 2009</i>
Total Revenues	\$ 8,949,207	\$ 7,070,460
Total Operating Expenses	\$ 27,389,900	\$ 25,271,069
Operating Gain (Loss)	\$ (18,440,693)	\$ (18,200,609)
Net Nonoperating Revenues(Expenses)	\$ 1,047,811	\$ 3,205,291
(Loss) Gain Before Capital Grants	\$ (17,392,882)	\$ (14,995,318)
Capital Grants and appropriations	\$ 129,708,810	\$ 78,965,703
Change in Net Assets	\$ 112,315,928	\$ 63,970,385
Net Assets, Beginning of Year	\$ 154,054,336	\$ 90,083,951
Net Assets, End of Year	\$ 266,370,264	\$ 154,054,336

JAMES T. MCDERMOTT, Jr.,  
*Executive Director*

[Pa.B. Doc. No. 10-2300. Filed for public inspection November 24, 2010, 9:00 a.m.]

## STATE BOARD OF NURSING

### Bureau of Professional and Occupational Affairs vs. Angela Cornelis O'Dell, LPN; Doc. No. 1594- 51-09

Angela Cornelis O'Dell, LPN, license no. PN-151642L, of Carlisle, Cumberland County, had the formal charges against her dismissed.

Individuals may obtain a copy of the adjudication by writing to C. William Fritz, II, Board Counsel, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the State Board of Nursing's (Board) final decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court, must serve the Board with a copy of their petition for review. The Board contact for receiving service of the appeals is the previously-named Board Counsel.

ANN L. O'SULLIVAN, PhD, FAAN, CRNP,  
*Chairperson*

[Pa.B. Doc. No. 10-2301. Filed for public inspection November 24, 2010, 9:00 a.m.]

## SUSQUEHANNA RIVER BASIN COMMISSION

### Projects Approved for Consumptive Uses of Water

The Susquehanna River Basin Commission (Commission) has approved the following list of projects, during October 1, 2010, through October 31, 2010.

For further information contact Richard A. Cairo, General Counsel, (717) 238-0423, Ext. 306, fax (717) 238-2436, rcairo@srbc.net; or Stephanie L. Richardson, Secretary to the Commission, (717) 238-0423, Ext. 304, fax (717) 238-2436, srichardson@srbc.net; or mail inquiries to Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, PA 17102-2391.

#### *Supplementary Information*

This notice lists the projects, described as follows, receiving approval for the consumptive use of water under the Commission's approval by rule process set forth in 18 CFR 806.22(e) and (f) (relating to standards for consumptive uses of water) for the time period specified previously:

#### *Approvals By Rule Issued Under 18 CFR 806.22(e):*

1. Hydro Recovery, LP, Pad ID: Treatment Facility, ABR-201010061, Blossburg Borough, Tioga County, PA; Consumptive Use of up to 0.100 mgd; Approval Date: October 21, 2010.

#### *Approvals By Rule Issued Under 18 CFR 806.22(f):*

1. XTO Energy Incorporated, Pad ID: Levan 8526H, ABR-201010001, Pine Township, Columbia County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: October 1, 2010.

2. East Resources Management, LLC, Pad ID: Kindon 374, ABR-201010002, Union Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: October 4, 2010.
3. Chesapeake Appalachia, LLC, Pad ID: Lomoreview Farms, ABR-201010003, Leroy Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: October 4, 2010.
4. Chesapeake Appalachia, LLC, Pad ID: Hopson, ABR-201010004, Asylum Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: October 4, 2010.
5. Chesapeake Appalachia, LLC, Pad ID: Scrivener, ABR-201010005, Rome Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: October 4, 2010.
6. East Resources Management, LLC, Pad ID: Red Run Mountain, Inc. 739, ABR-201010006, McIntyre Township, Lycoming County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: October 5, 2010.
7. Ultra Resources, Inc., Pad ID: State 814, ABR-201010007, Elk Township, Tioga County, PA; Consumptive Use of up to 4.990 mgd; Approval Date: October 6, 2010, including a partial waiver of 18 CFR 806.15.
8. Talisman Energy USA, Inc., Pad ID: 05 056 Miller, ABR-201010008, Warren Township, Bradford County, PA; Consumptive Use of up to 6.000 mgd; Approval Date: October 6, 2010.
9. Chesapeake Appalachia, LLC, Pad ID: Craige, ABR-201010009, Rush Township, Susquehanna County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: October 7, 2010.
10. East Resources Management, LLC, Pad ID: Heuer 701, ABR-201010010, Union Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: October 7, 2010.
11. East Resources Management, LLC, Pad ID: Heath 418, ABR-201010011, Delmar Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: October 7, 2010.
12. Talisman Energy USA, Inc., Pad ID: 05 064 Manchester K, ABR-201010012, Orwell Township, Bradford County, PA; Consumptive Use of up to 6.000 mgd; Approval Date: October 7, 2010.
13. East Resources Management, LLC, Pad ID: Redl 600, ABR-201010013, Sullivan Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: October 7, 2010.
14. East Resources Management, LLC, Pad ID: East Point Fish & Game Club 726, ABR-201010014, Liberty Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: October 8, 2010.
15. Chesapeake Appalachia, LLC, Pad ID: Yvonne, ABR-201010015, Rush Township, Susquehanna County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: October 8, 2010.
16. Chesapeake Appalachia, LLC, Pad ID: Goll, ABR-201010016, Ulster Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: October 12, 2010.
17. Williams Production Appalachia, LLC, Pad ID: Hollenbeck ABR, ABR-201010017, Franklin Township, Susquehanna County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: October 12, 2010.
18. Southwestern Energy Production Company, Pad ID: Daniels Pad, ABR-201010018, Gibson Township, Susquehanna County, PA; Consumptive Use of up to 4.990 mgd; Approval Date: October 12, 2010.
19. Chesapeake Appalachia, LLC, Pad ID: Landmesser, ABR-201010019, Towanda Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: October 12, 2010.
20. Chesapeake Appalachia, LLC, Pad ID: Field, ABR-201010020, Cherry Township, Sullivan County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: October 12, 2010.
21. Talisman Energy USA, Inc., Pad ID: 05 040 Cook, ABR-201010021, Orwell Township, Bradford County, PA; Consumptive Use of up to 6.000 mgd; Approval Date: October 13, 2010.
22. Chesapeake Appalachia, LLC, Pad ID: Millville, ABR-201010022, Fox Township, Sullivan County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: October 13, 2010.
23. East Resources Management, LLC, Pad ID: Signor 578, ABR-201010023, Charleston Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: October 13, 2010.
24. Talisman Energy USA, Inc., Pad ID: 05 070 Corbin T, ABR-201010024, Orwell Township, Bradford County, PA; Consumptive Use of up to 6.000 mgd; Approval Date: October 13, 2010.
25. Chesapeake Appalachia, LLC, Pad ID: Sidonio, ABR-201010025, Ulster Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: October 14, 2010.
26. Talisman Energy USA, Inc., Pad ID: 05 022 DeCristo, ABR-201010026, Warren Township, Bradford County, PA; Consumptive Use of up to 6.000 mgd; Approval Date: October 14, 2010.
27. Talisman Energy USA, Inc., Pad ID: 05 029 Neville, ABR-201010027, Warren Township, Bradford County, PA; Consumptive Use of up to 6.000 mgd; Approval Date: October 14, 2010.
28. East Resources Management, LLC, Pad ID: Harman 565, ABR-201010028, Charleston Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: October 15, 2010.
29. East Resources Management, LLC, Pad ID: Hudson 575, ABR-201010029, Charleston Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: October 15, 2010.
30. East Resources Management, LLC, Pad ID: Dietz 490, ABR-201010030, Richmond Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: October 15, 2010.
31. Southwestern Energy Production Company, Pad ID: Behrend Pad, ABR-201010031, Herrick Township, Bradford County, PA; Consumptive Use of up to 4.990 mgd; Approval Date: October 18, 2010.
32. Talisman Energy USA, Inc., Pad ID: 05 129 Upham R, ABR-201010032, Pike Township, Bradford County, PA; Consumptive Use of up to 6.000 mgd; Approval Date: October 18, 2010.
33. Talisman Energy USA, Inc., Pad ID: 05 118 Allyn A, ABR-201010033, Warren Township, Bradford County, PA; Consumptive Use of up to 6.000 mgd; Approval Date: October 18, 2010.



34. Talisman Energy USA, Inc., Pad ID: 05 034 Jones, ABR-201010034, Pike Township, Bradford County, PA; Consumptive Use of up to 6.000 mgd; Approval Date: October 18, 2010.

35. Ultra Resources, Inc., Pad ID: State 841, ABR-201010035, Elk Township, Tioga County, PA; Consumptive Use of up to 4.990 mgd; Approval Date: October 19, 2010, including a partial waiver of 18 CFR 806.15.

36. Ultra Resources, Inc., Pad ID: State 827, ABR-201010036, Elk Township, Tioga County, PA; Consumptive Use of up to 4.990 mgd; Approval Date: October 19, 2010, including a partial waiver of 18 CFR 806.15.

37. Ultra Resources, Inc., Pad ID: State 820, ABR-201010037, Gaines Township, Tioga County, PA; Consumptive Use of up to 4.990 mgd; Approval Date: October 19, 2010, including a partial waiver of 18 CFR 806.15.

38. Ultra Resources, Inc., Pad ID: State 818, ABR-201010038, Elk Township, Tioga County, PA; Consumptive Use of up to 4.990 mgd; Approval Date: October 19, 2010, including a partial waiver of 18 CFR 806.15.

39. Ultra Resources, Inc., Pad ID: State 816, ABR-201010039, Elk Township, Tioga County, PA; Consumptive Use of up to 4.990 mgd; Approval Date: October 19, 2010, including a partial waiver of 18 CFR 806.15.

40. East Resources Management, LLC, Pad ID: Westbrook 487, ABR-201010040, Richmond Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: October 19, 2010.

41. East Resources Management, LLC, Pad ID: Berguson 622, ABR-201010041, Covington Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: October 19, 2010.

42. East Resources Management, LLC, Pad ID: Zimmer 586, ABR-201010042, Covington Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: October 19, 2010.

43. East Resources Management, LLC, Pad ID: Stevens 413, ABR-201010043, Delmar Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: October 19, 2010.

44. Chesapeake Appalachia, LLC, Pad ID: Folta, ABR-201010044, Tuscarora Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: October 19, 2010.

45. Talisman Energy USA, Inc., Pad ID: 05 097 Hartnett, ABR-201010045, Warren Township, Bradford County, PA; Consumptive Use of up to 6.000 mgd; Approval Date: October 19, 2010.

46. Talisman Energy USA, Inc., Pad ID: 05 015 Warner, ABR-201010046, Stevens Township and Pike Township, Bradford County, PA; Consumptive Use of up to 6.000 mgd; Approval Date: October 19, 2010.

47. Ultra Resources, Inc., Pad ID: State 842, ABR-201010047, Elk Township, Tioga County, PA; Consumptive Use of up to 4.990 mgd; Approval Date: October 19, 2010, including a partial waiver of 18 CFR 806.15.

48. Ultra Resources, Inc., Pad ID: State 843, ABR-201010048, Elk Township, Tioga County, PA; Consumptive Use of up to 4.990 mgd; Approval Date: October 19, 2010, including a partial waiver of 18 CFR 806.15.

49. Chesapeake Appalachia, LLC, Pad ID: Gemm, ABR-201010049, Litchfield Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: October 19, 2010.

50. Chesapeake Appalachia, LLC, Pad ID: Phillips, ABR-201010050, Elkland Township, Sullivan County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: October 19, 2010.

51. Chesapeake Appalachia, LLC, Pad ID: Grant, ABR-201010051, Smithfield Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: October 20, 2010.

52. East Resources Management, LLC, Pad ID: Schimmel 828, ABR-201010052, Farmington Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: October 19, 2010.

53. East Resources Management, LLC, Pad ID: Parsons 613, ABR-201010053, Delmar Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: October 19, 2010.

54. East Resources Management, LLC, Pad ID: Signor 566, ABR-201010054, Charleston Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: October 19, 2010.

55. East Resources Management, LLC, Pad ID: Smithgall 293, ABR-201010055, Charleston Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: October 20, 2010.

56. Chesapeake Appalachia, LLC, Pad ID: Tall Maples, ABR-201010056, Elkland Township, Sullivan County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: October 20, 2010.

57. Chesapeake Appalachia, LLC, Pad ID: Tama, ABR-201010057, North Towanda Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: October 20, 2010.

58. EQT Production Co., Pad ID: Phoenix H, ABR-201010058, Morris Township, Tioga County, PA; Consumptive Use of up to 3.000 mgd; Approval Date: October 20, 2010.

59. Williams Production Appalachia, LLC, Pad ID: Resource Recovery Well Pad 1, ABR-201010059, Snow Shoe Township, Centre County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: October 21, 2010.

60. Williams Production Appalachia, LLC, Pad ID: Resource Recovery Well Pad 3, ABR-201010060, Snow Shoe Township, Centre County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: October 21, 2010.

61. Chesapeake Appalachia, LLC, Pad ID: Abel, ABR-201010062, Shrewsbury Township, Sullivan County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: October 25, 2010.

62. Talisman Energy USA, Inc., Pad ID: 05 031 Smolko, ABR-201010063, Pike Township, Bradford County, PA; Consumptive Use of up to 6.000 mgd; Approval Date: October 27, 2010.

63. Chesapeake Appalachia, LLC, Pad ID: Shores, ABR-201010064, Sheshequin Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: October 27, 2010.

64. Chesapeake Appalachia, LLC, Pad ID: Juser, ABR-201010065, Rush Township, Susquehanna County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: October 29, 2010.

65. Chesapeake Appalachia, LLC, Pad ID: Drake, ABR-201010066, Litchfield Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: October 28, 2010.

66. Chief Oil & Gas, LLC, Pad ID: Smith Drilling Pad No. 1, ABR-201010067, Franklin Township, Bradford County, PA; Consumptive Use of up to 2.000 mgd; Approval Date: October 29, 2010.

67. Chief Oil & Gas, LLC, Pad ID: B & B Investment Group Drilling Pad No. 1, ABR-201010068, Asylum Township, Bradford County, PA; Consumptive Use of up to 2.000 mgd; Approval Date: October 29, 2010.

68. Chief Oil & Gas, LLC, Pad ID: Boileau Drilling Pad No. 1, ABR-201010069, Goshen Township, Clearfield County, PA; Consumptive Use of up to 2.000 mgd; Approval Date: October 29, 2010.

69. XTO Energy Incorporated, Pad ID: PA Tract 8546H, ABR-201010070, Chapman Township, Clinton County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: October 29, 2010.

*Authority:* Pub. L. No. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806—808.

Dated: November 10, 2010.

PAUL O. SWARTZ,  
*Executive Director*

[Pa.B. Doc. No. 10-2302. Filed for public inspection November 24, 2010, 9:00 a.m.]

### Public Hearing and Commission Meeting

The Susquehanna River Basin Commission (Commission) will hold a public hearing as part of its regular business meeting on December 16, 2010, at 8:30 a.m., at the Hilton Garden Inn Aberdeen, 1050 Beards Hill Road, Aberdeen, MD 21001. At the public hearing, the Commission will consider: 1) action on certain water resources projects; 2) compliance matters involving two projects; and 3) the rescission of a docket approval. Details concerning the matters to be addressed at the public hearing and business meeting are contained in the Supplementary Information section of this notice.

For further information contact Richard A. Cairo, General Counsel, (717) 238-0423, Ext. 306, fax (717) 238-2436, rcairo@srbc.net; or Stephanie L. Richardson, Secretary to the Commission, (717) 238-0423, Ext. 304, fax (717) 238-2436, srichardson@srbc.net.

#### *Supplementary Information*

In addition to the public hearing and its related action items identified as follows, the business meeting also includes actions or presentations on the following items: 1) presentations on Climate Change Initiatives to Protect the Chesapeake Bay; 2) hydrologic conditions in the basin; 3) FY-2012 funding of the Susquehanna Flood Forecast and Warning System; 4) ratification/approval of grants/contracts; 5) a Record Retention and Destruction Policy; 6) the FY-2010 Audit Report; 7) a proposed FY-2011 Capital Budget; 8) acquisition of new headquarters facilities; 9) a recommendation for new independent auditors; and 10) amendment of Commission By-Laws. The Commission will also hear Legal Counsel's report.

#### *Public Hearing—Compliance Matters*

1. Project Sponsor: Chesapeake Appalachia, LLC. Withdrawal ID: Susquehanna River—Hicks (Doc. No. 20091201), Great Bend Township, Susquehanna County, PA.

2. Project Sponsor: J-W Operating Company. Pad ID: Pardee & Curtin Lumber Co. C-12H, Shippen Township, Cameron County, PA.

#### *Public Hearing—Projects Scheduled for Action*

1. Project Sponsor and Facility: Anadarko E & P Company, LP (Pine Creek—3), Watson Township, Lycoming County, PA. Application for surface water withdrawal of up to 0.720 mgd.

2. Project Sponsor: Aqua Pennsylvania, Inc. Project Facility: Monroe Manor Water System, Monroe Township, Snyder County, PA. Application for groundwater withdrawal of up to 0.415 mgd from Well 6.

3. Project Sponsor and Facility: East Resources Management, LLC (Cowanesque River), Westfield Township, Tioga County, PA. Application for surface water withdrawal of up to 0.375 mgd.

4. Project Sponsor and Facility: EXCO Resources (PA), LLC (West Branch Susquehanna River), Curwensville Borough, Clearfield County, PA. Application for surface water withdrawal of up to 2.000 mgd.

5. Project Sponsor: Hughesville-Wolf Township Joint Municipal Authority. Project Facility: Wastewater Treatment Plant, Wolf Township, Lycoming County, PA. Application for withdrawal of treated wastewater effluent of up to 0.249 mgd.

6. Project Sponsor and Facility: Leonard and Jean Marie Azaravich (Meshoppen Creek), Springville Township, Susquehanna County, PA. Application for surface water withdrawal of up to 0.249 mgd.

7. Project Sponsor and Facility: LHP Management, LLC (Fishing Creek—Clinton Country Club), Bald Eagle Township, Clinton County, PA. Modification to increase surface water withdrawal up to 0.999 mgd (Doc. No. 20090906).

8. Project Sponsor and Facility: Linde Corporation (Lackawanna River), Fell Township, Lackawanna County, PA. Application for surface water withdrawal of up to 0.905 mgd.

9. Project Sponsor and Facility: Peoples Financial Services Corp. (Tunkhannock Creek), Tunkhannock Township, Wyoming County, PA. Application for surface water withdrawal of up to 0.990 mgd.

10. Project Sponsor and Facility: Ultra Resources, Inc. (Pine Creek), Pike Township, Potter County, PA. Modification to increase surface water withdrawal up to 1.170 mgd (Doc. No. 20090332).

#### *Public Hearing—Projects Scheduled for Rescission Action*

1. Project Sponsor and Facility: Anadarko E & P Company LP (Pine Creek) (Doc. No. 20090304), Cummings Township, Lycoming County, PA.

#### *Opportunity to Appear and Comment*

Interested parties may appear at the previously listed hearing to offer written or oral comments to the Commission on any matter on the hearing agenda, or at the business meeting to offer written or oral comments on other matters scheduled for consideration at the business meeting. The chair of the Commission reserves the right to limit oral statements in the interest of time and to otherwise control the course of the hearing and business meeting. Written comments may also be mailed to the Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, PA 17102-2391; or submitted electronically to Richard A. Cairo, General Counsel, rcairo@srbc.net; or Stephanie L. Richardson, Secretary to

## NOTICES

the Commission, srichardson@srbc.net. Comments mailed or electronically submitted must be received prior to December 10, 2010, to be considered.

*Authority:* Pub. L. No. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806—808

Dated: November 15, 2010.

PAUL O. SWARTZ,  
*Executive Director*

[Pa.B. Doc. No. 10-2303. Filed for public inspection November 24, 2010, 9:00 a.m.]

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# RULES AND REGULATIONS

## Title 7—AGRICULTURE

### DEPARTMENT OF AGRICULTURE

#### [ 7 PA. CODE CHS. 28 AND 28a ]

#### Commercial Kennel Canine Health Regulation

The Department of Agriculture (Department) rescinds Chapter 28 and adopts Chapter 28a (relating to commercial kennel canine health regulations) to read as set forth in Annex A.

#### *Statutory Authority*

The Department adopts this final-form rulemaking under the Dog Law (act) (3 P. S. §§ 459-101—459-1205) and the specific authority in sections 221(g) and 902 of the act (3 P. S. §§ 459-221(g) and 459-902).

The Canine Health Board (Board), created under section 221 of the act, issued temporary guidelines published at 39 Pa.B. 310 (January 17, 2009). As required by section 221(g) of the act, those temporary guidelines were published by the Department as a proposed rulemaking at 39 Pa.B. 5315 (September 12, 2009).

More specifically, section 221(f) of the act charges the Board and the Department with the duty to determine standards and promulgate regulations to provide for the health and well being of dogs in the specific areas of ventilation, auxiliary ventilation, humidity and ammonia levels, lighting and flooring in commercial kennels as set forth in section 207(h)(6)—(8) and (i)(3) of the act (3 P. S. §§ 459-207(h)(6)—(8) and (i)(3)) and section 221(f) of the act.

The Department, under its general authority in section 902 of the act and under the specific duty and authority in section 221(g) of the act, adopts Chapter 28a.

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

The final-form rulemaking is required to effectuate the edicts of the act and the duty of the Board and the Department to determine and establish standards, based on animal husbandry practices, to provide for the welfare of dogs under sections 207(h)(7) and (8) and (i)(3) and 221(f) of the act. The final-form rulemaking establishes standards for ventilation, auxiliary ventilation, humidity and ammonia levels, delineates lighting requirements for either natural or artificial lighting, or both, requires carbon monoxide detectors in some commercial kennels and sets forth the flooring standards required by the act, as well as establishing parameters for additional flooring options. The standards are based on consultation, input and verification from experts such as engineers that design and build kennel housing facilities, architects, animal scientists from the Pennsylvania State University (PSU) and veterinarians from the Board and the Department. The Department also consulted the minutes of Board meetings, did its own research and relied upon animal, including canine, health studies. In addition, the Department met or had discussions with a group of kennel owners from the Pennsylvania Professional Dog Breeders Association and their lobbyist, the president and CEO of the American Canine Association and a senior field representative from the American Kennel Club (AKC).

#### *Comment and Response*

The final comment and response document is over 400 pages in length. Therefore, the Department set the

comment and response document forth as a separate document, as it would have been impossible to include it in this preamble. The comment and response document is posted on the Department's web site and will be sent to interested persons upon written request.

#### *Summary of Overall Changes*

The major features of and changes to the final-form rulemaking are summarized as follows.

The Department agrees that the Board crafted guidelines, promulgated as a proposed rulemaking by the Department with the intent to insure the health and welfare of dogs housed in commercial kennels, including that the kennels remained "sufficiently ventilated at all times when dogs are present" to "determine auxiliary ventilation to be provided" if the air temperature reaches or exceeds 85° Fahrenheit, provide for proper humidity and ammonia levels, delineate proper lighting ranges and establish dog health criteria for alternative flooring options. However, in the final-form rulemaking, the Department made changes to the format and substance of the standards established by the Board.

First, the Department reorganized the final-form rulemaking by breaking it into sections that reflect specific areas of authority granted by the act, namely ventilation, auxiliary ventilation, humidity levels, ammonia levels, lighting and flooring. This was done to provide more clarity to the reviewing entities and to provide clarity to the regulated community.

Second, the Department made substantive changes to the ventilation provisions. Although based on the work done by the Board, the measurement standards have been amended. In its consultations with engineers and architects, all of whom design kennel facilities, those experts confirmed that mechanical ventilation systems were necessary to assure the proper ventilation levels in kennel facilities. The proper levels were determined by the research done by the Board and additional research done by the Department in drafting the final-form rulemaking. The research included additional discussions with engineers and architects that design and build kennel facilities, consultations with animal scientists, a meeting with an AKC senior field representative and information and input from Board and Department veterinarians.

The Department, in the final-form rulemaking, no longer requires a measurement of "air changes per hour," but instead requires a measurement of cubic feet per minute (CFM) per dog. Air changes per hour have been replaced by CFM per dog and standards and measuring tools for the CFM per dog standard are quite specific and have been added to final-form § 28a.2(b) and (f) (relating to ventilation).

The change to CFM per dog is consistent with comments submitted by Dr. Kephart of PSU and discussions and consultations with Dr. Mikesell and Dr. Kephart as well as discussions and consultations with engineers from Learned Design and Paragon Engineering Services. Additionally, standards regarding circulation of the air, minimum fresh air rates and filtration have been established in subsection (f) of the final-form regulation. Final-form § 28a.2(b) entails information the Department requires of the kennel owner. The information requested is directly related to and provides verification of compliance with the ventilation and air circulation standards in § 28a.2 and

the auxiliary ventilation, humidity and ammonia level provisions in final-form §§ 28a.3—28a.5 (relating to auxiliary ventilation; humidity levels; and ammonia levels).

Because of the restructuring of the final-form rulemaking, many of the provisions in § 28a.2 have been moved, modified or deleted.

In addition, the provision in § 28a.2(i) requiring 100% fresh air has been deleted from the final-form rulemaking. Although 100% fresh air circulation is not prohibited by the final-form rulemaking, the change to this subsection was made after consultations with the engineers and architects that design kennel buildings revealed that a 100% fresh air exchange rate in this Commonwealth would make it too expensive and difficult to heat or cool the kennel housing facility, not allow for recapture of heated or cooled air and not allow for proper humidity control in the kennel housing facility. The ventilation standards now established in the final-form rulemaking are more easily measured and verified, continued to account for the health and safety of dogs housed in commercial kennels and require or allow kennel owners to increase or reduce the air circulation in a kennel based on the number of dogs housed in the kennel facility.

There are two general reasons behind these changes. First, CFM per dog is much more easily measured and verified and more objective in nature. As set forth in the final-form rulemaking, compliance will be based on CFM information on the ventilation equipment, certification from an engineer or architect that installed or inspected the equipment and information supplied by the kennel owner and verified by a professional engineer, such as the cubic feet of each area of the kennel housing facility in which dogs are housed and the number of dogs housed or able to be housed in each area of the kennel housing facility. Second, CFM per dog will require and allow kennel owners to design their ventilation systems to have the total capacity required to assure circulation of the proper amount of air required by the final-form rulemaking for the total number of dogs able to be housed in the kennel housing facility. It will then allow the kennel operator to utilize only that capacity necessary to achieve the required circulation for the number of dogs housed or kept in the kennel facility. In other words, the system will be easier to design, ventilation rates will be more specific and easier to verify and the system will be less costly to operate. While still requiring the system to be designed to account for the maximum number of dogs the kennel owner will have in the kennel housing facility, it will allow the kennel owner to utilize less of the total capacity of the system if dog numbers decrease. This not only lowers operation costs, but also sets a proper standard to assure dogs are not subjected to a circulation standard that is too strong or unable to be enforced. It is a more objective standard, easier to measure and verify and fairer and less costly to operate, as the total CFM rate will increase and decrease based on the number of dogs.

A one-time certification, by a professional engineer, of the ventilation, auxiliary ventilation and humidity system to be utilized is required by the final-form rulemaking. This requirement allows the kennel owner and the Department to assure the required standards can and will be met by the operating system and does not require or rely upon measurements or assessments made by nonengineers such as the kennel owner or State dog wardens.

The illness standards established under the ventilation provisions in the final-form rulemaking have also been changed from the proposed rulemaking. Proposed

§ 28a.2(9), regarding conditions in dogs that were signs of illness and stress, has been modified in the final-form rulemaking. The corresponding provisions in the final-form rulemaking are in § 28a.2(h).

The Department discussed these issues with animal scientists from PSU as well as with Department and Board veterinarians. The number and type of conditions in dogs that may denote poor ventilation has been reduced and are consistent with the suggestions of the experts consulted. In addition, the signs of stress or illness trigger an investigation of the ventilation, air circulation, humidity levels, heat index (HI) values and ammonia levels in the area or room of the kennel where those signs exist in dogs. If the investigation reveals problems in those areas, then proper enforcement action may be taken by the Department. However, the mere existence of the signs of stress or illness does not in and of itself constitute a violation of this final-form rulemaking.

The type of conditions in dogs and the illnesses or signs of stress listed are all associated with conditions that veterinarians have asserted can result from poor ventilation, air circulation, humidity, heat stress or ammonia or carbon monoxide levels that are not within the ranges established by the final-form rulemaking. For instance, respiratory distress can be associated with humidity, temperature levels or ammonia levels that are too high as well as insufficient air circulation or auxiliary ventilation. Section 28a.2(h)(2) sets forth the signs associated with heat distress or heat stroke, which again denotes insufficient air circulation, auxiliary ventilation or humidity level controls, or both, in that part of the kennel facility. Matted, puffy, red or crusted eyes and listlessness can be associated with high ammonia or high carbon monoxide levels. Fungal and skin disease can denote improper humidity control in the kennel facility.

Third, the final-form rulemaking no longer requires the reduction of ambient temperature levels in commercial kennels. Although the implementation and use of temperature reducing air conditioning systems is still allowed and preferable, the Department, after viewing the comments submitted by the Office of Attorney General, Independent Regulatory Review Commission (IRRC) and the House and Senate Agricultural and Rural Affairs Committees (House and Senate Committees) regarding requiring ambient air temperature reduction when kennel housing facilities exceeded 85° Fahrenheit, decided to utilize the absolute authority in the act to regulate humidity levels and thereby assure a proper environment. The authority to regulate humidity levels is absolute. The humidity levels established in the final-form rulemaking are based on animal husbandry and scientific information regarding dog survivability and safety and HI levels. The rationale for the approach and support for the levels established in the final-form rulemaking is in previous answers to comments and hereafter.

Without temperature control, the Department sought to ascertain the proper humidity levels and auxiliary ventilations standards that would assure the health, safety and welfare of dogs confined to kennels when temperatures rise above 85° Fahrenheit. Kennel owners and others have asserted in their comments that their kennel buildings can be made to “feel cooler” through the use of additional air circulation/ventilation or the mere increase of fan speed and the amount of air being pulled through the kennel building. However, science does not support this comment or conclusion.

The Department, with the assistance of engineers and Department and Board veterinarians and research provided by Dr. Karen Overall of the Board, reviewed HI values for cattle, swine, poultry and humans. Those values show that all of those animals are in a danger zone once temperatures rise above 85° Fahrenheit if there is not a correlated reduction in humidity levels. The reason for this is supported by the physiology of cooling. Humans, cattle and equine cool their internal body temperatures by perspiring, which is the most efficient cooling mechanism. Dogs and swine do not have sweat glands over a majority of their body and do not perspire. Dogs cool their internal body temperatures mostly through panting, with a minimum amount of cooling provided by perspiring through the pads on their feet. However, perspiring or panting in and of itself does not result in the cooling of the body. For the cooling effect to occur the perspiration or moisture, whether it is a human, cow or on the tongue of the dog, has to be evaporated. On a humid day or in a humid environment, there is already a lot of moisture in the air and the evaporative process is either less efficient or does not take place and the internal body temperature continues to rise.

In sum, a cooling effect cannot be provided by simply increasing the amount of humid air flowing over the body of a dog or other animal. Pulling already moist and humid air over the body does not and will not allow for the evaporation of perspiration and will not provide a cooling of the body. The result is that when temperatures rise above 85° Fahrenheit, humidity levels shall be controlled to attain an HI value that will assure the health, safety and welfare of dogs confined in kennels. The HI charts in Appendix A evidence that value should be set at a maximum HI of 85° Fahrenheit (85 HI).

Finally, the Department, with the assistance of Board member Dr. Overall and along with Department veterinarians reviewed, found a dog study that established "survivability" levels for confined dogs. The study, which is included with the comment and response document, sets forth evidence that beagle dogs cannot survive for more than 6 hours at maximum HI values of between 100°—106° Fahrenheit. The study goes further to conclude the relative humidity values in the study should be reduced by 20% to assure the welfare and safety of dogs. The final-form rulemaking allows a 4-hour window (consistent with Federal animal welfare regulations standards) for kennel owners to reduce the humidity levels in their kennels to attain the required HI value of 85. However, during that 4 hour window, the HI value must never go above 90° Fahrenheit (90 HI). The maximum HI value to ensure survivability and safety, the latter requiring the recommended 20% reduction in humidity levels from the study's maximum values, is 95—98 HI. However, this is tempered by the Tufts Animal Condition and Care (TACC) criteria, specifically the TACC Weather Safety Scale, authored in 1998 by Dr. Gary Patronek, then-director of the Center for Animals and Public Policy at Tufts University School of Veterinary Medicine and first published in *Recognizing and Reporting Animal Abuse: A Veterinarian's Guide*. This widely-used scale, one of several canine assessment tools focused on consequences for the dog, indicates that, even with water and shade available as in a commercial kennel setting, a potentially unsafe situation develops above 90° Fahrenheit, especially for brachycephalic, obese or elderly dogs, as well as dogs under 6 months of age. Although this final-form rulemaking is based on HI, regulates relative humidity rather than temperature, and a temperature over 90° Fahrenheit would be permitted if combined with a rela-

tive humidity that would result in an HI of no more than 90, the inclusion of the TACC Weather Safety Scale as a basis for the regulation emphasizes that the standard being set goes beyond survivability to minimize adverse heat-related consequences for dogs in commercial kennels. The survivability study and the TACC Weather Safety Scale are generally acknowledged to be the only two scholarly resources that give specific heat-related safety guidance applicable to canines.

The Department will be able to monitor and regulate this requirement because of a change to the final-form rulemaking that requires the Department to provide and install the temperature and humidity recording devices. This takes away the cost to the kennel owner of purchasing these devices, allows the kennel owner to constantly and consistently monitor temperature and humidity levels and removes inconsistency in the devices utilized to take readings or the areas of the kennel measured.

In conclusion, the Department's research, consultations and discussions support the humidity levels established in the final-form rulemaking. The humidity levels are necessary and proper for the health, safety and welfare of dogs confined to kennels. The range or humidity levels established for kennels when the temperature is 85° Fahrenheit or below is within normal animal husbandry practices and set at the least stringent levels suggested. Humidity levels and the time period of exposure established in the final-form rulemaking for temperatures above 85° Fahrenheit are supported by scientific research performed on animals with more efficient cooling mechanisms than dogs or are based on scientific research specifically done on dogs. Finally, the engineers and architects consulted believe the requirements in the final-form rulemaking are attainable and the Department set forth the cost estimates in the regulatory analysis form that accompanies the final-form rulemaking.

Fourth, the Department reassessed the auxiliary ventilation standards that shall be utilized when the temperature within the commercial kennel rises above 85° Fahrenheit. The Department, after consultation with engineers and an AKC senior field representative, set forth auxiliary ventilation options that are currently being utilized by kennel owners and approved and verified by the engineers as being attainable and, if properly utilized in conjunction with humidity standards, providing appropriate ventilation to address dog health issues when temperatures rise above 85° Fahrenheit.

Fifth, with regard to lighting, the Department, with the assistance of members of the Board and Department veterinarians, did additional research into the issue of the proper illumination levels in kennels. In addition, the Department spoke with animal husbandry scientists at PSU and with engineers at Learned Design and Paragon Engineering Services who design kennel buildings. The consensus was that 40—60 foot candles of light is necessary to assure proper animal husbandry practices, including the ability to monitor the dogs, assure sanitation and cleanliness of the kennel (compliance with statutory and regulatory standards) and provide for the proper health and welfare of the dogs. In addition, the Department researched and reviewed National Institutes of Health (NIH) policies and guidelines regarding biomedical and animal research facility design. The NIH requires average lighting levels in animal facilities to be between 25—75 foot candles, which translates to 279—800 lux. The guidelines state the exact lighting levels should be based on species.

The veterinarians and animal husbandry scientists consulted felt the range of 40—60 foot candles, which translates to 430—650 lux, was appropriate for both the dogs and the humans that had to care for those dogs. This level is further supported by NIH standards for office and administration areas and PSU's standards for class room lighting, which are also between 40—60 foot candles. This level will provide for the health and welfare needs of the dogs housed in the facilities and allow for proper inspection of the facilities and animal husbandry practices, such as cleaning and sanitizing and monitoring the dogs for health issues.

The night time lighting provision has been removed from the final-form rulemaking. However, for clarity purposes, the night time lighting standard was consistent with studies done that show dogs need a minimum level of night time lighting (1—5 foot candles) to allow a natural startle response. The night time lighting standard was for the welfare of the dogs. Kennel owners can turn on or add additional light at night time if there is a need for them to be in the kennel.

The final-form rulemaking allows lighting standards to be achieved through the use of either natural or artificial light, or both, and sets both general and specific standards for each type of lighting. The final-form rulemaking does not require that a certain area of the kennel facility be devoted to windows or skylights to allow natural light and utilizes the language of the Federal regulations set forth under the Animal Welfare Act (7 U.S.C.A. §§ 2131—2159) with regard to the type of coverings for windows and skylights. In addition, the final-form rulemaking reiterates the language of the act with regard to excessive light and uniformity of diffusion of such light (which is also consistent with the *Federal Code of Regulations*) The Department has also defined excessive light, based on literature provided by a Board veterinarian.

Finally, based on IRRRC's clarity comments, the Department reformatted final-form § 28a.8 (relating to flooring). This section now begins by reiterating the standards established by the act. The last subsection of the flooring section addresses alternative flooring.

The Board has the authority, but is under no obligation, to address individual alternative flooring requests or types under section 207(i)(3)(iii) of the act. That provision clearly states the Board "may" address alternative flooring. The Board is under no obligation to address these requests, either through the regulations or through another avenue such as a public meeting or hearing of the Board. If the Board chooses to address a particular type of flooring, the Board can determine based on its expertise whether or not that particular type of flooring meets the standards in section 207(i)(3)(i) of the act and the animal husbandry and welfare requirements in section 221(f) of the act.

To the extent the Board, and hence the Department, did address alternative flooring in the final-form rulemaking, it did so by establishing requirements that are based on animal husbandry, their expertise as veterinarians and input received during their deliberations on the guidelines. The Department included the standards set by the Board in the initial guidelines and the proposed rulemaking—such as requiring proper drains, flooring that is not capable of heating to a level that could cause injury to the dogs and will provide a nonskid surface—in the final-form rulemaking, but added language to these provisions to clarify the intent and provide more objective standards. In addition, based on discussions with Department and Board veterinarians, the Department added

language that provides for the welfare of the dogs, based on proper animal husbandry practices. The Department's State dog wardens and veterinarians have witnessed the ill effects caused to dogs that are housed on a surface that splays their feet, caused damages to the feet or pads or allows the pads, feet or toenails of dogs to become snared or entrapped. Therefore, § 28a.8(d)(4) was added to the final-form rulemaking to effectuate those animal husbandry and welfare practices. This should add some clarity to the requirements for alternative flooring.

In another attempt to add clarity, the Department added § 28a.8(e) to the final-form rulemaking. Section 207(i)(3) of the act contains flooring standards for dogs over 12 weeks of age. However, dogs under 12 weeks of age are not subject to those same requirements and may be housed on flooring meeting the standards of section 207(h)(2)(x) of the act and § 21.24(d) (relating to shelters). These provisions do not account for or contemplate nursing mothers housed with their puppies or for dams or foster dams housed with dogs less than 12 weeks of age. Therefore, because of the confusion regarding the absence of specific direction in the act, the Department established a standard for this specific situation and added language to the final-form rulemaking delineating that standard. Final-form § 28a.8(e) requires that at least 50% of the flooring of a primary enclosure that contains a nursing mother and her litter or a dam or foster dam and puppies less than 12 weeks of age must meet the flooring standards for the adult dog (that is, those in section 207(i)(3) of the act).

#### *Summary of Major Features*

##### *§ 28a.1. Definitions.*

This section defines terms utilized in Chapter 28a to further clarify the regulations. The Department made significant amendments to the substantive provisions of this section based on comments received after publication of the proposed rulemaking and on research and input from experts and industry members. As a result, the Department revised the definition of "excessive light" and added definitions to the final-form rulemaking.

The definition of "excessive light" was revised as a result of comments from IRRRC and others regarding clarity. The term "excessive light" and the prohibition against excessive light is in section 207(h)(8) of the act. In addition, the prohibition against excessive light is in 9 CFR 3.2(c) and 3.3(c) (relating to indoor housing facilities; and sheltered housing facilities). The final-form rulemaking merely restates the requirements of the act with regard to excessive light. However, since the definition was questioned, the Department, with the assistance of Dr. Karen Overall of the Board, researched what level of lighting would be considered excessive for canines. The result of that research is the definition, which essentially states that direct, undiffused light of an intensity that is 12 foot candles or more greater than the maximum foot candles of light (that the dog is raised in) required by the final-form rulemaking would be considered harmful and therefore "excessive" if it is shining directly into the primary enclosure of a dog.

The definition of "circulation or circulated air" was added to provide clarity to the ventilation provisions in the final-form rulemaking. As stated in the general summary of changes, the Department made significant changes to the ventilation requirements in the proposed rulemaking. The changes were based on input from the engineers consulted. Those engineers also suggested adding this definition and provided and approved the language for the definition.

The definition of “commercial kennel” from the act was added to this section to allow for more clarity for both the regulated community and the general public.

The definition of “CFM—Cubic Feet per Minute,” as set forth more specifically in the comment and response document, based on input from engineers and animal scientists, the Department changed the ventilation measurement standard in the final-form rulemaking from “air exchanges per hour” to CFM per dog. In general, the change allows for a more accurate, objective and consistent measurement that is easier to comply with and verify. It also provides economic advantages with regard to the ability to tailor the ventilation system and the rate of air circulation to the number of dogs housed in the commercial kennel facility.

The lighting provisions of the final-form rulemaking, consistent with section 207(h)(8) of the act, mandate that dogs receive a diurnal light cycle. The proposed rulemaking did not define what that entailed and commentators requested that the Department more fully define or provide substantive language to provide clarity with regard to what pattern of lighting would be considered a diurnal light cycle. The Department decided to define “diurnal light cycle.” The Department consulted animal scientists and Board and Department veterinarians to come up with an appropriate definition. The definition is consistent with normal animal husbandry practices and definitions.

As with the definition of “circulation,” the definition of “fresh air ventilation” is added to provide clarity to the ventilation provisions in the final-form rulemaking. The term was also added because of a comment regarding the phrase “100% fresh air,” which appeared in the proposed rulemaking. The term now helps to define what percent of the ventilated and circulated air in a kennel facility must be “fresh air ventilation,” which is at least 30 CFM of the total ventilated air. The definition was provided and approved by the engineers consulted.

Numerous commentators suggested the Department should define “full-spectrum lighting” in the final-form rulemaking. Full-spectrum lighting is required for commercial kennels that utilize artificial light to illuminate their kennel facility. The Department consulted dictionaries and the Internet and spoke with the engineers in when defining the term. Full-spectrum lighting has been available since the 1930s.

For reasons set forth more fully and specifically in the comment and response document, the final-form rulemaking does not require a reduction in ambient temperatures inside a commercial kennel facility. Instead the final-form rulemaking focuses on appropriate humidity levels. Humidity and temperature levels go hand-in-hand in determining the HI, which is the human-perceived equivalent temperature. High heat and humidity are dangerous to human and animal health. The Department has utilized HI charts and studies to determine the proper HI for dogs. The definition of “Heat Index (HI) or Temperature and Humidity Index (THI)” is taken from the definition established by the United States National Weather Service.

The definition of “professional engineer”—The definition was taken directly from § 139.2a (relating to definitions). This definition was added to account for and give clarity to § 28a.2(b)(1), which was added to the final-form rulemaking. This paragraph requires certification by a professional engineer that the ventilation system in the commercial kennel meets the standards and requirements

of the regulation. This is a one-time requirement and alleviates the necessity for a kennel owner to purchase measurement equipment or attempt to ascertain compliance on his own or to rely on measurements, readings and calculations performed by the Department.

The engineers consulted suggested the Department define the terms “ventilation or ventilating” to provide clarity. The Department agreed and utilized a definition supplied by one and approved by both engineers.

#### § 28a.2. Ventilation.

As previously stated, proposed § 28a.2 has been significantly revised, including changing the measurement of ventilation and air circulation to CFM per dog. Provisions regarding auxiliary ventilation, humidity and ammonia standards have been reestablished under a separate section.

The following details specific changes made to § 28a.2 in the final-form rulemaking.

The proposed first sentence is not a regulatory standard and has been removed from the final-form rulemaking.

Proposed § 28a.2(1) regarding the reduction of temperature and removal of dogs once the kennel temperature reaches 85° Fahrenheit has been deleted from the final-form rulemaking. The Office of Attorney General, the House and Senate Committees and IRRC questioned the authority of the Department to require the ambient temperature be reduced to or maintained at 85° Fahrenheit in commercial kennels. While temperature reduction is not prohibited and is preferred, the Department utilized its absolute authority and duty to regulate humidity to account for the health and welfare of dogs in commercial kennels once the temperature rises above 85° Fahrenheit.

Proposed § 28a.2(2) and (3), regarding humidity standards, has been deleted and moved to final-form § 28a.4. The humidity provisions in the final-form rulemaking establish separate and distinct humidity levels for when temperatures in the commercial kennel are at or below 85° Fahrenheit and when the temperature in the kennel facility rises above 85° Fahrenheit. The humidity range for temperatures below 85° Fahrenheit has been broadened to 30%—70% and the humidity ranges acceptable when temperatures rise above 85° Fahrenheit are very specific and based on HI values. The ranges established are based on consultations with engineers, architects, animal scientists and veterinarians, as well as National weather service information, HI standards for animals such as swine, poultry, cattle and humans, a survivability study conducted on dogs and the TACC Weather Safety Scale for dogs. The ranges are based on animal science and evidence of heat stress and are consistent with the ranges engineers suggest are utilized in their designed facilities or are proper and attainable in commercial kennels.

Proposed § 28a.2(4), regarding ammonia levels, has been deleted and moved to § 28a.5. The ammonia level standards, after consultation and discussions with engineers, architects, animal scientists and veterinarians as well as research cited or done by those experts, denoted that 10 parts per million (ppm) was too low to effectively measure and monitor. The consensus of the experts consulted was that a level of 15 ppm or lower was acceptable and proper for animal welfare. They agreed that a level of 20 ppm still caused eye and respiration problems in animals with long term exposure to these levels.



Proposed § 28a.2(5), regarding proper levels of carbon monoxide, has been deleted. The final-form rulemaking reestablishes provisions regarding carbon monoxide since animal scientists and veterinarians agree that the colorless and odorless gas can be harmful or deadly to the dogs. However, § 28a.6 (relating to carbon monoxide detectors) does not set a carbon monoxide level but instead requires carbon monoxide monitors to be installed in a kennel that utilizes a carbon based heating, cooling or ventilating system. This provides the kennel owner with a warning that the dogs and humans in the facility are in danger from high carbon monoxide levels. The expulsion of carbon monoxide and other gases are part of ventilation and regulated under that authority.

Proposed § 28a.2(6), regarding malfunction of the mechanical ventilation system, has been moved to § 28a.2(g). The kennel owner no longer has to consult with the Department on the steps to be taken and the Department will no longer be required to retain an engineer. Instead, under § 28a.2(g)(1)–(4), the kennel owner shall immediately take steps to correct the malfunction or failure and if temperatures rise above 85° Fahrenheit, notify the kennel's veterinarian within 4 hours and notify the Department after 24 hours. The provision sets forth the time period within which notification shall be given and now takes weekends, nights and holidays into consideration. The kennel owner shall contact the kennel veterinarian to consult on dog health issues and notify the Department when the malfunction has been repaired.

Proposed § 28a.2(7), regarding particulate matter, has been deleted from the final-form rulemaking.

Proposed § 28a.2(8), regarding air changes, has been deleted from the final-form rulemaking.

The provisions in proposed § 28a.2(8) have been replaced as follows:

Proposed § 28a.2(8)(i), regarding air exchanges per hour, have been replaced in the final-form rulemaking with a CFM per dog standard in § 28a.2(f)(2) and (4). The rate of 100 CFM per dog per minute is standard practice according to the engineers consulted and comports with the information and suggestions of the animal scientists consulted by the Department. In addition, the 100% fresh air requirement has been deleted from the final-form rulemaking. A minimum of 30 CFM per dog per minute must be fresh air, the rest may be recirculated. This standard also comports with the standards suggested by the engineers and animal scientists. As set forth more fully in the comment and response document, the change to CFM was made after consultations with engineers and animal scientists and provides for a more objective measurement standard. It will also decrease the cost of compliance and monitoring to both the regulated community and the Department.

Proposed § 28a.2(8)(i), (i)(A) and (ii), regarding calculating air exchanges per hour, has been replaced in the final-form rulemaking. The final-form rulemaking now measures ventilation in CFM per dog and certification of the systems by a professional engineer under § 28a.2(b) and (f). This includes information regarding the volume and dimensions of the facility and the total number of dogs to be housed in the facility under § 28a.2(b). In addition, the Department may take periodic measurements and readings under § 28a.2(c)(2).

Proposed § 28a.2(8)(iii), regarding violations, has been deleted. The kennel owner will be in violation of a specific section or subsection with which he does not comply. The related provisions of § 28a.2(8)(iv) have also been deleted.

Proposed § 28a.2(8)(v), which required the Department to hire an engineer if the kennel owner violates a ventilation provision, has been deleted. The kennel owner, not the Department, is responsible for taking steps to attain and assure compliance and the Department does not have authority to require the kennel owner to allow a person who is not an employee of the Department into the kennel.

Proposed § 28a.2(9), regarding signs of illness and stress in dogs, has been moved to § 28a.2(h). The number and type of conditions in dogs that may denote poor ventilation has been reduced. In addition, the signs of stress or illness trigger an investigation of the ventilation, air circulation, humidity levels, HI values and ammonia levels in the area or room of the kennel where those signs exist. If the investigation reveals problems in those areas, then proper enforcement action may be taken by the Department. The mere existence of the signs of stress or illness however, does not in and of itself constitute a violation of these regulations. The type of conditions in dogs and the illnesses or signs of stress listed are associated with conditions that veterinarians have asserted can result from poor ventilation, air circulation, humidity, heat stress or ammonia or carbon monoxide levels that are not within the ranges established by the regulations. For instance, respiratory distress can be associated with humidity and temperature levels or ammonia levels that are too high as well as insufficient air circulation or auxiliary ventilation. Section 28a.2(h)(2) sets forth the signs associated with heat distress or heat stroke, which again denotes insufficient air circulation, auxiliary ventilation or humidity level controls, or both, in that part of the kennel facility. Matted, puffy, red or crusted eyes and listlessness can be associated with high ammonia or high carbon monoxide levels. Fungal and skin disease can denote improper humidity control in the kennel facility.

Proposed § 28a.2(10), regarding dog odor, stale air, moisture and air flow, has been deleted. The final-form rulemaking establishes specific ventilation and ammonia and humidity control mechanisms which, if implemented properly, will control for these factors.

Proposed § 28a.2(11), regarding filtering the air with small particle, nonozone producing air filters, has been moved to § 28a.2(f)(5). The filtration standards merely require a common minimum efficiency reporting value (MERV) rated filter that can be acquired at a home building supply store. The minimum MERV value is 8. This is standard practice in kennel facilities designed by the engineers consulted.

Proposed § 28a.2(12), regarding applicable codes, has been deleted. As set forth more fully in the comment and response document, the Department does not have authority to regulate applicable Federal, State or local building codes.

The following subsection have been added to § 28a.2 in the final-form rulemaking.

Section 28a.2(a) amends the introductory language of proposed § 28a.2. The new language still requires a mechanical ventilation system, but adds the word "functional" for more clarity and to denote it must be able to ventilate and circulate air. The system must also be in operation at all times to meet the 100 CFM per dog air circulation standards of the section. The 100 CFM per dog standard was set in conjunction with consultations with engineers that design and build kennel facilities and utilize this rate as a standard in those kennel designs

and in response to animal scientists who suggested a CFM rating per dog was more objective and fair. The CFM rate per dog allows a kennel owner to provide ventilation on a basis that takes into account the number of dogs in the kennel facility.

The final-form rulemaking also adds language to this section that makes it clear the system must meet the requirements in §§ 28a.3—28a.6. These sections have been set forth as independent, but related, sections for clarity and form.

Final-form § 28a.2(b), regarding certification of ventilation system, requires written certification from a professional engineer attesting that the system was designed or inspected by a professional engineer and that it meets the standards and requirements of the ventilation, auxiliary ventilation, humidity and ammonia control sections of the final-form rulemaking and that carbon monoxide monitors are installed where necessary. It also requires the submission of information setting forth the dimensions of the kennel, a description of the mechanical ventilation equipment, including CFM ratings, and the humidity control and auxiliary ventilation equipment or system to be utilized as well as the highest number of dogs upon which the certification was based. The latter information will allow the Department to assure that changes have not been made to the certified system going forward. Engineers shall also set forth where the temperature and humidity monitors required by the regulations shall be installed. The time line for submission of certification is in § 28a.2(b)(2) and (3).

The certification requirement as a whole was implemented in response to comments questioning the subjectivity and expense of kennel owners and State dog wardens having to take individual readings on each visit to assure compliance. Commentators wanted a more objective approach that would be less costly and time consuming to both the regulated community and the Department. By requiring a one-time certification (unless recertification is required based on the standards of that provision), the kennel owner and the Department are assured by an independent, professional party that the system installed, if operated correctly, meets the requirements of the regulation. In addition, the engineers consulted have verified that they would already be certifying any system they designed or inspected and that there are enough engineers to handle the certification process that would have to take place in this Commonwealth. This process lowers the cost of compliance, allows for a completely objective approach to assuring compliance and interjects a third party chosen by the kennel owner to design or retrofit the kennel to comply with the regulatory standards. The party shall be a licensed professional engineer who is familiar with the standards of the regulations and can assure the system installed meets all the parameters of the regulations.

Final-form § 28a.2(c), regarding inspection, establishes the general minimum criteria and standards regarding the ventilation, auxiliary ventilation and humidity control systems that will be reviewed and checked during each kennel inspection by a State dog warden or other employee of the Department.

Final-form § 28a.2(d), regarding recertification, requires a kennel owner to have his ventilation, auxiliary ventilation or humidity control system recertified by a professional engineer if he is found to be in violation of the ventilation, auxiliary ventilation, humidity or ammonia level requirements in the final-form rulemaking.

Final-form § 28a.2(e), regarding ventilation and circulation, sets forth the general standard provided for in the proposed rulemaking requiring mechanical ventilation equipment. It sets forth additional objective and clarifying language requiring the system to physically move air, provide ventilation, fresh air exchange, circulation, heating, dehumidification and filtration and gives examples of the type of equipment that may be included. The mechanical system is necessary to provide and meet the CFM ventilation requirements in the regulations. The CFM rates are established based on consultations with engineers that design kennel facilities, animal scientists and veterinarians.

Final-form § 28a.2(f), regarding standards, establishes general and specific ventilation rates for the area of kennels and kennel facilities that house dogs.

Paragraph (1) establishes the general criteria that ventilation and circulation, at the required rates, be provided throughout the kennel and kennel housing facility where dogs are housed, kept or present. Paragraph (2) establishes the circulation rate at 100 CFM per dog per minute. This rate is consistent with the rates espoused by animal scientists and engineers that design and build kennel housing facilities. The rate will provide proper ventilation and air circulation. The CFM per dog will be required to be increased when temperatures in the kennel and kennel housing facility rise above 85° Fahrenheit and auxiliary ventilation is required.

Paragraph (3) requires the ventilation system to have the capacity to meet the CFM per dog rate established in paragraph (2) by requiring the capacity to be based on the highest total number of dogs held in the kennel at any one time.

Paragraph (4) no longer requires 100% fresh air, but instead allows air to be recirculated in the kennel. It requires that at least 30 CFM per dog of the circulated air be fresh air, as defined in the final-form rulemaking. The engineers and animal scientists consulted set this standard as a common animal husbandry practice and a standard that will protect the health and welfare of the dogs. In addition, the recirculated air standard will allow kennel owners to control humidity and ammonia levels in the kennel facility and reduce heating costs in the winter months.

Paragraph (5) requires a standard air filter meeting at least a MERV 8 efficiency. These filters are standard filters utilized in ventilation and air circulation systems and can be found in most building supply stores. The standard was suggested by and agreed upon by the engineers and animal scientists consulted.

Paragraph (6) establishes the design and placement of the ventilation to assure it provides proper circulation of air to the dogs housed in the kennel facility. The engineers consulted suggested and agreed upon the language.

Final-form § 28a.2(g), regarding malfunctions, establishes general and specific requirements and actions a kennel owner shall take in response to a mechanical malfunction or failure of the ventilation system. This section prescribes notice provisions for when the temperature inside the kennel exceeds 85° Fahrenheit and requires the kennel owner to consult with his veterinarian regarding canine health issues. When temperatures in the kennel building exceed 85° Fahrenheit during the malfunction or breakdown, the kennel owner has a 4-hour time period to correct the malfunction, after which he shall consult his veterinarian regarding dog health issue and begin recording temperature and humidity levels

within the kennel facility. This is consistent with the 4-hour window provided for humidity levels and dog health issues in other parts of the final-form rulemaking. The kennel owner shall notify the Department of the malfunction if it exceeds 24 hours and temperatures in the kennel are above 85° Fahrenheit.

§ 28a.3. *Auxiliary ventilation.*

In this final-form rulemaking, the Department added § 28a.3 to address auxiliary ventilation. This was done to provide more clarity to the final-form rulemaking, both with regard to notification of specific standards to the regulated community and authority under the act. The auxiliary ventilation standards were not clearly or specifically set forth in the proposed rulemaking. The auxiliary ventilation provisions are within the mandates of the act. Sections 207(h)(7) of the act requires that “. . . The Canine Health Board shall determine auxiliary ventilation to be provided if the ambient air temperature is 85° F or higher.”

The specific changes made to the final-form rulemaking regarding auxiliary ventilation are summarized as follows:

Final-form § 28a.3(a) sets forth the general standard required under section 207(h)(6) and (7) of the act, regarding the requirement that auxiliary ventilation be utilized in any part of a kennel facility where dogs are present, housed or kept, when the temperature in the kennel rises above 85 degrees F. It provides the clarity that the auxiliary ventilation is to be provided in addition to (auxiliary), not in place of the required ventilation and humidity standards of the regulation. The kennel must still maintain the ventilation and humidity controls required by the regulation. It also provides that in the event of a malfunction or failure of the primary ventilation system, the auxiliary ventilation system may be utilized.

Final-form § 28a.3(b) sets forth auxiliary ventilation devices and techniques that may be utilized by the kennel owner. They are based on discussions with an AKC senior breed field representative that has knowledge of techniques currently utilized in breeding kennels and were reviewed and approved by engineers consulted by the Department. These techniques and devices are not the only ones that can be utilized. The section provides guidance to the regulated community regarding what may be utilized.

§ 28a.4. *Humidity levels.*

Sections 207(h)(7) and 221(f) of the act confer upon the Board and the Department, as the promulgating agency, the authority and absolute duty to establish humidity levels that account for the health and welfare of dogs housed in commercial kennels. Section 207(h)(7) of the act states that “Housing facilities for dogs must be sufficiently ventilated at all times when dogs are present to provide for their health and well-being and to minimize odors, drafts, ammonia levels and to prevent moisture condensation” and that “The relative humidity must be maintained at a level that ensures the health and well-being of the dogs housed therein. The appropriate . . . humidity . . . ranges shall be determined by the Canine Health Board.” Section 221(f) of the act, regarding the purpose of the Board, states that “The board shall determine the standards based on animal husbandry practices to provide for the welfare of dogs under section 207(h)(7) . . .”

The standards in final-form § 28a.4(a)—(4) are based on discussions with engineers that build and design

kennel housing facilities, animal scientists from PSU and veterinarians from the Board and the Department.

With regard to the standard humidity range in final-form § 28a.4(a)(1), the humidity range of 30%—70% when temperatures are below 85° Fahrenheit is a standard range utilized in most animal husbandry practices. This is according to the experts consulted. The engineers and some veterinarians believed the range should be tighter (40%—65%), but the Department chose to utilize the greater range, since the experts consulted did not believe that range would be detrimental to the welfare of the dogs.

With regard to the humidity levels to be established when temperatures in a kennel facility rise above 85° Fahrenheit, the Department utilized the HI. The HI combines the effects of temperature and humidity to come up with an HI value. The HI value establishes what a certain temperature and humidity combined actually feels like. An HI does not require the control of temperature. It allows for higher temperatures, so long as humidity is properly controlled. It gives kennel owners more flexibility than the Federal regulations and allows the Department to determine the humidity level that must be attained, when temperatures are above 85° Fahrenheit, for the kennel facility to be at a value that will account for the welfare of the dogs housed therein.

The science behind controlling humidity to allow for proper animal welfare is that the higher the humidity level, the more water vapor the air is holding or carrying. The more water vapor in the air, the harder it is for an animal to cool its internal body temperature, since cooling of the body is not achieved through mere perspiration or panting, but rather through the absorption of the perspiration by the air passing over the skin of an animal or the tongue of the dog. Air containing high levels of humidity cannot absorb the perspiration on the skin or water on the dogs tongue and cooling does not occur or is less efficient. This is why high temperatures and high humidity combine to form heat stress dangers. It is also the reason that merely blowing a larger volume of hot, humid air over a dog or other animal will not allow for additional cooling of the internal body temperature of that animal.

Final-form § 28a.4(a)(2) addresses the humidity range, expressed in an HI value, that must be achieved when the temperature in any part of the kennel housing facility rises above 85° Fahrenheit. The HI value of 85 established by this section is based on HI charts that apply to other animals, such as swine, cattle and fowl, and also on HI values that apply to humans. In all cases, an HI that is higher than 85 begins to put these animals into a heat stress danger. Most of these animals have body cooling systems that are more efficient than those of dogs, with humans being the most efficient. Therefore, the Department believes an HI value of 85 for dogs is the most conservative regulatory approach the Department can take and still provide a humidity level that accounts for the welfare of dogs. The engineers, animal scientists and veterinarians consulted agree an HI value of 85 is appropriate. In addition, the 85 HI value is consistent with the temperature extremes regulated by the Animal Welfare Act, which requires kennel owners to reduce temperature levels in kennels to 85° Fahrenheit (see 9 CFR 3.2(a) and 3.3(a)). It allows a 4-hour window to achieve that temperature. The temperature extreme is consistent with the heat stress indexes previously referenced. Furthermore, a survivability study conducted on beagles entitled “A Temperature/Humidity Tolerance In-

dex for Transporting Beagle dogs in Hot Weather,” which was sponsored by the Federal Aviation Administration, supports the heat stress tolerances established by this section, as does the TACC Weather Safety Scale for dogs.

Final-form § 28a.4(a)(3) establishes a window of time, once the temperature in the kennel rises above 85° Fahrenheit, for kennel owners to address humidity levels to comply with the 85 HI requirement. The 4-hour window is consistent with the 4-hour window in 9 CFR 3.2(a) and 3.3(a), in which a kennel owner shall achieve a temperature of 85° Fahrenheit.

The final-form rulemaking does not require a temperature reduction and temperatures in the kennel facility may remain above 85° Fahrenheit after the 4-hour period, but the humidity levels within the kennel facility shall have been adjusted to comply with and achieve an HI value of 85. In addition, the 4-hour window is consistent with previously referenced survivability study conducted on beagles. The survivability study, as well as the TACC criteria, specifically the TACC Weather Safety Scale, authored by Dr. Gary Patronek, then-director of the Center for Animals and Public Policy at Tufts University School of Veterinary Medicine and first published in *Recognizing and Reporting Animal Abuse: A Veterinarian's Guide*, form the basis for setting the HI cap of 90. A kennel facility may not go above an HI value of 90 and may not exceed that value during the 4-hour window. The survivability study and the TACC Weather Safety Scale are generally acknowledged to be the only two scholarly resources that give specific heat-related safety guidance applicable to canines.

The survival study establishes scientific evidence that most breeds of dogs would not survive for more than 6 hours in conditions when the HI rose above 95—98. The study is a survival study, so it does not mean that conditions of 95—98 HI are proper or should be sustained for any length of time. An upper cap of 90 HI that may not be crossed was established using both this study and the TACC Weather Safety Scale.

Kennel owners shall still utilize auxiliary ventilation immediately upon the temperature reaching 85° Fahrenheit and should begin to immediately take action to decrease humidity levels to assure the 85 HI value is met and maintained. Again, this is the most conservative regulatory approach the Department felt it could take and, based on scientific evidence, still protect the health and welfare of dogs.

Final-form § 28a.4(a)(4) sets forth how the HI shall be calculated and provides an objective standard for both the regulated community and the Department regulator. The HI charts are codified in Appendix A. The Department has also provided the web site where the HI calculation can be performed and provided examples of HI values.

The Department consulted engineers to assure the humidity levels associated with the HI values could be achieved and that kennels could be built or retrofitted or employ dehumidification devices that would allow them to meet the standards. The engineers assured the Department that these humidity levels could be achieved in commercial kennels and systems could be designed or dehumidification devices placed to assure compliance.

Final-form § 28a.4(a)(5) sets forth a moisture condensation requirement that is consistent with section 207(h)(7) of the act, which requires that “Housing facilities for dogs must be sufficiently ventilated at all times when dogs are present to provide for their health and well-being and . . . to prevent moisture condensation. . . .”

Final-form § 28a.4(b)(1), regarding measurement and control standards, delineates and sets clear and objective standards regarding when and how humidity level readings shall be taken. A primary concern throughout the comments was that the regulation establishes clear standards, including standards denoting how the regulation would be enforced and the measurement standards to be utilized. This language provides the regulated community and the Department clarity with regard to enforcement of this provision.

Final-form § 28a.4(b)(2) establishes the standards the measuring devices must meet and sets forth the requirement that the Department pay for and own the devices. The Department researched devices on the market to assure they met the standards established by this paragraph and were readily available. The Department also checked with the engineers to assure the devices met their approval. In establishing this paragraph, the Department took into account numerous comments that called for a more objective standard for measuring devices and a standard that would reduce the cost to the regulated industry. This paragraph accomplishes both goals. There will be only one standard type of measuring device that must meet standards established by the regulation. The Department will pay for and install the devices in accordance with the recommendations of the engineer certifying the kennel. Both the kennel owner and the Department may refer to the devices, the kennel owner to assure he is meeting the standards on an hourly and daily basis and the Department to assure the kennel is complying with the humidity requirements in the regulation. The final standard is completely objective, standardizes the measurement devices and reduces the cost to both the regulated community and the Department (both equipment costs and the time cost associated with taking measurements utilizing hand-held devices).

Final-form § 28a.4(b)(3) delineates what Department inspectors will look for and what is required to establish some evidence that the kennel can regulate humidity.

Final-form § 28a.4(b)(4) sets an objective cooling capacity requirement if air conditioning is utilized in the kennel facility. The requirements were established by the engineers consulted.

Final-form § 28a.4(b)(5) and (6) makes it clear that the humidity monitoring devices may not be tampered with or changed in any manner by any person other than a State dog warden or employee of the Department. This will maintain the integrity of the readings and assure the readings are accurate and not able to be manipulated or changed.

Final-form § 28a.4(b)(7) addresses the concerns expressed by some commentators regarding proper calibration of measurement devices and the frequency at which measuring devices will be checked to assure proper accuracy.

Final-form § 28a.4(b)(8) establishes enforcement standards regarding monitoring devices.

#### § 28a.5. Ammonia levels.

Sections 207(h)(7) and 221(f) of the act confer upon the Board and the Department, as the promulgating agency, the authority and the absolute duty to establish ammonia levels that account for the health and welfare of dogs housed in commercial kennels. Section 207(h)(7) of the act states that “Housing facilities for dogs must be sufficiently ventilated at all times when dogs are present to provide for their health and well-being and to minimize odors, drafts, ammonia levels. . . . The appropriate . . . am-

monia ranges shall be determined by the Canine Health Board.” Section 221(f) of the act, regarding the purpose of the Board, states that “The board shall determine the standards based on animal husbandry practices to provide for the welfare of dogs under section 207(h)(7). . . .”

The level in § 28a.5(a) was established after consultations with veterinarians and animal scientists. The consensus was that levels of 10 ppm were too low to be accurately measured, but that levels of 20 ppm were too high for long term exposure. Therefore, the agreement was that a level of 15 ppm or lower was the appropriate standard. The 20 ppm decision was based on the expertise of the veterinarians and animal scientists and their experience with animal husbandry and the effects of ammonia levels of 20 ppm on the eyes and respiratory system of agricultural animals. The measurement standards in subsection (b) were established because the science around ammonia establishes that it is a heavy gas that will be found close to the floor of an enclosed building. The consensus of the engineers and the veterinarians was that the readings should therefore be taken at the level of the dogs.

§ 28a.6. *Carbon monoxide detectors.*

Sections 207(h)(7) and 221(f) of the act confer upon the Board and the Department, as the promulgating agency, the authority and the absolute duty to establish proper ventilation rates that account for the health and welfare of dogs housed in commercial kennels. Section 207(h)(7) of the act states that “Housing facilities for dogs must be sufficiently ventilated at all times when dogs are present to provide for their health and well-being and to minimize odors, drafts, ammonia levels and to prevent moisture condensation. . . . The appropriate . . . ventilation . . . ranges shall be determined by the Canine Health Board.” Section 221(f) of the act states that “The board shall determine the standards based on animal husbandry practices to provide for the welfare of dogs under section 207(h)(7). . . .” The definition of “ventilation” in § 28a.1 (meeting the engineers’ approval) includes “. . . replacing air in any space to control temperature and humidity or remove moisture, odors, smoke, heat, dust, airborne bacteria, carbon monoxide, carbon dioxide, and to replenish oxygen.”

The Department, after consulting with the engineers, animal scientists and veterinarians from the Board and the Department and reviewing comments, determined that carbon monoxide should be monitored to assure the proper ventilation ranges are being achieved and to assure the welfare of the dogs. Carbon monoxide is an odorless and colorless gas that is deadly if there is prolonged exposure to a range that is too high. The persons consulted felt it was absolutely necessary to, while not establishing ranges, at least monitor for the gas. The final-form rulemaking does not include a set range, instead requiring the installation of common carbon monoxide monitoring devices in kennels that utilize carbon monoxide emitting devices. The regulation is tailored only to kennels that may have a carbon monoxide build up, sets an objective standard by requiring common detection devices to be installed and does not add a big equipment or monitoring cost to the regulation.

§ 28a.7. *Lighting.*

Section 28a.7 (relating to lighting) delineates lighting standards for both natural and artificial light in accordance with the duty and requirements in section 207(h)(8) of the act.

The Department agreed with the comments that the first sentence was not proper regulatory language and

deleted that sentence from the final-form rulemaking. In addition, the final-form rulemaking does not require natural light or some of the mandates in the proposed rulemaking associated with providing natural light.

The Department deleted from the final-form rulemaking what was in proposed § 28a.3(1)(i)—(vi). This paragraph related to natural lighting. The Department agrees there is no legal authority to require natural light when the act states light shall be provided by natural or artificial means.

The provisions deleted from the final-form rulemaking required the following: subparagraph (i), each dog have exposure to natural light through windows, skylights or other external openings; subparagraph (ii), a total combined minimum amount of the kennel area that must be external openings, such as windows or skylights (8% of the floor space); subparagraph (iii), dogs be protected from excessive light (this requirement is in the act and has been retained in the final-form rulemaking); subparagraph (iv), provide an outdoor area of shade; and subparagraphs (v) and (vi) set requirements that kennels receiving approval to provide indoor exercise only be required to be configured in a manner that would provide natural light to each primary enclosure and provide full spectrum lighting.

In addition, proposed § 28a.3(2)(i)—(v) set forth requirements for artificial lighting. Those standards have been revised in the final-form rulemaking, as described in more detail as follows.

The Department added provisions to the final-form rulemaking that allow for natural or artificial lighting, or both. The final-form rulemaking provides general lighting standards that apply to both natural and artificial lighting and specific standards that apply only to natural or artificial lighting.

Section 28a.7(a) provides the general lighting standards that apply to all lighting, from either natural or artificial means. These general standards in § 28a.7(a)(1)—(3) and (5) mirror section 207(h)(8) of the act, which states that “Housing facilities for dogs must be lighted well enough to permit routine inspection and cleaning of the facility and observation of the dogs. Animal areas must be provided a regular diurnal lighting cycle of either natural or artificial light. Lighting must be uniformly diffused throughout housing facilities and provide sufficient illumination to aid in maintaining good housekeeping practices, adequate cleaning and observation of animals at any time and for the well-being of the animals. Primary enclosures must be placed so as to protect the dogs from excessive light. The appropriate lighting ranges shall be determined by the Canine Health Board.”

Section 28a.7(a)(1) relates to sufficient lighting to allow for observation and maintenance provisions of the act.

Section 28a.7(a)(2) relates to uniform diffusion of the lighting.

Section 28a.7(a)(3) sets forth the diurnal lighting cycle language from the act.

Section 28a.7(a)(4) establishes the lighting ranges that shall be provided to carry out the mandates in section 207(h)(8) of the act. The Department changed these standards in the final-form rulemaking. The revisions were based on additional research and consultations undertaken by the Department in response to comments that stated the lighting ranges in the proposed rulemaking, up to 80 foot candles, were excessive. The standards established in the final-form rulemaking,

40—60 foot candles, are based on NIH standards and the fact that exam rooms at PSU require lighting of 40—60 foot candles. The Department, with the assistance of members of the Board and Department veterinarians, did additional research into the issue of the proper illumination levels in kennels. In addition, the Department spoke with animal husbandry scientists at PSU and with engineers who design kennel buildings. The consensus was that 40—60 foot candles of light is necessary to assure proper animal husbandry practices, including the ability to monitor the dogs, assure sanitation and cleanliness of the kennel (compliance with statutory and regulatory standards) and provide for the proper health and welfare of the dogs.

Section 28a.7(a)(5) reiterates the exposure to excessive light standard in the act.

Section 28a.7(b) establishes additional standards that are specific to natural light and artificial light sources.

With regard to natural light, in § 28a.7(b)(1), the Department followed the language in the Animal Welfare Act requiring that a window or opening, with the exception of the openings that provide for unfettered access to the exercise area, which provides natural light shall be covered with a transparent material such as glass or hard plastic and remain unobstructed.

With regard to artificial light, the Department made the following changes to proposed § 28a.3(2) (final-form § 28a.7(b)(2)(i)—(iii)).

Section 28a.7(b)(2)(i) requires that artificial lighting be provided by full spectrum lighting. Full spectrum lighting is the only lighting source that nearly approximates the spectrum of light provided by the sun. According to the veterinarians consulted by the Department, natural sunlight is important for the health of dogs housed in kennels for vitamin D levels and eye development, among other issues. Therefore, the lighting to be provided has been determined to be full spectrum, which most closely imitates the spectrum and wavelengths of light received from the sun. The Department moved the foot candle provisions from this section and to the general standards of the final-form rulemaking. In addition, the foot candle standard was reduced from 50—80 to 40—60 foot candles.

The Department deleted the requirement in proposed § 28a.3(2)(ii) regarding providing night time artificial lighting. The purpose of this subparagraph was to provide some low level lighting to allow for the natural startle responses. However, it became apparent from the comments received that the subparagraph was causing confusion. The veterinarians consulted agreed the provision could be taken out without harming the welfare of the dogs.

Proposed § 28a.3(2)(iii) was deleted and similar language was moved to the general provisions of the final-form rulemaking.

The Department amended proposed § 28a.3(2)(iv), final-form § 28a.7(b)(2)(ii). After consulting with Board members, it became apparent that the intent of the subparagraph was to assure the lighting was kept in good repair. The Department removed the phrase “may not have a visible flicker” and utilized language that brings clarity and objectivity to the subparagraph.

The Department amended proposed § 28a.3(2)(v), final-form § 28a.7(b)(2)(iii). The purpose of the subparagraph was to assure the lighting sources are placed and utilized in a manner that will not cause injury to a dog. The new language more clearly expresses the intent and gives examples.

Proposed § 28a.3(3), regarding applicable codes, has been deleted from the final-form rulemaking. Local codes vary and are enforced by the local township, borough or municipality. The Department could not know all applicable local codes and does not have authority to enforce those codes. Kennel owners will be required by local and Federal code officials to comply with applicable codes.

#### § 28a.8. Flooring.

The final-form rulemaking, at the suggestion of IRRC and other commentators, has been amended to delineate the flooring standards established by the act and set forth alternative flooring standards in a separate subsection. This should provide the regulated community with more clarity regarding the standards established by the act and the regulation.

Section 28a.8(a)(1) and (2) reiterates the flooring standards in section 207(h)(9) and (i)(3)(i) of the act.

Section 28a.8(b) reiterates the flooring requirements in section 207(i)(3)(ii) of the act, regarding slatted flooring.

Section 28a.8(c) sets forth the Board’s authority under section 207(i)(3)(iii) of the act and is inserted to provide clarity to the regulated community.

Section 28a.8(d) establishes standards for additional flooring options and maintains most of the standards set forth by the Board in its guidelines and in the proposed rulemaking.

Proposed § 28a.4(1) was deleted and combined with proposed § 28a.4(2) to form § 28a.8(d)(1). The Department, in response to comments, added clarifying language to this provision. The clarifying language nearly mirrors the language of the Animal Welfare Act regulations regarding proper drainage.

Section 28a.8(d)(2) was revised to denote that when a drain is provided, it must have a drain cover. The purpose of a drain cover is to assure a dog’s foot, paw or pad will not become stuck or be harmed by an open drain.

Section 28a.8(d)(3) amends proposed § 28a.4(4). The revisions were made in response to comments that stated the provisions needed more clarity. The Department more closely set forth the intent of the provision, which is that materials that may harm the dog because they become exceptionally hot when exposed to direct rays of the sun or a heating source may not be utilized. The Department also separated the provision regarding radiant heat flooring from this provision.

Section 28a.8(d)(4) was added after consultation with the Department’s Bureau of Dog Law Enforcement (Bureau) and Board veterinarians to address animal husbandry and dog welfare issues not addressed in the proposed rulemaking. The Board is required to address these issues, under section 221(f) of the act, when reviewing alternative flooring options. The Bureau has witnessed the foot and pad problems in § 28a.8(d)(4). These are the very problems and dog welfare issues the act was intended to rectify. The language of this provision makes it clear that alternative flooring that would continue to cause the problems delineated in the provision is not acceptable.

Section 28a.8(d)(5) was added to specifically address the use of radiant heat flooring or floor cooling systems. Radiant heat floors were addressed in the proposed rulemaking. Commentators expressed confusion regarding the language and requested more clarity. The revised language is intended to add clarity and objectivity.

Proposed § 28a.4(5), regarding applicable codes for drains, has been deleted. The Department cannot know the separate applicable local codes, nor does the Department have the authority to enforce local codes. Kennel owners will be required by local and Federal code officials to comply with applicable codes.

Section 28a.8(d)(6) revises proposed § 28a.4(6). The revisions were made in response to comments suggesting the language of the proposed rulemaking was not clear or objective enough. The new language adds clarity and objectivity. Examples of materials were deleted because they seemed to cause confusion as to whether they were the only materials allowed and since the new language adds clarity.

Section 28a.8(d)(7) was revised to add clarity. The new language is consistent with the act and the Department's regulations and references the applicable provisions. This should add the clarity and objectivity necessary for compliance and enforcement.

Section 28a.8(d)(8) was revised in response to comments regarding clarity.

Section 28a.8(e) was added to provide clarity and harmonize the flooring standards in the act that relate to dogs under 12 weeks of age and dogs over 12 weeks of age. The act does not enumerate a specific standard for flooring in primary enclosures containing nursing mothers and their litters of dams and foster dams with puppies less than 12 weeks of age. This final-form rulemaking establishes a percentage of flooring that is required to meet the adult dog flooring provisions in section 207(i)(3) of the act and which the Department believes will allow enough room for the adult dog and puppies to avoid the wire flooring, but also allows an area of wire flooring to address the concerns of the PVMA and other veterinarians regarding the puppies' waste not remaining in the primary enclosure, soiling the puppies and resulting in either the puppies or the mother dog eating the feces.

#### § 28a.9. Scope and effective date.

This section was added to clarify that the regulations pertain only to commercial kennels. This section also establishes the effective date of the regulations.

#### *Fiscal Impact*

##### *Commonwealth*

The final-form rulemaking imposes additional fiscal impacts upon the Bureau. As set forth more specifically in the Regulatory Analysis Form, the cost to the Commonwealth, in the first year of the regulations, will be approximately \$64,825. The general breakdown of those first year costs are as follows: \$30,000 for computer programming upgrades and changes to existing forms; \$16,539 for humidity/temperature data loggers that will be purchased and installed by the Department; \$13,000 to equip the kennel inspectors with the necessary light, ammonia and other measurement devices; and \$5,000 for training costs. Those costs will be paid for entirely from the Dog Law Restricted Account. General fund money will not be used. The Department provided in the Regulatory Analysis Form an estimate of costs to the Bureau to enact and enforce the new regulatory standards that would be imposed by the final-form rulemaking.

##### *Political subdivisions*

The addition of mechanical ventilation, additional artificial or natural lighting and flooring changes may require Pennsylvania Uniform Construction Code (UCC)

permit and inspections. This should not specifically increase or decrease costs to local governments. Documentation from the Department of Community and Economic Development's Center for Local Government Services confirmed that municipalities are collecting fees to cover the expenses of UCC administration and enforcement, so that final-form rulemaking will not have a fiscal impact on municipalities. Additional workload generated by the final-form rulemaking will be offset by the fees collected in association with the specific permit.

The enforcement of the final-form rulemaking will neither increase nor decrease costs to local governments. Compliance with the ventilation, lighting and additional flooring standards required under Class C kennels standards will be enforced solely by the Department. Local governments will not have roles in enforcement or other areas associated with the final-form rulemaking.

Most municipalities do not have commercial kennels. The majority of commercial kennels are in 10 of the 67 counties in this Commonwealth and more than half are in Lancaster County. Commercial kennels represent about 6% of the total number of kennels regulated by the Department.

##### *Private sector*

The final-form rulemaking will impose additional costs, most of which will be imposed for initial compliance, on the regulated community (Class C kennels). Class C kennels will likely have to make changes (some significant depending on the current state of their kennel operation) to comply with the ventilation, humidity, ammonia and lighting provisions of the final-form rulemaking. The flooring provisions of the final-form rulemaking actually expand the type of flooring allowed under section 207(i)(3) of the act and do not impose new requirements. The costs to the regulated community will be varied depending on the size and condition of the existing kennel. The Department provided in the Regulatory Analysis Form an estimate of costs for a commercial kennel to comply with the final-form rulemaking, assuming the kennel does not comply with any of the provisions and would not meet current Federal regulatory standards. The costs include the cost to install and operate (on a daily basis) the proper ventilation, auxiliary ventilation systems and lighting systems that meet the ventilation, humidity, ammonia and lighting standards of the regulation. They also include the cost of any monitoring equipment and the cost of replacing light bulbs and general maintenance. The highest total cost for a kennel in the first year would be approximately \$59,000.

The breakdown of costs are based on a 1,500 square foot kennel, which could house about 100 dogs, and generally fall into the following categories: (1) design, installation and certification of the ventilation, auxiliary ventilation, humidity and ammonia systems—\$12—\$25 per square foot which equals \$37,500 at the top end; (2) yearly operation of the systems and cost of lighting and maintenance and replacement bulbs—estimated at \$6,400 per year at the top end; (3) cost to install and maintain a full spectrum lighting system—\$12,000—\$13,500 assuming that infrastructure or wiring is not in place; (4) the cost to install flooring meeting the adult standards in section 207(i)(3) of the act in at least 50% of the floor area in primary enclosures housing nursing mothers or dams and puppies less than 12 weeks of age—\$39—\$210; and (5) cost to buy measuring tools, which is not absolutely necessary, of just under \$1,000. The total high end cost in the first year of the regulation would be approximately \$58,610.

Fifty of the 111 remaining commercial kennels are currently licensed by the United States Department of Agriculture and subject to the Animal Welfare Act and its attendant regulations. Those regulations already require kennels to be heated to at least 50° Fahrenheit and kennel owners to reduce temperature levels in kennels to 85° Fahrenheit (see 9 CFR 3.2(a) and 3.3(a)). It allows a 4-hour window to achieve that temperature. In addition, 9 CFR 3.1(d) currently requires licensed kennels to have “. . . reliable electric power adequate for heating, cooling, ventilation, and lighting, and for caring out other husbandry requirements in accordance with the regulations in this subpart.” Ventilation, under the Federal standards, may be provided by “. . . windows, vents, fans, or air conditioning. Auxiliary ventilation, such as fans, blowers, or air conditioning must be provided when the ambient temperature is 85 degrees F . . . or higher. The relative humidity must be maintained at a level that ensures the health and well-being of the dogs . . . housed therein, in accordance with the directions of the attending veterinarian and generally accepted professional and husbandry practices.” Therefore, the commercial kennels regulated under this final-form rulemaking should already be utilizing some type of auxiliary ventilation when temperatures are above 85° Fahrenheit, should be providing appropriate humidity control and should be doing so in accordance with proper animal husbandry practices, as established by a veterinarian. They should be incurring some electrical, cooling and heating costs and lighting costs under 9 CFR 3.2(c) and 3.3(c).

The remaining commercial kennels are subject to the Department’s current regulatory requirements for lighting, ventilation, auxiliary ventilation and temperature and humidity levels, which are vague, but do require some type of systems to be in place.

The ventilation, humidity and lighting standards in the final-form rulemaking add the specificity (required by the act) that is not part of the current Federal or State regulations. The standards established in the final-form rulemaking were done in consultation with veterinarians from the Board who did research into the appropriate ranges and standards required for proper animal husbandry practices and were reviewed and confirmed by Department veterinarians, animal scientists and engineers that build and design kennel housing facilities. The final-form rulemaking imposes specific and objective ranges, as required by the act. Those ranges are based on animal husbandry practices, data, research and expert advice.

*General Public*

The final-form rulemaking may raise the cost of purchasing a dog and therefore may affect purchasers of dogs. The Department, however, does not have a way to know or calculate if increases will occur, how much increases would be or if they would be implemented by all commercial kennels. The general public will benefit from the final-form rulemaking, as the standards are intended, as were the amendments to the act that precipitated the final-form rulemaking, to improve the health and welfare of the dogs and puppies that are sold to the general public. There are no mandatory requirements imposed on the general public by the final-form rulemaking.

*Paperwork Requirements*

The Department will not have to develop a large array of new application forms or review procedures, but will have to amend current kennel inspection forms and implement changes to the current computer program

regarding kennel inspection. The Department has already worked with its IT department to develop and implement these changes. As set forth in the Regulatory Analysis Form, the total estimated cost to make these changes is \$30,000.

*Effective Date*

The final-form rulemaking has an effective or compliance date of July 1, 2011.

*Additional Information*

Further information is available by contacting the Department of Agriculture, Bureau of Dog Law Enforcement, 2301 North Cameron Street, Harrisburg, PA 17110-9408; Attn: Special Deputy Secretary Jessie Smith, (717) 214-3447 or Bureau Director Sue West, (717) 787-4833. A copy of the final-form rulemaking, Regulatory Analysis Form and the comment and response document can be found at the Department’s web site: [www.agriculture.state.pa.us](http://www.agriculture.state.pa.us).

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 12, 2009, the Department submitted a copy of the notice of proposed rulemaking, published at 39 Pa.B. 5315, to IRRC and the Chairpersons of the House and Senate Committees for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the House and Senate 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 House and Senate Committees 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 deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on August 19, 2010, and approved the final-form rulemaking.

*Findings*

The Department finds that:

(1) Public notice of intention to adopt this final-form rulemaking has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

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

(3) Amendments to this final-form rulemaking in response to comments received were made. The amendments were within the scope of the original proposed rulemaking and the purpose of the proposed rulemaking published at 39 Pa.B. 5315 was not enlarged.

(4) The adoption of the final-form rulemaking in the manner provided in this order is necessary and appropriate for the administration of the act.

*Order*

The Department, acting under the act, orders that:

(a) The regulations of the Department, 7 Pa. Code, are amended by deleting a Statement of Policy in §§ 28.1—28.3 and by adding §§ 28a.1—28a.9 and Appendix A to read as set forth in the Annex A.



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

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

(d) The final-form rulemaking has an effective or compliance date of July 1, 2011.

RUSSELL C. REDDING,  
Secretary

(*Editor's Note:* The Office of Attorney General returned this rulemaking without action to approve or disapprove under the Commonwealth Attorneys Act.)

(*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 2-170 remains valid for the final adoption of the subject regulations.

### Annex A

## TITLE 7. AGRICULTURE

### PART II. DOG LAW ENFORCEMENT BUREAU

#### CHAPTER 28. (Reserved)

#### §§ 28.1—28.3. (Reserved).

#### CHAPTER 28a. COMMERCIAL KENNEL CANINE HEALTH REGULATIONS GENERAL PROVISIONS

Sec.	
28a.1.	Definitions.
28a.2.	Ventilation.
28a.3.	Auxiliary ventilation.
28a.4.	Humidity levels.
28a.5.	Ammonia levels.
28a.6.	Carbon monoxide detectors.
28a.7.	Lighting.
28a.8.	Flooring.
28a.9.	Scope and effective date.

#### GENERAL PROVISIONS

##### § 28a.1. Definitions.

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

*ANSI/U.L. Standard 2034 and IAS 6-96*—Independent laboratory testing standards for carbon monoxide detectors.

*CFM—Cubic Feet per Minute*—A measurement of the flow of a gas or liquid that indicates how much volume in cubic feet pass by a stationary point in one minute.

*Circulation or circulated air*—The air that is mixed within a room and typically provides heating and cooling.

*Commercial kennel*—A kennel that breeds or whelps dogs and does one of the following:

(i) Sells or transfers any dog to a dealer or pet shop kennel.

(ii) Sells or transfers more than 60 dogs per calendar year.

*Diurnal light cycle*—The daily lighting cycle provided by artificial or natural light, or both, which shall be 12 hours of light and 12 hours without light. The 12 hours of light shall coincide with and be provided during normal daylight hours.

*Excessive light*—Direct, undiffused light from either the sun or artificial light, such as from a lighting fixture of an

intensity that is 12 foot candles or more greater than the maximum foot candles of light required by this chapter, which is placed or directed in a manner such that the light is allowed to or is shining directly into a primary enclosure of a dog.

*Fresh air ventilation*—That portion of circulated air that is from the outdoors.

*Full-spectrum lighting*—

(i) Full-spectrum light is light that covers the electromagnetic spectrum from infrared through near-ultraviolet, or all wavelengths that are useful to plant or animal life; in particular, sunlight is considered full spectrum, even though the solar spectral distribution reaching Earth changes with time of day, latitude, and atmospheric conditions.

(ii) When applied to an electrical light bulb the term implies the product emulates natural light.

*Heat Index (HI) or Temperature and Humidity Index (THI)*—An index, published by the United States National Weather Service, that combines air temperature and relative humidity to determine the human-perceived equivalent temperature. Heat Index values are calculated based on temperature measurements taken in the shade. Exposure to full sunshine can increase index values by up to 15° Fahrenheit and strong winds carrying very hot, dry air will add heat to the body. (United States National Weather Service).

*Mechanical ventilation*—Ventilation produced by operation of a machine. So long as its operation results in compliance with the standards established in this chapter, a mechanical ventilation system may range from very basic, such as an exhaust fan, to more sophisticated systems such as a HVAC system with temperature and humidity controls.

*Primary enclosure*—

(i) The primary structure that restricts a dog's ability to move in a limited amount of space, such as a room, cage or compartment.

(ii) The term does not include a run described in section 207(i)(6) of the act (3 P. S. § 459-207(i)(6)).

*Professional engineer*—

(i) An individual licensed and registered under the Engineer, Land Surveyor and Geologist Registration Law (63 P. S. §§ 148—158.2) or a successor statute to engage in the practice of engineering.

(ii) The term does not include a person who is exempt from licensure and registration under section 5(b) of the Engineer, Land Surveyor and Geologist Registration Law (63 P. S. § 152(b)).

*Ventilation or ventilating*—The process of “changing” or replacing air in any space to control temperature and humidity or remove moisture, odors, smoke, heat, dust, airborne bacteria, carbon monoxide, carbon dioxide, and to replenish oxygen. Ventilation includes both the exchange of air to the outside as well as circulation of air within the building. Ventilation is used to remove unpleasant smells and excessive moisture, introduce outside air and to keep interior building air circulating, to prevent stagnation of the interior air.

##### § 28a.2. Ventilation.

(a) *General requirements.* Each area of a commercial kennel and commercial kennel housing facility where a dog is housed, kept or present, including primary enclosures, must utilize a functional, mechanical ventilation

system that provides ventilation in a manner that meets the requirements of this section and §§ 28a.3—28a.6. The kennel owner or operator shall assure the mechanical ventilation system is functional, in operation at all times and meets the standards and requirements of this section. The kennel owner or operator shall also assure the auxiliary ventilation system, humidity control system and carbon monoxide detectors are functional, operational and operated or operating in a manner that meets the standards and requirements of this section and §§ 28a.3—28a.6.

(b) *Certification of ventilation system.* The kennel owner shall supply the following information to the Department:

(1) Written certification under the signature and seal of a professional engineer verifying the professional engineer has inspected the ventilation system to be certified, acknowledging familiarity with the requirements of the act and this chapter and certifying that the ventilation system of the kennel meets all of the standards and requirements of this section and §§ 28a.3—28a.6. In addition, the certification must contain the following information:

(i) The total cubic feet of the kennel and kennel housing facility, and the cubic feet of each separate room or area of the kennel and kennel housing facility where a dog is kept, housed or present.

(ii) A description of the mechanical ventilation equipment to be utilized in each room or area of the kennel and kennel housing facility where a dog is kept, housed or present, including primary enclosures. The description must include the cubic feet per minute capacity of that equipment.

(iii) A description of the humidity control system, devices or equipment to be utilized, including the total capacity of the system, devices or equipment.

(iv) A description of the auxiliary ventilation system, devices or equipment to be utilized.

(v) The highest total number of dogs that will be kept, held or present in the kennel and kennel housing facility, including primary enclosures, at any time.

(vi) The location where every device for measuring temperature and humidity required under § 28a.4(b)(1) (relating to humidity levels) should be installed to accurately measure temperature and humidity as required by this chapter in each area and room within the kennel and kennel housing facility where a dog is housed, kept or present, including primary enclosures.

(2) The certification shall be submitted to the Department by May 30, 2011, for all commercial kennels licensed as of that date, and thereafter, the certification shall be submitted as part of all commercial kennel license applications; and within 90 days of any change to the volume, cubic feet or linear dimensions of the kennel housing facility where a dog is kept, housed or present, including primary enclosures, a change in the highest total number of dogs kept, held or present, or a change to the volumetric, capacity, circulation or air exchange portions of the ventilation system or a change in any part of the auxiliary ventilation or humidity control system.

(3) A new certification is not required for the submission of a commercial kennel license application, if the commercial kennel submitting the kennel license application was licensed in the previous year, submitted a valid certification in that year and there have been not changes to the volume, cubic feet or linear dimensions of the

kennel or kennel classification since the submission of the last kennel license application and certification. In that instance, the certification submitted with the most recent commercial kennel license application may be resubmitted.

(4) The information submitted to the Department will be kept as part of the kennel's records.

(c) *Inspection.*

(1) *Inspection.* A State dog warden or other employee of the Department inspecting the kennel will at a minimum assure that:

(i) The mechanical ventilation system is functional, operational and in operation.

(ii) The auxiliary ventilation system is available, functional and operational and, where the temperature in the kennel exceeds 85° Fahrenheit, that the auxiliary ventilation system is in operation.

(iii) The humidity control system is available, functional and operational and operating or operated in a manner that meets the standards and requirements of § 28a.4.

(2) *Assurance of compliance.* A State dog warden or other employee of the Department inspecting the kennel may take ventilation, temperature, humidity and ammonia level readings and measurements to assure compliance with this chapter.

(d) *Recertification.* The Department may require recertification by a professional engineer where the ventilation, auxiliary ventilation, humidity or ammonia levels or standards fail to comply with the requirements of this chapter.

(e) *Ventilation and circulation.* Kennels and housing facilities where a dog is housed, kept or present, including primary enclosures, shall be equipped with mechanical ventilation equipment that physically moves air and can provide ventilation, fresh air ventilation, circulation, heating, dehumidification and filtration meeting the standards of this chapter. This equipment includes: air handlers, roof top units, dehumidifiers, furnaces, unit heaters and heat pumps.

(f) *Standards.* The standards established in this subsection shall be met at all times that a dog is housed, kept or present in the kennel or kennel housing facility, including primary enclosures:

(1) *General.* Ventilation and circulation of air shall be provided and distributed throughout the entire area of the kennel and kennel housing facility, at the required volumetric rates and in the manner required by this chapter in all rooms or areas of the kennel and housing facility where a dog is housed, kept or present, including primary enclosures.

(2) *Circulation and volumetric rates.* Minimum circulation rates in each area or room of a kennel and housing facility, including primary enclosures, where a dog is housed, kept or present shall be maintained at all times at a total volumetric airflow of 100 cubic feet per minute (CFM) per dog. Volumetric air flow rates may be required to be increased as set forth in § 28a.3 (relating to auxiliary ventilation).

(3) *Design capacity.* The mechanical ventilation equipment employed to physically circulate and move the air shall be designed, rated and able to circulate and move the required volume of air based on the highest total number of dogs held in the kennel and kennel housing

facility, including primary enclosures, at any one time and shall do so in a manner meeting all requirements of this section.

(4) *Fresh air rates.* At least 30 CFM per dog of the circulated air shall be fresh air; the rest may be recirculated air.

(5) *Filtration.* Filtration of circulated air shall be by disposable filters rated at a minimum efficiency reporting value (MERV) of 8 or higher.

(i) Evidence of the MERV filtration level shall be the information printed by the manufacturer on the filters.

(ii) At a minimum, filters shall be replaced quarterly in equipment serving areas of the kennel and kennel housing facility, including primary enclosures, that houses dogs.

(6) *Design and placement.* Ventilation shall provide circulation at the height of the dog, meaning the ventilation system shall be designed and placed in such a manner that each dog is in the moving air stream provided by the ventilation.

(g) *Mechanical malfunction or failure.* In the event of a mechanical system malfunction or failure, the kennel and kennel housing facility must have windows, doors, skylights, or other openings in the structure that are operable and may be opened to provide natural ventilation and the auxiliary ventilation techniques established in § 28a.3 may be utilized. In the event of a mechanical system malfunction or failure resulting in a failure to meet the requirements set forth in this section and §§ 28a.3—28a.5, the kennel owner shall do all of the following:

(1) *Kennel temperatures below 85° Fahrenheit.* Take steps to correct the malfunction or failure immediately and restore the kennel and kennel housing facility, including primary enclosures, to a condition complying with this section and §§ 28a.3—28a.5 within 72 hours of the occurrence of the malfunction or failure. If at any time during the 72-hour period the temperature in the kennel or kennel housing facility, including the primary enclosures exceeds 85° Fahrenheit, the kennel owner shall follow and comply with subparagraph (2).

(2) *Kennel temperatures in excess of 85° Fahrenheit.* Take steps to correct the malfunction or failure immediately and restore the kennel and kennel housing facility, including primary enclosures, to a condition complying with this section and §§ 28a.3—28a.5 within 4 hours of the malfunction or failure. If the malfunction or failure cannot be, or is not, corrected so that the kennel and kennel housing facility, including primary enclosures, is compliant with this section and §§ 28a.3—28a.5 within 4 hours of the occurrence of the malfunction or failure, immediately notify the kennel's veterinarian and consult on the steps to be taken to protect the health and well being of the dogs, as well as, contemporaneously keep records of the following:

(i) The time of the malfunction or failure.

(ii) Temperature and humidity readings every 4 hours thereafter until the temperature is reduced to below 85° Fahrenheit.

(iii) The time of the notification to the kennel's veterinarian and all steps taken to protect the health and well being of the dogs.

(3) *Malfunctions or failures reaching or exceeding 24 hours.* If a failure or malfunction reaches or exceeds 24 hours, immediately notify the Department of the steps

being taken to address the malfunction or failure and to protect the health and well being of the dogs. If notification to the Department is required after 4:00 p.m. on a weekday or on a weekend or holiday the kennel owner shall notify the Department by 9:00 a.m. of the next Department business day.

(4) Upon the occurrence of a malfunction or failure requiring the notification set forth in paragraph (2), notify the Department of the date and time the kennel and kennel housing facility, including the primary enclosures were restored to compliance with this section and §§ 28a.3—28a.5.

(h) *Illness or stress.* If upon inspection, dogs exhibit conditions or signs of illness or stress associated with poor or improper ventilation, air circulation, auxiliary ventilation or humidity levels the State dog warden or other employee of the Department performing the inspection may take appropriate measurements and readings in all areas of the kennel where the illness or stress is present to determine if the kennel is in compliance with all provisions of this chapter relating to ventilation, auxiliary ventilation, humidity and ammonia levels and may require a recertification under subsection (d) be provided within a time period specified, but in no event shall the time period specified be more than 30 days or less than 7 days. Signs of illness or stress associated with poor or improper levels of ventilation, air circulation, auxiliary ventilation or humidity, ammonia or carbon monoxide levels include:

(1) Respiratory distress, such as excessive panting, breathing problems and hyperventilation.

(2) Signs of heat distress or heat stroke, including excessive panting, hyperventilation, increased salivation, gums that are dry, pale, grayish and tacky, rapid pulse, weakness, confusion, inattentive behavior, vomiting, elevated body temperature or rectal bleeding.

(3) Matted, puffy, red or crusted eyes.

(4) Listlessness.

(5) Fungal and skin diseases.

### § 28a.3. Auxiliary ventilation.

(a) *General.* When temperatures, in any part of a kennel and kennel housing facility where a dog is housed, kept or present, including primary enclosures, rise above 85° Fahrenheit, auxiliary ventilation shall be provided to the dogs in that part of the kennel and kennel housing facility, including primary enclosures. The auxiliary ventilation must provide the increased volumetric air flow rates and humidity control required by this chapter and be operated in addition to, not in place of, all other ventilation and humidity requirements in this chapter. Auxiliary ventilation systems may be utilized in the event of a primary ventilation system failure or malfunction.

(b) *Types of auxiliary ventilation.* Auxiliary ventilation devices and techniques may include:

(1) Utilizing fans or air circulation equipment that increases the total volumetric airflow from 100 CFM per dog to 200 CFM per dog, either by utilizing any additional capacity the current mechanical ventilation system may provide or by adding additional fans or circulating equipment. The proper humidity levels, as established in § 28a.4 (relating to humidity levels), shall be maintained at all times.

(2) Providing cooling by moving or circulating air over cool water coils or piping, cooling towers or ice or providing cooling directly to the primary enclosure or space occupied by the dog by a means capable of cooling

the enclosure or floor upon which the dog lays or walks, such as piping or coils capable of carrying cool water under or within the flooring system, and at the same time increasing the total volumetric airflow from 100 CFM per dog to 200 CFM per dog, either by utilizing any additional capacity the current mechanical ventilation system may provide or by adding additional fans or circulating equipment. The proper humidity levels, as established in § 28a.4, shall be maintained at all times.

(3) Air conditioning sufficient to reduce temperature and humidity levels in the kennel to the required levels.

(4) Geothermal systems sufficient to reduce temperature and humidity levels in the kennel to the required levels.

**§ 28a.4. Humidity levels.**

(a) *General standards.* A kennel and kennel housing facility, where a dog is housed, kept or present, including primary enclosures must meet the following humidity levels:

(1) *Temperatures below 85° Fahrenheit.* When temperatures in the kennel or kennel housing facility, where any dog is housed, kept or present, including primary enclosures, are below 85° Fahrenheit, relative humidity levels shall be kept between 30% and 70%.

(2) *Temperatures above 85° Fahrenheit.* When temperatures, in any part of the kennel or kennel housing facility, where a dog is housed, kept or present, including primary enclosures, rise above 85° Fahrenheit, the relative humidity level shall be reduced to a level that will accomplish a Heat Index value of 85 or lower.

(3) *Four-hour window.* Once the temperature in any part of the kennel or kennel housing facility, where a dog is housed, kept or present, exceeds 85° Fahrenheit, the kennel owner shall have 4 hours to accomplish and maintain a Heat Index of 85 HI or lower, as required under paragraph (2). At no time during that 4-hour time period or at any other time shall the Heat Index value ever exceed 90 HI in any area, room or part of the kennel or housing facility, where a dog is housed kept or present, including primary enclosures. If within 4 hours, the kennel owner is unable to accomplish and maintain a Heat Index of 85 HI or lower, the kennel owner shall immediately notify the kennel's veterinarian and consult on the steps to be taken to protect the health and well being of the dogs, as well as contemporaneously keep the records required under § 28a.2(g)(2)(ii)—(iii) (relating to ventilation). If such a failure to accomplish and maintain a Heat Index of 85 HI or lower exceeds 24 hours, the kennel owner shall contact the Department in the manner prescribed and provide it with the information required under § 28a.2(g)(3) and (4).

(4) *Calculation of HI.*

(i) The tool that shall be utilized to determine the HI value and thereby the proper humidity levels when temperatures rise above 85° Fahrenheit shall be the Temperature and Humidity Index of the National Weather Service or its successor standard. This is also available at the National Weather Service web site at <http://www.crh.noaa.gov/> and then search HI; the HI Calculator is located at <http://www.hpc.ncep.noaa.gov/html/heatindex.shtml>.

(ii) A chart setting forth the Heat Index values is set forth in Appendix A. (Examples of the Heat Index values are: 86° Fahrenheit and 40% humidity = HI of 85° Fahrenheit; and 90° Fahrenheit and 20% humidity = HI of 86° Fahrenheit.)

(5) *Condensation.* Humidity levels, other than during times of cleaning and sanitizing, may not rise to the level where condensation occurs in any area of the kennel, kennel housing facility or primary enclosures where a dog is housed, kept or present.

(b) *Measurement and control standards.*

(1) Temperature and humidity levels shall be measured in each area or room within the kennel and housing facility where a dog is housed, kept or present and shall be measured and recorded by either a humidity gauge and a temperature gauge or by a thermo-hygrometer, which shall be installed in each room of the kennel and housing facility in which a dog is housed, kept or present.

(2) The measuring devices will be provided by and be the property of the Department and meet the following minimum standards:

(i) The device will not require hard wiring, and may be operated by batteries.

(ii) The device will store temperature and humidity data on an hourly basis and for a time period of at least 6 months.

(iii) The device will be rated as accurate to within 1° Fahrenheit.

(iv) The device will be rated as accurate to within plus or minus 2% relative humidity from 10% to 90% relative humidity.

(3) Evidence of humidity control devices shall be either dedicated dehumidifiers in each room and area of the kennel and housing facility in which a dog is housed, kept or present or may be air conditioning equipment. The equipment utilized must have documented dehumidification capability.

(4) If air conditioning is utilized, the cooling capacity shall be at least 35 Btu/hr per square foot (1 ton of cooling for every 350 square feet) of animal area as demonstrated by nameplate cooling capability on the cooling equipment.

(5) The humidity gauge and temperature gauge or thermo-hygrometer installed and provided by the Department may not be tampered with, destroyed, incapacitated, reset or disturbed, including downloading of data, by any person other than a State dog warden or an authorized employee of the Department.

(6) If such a device is tampered with, destroyed, incapacitated, reset or disturbed, it shall be the responsibility of the kennel owner to notify the Department within 24 hours on normal business days and by 9:00 a.m. of the next Department business day if the occurrence is on a weekend or holiday.

(7) The Department will remove and have the device checked for proper calibration and accuracy according to manufacturer specifications. The Department will replace any removed device with an accurate and properly calibrated humidity and temperature gauge or thermo-hygrometer.

(8) Data taken from these devices may not be used as the sole basis for a civil penalty or criminal penalty under section 903(a) or (b) of the act (3 P. S. § 459-903 (a) and (b)) for violation of this section.

**§ 28a.5. Ammonia levels.**

(a) *Levels.* Ammonia levels in all areas and rooms of the kennel and kennel housing facility, where a dog is housed, kept or present, including primary enclosures may not be greater than 15 ppm (parts per million)

except within 30 minutes of the completion of active sanitation of that primary enclosure.

(b) *Measurements.* Ammonia level measurements shall be taken at the level of the dogs.

**§ 28a.6. Carbon monoxide detectors.**

A kennel or kennel housing facility utilizing any carbon monoxide emitting device, shall install and maintain functioning carbon monoxide detectors in each room or area of the kennel and kennel housing facility in which a dog is housed, kept or present. The carbon monoxide detectors must meet or exceed the UL standard 2034 or the IAS 6-96 standard, or its successor standards.

**§ 28a.7. Lighting.**

(a) *General lighting standard for commercial kennels.* Lighting in commercial kennels may be provided by natural or artificial light, or both. Whether lighting is provided by natural or artificial light, or both, the following standards shall be met:

(1) There shall be ample lighting by natural or artificial means to provide sufficient illumination to allow routine inspection of the kennel, housing facility and primary enclosures and observation of the dogs at any time and to assure proper cleaning and good housekeeping practices and for the well-being of the dogs.

(2) Lighting shall be uniformly diffused throughout the kennel and housing facility where a dog is housed, kept or present, including primary enclosures.

(3) All areas of the kennel and housing facility in which a dog is housed, kept or present, including primary enclosures, shall be provided a regular diurnal cycle through natural or artificial light, or both.

(4) The lighting range provided during the 12-hour light period of the diurnal cycle shall be 40 to 60 foot candles or 430—650 lux, in all areas and rooms of the kennel and kennel housing facility, including primary enclosures, where a dog is housed, kept or present.

(5) Primary enclosures and other areas of the kennel and kennel housing facility in which a dog is housed, kept or present shall be placed or located in a manner that protects each dog from exposure to excessive light.

(b) *Specific lighting standards.* The following specific standards are in addition to, not in place of, all other requirements meeting the general lighting standards established in this section. The following specific standards apply:

(1) *Natural light.* Where kennel and housing facility lighting is provided by natural light, any window or opening, with the exception of the openings that provide for unfettered access to the exercise area, which provides natural light shall be covered with a transparent material such as glass or hard plastic and remain unobstructed.

(2) *Artificial light.* Where kennel or kennel housing facility lighting is provided by artificial lighting the following standards apply:

(i) The artificial lighting shall be provided by full spectrum lighting.

(ii) Lighting sources and systems shall be kept in good repair and functional and may not have any bulb or part of the system in disrepair, such as being unable to produce light, burned out or emitting irregular bursts of light, such as when a ballast is in disrepair.

(iii) Light sources, whether their primary purpose is to provide heat or light, shall be provided in a manner that

prevents dogs from being injured (that is, through contact with the light, fixture, bulb, switch or cord or through electrocution).

**§ 28a.8. Flooring.**

For dogs over 12 weeks of age, the flooring in commercial kennels must meet the following standards:

(1) *General requirements of the act.*

(i) The floors of all primary enclosures must be impervious to moisture, as required under section 207(h)(9) of the act (3 P. S. § 459-207(h)(9)).

(ii) The flooring must comply with the flooring standards established in section 207(i)(3)(i) of the act, which states “The floor of the primary enclosure shall be strong enough so that the floor does not sag or bend between the structural supports, shall not be able to be destroyed through digging or chewing by the dogs housed in the primary enclosure, shall not permit the feet of any dog housed in the primary enclosure to pass through any opening, shall not be metal strand whether or not it is coated, shall allow for moderate drainage of fluids and shall not be sloped more than 0.25 inches per foot.”

(2) *Flooring constructed with slats.* Section 207(i)(3)(ii) of the act allows floors to be constructed with slats if the floor is in compliance with the general requirements of the act, established in section 207(i)(3)(i), and set forth in paragraph (1) and meets the following conditions:

(i) The floor is flat.

(ii) The floor has spaces between the slats that are no more than 0.5 inch in width.

(iii) The floor has spaces between the slats that run the length or the width of the floor, but not both.

(iv) The floor has slats that are no less than 3.5 inches in width.

(v) All of the slats are level with the slat next to it within a single primary enclosure.

(3) *Additional flooring options.* Any flooring options that may be approved by the Canine Health Board, under the authority in section 207(i)(3)(iii) of the act, must meet the standards in section 221(f) of the act (3 P. S. § 459-221(f)), and the additional flooring requirements established under subsection (d).

(4) *Additional flooring requirements.*

(i) Solid flooring is approved and shall be sloped to a drain that is properly maintained, such as being free of debris and in good repair, so that the drain is functioning and capable of rapidly removing waste and water and keeping animals dry.

(ii) Any drain must have a drain cover which is securely fixed and made of a noncorrosive substance.

(iii) Flooring may not be made of a material, that when exposed to a heat source such as the direct rays of the sun, a lamp or radiant heating can rise to temperatures that may cause injury to the skin, feet or pads of a dog.

(iv) The flooring may not splay the feet of a dog, cause or result in damage such as cuts, swelling or ulceration to the pads of a dog's foot or allow the dog toe or toenail to slip between any openings in the floor thereby causing injury.

(v) Radiant heat flooring, or a floor cooling system, may be utilized to temper the dogs' primary enclosure, but may not be utilized as the primary heating or cooling mechanism. The temperature of that flooring must be

able to be regulated in a manner that assures it will not rise or fall to levels that would cause injury to a dog's skin feet or pads or cause hypothermia, hyperthermia, heat stress or heat stroke.

(vi) The surface of the flooring must be constructed of a material or in a manner that it will provide the dogs with footing that is not slippery or slick, so that the dog will have traction and may stand, walk and move about without falling, slipping, sliding or causing injury to its legs, hips or back. Utilizing nonslip coating and textures are one means of providing sure footing.

(vii) Flooring must be made of material that is impervious to moisture, capable of being cleaned on a daily basis or as often as necessary as required under the act and § 21.29 (relating to sanitation) and capable of being sanitized in accordance with section 207(h)(14) (3 P. S. § 459-207(h)(14)) of the act.

(viii) Flooring may not be made of or coated with materials that can be chewed and readily ingested, or are toxic to dogs, or both.

(5) *Nursing mothers.* Primary enclosures, including whelping boxes, housing bitches with nursing litters or housing dams or foster dams with puppies under 12 weeks of age must be constructed so that at least 50% of the flooring of the primary enclosure complies with the standards established under section 207(i)(3) of the act.

**§ 28a.9. Scope and effective date.**

(a) *Scope.* This chapter applies only to commercial kennels.

(b) *Effective Date.* This chapter is effective on July 1, 2011.

**Appendix A  
85 HI**

**Heat Index from Temperature and Humidity**

The following chart delineates the relative humidity level that shall be reached and maintained to achieve a Heat Index value of 85.

When air temperature in any part of the kennel or kennel housing facility, where any dog is housed, kept or present, including primary enclosures rises above 85° Fahrenheit the following relative humidity levels shall be achieved and maintained.

<i>Temperature (air) in Fahrenheit</i>	<i>Relative Humidity (RH)</i>
86° Fahrenheit	40% RH or less
87° Fahrenheit	34% RH or less
88° Fahrenheit	28% RH or less

<i>Temperature (air) in Fahrenheit</i>	<i>Relative Humidity (RH)</i>
89° Fahrenheit	21% RH or less
90° Fahrenheit	11% RH or less
91° Fahrenheit	6% RH or less
92° Fahrenheit	1% RH or less

*Note:* At temperatures in excess of 92° Fahrenheit there is no relative humidity level that will allow an HI of 85 to be achieved.

**90 HI  
Four-Hour Window**

**Heat Index from Temperature and Humidity**

The following chart delineates the relative humidity levels that may not be exceeded at any time.

Once the air temperature in any part of the kennel or kennel housing facility, where a dog is housed, kept or present, exceeds 85° Fahrenheit, the kennel owner shall have no more than 4 hours to accomplish and maintain a Heat Index of 85 HI or lower, as required by this chapter. At no time during that 4-hour time period or at any other time shall the Heat Index value ever exceed 90 HI in any area, room or part of the kennel or housing facility, where a dog is housed kept or present, including primary enclosures.

<i>Temperature (air) in Fahrenheit</i>	<i>Relative Humidity (RH)</i>
86° Fahrenheit	58% RH or less
87° Fahrenheit	53% RH or less
88° Fahrenheit	48% RH or less
89° Fahrenheit	43% RH or less
90° Fahrenheit	39% RH or less
91° Fahrenheit	35% RH or less
92° Fahrenheit	30% RH or less
93° Fahrenheit	25% RH or less
94° Fahrenheit	20% RH or less
95° Fahrenheit	13% RH or less
96° Fahrenheit	10% RH or less
97° Fahrenheit	7% RH or less
98° Fahrenheit	3% RH or less

*Note:* At temperatures in excess of 98° Fahrenheit there is no relative humidity level that will allow an HI of 90 to be achieved.

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