

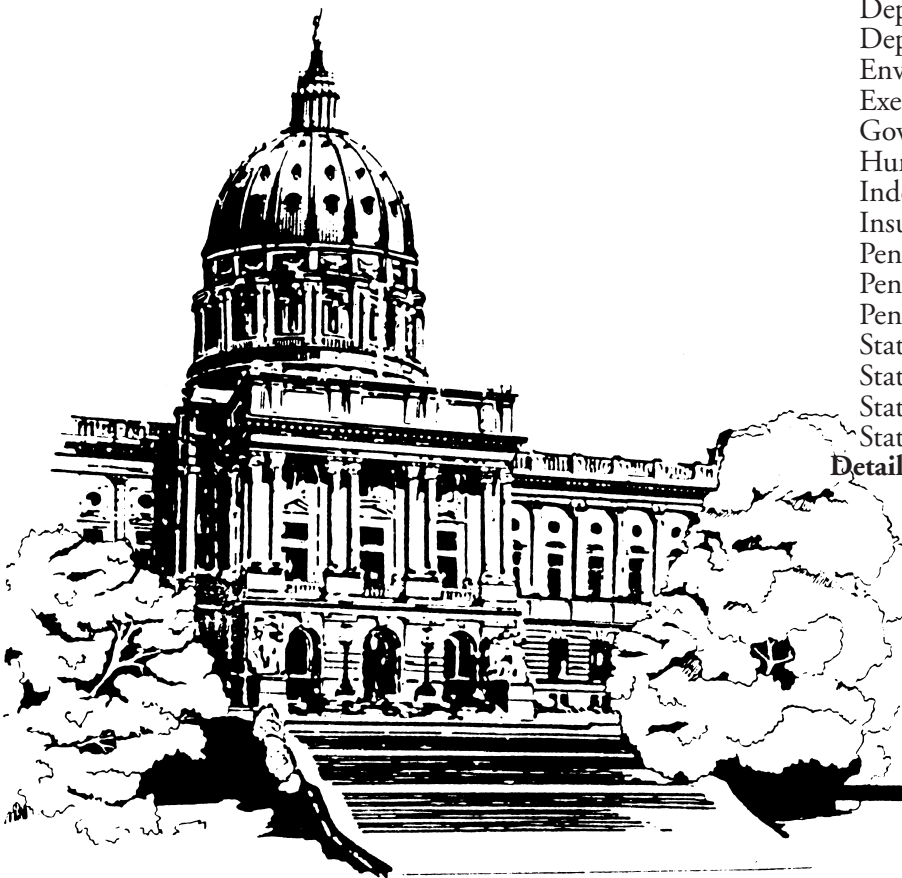
# PENNSYLVANIA BULLETIN

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Department of Banking  
Department of Conservation and Natural Resources  
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State Board of Barber Examiners  
State Board of Cosmetology  
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**No. 423, February 2010**

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

## *Pennsylvania Bulletin*

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

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

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

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

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

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

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

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

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

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

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

### ***Pennsylvania Code***

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

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

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

### **How to Find Documents**

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

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

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

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### Printing Format

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

### Fiscal Notes

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

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

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## List of Pa. Code Chapters Affected

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

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# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART V. PROFESSIONAL ETHICS AND CONDUCT [ 204 PA. CODE CHS. 87, 89 AND 93 ]

#### Amendments to Rules of Organization and Procedure of The Disciplinary Board of The Supreme Court of Pennsylvania

##### Order No. 71

By Order dated January 6, 2010, the Supreme Court of Pennsylvania amended Pa.R.D.E. 205(a) to reduce the number of lawyer members of the Disciplinary Board to eleven. By this Order, the Board is making conforming changes to its Rules to reflect the adoption of this amendment. In light of this change, the Board is also reducing the number of copies of certain pleadings required to be filed with the Board.

The Disciplinary Board of the Supreme Court of Pennsylvania finds that:

(1) To the extent that 42 Pa.C.S. § 1702 (relating to rule making procedures) and Article II of the act of July 31, 1968 (P. L. 769, No. 240), known as the Commonwealth Documents Law, would otherwise require notice of proposed rulemaking with respect to the amendments adopted hereby, those proposed rulemaking procedures are inapplicable because the amendments adopted hereby relate to agency procedure and are perfunctory in nature.

(2) The amendments to the Rules of Organization and Procedure of the Board adopted hereby are not inconsistent with the Pennsylvania Rules of Disciplinary Enforcement and are necessary and appropriate for the administration of the affairs of the Board.

The Board, acting pursuant to Pa.R.D.E. 205(c)(10), orders:

(1) Title 204 of the *Pennsylvania Code* is hereby amended as set forth in Annex A hereto.

(2) The Secretary of the Board shall duly certify this Order, and deposit the same with the Administrative Office of Pennsylvania Courts as required by Pa.R.J.A. 103(c).

(3) The amendments adopted hereby shall take effect upon publication in the *Pennsylvania Bulletin*.

(4) This Order shall take effect immediately.

ELAINE M. BIXLER,  
*Secretary*

#### Annex A

### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

#### PART V. PROFESSIONAL ETHICS AND CONDUCT

##### Subpart C. DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA

#### CHAPTER 87. INVESTIGATIONS AND INFORMAL PROCEEDINGS

##### Subchapter D. ABATEMENT OF INVESTIGATION

§ 87.72. Matters involving related pending civil or criminal litigation.

\* \* \* \* \*

(b) *Procedure*. [ **Twelve** ] An original and three conformed copies of an application for deferment of action under subsection (a) of this section shall be filed in the Office of the Secretary with proof of service on the Office of Disciplinary Counsel. The Office of Disciplinary Counsel may file and serve a written response thereto within 20 days thereafter.

\* \* \* \* \*

#### CHAPTER 89. FORMAL PROCEEDINGS

##### Subchapter D. ACTION BY BOARD AND SUPREME COURT

§ 89.202. Content and form of briefs on exceptions.

\* \* \* \* \*

(d) *Copies*. [ **Eighteen** ] Fourteen copies of each brief shall be filed with the Office of the Secretary in addition to the copies served on the participants in the proceedings.

#### CHAPTER 93. ORGANIZATION AND ADMINISTRATION

##### Subchapter B. THE DISCIPLINARY BOARD

§ 93.21. The Disciplinary Board.

Enforcement Rule 205(a) and (b) provide that the Supreme Court shall appoint a board to be known as "The Disciplinary Board of the Supreme Court of Pennsylvania" which shall be composed of [ **12** ] 11 members of the bar of this Commonwealth and two non-lawyer electors; that the regular terms of members of the Board shall be for three years; that no member shall serve for more than two consecutive three-year terms.

[Pa.B. Doc. No. 10-216. Filed for public inspection February 5, 2010, 9:00 a.m.]

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

[ 231 PA. CODE CH. 3000 ]

In Re: Amendment of Rules 3022 and 3023 of the Rules of Civil Procedure; No. 520; Civil Procedural Rules

#### Order

*Per Curiam*:

And Now, this 26th day of January, 2010, upon the recommendation of the Civil Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa. R.J.A. No. 103(a)(3):

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 3022 and 3023 of the Pennsylvania Rules of Civil Procedure are amended in the attached form.

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

PATRICIA NICOLA,  
*Chief Clerk*

*Supreme Court of Pennsylvania*



## Annex A

## TITLE 231. RULES OF CIVIL PROCEDURE

## PART I. GENERAL

## CHAPTER 3000. JUDGMENTS

Subchapter A. TRANSFER OF JUDGMENTS TO  
OTHER COUNTIES

## Rule 3022. Verdict or Order. Lien. Duration.

\* \* \* \* \*

(b)(1) Except as provided by paragraph (2), the lien of a verdict or order for a specific sum of money shall have the priority prescribed by Section 8141 of the Judicial Code from the time the verdict or order is entered in the judgment index.

\* \* \* \* \*

(3) Sections 8141(3)—(5) of the Judicial Code, 42 Pa.C.S. §§ 8141(3)—(5), [ is ] are suspended in accordance with Article V, Section 10(c) of the Constitution of 1968 and Section 1722(b) of the Judicial Code, 42 Pa.C.S. § 1722(b), insofar as [ it is ] they are inconsistent with this rule.

**Official Note:** Section 8141(3) of the Judicial Code provides that the lien of a verdict for a specific sum of money shall have priority from the time it is recorded by the court.

**Section 8141(4) of the Judicial Code provides that the lien of an adverse judgment and other orders shall have priority from the time it is rendered.**

**Section 8141(5) of the Judicial Code provides that the lien of an amicable judgment shall have priority from the time the instrument on which it is entered is left for entry.**

## Rule 3023. Judgment. Lien. Duration.

\* \* \* \* \*

(b) A judgment upon a verdict or an order, when entered in the judgment index, shall

\* \* \* \* \*

(3) Sections 8141(3)—(5) of the Judicial Code, 42 Pa.C.S. §§ 8141(3)—(5), are suspended in accordance with Article V, Section 10(c) of the Constitution of 1968 and Section 1722(b) of the Judicial Code, 42 Pa.C.S. § 1722(b), insofar as they are inconsistent with this rule.

**Official Note:** Section 8141(3) of the Judicial Code provides that the lien of a verdict for a specific sum of money shall have priority from the time it is recorded by the court.

**Section 8141(4) of the Judicial Code provides that the lien of an adverse judgment and other orders shall have priority from the time it is rendered.**

**Section 8141(5) of the Judicial Code provides that the lien of an amicable judgment shall have priority from the time the instrument on which it is entered is left for entry.**

\* \* \* \* \*

## Explanatory Comment

In 2003, the Supreme Court adopted new Rules 3021 et seq. governing judgment liens and the revival of judgment liens. At that time, new Rule 3022(b)(3) suspended only section 8141(3) of the Judicial Code because its provision governing lien priority for verdicts from the

time they are recorded by the court was inconsistent with Rule 3022 which provides for lien priority as of the date when a verdict is entered in the judgment index.

Sections 8141(4) and (5) of the Judicial Code are also being suspended because they are inconsistent with Rule 3023. Both sections 8141(4) and (5) create a lien that is earlier in time than what Rule 3023 provides. Since these statutory provisions can create hidden liens, the Supreme Court has suspended both statutory provisions.

[Pa.B. Doc. No. 10-217. Filed for public inspection February 5, 2010, 9:00 a.m.]

Title 255—LOCAL  
COURT RULES

## BERKS COUNTY

**In Re: Administrative Order Designating the Judicial Administrative Assistant to the Administrative Head of the Juvenile Dependency Court to Receive Reports Regarding Adjustment, Progress and Condition of a Child Under Pa.R.J.C.P. 1604(B); Prothonotary No. 10-162; No. CP-06-AD-000008-2010**

## Order

*And Now*, this 21st day of January, 2010, *It Is Hereby Ordered* that the Judicial Administrative Assistant to the Administrative Head of the Juvenile Dependency Court be and hereby is named as the designee to receive reports regarding a child's adjustment, progress and condition, pursuant to Pa.R.J.C.P. 1604(B) and 42 Pa.C.S. § 6336.1(b).

The District Court Administrator shall:

(1) Submit two certified copies of the Order along with one copy of the same on a computer diskette, CD-ROM, or an electronic copy that complies with the requirements of 1 Pa. Code § 13.11(b)—(f), to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

(2) Forward one copy of the written notification, received from the Juvenile Court Procedural Rules Committee, providing that this Order is not inconsistent with the Pennsylvania Rules of Juvenile Court Procedure, to the Legislative Reference Bureau; and

(3) Contemporaneously with the publishing of this Order in the *Pennsylvania Bulletin*, file one certified copy of the Order with the Administrative Office of Pennsylvania Courts.

This Order shall become effective thirty (30) days after the date of publication in the *Pennsylvania Bulletin*. In the interim, the existing local procedure, which provided for the filing and proper dissemination of these reports with the Court Administrator of Berks County, shall remain in full force and effect.

*By the Court*

JEFFREY L. SCHMEHL,  
*President Judge*

[Pa.B. Doc. No. 10-218. Filed for public inspection February 5, 2010, 9:00 a.m.]

## INDIANA COUNTY

**In Re: Modification of Local Rule of Criminal Procedure 117; AD-2-2006****Administrative Order of Court**

*And Now*, January 15, 2010, it is hereby *Ordered* that the existing text of Indiana County Rule of Criminal Procedure 117 is modified to add the text of the Rule attached to this Order. This modification shall not alter the pre-existing text of Indiana County Rule of Criminal Procedure 117, and said text remains in full force and effect.

The Court Administrator is *Directed* to:

1. File one (1) certified paper copy of this Order and modification of Rule with the Administrative Office of Pennsylvania Courts,

2. File two (2) certified paper copies and one (1) diskette containing this Order and modification of Rule with the Legislative Reference Bureau for the purposes of publication in the *Pennsylvania Bulletin*,

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

4. File copies of this Order and modification of Rule with the Prothonotary and Clerk of Courts.

The Prothonotary and Clerk of Courts is *Directed* to keep available continuously at least one (1) copy of this Order and modification of Rule for public inspection.

This Order and attached modification of Rule shall become effective on February 20, 2010.

*By the Court*

WILLIAM J. MARTIN,  
*President Judge*

**Local Rule 117. Magisterial District Judge On-call and After Hours Procedure.**

(a) All Magisterial District Judges shall be available during regular Court business hours on regular Business days.

(b) A Magisterial District Judge shall be available at 6:00 AM, 2:00 PM and 10:00 PM on non-business days and on non-business hours of regular business days.

(1) Magisterial District Judges shall only be available under this subsection for the purpose of executing actions enumerated under Pa.R.Crim.P. 117(A).

(2) An arresting Officer must fax a signed Criminal Complaint and any other pertinent information to the on-duty Magisterial District Judge before any preliminary arraignment.

(3) At least thirty (30) minutes before any period of availability under this section, staff of the Indiana County Jail shall inform the Magisterial District Judge of all pending requests.

(c) A Magisterial District Judge shall be available on-call at all times of all days for the purposes of reviewing and signing search warrants, arrest warrants, and Petition for Emergency Protection From Abuse Orders.

(d) If a preliminary arraignment is required, the arresting Officer shall fax a signed Criminal Complaint and any other pertinent information to the on-duty Magisterial District Judge before any preliminary arraignment. Upon fax, a copy of the Criminal Complaint shall be sent to the Indiana County Jail, and the accused shall be transferred to the Indiana County Jail for purposes of preliminary arraignment.

(e) Magisterial District Judges shall be made available under subsection (b) and subsection (c) on a rotating basis pursuant to the direction of the President Judge.

(f) This rule shall be made effective thirty (30) days after publication within the *Pennsylvania Bulletin*.

[Pa.B. Doc. No. 10-219. Filed for public inspection February 5, 2010, 9:00 a.m.]

**SUPREME COURT****In Re: Accreditation of the National Elder Law Foundation as a Certifying Organization; Disciplinary Rules; Doc. No. 86****Order**

*Per Curiam:*

*And Now*, this 20th day of January, 2010, upon the recommendation of the Pennsylvania Bar Association Review and Certifying Board, the National Elder Law Foundation is hereby accredited as a certifying organization in the area of Elder Law for a period of 5 years commencing January 26, 2010.

PATRICIA NICOLA,  
*Chief Clerk*  
*Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 10-220. Filed for public inspection February 5, 2010, 9:00 a.m.]

# PROPOSED RULEMAKING

## ENVIRONMENTAL QUALITY BOARD

[ 25 PA. CODE CHS. 121 and 127 ]

### New Source Review

The Environmental Quality Board (Board) proposes to amend Chapters 121 and 127 (relating to general provisions; and construction, modification, reactivation, and operation of sources) as set forth in Annex A.

This notice is given under Board order at its meeting of November 17, 2009.

#### A. *Effective Date*

These amendments will be effective upon publication in the *Pennsylvania Bulletin* as final-form rulemaking.

These amendments will be submitted to the Environmental Protection Agency (EPA) as a revision to the Pennsylvania State Implementation Plan (SIP) upon final rulemaking.

#### B. *Contact Persons*

For further information, contact Krishnan Ramamurthy, Chief, Division of Permits, Bureau of Air Quality, 12th Floor, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 783-9476 or Robert "Bo" Reiley, Assistant Counsel, Bureau of Regulatory Counsel, 9th floor, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060.

Information regarding submitting comments on this proposal appears in Section J of this preamble. Persons with a disability may use the Pennsylvania AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposal is available electronically through the Department of Environmental Protection's (Department) web site at <http://www.depweb.state.pa.us> (Select: Public Participation).

#### C. *Statutory Authority*

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

#### D. *Background and Summary*

On July 18, 1997, the EPA revised the National Ambient Air Quality Standard (NAAQS) for particulate matter (PM) to add a new standard for fine particles, using fine particulates equal to and less than 2.5 micrometers in diameter (PM<sub>2.5</sub>) as the indicator. The EPA set the health-based (primary) and welfare-based (secondary) PM<sub>2.5</sub> annual standard at a level of 15 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) and the 24-hour standard at a level of 65  $\mu\text{g}/\text{m}^3$  (62 FR 38652). The health-based primary standard is designed to protect human health from elevated levels of PM<sub>2.5</sub>, which have been linked to premature mortality and other important health effects. The secondary standard is designed to protect against major environmental effects of PM<sub>2.5</sub> such as visibility impairment, soiling and materials damage. The following Counties in this Commonwealth have been designated nonattainment for the 1997 fine particulate annual

NAAQS: Allegheny (Liberty-Clairton), Allegheny (remainder), Armstrong, Berks, Beaver, Bucks, Butler, Cambria, Chester, Cumberland, Dauphin, Delaware, Greene, Indiana, Lancaster, Lawrence, Lebanon, Montgomery and Philadelphia. See 70 FR 944 at 999 (January 5, 2005).

Subsequently, on October 17, 2006, the EPA revised the primary and secondary 24-hour NAAQS for PM<sub>2.5</sub> to 35  $\mu\text{g}/\text{m}^3$  from 65  $\mu\text{g}/\text{m}^3$  (71 FR 61236). The following Counties or portions thereof have been designated by the EPA as nonattainment for the 2006 fine particulate 24-hour NAAQS: Allegheny, Armstrong, Beaver, Bucks, Butler, Cambria, Chester, Cumberland, Dauphin, Delaware, Greene, Indiana, Lancaster, Lawrence, Lebanon, Lehigh, Montgomery, Northampton, Philadelphia, Washington, Westmoreland and York. See 74 FR 586 at p. 58758 (November 11, 2009).

On May 16, 2008, the EPA published its final rule for the "Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers (PM<sub>2.5</sub>)," (73 FR 28321). This Federal regulation requires states with PM<sub>2.5</sub> nonattainment areas to submit revised nonattainment NSR programs to the EPA for SIP approval within 3 years from the date of publication of the final rule, or by May 16, 2011.

The proposed rulemaking would amend the existing nonattainment NSR requirements in Chapter 127, Subchapter E (relating to new source review), to incorporate recently promulgated Federal requirements for PM<sub>2.5</sub> and PM<sub>2.5</sub> precursors. The proposal would add requirements to § 127.203a (relating to applicability determination) and other sections of Subchapter E to expand the applicability of the nonattainment NSR program to include emissions of PM<sub>2.5</sub> and sulfur dioxide (SO<sub>2</sub>) and nitrogen oxide (NO<sub>x</sub>) precursors. Because the EPA determined that there is considerable uncertainty related to ammonia as a precursor for PM<sub>2.5</sub>, the proposal does not require ammonia to be regulated as a PM<sub>2.5</sub> precursor. Other clarifying amendments for Chapter 127 would also be proposed.

The proposed rulemaking applies to construction of major stationary sources and major modifications at major stationary sources. A stationary source is a "major source" if its actual emissions or its potential to emit for a specific pollutant equals or exceeds the major source threshold for that pollutant. The PM<sub>2.5</sub> threshold for new sources is 100 tons per year of PM<sub>2.5</sub>. The PM<sub>2.5</sub> threshold for major modifications at existing sources is 10 tons per year of PM<sub>2.5</sub>.

The proposed rulemaking would help assure that the citizens of this Commonwealth will benefit from reduced emissions of PM<sub>2.5</sub> and PM<sub>2.5</sub> precursors from regulated sources. Attaining and maintaining levels of PM<sub>2.5</sub> below the health- and welfare-based NAAQS is important to reduce premature mortality and other health and environmental effects associated with PM<sub>2.5</sub> exposure. To the extent that any of the proposed revisions are more stringent than any Federal requirements, these revisions are reasonably necessary in order to attain and maintain the PM<sub>2.5</sub> NAAQS.

The Department worked with the Air Quality Technical Advisory Committee (AQTAC) in the development of this proposed rulemaking. At its May 28, 2009, meeting, the AQTAC concurred with the Department's recommendation to seek Board approval of the proposed rulemaking. The Department also consulted with the Citizens Advisory Council on July 21, 2009.



### E. Summary of Regulatory Revisions

The proposed amendments add a new term and definition, "PM2.5," under § 121.1 (relating to definitions). The proposed amendments amend the definitions of the following existing terms under § 121.1 to include the requirements for PM2.5: "regulated NSR pollutant" and "significant." In addition the proposed amendments delete an existing term and definition, "maximum allowable emissions," under § 121.1.

Section 127.201 (relating to general requirements) is proposed to be amended to include a new subsection (g). Under subsection (g), gaseous emissions that condense to form PM at ambient temperatures will be included in PM2.5 and PM-10 emissions in accordance with the following requirements: beginning January 1, 2011, or an earlier date established by the Administrator of the EPA, condensable PM shall be accounted for in applicability determinations and in establishing emissions limitations for PM2.5 and PM-10 in permits issued under this subchapter; compliance with emissions limitations for PM2.5 and PM-10 issued prior to January 1, 2011, or an earlier date established by the Administrator, will not be based on condensable PM unless required by the terms and conditions of a plan approval, operating permit or the SIP; and applicability determinations made prior to January 1, 2011, or earlier date established by the Administrator, without accounting for condensable PM shall not be considered in violation of this subchapter unless the applicable plan approval, operating permit or SIP includes requirements for condensable PM.

Section 127.201a (relating to measurements, abbreviations and acronyms) is proposed to be amended to include the following acronyms: "PM2.5" and "PM-10." In addition, other minor editorial changes are proposed for this section.

Section 127.202 (relating to effective date) is proposed to be amended to include references to PM2.5.

Section 127.203 (relating to facilities subject to special permit requirements) is proposed to be amended under subparagraph (b)(1)(i) to provide that the aggregated VOC or NO<sub>x</sub> emissions must meet the applicability requirements of paragraph (2) or (3). Paragraphs (2) and (3) of subsection (b) are proposed to be amended to clarify that emissions from a proposed project are included in the applicability provisions.

Section 127.203a (relating to applicability determination) is proposed to be amended to include the following requirements under subsection (a): the owner or operator of the facility shall include in the plan approval application the estimate of an emissions increase in a regulated NSR pollutant from the project; the owner or operator shall calculate an emissions increase in a regulated NSR pollutant from a project in accordance with paragraph (1); if the emissions increase from a project equals or exceeds the applicable emissions rate that is significant, the owner or operator shall calculate a net emissions increase in accordance with paragraph (1)(ii); and if the emissions increase from a project does not exceed the listed applicable emissions rate that is significant, the owner or operator shall calculate the net emissions increase in accordance with paragraph (2).

In addition, minor editorial changes are proposed to be made to this section as well.

Section 127.204 (relating to emissions subject to this subchapter) is proposed to be amended to include some minor editorial changes.

Section 127.206 (relating to ERC general requirements) is proposed to be amended to clarify under subsection (o) that an emission reduction credit (ERC) created for a regulated criteria pollutant may be used for interpollutant offsetting authorized under this subchapter. The "amnesty period" dates under subsection (r) relating to when emission reductions may be used to generate ERCs are proposed to be amended to specify that emission reductions occurring at a facility after April 5, 2005, but prior to the effective date of adoption of this proposed rulemaking may be used to generate ERCs in accordance with this subchapter, if a complete ERC registry application is submitted to the Department by the date 12 months after the effective date of this proposed rulemaking. In addition, other minor editorial changes are proposed for this section.

Section 127.210 (relating to offset ratios) is proposed to be amended to include, among other things, interpollutant offsetting ratios for SO<sub>2</sub> and NO<sub>x</sub>. This section is further proposed to be amended to provide that the emissions offsets shall be of the same NSR-regulated pollutant unless interpollutant offsetting is authorized for a particular pollutant as specified. The offset requirements for PM2.5 emissions or emissions of a PM2.5 precursor may be satisfied by offsetting PM2.5 emissions or emissions of PM2.5 precursors. The emissions offset ratio for PM2.5 is 1 ton per year (tpy) of PM2.5 to 1 tpy of PM2.5. The emissions offset ratio for PM2.5 precursors is one tpy of SO<sub>2</sub> to 1 tpy of SO<sub>2</sub> and 1 tpy of NO<sub>x</sub> to 1 tpy of NO<sub>x</sub>. The PM2.5 interpollutant trading ratio is 40 tpy of SO<sub>2</sub> to 1 tpy of PM2.5, and 200 tpy of NO<sub>x</sub> to 1 tpy of PM2.5.

### F. Benefits, Costs and Compliance

#### Benefits

Overall, the citizens of this Commonwealth will benefit from this proposed rulemaking because it would help to reduce emissions of PM2.5 from major stationary sources. Attaining and maintaining levels of PM2.5 below the health- and welfare-based NAAQS is important to reduce premature mortality and other health effects associated with PM2.5 exposure. Reductions in ambient levels of PM2.5 would also promote improved animal health and welfare, improved visibility, decreased soiling and materials damage and decreased damage to plants and trees.

#### Compliance Costs

The owners and operators of new or modified major facilities would be affected by adoption of the proposed amendments as final-form rulemaking. There are approximately 700 major facilities in this Commonwealth that may be subject to the existing NSR rules if major modifications to those facilities are proposed. The majority of those facilities affected by these regulatory changes are already subject to the existing NSR provisions in Chapter 127, Subchapter E, and also to the requirements of 40 CFR Part 51, Appendix S (relating to emission offset interpretative ruling). It is not anticipated that significant additional costs would be incurred by the affected companies. These proposed amendments would provide increased flexibility for the owners and operators of affected facilities by allowing exchanges of interpollutant offsets.

#### Compliance Assistance Plan

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

*Paperwork Requirements*

There are no additional paperwork requirements associated with this proposed rulemaking that industry would need to comply with.

*G. Pollution Prevention*

The Federal Pollution Prevention Act of 1990 (42 USCA §§ 13101—13109) established a National policy that promotes pollution prevention as the preferred means for achieving State environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally friendly materials, more efficient use of raw materials and the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance. The proposed rulemaking does not directly promote a multimedia approach. The reduced levels of PM2.5, however, would benefit water quality through reduced soiling and quantities of sediment that may run off into waterways. Reduced levels of PM2.5 would therefore promote improved aquatic life and biodiversity, as well as improved animal and plant life on land.

*H. Sunset Review*

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

*I. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on January 27, 2010, the Department submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Environmental Resources and Energy Committees (Committees). In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department. A copy of this material is available to the public upon request.

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

*J. Public Comments*

*Written Comments*—Interested persons are invited to submit comments, suggestions or objections regarding the proposed regulation to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by April 12, 2010. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by the Board by April 12, 2010. The one-page summary will be provided to each member of the Board

in the agenda packet distributed prior to the meeting at which the final regulation will be considered.

*Electronic Comments*—Comments may be submitted electronically to the Board at RegComments@state.pa.us and must also be received by the Board by April 12, 2010. A subject heading of the proposal and a return name and address must be included in each transmission. If the sender does not receive an acknowledgement of electronic comments within 2 working days, the comments should be retransmitted to the Board to ensure receipt.

*K. Public Hearings*

The Board will hold public hearings in Pittsburgh, Norristown and Harrisburg for the purpose of accepting comments on this proposal. The hearings will be held as follows:

Department of Environmental Protection March 9, 2010  
 Southwest Regional Office 1:00 p.m.  
 Waterfront Conference Room A and B  
 400 Waterfront Drive  
 Pittsburgh, PA 15222-4745

Department of Environmental Protection March 10, 2010  
 Southeast Regional Office 1:00 p.m.  
 Delaware Conference Room  
 2 East Main Street  
 Norristown, PA 19401

Department of Environmental Protection March 12, 2010  
 Southcentral Regional Office 1:00 p.m.  
 Susquehanna A Conference Room  
 909 Elmerton Avenue  
 Harrisburg, PA 17110

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

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

JOHN HANGER,  
 Chairperson

**Fiscal Note:** 7-450. No fiscal impact; (8) recommends adaption

**Annex A**

**TITLE 25. ENVIRONMENTAL PROTECTION**  
**PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**Subpart C. PROTECTION OF NATURAL RESOURCES**  
**ARTICLE III. AIR RESOURCES**  
**CHAPTER 121. GENERAL PROVISIONS**

**§ 121.1. Definitions.**

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



\* \* \* \* \*

[ *Maximum allowable emissions*—The emission rate calculated using the maximum rated capacity of the source unless the source is subject to enforceable permit conditions which limit operating rate or hours of operation, or both, and the most stringent of the following:

(i) Applicable new source performance standards or standards for hazardous pollutants in 40 CFR Parts 60 and 61.

(ii) Applicable emission limitation under this title.

(iii) The emission rate specified as an enforceable permit. ]

\* \* \* \* \*

**PM2.5**—Particulate matter with an aerodynamic diameter of less than or equal to a nominal 2.5 micrometer body as measured by the applicable reference method or an equivalent method.

\* \* \* \* \*

*Regulated NSR pollutant*—

\* \* \* \* \*

(iii) A pollutant that is a constituent or precursor of a pollutant listed under subparagraph (i) or (ii), if the constituent or precursor pollutant may only be regulated under NSR as part of regulation of the pollutant listed under subparagraph (i) or (ii). **Precursors identified by the Administrator of the EPA for purposes of NSR are the following:**

(A) VOCs and NO<sub>x</sub> are precursors to ozone in all ozone nonattainment areas.

(B) SO<sub>2</sub> and NO<sub>x</sub> are precursors to PM2.5 in all PM2.5 nonattainment areas.

(iv) PM2.5 and PM-10 emissions, including gaseous emissions from a facility or activity that condense to form particulate matter at ambient temperatures, as specified in § 127.201(g) (relating to general requirements).

\* \* \* \* \*

*Significant*—

(i) In reference to a net emissions increase or the potential of a facility to emit one of the following pollutants at a rate of emissions that would equal or exceed the following emissions rates except as specified in subparagraphs (ii)—(v):

<i>Pollutant</i>	<i>Emissions Rate</i>
Carbon monoxide (CO):	100 TPY
Nitrogen oxides (NO <sub>x</sub> ):	40 TPY
Sulfur oxides (SO <sub>x</sub> ):	40 TPY
Ozone:	40 TPY of VOCs or NO <sub>x</sub>
Lead:	0.6 TPY
PM-10:	15 TPY
<b>PM2.5:</b>	<b>10 TPY of PM2.5; 40 TPY of SO<sub>2</sub>; 40 TPY of NO<sub>x</sub></b>

\* \* \* \* \*

**CHAPTER 127. CONSTRUCTION, MODIFICATION, REACTIVATION AND OPERATION OF SOURCES**

**Subchapter E. NEW SOURCE REVIEW**

**§ 127.201. General requirements.**

\* \* \* \* \*

(g) PM2.5 and PM-10 emissions include gaseous emissions from a facility or activity that condense to form PM at ambient temperatures, if present, in accordance with the following requirements:

(1) Beginning January 1, 2011, or an earlier date established by the Administrator of the EPA, condensable PM shall be accounted for in applicability determinations and in establishing emissions limitations for PM2.5 and PM-10 in permits issued under this subchapter.

(2) Compliance with emissions limitations for PM2.5 and PM-10 issued prior to January 1, 2011, or an earlier date established by the Administrator, may not be based on condensable PM unless required by the terms and conditions of a plan approval, operating permit or the SIP.

(3) Applicability determinations made prior to January 1, 2011, or an earlier date established by the Administrator, without accounting for condensable PM may not be considered in violation of this subchapter unless the applicable plan approval, operating permit or SIP includes requirements for condensable PM.

**§ 127.201a. Measurements, abbreviations and acronyms.**

Measurements, abbreviations and acronyms used in this subchapter are defined as follows:

[ **BAT—Best available technology** ]

BACT—Best available control technology

**BAT—Best available technology**

CEMS—Continuous emissions monitoring system

CERMS—Continuous emissions rate monitoring system

**CO—Carbon monoxide**

CPMS—Continuous parametric monitoring system

[ **CO—Carbon monoxide** ]

ERC—Emission reduction credit

LAER—Lowest achievable emission rate

**lb—Pounds**

MACT—Maximum achievable control technology

**MERC—Mobile emission reduction credit**

**µg/m<sup>3</sup>—Micrograms per cubic meter**

**mg/m<sup>3</sup>—Milligrams per cubic meter**

**NO<sub>x</sub>—Nitrogen oxides**

NSPS—New source performance standard

NSR—New source review

[ **PEMS—Predictive emissions monitoring system**

**lb—Pounds**

**µg/m<sup>3</sup>—Micrograms per cubic meter**

**MERC—Mobile emission reduction credit**

**mg/m<sup>3</sup>—Milligrams per cubic meter**

**NO<sub>x</sub>—Nitrogen oxides** ]

O<sub>2</sub>—Oxygen

PAL—Plantwide Applicability Limit

**PEMS—Predictive emissions monitoring system**

PM—Particulate matter

**PM2.5—Particulate matter less than or equal to 2.5 micrometers**

**PM-10—Particulate matter less than or equal to 10 micrometers**

RACT—Reasonably available control technology

SO<sub>x</sub>—Sulfur oxides

TPY—Tons per year

VOC—Volatile organic compound

**§ 127.202. Effective date.**

(a) The special permit requirements in this subchapter apply to an owner or operator of a facility to which a plan approval will be issued by the Department after May 19, 2007, **except for PM2.5, which will apply after \_\_\_\_\_** (*Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.*)

(b) For SO<sub>x</sub>, **PM2.5**, PM-10, lead and CO, this subchapter applies until a given nonattainment area is redesignated as an unclassifiable or attainment area. After a redesignation, special permit conditions remain effective until the Department approves a permit modification request and modifies the permit.

**§ 127.203. Facilities subject to special permit requirements.**

\* \* \* \* \*

(b) The following provisions apply to an owner or operator of a facility located in Bucks, Chester, Delaware, Montgomery or Philadelphia County or an area classified as a serious or severe ozone nonattainment area:

(1) The applicability requirements in § 127.203a (relating to applicability determination) apply except as provided by this subsection. The requirements of this subchapter apply if the aggregated emissions determined according to subparagraph (i) or (ii) exceed 25 TPY of NO<sub>x</sub> or VOCs.

(i) The proposed increases and decreases in emissions are aggregated with the other increases in net emissions occurring over a consecutive 5 calendar-year period, which includes the calendar year of the modification or addition which results in the emissions increase. **The aggregated VOC or NO<sub>x</sub> emissions must meet the applicability requirements of paragraph (2) or (3).**

\* \* \* \* \*

(2) An increase in emissions of VOCs or NO<sub>x</sub>, other than a de minimis emission increase, from a discrete operation, unit or other pollutant emitting activity at a facility with a potential to emit less than 100 TPY of VOCs or NO<sub>x</sub>, **including the emissions from the proposed project**, is considered a modification unless the owner or operator elects to offset the increase by a greater reduction in emissions of VOCs or NO<sub>x</sub> from other operations, units or activities within the facility at an internal offset ratio of at least 1.3 to 1. If the owner or operator does not elect to offset at the required ratio, the increase is considered a modification and the BACT requirement is substituted for LAER. The owner or operator of the facility shall comply with all applicable requirements including the BAT requirement.

(3) An increase in emissions of VOCs or NO<sub>x</sub>, other than a de minimis emission increase, from a discrete operation, unit or other pollutant emitting activity at a facility with a potential to emit of 100 TPY or more,

**including the emissions from the proposed project**, is considered a modification unless the owner or operator elects to offset the increase by a greater reduction in emissions of VOCs or NO<sub>x</sub> from other operations, units or activities within the facility at an internal offset ratio of at least 1.3 to 1. If the owner or operator elects to offset at the required ratio, the LAER requirement does not apply. The owner or operator of the facility shall comply with the applicable requirements including the BAT requirement.

\* \* \* \* \*

**§ 127.203a. Applicability determination.**

(a) The Department will conduct an applicability determination during its review of a plan approval application for the construction of a new major facility or modification at an existing major facility under **[ the following provisions: ] this section. The owner or operator of the facility shall include in the plan approval application the estimate of an emissions increase in a regulated NSR pollutant from the project. The owner or operator shall calculate an emissions increase in a regulated NSR pollutant from a project in accordance with paragraph (1). The owner or operator shall calculate a net emissions increase in accordance with paragraph (1)(ii), if the emissions increase from a project equals or exceeds the applicable emissions rate that is "significant" as defined in § 121.1 (relating to definitions). If the emissions increase from a project does not exceed the listed applicable emissions rate that is significant, the owner or operator shall calculate the net emissions increase in accordance with paragraph (2).**

(1) As part of the plan approval application, the owner or operator of the facility shall calculate whether a significant emissions increase and a significant net emissions increase will occur as a result of a physical change or change in the method of operation. The owner or operator of the facility shall use the procedures in subparagraph (i) to calculate the emissions increase in a regulated NSR pollutant due to the project, and the procedures in subparagraph (ii) to calculate the net emissions increase in a regulated NSR pollutant. A project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases—a significant emissions increase and a significant net emissions increase. If the project causes a significant emissions increase, the project is a major modification if it also results in a significant net emissions increase.

(i) The emissions increase in a regulated NSR pollutant due to the project will be the sum of the following:

(A) For existing emissions units, an emissions increase of a regulated NSR pollutant is the difference between the projected actual emissions and the baseline actual emissions for each unit, as determined in paragraphs (4) and (5). **[ Exclude, in ]** When calculating an increase in emissions that results from the particular project, **exclude** that portion of the unit's emissions following completion of the project that existing units could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions and that is also unrelated to the particular project, including all increased utilization due to product demand growth as specified in paragraph (5)(i)(C).

\* \* \* \* \*

(2) As part of the plan approval application for a proposed de minimis emission increase, the owner or operator of the facility shall use subparagraphs (i) and (ii) to calculate the net emissions increase. For a proposed de minimis increase in which the net emissions increase calculated using subparagraphs (i) and (ii) meets or exceeds the emissions rate that is significant, only the emissions offset requirements [ in § 127.205(3) (relating to special permit requirements) ] of this subchapter apply to the net emissions increase.

\* \* \* \* \*

**§ 127.204. Emissions subject to this subchapter.**

(a) In determining whether a project exceeds the emission rate that is significant or the significance levels specified in § 127.203 (relating to facilities subject to special permit requirements), the potential to emit, actual emissions and actual emissions increase shall be determined by aggregating the emissions or emissions increases from contiguous or adjacent properties under the common control of a person or entity. [ This includes ] The aggregation must include emissions resulting from the following: flue emissions, stack and additional fugitive emissions, material transfer, use of parking lots and paved and unpaved roads on the facility property, storage piles and other emission generating activities resulting from operation of the new or modified facility.

\* \* \* \* \*

**§ 127.206. ERC general requirements.**

\* \* \* \* \*

(o) An ERC created for a regulated criteria pollutant shall only be used for offsetting or netting an emissions increase involving the same criteria pollutant **except interpollutant offsetting authorized under this subchapter.**

(p) [ A ] The owner or operator of a source or facility which has registered ERCs with the Department may not exceed the emissions limitation or violate other permit conditions established in generating the ERCs.

\* \* \* \* \*

(r) Emission reductions occurring at a facility after [ January 1, 2002 ] April 5, 2005, but prior to [ May 19, 2007 ] \_\_\_\_\_ (Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.), may be used to generate ERCs in accordance with this subchapter, if a complete ERC registry application is submitted to the Department by [ May 19, 2008 ] (Editor's note: The blank refers to the date 12 months after the effective date of adoption of this proposed rulemaking.).

**§ 127.210. Offset ratios.**

(a) The [ emission ] emissions offset ratios for NSR purposes and ERC transactions subject to the requirements of this subchapter [ shall ] must be in an amount equal to or greater than the ratios specified in the following table:

*Required Emission [ Reductions From ] Offsets For Existing Sources, Expressed in Tons per Year*

Pollutant/Area	Flue Emissions	Fugitive Emissions
PM-10 and SO <sub>x</sub>	1.3:1	5:1
Volatile Organic Compounds		
Ozone Classification Areas		
Severe Areas	1.3:1	1.3:1
Serious Areas	1.2:1	1.3:1
Moderate Areas	1.15:1	1.3:1
Marginal/Incomplete Data Areas	1.15:1	1.3:1
Transport Region	1.15:1	1.3:1
NO <sub>x</sub>		
Ozone Classification Areas		
Severe Areas	1.3:1	1.3:1
Serious Areas	1.2:1	1.2:1
Moderate Areas	1.15:1	1.15:1
Marginal/Incomplete Data Areas	1.15:1	1.15:1
Transport Region	1.15:1	1.15:1
Carbon Monoxide		
Primary Nonattainment Areas	1.1:1	1.1:1
Lead	1.1:1	1.1:1
<b>PM2.5</b>		
<b>PM2.5 Nonattainment Area</b>		
<b>PM2.5</b>	1:1	1:1
<b>PM2.5 Precursors</b>		
SO <sub>2</sub>	1:1	1:1
NO <sub>x</sub>	1:1	1:1
<b>PM2.5 Interpollutant Trading Ratios</b>		
SO <sub>2</sub>	40:1	40:1
NO <sub>x</sub>	200:1	200:1

(b) In complying with the emissions offset requirements of this subchapter, the emissions offsets obtained shall be of the same NSR regulated pollutant unless interpollutant offsetting is authorized for a particular pollutant as specified in subsection (a). The offset requirements for PM2.5 emissions or emissions of a PM2.5 precursor may be satisfied by offsetting PM2.5 emissions or emissions of the PM2.5 precursors SO<sub>2</sub> or NO<sub>x</sub>.

[Pa.B. Doc. No. 10-221. Filed for public inspection February 5, 2010, 9:00 a.m.]



# STATEMENTS OF POLICY

## Title 52—PUBLIC UTILITIES

### PENNSYLVANIA PUBLIC UTILITY COMMISSION

[ 52 PA. CODE CH. 69 ]

[M-2009-2140263]

#### Pennsylvania Solar Projects

The Pennsylvania Public Utility Commission (Commission) on November 6, 2009, adopted a proposed policy statement which seeks to provide long-term revenue stability that is needed to support solar development and address barriers that could prevent new solar projects.

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

Public Meeting held  
November 6, 2009

#### Proposed Policy Statement

*By the Commission:*

Beginning in 2004, the Pennsylvania General Assembly enacted, and the Governor signed, a series of legislation promoting the development of renewable energy in this Commonwealth generally, and solar alternative energy specifically. The following proposed policy statement is designed to provide a foundation from which we can achieve these solar renewable energy goals at least cost to Pennsylvania consumers. More specifically, this proposed policy statement seeks to provide the longer term revenue stability that is likely needed to support both small scale and large scale solar development, and to address other barriers that could prevent new solar projects from coming to fruition in this Commonwealth.

#### Background

Governor Edward Rendell signed the Alternative Energy Portfolio Standards Act (AEPS Act) into law on November 30, 2004. (73 P.S. §§ 1648.1—1648.8.) The AEPS Act, which took effect on February 28, 2005, established an alternative energy portfolio standard for Pennsylvania. Generally, the AEPS Act requires that an annually increasing percentage of electricity sold to retail electric customers in this Commonwealth by electric distribution companies (EDCs) and electric generation suppliers (EGSs) be derived from alternative energy resources. The Commission has been charged with using its general powers to carry out, execute and enforce the provisions of the AEPS Act. The Department of Environmental Protection (Department) has been specifically charged with ensuring compliance with all environmental, health and safety laws and standards relevant to the AEPS Act's implementation. The Commission and the Department will jointly monitor compliance with the AEPS Act, the development of the alternative energy market, the costs of alternative energy and to conduct an ongoing alternative energy planning assessment. The Commission and the Department are to report their findings and recommendations for changes to the AEPS Act to the General Assembly on a regular basis.

Governor Edward Rendell signed Act 35 of 2007, which amended the AEPS Act (Act 35) into law on July 17, 2007, which took effect immediately. Act 35 amended the AEPS Act in several respects. In particular, Act 35

revised the schedule for the solar photovoltaic requirements such that the requirements increase on an annual basis as opposed to increases in 5 year increments. *See* 73 P.S. § 1648.3(b)(2). This legislation also made it clear that the solar photovoltaic requirement is a percentage of total retail sales, not a percentage of the Tier I requirements. *Id.* In addition, the Act 35 amendments required the Commission to consider an EDC's or EGS's efforts in obtaining alternative energy credits through competitive solicitations and seeking to procure alternative energy credits or alternative energy through long-term contracts in any force majeure determination. *See* 73 P.S. § 1648.2.

At the September 25, 2008, public meeting, the Commission adopted a Final Rulemaking Order at Docket No. L-00060180<sup>1</sup> that codified prior Commission interpretations of the AEPS Act and resolved issues relevant to its implementation. Among other things, the Commission set forth the specific Tier I, solar photovoltaic, and Tier II targets an EDC and EGS must meet in every compliance year. *See* 52 Pa. Code § 75.61. The Commission also set forth the method for determining alternative compliance payments that EDCs and EGSs pay for failure to obtain the required number of alternative energy credits, to include the minimum required number of alternative energy credits from solar photovoltaic facilities. *See* 52 Pa. Code § 75.65. While alternative compliance payments for nonsolar photovoltaic Tier I and Tier II requirements are set at \$45 per credit, the solar photovoltaic alternative compliance payment is determined by the average prevailing market price for solar photovoltaic credits and the amount of subsidies given to customer-generators for installing solar photovoltaic systems. *See* 73 P.S. § 1648.3(f). The Commission's regulations set forth the method for determining the solar photovoltaic alternative compliance payment by taking the average market value for such credits sold during the reporting period, adding the levelized up-front rebates received by sellers of such credits, and multiplying this sum by 200%. *See* 52 Pa. Code § 75.65(b).

In addition to the preceding, the Commission's regulations permit default service providers to recover reasonable and prudent costs for the following: (1) electricity generated by an alternative energy system and delivered to the default service provider's customers; (2) alternative energy credits purchased and used within the same reporting period for compliance purposes; (3) alternative energy credits purchased in one reporting year and banked for use in 1 of 2 later reporting years; and (4) alternative energy credits purchased in the true-up period to satisfy compliance obligations, among others. 52 Pa. Code § 75.68. The Commission's regulations also require default service providers to identify a competitive procurement process for acquiring alternative energy credits. 52 Pa. Code § 75.68(b).

The Commission has designated the PJM Environmental Information Services, Inc.'s Generation Attribute Tracking System as the alternative energy credit registry to track the creation and transfer of certified alternative energy credits. *See Implementation of the Alternative Energy Portfolio Standards Act of 2004: Designation of the Alternative Energy Credits Registry Final Order at Docket No. M-00051865, entered on January 31, 2006.*

<sup>1</sup> Order entered on September 29, 2008.

EDCs and EGSs must record the price paid for each alternative energy credit in the registry. *See* 52 Pa. Code § 75.70.

Governor Edward Rendell signed the Alternative Energy Investment Act<sup>2</sup> (AEI Act) into law on July 9, 2008, which became effective on the same day. Among other things, the AEI Act established funding, administered by the Department, for solar energy projects installed at owner-occupied dwellings and small businesses. *See* 73 P. S. § 1649.306. In addition, the AEI Act established funding, administered by the Commonwealth Financing Authority with assistance from the Department of Community and Economic Development, for solar energy related alternative energy production projects. *See* 73 P. S. § 1649.307.

Governor Edward Rendell signed Act 129 of 2008, P. L. 1592, (Act 129) into law on October 15, 2008, which took effect on November 14, 2008. Among other things, Act 129 requires default service providers to acquire electric power through competitive procurement processes that must include one or more of the following: (1) auctions; (2) requests for proposal; or (3) bilateral agreements. 66 Pa.C.S. § 2807(e)(3.1) (relating to duties of electric distribution companies). This power must include a prudent mix of spot market purchases, short-term contracts and long-term contracts of more than 4 years, but not more than 20 years. 66 Pa.C.S. § 2807(e)(3.2). These provisions apply to any type of energy purchased by a default service provider, including alternative energy credits for compliance with the AEPS Act. 66 Pa.C.S. § 2807(e)(3.5). A prudent mix of contracts must be designed to ensure adequate and reliable service, and the least cost to customers over time for comparable types of energy sources. 66 Pa.C.S. § 3807(e)(3.4) and (3.5).

#### *Discussion*

The legislation and regulations discussed in this preamble establish a clear policy to promote the construction of solar projects in this Commonwealth. Even with the establishment of such a clear policy, the Commission is concerned that there are still barriers to a more expansive development of solar projects within this Commonwealth. The Commission believes that EDCs in this Commonwealth, their customers and those interested in developing solar projects in this Commonwealth are impeded in their economic analysis of these projects due to solar alternative energy credit price uncertainty. The purpose of this proposed policy statement is to develop a process to overcome price uncertainty, which will in turn promote funding of future solar projects that will benefit electric consumers in this Commonwealth.

As such, the Commission proposes a Policy Statement in Support of Pennsylvania Solar Projects. In the following sections, we will review each element of the proposed policy statement.

#### *A. § 69.2901 (Purpose)*

This section sets forth the intent and reason for the policy statement. Specifically, the Commission believes that the General Assembly established a policy to promote the construction of solar projects, both large and small, in this Commonwealth. The Commission is concerned that barriers currently exist that prevent the development of solar projects, such as alternative energy credit price uncertainty. The intent of this proposed policy statement is to outline a process to provide more alterna-

tive energy credit price certainty and to reduce or eliminate barriers to solar project development within this Commonwealth.

#### *B. § 69.2902 (Definitions)*

This section proposes definitions to terms used within this proposed policy statement. Specifically, the proposed policy statement defines the following terms: “electric distribution company;” “large-scale solar project;” “small-scale solar project;” “solar aggregator;” “SREC market price;” and “stakeholder working group.” Comments proposing changes to these proposed definitions or additional terms and definitions to be included in this policy statement are welcome.

#### *C. § 69.2903 (RFPs to establish reasonable expenses)*

This section proposes a process and standards for obtaining solar photovoltaic alternative energy credits through competitive bidding processes and contracts. Specifically, we propose a competitive bidding process for use by EDCs in obtaining solar photovoltaic alternative energy credits that is consistent with 66 Pa.C.S. Part I and Chapter 54. In addition, we propose specific conditions the Commission will use in reviewing bilateral contracts between EDCs and small-scale solar photovoltaic alternative energy systems to obtain solar photovoltaic alternative energy credits. The proposed conditions look to historical competitive bids for solar photovoltaic alternative energy credits to establish a reasonable price for these alternative energy credits obtained through bilateral contract with small-scale solar projects. The Commission invites comments regarding the adequacy, completeness and practicability of these conditions.

#### *D. § 69.2904 (Contracts)*

This section proposes that EDCs develop and utilize a standardized contract for purchasing solar photovoltaic alternative energy credits. This proposal sets forth suggested reasonable terms and conditions that the Commission believes are important for promoting the development of solar photovoltaic projects in this Commonwealth. The Commission proposes a stakeholder working group to develop specific standardized contracts. Finally, the Commission proposal encourages the development of an education program to inform the public about and to promote solar photovoltaic projects. The Commission invites comments on all aspects of this proposal.

#### *Conclusion*

The Commission welcomes comments on all aspects of this proposed policy statement. This proposed policy statement will be published in the *Pennsylvania Bulletin*. Interested parties will have 30 days from the date of publication in the *Pennsylvania Bulletin* to file comments, with reply comments due 15 days thereafter. Interested parties are to file an original and 15 copies of any comments and reply comments with the Commission’s Secretaries Bureau. The contact person for technical issues related to this rulemaking is Scott Gebhardt, Energy Program Specialist, Bureau of Conservation, Economics and Energy Planning, (717) 425-2860 or sgebhardt@state.pa.us. The contact person for legal issues related to this proposed policy statement is Kriss Brown, Assistant Counsel, Law Bureau, (717) 787-4518 or kribrown@state.pa.us. Parties are asked to provide an electronic copy of comments and reply comments to Scott Gebhardt and Kriss Brown at the e-mail address listed previously. Therefore,

<sup>2</sup> 73 P. S. §§ 1649.101–1649.711.



*It is ordered that:*

(1) The proposed policy statement set forth in Annex A, is issued for comment.

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

(3) The Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(4) Interested parties shall have 30 days from the date of publication of this proposed policy statement in the *Pennsylvania Bulletin* to file an original and 15 written comments to the Pennsylvania Public Utility Commission, Attention: Secretary James J. McNulty, P. O. Box 3265, Harrisburg, PA 17105-3265.

(5) Interested parties shall have 45 days from the date of publication of this proposed policy statement in the *Pennsylvania Bulletin* to file an original and 15 written reply comments to the Pennsylvania Public Utility Commission, Attention: Secretary James J. McNulty, P. O. Box 3265, Harrisburg, PA 17105-3265.

(6) Comments and reply comments shall be electronically mailed to Scott Gebhardt, Energy Program Specialist, at [sgebhardt@state.pa.us](mailto:sgebhardt@state.pa.us) and Kriss Brown, Assistant Counsel, at [kribrown@state.pa.us](mailto:kribrown@state.pa.us), and these comments will in turn be placed on the Commission's website for public viewing at [www.puc.state.pa.us](http://www.puc.state.pa.us). Attachments may not exceed three megabytes.

(7) Comments should, where appropriate, address the issues identified in this order and should include, where applicable, a numerical reference to the attached Annex A that the comments address, proposed language, and a clear explanation for recommendations.

(8) A copy of this order and Annex A be filed at Docket No. M-2009-2140263 and be served upon all EDCs operating in this Commonwealth, the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, the Department of Environmental Protection, the Department of Community and Economic Development and all licensed EGSs.

(9) The contact person for technical issues related to this proposed policy statement is Scott Gebhardt, Energy Review Specialist, Bureau of Conservation, Economics and Energy Planning, (717) 425-2860 or [sgebhardt@state.pa.us](mailto:sgebhardt@state.pa.us). The contact person for legal issues related to this proposed policy statement is Kriss Brown, Assistant Counsel, Law Bureau, (717) 787-4518 or [kribrown@state.pa.us](mailto:kribrown@state.pa.us).

JAMES J. McNULTY,  
*Secretary*

**Fiscal Note:** 57-276. No fiscal impact; (8) recommends adoption.

**Statement of Commissioner Robert F. Powelson**

Today we are issuing for comment a proposed Policy Statement designed to support solar projects throughout the Commonwealth. I wish to be clear that, in issuing this Policy Statement, we are in no way expanding the current Alternative Energy Portfolio Standards ("AEPS") requirements, nor are we advocating for an expansion of those requirements.

The goal of this Policy Statement is to provide price transparency for small solar projects in order to make it easier for those projects to sell their solar renewable energy credits ("SRECs"). I believe our actions today

represent the "all hands on deck" approach necessary to meet the Commonwealth's AEPS goals. It will also provide the necessary framework for creating long-term contracts necessary to grow this industry by providing financial security needed to finance solar projects.

Further, I believe this policy will dovetail perfectly with the Act 1 grants provided for by the Legislature and Governor under Pennsylvania's Energy Independence Strategy and administered by the Department of Environmental Protection.

In this context I support the Chairman's initiative. However, I reiterate, this is not an endorsement of House Bill 80 or any other efforts to expand the current solar requirements.

I look forward to reviewing all interested parties' comments on this very important issue.

**Annex A**

**TITLE 52. PUBLIC UTILITIES**

**PART 1. PUBLIC UTILITY COMMISSION**

**Subpart C. FIXED SERVICE UTILITIES**

**CHAPTER 69. GENERAL ORDERS, POLICY STATEMENTS AND GUIDELINES ON FIXED UTILITIES**

**PENNSYLVANIA SOLAR PROJECTS**

**§ 69.2901. Purpose.**

(a) Beginning in 2004, the General Assembly enacted, and the Governor signed, a series of legislation promoting the development of renewable energy in this Commonwealth generally, and solar alternative energy specifically. In 2004, the AEPS Act established a requirement that the power purchased for Pennsylvania customers by EDCs and electric generation suppliers (EGSs) shall include a component of solar photovoltaic electricity from solar alternative energy sources or solar alternative energy credits, known in the industry as SRECs. Under the AEPS Act, an SREC is referred to as a solar alternative energy credit, or solar Alternative Energy Credit (AEC). An AEC is earned when one megawatt hour of electricity is generated from an approved alternative energy source. In 2007, the AEPS Act was amended and, among other provisions, solar thermal energy was added to the definition of Tier I alternative energy sources. The Commission is responsible for ensuring compliance with the AEPS Act.

(b) In 2008, the Alternative Energy Investment Act (AEI Act) was signed into law, providing, among other things, funding through the Department of Environmental Protection for small-scale solar projects in owner-occupied dwellings and small businesses. Additional funds for large-scale solar projects were made available by the AEI Act through the Department of Community and Economic Development (DCED).

(c) These acts establish a clear policy to promote the construction of small- and large-scale solar projects in this Commonwealth. Even though that policy has been clearly articulated, the Commission is concerned that barriers still exist that prevent new solar projects from becoming a reality in this Commonwealth. EDCs in this Commonwealth, their customers and those interested in developing solar projects of any size are impeded in their economic analysis of those projects by the uncertainty of a price to assign the SRECs that would be generated by small or large-scale solar projects. This section and §§ 69.2902—69.2904 (relating to definitions; RFPs to establish values recoverable as a reasonable expense; and

contracts for the purchase of SRECs by EDCs) outline a process by which entry barriers can be overcome.

§ 69.2902. **Definitions.**

The following words and terms, when used in § 69.2901, 69.2903 and 69.2904, have the following meanings, unless the context clearly indicates otherwise:

*AEPS Act*—The Alternative Energy Portfolio Standard Act (73 P. S. §§ 1648.1—1648.8).

*EDC*—*Electric distribution company*—The term has the same meaning as defined in 66 Pa.C.S. § 2803 (relating to definitions).

*Large-scale solar project*—An alternative energy generation system employing solar photovoltaic technology with a nameplate capacity of 200kW or more.

*RFP*—Request for proposal

*SRECs*—Solar renewable energy credits.

*Small-scale solar project*—An alternative energy generation system employing solar photovoltaic with a nameplate capacity of less than 200kW.

*Solar aggregator*—A person or entity that purchases for resale, or otherwise consolidates for sale, solar alternative energy credits for resale to EDCs and electric generation suppliers.

*SREC market price*—The weighted average of all accepted winning bids in response to an EDC RFP for large-scale solar project solar alternative energy credits, as those credits are defined in section 2 of the AEPS Act (73 P. S. § 1648.2.)

*Stakeholder working group*—A group composed of EDCs electric generation suppliers, Commission staff, public advocates, solar aggregators and other interested parties that meets at least semiannually and proposes to the Commission updates to standardized solar alternative energy credit RFPs and related contracts that are posted on the Commission's website.

§ 69.2903. **RFPs to establish SREC values recoverable as a reasonable expense.**

(a) *SREC procurement from large-scale solar projects.* The Commission encourages EDCs to issue RFPs for large-scale solar projects whose SREC output will be used to meet EDC obligations under the AEPS Act. RFPs should provide for a fair, transparent, and open competitive bidding process. Standardized RFP documents developed by the stakeholder working group should be utilized. The Commission will review and either approve or reject bids submitted in response to such RFPs within a reasonable period of time.

(b) *SREC procurement from small-scale solar projects.* EDCs are encouraged to procure SRECs from small-scale solar projects through competitively bid RFP processes and bilateral contracts.

(1) When an RFP process is used, EDCs should adhere to the same standards in use for large-scale solar project RFPs. The Commission will review and evaluate bids for small-scale solar RFPs within a reasonable period of time.

(2) EDCs may enter into bilateral contracts for SRECs from small solar projects subject to the following conditions:

(i) The price negotiated for SRECs should not exceed the Commission-approved average winning bid price in the EDC's most recent RFP for large-scale solar projects.

(ii) When an EDC has not utilized an RFP for a large-scale project, the price negotiated for SRECs should not exceed the Commission-approved average winning bid price from the most recent large-scale solar RFP by another EDC in this Commonwealth, as reported on the Commission's AEPS Credit Administrator's web site under subparagraph (iii).

(iii) The amount of small-scale solar project SRECs yet to be procured by the EDC, and the EDC's historic and current average SREC market prices from each of the EDC's large solar project procurements should be listed on the Commission's AEPS Credit Administrator's web site, as well as the EDC's web site, and updated at least monthly.

(iv) The amount of small-scale solar project SRECs procured through bilateral contracts during a single AEPS compliance year should not exceed the number of SRECs procured by the EDC in its last large-scale solar project procurement.

(v) The bilateral contract approach should be used to support the development of small-scale solar projects located in this Commonwealth.

(c) *EDC cost recovery.* The cost of SRECs acquired through procurement approaches referred to in subsection (a) and (b) may be recovered consistent with the provisions of the AEPS Act and other applicable law.

§ 69.2904. **Contracts for the purchase of SRECs by EDCs.**

(a) *Standardized contracts.* EDCs should employ standardized contracts for their purchase of SRECs from large-scale solar projects and small-scale solar projects. The standardized contract for small-scale solar projects should be simple, understandable and provide for the option to purchase SRECs from solar aggregators. Standardized contracts for the long-term procurement of SRECs should be from 5 to 20 years in length.

(b) *Contracts with solar aggregators.* The Commission finds it reasonable and efficient, and therefore encourages, EDCs to execute a master agreement with a solar aggregator for the purchase of SRECs from various sources that establishes a prevailing SREC market price at a particular point in time through letter agreements that incorporate the terms of the master agreement.

(c) *Performance guarantees, security and other contract terms.* While EDCs may require the posting of bid security in an RFP for large-scale solar projects, bid security for small-scale solar projects is not necessary due to the manner in which the SREC market price for these projects is established. In addition, small-scale solar projects under 15kW in nameplate capacity may use estimates to report SREC generation to the PJM-GATS system, as authorized under the AEPS Act, and should not be required to provide security relating to project completion or performance. Small-scale solar project contracts for projects at or above 15kW in nameplate capac-

ity, or from a solar aggregator selling the EDC SRECs from projects 15kW or more in nameplate capacity, may contain a security deposit, refundable upon completion of project construction and certification of initial performance, as well as a performance guarantee refundable over the performance period or at the end of the contract. These provisions may be included to ensure that the aggregated solar projects supporting the SRECs are actually constructed and perform as designed. Security deposits for projects 15kW or more in nameplate capacity, or aggregated projects 15kW or more in nameplate capacity, may be converted, upon reasonable advance notice by the EDC to the impacted parties, from a refund to a performance guarantee upon project completion and certification. In addition, small-scale solar project SREC contracts may provide for EDC remote monitoring of solar installations. Contracts between EDCs and others for the purchase of SRECs from small-scale solar projects may also provide for a reasonable allocation of the risk of a project failing due to force majeure-type events. EDCs may establish reasonable financial qualifications for solar aggregators from whom they purchase SRECs.

(d) *Contracts on behalf of residential customers.* EDCs are encouraged to contract for SRECs with solar aggregators that obtain SRECs from creditworthy residential owners of small-scale solar projects. These projects can provide a beneficial way for those customers to cope with the volatility of electricity prices.

(e) *Stakeholder working group.* An EDC standardized contract and other related documents, for the purchase of SRECs from large-scale solar projects and small-scale solar projects should be posted on the Commission's web site and periodically updated by means of input from a stakeholder working group to ensure that these contracts reflect the most recent developments in Pennsylvania law and energy policy.

(f) *Customer education.* An EDC is encouraged to educate its retail customers of the opportunity to sell SRECs under the large-scale solar project RFP solicitation and the small-scale solar program in support of local development of solar resources.

[Pa.B. Doc. No. 10-222. Filed for public inspection February 5, 2010, 9:00 a.m.]

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# NOTICES

## DEPARTMENT OF AGING

### Redesignation of Area Agency on Aging for Bradford, Sullivan, Susquehanna and Tioga Counties; Final Decision Regarding Redesignation

The Secretary of the Department of Aging (Department), under authority in the act of June 20, 1978 (P. L. 477, No. 70) (71 P. S. §§ 581-1—581-12), in conformity with the Older Americans Act of 1965 (42 U.S.C.A. §§ 3001—3058ee) and in accordance with the provisions in 6 Pa. Code Chapter 30 (relating to designation and redesignation of area agencies on aging), has made a final decision regarding the redesignation of the area agency on aging serving planning and service area No. 36, which has the same boundaries as Bradford, Sullivan, Susquehanna and Tioga Counties, as follows:

*From:* Area Agency on Aging for the Counties of Bradford, Sullivan, Susquehanna and Tioga, 220 Main Street, Unit 2, Towanda, PA 18848.

*To:* Area Agency on Aging for the Counties of Bradford, Sullivan, Susquehanna and Tioga, Inc., 220 Main Street, Unit 2, Towanda, PA 18848.

On June 12, 2009, the Department received a formal request from the Chairperson of the Governing Board of the Area Agency on Aging for the Counties of Bradford, Sullivan, Susquehanna and Tioga to redesignate the Area Agency on Aging from its current county government structure to a nonprofit organization. The Governing Board, which includes Commissioners from each of the four counties that comprise the current agency, voted unanimously in favor of making the request at their May 2009 Board meeting.

Four public hearings on the redesignation were held on October 14 and 15, 2009; one in each of the affected counties. Transcripts of these hearings are available for inspection at the Department of Aging, 555 Walnut Street, 5th Floor, Harrisburg, PA 17101. Hearing testimony included statements from service providers, County Commissioners, members of the Pennsylvania Council on Aging's Northeast Regional Council, the Area Agency on Aging Advisory Council, the Executive Director of the Area Agency on Aging and other human services agency representatives from the affected communities. The testimony was in favor of the redesignation and no major concerns were raised by members of the public about the redesignation.

On October 30, 2009, after considering the impact of redesignation on the provision of services in the planning and service area, testimony offered at the public hearings, the current area agency on aging advisory council's support of the redesignation, the reasons cited by the Governing Board in making the request for redesignation, and other information obtained from the existing agency and proposed new agency, the Secretary notified the four County Commissioners and the current agency of a preliminary decision to redesignate the nonprofit corpora-

tion as the area agency on aging effective July 1, 2010. The current area agency on aging did not request an adjudicatory hearing to challenge this preliminary decision, as it supports the redesignation. The board of directors of the new nonprofit agency submitted an impact statement to the Department that details its readiness for the transition, including filing Articles of Incorporation and applying for tax-exempt status, as well as making arrangements regarding contracts, staffing and information technology that will ensure that there is no disruption in service delivery for the older adults in the planning and service area. The impact statement also provides assurances that the agency is prepared to comply with personnel policy and fiscal requirements applicable to nonprofit area agencies on aging.

Therefore, the Secretary publishes this final decision redesignating the Area Agency on Aging for the Counties of Bradford, Sullivan, Susquehanna and Tioga as the Area Agency on Aging for the Counties of Bradford, Sullivan, Susquehanna and Tioga, Inc.

This order shall be effective July 1, 2010.

JOHN MICHAEL HALL,  
Secretary

[Pa.B. Doc. No. 10-223. Filed for public inspection February 5, 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 January 19, 2010.

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



## BANKING INSTITUTIONS

## Branch Applications

## De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
10-27-2009	PeoplesBank, A Codorus Valley Company York York County	Normandie Ridge 1700 Normandie Drive York York County (Limited Service Facility)	Opened
10-28-2009	PeoplesBank, A Codorus Valley Company York York County	Senior Commons on Powder Mill 1775 Powder Mill Road York York County (Limited Service Facility)	Opened
1-8-2010	NOVA Bank Berwyn Chester County	125 East Elm Street Suite 200 Conshohocken Montgomery County	Withdrawn
1-11-2010	Landmark Community Bank Pittston Luzerne County	383 South Poplar Street Hazleton Luzerne County	Opened
1-14-2010	PeoplesBank, A Codorus Valley Company York York County	Autumn House East 2618 East Market Street York York County (Limited Service Facility)	Filed
1-15-2010	Susquehanna Bank Lititz Lancaster County	1845 Walnut Street Philadelphia Philadelphia County	Approved

## SAVINGS INSTITUTIONS

No activity.

## CREDIT UNIONS

No activity.

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

STEVEN KAPLAN,  
*Secretary*

[Pa.B. Doc. No. 10-224. Filed for public inspection February 5, 2010, 9:00 a.m.]

## DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

### Proposed Exchange of Lands

The Department of Conservation and Natural Resources (Department) and Canaan Bible Chapel (Canaan Christian Academy) are proposing an exchange of lands in Wayne County.

The Department is proposing to convey 9.92 acres in South Canaan Township Wayne County to the Canaan Bible Chapel (Canaan Christian Academy). In return, the Canaan Bible Chapel (Canaan Christian Academy) proposes to convey 20.11 acres in South Canaan Township Wayne County to the Department Varden Conservation Area.

As is the policy of the Department, the public is hereby notified of this exchange. A 30-day period for public

inquiry and/or comment will be in effect commencing February 8th, 2010, and ending March 12th, 2010. Oral or written comments or questions concerning this proposed exchange may be addressed to John Norbeck, Director, Pennsylvania Bureau of State Parks, P. O. Box 8551, Harrisburg, PA 17105-8551, (717) 787-6640. These oral and/or written comments will become part of the official document used in the final decision process.

A public informational meeting has been scheduled to respond to any questions or concerns the general public may have regarding this exchange of lands. The meeting has been scheduled for Wednesday, February 10 between 6 p.m. and 8 p.m. The meeting will be held at the Western Wayne Middle School library 1970B Easton Turnpike, Lake Ariel, PA 18436. For details, call (570) 676-3428.

JOHN QUIGLEY,  
*Acting Secretary*

[Pa.B. Doc. No. 10-225. Filed for public inspection February 5, 2010, 9:00 a.m.]



# DEPARTMENT OF ENVIRONMENTAL PROTECTION

## Applications, Actions and Special Notices

### APPLICATIONS

#### THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

This notice provides information about persons who have applied for a new, amended or renewed NPDES or WQM permit, a permit waiver for certain stormwater discharges or submitted a Notice of Intent (NOI) for coverage under a general permit. The applications concern, but are not limited to, discharges related to industrial, animal or sewage waste, discharges to groundwater, discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities or concentrated animal feeding operations (CAFOs). This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal waste; discharge into groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

For NPDES renewal applications in Section I, the Department of Environmental Protection (Department) has made a tentative determination to reissue these permits for 5 years, subject to effluent limitations and monitoring and reporting requirements in their current permits, with appropriate and necessary updated requirements to reflect new and changed regulations and other requirements.

For applications for new NPDES permits and renewal applications with major changes in Section II, as well as applications for MS4 individual permits and individual stormwater construction permits in Sections IV and VI, the Department, based upon preliminary reviews, has made a tentative determination of proposed effluent limitations and other terms and conditions for the permit applications. These determinations are published as proposed actions for comments prior to taking final actions.

Unless indicated otherwise, the Environmental Protection Agency (EPA) Region III Administrator has waived the right to review or object to proposed NPDES permit actions under the waiver provision in 40 CFR 123.24(d).

Persons wishing to comment on an NPDES application are invited to submit a statement to the regional office noted before an application within 30 days from the date of this public notice. Persons wishing to comment on a WQM permit application are invited to submit a statement to the regional office noted before the application within 15 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the applications. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests for a public hearing on applications. A public hearing may be held if the responsible office considers the public response significant. If a hearing is scheduled, a notice of the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. The Department will postpone its final determination until after a public hearing is held.

Persons with a disability who require an auxiliary aid, service, including TDD users, or other accommodations to seek additional information should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

#### I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0063312 (Sewage)	Girardville Area Municipal Authority Fourth & B Streets Girardville, PA 17935	Schuylkill County Butler Township	Mahanoy Creek 6B	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0082635 (Sew)	MHC Operating Limited Partnership Sun Valley Campground 2 North Riverside Plaza Chicago, IL 60606	Lancaster County Brecknock Township	UNT to Rock Creek 7J	Y
PA0023183 (Sew)	Mount Holly Springs Borough Authority 200 Harman Street Mount Holly Springs, PA 17065	Cumberland County Mount Holly Springs Borough	Mountain Creek 7-E	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>
PA0024627 (Sewage) Public	McClure Municipal Authority P. O. Box 138 McClure, PA 17841	Snyder County McClure Borough	South Branch Middle Creek SWP 6A	Y
PA0114596 (Industrial Waste)	Avery Dennison Performance Polymers 171 Draketown Road Mill Hall, PA 17751	Clinton County Bald Eagle Township	UNT to Bald Eagle Creek 9-C	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0223069	Coolspring-Jackson Lake Latonka Joint Authority 644 Franklin Road Mercer, PA 16137	Coolspring Township Mercer County	Cool Spring Creek 20-A	Y

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

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

**Application No. PA 0080799, Sewage, Newburg—Hopewell Joint Authority, P. O. Box 128, Newburg, PA 17240.** This facility is located in Hopewell Township, **Cumberland County**.

Description of activity: The application is for renewal of an NPDES permit for an existing discharge of treated sewage.

The receiving stream, Newburg Run, is in Watershed 7-B, and classified for warm water fishes, water supply, recreation, and fish consumption. The nearest downstream public water supply intake for Carlisle Borough is located on the Conodoguinet Creek, approximately 32 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.072 MGD are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	40	50
Total Suspended Solids	30	45	60
NH <sub>3</sub> -N (5-1 to 10-31)	7.0		14
(11-1 to 4-30)	Report		
Total Phosphorus	2.0		4.0
Dissolved Oxygen		Minimum of 5.0 at all times	
pH		From 6.0 to 9.0 inclusive	
Fecal Coliform (5-1 to 9-30)		200/100 ml as a geometric average	
(10-1 to 4-30)		2,000/100 ml as a geometric average	

You may make an appointment to review the Department of Environmental Protection's files on this case by calling the File Review Coordinator at 717-705-4732.

The EPA waiver is in effect.

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

**PA0094960**, Sewage, **William Barnes**, P. O. Box 337, Eighty Four, PA 15330. This application is for renewal of an NPDES permit to discharge treated sewage from Barnes Apartments Sewage Treatment Plant in Somerset Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Little Chartiers Creek, which are classified as a high-quality warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the: Western Pennsylvania Water Authority.

Outfall 001: existing discharge, design flow of 0.0023 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instant. Maximum
CBOD <sub>5</sub> Day	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5/1 to 10/31)	3.0			6.0
(11/1 to 4/30)	9.0			18.0
Phosphorus	6.0			12.0
Fecal Coliform				
(5/1 to 9/30)	200/100 ml as a geometric mean			
(10/1 to 4/30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	1.4			3.3
Dissolved Oxygen	not less than 5.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0218308**, Sewage, **Outside-In School of Experiential Education**, RR #1, Box 293, Bolivar, PA 15923. This application is for renewal of an NPDES permit to discharge treated sewage from Outside-In School of Experiential Education STP in Fairfield Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Unnamed Tributary of Hannas Run, which are classified as a cold water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the: Latrobe Municipal Authority.

Outfall 001: existing discharge, design flow of 0.0045 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instant. Maximum
CBOD <sub>5</sub> Day	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5/1 to 10/31)	6.5			13.0
(11/1 to 4/30)	19.5			39.0
Fecal Coliform				
(5/1 to 9/30)	200/100 ml as a geometric mean			
(10/1 to 4/30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	1.0			2.5
Dissolved Oxygen	not less than 4.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0091413**, Sewage, **North Strabane Township Municipal Authority**, 1929B Route 519 South, Canonsburg, PA 15317. This application is for renewal of an NPDES permit to discharge treated sewage from 84 Industrial Park STP in North Strabane Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Unnamed Tributary of Little Chartiers Creek, which are classified as a high-quality warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the: Pennsylvania American Water Company.

Outfall 001: existing discharge, design flow of 0.035 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instant. Maximum
CBOD <sub>5</sub> Day	10			20
Suspended Solids	15			30

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instant. Maximum
Ammonia Nitrogen (5/1 to 10/31)	2.0			4.0
(11/1 to 4/30)	6.0			12.0
Fecal Coliform (5/1 to 9/30)	200/100 ml as a geometric mean			
(10/1 to 4/10)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	0.3			0.6
Dissolved Oxygen	not less than 6.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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### III. WQM Industrial Waste and Sewerage Applications under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

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

**WQM Permit No. 1510401**, Sewerage, **Tredyffrin Township**, 1100 DuPortail Road, Berwyn, PA 19312. This proposed facility is located in Tredyffrin Township, **Chester County**.

Description of Action/Activity: Upgrade to the Wilson Road Pump Station from 16.3 mgd to 20.16 mgd peak capacity and misc. improvements.

**WQM Permit No. WQG02091002**, Sewerage, **Upper Makefield Township**, 1076 Eagle Road, Newtown, PA 18940. This proposed facility is located in Upper Makefield Township, **Bucks County**.

Description of Action/Activity: Construction and operation of a low pressure sewer system.

**WQM Permit No. WQG02091003**, Sewerage, **Upper Makefield Township**, 1076 Eagle Road, Newtown, PA 18940. This proposed facility is located in Upper Makefield Township, **Bucks County**.

Description of Action/Activity: Construction and operation of a pump station and low pressure sewer system.

**WQM Permit No. 4610401**, Sewerage, **Borough of Bridgeport**, 4th and Mill Street, Borough Hall, Bridgeport, PA 19405-0148. This proposed facility is located in Bridgeport Borough, **Montgomery County**.

Description of Action/Activity: Construction and operation of a new relief interceptor.

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

**WQM Permit No. 4010401**, Sewerage, **Borough of Freeland Municipal Authority**, 711 Birkbeck Street, Freeland, PA 18224. This proposed facility is located in Foster Township, **Luzerne County**.

Description of Proposed Action/Activity: Expansion and upgrade of the Authority's wastewater treatment plant from its current capacity of 0.750 MGD to 1.2 MGD.

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

**WQM Permit No. 3610401**, Sewerage, **Suburban Lancaster Sewer Authority**, P. O. Box 458, Lancaster, PA 17608-0458. This proposed facility is located in West Lampeter and Pequea Townships, **Lancaster County**.

Description of Proposed Action/Activity: Seeking approval for the Penn Grant Road Sanitary Sewer Replacement Project. Replacement of existing 8" transite pipe sanitary sewer with 10" PVC all within the current footprint of existing sewer. Diameter of pipe change is to match previous emergency replacement and for current flow needs, not for future development.

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

**WQM Permit No. 4909405**, Sewerage, **Milton Regional Sewer Authority**, P. O. Box 433, State Route 405, Milton, PA 17847. This proposed facility is located in the Borough of Milton and West Chillisquaque Township, **Northumberland County**.

Description of Proposed Action/Activity: This project involves upgrades to the existing wastewater treatment facilities including increasing hydraulic and organic capacity, increasing nutrient removal, and the addition of wastewater to energy components.

**WQM Permit No. 1409403**, Sewerage, SIC 4952, **University Area Joint Authority**, 1576 Spring Valley Road, State College, PA 16801-8499. This proposed facility is located in College and Benner Townships, **Centre County**.

Description of Proposed Action/Activity: This project includes the construction of a wastewater relief pump station and bypass force main along the Big Hollow Interceptor, the replacement of a gravity sewer line along the Puddintown Road Interceptor and the replacement of a gravity sewer line along the Slab Cabin Interceptor.

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

**WQM Permit No. 6310401**, Sewerage, **Peters Township Sanitary Authority**, 111 Bell Drive, McMurray, PA 15317-3153. This proposed facility is located in Peters Township, **Washington County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sewer system replacement.  
*Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**WQM Permit No. 4303416 Amendment No. 1, Sewerage, Hermitage Municipal Authority, 800 North Hermitage Road, Hermitage, PA 16148.** This proposed facility is located in City of Hermitage, **Mercer County**.

Description of Proposed Action/Activity: The applicant proposes to construct wastewater facilities to expand the treatment capacity to 7.7 MGD. They have also requested the re-rating of three wastewater pumping stations.

**WQM Permit No. 2072402 Amendment No. 1, Sewerage, Thomas P. Buie d/b/a Springhill Estates MHP, 11822 West Lake Road, East Springfield, PA 16441.** This proposed facility is located in Spring Township, **Crawford County**.

Description of Proposed Action/Activity: The applicant proposes the installation of surface sand filters to service an existing malfunction sewage treatment facility septic system to service the 19 residential mobile home park.

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#### IV. NPDES Applications for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

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#### V. Applications for NPDES Wavier Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

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

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

*Monroe County Conservation District: 8050 Running Valley Road, Stroudsburg, PA 18360, 570-629-3060.*

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI024509015	Richard Iadevaio c/o Frances Malsch 4792 Coolbaugh Road East Stroudsburg, PA 18302	Monroe	Middle Smithfield Township	Tributary to Bushkill Creek HQ-CWF, MF Bushkill Creek HQ-CWF, MF

*Pike County Conservation District: 556 Rte. 402, Suite 1, Hawley, PA 18428, 570-226-8220.*

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI025208013(2)	Pike County Commissioners 506 Broad Street Milford, PA 18337	Pike	Blooming Grove Township	Billings Creek HQ-CWF, MF

*Lehigh County Conservation District: Lehigh Agricultural Center, Suite 102, 4184 Dorney Park Road, Allentown, PA 18104, 610-391-9583.*

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI023907001(2)	Muhlenberg College Attn: David Rabold 2400 Chew Street Allentown, PA 18104	Lehigh	City of Allentown	Cedar Creek HQ-CWF, MF

*Monroe County Conservation District: 8050 Running Valley Road, Stroudsburg, PA 18360, 570-629-3060.*

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAS10S012R	Four Seasons at Camelback, LP 700 S. Henderson Road Suite 300-B King of Prussia, PA 19406	Monroe	Pocono and Jackson Townships	Pocono Creek, HQ-CWF, MF; UNTs to Pocono Creek, HQ-CWF, MF; and Wolf Swamp Run, EV

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

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PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

### STATE CONSERVATION COMMISSION

### NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFO)

This notice provides information about agricultural operations that have submitted nutrient management plans (NMPs) for approval under the act of July 6, 2005 (Act 38 of 2005, 3 Pa.C.S. §§ 501—522) (hereinafter referred to as Act 38), and



that have or anticipate submitting applications for new, amended or renewed NPDES permits, or Notices of Intent (NOIs) for coverage under a general permit, for CAFOs, under 25 Pa. Code Chapter 92. This notice is provided in accordance with 25 Pa. Code Chapter 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

Based upon preliminary reviews, the State Conservation Commission (SCC), or County Conservation Districts (CCD) working under a delegation agreement with the SCC, have completed an administrative review of NMPs described. These NMPs are published as proposed plans for comment prior to taking final actions. The NMPs are available for review at the CCD office for the county where the agricultural operation is located. A list of CCD office locations is available at [www.pacd.org/districts/directory.htm](http://www.pacd.org/districts/directory.htm) or can be obtained from the SCC at the office address listed or by calling (717) 787-8821.

Persons wishing to comment on an NMP are invited to submit a statement outlining their comments on the plan to the CCD, with a copy to the SCC for each NMP, within 30 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the NMPs. Comments should include the name, address and telephone number of the writer and a concise statement to inform the SCC of the exact basis of the comments and the relevant facts upon which they are based.

The address for the SCC is Agriculture Building, Room 407, 2301 North Cameron Street, Harrisburg, PA 17110.

Persons with a disability who require an auxiliary aid, service, including TDD users or other accommodations to seek additional information should contact the SCC through the Pennsylvania AT&T Relay Service at (800) 654-5984.

**NUTRIENT MANAGEMENT PLAN—PUBLIC NOTICE SPREADSHEET—APPLICATIONS**

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Renewal/New</i>
Harold Barley, III Walnut Hollow Farms 230 Indian Run Road Millersville, PA 17551	Lancaster	500	458.8/1	Layers, beef	HQ	Renewal
Tom Craig Murmac Farms 2336 Zion Road Bellefonte, PA 16823	Centre	1264	1.90	Dairy	NA	Renewal

**LAND RECYCLING AND ENVIRONMENTAL REMEDIATION**

**UNDER ACT 2, 1995**

**PREAMBLE 1**

**Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the Background Standard, Statewide Health Standard, the Site-Specific Standard or who intend to remediate a site as a special industrial area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and

approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a Site-Specific Standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a Site-Specific Standard or as a special industrial area, the municipality within which the site is located may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the environmental cleanup program manager in the Department regional office before which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

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

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**US Steel Corporation 3900 Acre Parcel**, Falls Township, **Bucks County**. Colleen Costello, P. G., Langan Engineering and Environmental Services, Inc., 30 South 17th Street, Suite 1300, Philadelphia, PA 19103 on behalf of Kathleen Mayher, United States Steel Corporation, 600 Grant Street, Pittsburgh, PA 15219 has submitted a Notice of Intent to Remediate. Groundwater at the site has been impacted with the release of chlorinate solvents. The future use of the site will remain the same.

**(Revised) Courts at Springbrooke (AKA) Formerly The Mercury Gun Club**, Aston Township, **Delaware County**. James Mulry, Mulry and Cresswell Environmental, Inc., 1691 Horseshoe Pike, Suite 3, Glenmoore, PA 19343 on behalf of James A. Nolen, II, Nolen Investment, 960 West Valley Forge Road, King of Prussia, PA 19406 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of lead. The future use of the site will be developed for residential use. A summary of the Notice of Intent to Remediate was reported to have been published in the *Delaware County Daily Times* on April 7, 2006.

**Morancik Residence**, Middletown Township, **Bucks County**. Jeremy Bolyn, Environmental Maintenance Company, Inc., 1420 East Mermaid Lane, Glenside, PA 19038 on behalf of Martha Morancik, 178 South Hawthorne Avenue, Langhorne, PA 19047 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of no. 2 fuel oil. The future use of the site will remain the same. A Notice of Intent to Remediate was reported to have published in the *Bucks Courier Times* on January 7, 2010.

**Nativity Elementary School**, City of Philadelphia, **Philadelphia County**. Christopher Orzechowski, P. G., KEM Partners, 123 John Robert Thomas Drive, Exton, PA 19341 on behalf of Suzanne O'Grady Laurito, Catholic Health Care Services, 1941 Christian Street, Philadelphia, PA 19146 has submitted a Notice of Intent to Remediate. Soil at the site had been impacted with the release of no. 2 fuel oil. The future use of the site will remain the same.

**Barr Residence**, Montgomery Township, **Montgomery County**. Richard D. Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18703, Bev Stein, State Farm Insurance Company, P. O. Box 11, Concordville, PA 19331 on behalf of James Barr, 111 Mallard Drive, West North Wales, PA 19454 has submitted a Notice of Intent to Remediate. Groundwater at the site has been impacted with the release of no. 2 fuel oil. The future use of the site will remain the same. A Notice of Intent to Remediate was reported to have been published in the *Intelligencer* on December 18, 2009.

**Donnelly Residence**, Ambler Borough, **Montgomery County**. Charles Burger, Mountain Research, LLC, 825 25th Street, Altoona, PA 16601, Clare Erskine, Allstate Insurance Company, 1200 Atwater Drive, Suite 110, Malvern, PA 19355 on behalf of Joseph Donnelly, 8610 Wissahickon Avenue, Philadelphia, PA 19128 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of no. 2 fuel oil. The future use of the site will remain the same.

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

**EASTSIDE Limited Partnership V Property**, East Liberty, Pittsburgh, **Allegheny County**. Sovereign Con-

sulting, 3104 Unionville Road, Cranberry Township, PA 16066 on behalf of Eastside Limited Partnership V Property, 6231 Penn Avenue, Pittsburgh, PA 15206 has submitted a Notice of Intent to Remediate. Historical property use includes dry cleaner operations and a retail gasoline station, but the property is currently vacant. Constituents of gasoline and dry cleaner solvents have been detected in soil and groundwater. The proposed future use of the property will remain commercial. A site specific standard will be achieved via natural attenuation and institutional controls. The NIR was published in the *Tribune-Review* on December 21, 2009.

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

**Application received, under the Solid Waste Management Act of July 7, 1980, P. L. 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 ID No. 101700. Penn Waste Systems**, 149 Nichol Avenue, Stowe Township, PA 15136. An application for a Construction and Demolition Waste Transfer Station permit in Stowe Township, **Allegheny County** was received in the Regional Office on January 21, 2010.

#### AIR QUALITY

##### PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

##### NEW SOURCES AND MODIFICATIONS

The Department of Environmental Protection (Department) has developed an "integrated" plan approval, State operating permit and Title V operating permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

The Department has received applications for plan approvals and/or operating permits from the following facilities.

Copies of the applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the regional office identified in this notice. Persons interested in reviewing the application files should contact the appropriate regional office to schedule an appointment.

Persons wishing to receive a copy of a proposed plan approval or operating permit must indicate their interest to the Department regional office within 30 days of the date of this notice and must file protests or comments on a proposed plan approval or operating permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Comments or protests filed with the Department regional offices must include a concise statement of the objections to the issuance of the Plan approval or operat-

ing permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office identified before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121—143, the Federal Clean Air Act (act) and regulations adopted under the act.

### PLAN APPROVALS

**Plan Approval Applications Received under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Contact: Sachin Shankar, New Source Review Chief—Telephone: 484-250-5920.*

**15-0067G: Herr Foods, Inc.** (273 Old Baltimore Pike, Nottingham, PA 19362-0300) for installation of an additional mist collection control system on fryer no. 3 at their facility in West Nottingham Township, **Chester County**. Herr Foods, Inc. is a Synthetic Minor facility, operating under SMOP 15-00067. The second mist eliminator is to help control the PM emissions from fryer no. 3 and should not increase the facilities PM emissions. The Plan Approval will contain monitoring, recordkeeping and operating restrictions designed to minimize emissions and keep the facility operating within all applicable air quality requirements.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507.*

**48-309-134: ESSROC Cement Corp.** (Route 248 and Easton Road, 401 West Prospect Street, Nazareth, PA 18064) for modification of kiln 1 to use SNCR at their facility in Lower Nazareth Township, **Northampton County**.

**Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.**

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507.*

**54-302-080: Pine Grove Area School District—Pine Grove High School** (101 School Street, Pine Grove, PA 17963) for installation and operation of a 6.875 MMBtu heat input anthracite coal fired boiler at their school in the Pine Grove Borough, **Schuylkill County**. The boiler will utilize anthracite coal containing ash less than 12% by weight. There are no NSPS standards for this size of

boiler while firing an anthracite coal. The company has proposed to use a cyclone to control particulate emissions from the boiler, which will reduce the particulate emissions from the boiler to 2.06 lb/hr and will meet the BAT requirements of the Department of Environmental Protection. The company will operate and maintain the boiler in accordance with the good engineering practices to assure proper operation. 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.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: B. Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226.*

**30-00055A: Shannopin Materials, LLC** (308 Dents Run Road, Morgantown WV 26501) for construction of a coal slurry reclamation project and construction of a coal/limestone barge loading/unloading facility at their Shannopin Dock site in Monongahela Township, **Greene County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.45, the Department of Environmental Protection (Department) intends to issue a Plan Approval to allow the construction of a coal slurry reclamation project and the construction of a coal/limestone barge loading/unloading facility at the Shannopin Dock site located in Monongahela Township, Greene County.

Sources at this facility will include excavators, 5 stockpiles, conveyors, transfer points and end-loaders. The facility shall be limited to 625 tons/hour and a total throughput of 400,000 tons per 12 month rolling total. Annual emissions from the facility are estimated to be 46 tons of total particulate matter and 14 tons of PM10. BAT for this operation consists of dust suppression activities such as the use of water sprays, enclosures, roadway paving, tarping, truck wash and best operating practices. The proposed facility is subject to the applicable requirements of 25 Pa. Code, Chapters 121—145. The Department believes that the facility will meet these requirements by complying with Plan Approval conditions relating to restrictions, monitoring, recordkeeping, reporting and work practice standards:

Those who wish to provide the Department with additional written information that they believe should be considered prior to the issuance of the Plan Approval may submit the information to Barbara Hatch, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA, 15222. Each written comment must contain the following:

Name, address and telephone number of the person submitting the comments. Identification of the proposed Plan Approval (specify the Plan Approval number). Concise statements regarding the relevancy of the information or objections to issuance of the Plan Approval.

All comments must be received prior to the close of business 30 days after the date of this publication.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940.*

**24-150A: Horizon Wood Products** (624 Shelvey Summit Road, Kersey, PA 15846) for installation of a 3.1 MMBtu/hr biomass boiler and associated multi-cyclone control device at their facility in Fox Township, **Elk County**.



Pursuant to 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (Department) intends to issue Plan Approval 24-150A to Horizon Wood Products for the installation of a 3.1 MMBtu/hr biomass boiler and associated multi-cyclone control device at their facility located at 624 Shelvey Summit Road, Fox Township, Elk County. The Plan Approval will subsequently be incorporated into the facility's operating permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

Plan Approval No. 24-150A is for the installation of a 3.1 MMBtu/hr wood dust fired biomass boiler and associated multi-cyclone control device. Based on the information provided by the applicant and Department's own analysis, the proposed source will have the potential to emit approximately 2.99 tons of particulate matter, 2.37 tons of nitrogen oxides, 0.70 ton of carbon monoxide, 0.23 ton of volatile organic compounds, and 0.07 ton of sulfur oxides per year.

The Plan Approval will contain additional monitoring, recordkeeping and work practice requirements designed to keep the facility operating within all applicable air quality requirements.

Copies of the application, Department's analysis and other documents used in the evaluation are available for public inspection between the hours of 8 a.m. and 4 p.m. weekdays at the address listed. To make an appointment, contact Records Management at 814-332-6340.

Persons wishing to provide the Department with additional information to be considered may submit the information in writing. Comments must be received by the Department within 30 days of the last day of publication. Written comments should include the following:

Name, address and telephone number of the person submitting comments; identification of the proposed Plan Approval; No. 24-150A; and concise statement regarding the relevancy of the information or any objections to issuance of the Plan Approval.

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted on the comments received during the public comment period. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a local newspaper of general circulation or the *Pennsylvania Bulletin* or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to John Guth, Regional Air Quality Manager, Department of Environmental Protection, Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335, 814-332-6940.

**25-035B: Molded Fiber Glass Co.** (55 4th Avenue, Union City, PA 16438), for the installation of 2 reaction injection molding presses at their facility in Union City Borough, **Erie County**. This is a Title V facility.

Notice is hereby given pursuant to 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (Department) intends to issue Plan Approval 25-035B to Molded Fiber Glass Co. for the installation of 2 reaction injection molding presses at their facility located at 55 4th Avenue, Union City Borough, Erie County. The Plan Approval will subsequently be incorporated into the facility's operating permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

Plan Approval No. 25-035B is for the installation of 2 reaction injection molding presses. Emissions from the proposed sources will be limited via throughput limitations to a maximum 13.0 tons per year of volatile organic compounds. The Plan Approval will contain additional monitoring, recordkeeping and work practice requirements designed to keep the facility operating within all applicable air quality requirements.

Copies of the application, Department's analysis and other documents used in the evaluation are available for public inspection between the hours of 8 a.m. and 4 p.m. weekdays at the address listed. To make an appointment, contact Records Management at 814-332-6340.

Persons wishing to provide the Department with additional information to be considered may submit the information in writing. Comments must be received by the Department within 30 days of the last day of publication. Written comments should include the following:

Name, address and telephone number of the person submitting comments; identification of the proposed Plan Approval; No. 25-035B; and concise statement regarding the relevancy of the information or any objections to issuance of the Plan Approval.

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted on the comments received during the public comment period. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a local newspaper of general circulation or the *Pennsylvania Bulletin* or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to John Guth, Regional Air Quality Manager, Department of Environmental Protection, Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335, 814-332-6940.

**25-1024A: PHB, Inc., Machining & Molding Division** (8150 West Ridge Road, Fairview, PA 16415), for the installation of 3 paint booths at their facility in Fairview Township, **Erie County**.

Notice is hereby given pursuant to 25 Pa. Code §§ 127.44(b) and 127.424(b), that the Department of Environmental Protection (Department) intends to issue Plan Approval 25-1024A to PHB, Inc. for the installation of three (3) paint booths at their Machining & Molding Division facility located at 8150 West Ridge Road, Fairview Township, Erie County. The Plan Approval will subsequently be incorporated into the facility's Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

Plan Approval No. 25-1024A is for the installation of 3 paint booths. Emissions from the proposed sources will be limited to a maximum 12.0 tons per year of volatile organic compounds. The Plan Approval will contain additional recordkeeping and work practice requirements designed to keep the facility operating within all applicable air quality requirements.

Copies of the application, Department's analysis and other documents used in the evaluation are available for public inspection between 8 a.m. and 4 p.m. weekdays at the address listed. To make an appointment, contact Records Management at 814-332-6340.

Persons wishing to provide the Department with additional information to be considered may submit the information in writing. Comments must be received by



the Department within 30 days of the last day of publication. Written comments should include the following:

Name, address and telephone number of the person submitting comments; identification of the proposed Plan Approval; No. 25-1024A; and concise statement regarding the relevancy of the information or any objections to issuance of the Plan Approval.

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted on the comments received during the public comment period. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a local newspaper of general circulation or the *Pennsylvania Bulletin* or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to John Guth, Regional Air Quality Manager, Department of Environmental Protection, Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335, 814-332-6940.

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**Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**

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*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428. Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.*

**15-00044: Sunoco Partners Marketing & Terminals LP—Exton Terminal** (623 East Lincoln Highway, Exton, PA 19341) for operation of 3 distillate storage tanks and one loading rack in East Whiteland Township, **Chester County**. This action is a renewal of a State-only operating permit (Synthetic Minor), which was originally issued on March 30, 2005. The facility took distillate throughput restrictions to maintain its VOC and HAP emissions below the threshold levels. The renewal contains monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507.*

**39-00089: Allentown Shotcrete Equipment** (421 Schantz Road, Allentown, PA 18104) a State-only operating permit for manufacturing construction in Lower Macungie, **Lehigh County**. The proposed State-only operating permit contains applicable requirements for emissions limitations, monitoring, record keeping, reporting and work practice standards used to maintain facility compliance with Federal and State air pollution regulations.

**40-00114: Glenn O. Hawbaker, Inc.** (711 East College Avenue, Bellefonte, PA 16823-6854) for a State-only (Synthetic Minor) operating permit for their Hazleton Aggregate Facility Plant No. 23 in Hazle Township, **Luzerne County**. The facility is taking an elective restriction on production to limit particulate matter emissions below Title V levels. The State-only operating permit includes emissions, monitoring, record keeping, reporting, testing and any additional conditions designed to ensure compliance with all applicable Federal and State air pollution control requirements.

**54-00013: Great Eight, LLP** (600 Daugherty Street, Scott City, MO 63780) for operation of a boiler at their

facility in Rush Township, **Schuylkill County**. This is new State-only operating permit.

**48-00073: Haines & Kibblehouse, Inc.** (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474-0196) a renewal State-only operating permit for their Stockertown Materials Plant in the Borough of Stockertown, **Northampton County**. The State-only operating permit includes emissions, monitoring, recordkeeping, reporting, testing and any additional conditions designed to ensure compliance with all applicable Federal and State air pollution control requirements.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: William R. Weaver, New Source Review Chief—Telephone: 717-705-4702.*

**06-03126: Lehigh Cement Co.** (204 Windsor Avenue, Hamburg, PA 19526) for operation of a specialty cement blending operation in Windsor Township, **Berks County**. This is a renewal of the State-only operating permit issued in 2004.

**36-03138: OpSec Security, Inc.** (1857 Colonial Village Lane, P. O. Box 1055, Lancaster, PA 17605-0155) for their security printing facility in East Lampeter Township, **Lancaster County**. This is a renewal of the State-only operating permit issued in 2004.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: Barbara Hatch, Facilities Permitting Chief—Telephone: 412-442-4174.*

**03-00192: Equitable Gas Co., LLC—EGC** (225 North Shore Drive, Pittsburgh PA 15212) for operation of Equitable Gas CO/Village Station on SR 85 in Cowanshannock Township, **Armstrong County**. This is a State-only permit renewal.

**03-00224: McVile Mining Co.** (301 Market Street Kittanning, PA 16201) for operation of Clementine coal preparation plant in South Buffalo Township, **Armstrong County**. This is a State-only permit renewal.

**63-00491: California University of Pennsylvania** (250 University Avenue, California, PA 15419-1341) for operation of University Heating Plant in California Borough, **Washington County**. This is a State-only permit renewal.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104. Contact: Edward Brawn, Chief—Telephone: 215-685-9476.*

**N09-023: Lannett Company, Inc.** (9000 State Road/9001 Torresdale Avenue, Philadelphia, PA 19136) for operation of a pharmaceutical manufacturing facility in the City of Philadelphia, **Philadelphia County**. The facility's air emissions sources include one 300 kW Emergency Generator, one 118 Horsepower Emergency Generator, one 810,000 BTU/hr boiler, one 950,000 BTU/hr boiler, one 100 Horsepower boiler, two Dust Collectors, IPA process to clean equipment, Zachetta granulation process, Mixing and Blending Tray Drying Oven and Submission Test batches process.

The operating permit will be reissued under 25 Pa. Code, Philadelphia Code Title 3 and Air Management Regulation XIII. Permit copies and other supporting information are available for public inspection at AMS, 321 University Avenue, Philadelphia, PA 19104. For further information, contact Edward Wiener at (215) 685-9426.

Persons wishing to file protest or comments on the above operating permit must submit the protest or comments within 30 days from the date of this notice. Any protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least thirty days before the hearing.

## COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to such applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of the application is available for inspection at the District Mining Office indicated above each application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for the certification.

Written comments or objections, or requests for an informal conference, or a public hearing, as applicable, on a mining permit application may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the address of the district mining office indicated above each application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Written comments or objections related to a mining permit application should contain the name, address and telephone number of persons submitting comments or objections; application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based.

Requests for an informal conference, or a public hearing, as applicable, on a mining permit application, as provided by 25 Pa. Code §§ 77.123 or 86.34, must contain the name, address and telephone number of the requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

When a National Pollutant Discharge Elimination System (NPDES) number is listed, the mining activity permit application was accompanied by an application for an individual NPDES permit. The Department has made a tentative determination to issue the NPDES permit in

conjunction with the mining activity permit, but the issuance of the NPDES permit is contingent upon the approval of the associated mining activity permit.

For coal mining activities, NPDES permits, when issued, will contain effluent limits that do not exceed the technology-based effluent limitations. The proposed limits are listed in Table 1.

For noncoal mining activities, the proposed limits are found in Table 2. Discharges from noncoal mines located in some geologic settings (for example, in the coal fields) may require additional effluent limits. If additional effluent limits are needed for an NPDES permit associated with a noncoal mining permit, then the permit description below specifies the parameters. The limits will be in the ranges specified in Table 1.

More restrictive effluent limitations, restrictions on discharge volume, or restrictions on the extent of mining that may occur, will be incorporated into an NPDES permit when necessary for compliance with water quality standards and antidegradation requirements (in accordance with 25 Pa. Code Chapters 91—96).

The procedures for determining the final effluent limits, using a mass-balance equation or model, are found in Technical Guidance Document 362-0600-001, NPDES Program Implementation—Memorandum of Understanding Concerning Water Quality Management, NPDES Program Implementation and Related Matters. Other specific factors to be considered include public comments and Total Maximum Daily Loads (TMDLs).

Persons wishing to comment on an NPDES permit application should submit a statement to the Department at the address of the district mining office indicated previously each application within 30 days of this public notice. Comments received within the comment period will be considered in the final determinations regarding the NPDES permit applications. Comments must include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests or petitions for a public hearing on NPDES permit applications, as provided in 25 Pa. Code § 92.61. The request or petition for a public hearing shall be filed within 30 days of this public notice and shall contain the name, address, telephone number and the interest of the party filing the request, and shall state the reasons why a hearing is warranted. A public hearing may be held if the Department considers the public interest significant. If a hearing is scheduled, a notice of the hearing on the NPDES permit application will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. In the case where a public hearing is held, the Department will consider comments from the public hearing in the final determination on the NPDES permit application.

### *Coal Applications Received*

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

Table 1

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

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

A settleable solids instantaneous maximum limit of 0.5 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.*

**32733708 and NPDES Permit No. PA0215503, Pennsylvania Mines, LLC**, (2 North Ninth Street, Allentown, PA 18101), to renew the permit for the Greenwich No. 1 Coal Refuse Disposal Area in Green Township, Indiana County and Susquehanna Township, **Cambria County** and related NPDES permit. No additional discharges. Application received: December 18, 2009.

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

**03990107 and NPDES Permit No. PA0202622. AMFIRE Mining Co., LLC** (One Energy Place, Latrobe, PA 15650). Renewal application for reclamation only of a bituminous surface mine, located in Washington and East Franklin Townships, **Armstrong County**, affecting 263.8 acres. Receiving streams: unnamed tributaries of Limestone Run to Limestone Run, classified for the following use: CWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received: January 14, 2010.

**26040105 and NPDES Permit No. PA0250635. Amerikohl Mining, Inc.** (1384 State Route 711, Stahlstown, PA 15687). Revision application for relocation of unnamed tributary 'A' and variance for unnamed tributary 'B' of an existing bituminous surface mine, located in Dunbar Township, **Fayette County**, affecting 382.7 acres. Receiving streams: unnamed tributaries to Laurel Run and Ferguson Run, classified for the following use: TSF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received: January 19, 2010.

**65-09-02 and NPDES Permit No. PA0251681. Britt Energies, Inc.** (2450 Philadelphia Street, Indiana, PA 15701). Application for a Government Financed Construction Contract to reclaim abandoned mine lands located in Derry Township, **Westmoreland County**, affecting 8.7 acres. Receiving streams: unnamed tributaries to Conemaugh River. Classified for the following use: CWF. There is no water supply intake within 10 miles downstream from the point of discharge. GFCC application received: January 11, 2010.

**30080102 and NPDES Permit No. PA0251895. Penn Development Services, LP** (732 McClellandtown Road, Uniontown, PA 15401). Received corrections to include NPDES for the pending application for commencement, operation and reclamation of a bituminous surface mine, located in Cumberland Township, **Greene County**, affecting 84.6 acres. Receiving streams: Monongahela River and an unnamed tributary to Pegs Run, classified for the following use: WWF. The first potable water supply intake within 10 miles downstream from the point of discharge is the Carmichaels Municipal Authority. Corrections to application received: September 10, 2009.

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

**33723006 and NPDES Permit No. PA0603406. Keystone Coal Mining Corporation** (CNX Center, 1000 Consol Energy Drive, Canonsburg, PA 15317) Renewal of an existing bituminous strip and auger operation in Winslow Township, **Jefferson County**, affecting 450.2 acres. This renewal is for reclamation only. Receiving streams: unnamed tributaries to Soldier Run and Soldier Run, classified for the following uses: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: January 22, 2010.

**16990105 and NPDES Permit No. PA0241661. Sky Haven Coal, Inc.** (5510 State Park Road, Penfield, PA 15849). Renewal of an existing bituminous strip operation in Clarion Township, **Clarion County**, affecting 132.3 acres. Receiving streams: unnamed tributary to Little Mill Creek, classified for the following uses: CWF. There are no potable water supply intakes within 10 miles downstream. Renewal application is for reclamation only. Application received: January 15, 2010.

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

**17743165 and NPDES No. PA0127574. RES Coal, LLC** (224 Grange Hall Road, P. O. Box 228, Armagh, PA 15920). Renewal of an existing bituminous surface mine located in Boggs Township, **Clearfield County**, affecting 164.4 acres. Receiving stream(s): Clearfield Creek to the West Branch Susquehanna River, classified for the following uses: Cold Water Fishery, Warm Water Fishery. There are no potable water supply intakes within 10 miles downstream. Application received: December 21, 2009.

**17980115 and NPDES No. PA0238074. Junior Coal Contracting, Inc.** (2330 Six Mile Road, Philipsburg, PA 16866). Renewal of an existing bituminous surface mine located in Decatur and Woodward Townships, **Clearfield County**, affecting 60.5 acres. Receiving stream(s): unnamed tributary to Beaver Run, then to Beaver Run, classified for the following use: Cold Water Fishery. There are no potable water supply intakes within 10 miles downstream. Application received: December 21, 2009.



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

**54890105R4 and NPDES Permit No. PA0595314.** Porter Associates, Inc., (P. O. Box 478, Wilkes-Barre, PA 18703), renewal of an existing anthracite surface mine operation in Porter Township, **Schuylkill County**, affecting 118.74 acres, receiving stream: East Branch Rausch Creek. Application received: January 15, 2010.

**35763202R5.** Northampton Fuel Supply Co., Inc., (1 Horwith Drive, Northampton, PA 18067), renewal of an existing anthracite coal refuse reprocessing operation in Carbondale Township, **Lackawanna County**, affecting 45.0 acres, receiving stream: none. Application received: January 15, 2010.

**40940204R3.** Northampton Fuel Supply Co., Inc.,

(1 Horwith Drive, Northampton, PA 18067), renewal of an existing anthracite coal refuse reprocessing operation for reclamation activities only in Hanover Township, **Luzerne County**, affecting 48.0 acres, receiving stream: none. Application received: January 19, 2010.

**54030101R.** Waldemar T. Fetterolf, Sr., (3092 Main Street, Locustdale, PA 17945), renewal of an existing anthracite surface mine operation for reclamation activities only in New Philadelphia Borough, **Schuylkill County**, affecting 100.0 acres, receiving stream: none. Application received: January 19, 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.*

**37940302.** Three Rivers Aggregates, Inc. (P. O. Box 6090, Falmouth, VA 22403) Renewal of NPDES Permit No. PA0212041 in Scott & Plain Grove Townships, **Lawrence County**. Receiving streams: unnamed tributary to Slippery Rock Creek and unnamed tributary to Taylor Run both classified for the following Statewide water uses: CWF. There are no potable surface water supply intakes within 10 miles downstream. NPDES Renewal application received: January 20, 2010.

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

**38910801.** Dale A. Gingrich, (33 Dead End Road, Annville, PA 17003), Stage I & II bond release of a quarry operation in East Hanover Township, **Lebanon County**, affecting 1.0 acre on property owned by Dale A. Gingrich. Application received: January 15, 2010.

## FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of

the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

**Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Floodplain Management Act (32 P. S. § 679.302) and requests for certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).**

*Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, Telephone 570-826-2511.*

**E58-276a.** Cabot Oil and Gas Corporation, Five Penn Center West, Suite 401, Pittsburgh, PA 15276, in



Dimock, Auburn and Springville Townships, **Susquehanna County**, U.S. Army Corps of Engineers, Baltimore District.

To construct and maintain 52 water obstructions and encroachments in and along West Creek (CWF) and unnamed tributaries thereof, White Creek (CWF) and unnamed tributaries thereof, Meshoppen Creek (CWF) and unnamed tributaries thereof, Stevens Creek (CWF) and unnamed tributaries thereof, Thomas Creek (CWF) and unnamed tributaries thereof, and the North Branch of Meshoppen Creek (CWF) and unnamed tributaries thereof, impacting approximately 341 linear feet of stream (79' L.F. by open cut method and 262' L.F. by directional boring) and 1.227 acres of wetlands. This work is associated with Cabot Oil and Gas Susquehanna Project Zone 1-2 which includes the installation of 60,720 linear feet of gathering pipeline natural gas well drilling pads. The project centroid is located approximately 9.01 miles from the intersection of SR 0029 and SR 0706 at the Springville and Dimock Township line. (Springville, PA Quadrangle Latitude: 41° 42' 46"; Longitude: 75° 56' 29").

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

**E22-556: The Harrisburg Authority**, 212 Locust Street, Suite 302, Harrisburg, PA 17101, Harrisburg City and Swatara Township, **Dauphin County**, ACOE Baltimore District.

To: replace an existing 82-foot by 60-foot steel storage building with a 84-foot by 61-foot steel building, and to construct and maintain an 84-foot by 61-foot steel building with associated access and loading facilities in the floodplains of Spring Creek (CWF, MF) and the Susquehanna River (WWF), for the purpose of upgrading the existing wastewater treatment facility. The project is located near the intersection of SR 230 and Elliot Street (Steelton, PA Quadrangle N: 21.4 inches; W: 15.3 inches, Latitude: 40° 14' 28"; Longitude: 76° 51' 30") in Harrisburg City and Swatara Township, Dauphin County.

**E06-657: Pennsylvania Department of Transportation**, Engineering District 5-0, 1002 Hamilton Street, Allentown, PA 18101, Marion Township, **Berks County**, ACOE Philadelphia District.

To: (1) raze an existing three-span masonry arch bridge having a clear span of 85.0 feet, a width of 22.0 feet, a skew of 90.0 degrees and a minimum underclearance of 10.4 feet; and (2) construct and maintain a single-span P/S Bulb-Tee beam bridge having a clear span of 81.3 feet, a width of 29.8 feet, a skew of 75.0 degrees and a minimum underclearance of 9.4 feet carrying Township Road T-503 (William Penn Boulevard) over Tulpehocken Creek (TSF) in Marion Township, Berks County (Womelsdorf, PA Quadrangle N: 22.3 inches; W: 13.0 inches, Latitude: 40° 22' 24"; Longitude: -76° 13' 06") all for the purpose of replacing a structurally deficient bridge (also known as SR 3061) over Tulpehocken Creek. The project will involve the use of a temporary causeway.

**E21-416: Pennsylvania Department of Transportation**, Engineering District 8-0, 2140 Herr Street, Harrisburg, PA 17103, South Middleton Township, **Cumberland County**, ACOE Baltimore District.

To: (1) widen and maintain the existing I-81 southbound four-span Spread Box Beam bridge 19.4 feet, having a clear span of 254.6 feet, a final width of 56.9 feet, a skew of 63° 23' 17.5" and a minimum underclearance of 27.4 feet over Letort Spring Run (EV); and (2)

rehabilitate and maintain the existing I-81 northbound four-span Spread Box Beam bridge, having a clear span of 254.6 feet, a width of 37.5 feet, a skew of 63° 23' 17.5" and a minimum underclearance of 27.4 feet over Letort Spring Run (EV) (Carlisle, PA Quadrangle N: 11.4 inches; W: 8.5 inches, Latitude: 40° 11' 17"; Longitude: -77° 11' 10") all for the purpose of improving the structural condition of the Interstate 81 bridges.

#### WATER OBSTRUCTIONS & ENCROACHMENTS

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

**E02-584-A11 Hanson Aggregates PMA, Inc.**, 2200 Springfield Pike, Connellsville, PA 15425. To amend Permit E02-584 in Boggs, East Franklin, and Rayburn Townships, **Armstrong County**, Pittsburgh ACOE District. To amend Permit E02-584, which authorizes commercial sand and gravel dredging in select areas of the Allegheny River (WWF) and Ohio River (WWF), subject to review of fish surveys, mussel surveys, and prescribed setbacks in Allegheny, Armstrong, Beaver and Westmoreland Counties to include Allegheny River Mile Points 52.3 to 52.5 (Downstream beginning point: Templeton, PA Quadrangle N: 3.0 inches; W: 15.1 inches, Latitude: 40° 53' 29"; Longitude: 79° 29' 06"). Upstream end point: Templeton, PA Quadrangle N: 3.5 inches; W: 14.7 inches, Latitude: 40° 53' 39"; Longitude: 79° 28' 53"), left and right descending banks.

**E02-919-A11 Tri-State River Products, Inc.**, Box 218, 334 Insurance Street, Beaver, PA 15009. To amend Permit E02-919 in Boggs, East Franklin, and Rayburn Townships, **Armstrong County**, Pittsburgh ACOE District. To amend Permit E02-919, which authorizes commercial sand and gravel dredging in select areas of the Allegheny River (WWF) and Ohio River (WWF), subject to review of fish surveys, mussel surveys, and prescribed setbacks in Allegheny, Armstrong, Beaver and Westmoreland Counties to include Allegheny River Mile Points 52.3 to 52.5 (Downstream beginning point: Templeton, PA Quadrangle N: 3.0 inches; W: 15.1 inches, Latitude: 40° 53' 29"; Longitude: 79° 29' 06"). Upstream end point: Templeton, PA Quadrangle N: 3.5 inches; W: 14.7 inches, Latitude: 40° 53' 39"; Longitude: 79° 28' 53"), left and right descending banks.

**E02-1326-A11 Glacial Sand and Gravel Company**, P. O. Box 1022, Kittanning, PA 16201. To amend Permit E02-1326 in Boggs, East Franklin, and Rayburn Townships, **Armstrong County**, Pittsburgh ACOE District. To amend Permit E02-1326, which authorizes commercial sand and gravel dredging in select areas of the Allegheny River (WWF) and Ohio River (WWF), subject to review of fish surveys, mussel surveys, and prescribed setbacks in Allegheny, Armstrong, Beaver and Westmoreland Counties to include Allegheny River Mile Points 52.3 to 52.5 (Downstream beginning point: Templeton, PA Quadrangle N: 3.0 inches; W: 15.1 inches, Latitude: 40° 53' 29"; Longitude: 79° 29' 06"). Upstream end point: Templeton, PA Quadrangle N: 3.5 inches; W: 14.7 inches, Latitude: 40° 53' 39"; Longitude: 79° 28' 53"), left and right descending banks.

**E02-1444-A1. Chris Castagnari**, 2125 Babcock Boulevard, Pittsburgh, PA 15209. To amend Permit E02-1444 in Ross Township, **Allegheny County**, Pittsburgh ACOE District. (Glenshaw, PA Quadrangle N: 2.4 inches; W: 17.3 inches, Latitude 40° 30' 48"; Longitude: 79° 59' 58"). To amend permit E02-1444 which authorized the construction and maintenance of a 15,000 sq. ft. building

on the left bank floodway of Girty's Run (WWF) and the construction and maintenance of a stormwater outfall to the same stream. The project is located on the south side of Babcock Boulevard approximately 0.5 miles east of its intersection with McKnight Road. For this permit application, the applicant proposes to amend this permit to

operate and maintain an approximately 104' long retaining wall along the left bank of Girty's Run and to construct and maintain an approximately 20' long extension on the upstream end of the wall. The wall is located on the west of the U.S.A. Baby store and extends upstream.

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## ACTIONS

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

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal wastes; discharges to groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

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#### I. NPDES Renewal Permit Actions

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*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>
PA0086924 (IW)	FCI USA, LLC 11823 Lenape Drive Mount Union, PA 17066-8715	Huntingdon County Shirley Township	Juniata River Manatawny Creek and Furnace Run 12-C	Y

<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>
PA0247596 (IW)	Ephrata Area Joint Authority 124 South State Street Ephrata, PA 17522	Lancaster County Ephrata Township	Cocalico Creek 7-J	Y
PA0086690 (IW)	Kalas Manufacturing, Inc. 25 Main Street Denver, PA 17517	Lancaster County East Cocalico Township	Stony Run 7-J	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>
PAS214801	Little Lisa, Inc., d/b/a Wayne Concrete Products 262 Route 44 Shinglehouse, PA 16748	Eulalia Township Potter County	Mill Creek 16C	Y
PA0007854	Pennsylvania American Water Company—Milton Filter Plant 702 South Front Street Milton, PA 17847	Milton Borough Northumberland County	West Branch Susquehanna River 10D	Y
PA0009431	Pennsylvania American Water Company—White Deer Creek Filter Plant 105 Sodom Road Milton, PA 17847	White Deer Township Union County	White Deer Creek 10C	Y
PA0111929	Lawrenceville Borough Authority P. O. Box 151 Lawrenceville, PA 16929	Lawrenceville Borough Tioga County	Tioga River 4A	Y
PA0208922	Woodward Township Municipal Authority 131 Punkin Hollow Drive Houtzdale, PA 16651	Woodward Township Clearfield County	Whiteside Run 8D	Y
PA0228842	Muddy Run Regional Authority P. O. Box 474 Madera, PA 16661-0474	Bigler Township Clearfield County	Clearfield Creek 8C	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0218138 Sewage	Armstrong County Industrial Development Authority 402 Market Street Kittanning, PA 16201	Armstrong County North Buffalo Township	Nicholson Run	Y

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

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

**NPDES Permit No. PA0051951**, Sewage, **David Chapman**, 51 Grays Lane, Elverson, PA 19520. This proposed facility is located in Warwick Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge 400 gpd of treated sewage into an Unnamed Tributary to French Creek in Watershed 3D.

**NPDES Permit No. PAG040144**, Sewage, **Francine T. Paczkoski**, 2961 Upper Ridge Road, Pennsburg, PA 18073. This proposed facility is located in Marlborough Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the issuance to discharge 400 gpd of treated sewage into an Unnamed Tributary to Macoby Creek in Watershed 3-E.

**NPDES Permit No. PAG040145**, Sewage, **Todd Ferrence**, 2953 Upper Ridge Road, Pennsburg, PA 18073. This proposed facility is located in Marlborough Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge 400 gpd of treated sewage into an Unnamed Tributary to Macoby Creek in Watershed 3-E.

**NPDES Permit No. PAG040143**, Sewage, **William J. McPhillips**, 1359 Hendricks Road, Pennsburg, PA 18073. This proposed facility is located in Upper Hanover Township, **Montgomery County**.



Description of Proposed Action/Activity: Approval for the renewal to discharge 400 gpd of treated sewage into Macoby Creek in Watershed 3-E.

**NPDES Permit No. PA0012882**, Industrial Waste, **Philadelphia Gas Works**, 800 West Montgomery Avenue, Philadelphia, PA 19122. This proposed facility is located in City of Philadelphia, **Philadelphia County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge 6.67 MGD of noncontact cooling water into the Delaware River-Zone 3 in Watershed 3J.

**NPDES Permit No. PA0056561**, Industrial Waste, **Armstrong Engineering Associates, Inc.**, P. O. Box 566, West Chester, PA 19381. This proposed facility is located in West Bradford Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge stormwater to Broad Run (Outfall 001) and an Unnamed Tributary to West Branch Brandywine Creek (Outfall 002) in Watershed 3H.

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

**NPDES Permit No. PA0029289**, Sewage, **Stroudsburg Borough**, 700 Sarah Street, Stroudsburg, PA 18360. This proposed facility is located in Stroudsburg Borough, **Monroe County**.

Description of Proposed Action/Activity: Issuance of an NPDES Permit for increased discharge from 2.5 to 4.5 MGD.

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

**NPDES Permit No. PA0020834**, Sewage, **Borough of Greencastle**, 60 North Washington Street, Greencastle, PA 17225-1230. This proposed facility is located in Antrim Township, **Franklin County**.

Description of Proposed Action/Activity: Authorization to discharge to UNT Conococheague Creek in Watershed 13-C.

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

**NPDES Permit No. PA0254118**, Sewage, **Rodney C. Marvin**, 146 Lee Street, Hyndman, PA 15545. This proposed facility is located in Southampton Township, **Somerset County**.

Description of Proposed Action/Activity: Permit issuance for domestic wastewater discharge from a single home dwelling.

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

**NPDES Permit No. PA0263648**, Sewage, **Don Thompson**, 605 Old Farm Lane, State College, PA 16803. This proposed facility is located in Conewango Township, **Warren County**.

Description of Proposed Action/Activity: Issuance for a new NPDES permit for discharge of treated sewage from a Small Flow Treatment Facility.

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### **III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)**

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

**WQM Permit No. 4609411**, Sewerage, **East Norriton Township**, 2501 Stanbridge Street, East Norriton, PA 19401. This proposed facility is located in East Norriton Township, **Montgomery County**.

Description of Action/Activity: Construction and operation of a surge tank, pump station and force main to service the proposed Albert Einstein Medical Center.

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

**WQM Permit No. 2109409**, Sewage, **Hampden Township Sewer Authority**, 230 South Sporting Hill Road, Mechanicsburg, PA 17050. This proposed facility is located in Hampden Township, **Cumberland County**.

Description of Proposed Action/Activity: Permit approval for the construction of sewerage facilities consisting of: The upgrade to Pumping Station No. 19 involving the replacement of existing submersible pumps and a wet well. The project also includes elevating the new control panel and existing generator.

**WQM Permit No. 6709402, Amendment 09-1**, Sewage, **York City Sewer Authority**, 345 East Market Street, York PA 17403. This proposed facility is located in Manchester Township, **York County**.

Description of Proposed Action/Activity: Permit approval for the construction/operation of sewerage facilities consisting of the installation of the Ostara process to reduce nutrient levels in Centrifuge centrate.

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

**WQM Permit No. WQG02140904**, Sewerage (SIC 4952), **The Pennsylvania State University**, Pennsylvania State University, WWTP Physical Plant Building, University Park, PA 16802. This proposed facility is located in College Township, **Centre County**.

Description of Proposed Action/Activity: Construction of a submersible grinder pump station and force main to provide the new Nittany Lion softball field's lower-level facilities a way to convey the wastewater to the Penn State WWTP.

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

**WQM Permit No. 2610201**, Industrial Waste, **Integrated Water Technologies, Inc.**, 150 Clove Road, Suite 1101, Little Falls, NJ 07424. This proposed facility is located in Masontown Borough, **Fayette County**.



Description of Proposed Action/Activity: Permit issuance for the construction and operation of a demonstration project for frac water treatment.

**WQM Permit No. 5609404**, Sewerage, **Rodney C. Marvin**, 146 Lee Street, Hyndman, PA 15545. This proposed facility is located in Southampton Township, **Somerset County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of sanitary sewers to serve a single residence dwelling.

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

**WQM Permit No. 4303416**, Sewerage **Amendment No. 1**, **Hermitage Municipal Authority**, 800 North Hermitage Road, Hermitage, PA 16148. This proposed facility is located in City of Hermitage, **Mercer County**.

Description of Proposed Action/Activity: Issuance of a Water Quality permit to construct wastewater facilities to expand the treatment capacity to 7.7 MGD with the re-rating of three wastewater pumping stations.

**WQM Permit No. 4380406**, Sewerage, **Amendment No. 1**, **John R. Broderick, d/b/a Lakeview Estates MHP**, 2771 Lincoln Highway East, Ronks, PA 17572-9782. This proposed facility is located in New Lebanon Borough, **Mercer County**.

Description of Proposed Action/Activity: Issuance of a permit to modify the existing WQM Part II permit for the treatment plant to add sludge holding facilities, a dedicated sludge tank blower and replace the existing table type chlorine disinfecter.

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

**WQM Permit No. 6407401**, Sewerage, **Camp Lohikan**, 24 Wallerville Road, Lake Como, PA 18437. This proposed facility is located in Buckingham Township, **Wayne County**.

Description of Proposed Action: Issuance of Water Quality Management Permit for a lagoon treatment system with spray irrigation with a design flow of 0.030 MGD.

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

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

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI012309005	Upper Providence Township Sewer Authority 935 North Providence Road Media, PA 19063-1499	Delaware	Upper Providence Township	Ridley Creek HQ-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>
PAI033109002	F & M Trust Company 20 South Main Street Chambersburg, PA 17201	Huntingdon	Shirley Township	UNT to Juniata River HQ-CWF
PAI032108006	Parkview at Boiling Springs, LP 2020 Good Hope Road Suite 200 Enola, PA 17025	Cumberland	South Middleton Township	Yellow Breeches Creek HQ-CWF
PAI000109001	Tom Kalathas 431 Mower Road Chambersburg, PA 17201	Adams	Franklin Township	Carbaugh Run HQ-CWF

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

*Centre County Conservation District: 414 Holmes Avenue, Suite 4, Bellefonte, PA 16823, (814) 355-6817.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041409008	William Ayoub Grace Lutheran Church 205 South Garner Street State College, PA 16801	Centre	State College Borough	Spring Creek HQ-CWF

*Union County Conservation District: Union County Government Center, 155 North 15th Street, Lewisburg, PA 17837, (570) 524-3860.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI046009001	Edwin Hoover 2165 Paddy Mtn Road Millmont, PA 17845	Union	Hartley Township	UNT to Whitethorn Run HQ-CWF UNT to Penns Creek HQ-CWF

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

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

### List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Small Flow Treatment Facilities
PAG-5	General Permit for Discharges From Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

#### General Permit Type—PAG-2

##### Facility Location:

<i>Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Caln Township Chester County	PAG200 1508069	Rashme Realty 81 Margil Farm Drive Downingtown, PA 19335	Valley Run TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Pennsbury Township Chester County	PAG200 1509030	Richard Sanford 1653 Brintons Bridge Road Chadds Ford, PA 19317	Unnamed Tributary Brandywine Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Montgomery Township Montgomery County	PAG200 4609070	Bertucci's Corporation 155 Otis Street Northboro, MA 01532	Little Neshaminy Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Abington Township Montgomery County	PAG200 4609081	Duke Real Estate Partners, LLC 2010 County Line Road Huntingdon Valley, PA 19006	Tacony Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Cheltenham Township Montgomery County	PAG200 4609068	School District of Cheltenham Township 2000 Ashbourne Road Elkins Park, PA 19027	Tookany 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>
Norristown Borough Montgomery County	PAG0200 4609052	Municipal of Norristown 232 East Airy Street Norristown, PA 19401	Saw Mill Run WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Hatfield Township Montgomery County	PAG0200 4609105	Montgomery Township 1001 Stump Road Montgomeryville, PA 18936	Unnamed Tributary West Branch Neshaminy Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Douglas Township Montgomery County	PAG200 4609082	Berks-Montgomery Municipal Authority 136 Municipal Drive Gilbertsville, PA 19525	Minister Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Upper Merion Township Montgomery County	PAG200 4609058	D'Arcangelo Builders, Inc. 1900 General Alexander Drive Malvern, PA 19355	Crow Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
City of Philadelphia Philadelphia County	PAG02 015109037	City of Philadelphia Municipal Services Building 1401 JF Kennedy Boulevard Philadelphia, PA 19102-1676	Frankford Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
City of Philadelphia Philadelphia County	PAG02 015109030	Fairmount Park City of Philadelphia One Parkway 1515 Arch Street 10th Floor Philadelphia, PA 19102	Schuylkill River WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
City of Philadelphia Philadelphia County	PAG02 015109034	PECO Energy 2301 Market Street Suite 18-1 Philadelphia, PA 19103	Schuylkill River WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
City of Philadelphia Philadelphia County	PAG02 015109044	B & T Home Builders 1835 Ambler Drive Abington, PA 19034	Schuylkill River WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Palmer Township Northampton County	PAG2004809012	Hornstein Enterprises Attn: Alex Hornstein 1150 South Cedar Crest Boulevard Allentown, PA 18103	Schoeneck Creek WWF, MF	Northampton County Conservation District 610-746-1971
City of Scranton Borough of Taylor Lackawanna County	PAG2003510001	Department of Transportation Engineering District 4-0 Attn: Debbie Noone 55 Keystone Ind. Park Dunmore, PA 18512	Keyser Creek CWF, MF Lindy Creek CWF, MF Lucky Creek CWF, MF	Lackawanna County Conservation District 570-281-9495
Hazle Township Luzerne County	PAG2004004001R	Eagle Rock Resort Co., Inc. 1031 Valley of the Lakes Hazleton, PA 18201	Tributary to Black Creek CWF, MF Tributary to Stony Creek CWF, MF Sugarloaf Creek CWF, MF	Luzerne County Conservation District 570-674-7991
Lancaster City Manheim Township Lancaster County	PAG2003609051	Franklin & Marshall College P. O. Box 3003 Lancaster, PA 17604-3003	Little Conestoga Creek WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 717-299-5361

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Lancaster City Manheim Township Lancaster County	PAG2003609050	LCSWMA 1299 Harrisburg Pike P. O. Box 4425 Lancaster, PA 17604-4425	Little Conestoga Creek WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 717-299-5361
Lancaster City Manheim Township Lancaster County	PAG2003609049	Norfolk Southern Railway Company 110 Franklin Road SE Box 13 Roanoke, VA 24042-0013	Little Conestoga Creek WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 717-299-5361
Conewago Township Dauphin County	PAG2002209032	David L. Shaau Hor-Shaa, Inc. 31 Krall Road Myerstown, PA 17067	Hoffer Creek TSF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717-921-8100
Lower Swatara Township Dauphin County	PAG2002209034	Ronald Paul Lower Swatara Township 1499 Spring Garden Drive Middletown, PA 17057	Susquehanna River WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717-921-8100
Derry Township Mifflin County	PAG2004410001	DGB Properties, LP c/o Michael Glass 701 Creekside Lane Lititz, PA 17543	UNT to Kish Creek TSF	Mifflin County Conservation District 20 Windmill Hill No. 4 Burnham, PA 17009 717-248-4695
York Township York County	PAG2006706085-1	TTMT, LLC 3065 Honey Valley Road Dallastown, PA 17313	Mill Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
Springettsbury Township York County	PAG2006704037-R	Rockview, LLC KCH Holding, Inc. 227 Granite Run Drive Suite 100 Lancaster, PA 17601	Kreutz Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
Berwick, Oxford and Conewago Townships Adams County Penn Township Hanover Borough York County	PAG2000109009	Steven A. Moore, P. E. Department of Transportation Engineering District 8-0 2140 Herr Street Harrisburg, PA 17103-6183	UNTs to South Branch Conewago Creek WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 717-334-0636
Oxford Township Adams County	PAG2000110001	John J. Burdis Hanover Toyota 1830 Carlisle Pike Hanover, PA 17331 and Gerald Richardson, President Hanover Building Systems, Inc. 6929 York Road Abbottstown, PA 17301	UNT to South Branch Conewago Creek WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 717-334-0636



<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>
Athens Township Bradford County	PAG2000810001	Hawg Hauling & Disposal, LLC 171 Locust Avenue Mt Morris, PA 15349	Chemung River WWF	Bradford County Conservation District Stoll Natural Resource Center R. R. 5, Box 5030C Towanda, PA 18848 (570) 265-5539, Ext. 6
Scott Township Columbia County	PAG2001909009	Columbia County Industrial Development Authority 238 Market Street Bloomsburg, PA 17815	UNT to Fishing Creek CWF	Columbia County Conservation District 702 Sawmill Road Suite 204 Bloomsburg, PA 17815 (570) 784-1310, Ext. 102
Greenwood Township Columbia County	PAG2001909012	William L. Dittmar Dittmar Forestry 57 Reitz Boulevard Suite 100 Lewisburg, PA 17837	UNT to Green Creek TSF, MF	Columbia County Conservation District 702 Sawmill Road Suite 204 Bloomsburg, PA 17815 (570) 784-1310, Ext. 102
Franklin Township Snyder County	PAG2005509004	Gary Royer Middle Creek Fellowship Church 1985 New Berlin Hwy Middleburg, PA 17842	UNT to Middle Creek CWF	Snyder County Conservation District 403 West Market Street Middleburg, PA 17842 (570) 837-0007, Ext. 5
East Buffalo Township Union County	PAG2006010002	Todd Ross P. O. Box 70 Montandon, PA 17850	Limestone Run WWF	Union County Conservation District Union County Government Center 155 North 15th Street Lewisburg, PA 17837 (570) 524-3860
Fayette County City of Uniontown	PAG2002609004	Uniontown Elm Street Senior Housing, LP 108 North Beeson Boulevard Uniontown, PA 15401	Redstone Creek WWF	Fayette County Conservation District 724-438-4497
Armstrong and Clarion Counties	PAG2061607002	Redbank Valley Municipal Authority 243 Broad Street New Bethlehem, PA 16242	Leisure Run CWF Redbank Creek TSF	South Bethlehem and New Bethlehem Boroughs Mahoning and Porter Townships
Butler County Adams Township	PAG2001009013	Armstrong Development Properties, Inc. CSV Pharmacy 2100 Wharton Street Suite 700 Pittsburgh, PA 15203	UNT Breakneck Creek WWF	Butler County Conservation District 724-284-5270
Butler County Butler Township	PAG2001010002	Butler Area Sewer Authority Deshon Pumping & Storage Facility 100 Litman Road Butler, PA 16001	Sawmill Run WWF	Butler County Conservation District 724-284-5270

*General Permit Type—PAG-3*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Berks County Kutztown Borough	PAR203611	McConway & Torley, LLC 109 48th Street Pittsburgh, PA 15201	Sacony Creek TSF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
Somerset Township Somerset County	PAR126111	Valley Proteins, Inc. P. O. Box 3588 Winchester, VA 22604	UNT of Coxes Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 412-442-4000

*General Permit Type—PAG-5*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
City of Johnstown Cambria County	PAG056240	Billy Oil Company 716 Clearfield Road Fennelton, PA 16034	Falls Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

*General Permit Type—PAG-7*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Site Name &amp; Location</i>	<i>Contact Office &amp; Phone No.</i>
City of Reading Berks County	PAG073516	Joint Municipal Authority of Wyomissing Valley 701 Old Wyomissing Road Reading, PA 19611	Joint Municipal Authority of Wyomissing Valley City of Reading Berks County	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 717-705-4707

*General Permit Type—PAG-8 (SSN)*

<i>Facility Location: Municipality &amp; County</i>	<i>Applicant Name &amp; Address</i>	<i>Site Name</i>	<i>Contact Office &amp; Phone No.</i>
Young Township Indiana County	Redevelopment Authority for the City of Johnstown 241 Asphalt Road Johnstown, PA 15902	Hill Farm Biosolids Site	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh PA 15222-4745 (412) 442-4000

*General Permit Type—PAG-12*

<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>
Berks County Bethel Township	PAG123675	Anthony Oberholtzer 1500 Pine Grove Road Bethel, PA 19507	Meck Creek CWF 7D	DEP—SCRO Watershed Management 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4802

**PUBLIC WATER SUPPLY (PWS)  
PERMITS**

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**SAFE DRINKING WATER**

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

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

**Permit No. 4809504**, Public Water Supply.

Applicant	<b>Portland Borough Authority</b>
Township or Borough	Upper Mt. Bethel Township Northampton County
Responsible Official	Thomas Fish Portland Borough Authority P. O. Box 572 Portland, PA 18351
Type of Facility	Community Water System
Permit Issuance Date	January 25, 2010
Description of Action	PWS construction permit issued for construction of an emergency pump station and a 320,000-gallon storage at the Portland Industrial Park.

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

**Permit No. 3609515**, Public Water Supply.

Applicant	<b>Black Rock Retreat Association</b>
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Municipality	Colerain Township
County	<b>Lancaster</b>
Type of Facility	Addition of chlorine contact piping and demonstration of 4-log treatment of viruses under the Groundwater Rule.
Consulting Engineer	Thomas J Whitehill, P. E. Whitehill Consulting Engineers 763 Conowingo Road Quarryville, PA 17566
Permit to Construct Issued:	1/15/2010

**Permit No. 3609516**, Public Water Supply.

Applicant	<b>Urban Outfitters, Inc.</b>
Municipality	Salisbury Township
County	<b>Lancaster</b>
Type of Facility	This permit application is for lead and copper corrosion control treatment consisting of chemical addition of sodium hydroxide for pH/Alkalinity adjustment.
Consulting Engineer	Charles A Kehew II, P. E. James R. Holley & Assoc., Inc. 18 South George Street York, PA 17401
Permit to Construct Issued:	1/15/2010

**Permit No. 6709510 MA**, Minor Amendment, Public Water Supply.

Applicant	<b>The Borough of Hanover</b>
Municipality	Hanover Borough
County	<b>York</b>
Type of Facility	McSherrystown Tank and Terrace Tank rehabilitation.
Consulting Engineer	Ronald L. Orndorff, P. E. 44 Frederick Street Hanover, PA 17331
Permit to Construct Issued:	1/15/2010

**Operations Permit** issued to **Columbia Water Company**, 7360123, Columbia Borough, **Lancaster County** on 1/15/2010 for the operation of facilities approved under Construction Permit No. 3609513 MA.

**Operations Permit** issued to **Susquehanna Area Regional Airport Authority**, 7220044, Lower Swatara Township, **Dauphin County** on 1/20/2010 for the operation of facilities approved under Construction Permit No. 2208503 MA.

**Operations Permit** issued to **Pennsylvania American Water**, 7220017, South Hanover Township, **Dauphin County** on 1/20/2010 for the operation of facilities approved under Construction Permit No. 2209508 MA.

**Operations Permit** issued to **Huntingdon Borough Water Department**, 4310012, Huntingdon Borough, **Huntingdon County** on 1/20/2010 for the operation of facilities approved under Construction Permit No. 3110501 MA.

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

**Permit No. 1808501**, Operation, Public Water Supply.  
 Applicant **Suburban Lock Haven Water Authority**  
 Township or Borough Bald Eagle Township  
 County **Clinton**  
 Responsible Official Mr. Jack Peters  
 Suburban Lock  
 Haven Water Authority  
 326 Main Street  
 Mill Hall, PA 17751  
 Type of Facility Public Water Supply—Operation  
 Consulting Engineer David W. Swisher P. E.  
 Herbert, Rowland & Grubic, Inc.  
 474 Windmere Drive,  
 Suite 100  
 State College, PA 16801  
 Permit Issued Date January 19, 2010  
 Description of Action Operation of the Draketown  
 Road booster pump station.

**Permit No. 1709505**, Construction, Public Water Supply.  
 Applicant **Pennsylvania American Water Company**  
 Township or Borough Wallacetown Borough  
 County **Clearfield**  
 Responsible Official Mr. David R. Kaufman  
 Vice President, Engineering  
 Pennsylvania American Water  
 800 West Hersheypark Drive  
 Hershey, PA 17033  
 Type of Facility Public Water Supply—  
 Construction  
 Consulting Engineer Daniel Dominic Goodwin, P. E.  
 Project Manager  
 HDR Engineering, Inc.  
 11 Stanwix Street  
 Suite 800  
 Pittsburgh, PA 15222  
 Permit Issued Date January 25, 2010  
 Description of Action Construction of a 136,000-gal  
 bolted steel, glass-lined, ground  
 level water storage tank, to  
 replace the existing 80,000-gal  
 Wallacetown water storage tank  
 and approximately 700 linear  
 feet of replacement watermain.  
 Construction of a holding pond  
 following demolition of the  
 existing 80,000-gal Wallacetown  
 water storage tank.

#### **SEWAGE FACILITIES ACT PLAN DISAPPROVAL**

#### **Plan Disapprovals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)**

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

#### *Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Warrington Township	3345 Rosstown Road Wellsville, PA 17365	York County

*Plan Description:* Orion Investment Group (DEP Code No. A3-67960-295-2): The plan consists of a six lot single-family residential subdivision on 30.94 acres with total estimated sewage flows of 2,400 gpd to be treated by individual on-lot disposal systems. The proposed development is located on Pinetown Road in Warrington Township, York County. The proposal was disapproved because the information provided in the preliminary hydrogeologic study, required by Chapter 71, Section 71.63(c), indicates that the groundwater would become polluted from the on-lot disposal systems proposed on Lots 1—4 and 6. Each lot must be adequately sized to attenuate the nitrate-nitrogen expected from its own on-lot disposal system, and while Lot 5 does have enough recharge area to dilute its own sewage, Lots 1—4 and 6 do not. These specific proposed on-site systems will pollute the waters of the Commonwealth in violation of the PA Clean Streams Law. Such a condition is considered a nuisance and is prohibited.

### **LAND RECYCLING AND ENVIRONMENTAL REMEDIATION**

#### **UNDER ACT 2, 1995**

#### **PREAMBLE 2**

**The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a Site-Specific Standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information con-



cerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Morancik Residence**, Middletown Township, **Bucks County**. Jeremy Boly, Environmental Maintenance Company, Inc., 1420 East Mermaid, Glenside, PA 19038 on behalf of Martha Mornacik 178 South Hawthorne Avenue, Langhorne, PA 19047 has submitted a Final Report concerning remediation of site soil contaminated with no. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Evelyn Sanders Townhomes Phase II**, City of Philadelphia, **Philadelphia County**. Scott McGoldrick, Penn E & R, 2755 Bergey Road, Hatfield, PA 19440 on behalf of Christine Paul, Women Community Revitalization Project, 407 Fairmount Avenue, Philadelphia, PA 19123 has submitted a Risk Assessment/Cleanup Plan concerning remediation of site soil contaminated with lead and inorganics. The report is intended to document remediation of the site to meet the Site Specific Standard and Statewide Health Standard.

**Barr Residence**, Montgomery Township, **Montgomery County**. Richard D. Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073, Jon Bernhardt, State Farm P. O. Box 13, Concordville, PA 19331 on behalf of James Barr, 111 Mallard Drive West, North Wales, PA 19454 has submitted a Final Report concerning remediation of site groundwater contaminated with lead and unleaded gasoline. The report is intended to document remediation of the site to meet the Site Specific Standard.

**2nd Attic Site**, Borough of Pottstown, **Montgomery County**. Richard D. Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073, Stan McIvee, 2nd Attic, 1028 Commerce Drive, PA 19464 on behalf of Denise Christman, 2nd Attic Self Storage, LLC, 1028 Commerce Drive, Pottstown, PA 19464 has submitted a Final Report concerning remediation of site groundwater and soil contaminated with unleaded gasoline. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Tinicum Elementary School**, **Bucks County**. Richard Werner, Environmental Consulting, Inc. 500 West Washington Street, Suite 375, Norristown, PA on behalf of David Keppel, Palsades School District, 39 Thomas Free Drive, Kintnersville, PA 18930 has submitted a 90-day Final Report concerning remediation of site soil contaminated with no. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Nueva Esperanza**, City of Philadelphia, **Philadelphia County**. Jason Pluinski, React Environmental Professional Services Group, 6901 Kingsessing Avenue, Suite 201, Philadelphia, PA 19331, Suzanne Shourds, React Environmental Professional Services Group, 6901 Kingsessing Avenue, Suite 201, Philadelphia, PA 19331 on behalf of Arthur Haywood, 4261 Corporation, 4261 North 5th Street, Philadelphia, PA 19140 has submitted a Baseline Environmental Report concerning remediation of site groundwater and soil contaminated with chlorinated

solvents. The report is intended to document remediation of the site to meet the Special Industrial Area.

**7-Eleven Store No. 20114**, Lansdowne Borough, **Delaware County**. Courtney Hanrahan, ENSR International, 2005 Cabot Boulevard West, Suite 100, Langhorne, PA 19047 on behalf of Ken Hilliard, 7-Eleven, Inc. Store No. 201114, 2711 North Haskell Avenue, Dallas, TX 75304 has submitted a Remedial Investigation/Final Report concerning remediation of site groundwater and soil contaminated with no. 2 fuel oil. The report is intended to document remediation of the site to meet the Site Specific Standard.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

#### PREAMBLE 3

**The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a Site-Specific Standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative

form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Northeast Region: Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Cragle Property**, 27 Winola Road, Tunkhannock Borough, **Wyoming County**. James Sposito, James P. Sposito Associates, 11 Archbald Street, Carbondale, PA 18407, submitted a Final Report (on behalf of his client, Ginger Cragle, 27 Winola Road, Tunkhannock, PA 18657), concerning the remediation of soil found to have been impacted by No. 2 heating oil as a result of an overflow of fuel being dispensed into a 275-gallon aboveground storage tank. The report documented attainment of the Residential Statewide Health Standard for soils and was approved on January 20, 2010.

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**3200 Market Street Site/Rite Aid Store 06614-01**, Camp Hill Borough, **Cumberland County**. BL Companies, Inc., 213 Market Street, Harrisburg, PA 17101, on behalf of RAP Camp Hill, LLC, 135 Bittern Drive, P. O. Box 4595, Gettysburg, PA 17325, submitted a Remedial Investigation and Final Report concerning remediation of site soils and groundwater contaminated with leaded and unleaded gasoline from a former automotive service station. The Remedial Investigation and Final Report demonstrated attainment of the Statewide Health (Residential and Nonresidential) and Site-Specific standards, and was approved by the Department of Environmental Protection on January 20, 2010.

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

**Imbt/Cooper Property**, Potter Township, **Centre County**. Converse Consultants, 2738 West College Avenue, State College, PA 16801 on behalf of John Imbt, P. O. Box 340, Pine Grove Mills, PA 16868 concerning the remediation of site soil, groundwater and surface water contaminated with kerosene and/or heating fuel oil located at 125 Briar Lane, Centre Hall, PA 16823. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on January 7, 2010.

**Joseph Bellanca Estate**, Muncy Township, **Lycoming County**. United Environmental, 86 Hillside Drive, Drums, PA 18222 on behalf of Michael Collins, McNerney, Page, Vanderlin & Hall, P. O. Box 7, Williamsport, PA 17703 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with petroleum. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on January 7, 2010.

**Yourway Transportation** PA Route 147 Accident Point Township, **Northumberland County**. Northridge Group, Inc., 1172 Ridge Road, Northumberland, PA 17857 on behalf of Yourway Transportation, 3929 Lake Avenue, Rochester, NY 14162 has submitted Final Report concerning remediation of site soil contaminated with diesel fuel within 90 days of the release. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on January 12, 2010.

**Former Getty Pumping Station**, Homer and Eulalia Townships, **Potter County**. SAIC, 6310 Allentown Boulevard, Harrisburg, PA 17112 on behalf of Chevron Environmental Management Company, 6111 Bollinger Canyon Road, San Ramon, CA 94583 has submitted a Remedial Investigation Report and Cleanup Plan concerning remediation of site soil and groundwater contaminated with petroleum hydrocarbon target compounds associated with crude oil. The Remedial Investigation Report and Cleanup Plan were approved by the Department of Environmental Protection on January 19, 2010.

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

**Permits Approved under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.**

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

**Permit No. 301352. Petroleum Recycling Corporation**, 3000 East Ontario Street, Philadelphia, PA 19134. This permit is for the processing of nonhazardous waste oil, waste oil/water mixtures, and industrial oil used for lubricating under 25 Pa. Code Chapters 297 and 298 at the Petroleum Recycling Corporation (PRC) Waste Oil Processing Facility located in the City of Philadelphia, **Philadelphia County**. The permit was issued by the Southeast Regional Office on January 25, 2010.

#### AIR QUALITY

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507*

**45-329-011GP9: Sanofi Pasteur** (Discovery Drive, Swiftwater, PA 18370-0187) on January 20, 2010, to install and operate a Diesel I/C Engine(s) at their site in Pocono Township, **Monroe County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: Barb Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226.*

**GP5-65-01005B: RW Gathering, LLC** (100 Tower Center, Suite 130, Canonsburg, PA 15317) on January 15, 2010, to operate two (2) natural gas compressor engines at the Bergman Road Compressor Site also referred to as the Ecker Compressor Station on Bergman Road, Derry Township, **Westmoreland County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940.*

**GP5-42-216B: Catalyst Energy, Inc.**, Kane Stripping Plant (800 Cranberry Woods Drive, Cranberry Township, PA 16066) on January 14, 2010, to operate a natural gas fired compressor engine (BAQ-GPA/GP-5) in Wetmore Township, **McKean County**.



**GP5-43-331B: Laurel Mountain Midstream, LLC**, Lake Wilhelm Compressor Station (223 Grange Road, Hadley, PA 16130) on January 14, 2010, to operate a natural gas fired compressor engine (BAQ-GPA/GP-5) in Deer Creek Township, **Mercer County**. Previously permitted under Atlas Pipeline Pennsylvania, LLC.

**Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.**

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507.*

**54-316-007: JELD-WEN** (407 Harbor Isles Boulevard, P. O. Box 1540, Klamath Falls, OR 97601-0253) on January 25, 2010, to install a new paint booth at their facility in Cass Township, **Schuylkill 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.*

**PA26-00500A: Alpha PA Coal Terminal, LLC** (106 East Fredericktown Road, Luzerne Township, PA 15906) on January 22, 2010, issued a Plan Approval to allow construction of a coal transfer terminal consisting of Stock Piles, Coal Conveyors, Barge Loading/Unloading Equipment, and Roadways at their facility in Luzerne Township, **Fayette County**.

**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Contact: Sachin Shankar, New Source Review Chief—Telephone: 484-250-5920.*

**23-0109: Catatyst International, Inc.** (1050 Ashland Avenue, Folcroft, PA 19032) on January 19, 2010, to operate three (3) solvent based laminators in Folcroft Borough, **Delaware County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: William R. Weaver, New Source Review Chief—Telephone: 717-705-4702.*

**36-05153A: Richard E. Pierson Construction Co., Inc.** (483 Anchor Road, Rheems, PA 17570) on January 21, 2010, for their stone crushing facility in West Donegal Township, **Lancaster 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.*

**11-00241A: State Correctional Institution—Cresson Facility** (2520 Lisburn Road, Camp Hill, PA 17010) on January 20, 2010, to modify a plan approval to account for a change of manufacturer for the proposed construction of a wood-fired boiler and installation of a multiclone control device and to include the installation of

an electrostatic precipitator as a secondary control device in Cresson Township, **Cambria County**.

**Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507.*

**40-00036: SAPA Extruder, Inc.,** Indalex, Inc. (300 Elmwood Avenue, Crestwood Industrial Park, Mountain Top, PA 18707) a State-only Operating Permit for aluminum extruded product manufacturing, in Wright Township, **Luzerne County**. Operating Permit

**Operating Permits Denied, Terminated, Suspended or Revoked under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.431 and 127.461.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.*

**15-0004: Reynolds Packaging** (520 Lincoln Avenue, Downingtown, PA 19335) on January 21, 2010, the requested revocation of their Title V Operating Permit for the operation of all sources except boiler rated 6.7 MMBtu/hr, and some miscellaneous combustion sources in Downingtown Borough, **Chester County**. This operating permit was revoked because of a permanent shutdown of operations at the facility.

## ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

**Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21).** The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

### Coal Permits Actions

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

**32971302 and NPDES Permit No. PA0215040, Rosebud Mining Company**, (3301 Market Street, Kittanning, PA 16201), to revise the permit for the Dutch Run Mine in Washington and Armstrong Townships, **Indiana County** to eliminate the no mining barrier zone that separates the permitted mining area within the Dutch

Run Mine. No additional discharges. Application received: June 25, 2009. Permit issued: January 19, 2010.

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

**56823123 and NPDES No. PA0608548. Croner, Inc.,** P. O. Box 260, Friedens, PA 15541, permit renewal for reclamation only of a bituminous surface and auger mine in Brothersvalley Township, **Somerset County**, affecting 231.0 acres. Receiving stream(s): unnamed tributaries to Buffalo Creek and Swamp Creek classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: November 19, 2009. Permit issued: January 20, 2010.

**Permit No. 32880108 and NPDES No. PA0598313. M. B. Energy, Inc.,** 175 McKnight Road, Blairsville, PA 15717, permit renewal for reclamation only of a bituminous surface mine and operate water treatment facilities in Brushvalley Township, **Indiana County**, affecting 133.2 acres. Receiving stream(s): unnamed tributaries to Brush Creek, and unnamed tributary to Yellow Creek classified for the following uses: cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: May 15, 2009. Permit issued: January 20, 2010.

**32040103 and NPDES No. PA0249572. Amerikohl Mining, Inc.,** 202 Sunset Drive, Butler, PA 16001, permit renewal for reclamation only of a bituminous surface mine in Young Township, **Indiana County**, affecting 158.5 acres. Receiving stream(s): unnamed tributaries to Neal Run classified for the following use: trout stocked fishery. There are no potable water supply intakes within 10 miles downstream. Application received: October 13, 2009. Permit issued: January 19, 2010.

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

**03080101 and NPDES Permit No. PA0251364. Mountain Coal Co., Inc.** (11931 State Route 85, Kittanning, PA 16201). Permit issued for commencement, operation, and reclamation of a bituminous surface mining site located in Redbank Township, **Armstrong County**, affecting 125 acres. Receiving stream: Unnamed tributaries to Mahoning Creek. Application received: March 19, 2008. Permit issued: January 21, 2010.

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

**17960124 and NPDES No. PA0220523. Sky Haven Coal, Inc.** (R. R. 1, Box 180, Penfield, PA 15849), permit renewal for reclamation only of a bituminous surface mine in Brady and Bell Townships, **Clearfield County**, affecting 127 acres. Receiving streams: Buck Run to Beech Run to East Branch Mahoning Creek to Mahoning Creek to Allegheny River. Application received: December 15, 2006. Permit renewed: January 4, 2007.

**17080115 and NPDES No. PA0256960. RES Coal, LLC** (224 Grange Hall Road, P. O. Box 228, Armagh, PA 15920). Commencement, operation and restoration of a bituminous surface mine with augering located in Becaria Township, **Clearfield County** affecting 103.6 acres. Receiving stream: Banian Run, classified for the following use: Cold Water Fishery. There are no potable water supply intakes with 10 miles downstream. Application received: November 13, 2008. Permit issued: January 13, 2010.

**17030113 and NPDES No. PA0243591.** Rob Holland Enterprises, Inc. (52 Holland Lane, Curwensville, PA 16833, transfer of an existing bituminous surface mine with an insignificant permit boundary correction and permit renewal from Kenneth K. Rishel and Sons, Inc. (1229 Turnpike Avenue, Clearfield, PA 16830). This site is located in Lawrence Township, **Clearfield County** and affects 47.9 acres. Receiving stream(s): Montgomery Creek to the West Branch Susquehanna River classified for the following use(s): Cold Water Fishery and Warm Water Fishery. There are no potable water supply intakes within 10 miles downstream. Transfer application received: March 9, 2009. Permit issued: January 7, 2010.

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

**54940201T. Wheelabrator Culm Services, Inc.,** (4 Liberty Lane West, Hampton, NH 03842), transfer of an existing quarry operation in Mahanoy Township and Shenandoah Borough, **Schuylkill County** affecting 208.8 acres, receiving stream: none. Application received: March 31, 2009. Transfer issued: January 19, 2010.

#### *Noncoal Permits Actions*

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

**08092804. DeCristo, Inc.** (R. R. 1 Box 1600, Canton, PA 17724), commencement, operation and restoration of a small non coal shale operation in LeRoy Township, **Bradford County** affecting 5.0 acres. Receiving stream(s): Unnamed Tributary, Towanda Creek. Application received: March 10, 2009. Permit issued: January 13, 2010.

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

**06080301 and NPDES Permit No. PA0224715. Dyer Quarry, Inc.** (P. O. Box 188, Birdsboro, PA 19508), commencement, operation and restoration of a quarry operation in Robeson Township, **Berks County** affecting 101.61 acres, receiving stream: Indian Corn Creek. Application received: September 9, 2008. Permit issued: January 19, 2010.

**58090820. Roger A. Myers** (15089 Dimock to Nicholson Road, Hop Bottom, PA 18824), commencement, operation and restoration of a quarry operation in Lathrop Township, **Susquehanna County** affecting 1.0 acre, receiving stream: none. Application received: August 11, 2009. Permit issued: January 19, 2010.

**58090811. Diaz Stone & Pallet, Inc.** (7686 State Route 167, Kingsley, PA 18826), commencement, operation and restoration of a quarry operation in Forest Lake Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received: April 16, 2009. Permit issued: January 25, 2010.

#### **ACTIONS ON BLASTING ACTIVITY APPLICATIONS**

**Actions on applications under the Explosives Acts of 1937 and 1957 (43 P.S. §§ 151—161); and 25 Pa. Code § 211.124 (relating to blasting activity permits). Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.**

#### *Blasting Permits Actions*

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



**08014101. Meshoppen Blasting, Inc.** (Frantz Road, P. O. Box 127, Meshoppen, PA 18630), blasting for an access road entrance, (Updike 1H-3H), located in Burlington Township, **Bradford County**. Permit issued: January 12, 2010. Permit expires: February 28, 2010.

**08014012. Orica USA, Inc.** (5101 Beekmantown Road, Whitehall, PA 18052-2240), blasting for Latona Trucking/Earl Brown pond job located in Troy Township, **Bradford County**. Permit issued: January 15, 2010. Permit expires: June 30, 2010.

**08014103. Meshoppen Blasting, Inc.** (Frantz Road, P. O. Box 127, Meshoppen, PA 18630), blasting for Central Fresh/frac water impoundment site located in Burlington Township, **Bradford County**. Permit issued: January 21, 2010. Permit expires: February 10, 2010.

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

**15104101. Brubacher Excavating, Inc.** (P. O. Box 528, Bowmansville, PA 17507), construction blasting for West Brandywine Sanitary Sewer in West Brandywine Township, **Chester County** with an expiration date of January 12, 2011. Permit issued: January 15, 2010.

**58104101. Meshoppen Blasting, Inc.** (P. O. Box 127, Meshoppen, PA 18630), construction blasting for Paul Kelley 1 Well Pad in Dimock Township, **Susquehanna County** with an expiration date of February 18, 2010. Permit issued: January 15, 2010.

**58104102. Meshoppen Blasting, Inc.** (P. O. Box 127, Meshoppen, PA 18630), construction blasting for C-Rose Well 2H in Dimock Township, **Susquehanna County** with an expiration date of February 18, 2010. Permit issued: January 15, 2010.

**58104103. Meshoppen Blasting, Inc.** (P. O. Box 127, Meshoppen, PA 18630), construction blasting for Russo Well 4 and 5 Pad in Springville Township, **Susquehanna County** with an expiration date of April 15, 2010. Permit issued: January 15, 2010.

**58104001. Brainard Explosives, LLC** (3978 SR 2073, Kingsley, PA 18826), construction blasting for the George Mowry Well Pad Site in Auburn Township, **Susquehanna County** with an expiration date of February 28, 2010. Permit issued: January 19, 2010.

**58104002. M & S Blasting, LLC** (943 Gontarski Road, Hallstead, PA 18822), construction blasting for the Sediment Trench for D. Berry Gas Pad in Dimock Township, **Susquehanna County** with an expiration date of January 12, 2011. Permit issued: January 19, 2010.

**06104101. Keystone Blasting Service** (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting for River Bend Estates in Marion Township, **Berks County** with an expiration date of December 31, 2011. Permit issued: January 20, 2010.

**36104101. Gerlach's Drilling & Blasting** (172 Bender Mill Road, Lancaster, PA 17603), construction blasting for Letort Manor and Perth Hills Sewer Project in Manor Township, **Lancaster County** with an expiration date of February 1, 2011. Permit issued: January 20, 2010.

**52104101. Explosive Services, Inc.** (7 Pine Street, Bethany, PA 18431), construction blasting for Pocono Mt. Lake Estates in Lehman Township, **Pike County** with an expiration date of January 31, 2011. Permit issued: January 20, 2010.

## FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

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**Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Floodplain Management Act (32 P. S. § 679.302) and The Clean Streams Law (35 P. S. §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).**

*Permits, Environmental Assessments and 401 Water Quality Certifications Issued:*

### WATER OBSTRUCTIONS AND ENCROACHMENTS

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

**E67-871: Stonebridge Crossing, LP, William P. Eichelberger**, 124 West Church Street, P. O. Box 459, Dillsburg, PA 17019-0459, Carroll Township, **York County**, ACOE Baltimore District.

The applicant proposes: (1) to install and maintain a 50-foot length of Con-Span Bridge with concrete wing walls having a single waterway opening 32-feet wide by

9-foot high across Fishers Run (CWF); (2) to install and maintain five 42-inch culvert pipes 100-foot in length in a wetland associated with Fishers Run (CWF); and (3) to install a utility line stream crossing across Fishers Run (CWF). The purpose of the project is for the construction of a residential subdivision. (Dillsburg, PA Quadrangle N: 22.5 inches; W: 1.5 inches, Latitude: 40° 07' 30"; Longitude: 77° 00' 37") Watershed 7E.

**E67-874: Lloyd and Tammy Conway**, 1 East Church Street Extended, Franklintown, PA 17019, Franklintown Borough, **York County**, ACOE Baltimore District.

The applicant proposes to: (1) install and maintain a 215-foot length of 12-inch stream enclosure in an unnamed tributary to North Branch Bermudian Creek (WWF); (2) restore 0.38 acres of wetlands; and (3) convert an existing pond into a stormwater management basin. The purpose of construction is for the development of a 16.45-acre subdivision resulting in 186 single family residential townhouse units. (Hanover, PA Quadrangle N: 13.5 inches; W: 4.45 inches, Latitude: 40° 04' 25"; Longitude: 77° 01' 57") Watershed 7F.

**E01-289: John Lott, Bream & Bear, LTD**, 1415 Potato Road, Aspers, PA 17304-9715, Butler Township, **Adams County**, ACOE Baltimore District.

The applicant proposes to divert a 710-foot long section of an unnamed tributary to Opossum Creek (WWF) into an adjacent unnamed tributary to Opossum Creek. A 435-foot open, flat bottom channel will be constructed and maintained for the diversion of the unnamed tributary.

The abandoned section of the unnamed tributary will be filled in with 630.0 cubic yards of material taken from the site as part of development. The applicant further proposes to construct and maintain an 80-foot length of 30-inch SLCPP culvert for a road crossing in an unnamed tributary to Opossum Creek (WWF) and construct and maintain a 20-foot length of 6.33-inch rise, bottomless arch culvert pipe for a road crossing in an unnamed tributary to Opossum Creek (WWF). (Gettysburg, PA Quadrangle N: 10.0 inches; W: 12.18 inches, Latitude: 39° 48' 18"; Longitude: 77° 12' 42") for the purpose of constructing a cold storage facility located at 692 Carlisle Road (PA Route 34), Butler Township, Adams County.

*Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636.*

**E17-442. North American Land Corporation**, 145 Hillcrest Road, Ithaca, NY 14850. North American Land Corporation Orchard Club Residential Subdivision Project, Goshen Township, **Clearfield County**, ACOE Baltimore District (Huntley, PA Quadrangle Latitude: 41° 11' 42.31"; Longitude: 78° 22' 31.69").

North American Land Corporation proposes to construct, operate, repair and maintain road crossings, stormwater conveyance channels and outfalls associated with the development of the Orchard Club Subdivision that requires the following eighteen (18) wetland and five (5) stream encroachments in and along Gifford Run, Medix Run, Roberts Run or associated wetlands:

<i>Permit ID</i>	<i>Activity</i>	<i>Resource</i>	<i>Water Quality</i>	<i>Latitude</i>	<i>Longitude</i>
ER20 (Culvert 6C)	Road Crossing	Wetland	EV	41° 11' 40.69"	78° 21' 28.46"
ER21	Channel (6-1B)	Wetland	EV	41° 11' 41.69"	78° 21' 26.21"
ER22	Outfall	Wetland	EV	41° 11' 41.93"	78° 21' 26.02"
ER23	Channel (6C-1)	Wetland	EV	41° 11' 41.74"	78° 21' 25.69"
ER24	Channel (6A-2)	Wetland	EV	41° 11' 40.30"	78° 21' 28..35"
ER33	Channel (4-5A)	Wetland	EV	41° 11' 55.15"	78° 20' 48.65"
ER34	Channel (4-5A)	Wetland	EV	41° 11' 59.36"	78° 20' 48.46"
ER36	Road Crossing	Wetland	EV	41° 12' 08.30"	78° 20' 43.09"
ER37 (Culvert 4F)	Road Crossing	Wetland	EV	41° 12' 13.15"	78° 20' 42.50"
ER39	Outfall	Wetland	EV	41° 12' 13.13"	78° 20' 42.91"
ER42	Channel (6-4B)	Wetland	EV	41° 11' 35.27"	78° 20' 50.37"
ER43	Channel (6-4B)	Wetland	EV	41° 11' 35.62"	78° 20' 23.49.50"
ER45 (Culvert 4F)	Road Crossing	Wetland	EV	41° 12' 10.50"	78° 20' 42.41"
ER6	Channel (5F-1)	Wetland	EV	41° 11' 42.45"	78° 22' 30.66"
ER8	Channel (5F-1)	Wetland	EV	41° 11' 41.67"	78° 22' 27.76"
GS2 (Culvert 3A)	Road Crossing	Wetland	EV	41° 12' 06.97"	78° 22' 13.92"
GS4	Channel (3A-2)	Wetland	EV	41° 12' 07.72"	78° 22' 11.91"
GS5	Channel (3A-3)	Wetland	EV	41° 12' 08.37"	78° 22' 09.93"
3A (RCP-Arch)	Road Crossing	Tributary Medix Run	HQ-CWF	41° 12' 06.93"	78° 22' 14.02"
4I (RCP-Arch)	Road Crossing	Medix Run	HQ-CWF	41° 12' 01.20"	78° 21' 09.67"

Permit ID	Activity	Resource	Water Quality	Latitude	Longitude
5L (RCP-Arch)	Road Crossing	Tributary Medix Run	HQ-CWF	41° 11' 42.70"	78° 22' 31.13"
6A (RCP-Arch)	Road Crossing	Tributary Medix Run	HQ-CWF	41° 11' 38.62"	78° 21' 35.78"
6B (SLCPP)	Road Crossing	Tributary Medix Run	HQ-CWF	41° 11' 40.53"	78° 21' 28.27"

All in-stream construction, repair and maintenance work shall be conducted in dry work conditions by dam and pumping, fluming or diverting stream flow around work areas. Since Gifford Run, Medix Run and Roberts Run are wild trout fisheries, no construction or future repair work shall be done in or along the stream channels between October 1 and December 31 without prior written approval from the Pennsylvania Fish and Boat Commission. This permit also authorizes the construction, operation, maintenance and removal of temporary stream diversions, flumes, cofferdams, roadways and causeways necessary for road crossing, channel and outfall construction and repair. Upon completion of construction or repair work, the permittee shall remove all temporary structures authorized herein with all disturbed areas being restored to original contour and elevation with vegetative stabilization adequately applied. The project is located along the eastern right-of-way of the Mines Road approximately 0.25-miles north of Caledonia Pike and Mines Road intersection. Construction of roads, stormwater channels and stormwater outfalls for the Orchard Club Subdivision results in 0.476-acres of permanent wetland impact, for which the permittee shall construct 0.5-acres of successful replacement wetlands to mitigate the permanent impacts. If upon investigation the Department of Environmental Protection determines any activity authorized by this permit is serving to degrade Gifford Run, Medix Run, Roberts Run or associated wetlands, the permittee shall develop and implement a corrective action plan that fully abates the degradation. The permittee shall submit all corrective action plans to the Department for review and approval prior to implementation.

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

**E02-1609. Allegheny County Department of Public Works**, 501 County Office Building, 542 Forbes Avenue, Pittsburgh, PA 15219-2904. To remove and replace the existing Girty's Run Bridge in Reserve Township, **Allegheny County**, Pittsburgh ACOE District. (Pittsburgh East, PA Quadrangle N: 19.3 inches; W: 14.8 inches, Latitude: 40° 28' 53"; Longitude: 79° 58' 53"). To remove the existing structure (Girty's Run Bridge No. GI 16) and to construct and maintain a new bridge consisting of a concrete box culvert 104.0 feet in length having a span of 12.0 feet an underclearance of 6.0 feet (1.0 foot depressed below the natural stream bed elevation) in the channel of an unnamed tributary to Girty's Run (WWF) with an approximately 27' long concrete channel with baffles at the upstream end for the purpose of improving highway safety. The project is located on Hoffman Road near the intersection of Hoffman Road, Stanton Avenue and Karen Drive.

**E04-327. Ronald B. McKee**, 758 State Route 288, Fombell, PA 16123. To operate and maintain existing bridge in Franklin Township, **Beaver County**, Pittsburgh ACOE District 288 (Zelienople, PA Quadrangle N: 14.9 inches; W: 7.7 inches, Latitude: 40° 49' 55";

Longitude: 80° 10' 50"). To operate and maintain the existing bridge having a span of 42.0 feet with an underclearance of 5.0 feet across the channel of Camp Run (WWF) for the purpose of providing access to applicant's property, to maintain fill in approximately 0.03 acre of PEM wetlands located on the northeast approach to the bridge, and to operate and maintain two 24" diameter pipes under the northeast approach to the bridge to pass flood waters. The bridge is located on the east side of N. Camp Run Road, approximately 3,500.0 feet northeast from the intersection of N. Camp Run Road and SR 288.

**E65-923. Great Oak Energy, Inc.**, 637 Allegheny Avenue, P. O. Box 445, Oakmont, PA 15136-0445. To place and maintain two pipeline crossings in Salem and Washington Townships, **Westmoreland County**, Pittsburgh ACOE District. (Slickville, PA Quadrangle N: 14.5 inches; W: 10.4 inches, Latitude: 40° 27' 29"; Longitude: 79° 34' 34"). To place and maintain two (2) pipeline crossings under the southwestern arm of the Beaver Run Reservoir (HQ-CFW). The crossings will be done by the directional boring method. The project is located approximately 0.6 miles west of State Route 66.

*Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, 16335.*

**E43-349. Vista Operating, Inc.**, 61 McMurray Road, Suite 300, Pittsburgh, PA 15241-1633. Lake Wilhelm-Goddard State Park, Natural Gas Pipeline, in Sandy Creek Township, **Mercer County**, ACOE Pittsburgh District (Hadley, PA Quadrangle N: 41° 27' 12"; W: 80° 11' 14").

The applicant proposes to construct and maintain a 6-inch diameter natural gas pipeline in Sandy Creek Township, Mercer County on land owned and managed by the Pennsylvania Game Commission (Hadley, PA Quadrangle N: 41° 27' 12"; W: 80° 11' 14"). The proposed pipeline is 3,500 lineal feet in length with approximately 600 lineal feet being bored a minimum of 5 feet below the bottom of Lake Wilhelm. The total disturbed area for the proposed project is 0.65 acres. Lake Wilhelm is a perennial body of water classified as a warm water fishery.

**E62-421. Warren County**, 204 Fourth Avenue, Warren, PA 16365. Warren Bike/Hike Trail, in Conewango Township, **Warren County**, ACOE Pittsburgh District (Russell, PA-NY Quadrangle N: 79° 8' 52"; W: 41° 53' 36"). To construct and maintain a steel beam bridge having providing a clear, normal span of 23.6 feet and an underclearance of 8.5 feet across a tributary to Dougherty Run and place and maintain fill over the downstream end of an existing stream enclosure in a tributary to Conewango Creek for the construction of the Warren Bike/Hike Trail along the east side of SR 62 extending north from the end of the existing trail at the intersection of North State Street to Hatch Run Road.



**ENVIRONMENTAL ASSESSMENTS**

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

**EA17-007. Clearfield Creek Watershed Association, Inc.**, 216 Beldin Hollow Road, Ashville, PA 16613. Decatur Township, **Clearfield County**, ACOE Baltimore District.

Acid mine drainage abatement project on an Unnamed Tributary to Morgan Run. A restoration waiver has been authorized to construct, operate, and maintain the MR Ross AMD abatement project. The project consists of two vertical flow treatment cells, two settling basins and appurtenant structures to remediate an impacted UNT to Morgan Run. The designated use for the UNT to Morgan Run is Cold Water Fishes. Project construction will result in 8 acres of disturbance, 0.13 acre of PEM wetland impacts, and 290 linear feet of stream impacts to both intermittent and perennial streams. This project is part of the Morgan Run watershed restoration plan. (Wallaceton Quadrangle Latitude N: 40° 54' 52"; Longitude W: 78° 20' 51").

**EROSION AND SEDIMENT CONTROL**

The following Erosion and Sediment Control Permits have been issued.

Any person aggrieved by these actions may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. Chapter 5, Subchapter A (relating to practice and procedure of Commonwealth agencies), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

If individuals want to challenge this action, their appeal must reach the Board within 30 days. Individuals do not need a lawyer to file an appeal with the Board. Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. If individuals cannot afford a lawyer, individuals may qualify for pro bono representation. Call the Secretary to the Board (717) 787-3483 for more information.

*Northcentral Region: Oil & Gas Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

ESCGP-1 No.: ESX09-117-0049  
Applicant Name: East Resources, Inc.  
Contact Person: Mr. Jefferson Long  
Address: 301 Brush Creek Road  
City, State, Zip: Warrendale, PA 15086  
County: Tioga  
Township(s): Clymer Township  
Receiving Stream(s) and Classification(s): West Beech Woods

ESCGP-1 No.: ESX09-117-0062  
Applicant Name: East Resources, Inc.  
Contact Person: Mr. Jefferson Long  
Address: 301 Brush Creek Road  
City, State, Zip: Warrendale, PA 15086  
County: Tioga  
Township(s): Charleston Township  
Receiving Stream(s) and Classification(s): UNT to Catlin Hollow/Susquehanna River Basin; Secondary: Crooked Creek to Tioga River

ESCGP-1 No.: ESX09-117-0045  
Applicant Name: East Resources, Inc.  
Contact Person: Mr. Jefferson Long  
Address: 301 Brush Creek Road  
City, State, Zip: Warrendale, PA 15086  
County: Tioga  
Township(s): Chatham Township  
Receiving Stream(s) and Classification(s): UNT and Hornby Hollow; Secondary—Crooked Creek

ESCGP-1 No.: ESX09-117-0029  
Applicant Name: East Resources Inc.  
Contact Person: Mr. Jefferson Long  
Address: 301 Brush Creek Road  
City, State, Zip: Warrendale, PA 15086  
County: Tioga  
Township(s): Richmond Township  
Receiving Stream(s) and Classification(s): Mad Run

ESCGP-1 No.: ESX09-117-0063  
Applicant Name: East Resources, Inc.  
Contact Person: Mr. Jefferson Long  
Address: 301 Brush Creek Road  
City, State, Zip: Warrendale, PA 15086  
County: Tioga  
Township(s): Delmar Township  
Receiving Stream(s) and Classification(s): Wolf Run to Marsh Creek/Susuehanna River Basin Secondary—Pine Creek to W. Br. Susquehanna River

ESCGP-1 No.: ESX09-117-0032  
Applicant Name: East Resources, Inc.  
Contact Person: Mr. Jefferson Long  
Address: 301 Brush Creek Road  
City, State, Zip: Warrendale, PA 15086  
County: Tioga  
Township(s): Middlebury Township  
Receiving Stream(s) and Classification(s): Button Hollow/Tioga River Watershed Secondary—Crooked Creek

ESCGP-1 No.: ESX10-115-0001  
Applicant Name: Chesapeake Appalachia, LLC  
Contact Person: Eric Haskins  
Address: 100 1st Center  
City, State, Zip: Horseheads, NY 14845  
County: Susquehanna  
Township(s): Auburn  
Receiving Stream(s) and Classification(s): Benninger Creek

ESCGP-1 No.: ESX10-115-0002  
Applicant Name: Chesapeake Appalachia, LLC  
Contact Person: Eric Haskins  
Address: 100 1st Center  
City, State, Zip: Horseheads, NY 14845  
County: Susquehanna  
Township(s): Auburn  
Receiving Stream(s) and Classification(s) Benninger Creek



ESCGP-1 No.: ESX09-117-0086  
 Applicant Name: East Resources, Inc.  
 Contact Person: Mr. Jefferson Long  
 Address: 301 Brush Creek Road  
 City, State, Zip: Warrendale, PA 15086  
 County: Tioga  
 Township(s): Chatham Township  
 Receiving Stream(s) and Classification(s): UNT (Non-Designated) Susquehanna River Basin Secondary—Crooked Creek

ESCGP-1 No.: ESX09-117-0087  
 Applicant Name: East Resources, Inc.  
 Contact Person: Mr. Jefferson Long  
 Address: 301 Brush Creek Road  
 City, State, Zip: Warrendale, PA 15086  
 County: Tioga  
 Township(s): Chatham Township  
 Receiving Stream(s) and Classification(s): UNT (Non-Designated) Susquehanna River Basin Secondary—Crooked Creek

ESCGP-1 No.: ESX09-117-0037  
 Applicant Name: East Resources, Inc.  
 Contact Person: Mr. Jefferson Long  
 Address: 301 Brush Creek Road  
 City, State, Zip: Warrendale, PA 15086  
 County: Tioga  
 Township(s): Charleston Township  
 Receiving Stream(s) and Classification(s): UNT to Hills Creek

ESCGP-1 No.: ESX09-117-0023(01)  
 Applicant Name: East Resources, Inc.  
 Contact Person: Mr. Jefferson Long  
 Address: 301 Brush Creek Road  
 City, State, Zip: Warrendale, PA 15086  
 County: Tioga  
 Township(s): Jackson Township  
 Receiving Stream(s) and Classification(s): UNT to Seeley Creek

ESCGP-1 No.: ESX09-117-0060  
 Applicant Name: East Resources, Inc.  
 Contact Person: Mr. Jefferson Long  
 Address: 301 Brush Creek Road  
 City, State, Zip: Warrendale, PA 15086  
 County: Tioga  
 Township(s): Clymer Township  
 Receiving Stream(s) and Classification(s): UNT (Non-designated) Secondary—Baker Branch (non-designated)

ESCGP-1 No.: ESX09-117-0047  
 Applicant Name: East Resources, Inc.  
 Contact Person: Mr. Jefferson Long  
 Address: 301 Brush Creek Road  
 City, State, Zip: Warrendale, PA 15086  
 County: Tioga  
 Township(s): Clymer Township  
 Receiving Stream(s) and Classification(s): East Beech Wood Secondary—Mill Creek

ESCGP-1 No.: ESX09-117-0046  
 Applicant Name: East Resources, Inc.  
 Contact Person: Mr. Jefferson Long  
 Address: 301 Brush Creek Road  
 City, State, Zip: Warrendale, PA 15086  
 County: Tioga  
 Township(s): Clymer Township  
 Receiving Stream(s) and Classification(s): UNT Secondary—Jemison Creek

ESCGP-1 No.: ESX09-117-0083  
 Applicant Name: East Resources, Inc.  
 Contact Person: Mr. Jefferson Long  
 Address: 301 Brush Creek Road  
 City, State, Zip: Warrendale, PA 15086  
 County: Tioga  
 Township(s): Delmar Township  
 Receiving Stream(s) and Classification(s): UNT to W. Br. Stony Fork/Susquehanna River Basin Secondary—Babb Cr.-Pine Cr.-W. Br. Susquehanna R.

ESCGP-1 No.: ESX09-117-0044  
 Applicant Name: East Resources, Inc.  
 Contact Person: Mr. Jefferson Long  
 Address: 301 Brush Creek Road  
 City, State, Zip: Warrendale, PA 15086  
 County: Tioga  
 Township(s): Middlebury Township  
 Receiving Stream(s) and Classification(s): UNT Secondary—Crooked Creek

ESCGP-1 No.: ESX09-117-0048  
 Applicant Name: East Resources, Inc.  
 Contact Person: Mr. Jefferson Long  
 Address: 301 Brush Creek Road  
 City, State, Zip: Warrendale, PA 15086  
 County: Tioga  
 Township(s): Clymer Township  
 Receiving Stream(s) and Classification(s): UNT Secondary—Long Run

ESCGP-1 No.: ESG09-105-0009  
 Applicant Name: Ultra Resources, Inc.  
 Contact Person: Belinda Salinas  
 Address: 304 Inverness Way South, Suite 295  
 City, State, Zip: Englewood, CO 80112-5828  
 County: Potter  
 Township(s): Abbott Township  
 Receiving Stream(s) and Classification(s): Germania Brook Secondary—Kettle Creek

ESCGP-1 No.: ESG09-117-0042  
 Applicant Name: Ultra Resources, Inc.  
 Contact Person: Belinda Salinas  
 Address: 304 Inverness Way South, Suite 295  
 City, State, Zip: Englewood, CO 80112-5828  
 County: Tioga  
 Township(s): Elk Township  
 Receiving Stream(s) and Classification(s): Maynard Hollow, Elk Run

ESCGP-1 No.: ESX09-117-0081  
 Applicant Name: East Resources, Inc.  
 Contact Person: Mr. Jefferson Long  
 Address: 301 Brush Creek Road  
 City, State, Zip: Warrendale, PA 15086  
 County: Tioga  
 Township(s): Rutland Township  
 Receiving Stream(s) and Classification(s): UNT to Seeley Creek

ESCGP-1 No.: ESX09-117-0080  
 Applicant Name: East Resources, Inc.  
 Contact Person: Mr. Jefferson Long  
 Address: 301 Brush Creek Road  
 City, State, Zip: Warrendale, PA 15086  
 County: Tioga  
 Township(s): Rutland Township  
 Receiving Stream(s) and Classification(s): UNT to Mill Creek

ESCGP-1 No.: ESX09-117-0075  
 Applicant Name: East Resources, Inc.  
 Contact Person: Mr. Jefferson Long  
 Address: 301 Brush Creek Road  
 City, State, Zip: Warrendale, PA 15086  
 County: Tioga

Township(s): Nelson Township  
 Receiving Stream(s) and Classification(s): UNT to  
 Cowanesque River/Susquehanna River Basin;  
 Tioga River

ESCGP-1 No.: ESX10-117-0001  
 Applicant Name: East Resources, Inc.  
 Contact Person: Mr. Jefferson Long  
 Address: 301 Brush Creek Road  
 City, State, Zip: Warrendale, PA 15086  
 County: Tioga

Township(s): Union Township  
 Receiving Stream(s) and Classification(s): UNT Towanda  
 Creek

ESCGP-1 No.: ESX09-117-0074  
 Applicant Name: East Resources, Inc.  
 Contact Person: Mr. Jefferson Long  
 Address: 301 Brush Creek Road  
 City, State, Zip: Warrendale, PA 15086  
 County: Tioga

Township(s): Shippen Township  
 Receiving Stream(s) and Classification(s): UNT to E. Br.  
 Stony Fork/Susquehanna River Basin Secondary—Babb  
 Cr.-Pine Cr.-W. Br. Susquehanna R.

ESCGP-1 No.: ESX09-117-0064  
 Applicant Name: East Resources, Inc.  
 Contact Person: Mr. Jefferson Long  
 Address: 301 Brush Creek Road  
 City, State, Zip: Warrendale, PA 15086  
 County: Tioga

Township(s): Shippen Township  
 Receiving Stream(s) and Classification(s): UNT to Pine  
 Creek/Susquehanna River Basin

ESCGP-1 No.: ESX09-117-0067  
 Applicant Name: East Resources, Inc.  
 Contact Person: Mr. Jefferson Long  
 Address: 301 Brush Creek Road  
 City, State, Zip: Warrendale, PA 15086  
 County: Tioga

Township(s): Sullivan Township  
 Receiving Stream(s) and Classification(s): UNT to  
 Elk Run

ESCGP-1 No.: ESX09-117-0084  
 Applicant Name: East Resources, Inc.  
 Contact Person: Mr. Jefferson Long  
 Address: 301 Brush Creek Road  
 City, State, Zip: Warrendale, PA 15086  
 County: Tioga

Township(s): Chatham Township  
 Receiving Stream(s) and Classification(s): Daggett Hollow  
 (non-designated)/Susquehanna R. Basin Secondary—  
 Blair Creek (non-designated)

ESCGP-1 No.: ESX09-117-0088  
 Applicant Name: East Resources, Inc.  
 Contact Person: Mr. Jefferson Long  
 Address: 301 Brush Creek Road  
 City, State, Zip: Warrendale, PA 15086  
 County: Tioga

Township(s): Union Township  
 Receiving Stream(s) and Classification(s): Lycoming  
 Creek

ESCGP-1 No.: ESX09-117-0085  
 Applicant Name: East Resources, Inc.  
 Contact Person: Mr. Jefferson Long  
 Address: 301 Brush Creek Road  
 City, State, Zip: Warrendale, PA 15086  
 County: Tioga

Township(s): Chatham Township  
 Receiving Stream(s) and Classification(s): UNT (non-  
 designated)/Susquehanna River Basin Secondary—  
 Crooked Creek

ESCGP-1 No.: ESX10-015-0003  
 Applicant Name: Fortuna Energy, Inc.  
 Contact Person: Mr. Eric Potter  
 Address: 337 Daniel Zenker Drive  
 City, State, Zip: Horseheads, NY 14845  
 County: Bradford

Township(s): Wells Township  
 Receiving Stream(s) and Classification(s): UNT to  
 Beckwith Creek Secondary—Beckwith Creek

ESCGP-1 No.: ESX10-015-0004  
 Applicant Name: Fortuna Energy, Inc.  
 Contact Person: Mr. Eric Potter  
 Address: 337 Daniel Zenker Drive  
 City, State, Zip: Horseheads, NY 14845  
 County: Bradford

Township(s): Canton Township  
 Receiving Stream(s) and Classification(s): Alba Creek

ESCGP-1 No.: ESX10-015-0002  
 Applicant Name: Fortuna Energy, Inc.  
 Contact Person: Mr. Eric Potter  
 Address: 337 Daniel Zenker Drive  
 City, State, Zip: Horseheads, NY 14845  
 County: Bradford

Township(s): Granville Township  
 Receiving Stream(s) and Classification(s): UNT  
 Wallace Brook

ESCGP-1 No.: ESX10-015-0006  
 Applicant Name: Fortuna Energy, Inc.  
 Contact Person: Mr. Eric Potter  
 Address: 337 Daniel Zenker Drive  
 City, State, Zip: Horseheads, NY 14845  
 County: Bradford

Township(s): Armenia Township  
 Receiving Stream(s) and Classification(s): Morgan Creek,  
 Elk Run, Sugar Creek

ESCGP-1 No.: ESG09-117-0035  
 Applicant Name: Fortuna Energy, Inc.  
 Contact Person: Mr. Eric Potter  
 Address: 337 Daniel Zenker Drive  
 City, State, Zip: Horseheads, NY 14845  
 County: Tioga

Township(s): Ward Township  
 Receiving Stream(s) and Classification(s): Fall Brook,  
 UNT to Fall Brook Secondary—Tioga River

ESCGP-1 No.: ESX09-115-0026  
 Applicant Name: Appalachia Midstream Services, LLC  
 Contact Person: Patrick Myers  
 Address: 100 1st Center  
 City, State, Zip: Horseheads, NY 14845  
 County: Susquehanna

Township(s): Auburn and Rush Townships  
 Receiving Stream(s) and Classification(s): Susquehanna  
 River Watershed

ESCGP-1 No.: ESG09-081-0018  
 Applicant Name: Chief Gathering, LLC  
 Contact Person: Ted Wurfel  
 Address: 6051 Wallace Road Ext.  
 City, State, Zip: Wexford, PA 15090  
 County: Lycoming  
 Township(s): Penn & Shrewsbury Township  
 Receiving Stream(s) and Classification(s): Sugar Run,  
 Gregs Run, UNT to Gregs Run, UNT to Muncy Creek,  
 Muncy Creek

ESCGP-1 No.: ESG09-117-0056  
 Applicant Name: Fortuna Energy, Inc.  
 Contact Person: Tracy Gregory  
 Address: 337 Daniel Zenker Drive  
 City, State, Zip: Horseheads, NY 14845  
 County: Tioga  
 Township(s): Jackson Township  
 Receiving Stream(s) and Classification(s): Tributary of  
 Hammond Creek Secondary—Cowanesque River

ESCGP-1 No.: ESG09-117-0036  
 Applicant Name: Fortuna Energy, Inc.  
 Contact Person: Tracy Gregory  
 Address: 337 Daniel Zenker Drive  
 City, State, Zip: Horseheads, NY 14845  
 County: Tioga  
 Township(s): Jackson Township  
 Receiving Stream(s) and Classification(s): Alder Run,  
 UNT to Alder Run Secondary—Hammond Creek  
*Northwest Region: Oil and Gas Program Manager, 230  
 Chestnut Street, Meadville, PA 16335.*

ESCGP-1 No.: ESG09-031-0004  
 Applicant: XTO Energy, Inc.  
 Contact: Kissel Bernhardt  
 Address: 395 Airport Road, Indiana, PA 15701  
 County: Clarion Township(s): Limestone  
 Receiving Stream(s) and Classification(s): Runaway  
 Run (CWF)

ESCGP-1 No.: ESG09-065-0005  
 Applicant: Open Flow Gas Supply Corp  
 Contact: Casey Bowers  
 Address: 90 Beaver Drive, Suite 110B, DuBois PA 15801  
 County: Jefferson Township(s): Snyder  
 Receiving Stream(s) and Classification(s): South Branch  
 of North Fork Creek (Exceptional Value)

ESCGP-1 No.: ESG09-019-0022  
 Applicant: Rex Energy Operating Corp  
 Contact: Timothy Beattie  
 Address: 476 Rolling Ridge Dr, Suite 300, State College  
 PA 16801  
 County: Butler Township(s): Forward, Jackson,  
 Connoquenessing  
 Receiving Stream(s) and Classification(s): Connoqueness  
 ing Creek (WWF), UT to Connoquenessing  
 Creek (WWF)

[Pa.B. Doc. No. 10-226. Filed for public inspection February 5, 2010, 9:00 a.m.]

### Availability of Final General Plan Approval and/or General Operating Permit for Hot Mix Asphalt Plants (BAQ-GPA/GP-13)

The Department of Environmental Protection (Department) has finalized the General Plan Approval and General Operating Permit for Hot Mix Asphalt Plants (BAQ-GPA/GP-13).

The notice of availability of the proposed General Permit was published in the *Pennsylvania Bulletin*, Vol. 38, Pa.B. 6425 on November 22, 2008. A 45-day comment period was provided and written comments were received. A comment and response document has been prepared, which summarizes the Department's response to the comments.

BAQ-GPA/GP-13 applies to the construction, operation and modification of both new and existing hot mix asphalt (HMA) plants. This General Permit is limited to the construction, operation and modification of HMA plants that are located at facilities for which a valid mining permit or an air quality operating permit exists for the operation of the facility. The applicant must notify the Department using the General Permit Application and receive written approval prior to constructing and/or operating under this General Permit. The owners and operators of existing permitted HMA plants may either continue to operate under an existing operating permit, or elect to apply for authorization to use this General Permit. BAQ-GPA/GP-13 is now approved by the Department and available for use by qualifying applicants.

A copy of the General Permit with related documents can be obtained by contacting Jeanette Van Skike, Bureau of Air Quality, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-4325. The documents have also been placed on the Department's web site [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keywords: "Air Permits").

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 10-227. Filed for public inspection February 5, 2010, 9:00 a.m.]

### Availability of Technical Guidance

Technical guidance documents are available on the Department of Environmental Protection's (Department's) web site at <http://www.depweb.state.pa.us> (DEP Keywords: "eLibrary"). The "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 "Draft Technical Guidance" 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.



*Technical Guidance Final—Minor Revision*

DEP ID: 385-2000-011. Title: Pennsylvania Combined Sewer Overflow (CSO) Policy. Description: Technical Guidance 385-2000-011 sets forth procedures to improve and preserve the purity of Commonwealth waters through adequate permitting and controls of CSOs in order to protect public health, plant life and animal life. The guidance has been in effect since September 6, 2008 and can be found on the Department's web site. In the current guidance a Discharge Monitoring Report (DMR) form is required to be submitted every month. In an effort to reduce the need for the Permittee to complete and submit unnecessary reports, the Department is amending the guidance to add a new DMR form. The new DMR form will only be required for the months when a CSO outfall has a discharge. The newly posted forms are listed as Attachment 3 and include: "CSO Supplemental Report Monthly Inspection Report" form and instructions and "CSO Supplemental Report Detailed Outfall Report" form and instructions. This action is intended to ease the paperwork burden on the Permittee and the Department and does not in any way affect the policies and procedures outlined in the September 6, 2008 guidance. Contact: Questions regarding the final guidance document should be directed to Chris Whiteash at (717) 783-9710 or [cwhiteash@state.pa.us](mailto:cwhiteash@state.pa.us). Effective Date: Upon publication of notice as final in the *Pennsylvania Bulletin*.

JOHN HANGER,  
Secretary

[Pa.B. Doc. No. 10-228. Filed for public inspection February 5, 2010, 9:00 a.m.]

### **Bond Rate Guidelines for the Calculation of Land Reclamation Bonds on Coal Mining Operations**

The Department of Environmental Protection (Department) announces the 2010 bond rate guidelines for anthracite and bituminous coal mining operations. These rates become effective April 1, 2010. The authority for bonding coal mining operations is found under the Clean Streams Law, (35 P. S. §§ 691.1—691.1001), the Surface Mining Conservation and Reclamation Act, (52 P. S. §§ 1396.1—1396.19a), the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66) and 25 Pa. Code Chapter 86, Subchapter F (relating to bonding and insurance requirements). The unit costs listed in these guidelines will be used in calculating the land reclamation bonds for surface coal mining operations including, surface mines, coal refuse disposal sites, coal refuse reprocessing sites, coal processing facilities and the surface facilities of underground mining operations. The procedures for calculating land reclamation bonds are described in technical guidance 563-2504-001, "Conventional Bonding for Land Reclamation—Coal," which is available on the Department's web site at the following link: <http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-48226/563-2504-001.pdf>.

The Department may review the adequacy of bonds on existing permits based on the bond rate guidelines at any time. The Department will conduct these reviews before issuing permit renewals. The Department may conduct similar reviews at the mid-term of a permit and before approving a permit revision.

These bond rate guidelines do not apply to bonds assuring replacement of water supplies under subsection 3.1(c) of the Surface Mining Conservation and Reclamation Act (52 P. S. § 1396.3a(c)) or to bonds ensuring compliance with the requirements of the Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1410d).

*General Methodology*

The Department developed the bond rate guidelines for 2010 from the unit costs for competitively bid contracts for mine reclamation. Contract bid data is available for various unit operations needed to complete reclamation of a mine site for the years 1998-2009. For most categories, a 3-year (2007-2009) average was used to calculate the guidelines. Some categories required another approach due to limited data. For example, there were no contracts in 2007 or 2009 that included selective grading. Therefore, a 4-year average was used for the 2009 selective grading bond rate.

In general, the bond rate for a given unit operation is the weighted average of the three lowest total bids for each contract. However, grading costs were calculated using the number of bids at a cost per cubic yard frequency distribution and a weighted total number of yards at a cost per cubic yard frequency distribution, in combination with the averages and a cost trend analysis.

In the event that a unit operation necessary to calculate a reclamation bond is not listed in Tables 1 or 2, then any additional cost information available will be used. If enough data is still not available, the rate will be set from a standard reference like "*Means Building Construction Cost Data*" or "*Walker's Building Estimator's Reference Book*."

The fees associated with the Land Maintenance Bond Program are presented in Table 3. There has been no change in these rates for 2010.

The bond rate guidelines are available electronically at <http://www.dep.state.pa.us/dep/deputate/minres/bmr/programs/bonding.htm>. For background information and supporting documentation regarding bonding rate guidelines, contact the Bureau of Mining and Reclamation, Division of Monitoring and Compliance, P. O. Box 8461, Harrisburg, PA 17105-8461, (717) 787-5103.

*Mine Sealing Costs*

The mine sealing bond rate guidelines are presented in Table 2. Mine sealing and borehole sealing bond rate guidelines remain the same for 2010.

*Effective Date*

The bond rate guidelines in this notice become effective April 1, 2010.



**TABLE 1**  
**Standard Bond Rate Guidelines**  
**For Year 2010**

<i>Unit Operation</i>	<i>Unit Measure</i>	<i>Unit Costs (\$)</i>
<i>Mobilization / Demobilization</i>	<i>Job</i>	<i>4% of direct costs or \$40,000 whichever is less</i>
Grading (<500-foot push)	Cubic Yard	0.85
Grading (≥500-foot push/haul)	Cubic Yard	1.10
Selective Grading	Acre	1,150.00
Revegetation	Acre	1,615.00
Tree Planting	Tree	0.15
Ditch Excavation	Cubic Yard	4.55
Jute Matting	Square Yard	3.30
High Velocity Erosion Control	Square Yard	3.00
R3 Rock Lining	Square Yard	26.00
R4 Rock Lining	Square Yard	20.00
R5 Rock Lining	Square Yard	19.00
Geotextile/Filter Fabric	Square Yard	1.70
RVC Lining <sup>1</sup>	Square Yard	12.00
Subsurface Drain	Lineal Foot	17.00
Erosion and Sedimentation Control (Temporary Installation)	Job	Lump sum (5% of direct costs for site)
Pond Removal Active Phase <sup>2</sup>	Pond	3,800.00
Stage 3 Maintenance Bond Non-Cropland Areas (Land Uses Where Crop Yields Are Not Required)	Acre	100.00
Stage 3 Maintenance Bond Cropland (Not Row Crops) Pastureland Or Land Occasional Cut For Hay (Excludes Seed Cost)	Acre	600.00
Stage 3 Maintenance Bond Cropland Area-Row Crops (includes seed cost)	Acre	800.00
Stage 3 Mobilization	Job	2,500.00
Pond Removal-Stage 3	Cubic Yards (Embankment Volume) Plus Topsoiling and Revegetation Cost	Use <500 Grading For Pond Embankment Volume Plus Topsoiling and Revegetation Cost For The Area Disturbed
Ditch Removal-Stage 3	Lineal Foot	0.75
Equipment Tire Removal and Disposal	Tire	300.00
Structure Demolition	Costs Will Be Calculated Using Costs Listed In The Construction Industry's Latest Annual Cost Publications, Such As <i>Means Building Construction Cost Data</i> .	

**TABLE 2**  
**Mine Sealing Bond Rate Guidelines**  
**For Year 2010**

*Sealing Bituminous Underground Mine Drift and Slope Openings*

<i>Unit Operation</i>	<i>Unit Measure</i>	<i>Unit Costs (\$)</i>
Concrete Work	Cubic yard	128.00
Masonry Work	Square foot	11.00
Fill Material and Earthwork <sup>3</sup>	Cubic yard	23.00
Security Fencing	Lineal foot	29.00
Mobilization Cost	Job	5% of Total Amount

*Sealing Bituminous Underground Mine Drift and Slope Openings*

<i>Unit Operation</i>	<i>Unit Measure</i>	<i>Unit Costs (\$)</i>
<i>Sealing Bituminous Underground Mine Shaft Openings</i>		
Concrete Material	Cubic Yard	96.00
Aggregate Material	Cubic Yard	27.00
Fill material and Earthwork <sup>3</sup>	Cubic Yard	4.00
Security Fencing	Lineal Foot	29.00
Mobilization Cost	Job	5% of Total Amount

*Sealing Boreholes at Bituminous Underground Mines*

<i>Dimension</i>	<i>Minimum Cost Per Hole (\$)</i>	<i>Unit Cost (\$)</i> Per Lineal Foot
12 Inch or Less Diameter	1,500	5.50
Larger Than 12 Inch Diameter	2,000	5.50

<sup>1</sup> Typically used for lining of ponds or ditches crossing fill material.

<sup>2</sup> Unit cost not from BAMR bids; includes dewatering, grading, topsoil placement and revegetation.

<sup>3</sup> Mine sealing costs are minimum costs. Additional costs per mine seal will be assessed based on specific design criteria, such as the thickness of the seal and the volume of backfill material required, using appropriate material, equipment, and labor costs from BAMR bid abstracts or from an industry-standard cost estimation publications, for example, *Means Estimating Handbook* or *Walker's Building Estimator's Reference Book*.

TABLE 3

**Land Maintenance Financial Guarantee Fees  
For Year 2009**

<i>Fee Category</i>	<i>Fee (\$)</i>
Publication	\$1,000
Administrative	\$300

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 10-229. Filed for public inspection February 5, 2010, 9:00 a.m.]

**Coastal and Estuarine Land Acquisition Conservation Program; Federal Fiscal Year 2011 Grant Solicitation and Publication of the Final Pennsylvania Coastal and Estuarine Land Acquisition Plan**

The Coastal Resources Management Program of the Department of Environmental Protection (Department) is soliciting land acquisition grant proposals to submit to the National Oceanic and Atmospheric Administration (NOAA) through the Coastal and Estuarine Land Conservation Program (CELCP). In addition, this notice serves to publish as the final Pennsylvania Coastal and Estuarine Land Conservation (CELC) Plan.

The draft PA CELC Plan was published for a 30-day public comment period in the *Pennsylvania Bulletin* at 37 Pa.B. 2038 (April 28, 2007). No public comments were received. Comments from NOAA were received recommending incorporation of three Hydrologic Unit Code (HUC)-8 drainage basin areas of the Chesapeake Bay watershed into the geographic boundaries of the plan. These recommendations have been incorporated into the PA CELC Plan.

This solicitation is for preliminary candidate proposals and is for funding awards under NOAA's Federal Fiscal Year (FFY) 2011 Funding cycle.

CELCP places an emphasis on "ecologically valuable" lands. The geographic areas covered by CELCP are the designated Delaware Estuary Coastal Zone Watershed, select Chesapeake Bay watersheds and the Lake Erie

Coastal Zone Watershed. Grant applications may be made for the purchase of land acquisitions or interests; these may be in fee-simple title or as conservation easements. A major condition of the CELCP is that the title or easement must be held by a governmental/public entity. Further, grant awards must be matched dollar-for-dollar (may include in-kind match but not other Federal funds) and are capped at \$3 million each (Federal share). Land trusts may hold sub-easements for management and stewardship on CELCP-funded properties and may assist in the development of proposals, but they may not hold title to any property acquired with CELCP funds.

Each coastal state may nominate up to three candidate projects to NOAA for this national, competitive process. The Department will select the three Pennsylvania candidate projects for submission to NOAA by employing the guidelines issued by the Federal agency. NOAA will develop a ranked list of projects eligible for funding. Once NOAA receives final appropriations from the United States Congress, the agency will make final determinations as to which projects are selected for funding within amounts available. Federal funding awards, based upon the final CELCP funding appropriated, are expected to be made between June 1, 2011 and October 1, 2011.

The Federal Funding Opportunity (FFO) Announcement, *Federal Register* notice, Description and Scope of Work Formats and CELCP Checklist will be listed on the Department's web site at <http://www.dep.state.pa.us/river/grants/celcp/celcp.htm>. These materials contain detailed information about the grant application submission and review process. Applications should follow the format

listed in the FFO. The FFO Announcement also contains several links to the NOAA CELCP web site for further explanations of program requirements and additional guidance. In addition, the web site contains the Pennsylvania CELC plan, as reference for applicants submitting proposals. Applicants should closely review the *Federal Register* notice, FFO and Pennsylvania CELC plan to understand eligibility requirements, ranking criteria and the types of acquisition projects the program may fund.

Proposals must be submitted no later than March 8, 2010, to Jeff Dewey, Department of Environmental Protection, Water Planning Office, P. O. Box 2063, 400 Market Street, Harrisburg, PA 17105-2063, and must include the following:

1. A Project Description/Scope of Work.
2. Project Budget and Justification of Proposed Costs.
3. Project Checklist.
4. Project Location and Site Maps.

Additionally, applicants may submit supplemental materials listed in the Federal announcement, such as a copy of a property appraisal, title opinion or evidence of a willing seller.

For additional information, contact Chris Linn at the Delaware Valley Regional Planning Commission, (215) 238-2873, [clinn@dvrpc.org](mailto:clinn@dvrpc.org); contact Julia McConnaughey at the Erie County Planning Department, (814) 451-6018, [jmconnaughey@eriecountygov.org](mailto:jmconnaughey@eriecountygov.org); or Jeff Dewey at the Department's Water Planning Office, (717) 772-5619, [jdewey@state.pa.us](mailto:jdewey@state.pa.us).

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 10-230. Filed for public inspection February 5, 2010, 9:00 a.m.]

### Hybrid Electric Vehicle Rebate Program; Notice of Closing

The Department of Environmental Protection (Department) announces the closing of its Hybrid Electric Vehicle Rebate Program. The program will continue to provide rebates, subject to the availability of funds, for vehicles purchased through March 6, 2010. Consumers may submit applications for up to 6 months after the date of purchase. Consumers should be aware that funds may be depleted before the program's closing date. The program, authorized through the Alternative Fuel Incentive Act (Act 178 of 2004), provides \$500 rebates to assist with the incremental costs of purchasing or leasing a new hybrid electric vehicle. The program was established to help reduce the Commonwealth's dependence on imported oil and to improve environmental quality by using alternative fuels. Since its inception the program has provided nearly 9,000 rebates to residents in this Commonwealth.

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 10-231. Filed for public inspection February 5, 2010, 9:00 a.m.]

### Nutrient and Sediment Reduction Credit Trading Program

The Department of Environmental Protection (Department) provides notice of the following actions regarding the Nutrient and Sediment Reduction Credit Trading Program (Trading Program). These actions were taken in

relation to the Final Trading of Nutrient and Sediment Reduction Credits—Policy and Guidelines (Policy) (Department ID No. 392-0900-001) (see 36 Pa.B. 7999 (December 30, 2006)). The Policy called for a transparent system of credit reviews and approvals.

Trading is a market-based program that provides incentives for entities to create nutrient reduction credits by going beyond statutory, regulatory or voluntary obligations and goals by removing nutrients from a watershed. The credits can be traded to help others more cost-effectively meet their obligations or goals. The primary purpose of the Trading Program is to provide for more efficient ways for National Pollutant Discharge Elimination System (NPDES) permittees to meet their effluent limits for nutrients and sediment. Currently, the focus of the program is on the Chesapeake Bay Watershed.

The proposals and actions described in this notice relate to: (1) submitted proposals; (2) approved proposals; and (3) registered credits, through January 20, 2010.

#### *Background*

Before a credit can be used by an NPDES permittee, a three-step process is followed: (1) the credit or offset proposal must be approved; (2) it must be verified; and (3) it must be registered.

Approval is also known as certification, which is a written approval by the Department for the use of proposed or implemented activities to generate credits (in some cases the person generating the credits is not permitted to transfer them to another person, in which case they are called "offsets"). Certifications are based on at least: (1) a credit or offset proposal describing the qualifying activities that will reduce the nutrient loadings delivered to the applicable watershed; (2) the calculation to quantify the pounds of reductions expected; and (3) a verification plan that, when implemented, ensures that the qualifying nutrient reduction activities have taken place. All of the proposals, certifications and registrations described in this Notice apply to the Chesapeake Bay Watershed.

Once the credits or offsets are certified, they must be verified. Verification means implementation of the verification plan contained in a certification, as required by the Department. Verification plans require annual submittal of documentation to the Department that demonstrates that the qualifying nutrient reduction activities have taken place for the applicable compliance year.

The credits or offsets also need to be registered by the Department before they can be used to meet effluent limits in an NPDES permit. Registration occurs only after credits or offsets have been certified and verified and a trading contract for credits has been submitted to the Department. For the Chesapeake Bay Watershed, the Department will register credits on an annual basis for use during the compliance year in which the qualifying nutrient reduction activities have taken place and will provide such credits with an annual registry number for reporting and tracking purposes.

The Department has received 81 proposals that have been submitted for review to generate nutrient reduction credits in the Chesapeake Bay Watershed. Of those, 55 have been approved, one has been withdrawn and the remaining need additional clarification prior to qualifying for certification.

#### *Proposals under Review*

The following proposals are being reviewed by the Department. The Department will accept written comments on these projects for 30 days.

*Proposal Applicant*

1. Becker Engineering on behalf of Northwestern Lancaster County Authority.
2. Capital RC&D.

*Proposal Description*

Nitrogen and Phosphorus credits generated by treatment, Lancaster County.

Nitrogen credits generated by the implementation of no-till, Bedford County.

*Certifications*

There are no new certifications.

*Verifications and Registrations*

There are no new verifications and registrations.

For further information about the previous information, the Department's Nutrient Trading Program or to submit comments, contact Ann Smith, Water Planning Office, Department of Environmental Protection, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 787-4726, annsmith@state.pa.us or visit the Department's web site at www.depweb.state.pa.us (DEP Keywords: "Nutrient Trading").

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 10-232. Filed for public inspection February 5, 2010, 9:00 a.m.]

**Proposed Revisions to the State Implementation Plan for the Philadelphia-Wilmington, PA-NJ-DE Fine Particulate and Philadelphia-Wilmington-Atlantic City, PA-NJ-DE 8-Hour Ozone Nonattainment Areas; Public Hearing**

Particulate matter (PM) includes both solid and liquid particles suspended in the air. Fine particle pollution describes particulate matter that is less than or equal to 2.5 micrometers in diameter (PM<sub>2.5</sub>). PM<sub>2.5</sub> concentrations above the Federal health-based standard pose a serious human health threat. Health studies have shown a significant association between exposure to fine particles and premature death from heart or lung disease. In 1997, the U.S. Environmental Protection Agency (EPA) established an annual primary (health-based) and secondary (welfare-based) PM<sub>2.5</sub> standard of 15.0 micrograms per cubic meter (µg/m<sup>3</sup>), based on the 3-year average of annual mean PM<sub>2.5</sub> concentrations. The EPA also established a primary and secondary 24-hour standard of 65 µg/m<sup>3</sup> determined by the 3-year average of the 98th percentile of 24-hour concentrations. Implementation of the standard was delayed due to legal challenges. In the Commonwealth of Pennsylvania, EPA designated eight areas comprised of all or parts of 21 counties as PM<sub>2.5</sub> nonattainment areas for the annual standard. For each nonattainment area, the Commonwealth is required to develop a State Implementation Plan (SIP) revision that demonstrates how the area will attain the standard by the prescribed attainment date, April 5, 2010.

The Department of Environmental Protection (Department) is seeking public comment on the SIP revision for the Philadelphia-Wilmington, PA-NJ-DE PM<sub>2.5</sub> Nonattainment Area (Philadelphia PM<sub>2.5</sub> Area.) The proposed

SIP revision contains information on PM<sub>2.5</sub> trends and emissions to demonstrate that the Philadelphia PM<sub>2.5</sub> Area meets all requirements necessary for an approvable SIP revision. The proposed SIP revision demonstrates how the area will attain the PM<sub>2.5</sub> standard by April 5, 2010, by presenting evidence from air quality modeling, emission trends, regional pollutant transport impacts and emission reductions through State and Federal control measures. In addition, the proposed revision to the SIP contains the base-year 2002 emissions inventory, mobile source emission budgets for purposes of transportation conformity and a contingency plan to bring the area back into attainment should future violations of the standard occur. After consideration of comments received, the SIP revision will be finalized and submitted to the EPA for approval.

In addition, the Department is seeking public comment on a proposed SIP revision to correct the Stationary Point Source Annual Emissions included in the 2002 Base-Year Inventory submitted to EPA on August 29, 2007 for the Pennsylvania portion of the Philadelphia-Wilmington-Atlantic City, PA-NJ-DE 8-Hour Ozone Nonattainment Area.

The proposed PM<sub>2.5</sub> SIP revision for the Philadelphia PM<sub>2.5</sub> Area and the proposed ozone SIP revision for the Pennsylvania portion of the Philadelphia-Wilmington-Atlantic City, PA-NJ-DE 8-hour Ozone Nonattainment Area are available on the Department's web site at www.depweb.state.pa.us or through the contact persons listed. Notice of the proposed SIP revisions will also be published in newspapers of general circulation in the affected area.

The Department will hold a public hearing to receive comments on the proposals on March 11, 2010, at 1 p.m. at the Department's Southeast Regional Office, 2 East Main Street, Norristown, PA. Persons wishing to present testimony at the hearing should contact Shaniqua Smith, P. O. Box 8468, Harrisburg, PA 17105, (717) 787-9702 or shanismith@state.pa.us to reserve a time. Persons who do not reserve a time will be able to testify as time allows. Witnesses should keep testimony to 10 minutes and should provide two written copies of their statement at the hearing.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceeding should contact Shaniqua Smith at (717) 787-9702 or shanismith@state.pa.us. TDD users may contact the Pennsylvania AT&T Relay Service at (800) 654-5984 to discuss how the Department can best accommodate their needs.

The Department must receive comments no later than March 12, 2010. Written comments should be sent to the attention of Arleen Shulman, Division of Air Resource Management, Bureau of Air Quality, P. O. Box 8468, Harrisburg, PA 17105-8468, ashulman@state.pa.us. Use "Philadelphia Area PM<sub>2.5</sub> SIP" or "Philadelphia Area Ozone SIP" in the subject line.

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 10-233. Filed for public inspection February 5, 2010, 9:00 a.m.]



# DEPARTMENT OF HEALTH

## Consumer Notice of Direct Care Worker Status

**This form is to be completed by every consumer utilizing the services of a Home Care Agency or Home Care Registry which is licensed under 28 Pa. Code, Chapter 611, Home Care Agencies and Home Care Registries**

The regulations governing licensure for home care agencies (HCAs) and home care registries (HCRs) have been published in the *Pennsylvania Bulletin* at Volume 39, Number 49, page 6958, effective December 12, 2009.

HCAs and HCRs, as defined in the regulations, must now be licensed by the Department of Health (Department) to provide home care services to individuals in their homes or other independent living environments.

Home care services include:

- Assistance with self-administered medications;
- Personal care such as assistance with personal hygiene, dressing and feeding;
- Homemaking such as assistance with household tasks housekeeping, shopping, meal planning and preparation and transportation;
- Companionship;
- Respite care such as assistance and support provided to the family; and
- Other non-skilled services.

The licensure regulations, at 28 Pa. Code § 611.57, require an HCA or HCR, prior to the commencement of home care services, to provide to the consumer, the consumer's legal representative or responsible family member an information packet containing, among other items, a disclosure in the format to be provided by the Department, addressing the employee or independent contractor status of the direct care worker providing services to the consumer, and the resultant respective tax and insurance obligations and other responsibilities of the consumer and the HCA or HCR.

All entities or organizations applying for licensure as an HCR or HCA shall begin using the following Consumer Notice of Direct Care Worker Status upon receipt of a license to operate an HCR or HCA.

Existing HCAs and HCRs, currently operating under 28 Pa. Code § 611.2(c), shall begin using the Consumer Notice of Direct Care Worker Status within 60 days of the date of this notice.

Individuals who have any questions or would like more information regarding home care agencies, home care registries and/or the HCA/HCR licensure program, contact the Division of Home Health at (717) 783-1379.

Persons with a disability who require an alternative format of this Notice (for example, large print, audiotape, Braille) should contact Janice Staloski, Director, Bureau of Community Program Licensure and Certification, 132 Kline Plaza, Suite A, Harrisburg, PA 17104, (717) 783-8665, or for speech and/or hearing impaired persons V/TT (717) 783-6514, or the Pennsylvania AT&T Relay Services at (800) 654-5984.

## Consumer Notice of Direct Care Worker Status This form is to be completed by every consumer utilizing the services of a Home Care Agency or Home Care Registry

I \_\_\_\_\_ understand that:  
(PRINT NAME)

\_\_\_\_\_ The direct care worker who will be providing  
Initials services in my home is an employee of [Name of Agency]. [Name of agency] is responsible for withholding and reporting State and Federal Income tax, Federal Unemployment tax, Social Security taxes and Medicare taxes on behalf of the direct care worker. [Name of Agency] is also responsible for paying workers compensation insurance to cover the direct care worker in the event of an accident or injury on the job.

\_\_\_\_\_ The direct care worker who will be providing  
Initials services in my home is not an employee of [Name of Registry], and therefore, may be considered my employee. Since the direct care worker may be my employee, I may be responsible for withholding and reporting State and Federal Income tax, Federal Unemployment tax, Social Security taxes and Medicare taxes on behalf of the direct care worker. I also understand that the direct care worker is not covered by Worker's Compensation Insurance.

\_\_\_\_\_ I have been informed that [Name of Agency or  
Initials Registry] \_\_\_\_\_ maintains \_\_\_\_\_ does not maintain general and professional liability insurance covering the direct care worker. If [Name of Agency or Registry] does not maintain general and professional liability insurance, and the direct care worker is not covered under workers compensation, I have been advised to check my homeowner's or renter's insurance to determine if it covers any injury or accident involving the direct care worker while working in my home.

\_\_\_\_\_  
Signature of Consumer or Consumer's Date  
Representative

\_\_\_\_\_  
Signature of Representative of (Name of Date  
Agency/Registry)

EVERETTE JAMES,  
Secretary

[Pa.B. Doc. No. 10-234. Filed for public inspection February 5, 2010, 9:00 a.m.]

## Health Policy Board Annual Meeting Schedule for 2010

The Health Policy Board has set its calendar for the year 2010. The meeting dates are scheduled as follows:

- March 17, 2010
- June 16, 2010
- September 15, 2010
- December 15, 2010

All meetings will begin at 10 a.m. in Room 812 Health and Welfare Building, 7th and Forster Streets, Harrisburg, PA.

These meetings are subject to cancellation without notice.

For additional information or for persons with a disability who desire to attend the meetings and require an auxiliary aid, service or other accommodation to do so, contact Linda Pavlesich at (717) 772-5298, V/TT (717) 783-6514 for speech and/or hearing impaired persons, or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-235. Filed for public inspection February 5, 2010, 9:00 a.m.]

### Intent to Request Release of Funds

On or about February 16, 2010, the Department of Health (Department) will submit a request to the United States Department of Housing and Urban Development (HUD) for the release of Lead-Based Paint Hazard Control Grant Program funds, with funding authorized by the American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5, for the following multi-year program/project: Lead Hazard Control Program, for the purpose of assisting income eligible occupants in receiving lead hazard control and remediation of environmental health hazards on owner-occupied and rental units, with a priority on units occupied by families with children under 6 years of age. The primary sub-recipients include the Counties of Allegheny and Fayette and the Cities of Bethlehem, Easton, Harrisburg, Johnstown, Lancaster and Philadelphia. The Department is requesting the release of \$3,070,000 in Federal Assistance and \$890,279 in matching contributions for the period of performance of January 1, 2010 through December 31, 2012.

The proposed hazard control activities to be funded under this program are categorically excluded from the National Environmental Policy Act requirements, but subject to compliance with some of the environmental laws and authorities listed at 24 CFR 58.15. In accordance with 24 CFR 58.15, a tiered review process has been structured, whereby some environmental laws and authorities have been reviewed and studied for the intended target areas listed previously. Other applicable environmental laws and authorities will be complied with, when individual projects are ripe for review. Specifically, the target areas have been studied and compliance with the following laws and authorities has been established in this Tier 1 review: Floodplain Management, Coastal Barriers Resource Act and Coastal Zone Management Act. In the Tiered 2 review, compliance with the following environmental laws and authorities will take place for proposed projects funded under the program listed previously: Historic Preservation, National Flood Insurance Program requirements, Explosive and Flammable Operations, toxics/hazardous materials. Should individual aggregate projects exceed the threshold for categorical exclusion detailed at 24 CFR 58.35(a), an Environmental Assessment will be completed and a separate Finding of No Significant Impact and Request for Release of Funds published. Copies of the compliance documentation worksheets are available at the address that follows.

An Environmental Review Record (ERR) that documents the environmental determinations for this project, and more fully describes the tiered review process cited previously, is on file at the Bureau of Family Health, Division of Child and Adult Health Services, Health and Welfare Building, 7th Floor, East Wing, 625 Forster

Street, Harrisburg, PA 17120 and may be examined or copied weekdays 8:30 a.m. to 4:30 p.m.

### Public Comments

Any individual, group or agency may submit written comments on the ERR to the Department. Comments received by February 13, 2010 will be considered by the Department prior to authorizing submission of a Request for Release of Funds and Environmental Certification to HUD.

### Release of Funds

The Department certifies to HUD that Terri A. Matio in her official capacity as Director, Bureau of Administrative and Financial Services, consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. HUD's approval of the certification satisfies its responsibilities under NEPA and related laws and authorities, and allows the Department to utilize Federal funds and implement the Program.

### Objections to Release of Funds

HUD will consider objections to its release of funds and the Department certification for a period of 15 days following either the anticipated submission date (cited previously) or HUD's actual receipt of the request (whichever is later) only if the objections are on one of the following bases: (a) that the Certification was not executed by the Certifying Officer of the Department; (b) the Department has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR Part 58; (c) the Department has committed funds or incurred costs not authorized by 24 CFR Part 58 before approval of a release of funds by HUD; (d) another Federal agency acting under 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58), and may be addressed to HUD as follows: Karen Griego-West, Office of Healthy Homes and Lead Hazard Control Program Environmental Clearance Officer, U.S. Department of Housing and Urban Development, 611 West 6th Street, Suite 805, Los Angeles, CA 90017. Potential objectors may contact HUD to verify the actual last day of the objection period.

### \*OHHLHC PROGRAMS REQUIRING A RROF (as applicable)

- *Lead-Based Paint Hazard Control Grant Program*, authorized by section 1011 of the Housing and Community Development Act of 1992, Pub. L. No. 102-550, and funded through the Consolidated Appropriations Act of 2008, Pub. L. No. 110-161.
- *Lead Hazard Reduction Demonstration Grant Program*, authorized by section 1011 of the Housing and Community Development Act of 1992, Pub. L. No. 102-550, and funded through the Consolidated Appropriations Act of 2008, Pub. L. No. 110-161.
- *Healthy Homes Demonstration Grant Program*, with funding authorized by the Consolidated Appropriations Act of 2008, Pub. L. No. 110-161.
- *Operation Lead Elimination Action Program*, with funding authorized by the Consolidated Appropriations Act of 2008, Pub. L. No. 110-161.

Persons with a disability who require an alternate format of this document (for example, large print,

audiotape, Braille), or who wish to comment in an alternate format and seek assistance to do so, should contact Faith Blough or Cynthia Dundas, Public Health Program Administrators, Bureau of Family Health, Division of Child and Adult Health Services, Health and Welfare Building, 7th Floor, East Wing, 625 Forster Street, Harrisburg, PA 17120 or (717) 772-2762, or for speech and/or hearing impaired persons V/TT (717) 783-6514, or the Pennsylvania AT&T Relay Services at (800) 654-5984.

EVERETTE JAMES,  
Secretary

[Pa.B. Doc. No. 10-236. Filed for public inspection February 5, 2010, 9:00 a.m.]

### Long-Term Care Nursing Facilities; Requests for Exception

The following long-term care nursing facilities are seeking an exception to 28 Pa. Code 205.6(a) (relating to function of building).

Courtyard Gardens Nursing and Rehabilitation Center  
999 West Harrisburg Pike  
Middletown, PA 17057

Valley View Nursing Center  
2140 Warrensville Road  
Montoursville, PA 17754

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 211.7(c) and (d) (relating to physician assistants and certified registered nurse practitioners).

Wallingford Nursing and Rehabilitation Center  
115 S. Providence Road  
Wallingford, PA 19086  
FAC ID 230102

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed.

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 accommodations to do so, contact V/TT: (717) 783-6514 for speech and/or hearing impaired persons, or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,  
Secretary

[Pa.B. Doc. No. 10-237. Filed for public inspection February 5, 2010, 9:00 a.m.]

### Notice to Public of Proposed Lead-Based Paint Hazard Control Action Located Within the Floodplain

A notice appeared in the *Pennsylvania Bulletin* on January 16, 2010, inviting participation in the floodplain management decision-making process. Specifically, the Department of Health (Department) invited comments regarding a program being proposed by the Department of Health Lead Hazard Control Program.

*Program:* Lead Hazard Control Program, Grant Number PALHB0440-09, \$3,070,000 award, Period of Performance: January 1, 2010—December 31, 2012.

*Purpose:* Funds will be used to provide assistance to income eligible occupants to make units, which includes privately owned rental units as well as owner-occupied units, lead safe, with a priority on units occupied by families with children under age six. Units will be made lead-safe through lead inspections, risk assessments and lead hazard control, including temporary relocation during hazard control work. Lead hazard control work will be completed through the use of interim controls or hazard abatement.

*Location:* The program would involve lead hazard control/reduction activities and associated minor rehabilitation on residential properties within the City limits of Johnstown, Harrisburg and the Counties of Allegheny and Fayette.

The Department completed an evaluation concerning potential impacts on the floodplain and possible alternative actions. The proposed program could involve projects located within a 100-year floodplain. The Department concluded that there is no practicable alternative to the possibility of potential projects being located within the following Flood Zones: A, AO, AH, A1-A30, or A99. It has been determined that the program must occur within the intended target area/areas, as previously described.

The alternatives considered, included: 1) funding the proposed program in other areas of the jurisdiction; 2) relocation of housing units and families; and 3) no action.

These alternatives were rejected for the following reasons: 1) the greatest need for the intended program was found to be in the designated target area/areas and those units/families in need of the housing services exist in all areas of the target area/areas; 2) it is cost prohibitive and not feasible to physically move or raise structures out of the floodplain; and 3) a no action alternative would certainly not serve to maintain affordable, safe (from lead-based paint or other housing-based health hazards as appropriate) housing for families.

In order to minimize risk and potential loss (to life, health and financial investment), owners and tenants will be notified that their units are located in the floodplain and flood insurance will be a required contingency to participation in the grant program. The amount and period of coverage will conform to the National Flood Insurance Program requirements.

An Environmental Review Record (ERR) respecting the subject program has been made by the previously-named jurisdiction which documents floodplain information and contains a full description of the proposed actions. The ERR is on file at the address listed previously and is available for public examination and copying upon request between 8:30 a.m. to 4:30 p.m.

Final approval of the Lead-Based Paint Hazard Control Program will not be approved until/unless interested



groups, individuals or agencies have had an opportunity to comment. Only written comments received by February 13, 2010 at the address listed previously will be accepted by Faith Blough or Cindy Dundas.

For further information regarding HUD's regulations concerning floodplain management contact Karen M. Griego-West, Program Environmental Clearance Officer, Office of Healthy Homes and Lead Hazard Control, United States Department of HUD, 611 West 6th Street, Suite 805, Los Angeles, CA 90017, (213) 534-2458 (this is not a toll-free number), e-mail karen.m.griego-west@hud.gov. Persons with a disability may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

Persons with a disability who require an alternate format of this document (for example, large print, audiotape, Braille), or who wish to comment in an alternate format and seek assistance to do so, should contact Faith Blough or Cynthia Dundas, Public Health Program Administrators, Bureau of Family Health, Division of Child and Adult Health Services, Health and Welfare Building, 7th Floor, East Wing, 625 Forster Street, Harrisburg, PA 17120 at the address listed previously or (717) 772-2762, or for speech and/or hearing impaired persons V/TT (717) 783-6514, or the Pennsylvania AT&T Relay Services at (800) 654-5984.

EVERETTE JAMES,  
Secretary

[Pa.B. Doc. No. 10-238. Filed for public inspection February 5, 2010, 9:00 a.m.]

### Updating the List of Citations to ACIP Recommendations Prescribing Child Immunization Practices and Immunizing Agents and Doses

In accordance with 31 Pa. Code §§ 89.806(a) and 89.807(b) (relating to coverage of child immunizations; and immunizing agents, doses and AWP's), the Department of Health, Bureau of Communicable Diseases, Division of Immunization (Department) is updating 31 Pa. Code, Chapter 89, Appendices G and H (relating to ACIP recommendations prescribing child immunization practices; and immunizing agents and doses). The Department has primary responsibility for the interpretation and the implementation of 31 Pa. Code §§ 89.806 and 89.807. See 31 Pa. Code § 89.801(b) (relating to authority and purpose; implementation).

Health insurance policies are required by the Childhood Immunization Insurance Act (40 P.S. §§ 3501–3508) (act) and regulations promulgated thereunder, 31 Pa. Code Chapter 89, Subchapter L (relating to childhood immunization insurance) to include coverage for certain childhood immunizations, unless the policies are exempted by the act and 31 Pa. Code § 89.809 (relating to exempt policies). The childhood immunizations covered are those that meet Advisory Committee on Immunization Practices (ACIP) standards in effect on May 21, 1992. See 31 Pa. Code § 89.806(a). A list of the MMWR publications containing ACIP recommendations issued under the ACIP standards in effect on May 21, 1992 appears in 31 Pa. Code §§ 89.801–89.809, Appendix G.

The Department is required to update the list of these MMWR publications appearing in 31 Pa. Code §§ 89.801–89.809, Appendix G. See 31 Pa. Code

§ 89.806(a). The additions to the list are as follows, the remainder of the list at Appendix G remains in full force and effect:

*August 7, 2009, Vol. 58/No. 30*

#### *Evaluation of Rapid Influenza Diagnostic Tests for Detection of Novel Influenza A (H1N1) Virus—United States, 2009*

The recent appearance and worldwide spread of novel influenza A (H1N1) virus has highlighted the need to evaluate commercially available, widely used, rapid influenza diagnostic tests (RIDTs) for their ability to detect these viral antigens in respiratory clinical specimens. As an initial assessment, CDC conducted an evaluation of multiple RIDTs. Sixty-five clinical respiratory specimens collected during April–May 2009 that had previously tested positive either for novel influenza A (H1N1) or for seasonal influenza A (H1N1) or A (H3N2) viruses by real-time reverse transcription-polymerase chain reaction (rRT-PCR) assay were used in the evaluation. The results showed that, although the RIDTs were capable of detecting novel A (H1N1) virus from respiratory specimens containing high levels of virus (as indicated by low cycle threshold (Ct) values), the overall sensitivity was low (40%–69%) among all specimens tested and declined substantially as virus levels decreased (and Ct values increased). These findings indicate that, although a positive RIDT result can be used in making treatment decisions, a negative result does not rule out infection with novel influenza A (H1N1) virus. Patients with illnesses compatible with novel influenza A (H1N1) virus infection but with negative RIDT results should be treated empirically based on the level of clinical suspicion, underlying medical conditions, severity of illness, and risk for complications. If a more definitive determination of infection with influenza virus is required, testing with rRT-PCR or virus isolation should be performed. Additional evaluations of the accuracy of RIDTs in detecting novel influenza A (H1N1) virus should be conducted.

*August 7, 2009, Vol. 58/No. 30*

#### *Updated Recommendations of the Advisory Committee on Immunization Practices (ACIP) Regarding Routine Poliovirus Vaccination*

This report updates Advisory Committee on Immunization Practices (ACIP) recommendations for routine poliovirus vaccination. These updates aim to: 1) emphasize the importance of the booster dose at age  $\geq$  years; 2) extend the minimum interval from dose 3 to dose 4 from 4 weeks to 6 months; 3) add a precaution for the use of minimum intervals in the first 6 months of life; and 4) clarify the poliovirus vaccination schedule when specific combination vaccines are used.

*August 28, 2009, Vol. 58/No. 33*

#### *National, State, and Local Area Vaccination Coverage Among Children Aged 19–35 Months—United States, 2008*

The National Immunization Survey (NIS) estimates vaccination coverage among children aged 19–35 months for 50 states and selected local areas. *Healthy People 2010* established vaccination coverage targets of 90% for individual vaccines in the 4:3:1:3:3:1 vaccine series and 80% for the series. This report describes the 2008 NIS coverage estimates for this series and individual vaccines, 7-valent pneumococcal conjugate vaccine (PCV7),  $\geq$  2 doses of hepatitis A vaccine (HepA), and hepatitis B vaccination received in the first 3 days of life (HepB birth dose) among children born during January 2005–June



2007. In 2008, 4:3:1:3:3:1 series coverage was 76.1%, compared with 77.4% in 2007;  $\geq 90\%$  coverage was maintained for all recommended series vaccines, except  $\geq 4$  doses of diphtheria, tetanus, and acellular pertussis (DTaP) vaccine. Coverage with  $\geq 3$  doses of Haemophilus influenzae type b vaccine (Hib) decreased from 2007, likely because of the shortage of Hib vaccine and the recommendation to defer the routine Hib vaccine booster dose administered at age 12–15 months. Substantial variability was observed in individual and series vaccination coverage among states/local areas. Among racial/ethnic groups, coverage varied little and, after adjusting for poverty, coverage estimates were not significantly lower for any groups compared with whites. However, children living below poverty had lower coverage than children living at or above poverty for most vaccines. Sustaining high coverage levels and using effective methods of reducing disparities across states/local areas and income groups remains a priority to fully protect children and limit the incidence of vaccine-preventable diseases.

September 4, 2009, Vol. 58/No. 34

*Surveillance for Pediatric Deaths Associated with 2009 Pandemic Influenza A (H1N1) Virus Infection—United States, April—August 2009*

Children aged  $< 5$  years or with certain chronic medical conditions are at increased risk for complications and death from influenza (1–3). Because of this increased risk, the Advisory Committee on Immunization Practices (ACIP) has prioritized influenza prevention and treatment for children aged  $< 5$  years and for those with certain chronic medical and immunosuppressive conditions. CDC monitors child influenza deaths through its influenza-associated pediatric mortality reporting system. As of August 8, 2009, CDC had received reports of 477 deaths associated with 2009 pandemic influenza A (H1N1) in the United States, including 36 deaths among children aged  $< 18$  years. To characterize these cases, CDC analyzed data from April to August 2009. The results of that analysis indicated that, of 36 children who died, seven (19%) were aged  $< 5$  years, and 24 (67%) had one or more of the high-risk medical conditions. Twenty-two (92%) of the 24 children with high-risk medical conditions had neurodevelopmental conditions. Among 23 children with culture or pathology results reported, laboratory-confirmed bacterial coinfections were identified in 10 (43%), including all six children who: 1) were aged  $\geq 5$  years; 2) had no recognized high-risk condition; and 3) had culture or pathology results reported. Early diagnosis of influenza can enable prompt initiation of antiviral therapy for children who are at greater risk or severely ill. Clinicians also should be aware of the potential for severe bacterial coinfections among children diagnosed with influenza and treat accordingly. All children aged  $\geq 6$  months and caregivers of children aged  $< 6$  months should receive influenza A (H1N1) 2009 monovalent vaccine when available.

September 11, 2009, Vol. 58/No. 35

*Oseltamivir-Resistant 2009 Pandemic Influenza A (H1N1) Virus Infection in Two Summer Campers Receiving Prophylaxis—North Carolina, 2009*

Initial testing of the 2009 pandemic influenza A (H1N1) virus found it susceptible to neuraminidase inhibitors (oseltamivir and zanamivir) and resistant to adamantanes (amantadine and rimantadine). Neuraminidase inhibitors have been used widely for treatment and chemoprophylaxis of 2009 pandemic influenza A (H1N1); however, sporadic cases of oseltamivir-

resistant 2009 pandemic influenza A (H1N1) virus infection have been reported worldwide, including nine U.S. cases identified as of September 4. On July 14, CDC was contacted by a physician at a summer camp in North Carolina regarding two cases of influenza-like illness (ILI) in adolescent girls receiving oseltamivir chemoprophylaxis during an ILI outbreak that had begun June 18. The two girls stayed in the same cabin, and both received oseltamivir during a mass chemoprophylaxis program in which approximately 600 campers and staff members received oseltamivir or zanamivir. On July 20 and July 22, the North Carolina State Laboratory of Public Health confirmed pandemic H1N1 virus infection in respiratory specimens from both girls. On August 14 and August 19, CDC detected the H275Y mutation (N1 numbering) in neuraminidase from both specimens by pyrosequencing. The H275Y mutation is associated with resistance to oseltamivir; zanamivir susceptibility is retained. A second mutation (I223V) in neuraminidase also was detected in both specimens. This is the first report of oseltamivir resistance in pandemic H1N1 cases with an epidemiologic link. Health-care providers should be aware that antiviral resistance can develop during chemoprophylaxis or treatment with subtherapeutic dosages and should follow published recommendations for antiviral medications.

September 18, 2009, Vol. 58/No. 36

*National, State, and Local Area Vaccination Coverage Among Adolescents Aged 13–17 Years—United States, 2008*

In recent years, the Advisory Committee on Immunization Practices (ACIP) has recommended three newly licensed vaccines: meningococcal conjugate vaccine (MCV4; 1 dose); tetanus, diphtheria, acellular pertussis vaccine (Tdap; 1 dose); and (for girls) quadrivalent human papillomavirus vaccine (HPV4; 3 doses). ACIP also recommends that adolescents receive recommended vaccinations that were missed during childhood: measles, mumps, rubella vaccine (MMR; 2 doses); hepatitis B vaccine (HepB; 3 doses); and varicella vaccine (VAR; 2 doses). Since 2006, CDC has conducted the National Immunization Survey—Teen (NIS-Teen) to estimate vaccination coverage from a national sample of adolescents aged 13–17 years. This report summarizes results from the 2008 NIS-Teen and, for the first time, includes estimates for each of the 50 states and selected local areas. Nationally, vaccination coverage for the three most recently recommended adolescent vaccinations and one childhood vaccination increased from 2007 to 2008: MCV4 (from 32.4% to 41.8%), Tdap (from 30.4% to 40.8%),  $\geq 1$  dose of HPV4 (from 25.1% to 37.2%), and  $\geq 2$  doses of VAR among those without disease history (from 18.8% to 34.1%). However, substantial variability in vaccination coverage was observed in 2008 among state and local areas and by race/ethnicity and poverty status. For the first time, the *Healthy People 2010* target of 90% coverage among adolescents aged 13–15 years was met for MMR and HepB. Public health agencies should continue annual monitoring of adolescent vaccination coverage levels to identify trends and differences by geographic area, race/ethnicity and poverty status.

*Updated Recommendations from the Advisory Committee on Immunization Practices (ACIP) for Use of Hepatitis A Vaccine in Close Contacts of Newly Arriving International Adoptees*

On February 25, 2009, the Advisory Committee on Immunization Practices (ACIP) recommended routine hepatitis A vaccination for household members and other close personal contacts (for example, regular babysitters)

of adopted children newly arriving from countries with high or intermediate hepatitis A endemicity. This new recommendation complements previous ACIP recommendations for hepatitis A vaccination for persons traveling from the United States to countries with high or intermediate hepatitis A endemicity (including persons with travel related to international adoption), and postexposure prophylaxis for contacts of persons with hepatitis A. This report introduces the new recommendation and outlines the underlying epidemiologic and programmatic rationale.

*Licensure of a Haemophilus influenzae Type b (Hib) Vaccine (Hiberix) and Updated Recommendations for Use of Hib Vaccine*

On August 19, 2009, the Food and Drug Administration (FDA) licensed Hiberix (GlaxoSmithKline Biologicals, Rixensart, Belgium), a Haemophilus influenzae type b (Hib) conjugate vaccine composed of H. influenzae type b capsular polysaccharide (polyribosyl-ribitol-phosphate (PRP)) conjugated to inactivated tetanus toxoid (PRP-T). Hiberix is licensed for use as the booster (final) dose of the Hib vaccine series for children aged 15 months–4 years (before the 5th birthday) who have received previously the primary series of Hib vaccination (consisting of 2 or 3 doses, depending on the formulation). The Advisory Committee on Immunization Practices (ACIP) recommends Hib booster vaccination for children at ages 12–15 months; however, because of the recent shortage of Hib vaccines, many children have deferred the booster dose and therefore require catch-up vaccination. This report summarizes the indications for Hiberix use and provides guidance on Hib booster dose administration based on increasing vaccine supplies. Vaccination recommendations in this report update the previous advisory on Hib booster administration (June 26, 2009), which advised that children with deferred booster doses receive it at the next regularly scheduled visit. Vaccination providers are now recommended to begin recall of children in need of the booster dose when feasible and monovalent Hib vaccine supply in the office is adequate.

September 25, 2009, Vol. 58/No. 37

*Updated Recommendation from the Advisory Committee on Immunization Practices (ACIP) for Revaccination of Persons at Prolonged Increased Risk for Meningococcal Disease*

The Advisory Committee on Immunization Practices (ACIP) recommends quadrivalent meningococcal conjugate vaccine, (MCV4) (Menactra, Sanofi Pasteur, Swiftwater, Pennsylvania) for all persons aged 11–18 years and for persons aged 2–55 years at increased risk for meningococcal disease. MCV4 is licensed as a single dose. Because of the high risk for meningococcal disease among certain groups and limited data on duration of protection, at its June 2009 meeting ACIP recommended that persons previously vaccinated with either MCV4 or MPSV4 (Menomune, Sanofi Pasteur) who are at prolonged increased risk for meningococcal disease should be revaccinated with MCV4. Persons who previously were vaccinated at age  $\geq 7$  years and are at prolonged increased risk should be revaccinated 5 years after their previous meningococcal vaccine, and persons who previously were vaccinated at ages 2–6 years and are at prolonged increased risk should be revaccinated 3 years after their previous meningococcal vaccine. Persons at prolonged increased risk for meningococcal disease include: 1) persons with increased susceptibility such as persistent complement component deficiencies (for example, C3, properdin, Factor D, and late complement

component deficiencies); 2) persons with anatomic or functional asplenia; and 3) persons who have prolonged exposure (for example, microbiologists routinely working with Neisseria meningitidis, or travelers to or residents of countries where meningococcal disease is hyperendemic or epidemic). This report provides the rationale for the new recommendation and updates and replaces previous recommendations for revaccination with MCV4.

ACIP's Meningococcal Vaccine Work Group reviewed data on the risk for meningococcal disease, antibody titer decline, and the safety and immunogenicity of revaccination with MCV4 at 3 years and 5 years after the first dose of MCV4 or MPSV4. Persons with prolonged increased risk for meningococcal disease have increased susceptibility to the disease or ongoing increased risk for exposure to N. meningitidis, higher levels of serum bactericidal antibody (SBA) against N. meningitidis can provide these groups increased protection against disease. SBA is a measure of the ability of sera to kill a strain of N. meningitidis in the presence of complement. In clinical trials, a baby rabbit SBA titer of 1:128 was used as a conservative correlate of protection. Small subsets of subjects from the MCV4 prelicensure clinical trial were revaccinated 3 years (n = 76) and 5 years (n = 134) after receiving MCV4. Of 71 persons aged 11–18 years at primary vaccination who had been vaccinated with MCV4 3 years previously, 75% and 86% had SBA titers greater than 1:128 for serogroups C and Y, respectively, before revaccination. Of 108 persons aged 2–10 years at primary vaccination who had been vaccinated with MCV4 5 years previously, 55% and 94% had SBA titers greater than 1:128 for serogroups C and Y, respectively, before revaccination. All persons revaccinated with MCV4 in these studies achieved SBA titers greater than 1:128 for serogroups C and Y. Approximately 50%–70% of persons in both the previously vaccinated (n = 210) and vaccine naive groups (n = 323) reported mild to moderate local and systemic adverse events after revaccination (or initial vaccination) with MCV4. However, no serious adverse events were reported in either group (Sanofi Pasteur, unpublished data, 2009).

October 2, 2009, Vol. 58/No. 38

*Influenza Vaccination Coverage Among Children Aged 6–23 Months—United States, 2007–08 Influenza Season*

Infants and children aged  $< 2$  years often require medical care for influenza and have higher rates of influenza-related hospitalization than any other age group except persons aged  $\geq 65$  years (1). Since 2004, the Advisory Committee on Immunization Practices (ACIP) has recommended seasonal influenza vaccination for all children aged 6–23 months. Full vaccination for these children requires receipt of 2 doses in the current influenza season if they have not been vaccinated previously or received a single dose during the preceding season. To assess influenza vaccination coverage among children aged 6–23 months during September–December of the 2007–08 influenza season, CDC analyzed data from the 2008 National Immunization Survey (NIS). The results of those analyses indicated that, during the 4 months, 40.7% of children aged 6–23 months received  $\geq 1$  dose of influenza vaccine, and 23.4% were fully vaccinated. Substantial variability was observed among the 50 states and participating local areas; the percentage of children with full vaccination ranged from 6.4% to 40.9% among states and local areas. Nationally, the percentage of children aged 6–23 months receiving  $\geq 1$  dose of influenza vaccine increased from 31.8% in 2006–07 (3) to 40.7% in 2007–08, and the percentage with full vaccination in-

creased from 21.3% to 23.4%; however, influenza vaccination coverage among children remains low. Further study is needed to identify barriers to influenza vaccination and to implement strategies that can increase vaccination coverage with emphasis on attaining full vaccination in this population at greater risk for complications from influenza.

*October 9, 2009, Vol. 58/No. 39*

*Influenza Vaccination Coverage Among Children and Adults—United States, 2008—09 Influenza Season*

Before 2008, the Advisory Committee on Immunization Practices (ACIP) had recommended annual vaccination for influenza for persons aged  $\geq 50$  years, 18—49 years at higher risk for influenza complications, and 6 months—4 years. In 2008, ACIP expanded the recommendations to include all children aged 5—18 years, beginning with the 2008—09 season, if feasible, but no later than the 2009—10 season. This expansion added 26 million children and adolescents to groups recommended for routine influenza vaccination. To assess vaccination uptake among children and adults during the 2008—09 influenza season, CDC analyzed data from the Behavioral Risk Factor Surveillance System (BRFSS) in 19 states, which represent 43% of the U.S. population. This report summarizes the results of the analysis, which indicated that reported influenza vaccination coverage of  $\geq 1$  dose was 40.9% for ages 6—23 months, 32.0% for 2—4 years, and 20.8% for 5—17 years. Among adults, reported coverage was 32.1% for persons aged 18—49 years with high-risk conditions, 42.3% for persons 50—64 years, and 67.2% for persons  $\geq 65$  years. These results are consistent with previous studies that have found no significant increases in vaccination coverage for any of these age groups over previous seasons. These 2008—09 season estimates provide a baseline for assessing implementation of the 2008 recommendation for school-aged children. Attaining higher coverage rates likely will require additional vaccination programs in schools and expanded vaccination services in provider offices.

*Norovirus Outbreaks on Three College Campuses—California, Michigan and Wisconsin, 2008*

Noroviruses are the most common cause of outbreaks of acute gastroenteritis worldwide. Norovirus outbreaks affect persons of all ages and occur in a wide variety of settings (for example, nursing homes, hospitals, restaurants, communities, schools, day care centers, military barracks and cruise ships). During fall 2008, three norovirus outbreaks occurring on college campuses in California, Michigan and Wisconsin were reported to CDC. Public health investigations led by the respective state and local health departments were conducted to characterize the extent of the outbreaks and implement appropriate control measures. This report summarizes the investigations of these outbreaks, which resulted in a total of approximately 1,000 cases of reported illness, including at least 10 hospitalizations, and prompted closure of one of the three campuses. Median duration of the three outbreaks was 19 days (range: 16—20 days), and the attack rates ranged from 1.5% to 12.9%. Because of the potential for widespread infection and rapid transmission on college campuses, efforts to prevent and control norovirus outbreaks in these settings should focus on promoting hand hygiene, environmental disinfection, and exclusion of ill food workers.

*October 23, 2009, Vol. 58/No. 41*

*Reduction in Rotavirus After Vaccine Introduction—United States, 2000—2009*

Worldwide, rotavirus is the leading cause of severe acute diarrhea in children aged  $< 5$  years. In the United States, before introduction of a live, oral pentavalent rotavirus vaccine (RV5) in 2006, rotavirus caused an estimated 20 to 60 deaths, 55,000 to 70,000 hospitalizations, 205,000 to 272,000 emergency department visits, and 410,000 outpatient visits annually. Before 2000, rotavirus had a predictable winter-spring seasonality and geographic pattern in the United States, with activity beginning in the West census region during December—January, extending across the country, and ending in the Northeast region during May—June. A similar but less pronounced trend was observed during 2000—06. To characterize trends and compare the 2007—08 and 2008—09 rotavirus seasons with the prevaccine period 2000—06, CDC analyzed data from the National Respiratory and Enteric Viruses Surveillance System (NREVSS). The results indicated that the 2007—08 and 2008—09 seasons were both shorter and later than the median during 2000—06. The 2008—09 season had 15% more positive rotavirus test results than the 2007—08 season, but the number of positive test results during each season was substantially lower than the median observed during 2000—06. Continued surveillance is needed to characterize the effect of routine childhood rotavirus vaccination on rotavirus disease in U.S. children.

*November 13, 2009, Vol. 58/No. 44*

*Effectiveness of 2008—09 Trivalent Influenza Vaccine Against 2009 Pandemic Influenza A (H1N1)—United States, May—June 2009*

Since first reports in April 2009, the 2009 pandemic influenza A (H1N1) virus has spread around the world. The pandemic virus is antigenically distinct from seasonal influenza A (H1N1) viruses targeted by seasonal influenza vaccines. Results from recent serologic studies have suggested that seasonal influenza vaccines are unlikely to provide substantial cross-protection against infection with the pandemic H1N1 virus. However, how serologic results correlate with the complex immune responses that confer clinical protection remains uncertain. To complement the serologic studies and evaluate the effectiveness of 2008—09 trivalent seasonal influenza vaccine against laboratory-confirmed pandemic influenza A (H1N1) illness, CDC used available data to conduct a case-cohort analysis. The analysis used surveillance reports from eight states of persons aged  $> 18$  years with confirmed pandemic H1N1 illness during May—June 2009. Influenza vaccination coverage estimates for these states during the 2008—09 influenza season (September 2008—February 2009) were estimated for the population cohort by using preliminary Behavioral Risk Factor Surveillance Survey (BRFSS) data. The overall vaccine effectiveness (VE) against pandemic virus illness after adjustment for age group and presence of chronic medical conditions that increase the risk for complications from influenza was -10% (95% confidence interval [CI] = -43%—15%). Current evidence from this study and other studies does not suggest that seasonal influenza vaccination either decreases or increases the risk for acquiring pandemic H1N1 illness. To prevent seasonal and



pandemic influenza, CDC recommends vaccination with seasonal and pandemic influenza vaccines.

November 20, 2009, Vol. 58/No. 45

*Mumps Outbreak—New York, New Jersey, Quebec, 2009*

Mumps is a vaccine-preventable viral infection characterized by fever and inflammation of the salivary glands and whose complications include orchitis, deafness and meningo-encephalitis. In August 2009, CDC was notified of the onset of an outbreak of mumps in a summer camp in Sullivan County, New York. The outbreak has spread and gradually increased in size and is now the largest United States mumps outbreak since 2006, when the United States experienced a resurgence of mumps with 6,584 reported cases. On August 18, public health departments in Sullivan County, New York State and CDC began an investigation into the mumps outbreak, later joined by departments in New York City and other locales. As of October 30, a total of 179 confirmed or probable cases had been identified from multiple locations in New York and New Jersey, and an additional 15 cases had been reported from Canada. The outbreak primarily has affected members of a tradition-observant religious community; median age of the patients is 14 years, and 83% are male. Three persons have been hospitalized. Although little transmission has occurred outside the Jewish community, mumps can spread rapidly in congregate settings such as colleges and schools; therefore, public health officials and clinicians should heighten surveillance for mumps and ensure that children and adults are appropriately vaccinated.

Mumps cases in the United States have been classified according to the 2008 case definition of the Council of State and Territorial Epidemiologists, and cases in Canada have been classified in accordance with Case Definitions for Diseases Under National Surveillance. Patients in the United States are considered to have age-appropriate vaccinations for mumps if they are aged 1–6 years and have received 1 dose of a mumps-containing vaccine, aged 7–18 years and have received 2 doses of vaccine, or aged 19–52 years and have received 1 dose of vaccine. Patients aged 7–18 years who have received 1 dose are considered to have received a partially age-appropriate vaccination.

December 11, 2009, Vol. 58/No. 48

*Safety of Influenza A (H1N1) 2009 Monovalent Vaccines—United States, October 1—November 24, 2009*

The Food and Drug Administration (FDA) licensed the first 2009 influenza A (H1N1) monovalent vaccines (“H1N1 vaccines”) on September 15, 2009. The H1N1 vaccines are available as a live, attenuated monovalent vaccine (LAMV) for intranasal administration and as monovalent, inactivated, split-virus or subunit vaccines for injection (MIV). The licensure and manufacturing processes for the monovalent H1N1 vaccines were the same as those used for seasonal trivalent inactivated (TIV) or trivalent live, attenuated influenza vaccine (LAIV); none of these vaccines contains an adjuvant. Vaccine safety monitoring is an important component of all vaccination programs. To assess the safety profile of H1N1 vaccines in the United States, CDC reviewed vaccine safety results for the H1N1 vaccines from 3,783 reports received through the United States Vaccine Adverse Event Reporting System (VAERS) and electronic data from 438,376 persons vaccinated in managed-care organizations in the Vaccine Safety Datalink (VSD), a large, population-based database with administrative and diagnostic data, in the first 2 months of reporting (as of November 24). VAERS data indicated 82 adverse event reports per 1 million H1N1 vaccine doses distributed, compared with 47 reports per 1 million seasonal influenza vaccine doses distributed. However, no substantial differences between H1N1 and seasonal influenza vaccines were noted in the proportion or types of serious adverse events reported. No increase in any adverse events under surveillance has been seen in VSD data. Many agencies are using multiple systems to monitor H1N1 vaccine safety. Health-care providers and the public are encouraged to report adverse health events that occur after vaccination.

The Department is also required to update information relating to immunizing agents and doses that the Department has extracted from ACIP recommendations issued under the standards in 31 Pa. Code § 89.806(a). See 31 Pa. Code § 89.807(b). The Department is also to periodically list the average wholesale price (AWP) for immunizing agents. *Id.* This information currently appears in 31 Pa. Code §§ 809.801–89.809, Appendix H (relating to immunizing agents and doses). The updated information is as follows:

#### 2010 List of Immunizing Agents and Average Wholesale Prices

Product Name, Company	Brand/Product Name	NDC Number	Unit	Dose	AWP/Dose*
<b>Diphtheria Tetanus acellular Pertussis Vaccine (DTaP):</b>					
sanofi pasteur	Tripedia	49281-0298-10	10 × 1	0.5 ml	\$27.22
sanofi pasteur	Daptacel	49281-0286-10	10 × 1	0.5 ml	\$28.06
GlaxoSmithKline	Infanrix	58160-0810-46	5 × 1	0.5 ml	\$23.02
GlaxoSmithKline	Infanrix	58160-0810-11	10 × 1	0.5 ml	\$24.70
<b>Tetanus Diphtheria acellular Pertussis Vaccine (Tdap):</b>					
sanofi pasteur	Adacel	49281-0400-10	10 × 1	0.5 ml	\$44.46
sanofi pasteur	Adacel	49281-0400-15	5 × 1	0.5 ml	\$44.46
GlaxoSmithKline	Boostrix	58160-0842-11	10 × 1	0.5 ml	\$44.61
GlaxoSmithKline	Boostrix	58160-0842-46	5 × 1	0.5 ml	\$44.61
<b>Diphtheria Tetanus pediatric Vaccine (DT pediatric):</b>					
sanofi pasteur	DT Pediatric	49281-0278-10	10 × 1	0.5 ml	\$36.23

<i>Product Name, Company</i>	<i>Brand/Product Name</i>	<i>NDC Number</i>	<i>Unit</i>	<i>Dose</i>	<i>AWP/Dose*</i>
<b>Diphtheria Tetanus acellular Pertussis/Haemophilus Influenzae B (DTaP-HIB):</b>					
sanofi pasteur	TriHIBit	49281-0597-05	5 × 1	0.5 ml	\$55.02
<b>Tetanus Diphtheria adult Vaccine (Td adult):</b>					
sanofi pasteur	Decavac	49281-0291-83	10 × 1	0.5 ml	\$23.09
sanofi pasteur	Decavac	49281-0291-10	10 × 1	0.5 ml	\$23.09
<b>Diphtheria, Tetanus, acellular Pertussis, Haemophilus Influenzae B, Polio (DTaP, HIB, IPV):</b>					
sanofi pasteur	Pentacel	49281-0510-05	5 × 1	0.5 ml	\$89.65
<b>Diphtheria, Tetanus, acellular Pertussis, Polio (DTap, IPV):</b>					
GlaxoSmithKline	Kinrix	58160-0812-46	5 × 1		\$57.00
GlaxoSmithKline	Kinrix	58160-0812-11	10 × 1		\$57.00
<b>Diphtheria, Tetanus, acellular Pertussis, Hepatitis B, Polio (DTaP, Hep B, IPV):</b>					
GlaxoSmithKline	Pediarix	58160-0811-11	10 × 1	0.5 ml	\$84.12
GlaxoSmithKline	Pediarix	58160-0811-46	5 × 1	0.5 ml	\$84.12
<b>Tetanus Toxoid:</b>					
sanofi pasteur	Tetanus toxoid	49281-0820-10	10 × 1	0.5 ml	\$32.30
MassBiologics (Akorn, Inc)	Tetanus toxoid				
<b>Haemophilus Influenzae Type B Vaccine (HIB):</b>					
sanofi pasteur	ActHIB	49281-0545-05	5 × 1	10 mcg	\$28.18
Merck & Co.	Pedvax HIB	00006-4897-00	10 × 1	7.5 mcg	\$27.32
GlaxoSmithKline	Hiberix	58160-0806-05	10 × 1	0.5 ml	\$8.66
<b>Injectable Polio Vaccine Inactivated (Salk Enhanced IPV):</b>					
sanofi pasteur	IPOL	49281-0860-55	10 × 1	0.5 ml	\$29.50
sanofi pasteur	IPOL	49281-0860-10	5.0 ml	0.5 ml	\$29.50
<b>Measles Mumps Rubella Vaccine (MMR):</b>					
Merck & Co.	MMR II	00006-4681-00	10 × 0.5	0.5 ml	\$55.40
<b>Measles Vaccine (Rubeola):</b>					
Merck & Co.	Attenuvax	0006-4589-00	10 × 0.5	0.5 ml	\$20.48
<b>Meningococcal Conjugate Vaccine (MCV4):</b>					
sanofi pasteur	Menactra	49281-0589-05	5 × 1	0.5 ml	\$123.94
sanofi pasteur	Menactra	49281-0589-15	5 × 1	0.5 ml	\$123.94
<b>Meningococcal Polysaccharide Vaccine:</b>					
sanofi pasteur	Menomune-A/C/Y/W-135	49281-0489-91	10 × 1	0.5 ml	\$123.94
sanofi pasteur	Menomune-A/C/Y/W-135	49281-0489-01	each	0.5 ml	\$126.34
<b>Mumps Vaccine:</b>					
Merck & Co.	Mumpsvax	00006-4584-00	10 × 0.5	0.5 ml	\$26.54
<b>Rubella Vaccine:</b>					
Merck & Co.	Meruvax II	00006-4673-00	10 × 0.5	0.5 ml	\$22.83
<b>Hepatitis A Vaccine (HEP-A):</b>					
Merck & Co.	VAQTA syringe	00006-4096-31	1.0 ml	1.0 ml	\$77.89
Merck & Co.	VAQTA syringe	00006-4096-06	6 × 1	1.0 ml	\$77.87
Merck & Co.	VAQTA	00006-4841-00	1.0 ml	1.0 ml	\$76.21
Merck & Co.	VAQTA	00006-4841-41	10 × 1	1.0 ml	\$71.99
Merck & Co.	VAQTA Pediatric	00006-4831-41	10 × 0.5	0.5 ml	\$36.44
GlaxoSmithKline	Havrix Pediatric	58160-0825-51	10 × 1	0.5 ml	\$34.34
GlaxoSmithKline	Havrix Pediatric	58160-0825-11	10 × 1	0.5 ml	\$34.34
GlaxoSmithKline	Havrix	58160-0826-46	5 × 1	1 ml	\$72.68
GlaxoSmithKline	Havrix	58160-0826-11	10 × 1	1 ml	\$72.68
GlaxoSmithKline					

<i>Product Name, Company</i>	<i>Brand/Product Name</i>	<i>NDC Number</i>	<i>Unit</i>	<i>Dose</i>	<i>AWP/Dose*</i>
<b>Varicella Virus Vaccine:</b>					
Merck & Co.	Varivax	00006-4826-00	each	1350 pfu	\$97.41
Merck & Co.	Varivax	00006-4827-00	10 × 1	1350 pfu	\$92.86
Merck & Co.	Zostavax	00006-4963-00	each	19400 pfu	\$193.80
Merck & Co.	Zostavax	00006-4963-41	10 × 1	19400 pfu	\$184.72
<b>Human Papilloma Virus Vaccine:</b>					
Merck & Co.	Gardasil	00006-4045-00	each	0.5 ml	\$150.51
Merck & Co.	Gardasil	00006-4045-41	10 × 1	0.5 ml	\$150.18
Merck & Co.	Gardasil syringe	00006-4109-06	6 × 1	0.5 ml	\$152.54
Merck & Co.	Gardasil syringe w/o needle	00006-4109-09	6 × 1	0.5 ml	\$152.54
<b>Rotavirus Vaccine:</b>					
Merck & Co.	Rotateq	00006-4047-41	10 × 1	2 ml	\$83.35
GlaxoSmithKline	Rotarix	58160-0805-11	10 × 1	1.0 ml	\$122.85
<b>Influenza Virus Vaccine:</b>					
Novartis	Fluvirin	66521-112-02	10 × 1	0.5 ml	\$18.24
Novartis	Fluvirin	66521-112-10	10 × 1	0.5 ml	\$14.81
Sanofi pasteur	Fluzone	49281-0008-10	10 × 1	0.5 ml	\$12.70
Sanofi pasteur	Fluzone	49281-0008-50	10 × 1	0.5 ml	\$12.70
Sanofi pasteur	Fluzone	49281-0382-15	10 × 1	0.5 ml	\$11.52
Sanofi pasteur	Fluzone Pediatric	49281-0008-25	10 × 1	0.25 ml	\$15.64
GlaxoSmithKline	Fluarix	58160-0873-46	5 × 1	0.5 ml	\$15.75
MedImmune	Flumist	66019-0107-01	10 × 1	0.2 ml	\$19.70
CSL Biotherapies	Afluria	33332-109-01	Multidose	0.5 ml	\$13.20
CSL Biotherapies	Afluria	33332-009-01	10 × 1	0.5 ml	\$17.40
<b>Hepatitis B Vaccine (HEP-B):</b>					
Merck & Co.	Recombivax HB Hepatitis B vaccine (Recombinant) Dialysis Formulation	00006-4992-00	each	1.0 ml	\$165.29
Merck & Co.	Recombivax HB Pediatric	00006-4981-00	10 × 0.5 ml	0.5 ml	\$27.85
Merck & Co.	Recombivax HB	00006-4995-00	1.0 ml	1.0 ml	\$71.64
Merck & Co.	Recombivax HB	00006-4995-41	10 × 1.0 ml	1.0 ml	\$70.81
Merck & Co.	Recombivax HB syringe	00006-4094-31	1.0 ml	1.0 ml	\$73.31
Merck & Co.	Recombivax HB syringe	00006-4094-06	6 × 1.0 ml	1.0 ml	\$73.31
Merck & Co.	Recombivax HB syringe w/o needle	00006-4094-09	6 × 1.0 ml	1.0 ml	\$73.31
GlaxoSmithKline	Engerix-B Pediatric	58160-0820-11	10 × 1	0.5 ml	\$25.49
GlaxoSmithKline	Engerix-B Pediatric	58160-0820-46	5 × 1	0.5 ml	\$25.49
GlaxoSmithKline	Engerix-B Pediatric	58160-0856-35	5 × 1	0.5 ml	\$25.49
GlaxoSmithKline	Engerix-B	58160-0821-46	5 × 1	1.0 ml	\$62.85
GlaxoSmithKline	Engerix-B syringe	58160-0821-11	10 × 1	1.0 ml	\$62.85
<b>Hepatitis B / HIB:</b>					
Merck & Co.	COMVAX	00006-4898-00	10 × 0.5 ml	0.5 ml	\$52.27
<b>Hepatitis A &amp; Hepatitis B Vaccine:</b>					
GlaxoSmithKline	Twinrix	58160-0815-11	10 × 1.0	1.0 ml	\$103.43
GlaxoSmithKline	Twinrix	58160-0815-46	5 × 1.0	1.0 ml	\$103.43



<i>Product Name, Company</i>	<i>Brand/Product Name</i>	<i>NDC Number</i>	<i>Unit</i>	<i>Dose</i>	<i>AWP/Dose*</i>
<b>Pneumococcal Vaccine:</b>					
Wyeth Pharmaceuticals	Prennar	00005-1970-50	10 × 1	0.5 ml	\$100.51
Merck & Co.	Pneumovax 23	00006-4739-00	2.5 ml	2.5 ml	\$197.93
Merck & Co.	Pneumovax 23	00006-4943-00	10 × 1	0.5 ml	\$44.43
<b>Measles, Mumps, Rubella, and Varicella Vaccine</b>					
Merck & Co.	ProQuad	00006-4999-00	10 × 0.5	0.5 ml	\$149.24

\* Indicates the Estimated Acquisition Cost (EAC) as stated in the Department of Public Welfare, Office of Medical Assistance Programs, Medical Assistance Regulations at 55 Pa. Code § 1121.55 (relating to method of payment).

Persons with disability who require an alternative format of this notice (for example, large print, audiotape, Braille), should contact the Department of Health, Division of Immunizations, Room 1026, Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120-0701 (717) 787-5681, or for speech and/or hearing impaired persons V/TT (717) 783-6514, or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,  
Secretary

[Pa.B. Doc. No. 10-239. Filed for public inspection February 5, 2010, 9:00 a.m.]

## DEPARTMENT OF PUBLIC WELFARE

### Nursing Facility Assessment Program for Fiscal Year 2009-2010

This notice announces the amount of the assessment that the Department of Public Welfare (Department) is implementing for Fiscal Year (FY) 2009-2010, provides an explanation of the assessment methodology that the Department is using in FY 2009-2010, and identifies the estimated aggregate impact on nursing facilities which will be subject to the assessment.

#### Background

In 2003, the Pennsylvania General Assembly amended the Public Welfare Code to authorize the Department to implement a monetary assessment on private nursing facilities in this Commonwealth over a 4-year period beginning July 1, 2003 and ending June 30, 2007 (Assessment Program). Act of September 30, 2003 (P. L. 169, No. 25) (Act 25), codified at, 62 P. S. §§ 801-A—815-A. Since the implementation of the Assessment Program, the Department used the Assessment Program revenue to maintain and augment payments to Pennsylvania's Medical Assistance (MA) nursing facility providers. Recognizing the substantial benefits realized through the Assessment Program, the General Assembly enacted Act 16 of 2007 to reauthorize the Assessment Program for an additional 5 years. Act of June 30, 2007 (P. L. 169, No. 16)(Act 16). In addition to reauthorizing the Assessment Program, Act 16 amended the Public Welfare Code to allow the Department to include county nursing facilities in the Assessment Program effective July 1, 2007. *Id.*, 62 P. S. § 802-A. For FY 2007-2008 and 2008-2009, the Department exercised its discretion to include the county nursing facilities in the Assessment Program.

As directed by Act 16, the Department submitted a request to the Centers for Medicare and Medicaid Services (CMS) on August 27, 2009, seeking a waiver of both the uniform and broad-based requirements. In this submission, the Department requested approval to modify the Assessment Program effective July 1, 2009, that will (i) increase the assessment rate from \$2.30 to \$3.55 per non-Medicare day for county nursing facilities and for

nonexempt facilities that either have 50 or fewer licensed beds or participate in a Continuing Care Retirement Community (CCRC) and (ii) increase the assessment rate from \$23.75 to \$25.00 per non-Medicare day for all other nonexempt nursing facilities. By letter dated November 5, 2009, CMS approved the Department's waiver request.

For each fiscal year that the Assessment Program is implemented, the Secretary of the Department (Secretary), in consultation with the Secretary of the Budget, must determine the aggregate amount of the assessment and the annual assessment rate. See section 804-A of Act 25 (62 P. S. § 804-A). The aggregate amount and rate of assessment must be approved by the Governor's Office. The Governor approved the aggregate amount and rate of assessment by letter to the Secretary dated December 9, 2009. The annual assessment rates must be sufficient to generate at least \$50 million in additional revenue, subject to the maximum aggregate assessment amount that qualifies for Federal matching funds. See section 804-A of Act 25.

Before implementing the Assessment Program in a fiscal year, the Secretary must publish a notice in the *Pennsylvania Bulletin* that specifies the amount of the assessment being proposed, provides an explanation of the assessment methodology and assessment amount and identifies the aggregate impact on nursing facilities subject to the assessment. See section 805-A. After consideration of any comments received during the 30-day comment period, the Secretary must publish a second notice announcing the rate of assessment for the fiscal year. *Id.*

The Secretary published a notice in the *Pennsylvania Bulletin* at 39 Pa.B. 4957 (August 15, 2009) announcing the proposed assessment rates, the aggregate amount and the impact for FY 2009-2010. No comments were received by the Department in response to the proposed rates notice.

#### Assessment Methodology and Rates for FY 2009-2010

The following nursing facilities will be exempt from the Assessment Program in FY 2009-2010:

1. State owned and operated nursing facilities.
2. Veterans Administration nursing facilities.

3. Nursing facilities that have not been licensed and operated by the current or previous owner for the full calendar quarter prior to the calendar quarter for which an assessment is collected.

4. Nursing facilities that provide nursing facility services free of charge to all residents.

The Department will assess nonexempt nursing facilities at two rates. One rate will apply to county nursing facilities, to facilities that have 50 or fewer licensed beds, and to nursing facilities that participate in a CCRC. The other rate will apply to all other nonexempt facilities. Each nonexempt facility's quarterly assessment amount will continue to be calculated by multiplying its assessment rate by the facility's non-Medicare resident days during the calendar quarter that immediately precedes the assessment quarter. This rate structure is the same structure that was used in previous years.

Although the Department will maintain the same basic rate structure for FY 2009-2010, the Department is increasing the assessment rates for nonexempt nursing facilities from FY 2008-2009. For FY 2009-2010, the assessment rates for nonexempt nursing facilities will be as follows:

(1) The assessment rate for county nursing facilities and for nonexempt facilities that either have 50 or fewer licensed beds or participate in a CCRC will be \$3.55 per non-Medicare resident day.

(2) The assessment rate for all other nonexempt nursing facilities will be \$25.00 per non-Medicare resident day.

For FY 2009-2010, the Department will consider a nursing facility to qualify for the CCRC assessment rate if the nursing facility satisfies the following criteria:

1. The nursing facility is owned or controlled by an entity that is certified as a CCRC by the Insurance Department (for purposes of this guideline, "control" means the power to direct or cause to direct the management and policies of the nursing facility, whether through equitable ownership of voting securities or otherwise).

2. The CCRC provides a continuum of care during the assessment period that includes residential living units that are either occupied or available for immediate occupancy.

3. The nursing facility is: (a) located on the same campus as the CCRC's residential living units; or (b) identified in the CCRC's Disclosure Statement and Resident Agreement under the Continuing-Care Provider Registration and Disclosure Act (40 P. S. §§ 3201—3225) and located no more than 30 miles from the campus on which the CCRC's residential living units are located.

Under these criteria, a nursing facility that is owned or controlled by a CCRC which is planning to construct residential living units in the future, or is constructing residential units, but which has no residential units occupied or available for immediate occupancy, would not qualify for the CCRC assessment rate. Additionally, the residential living units must be occupied or available for immediate occupancy for the entire assessment period for the nursing facility to qualify for the CCRC rate for that assessment period.

If a nonexempt nursing facility either satisfies the previously listed criteria after the commencement of the Assessment Program or does not satisfy the criteria but believes that it otherwise qualifies for the CCRC rate, then the nursing facility may submit a written request to

the Department that it be assessed at the CCRC rate. The written request should include supporting documentation demonstrating that the nursing facility participates within a licensed CCRC. The Department will not unilaterally classify nursing facilities for the CCRC rate without a written request.

All requests relating to CCRC designation should be submitted to the Department of Public Welfare, Office of Long-Term Living, P. O. Box 2675, Harrisburg, PA 17105, Attention: NH Assessment Unit.

Assessment payments are due the last day of the Assessment quarter or the 30th day from the date of publication of this final notice, whichever is later.

The Assessment Program due dates, along with supplemental payment dates, will be available on the Department's web site at: [www.dpw.state.pa.us/omap/provinf/ltc/nsgfacass.asp](http://www.dpw.state.pa.us/omap/provinf/ltc/nsgfacass.asp).

#### *Aggregate Assessment Amount and Fiscal Impact*

As a result of the implementation of the Assessment Program, the Department estimates that the annual aggregate assessment fees for nonexempt nursing facilities will total \$387.607 million. All of the revenue derived from the assessment fees and associated Federal matching funds will be used to make payments to qualified Medical Assistance nursing facility providers in accordance with applicable law and regulations.

#### *Public Comment*

Interested persons are invited to submit written comments regarding the contents of this notice to Judy Patrick, Department of Public Welfare, Office of Long-Term Living, P. O. Box 2675, Harrisburg, PA 17105. Comments received within 30 days will be reviewed and considered for any subsequent revision of the notice.

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

HARRIET DICHTER,  
*Acting Secretary*

**Fiscal Note:** 14-NOT-633. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 10-240. Filed for public inspection February 5, 2010, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Pennsylvania Sapphire 6s Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Sapphire 6s.

2. *Price:* The price of a Pennsylvania Sapphire 6s instant lottery game ticket is \$1.

3. *Play Symbols:* Each Pennsylvania Sapphire 6s instant lottery game ticket will contain one play area. The play symbols and their captions located in the play area

are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 6 symbol (SIX) and a Sapphire symbol (SAPPHIRE).

4. *Prize Symbols:* The prize symbols and their captions located in the play area are: FREE (TICKET), \$1<sup>00</sup> (ONE DOL), \$2<sup>00</sup> (TWO DOL), \$3<sup>00</sup> (THR DOL), \$5<sup>00</sup> (FIV DOL), \$6<sup>00</sup> (SIX DOL), \$10<sup>00</sup> (TEN DOL), \$12<sup>00</sup> (TWELV), \$30<sup>00</sup> (THIRTY), \$60<sup>00</sup> (SIXTY), \$100 (ONE HUN), \$300 (THR HUN), \$600 (SIX HUN) and \$6,000 (SIX THO).

5. *Prizes:* The prizes that can be won in this game are: Free \$1 Ticket, \$1, \$2, \$3, \$5, \$6, \$10, \$12, \$30, \$60, \$100, \$300, \$600 and \$6,000. The player can win up to 5 times on the ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 15,600,000 tickets will be printed for the Pennsylvania Sapphire 6s instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets with a play symbol of 6 (SIX), and a prize symbol of \$6,000 (SIX THO) appears in the "Prize" area under that 6 (SIX) play symbol, on a single ticket, shall be entitled to a prize of \$6,000.

(b) Holders of tickets with a play symbol of 6 (SIX), and a prize symbol of \$600 (SIX HUN) appears in the "Prize" area under that 6 (SIX) play symbol, on a single ticket, shall be entitled to a prize of \$600.

(c) Holders of tickets with a Sapphire (SAPPHIRE) play symbol, and a prize symbol of \$100 (ONE HUN) appears in the "Prize" area under that Sapphire (SAPPHIRE) play symbol, on a single ticket, shall be entitled to a prize of \$600.

(d) Holders of tickets with a play symbol of 6 (SIX), and a prize symbol of \$300 (THR HUN) appears in the "Prize" area under that 6 (SIX) play symbol, on a single ticket, shall be entitled to a prize of \$300.

(e) Holders of tickets with a play symbol of 6 (SIX), and a prize symbol of \$100 (ONE HUN) appears in the "Prize" area under that 6 (SIX) play symbol, on a single ticket, shall be entitled to a prize of \$100.

(f) Holders of tickets with a play symbol of 6 (SIX), and a prize symbol of \$60<sup>00</sup> (SIXTY) appears in the "Prize" area under that 6 (SIX) play symbol, on a single ticket, shall be entitled to a prize of \$60.

(g) Holders of tickets with a Sapphire (SAPPHIRE) play symbol, and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears in the "Prize" area under that Sapphire (SAPPHIRE) play symbol, on a single ticket, shall be entitled to a prize of \$60.

(h) Holders of tickets with a play symbol of 6 (SIX), and a prize symbol of \$30<sup>00</sup> (THIRTY) appears in the "Prize" area under that 6 (SIX) play symbol, on a single ticket, shall be entitled to a prize of \$30.

(i) Holders of tickets with a Sapphire (SAPPHIRE) play symbol, and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears in the "Prize" area under that Sapphire (SAPPHIRE) play symbol, on a single ticket, shall be entitled to a prize of \$30.

(j) Holders of tickets with a play symbol of 6 (SIX), and a prize symbol of \$12<sup>00</sup> (TWELV) appears in the "Prize" area under that 6 (SIX) play symbol, on a single ticket, shall be entitled to a prize of \$12.

(k) Holders of tickets with a Sapphire (SAPPHIRE) play symbol, and a prize symbol of \$2<sup>00</sup> (TWO DOL) appears in the "Prize" area under that Sapphire (SAPPHIRE) play symbol, on a single ticket, shall be entitled to a prize of \$12.

(l) Holders of tickets with a play symbol of 6 (SIX), and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears in the "Prize" area under that 6 (SIX) play symbol, on a single ticket, shall be entitled to a prize of \$10.

(m) Holders of tickets with a play symbol of 6 (SIX), and a prize symbol of \$6<sup>00</sup> (SIX DOL) appears in the "Prize" area under that 6 (SIX) play symbol, on a single ticket, shall be entitled to a prize of \$6.

(n) Holders of tickets with a Sapphire (SAPPHIRE) play symbol, and a prize symbol of \$1<sup>00</sup> (ONE DOL) appears in the "Prize" area under that Sapphire (SAPPHIRE) play symbol, on a single ticket, shall be entitled to a prize of \$6.

(o) Holders of tickets with a play symbol of 6 (SIX), and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears in the "Prize" area under that 6 (SIX) play symbol, on a single ticket, shall be entitled to a prize of \$5.

(p) Holders of tickets with a play symbol of 6 (SIX), and a prize symbol of \$3<sup>00</sup> (THR DOL) appears in the "Prize" area under that 6 (SIX) play symbol, on a single ticket, shall be entitled to a prize of \$3.

(q) Holders of tickets with a play symbol of 6 (SIX), and a prize symbol of \$2<sup>00</sup> (TWO DOL) appears in the "Prize" area under that 6 (SIX) play symbol, on a single ticket, shall be entitled to a prize of \$2.

(r) Holders of tickets with a play symbol of 6 (SIX), and a prize symbol of \$1<sup>00</sup> (ONE DOL) appears in the "Prize" area under that 6 (SIX) play symbol, on a single ticket, shall be entitled to a prize of \$1.

(s) Holders of tickets with a play symbol of 6 (SIX), and a prize symbol of FREE (TICKET) appears in the "Prize" area under that 6 (SIX) play symbol, on a single ticket, shall be entitled to a prize of one Pennsylvania Sapphire 6s instant game ticket or one Pennsylvania Lottery instant game ticket of equivalent sale price which is currently on sale.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

<i>Find A "6" Symbol In The Play Area To Win The Prize Under That Symbol. Win With Prizes Of:</i>		<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 15,600,000 Tickets</i>
	<i>Win</i>		
FREE	FREE \$1 TICKET	10	1,560,000
\$1	\$1	60	260,000
\$1 x 2	\$2	37.50	416,000
\$2	\$2	37.50	416,000
\$1 x 3	\$3	120	130,000
\$1 + \$2	\$3	150	104,000



Find A "6" Symbol In The Play Area  
To Win The Prize Under That Symbol.  
Win With Prizes Of:

	Win	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 15,600,000 Tickets
\$3	\$3	120	130,000
\$1 × 5	\$5	600	26,000
\$5	\$5	600	26,000
\$2 × 3	\$6	300	52,000
\$3 × 2	\$6	300	52,000
\$1 w/SAPPHIRE	\$6	200	78,000
\$6	\$6	300	52,000
(\$1 w/SAPPHIRE) + (\$1 × 4)	\$10	1,000	15,600
\$2 × 5	\$10	1,500	10,400
\$5 × 2	\$10	1,500	10,400
\$10	\$10	1,000	15,600
\$2 w/SAPPHIRE	\$12	1,000	15,600
\$3 × 4	\$12	1,500	10,400
\$6 × 2	\$12	1,500	10,400
\$12	\$12	1,000	15,600
\$5 w/SAPPHIRE	\$30	6,000	2,600
\$6 × 5	\$30	6,000	2,600
\$10 × 3	\$30	6,000	2,600
(\$12 × 2) + (\$2 × 3)	\$30	6,000	2,600
\$30	\$30	6,000	2,600
(\$5 w/SAPPHIRE) + (\$10 × 3)	\$60	12,000	1,300
\$10 w/SAPPHIRE	\$60	12,000	1,300
\$12 × 5	\$60	16,000	975
\$30 × 2	\$60	16,000	975
\$60	\$60	16,000	975
(\$10 w/SAPPHIRE) + (\$10 × 4)	\$100	16,000	975
(\$10 × 4) + \$60	\$100	16,000	975
(\$30 × 3) + (\$5 × 2)	\$100	16,000	975
\$100	\$100	16,000	975
\$60 × 5	\$300	30,000	520
\$100 × 3	\$300	30,000	520
\$300	\$300	30,000	520
\$100 w/SAPPHIRE	\$600	80,000	195
\$300 × 2	\$600	80,000	195
\$600	\$600	80,000	195
\$6,000	\$6,000	240,000	65

Reveal a "SAPPHIRE" (SAPPHIRE) symbol in the play area, win 6 times the prize under that symbol.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Sapphire 6s instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentive).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Sapphire 6s, prize money from winning Pennsylvania Sapphire 6s instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Sapphire 6s instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P.S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be

disseminated through media used to advertise or promote Pennsylvania Sapphire 6s or through normal communications methods.

C. DANIEL HASSELL,  
*Acting Secretary*

[Pa.B. Doc. No. 10-241. Filed for public inspection February 5, 2010, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Finding Westmoreland County

Under section 2002(b) of The Administrative Code of 1929 (71 P.S. § 575(b)), the Director of the Bureau of Design makes the following written finding:

The Department of Transportation is planning to replace the bridge carrying State Route 3071 over Little Sewickley Creek in Arona Borough, Westmoreland County.

Information describing the project, with the associated environmental analysis, is contained in the Environmental Document, section 2002 Evaluation that was prepared for this project. The project will require the acquisition of right-of-way from Arona Park, which is open for use by the public from dusk to dawn and qualifies as a section 2002 resource.

Based upon studies, there is no prudent and feasible alternative to the proposed action.

The environmental, economic, social and other effects of the proposed project as enumerated in section 2002 of The Administrative Code of 1929 have been considered. It has been concluded that there is no feasible and prudent alternative to the project as designed, and all reasonable steps have been taken to minimize such effects.

BRIAN G. THOMPSON, P. E.,  
*Director,*  
*Bureau of Design*

[Pa.B. Doc. No. 10-242. Filed for public inspection February 5, 2010, 9:00 a.m.]

**Meetings Scheduled**

The Motor Carrier Safety Advisory Committee (MCAC) will hold a meeting on Thursday, February 18, 2010, from 12:30 p.m. to 3 p.m. at the PA Turnpike Commission Building, Harrisburg, PA. For more information, contact Laurie Pierce at (717) 787-3620 or lapierce@state.pa.us.

The State Transportation Commission (STC) will hold a meeting on Thursday, February 25, 2010, from 10 a.m. to 12 p.m. in Conference Room A, B of the Department of Transportation Materials and Testing Laboratory, Harrisburg, PA. For more information, contact Nolan Ritchie, Executive Secretary of STC, (717) 787-2913 or nritchie@state.pa.us.

ALLEN D. BIEHLER, P. E.,  
*Secretary*

[Pa.B. Doc. No. 10-243. Filed for public inspection February 5, 2010, 9:00 a.m.]

**GOVERNOR'S OFFICE**

**Regulatory Agenda**

Executive Order 1996-1, requires all agencies under the jurisdiction of the Governor to submit for publication an agenda of regulations under development or consideration. The following is the 28th publication of the Administration's regulatory agenda, grouped by agency. Subsequent agendas will be published on the first Saturdays in February and July.

The agendas are compiled to provide members of the regulated community advanced notice of regulatory activity. It is the intention of the Administration that these agendas will serve to increase public participation in the regulatory process.

Agency contacts should be contacted for more information regarding the regulation and the procedure for submitting comments.

This Agenda represents the Administration's present intentions regarding future regulations. The nature and complexity of an individual regulation obviously will determine whether and when any particular regulation listed as follows (as well as any considered subsequent to publication of this Agenda) is published.

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<b>ADMINISTRATION</b>			
No regulations being developed or considered at this time.			
<b>AGING</b>			
Pa. Code Title VI Chapter 15 Protective Services for Older Adults	December 2010, as proposed.	The Older Adults Protective Services Act is under review in light of the decision of the PA Supreme Court in <i>Nixon et al. v. Commonwealth, et al.</i> , which found the current protective services law to be unconstitutional. Regulations are routinely being reviewed as numerous pieces of pending legislation are being considered.	Bob McNamara (717) 772-2541
<b>AGRICULTURE</b>			
Domestic Animal 7 Pa. Code Chapter 2, 3 and 16	July 2010, as proposed.	The long-term project is intended to update the Department's Regulatory authority to make it more consistent with the provisions of the Domestic Animal Law (3 Pa.C.S. §§ 2301—2389).	Craig E. Shultz, DVM Director (717) 772-2852
Cervidae 7 Pa. Code Chapter 18	July 2010, as proposed.	Act 190 of 2002 amended the Domestic Animal Law to require the Department to license and regulate Cervidae livestock operations. Act 51 of 2006 further amended the requirements for Cervidae livestock operations (3 Pa.C.S. §§ 2303—2380.9).	Craig E. Shultz, DVM Director (717) 772-2852

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Animal Exhibition Sanitation 7 Pa. Code Chapter 20a	July 2010, as proposed.	Act 211 of 2002 requires the Department to enforce sanitation requirements at animal exhibitions, and to regulate as necessary to meet this requirement (3 Pa.C.S. §§ 2501—2504).	Dr. Craig Shultz, DVM Director (717) 772-2852
Biofuels 70 Pa. Code Chapter 11	August 2010, as proposed.	This regulation will satisfy the requirements of Act 78 of 2008 (the Biofuel Development and In-State Production Incentive Act).	John Dillabaugh (717) 787-6772
Weights and Measures Regulations 70 Pa. Code Chapters 1—101	December 2011, as proposed.	This long-term project is intended to update the Department's regulations authorized by the Consolidated Weights and Measures Act.	John Dillabaugh (717) 787-6772
Harness Racing Commission 58 Pa. Code Chapters 181, 183, 185 and 186—190	May 2010, as proposed.	This regulation is necessary to update current regulations, make them more user-friendly and address conditions which exist in harness racing that did not exist when the current regulations were originally promulgated. This regulation is a long-term project and would amend 58 Pa. Code Chapters 181, 183, 185 and 186—190, including the general authority of the Commission and provisions relating to associations licensed to conduct pari-mutuel wagering, individual licensing, licensing of officials, rules of the conduct of races, veterinary practices, equine health and medication, wagering, due process and disciplinary action.	Michael Dillon (717) 705-3770
Horse Racing Commission 58 Pa. Code Chapters 161, 163, 165, 167, 169, 171 and 173	May 2010, as proposed.	This regulation is necessary to update current regulations, make them more user-friendly and address conditions which exist in thoroughbred horse racing that did not exist when the current regulations were originally promulgated. This regulation is a long-term project and would amend 58 Pa. Code Chapters 161, 163, 165, 167, 169, 171 and 173 including the general authority of the Commission and provisions relating to associations licensed to conduct pari-mutuel wagering, individual licensing, licensing of officials, rules of the conduct of races, veterinary practices, equine health and medication, wagering, due process and disciplinary action.	Michael Dillon (717) 705-3770
Pesticide Regulations 7 Pa. Code Chapter 128	July 2010, as final.	This regulation will amend 7 Pa. Code Chapter 128 and is necessary to update current regulations, to make them more user friendly, address pesticide security issues, set minimum certification age requirements, dealer licensing, and changes in federal pesticide registration changes. This regulation will also increase the pesticide product registration fee.	David Scott (717) 772-5214
Commercial Feed Rules and Regulations 7 Pa. Code Chapter 71	June 2010, as proposed.	This regulation will replace 7 Pa. Code Chapter 71 and implement provisions of 3 Pa.C.S.A. §§ 5101—5115 (Commercial Feed Act).	John Breitsman (717) 772-5215
Pet Food Rules and Regulations 7 Pa. Code Chapter 72	June 2010, as proposed.	This regulation will replace 7 Pa. Code Chapter 72 and implement provisions of 3 Pa.C.S.A. §§ 5101—5115 (Commercial Feed Act).	John Breitsman (717) 772-5215
Fertilizer Regulations 7 Pa. Code Chapter 73	October 2010, as proposed.	This regulation will replace 7 Pa. Code Chapter 73 and implement provisions of 3 Pa.C.S.A. §§ 6701—6725 (Fertilizer Act).	John Breitsman (717) 772-5215



<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Soil and Plant Amendment Regulations 7 Pa. Code Chapter 130a	October 2010, as proposed.	This regulation will replace 7 Pa. Code Chapter 130a and implement provisions of 3 Pa.C.S.A. §§ 6901—6921 (Soil and Plant Amendment Act).	John Breitsman (717) 772-5215
Clean and Green Regulations 7 Pa. Code Chapter 137b	July 2010, as proposed.	This regulation will address statutory changes made by Act 235 of 2004, and will otherwise update the current regulations.	Douglas Wolfgang (717) 783-3167
Agricultural Conservation Easement Purchase Program Regulations 7 Pa. Code Chapter 138e	December 2010, as proposed.	This regulation will address statutory changes made by Act 61 of 2005 and Act 46 of 2006, and will otherwise update the current regulations.	Douglas Wolfgang (717) 783-3167
PA Food Code 7 Pa. Code Chapter 46	February 2010, as proposed.	This regulation will amend 7 Pa. Code Chapter 46 and implement legislative changes that may occur during the promulgation process.	William Chirdon (717) 787-4315
Milk Sanitation 7 Pa. Code Chapter 59a	July 2010, as final.	This regulation will replace 7 Pa. Code Chapter 59 and implement the provisions of the Milk Sanitation Law.	William Chirdon (717) 787-4315
Canine Health Board Regulations 7 Pa. Code Chapter 28a	June 2010, as final.	This regulation sets standards for humidity, ammonia, and ventilation levels, as well as, lighting and flooring standards in commercial kennels.	Sue West (717) 787-3062
<b><i>BANKING</i></b>			
Annual Assessment Regulation	Late 2010.	Required pursuant to 17 Pa.C.S. § 503(a) and 71 P. S. § 733-204.A.	Robert C. Lopez Deputy Chief Counsel (717) 787-9573
Regulation governing the conduct of debt settlement services pursuant to the Debt Management Services Act.	Late 2010.	Required pursuant to 63 P. S. § 2403(b).	Robert C. Lopez Deputy Chief Counsel (717) 787-9573
Repeal of regulations at 10 Pa. Code Chapters 3 and 44.	Late 2010.	These regulations are no longer necessary in light of Section 503.E of the Department of Banking Code, 71 P. S. § 733-503.E and the repeal of Chapter 3 of the Mortgage Bankers and Brokers and Consumer Equity Protection Act.	Robert C. Lopez Deputy Chief Counsel (717) 787-9573
Regulation governing pleading procedures for Department administrative actions.	Late 2010.	Regulation to create simplified and clear filing and pleading procedures specific to Department administrative proceedings and the statutes under the Department's jurisdiction.	Robert C. Lopez Deputy Chief Counsel (717) 787-9573
Regulation governing continuing education under the Debt Management Services Act.	Early 2011.	Required pursuant to 63 P. S. § 2409.	Robert C. Lopez Deputy Chief Counsel
<b><i>BOARD OF PARDONS</i></b>			
No regulations being developed or considered at this date.			
<b><i>COMMUNITY &amp; ECONOMIC DEVELOPMENT</i></b>			
Film Production Tax Credit Program (Proposed Regulation)	Spring of 2010.	The purpose of the proposed regulation is to implement the provisions of the Tax Reform Code of 1971 relating to Film Production Tax Credits.	Matthew Speicher (717) 783-8452

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<b>COMMISSION ON CRIME AND DELINQUENCY</b>			
37 Pa. Code Chapter 431 Constables' Education and Training Board	February 2010, proposed.	The purpose of this regulation is to eliminate any waivers of the firearms portion of the basic training course, preclude any constable under the age of 21 from participating in the firearms portion of the basic training course and to require a constable who fails a first and second examination in the basic training course bear the financial responsibility for a second or third basic training.	John Pfau 265-8546
<b>CONSERVATION &amp; NATURAL RESOURCES</b>			
State Forests (Chapter 21)	Publish proposed rulemaking May 2010.	A number of provisions in this chapter need to be clarified and updated. The State Forest Picnic Area chapter (23) will be incorporated into this chapter to eliminate duplication and for ease of reference. Legal basis: Sections 302, 313, 502 of the Conservation & Natural Resources Act (71 P. S. §§ 1340.302, 1340.313 and 1340.502).	Matt Beaver, (717) 783-0379 Susan Wood, Esq. (717) 772-4171
State Forest Picnic Areas (Chapter 23)	Publish proposed rulemaking May 2010.	The provisions of this chapter will be incorporated into Chapter 21 (State Forests) for purposes of simplification and ease of reference. Legal basis: Sections 302, 313 and 502 of the Conservation & Natural Resources Act (71 P. S. §§ 1340.302, 1340.313 and 1340.502).	Matt Beaver, (717) 783-0379 Susan Wood, Esq. (717) 772-4171
Conservation of Pennsylvania Native Wild Plants (Chapter 45)	Publish proposed rulemaking May 2010.	Major purpose of rulemaking is to establish a more workable procedure for updating the classifications of native wild plants by removing the classifications from the regulatory process. The classifications would be established by publication in the <i>Pennsylvania Bulletin</i> . Legal basis: Section 7 of the Wild Resource Conservation Act (32 P. S. § 5307); and Section 313 of the Conservation and Natural Resources Act (71 P. S. § 1340.313).	Chris Firestone (570) 724-8149 Susan Wood, Esq. (717) 772-4171
<b>CORRECTIONS</b>			
Revisions to 37 Pa. Code Chapter 94	March, 2010, as Final—proposed omitted.	The regulation will eliminate the requirement that an offender serve 9 months in a state correctional institution before placement in a community corrections center.	Randall N. Sears (717) 731-0444
Revisions to 37 Pa. Code Chapter 93	July 2010, as proposed.	The Motivational Boot Camp regulations are being revised to eliminate unnecessary staffing provisions.	Timothy Holmes (717) 731-0444
Amendments to 37 Pa. Code § 94.4	July, 2010, as proposed.	The amendment will restrict the ability of individuals to purchase items from outside the institution for inmates.	Theron Perez (717) 731-0444
<b>EDUCATION</b>			
Standards for Approved Private Schools 22 Pa. Code Chapter 171 Subchapter C	Spring 2011, as final.	These standards define the elements of Approved Private Schools and the Chartered Schools (schools for the deaf and blind). These standards contain general provisions and allowable expenses and costs. The standards are promulgated under the Authority of the Public School Code of 1949, as amended, P. L. 30, No. 14, March 16, 1949, P. S. Section 1-101, et. Seq.	John Tommasini (717) 783-6134
Academic Standards and Assessment, 22 Pa. Code Chapter 4	Winter 2010, as final.	These regulations outline state academic standards that public schools must provide instruction to bring students up to proficiency and also provides for the Pennsylvania System of School Assessment, high school graduation requirements and requirements for credentials other than the high school diploma.	Adam Schott (717) 787-3787 or Diane Castelbuono (717) 787-2127

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Regulations of the State Board of Private Academic Schools 22 Pa. Code Chapters 51, 53, 55, 57, 61 and 63	Spring 2010, as proposed.	These regulations define the requirements for obtaining licensure as a Private Academic School. The Board plans to update the regulations, which were promulgated in 1988. The regulations are promulgated under the Authority of the Private Academic Schools Act (24 P. S. section 6701 et. Seq.)	Linda Rhen (717) 705-5014 or Parker Martin (717) 783-9280
Regulations for Pennsylvania Pre-K Counts, Section 1511D, of Act 45, Amending the School Code	Spring 2010, as Final-Omitted Regulations.	These regulations implement the guidelines, standards and procedures relevant to the Pennsylvania Pre-K Counts program providing early childhood educational opportunities to 3 and 4 year-olds by local educational agencies, child care centers and group child care homes, Head Start grantees and licensed nursery schools as final-omitted regulations.	Todd Klunk (717) 346-9320 or Linda Brown Warren (717) 346-4036
Higher Education—College and University Security. 22 Pa. Code Chapter 33	July 2010, as proposed.	This chapter governs the responsibility of institutions of higher education to comply with the College and University Security Information Act. The chapter applies to independent institutions of higher education, community colleges, member institutions of the State System and State-related institutions.	Adam Schott or Deborah Wynn (717) 787-3787
Academic Standards and Assessment, 22 Pa. Code Chapter 4	March 2010, as proposed.	Chapter 4 sets forth requirements for instruction, graduation, strategic planning and assessment based on state academic standards for twelve subject areas. The standards for reading, writing, speaking and listening and mathematics were issued in January 1999. The standards for science and technology and environment and ecology were issued in January 2002. The standards for economics, geography, history, arts, humanities, health, safety and physical education were issued in January 2003. The standards for career education and work were issued in July 2006. The Board, in accordance with Section 4.12(i) seeks to review the standards for the purpose of clarifying, consolidating and aligning the standards with the common core standards.	Adam Schott or Deborah Wynn (717) 787-3787
Students and Student Services, 22 Pa. Code Chapter 12	July 2010, as proposed.	These regulations require schools to offer certain categories of programs when planning student services, banned corporal punishment, and clarified requirement for students and parents when students are excluded from school. The Board seeks to amend this regulation to add requirements for student nutrition, physical fitness, and safety.	Adam Schott or Deborah Wynn (717) 787-3787
<b><i>EMERGENCY MANAGEMENT AGENCY</i></b>			
No regulations being developed or considered at this time.			
<b><i>ENVIRONMENTAL HEARING BOARD</i></b>			
25 Pa. Code Chapter 1021 Practice and Procedure	The Environmental Hearing Board published final rulemaking on October 17, 2009.	The final rulemaking added new rules on the following topics: 1) default judgment; 2) prepayment of penalties; and 3) expedited litigation. The rulemaking also revised existing rules, including summary judgment, discovery, participation in litigation by parties of interest, and filings and service. The Board is engaged in a pilot project before adopting a new rule on electronic discovery.	Maryanne Wesdock (412) 565-5245



<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<b>ENVIRONMENTAL PROTECTION</b>			
Noncoal Program Noncoal Surface Mining Conservation and Reclamation Act 25 Pa. Code Chapter 77	FY 09-10.	Revisions to Chapter 77 (Noncoal Mining) that govern the licensing of mine operators and permitting of mines for minerals other than coal. Specific areas for revision include clarification of permit application requirements including hydrologic data requirements and updates to permit application fees to support program activities.	Bill Allen (717) 783-9580 wallen@state.pa.us
Remining Financial Guarantees and Federal OSM Consistency Rule Surface Mining Conservation and Reclamation Act 25 Pa. Code Chapters 86, 87 and 88	FY 09-10.	Revisions to Chapter 86—88 to include remining financial guarantees proposal, and revisions to address program conditions that are currently inconsistent with federal OSM rules, including self-bonding, decisions on incidental coal extraction, coal exploration on areas unsuitable for mining, impoundment design criteria, and disposal of noncoal waste and NPDES permit-by-rule for abandoned mine discharges.	Bill Allen (717) 783-9580 wallen@state.pa.us
Water Supply Replacement Surface Mining Conservation & Reclamation Act 25 Pa. Code Chapters 87 and 88	FY 09-10.	Revisions to Chapters 87 and 88, which will clarify what is necessary to meet the coal mine operator's obligation to permanently pay the operation and maintenance costs for replacement water supplies.	Keith Brady (717) 787-4814 kbrady@state.pa.us
Mining Fees Surface Mining Conservation and Reclamation Act, 25 Pa. Code Chapters 77, 86, 210 and 211	FY 09-10.	Increase permit application fees to support program activities.	Bill Allen (717) 783-9580 wallen@state.pa.us
Areas Unsuitable for Surface Mining Surface Mining Conservation and Reclamation Act, 25 Pa. Code Chapter 86	FY 09-10.	Amendments to 25 Pa. Code § 86.130 to add subsection (b)(18) to designate the Lower Kittanning, Clarion, Brookville and Mercer coals within the upper portion of the Muddy Run watershed, Reade Township, Cambria County, as unsuitable for surface mining operations. The regulation is the result of a comprehensive technical evaluation conducted in response to a petition submitted to the EQB by the Reade Township Municipal Authority, which requested that an area within the Muddy Run drainage be designated as unsuitable for surface mining operations.	Geoff Lincoln (717) 783-9582 glincoln@state.pa.us
Oil & Gas Well Program Oil and Gas Act 25 Pa. Code Chapter 78	FY 09-10.	Revisions to Chapter 78 (Oil and Gas Wells) that governs the drilling, operation and plugging of oil and gas wells. Includes plugging procedures to attain a more effective seal and alternate requirements for casing and cementing.	Ron Gilius (717) 772-2199 rgilius@state.pa.us
Oil & Gas Well Program Oil and Gas Act 25 Pa. Code Chapter 78	FY 09-10.	Revisions to Chapter 78 (Oil and Gas Wells) that governs the drilling, operation and plugging of oil and gas wells. Includes changes to the quantity and quality for replacement water supplies as well as their adequate operation and maintenance; alternate requirements for drilling through mineable coal seams and the recovery of coal bed methane prior to mining.	Ron Gilius (717) 772-2199 rgilius@state.pa.us
Oil & Gas Well Program Oil and Gas Act 25 Pa. Code Chapter 78	FY 09-10.	This rulemaking will include changes to bond amounts.	Ron Gilius (717) 772-2199 rgilius@state.pa.us

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Underground Coal Mine Safety Bituminous Coal Mine Safety Act 25 Pa. Code Chapter 208	FY 09-10.	The rulemaking adopts by reference the MSHA regulations with a few minor edits. The regulation addresses belt flammability standards and maintenance requirements, seal design, construction and maintenance requirements, emergency response requirements, self-contained rescue devices and refuge chambers communication.	Joseph Sbaffoni (724) 439-7469 jsbaffoni@state.pa.us
National Pollution Discharge Elimination System Permitting, Monitoring and Compliance—NPDES Clean Water Act Clean Streams Law 25 Pa. Code Chapter 92	FY 09-10.	Comprehensive reorganization and revision to replace Chapter 92 with Chapter 92a, organized similarly to 40 CFR 122. Major revisions include provisions for a new fee structure and permit-by-rule for Single Residence STPs.	Tom Starosta (717) 787-4317 tstarosta@state.pa.us
Erosion and Sediment Control and Stormwater Management Clean Streams Law 25 Pa. Code Chapter 102	FY 09-10.	Several major modifications/revisions include: addition of provisions from Chapter 92 that relate to NPDES permitting requirements for discharges associated with construction activity; incorporate post construction stormwater management; incorporate buffer provisions; and revise permit requirements by adding a Permit-by-Rule option.	Ken Murin (717) 772-5975 kmurin@state.pa.us
Wastewater Treatment Requirements Clean Streams Law 25 Pa. Code Chapter 95	FY 09-10.	Add section with treatment requirements for TDS, chlorides and sulfates.	Kevin McLeary (717) 783-1820 kmcleary@state.pa.us
Water Quality Standards for Chloride Clean Streams Law 25 Pa. Code Chapter 93	FY 09-10.	This rulemaking will add Statewide water quality criterion in Chapter 93 for chloride, a substance that is documented to have toxic effects on aquatic life at certain concentrations.	Tom Barron (717) 787-9637 tbarron@state.pa.us
Operator Certification Program Water and Wastewater Systems Operators' Certification Act 25 Pa. Code Chapter 302	FY 09-10.	These regulations formalize requirements for certification of drinking water and wastewater system operators.	Veronica Kasi (717) 772-4053 vbkasi@state.pa.us
Water Quality Standards Implementation Clean Streams Law 25 Pa. Code Chapter 96	FY 09-10.	Adds provisions for nutrient and sediment credit trading in Pennsylvania.	Ann Smith (717) 787-4726 annsmith@state.pa.us
Lead and Copper Short Term Revisions Safe Drinking Water Act 25 Pa. Code Chapter 109	FY 09-10.	Amendments to incorporate the Federal lead and copper short term revisions into Chapter 109. This Rule will strengthen the implementation of the LCR in the following areas: monitoring, treatment processes, public education, customer awareness, and lead service line replacement.	Lisa Daniels (717) 772-2189 ldaniels@state.pa.us
Drinking Water Fees Safe Drinking Water Act 25 Pa. Code Chapter 109	FY 09-10.	Amendments to update drinking water program fees.	Kevin McLeary (717) 783-1820 kmcleary@state.pa.us

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Dam Safety and Waterways Management Dam Safety and Encroachments Act and Clean Streams Law 25 Pa. Code Chapter 105	FY 09-10.	This rulemaking package will amend existing regulations at 25 Pa. Code Chapter 105 to address concerns raised by the Auditor General.	Dennis Dickey (717) 772-5951 dedickey@state.pa.us
Dam Safety and Waterways Management Dam Safety and Encroachments Act and Clean Streams Law 25 Pa. Code Chapter 105	FY 09-10.	Several major modifications/revisions include: changes to permit requirements; permit application requirements; environmental assessment, and wetland replacement criteria.	Sidney Freyermuth (717) 772-5977 sfreyermuth@state.pa.us
Water Quality Standards for Molybdenum Clean Streams Law 25 Pa. Code Chapter 93, Water Quality Standards	FY 09-10.	This rulemaking will add Statewide water quality criterion in Chapter 93 for molybdenum, a substance that is documented to have toxic effects on human, animal and plant life at certain levels or concentrations.	Tom Barron (717) 787-9637 tbarron@state.pa.us
Clarks Creek, et al. Stream Redesignations Package Clean Streams Law 25 Pa. Code Chapter 93	FY 09-10.	This proposal identifies the six following streams that should be redesignated to provide the correct aquatic life use designation in the water quality standards: UNT Lackawanna River "Clarks Creek" (Wayne County), Pine Creek (Schuylkill County), UNT Conestoga River (Lancaster County), Hammer Creek, (Lebanon and Lancaster Counties), UNT Schuylkill River "Spring Mill Run" (Montgomery County), and Cacoosing River (Berks County).	Rodney McAllister (717) 787-9637 romcallist@state.pa.us
Fishing Creek, et al. Stream Redesignations Package Clean Streams Law 25 Pa. Code Chapter 93	FY 09-10.	This rulemaking identifies seven stream segments that should be redesignated to provide the correct aquatic life use designation in the water quality standards.	Rodney McAllister (717) 787-9637 romcallist@state.pa.us
Control of Nitrogen Oxide (NOx) Emissions from Glass Furnaces Air Pollution Control Act, 25 Pa. Code Chapters 121 and 129	FY 09-10.	The final-form rulemaking would establish nitrogen oxide (NOx) emission control requirements, emission standards and emission limitations for glass melting furnaces and related administrative requirements for glass melting furnaces. Adoption of NOx emission limits for glass melting furnaces is part of the Commonwealth's strategy, in concert with other jurisdictions in the Ozone Transport Region, to reduce transport of ozone to achieve and maintain the health-based 8-hour ozone National Ambient Air Quality Standard. In addition, the strategy will also provide NOx emission reductions necessary to reduce the formation of fine particulates and regional haze.	Jane Mahinske (717) 783-8949 jmahinske@state.pa.us

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Control of Nitrogen Oxide (NO <sub>x</sub> ) Emissions from Cement Kilns Air Pollution Control Act 25 Pa. Code Chapters 121, 129 and 145	FY 09-10.	The final-form rulemaking would revise existing NO <sub>x</sub> emission limits for cement kilns by establishing allowable NO <sub>x</sub> emission limits for certain types of cement kilns. The rulemaking amendments to Chapter 129 have been deleted and in the final-form rulemaking are incorporated into Chapter 145, Subchapter C to amend the existing cement kilns regulation. The final-form rulemaking includes several compliance demonstration options including compliance on a kiln-by-kiln, facility-wide or system-wide basis among Portland cement kilns under the common control of the same owner or operator in this Commonwealth. Adoption of NO <sub>x</sub> emission limits for cement kilns is part of the Commonwealth's strategy, in concert with other jurisdictions in the Ozone Transport Region (OTR), to reduce the transport of ozone to achieve and maintain the health-based 8-hour ozone National Ambient Air Quality Standard (NAAQS). The Department will also make progress in achieving and maintaining the fine particulates NAAQS.	Jane Mahinske (717) 783-8949 jmahinske@state.pa.us
Adhesives and Sealants Air Pollution Control Act 25 Pa. Code Chapters 129 and 130	FY 09-10.	The final-form rulemaking would adopt volatile organic compound content limits for 37 categories of adhesives, adhesive primers, sealants, sealant primers, and adhesives applied to certain substrates. The proposed rulemaking would also add requirements for the control of emissions from the use or application of adhesives, sealants and primers by the owners or operators of stationary sources. This proposed rulemaking would be consistent with regulatory initiatives recommended by the Ozone Transport Commission to address regional transport of ozone precursor emissions.	Randy Bordner (717) 772-3921 ranbordner@state.pa.us
Air Quality Plan Approval and Operating Permit Fees Air Pollution Control Act 25 Pa. Code Chapters 127 and 139	FY 09-10.	The proposed rulemaking will amend existing requirements and fees codified in 25 Pa. Code Chapter 127, Subchapter I (relating to plan approval and operating permit fees), and add new categories of fees to Chapter 127, Subchapter I, to address modifications of existing plan approvals and requests for determination of whether a plan approval is required. The proposed rulemaking also adds a new section to address fees for risk assessment applications. The proposed rulemaking will amend the existing emission fee paid by the owner or operator of a Title V facility. The proposed rulemaking will also add Subchapter D (relating to testing, auditing and monitoring fees) to Chapter 139 to add new categories of fees and to establish a fee schedule to address Department-performed source testing and auditing and monitoring activities for continuous emission monitoring systems (CEMS).	Dean Van Orden (717) 783-9264 dvanorden@state.pa.us



<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Nonattainment New Source Review Particulate Matter 2.5 (NNSR PM2.5) Air Pollution Control Act 25 Pa. Code Chapters 121 and 127	FY 09-10.	The proposed rulemaking would amend the existing nonattainment new source review (NSR) requirements in 25 Pa. Code Chapter 127, Subchapter E (relating to new source review), §§ 127.201—127.218, to incorporate recently promulgated Federal requirements for particulate matter equal to and less than 2.5 micrometers in diameter (PM2.5) and PM2.5 precursors. The proposed amendments would limit the emissions of PM2.5 and PM2.5 precursors for new major sources or major sources being modified in certain counties and portions of counties of this Commonwealth that are designated as nonattainment for the PM2.5 National Ambient Air Quality Standard. The Federal regulation requires a state with PM2.5 nonattainment areas to submit revised nonattainment NSR PM2.5 requirements to the U.S. Environmental Protection Agency (EPA) for State Implementation Plan (SIP) approval within three years of publication of the final rule. Therefore, the Commonwealth needs to amend its NSR regulations and submit a SIP revision to the EPA by May 16, 2011.	Virendra Trivedi (717) 772-3979 vtrivedi@state.pa.us
Large Appliance and Metal Furniture Coating Processes (LA/MF CTG) Air Pollution Control Act 25 Pa. Code Chapter 129	FY 09-10.	The proposed rulemaking would amend the existing surface coating regulations under 25 Pa. Code Chapter 129 to further reduce the emissions of volatile organic compounds (VOCs) from large appliance and metal furniture coating processes to meet the Clean Air Act “reasonably available control measures” requirement for ozone nonattainment areas. The proposal would add 25 Pa. Code § 129.52a (relating to large appliance and metal furniture coating processes) to adopt emission limits and work practice standards for large appliance and metal furniture surface coating operations.  The proposed rulemaking would also amend 25 Pa. Code § 129.52, which limits VOC emissions from surface coating processes, to terminate applicability of 25 Pa. Code § 129.52 to large appliance and metal furniture surface coating operations, including the current VOC content limits for large appliance and metal furniture coatings listed in Table 1, as of the date of applicability of the requirements of the proposed 25 Pa. Code § 129.52a.	Susan Hoyle (717) 772-2329 shoyle@state.pa.us
Paper, Film and Foil Coating Processes (PFF CTG) Air Pollution Control Act 25 Pa. Code Chapter 129	FY 09-10.	The proposed rulemaking would amend the existing surface coating regulations to further reduce the emissions of volatile organic compounds (VOCs) from paper, film and foil coating processes to meet the Clean Air Act “reasonably available control measures” requirement for ozone nonattainment areas. The proposal would add 25 Pa. Code § 129.52b (relating to paper, film and foil coating processes) to adopt emission limits and work practice standards for paper, film and foil surface coating operations. The proposed rulemaking would also amend 25 Pa. Code § 129.52, which limits VOC emissions from surface coating processes, to terminate applicability of 25 Pa. Code § 129.52 to paper, film and foil surface coating operations, including the current VOC content limits for paper coatings listed in Table 1, as of the date of applicability of the requirements of the proposed 25 Pa. Code § 129.52b.	Susan Hoyle (717) 772-2329 shoyle@state.pa.us

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Flat Wood Paneling Coating Processes (FWP CTG) Air Pollution Control Act 25 Pa. Code Chapter 129	FY 09-10.	The proposed rulemaking would amend 25 Pa. Code § 121.1 (relating to definitions) and Chapter 129 (relating to standards for sources) to add requirements to reduce the emissions of volatile organic compounds (VOCs) from flat wood paneling coating processes to meet the Clean Air Act “reasonably available control measures” requirement for ozone nonattainment areas. The proposal would add 25 Pa. Code § 129.52c (relating to control of VOC emissions from flat wood paneling coating processes) to adopt emission limits and work practice standards for flat wood paneling coating operations.	Susan Hoyle (717) 772-2329 shoyle@state.pa.us
Outdoor Wood-fired Boilers (OWB) Air Pollution Control Act 25 Pa. Code Chapter 123	FY 09-10.	The proposed rulemaking would add 25 Pa. Code § 123.14 (relating to outdoor wood-fired boilers) to 25 Pa. Code Chapter 123 (relating to standards for contaminants). The proposed rulemaking would also add new and revise certain existing definitions in 25 Pa. Code § 121.1 (relating to definitions). The proposed rulemaking would set emission standards for outdoor wood-fired boilers (OWBs) sold, distributed or newly installed in the Commonwealth of Pennsylvania. This proposed rulemaking would limit emissions of particulate matter (PM), largely including emissions of fine particulates equal to and less than 2.5 micrometers in diameter (PM <sub>2.5</sub> ). The proposed rulemaking would establish setback requirements for newly installed OWBs and establish fuel and stack height requirements, and seasonal prohibitions, for all OWBs operated in this Commonwealth whether existing or newly-installed.	Jane Greber (717) 772-2328 jgreber@state.pa.us
HEDD—High Electric Demand Days Air Pollution Control Act 25 Pa. Code Chapter 145, Subchapter E	FY 09-10.	The proposed rulemaking would limit emissions of nitrogen oxides (NO <sub>x</sub> ) from electric generating units (EGUs) and emergency generator sets used during nonemergency periods that operate less than 1,200 hours per Ozone Season and generate electricity during periods of peak electric demand, including high electric demand days (HEDD). This class of units produces aggregate HEDD emissions of NO <sub>x</sub> on peak electric demand days that are great enough to reduce or eliminate the environmental benefit of NO <sub>x</sub> emission reductions achieved on peak electric demand days by the larger EGUs currently regulated under the Commonwealth’s Clean Air Interstate Rule (CAIR) and previously under the NO <sub>x</sub> Budget Trading Program.	Susan Hoyle (717) 772-2329 shoyle@state.pa.us
Sulfur Limits in Commercial Fuel Oil Air Pollution Control Act 25 Pa. Code Chapters 121 and 123	FY 09-10.	The proposed rulemaking would amend 25 Pa. Code § 123.22 (relating to combustion units) to revise downward the maximum allowed percent sulfur content in commercial fuel oil sold for and used in combustion units in this Commonwealth, to further limit the emissions of sulfur dioxide (SO <sub>2</sub> ) from these sources. Amendments to 25 Pa. Code § 121.1 (relating to definitions) may also be necessary to support the proposed amendments to § 123.22. Emissions of sulfur dioxide (SO <sub>2</sub> ) contribute to the formation of regional haze, which degrades visibility in many American cities and scenic areas. Regional haze is visibility impairment caused by cumulative air pollutant emissions from numerous sources over a wide geographic area. The proposed rulemaking would be consistent with the Statement of the Mid-Atlantic/Northeast Visibility Union (MANE-VU) Regional Planning Organization (RPO).	Susan Hoyle (717) 772-2329 shoyle@state.pa.us

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Lithographic and Letterpress Printing Processes Air Pollution Control Act 25 Pa. Code Chapter 129	FY 09-10.	The proposed rulemaking would amend 25 Pa. Code Chapter 129 (relating to standards for sources) to add requirements to reduce the emissions of volatile organic compounds (VOCs) from lithographic and letterpress printing processes to meet the Clean Air Act "reasonably available control measures" requirement for ozone nonattainment areas. The proposal would add 25 Pa. Code § 129.67a (relating to control of VOC emissions from lithographic and letterpress printing processes) to adopt emission limits and work practice standards for lithographic and letterpress printing operations.	Susan Hoyle (717) 772-2329 shoyle@state.pa.us
Flexible Package Printing Processes Air Pollution Control Act 25 Pa. Code Chapter 129	FY 09-10.	The proposed rulemaking would amend 25 Pa. Code Chapter 129 (relating to standards for sources) to add requirements, including emission limits and work practice standards, to reduce the emissions of volatile organic compounds (VOCs) from fiberglass boat manufacturing processes to meet the Clean Air Act "reasonably available control measures" requirement for ozone nonattainment areas.	Susan Hoyle (717) 772-2329 shoyle@state.pa.us
Industrial Cleaning Solvents Air Pollution Control Act 25 Pa. Code Chapter 129	FY 09-10.	The proposed rulemaking would amend 25 Pa. Code Chapter 129 (relating to standards for sources) to add requirements to reduce the emissions of volatile organic compounds (VOCs) from industrial cleaning solvents to meet the Clean Air Act "reasonably available control measures" requirement for ozone nonattainment areas. The proposal would add 25 Pa. Code § 129.79 (relating to control of VOC emissions from industrial cleaning solvents) to adopt emission limits and work practice standards for industrial cleaning solvents used in a variety of cleaning operations to remove contaminants like adhesives, inks, paint, dirt, soil, oil and grease from parts, products, tools, machinery, equipment, vessels, floors, walls and other work production related work areas for a variety of reasons including safety, operability and to avoid product contamination.	Susan Hoyle (717) 772-2329 shoyle@state.pa.us
Miscellaneous Metal and Plastic Parts Coatings Air Pollution Control Act 25 Pa. Code Chapter 129	FY 09-10.	The proposed rulemaking would amend 25 Pa. Code Chapter 129 (relating to standards for sources) to add requirements, including emission limits and work practice standards, to reduce the emissions of volatile organic compounds (VOCs) from miscellaneous metal and plastic parts surface coating processes to meet the Clean Air Act "reasonably available control measures" requirement for ozone nonattainment areas.	Susan Hoyle (717) 772-2329 shoyle@state.pa.us
Auto and Light-Duty Truck Assembly Coatings Air Pollution Control Act 25 Pa. Code Chapter 129	FY 09-10.	The proposed rulemaking would amend 25 Pa. Code Chapter 129 (relating to standards for sources) to add requirements, including emission limits and work practice standards, to reduce the emissions of volatile organic compounds (VOCs) from auto and light-duty truck assembly surface coating processes to meet the Clean Air Act "reasonably available control measures" requirement for ozone nonattainment areas.	Susan Hoyle (717) 772-2329 shoyle@state.pa.us
Fiberglass Boat Manufacturing Air Pollution Control Act 25 Pa. Code Chapter 129	FY 09-10.	The proposed rulemaking would amend 25 Pa. Code Chapter 129 (relating to standards for sources) to add requirements, including emission limits and work practice standards, to reduce the emissions of volatile organic compounds (VOCs) from fiberglass boat manufacturing processes to meet the Clean Air Act "reasonably available control measures" requirement for ozone nonattainment areas.	Susan Hoyle (717) 772-2329 shoyle@state.pa.us

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Miscellaneous Industrial Adhesives Air Pollution Control Act 25 Pa. Code Chapter 129	FY 09-10.	The proposed rulemaking would amend 25 Pa. Code Chapter 129 (relating to standards for sources) to add requirements, including emission limits and work practice standards, to reduce the emissions of volatile organic compounds (VOCs) from the use and application of miscellaneous industrial adhesives to meet the Clean Air Act “reasonably available control measures” requirement for ozone nonattainment areas.	Susan Hoyle (717) 772-2329 shoyle@state.pa.us
Municipal and Residual Waste Amendments Solid Waste Management Act and Waste Transportation Safety Act 25 Pa. Code Chapters 271—285 and 287—299	FY 09-10.	These proposed revisions are comprehensive modifications to the Municipal and Residual Waste Regulations, including: consolidating similar chapters and standardizing provisions, where applicable, between the two volumes; revising and clarifying definitions, including the definition of “waste”; developing additional permits-by-rule; incorporating commodity disposal bans; revising the local and municipal involvement process for waste disposal and processing facility applications; and revising the environmental assessment and harms/benefits test. The package will also include regulations to implement the Waste Transportation Safety Program as authorized by Act 90 of 2002.	Steve Socash (717) 787-7381 ssicash@state.pa.us
Beneficial Use of Coal Ash Solid Waste Management Act Clean Streams Law Surface Mining and Reclamation Act Administrative Code of 1929 25 Pa. Code Chapters 287 and 290	FY 09-10.	This rulemaking adds a new definition and revises definitions in Chapter 287 and moves coal ash beneficial use provisions to a new chapter 290. Incorporates technical guidance provisions for use of coal ash at mine sites into regulations. Sets maximum leachate concentrations for coal ash, physical properties for use, storage requirements, water quality monitoring and assessment and abatement requirements and coal ash qualification (certification) standards and procedures.	Steve Socash (717) 787-7381 ssicash@state.pa.us
Municipal Waste Regulated Medical Amendments Solid Waste Management Act 25 Pa. Code Chapter 284	FY 09-10.	This rulemaking will amend the existing Chapter 284. This will include some definitions in Chapter 271 that will be added or amended. The term infectious waste will be replaced with the term “regulated medical waste”. This terminology change will be a global change. Besides definitional changes, this proposal also includes changes to storage, transporter licensing, and manifesting requirements for regulated medical waste.	Steve Socash (717) 787-7381 ssicash@state.pa.us
Residual Waste Generator Amendments Solid Waste Management Act and Waste Transportation Safety Act 25 Pa. Code Chapter 287	FY 09-10.	These proposed revisions streamline and update biennial reporting requirements, reduce the number of generators subject to biennial reporting and annual chemical analyses requirements, and eliminate submission of annual chemical analyses. The requirement for source reduction strategies is proposed for elimination.	Steve Socash (717) 787-7381 ssicash@state.pa.us
Hazardous Waste Delisting Solid Waste Management Act and section 1920-A of The Administrative Code of 1929 25 Pa. Code Chapter 261a	FY 09-10.	The rulemaking modifies an existing hazardous waste delisting previously granted to Geological Reclamation Operations and Waste Systems, Inc. (GROWS), whose successor by merger, Waste Management Disposal Services of Pennsylvania, Inc. (WMDSPA), petitioned the Board to amend Chapter 261a of PA’s Hazardous Waste Regulations in order to increase the annual volume of filter cake that it may dispose of in a Subtitle D landfill from 2,000 cubic yards to 4,000 cubic yards.	Dwayne Womer (717) 787-6239 dwomer@state.pa.us



<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Radiological Health 25 Pa. Code Chapters 215—240	FY 09-10.	This rulemaking will amend 25 Pa. Code Chapters 215—240 to incorporate by reference Federal regulations pertaining to the security of certain radioactive material.	Joe Melnic (717) 783-9730 jmelnic@state.pa.us
Radiological Health 25 Pa. Code Chapter 240	FY 09-10.	This rulemaking will include clarifications to the Radon Regulations as a result of a 2009 EHB decision.	Mike Pyles (717) 783-3594 mpyles@state.pa.us
Radiological Health 25 Pa. Code Chapters 215—240	FY 09-10.	This rulemaking will include amendments to address new x-ray technology that is not addressed in current regulations.	Joe Melnic (717) 783-9730 jmelnic@state.pa.us
Administration of the Land Recycling Program (Act 2) Land Recycling and Environmental Remediation Standards Act 25 Pa. Code Chapter 250	FY 09-10.	Revisions to Chapter 250 (Administration of the Land Recycling Program). This proposal includes a number of miscellaneous revisions to the regulations and an update of the Statewide Health Standards Tables based on new toxicological information.	Dave Crownover (717) 783-7502 dcrownover@state.pa.us
Administration of the Uniform Environmental Covenant Act Uniform Environmental Covenant Act 25 Pa. Code Chapter 253	FY 09-10.	This rulemaking will establish regulations for the implementation of the Uniform Environmental Covenant Act.	Troy Conrad (717) 783-9480 tconrad@state.pa.us
<b>GENERAL SERVICES</b>			
Responsibility 4 Pa. Code Chapter 60	Fall 2010, as proposed.	This chapter will be amended to be consistent with the Procurement Code and to provide for uniform debarment and suspension procedures.	Michael C. Barrett (717) 346-9781
Committee on Construction Contract Documents, 4 Pa. Code Chapter 62	Summer 2010, as final omitted.	The Procurement Code repealed the legislation creating this committee, which no longer exists.	Michael C. Barrett (717) 346-9781
Selections Committee, 4 Pa. Code Chapter 64	Summer 2010, as final omitted.	These regulations should be rescinded since they have been superseded by the Commonwealth Procurement Code.	Michael C. Barrett (717) 346-9781
Emergency Construction Repairs 4 Pa. Code Chapter 67	Summer 2010, as final omitted.	These regulations should be rescinded since they have been superseded by the Commonwealth Procurement Code.	Michael C. Barrett (717) 346-9781
Contract Compliance 4 Pa. Code Chapter 68, Subchapter A, Prequalification of Vendors and Nonconstruction Contractors	Summer 2010, as final omitted.	These regulations should be rescinded since the subject matter of these rules is now covered by the directives management system.	Michael C. Barrett (717) 346-9781
Methods of Awarding Contracts, 4 Pa. Code Chapter 69	Summer 2010, as final omitted.	These regulations should be rescinded since they have been superseded by the Commonwealth Procurement Code.	Michael C. Barrett (717) 346-9781
Use of the Forum 4 Pa. Code Chapter 87	Summer 2010, as final omitted.	The regulations will be amended to reflect the Department's current use of a rental agreement instead of a permit and to reflect the current organizational structure.	Michael C. Barrett (717) 346-9781

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
State Metrology Laboratory Fee Schedule 70 Pa. Code § 110.2	Spring 2010, as final.	The fee schedule will be updated.	Michael C. Barrett (717) 346-9781
<b>HEALTH</b>			
Health Facility Licensure—General Administrative Chapter and General and Special Hospitals 28 Pa. Code § 51.1 et seq. 28 Pa. Code § 101.1 et seq.	June 2010, as proposed.	The amendments to existing regulations will update the licensure requirements for hospitals and other health care facilities. Pursuant to the Health Care Facilities Act, 35 P. S. §§ 448.101—448.904b.	James T. Steele (717) 783-2500
Communicable and Non-Communicable Diseases 28 Pa. Code § 27.1 et seq.	February 2010, as proposed.	The amendments to existing regulations will clarify the Department's authority to perform disease surveillance and investigation and revise language pertaining to reportable diseases. Pursuant to the Disease Prevention and Control Law of 1955, 35 P. S. §§ 521.1—521.21.	Jalene Kolb (717) 783-2500
Supplemental Nutrition Program for Women, Infant's and Children (WIC) 28 Pa. Code § 1101.1 et seq.	Final, Published September 2009.	The amendments to existing regulations will bring the Commonwealth into compliance with the requirements of the Federal Child Nutrition and WIC Reauthorization Act of 2004. Pursuant to the Child Nutrition and WIC Reauthorization Act of 2004, Pub. L. No. 108-265, § 203, 118 Stat. 729, 771—780. <i>See</i> , 42 U.S.C. § 1786.	Douglas Snyder (717) 783-2500
School Immunization Requirements 28 Pa. Code §§ 23.83 and 23.86	January 2010, as final.	The amendments to existing regulations will revise immunization requirements for school entry and attendance, add a grace period for the provision of vaccinations in order for them to be considered valid, and change school reporting requirements to require reporting of doses of vaccine given. Pursuant to the Disease Prevention and Control Law of 1955 35 P. S. § 521.1 et seq.; the Administrative Code of 1921 (71 P. S. § 541(c.1)) and the Public School Code of 1949 (24 P. S. § 13-1303a).	Yvette M. Kostelac (717) 783-2500
Health Facility Licensure Home Care Agencies and Home Care Registries 28 Pa. Code Chapter 611	Final, Published December 2009.	These new regulations are being promulgated pursuant to Section 803(10) of the Health Care Facilities Act, Act of July 19, 1979 (P. L. 130, No. 48), <i>as amended</i> , 35 P. S. § 448.803(1), and Act 2006-69 at § 809.1. Act 69 of 2006 expressly authorized the Department to set licensure standards for home care agencies and home care registries. Home care agencies employ direct care workers and home care registries refer direct care workers who are independent contractors to provide home care services to individual in their home or other independent living environment. Home care services include assistance with activities of daily living and instrumental activities of daily living, companionship, respite care and other non-medical services.	Karin Simpson (717) 783-2500

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Outpatient Integrated Treatment for Persons with Co-Occurring Psychiatric and Substance Use Disorders 28 Pa. Code Chapter 719	March 2010, as proposed.	These new regulations would be promulgated, simultaneously with identical regulations from the Department of Public Welfare, to permit providers of drug & alcohol treatment services and mental health treatment services to obtain licenses from the Departments of Health and Public Welfare authorizing them to deliver integrated treatment on an outpatient basis to persons suffering from co-occurring psychiatric and substance use disorders. The proposed regulations would establish minimum requirements for licensure, including staffing, training, records and other aspects required for appropriate treatment delivery. There are currently no regulations which provide for licensure of providers of integrated treatment for co-occurring disorders. Instead, facilities that wish to provide integrated treatment currently must meet all the requirements to obtain separate licenses for drug and alcohol and mental health treatment. The proposed regulations would simplify the survey and licensure process for providers. These regulations would be published pursuant to the Department's authority under Articles IX and X of the Public Welfare Code (62 P. S. §§ 901—922, 1001—1031 and 1051—1059), as transferred to the Department under Reorganization Plan No. 2 of 1977 (71 P. S. § 751-25) and Reorganization Plan No. 4 (71 P. S. § 751-31), and the Drug and Alcohol Abuse Control Act (71 P. S. §§ 1690.101—1690.114).	Robert T. Datorre (717) 783-2500
Nursing home regulations 28 Pa. Code §§ 201.3 and 211.6	March 2010, as proposed.	Recent amendments made by Act 68 of 2008 to the Social Workers, Marriage and Family Therapists and Professional Counselors Act (63 P. S. §§ 1901—1922) include a definition for the term “social worker” and prohibits individuals from holding themselves out as social workers, using the title of “social worker” or using the abbreviation of “S.W.” without meeting Act 68’s definition of “social worker.” Act 68 also prohibits “advertising as a social worker and adopting or using any title or description of services incorporating the term ‘social worker’ and their related abbreviations, which implies directly or indirectly that the individual is a social worker.” The new statutory definition of a “social worker” conflicts with the definition in the Department’s nursing home regulations. In order to resolve this conflict and allow facilities to continue to employ the individuals they currently employ in these positions (and who do not meet the new statutory definition of a social worker) the Department would propose to amend the term “social worker” in the regulations to “social services coordinator.” This will continue to allow nursing homes to hire individuals who meet the qualifications in the Department’s nursing home regulations and in federal nursing home regulations, thereby giving facilities a larger pool of potential employees and controlling health care costs. The amendments would be promulgated pursuant to the Health Care Facilities Act, 35 P. S. §§ 448.101—448.904b, and Act 68.	Robert T. Datorre (717) 783-2500

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Hospice Regulations	June 2010, as proposed.	These regulations will establish and enforce minimum standards for the licensure of hospice services and residential facilities. The regulations are based on federal CMS regulations for Medicare certified providers. The regulations govern the construction, maintenance and operation of inpatient and residential hospice facilities to ensure safe, adequate and efficient provision of hospice services.	Karin Simpson (717) 783-2500
Emergency Medical Services System Regulations	August 2010, as proposed.	These new regulations will facilitate the Department's administration of the Emergency Medical Services System Act (Act) chapter of Act 37 (2009), 35 Pa.C.S. §§ 8101—8157. The Act repeals and replaces the Emergency Medical Services Act. However, many of the provisions of the Emergency Medical Services Act will remain in effect for 180 after final regulations are promulgated under the Act. The Act is designed to update the existing emergency medical services system by ensuring higher quality and better coordinated emergency medical services are provided in a system that is fully integrated with the overall health care system and, in particular, with the public health system.	Kenneth E. Brody (717) 783-2500
<b>HOUSING FINANCE AGENCY</b>			
No regulations being developed or considered at this date.			
<b>INFRASTRUCTURE INVESTMENT AUTHORITY</b>			
25 Pa. Code §§ 963.12(a) (6) and (7) 963.13(b) 2, 963.13(c), 963.14(a), 963.15(a), 963(15) (c), 25 Pa. Code § 965.4(9) and 25 Pa. Code § 965.7.	Spring 2010.	PENNVEST recommends the following revisions: (1) Delete 25 Pa. Code § 963.12(a) (6) in its entirety and the second sentence of 25 Pa. Code § 963.13(b)(2) thereby allowing PENNVEST to provide financial assistance (loan or grant) for costs associated with the development of an approvable official sewage plan under the Sewage Facilities Act, 35 P. S. § 750.1 et seq. (2) Delete 25 Pa. Code § 963.12(a)(7) thereby allowing PENNVEST to provide financial assistance (loan and grant) for costs associated with the extraction for profit of minerals or other resources from wastewater or sludge whether the project is sponsored by a public or private actor. (3) Amend 25 Pa. Code § 963.13 (c) by revising the section to provide for an amortization of advance funding loans with a term of 59 months of interest only and repayment on principal and interest on the 60th month. (4) Amend 25 Pa. Code § 963.14(a) by revising the section to clarify when the use of an affordability analysis for the award of grants is necessary. (5) Amend 25 Pa. Code § 963.15(a) by revising the first sentence to provide for a change in the normal loan term to allow 3 years of interest only prior to principal amortization. (6) Amend 25 Pa. Code § 963.15 (c)(5) to provide that maximum interest rates on loans shall be determined based upon the unemployment rate for the applicable county in the most recent calendar year for which data has been finalized as of the application cutoff date. (7) Amend 25 Pa. Code § 965.4 (9) to allow for eligible land costs under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.	Shawn W. Weis (717)-783-6776



<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
		(8) Amend 25 Pa. Code § 965.7 to eliminate the requirement for a second opinion project review if the applicant is able to prove to the satisfaction of PENNVEST that no alternative methodologies are available to reduce project costs for projects with construction costs plus contingency in excess of \$10 million.	
<b>INSURANCE</b>			
Continuing Education for Insurance Agents and Brokers, 39 Pa. Code §§ 39a.1—39a.13	Spring 2010, as final.	Act 147 of 2002 sets new standards for Producers in the Commonwealth. This chapter will be repealed and replace with new regulation consistent with the statute. This regulation will be updated to reflect education and training of producers.	Peter J. Salvatore Regulatory Coordinator (717) 787-4429
Standards to Define Insurers Deemed to be in Hazardous Financial Condition, 31 Pa. Code Chapter 160	Spring 2010, as proposed.	Amend consistent with updates adopted in 2008 to NAIC Model 385.	Peter J. Salvatore Regulatory Coordinator (717) 787-4429
Viatical Regulations (NEW chapter)	Summer 2010, as proposed.	New regulation addressing issues pertaining to the Licensing of Viatical Brokers. WAITING FOR NAIC MODEL TO BE FINALIZED.	Peter J. Salvatore Regulatory Coordinator (717) 787-4429
Written Rebuttals to Examiner's Report and Appeals of Orders Adopting Reports of Examination, 31 Pa. Code Chapter 58a	Spring 2010, as proposed.	The Department repealed outdated regulations relating to appeals from examinations because they were inconsistent with the current exam law. This new chapter will set forth procedures and standards consistent with the current statute.	Peter J. Salvatore Regulatory Coordinator (717) 787-4429
<b>LABOR AND INDUSTRY</b>			
Liquefied Petroleum Gas, Title 34, Bureau of Occupational and Industrial Safety	Submit final rulemaking in Winter 2010.	Will enact the Propane and Liquefied Petroleum Gas Act passed in June 2002. Will govern the design, installation and construction of containers and equipment for storage and handling of liquefied petroleum gas, specify the odorization of the gases and establish guidelines for the processing and technologies that are not covered by industry standards.	Edward Leister (717) 787-3323
Uniform Construction Code, Title 34, Part XIV, Bureau of Occupational and Industrial Safety	Submit proposed rulemaking in Fall 2010.	Update and improve existing regulations for administration and enforcement of the UCC.	Edward Leister (717) 787-3323
Business Enterprise Program, Title 34, Bureau of Blindness and Visual Services	Submit proposed rulemaking in Winter 2010.	Concerns operation of snack bars and similar operations in Commonwealth facilities under the Federal Randolph-Sheppard Act and related Pennsylvania laws.	David DeNotaris (717) 783-3784
Unemployment Compensation, Title 34, Bureau of Unemployment Compensation Tax Services	Submit proposed rulemaking in Winter 2010.	Update Unemployment Compensation Tax and select benefit regulations.	Scott Miedrich (717) 787-2097
Unemployment Compensation, Title 34, Bureau of Unemployment Compensation Benefits	Submit proposed rulemaking in Winter 2010.	Update requirements and procedures for filing benefit claims and applications.	Jeri Morris (717) 787-3667

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Unemployment Compensation, Title 34, Chapter 101, Board of Review	Submit proposed rulemaking in Fall 2010.	Update appeal and hearing procedures to reflect evolving procedures and statutory changes	Edward Rawlings (717) 787-1620
Bureau of Workers' Compensation, Title 34, Chapter 127, Medical Cost Containment	Submit revised proposed rulemaking Summer 2010.	Update processes governing medical care and costs under the Workers' Compensation Act.	John T. Kupchinsky (717) 783-5421
Bureau of Workers' Compensation, Title 34, Chapter 125A, Self-Insurance	Submit final rulemaking in Spring 2010.	Clarify standards and security requirements for individual self-insured employees.	George Knehr (717) 783-4476
Bureau of Mediation, Title 34	Submit proposed rulemaking in Fall 2010.	Specify procedures and process for Bureau mediators.	William D. Gross (717) 787-2803
Bureau of Labor Law Compliance, Title 34, Chapter 231, Minimum Wage	Submit proposed rulemaking in Fall 2010.	Update provisions and rescind expired Food-Service Employee Incentive Program.	James A. Holzman (717) 787-4186
Bureau of Labor Law Compliance, Title 34, Prohibition of Excessive Overtime in Health Care Act	Submit proposed rulemaking in Spring 2010.	Regulations to implement this law.	James A. Holzman (717) 787-4186
Bureau of Labor Law Compliance, Title 34, Chapter 83, Welfare of Apprentices	Submit proposed rulemaking in Winter 2010.	Amend provisions.	Jason Anderson (717) 787-4186
Bureau of PENNSAFE Title 34, Chapters 301—323, Worker and Community Right to Know	Submit proposed rulemaking in Fall 2010.	Amend the PA Hazardous Substance List.	Thomas J. Ward, Jr. (717) 783-1826
<b>MILITARY AND VETERANS AFFAIRS</b>			
State Veterans' Homes 43 Pa. Code § 7.1 et. seq.	October 2008, as proposed.	This regulation is necessary to update current regulations, make them more user-friendly. This regulation is a long-term project and would amend 43 Pa. Code Chapter 7.	Dennis T. Guise (717) 861-8503
<b>MUNICIPAL POLICE OFFICERS' EDUCATION AND TRAINING COMMISSION</b>			
Municipal Police Officers' Education and Training Commission. 37 Pa. Code Chapter 204	Final regulations, January 2010.	Act 79 of 2005 requires the Commission to promulgate regulations to implement the Retired Law Enforcement Identification Act.	Syndi L. Guido (717) 772-0905
<b>PENNSYLVANIA MUNICIPAL RETIREMENT SYSTEM</b>			
No regulations being developed or considered at this time.			
<b>PROBATION AND PAROLE</b>			
Revision to 37 Pa. Code §§ 61, 63, 67, 68, 69, 71, 73, 75 and 77 "Board of Probation and Parole"	Updates to incorporate recent changes to Title 61 and emphasis on evidence based practices.	To be worked on in CY 2010.	Victoria Madden Chief Counsel (717) 787-8126

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
37 Pa. Code, Chapter 79 The County Probation and Parole Officers Firearms Education and Training Law 61 P. S. § 332.5(13) requires the Commission to “make rules and regulations and to perform other duties as may be reasonably necessary or appropriate to implement the training program for county probation and parole officers.”	Add new sections relating to “Accidental Discharge,” “Break in Service,” and “Weapons Change.”	To be worked on in CY 2010.	Todd Burns Executive Director FETC (717) 787-5699 Ext. 389

**PUBLIC SCHOOL EMPLOYEES’ RETIREMENT SYSTEM**

No regulations being developed or considered at this time.

**PUBLIC WELFARE**

Administration of County Children and Youth Programs 55 Pa. Code Chapter 3130	December 2010, as proposed.	This regulation incorporates the amendments to the Juvenile Act as a result of Act 126 of 1998 and the Federal regulations (effective March 27, 2000) for Title IV-B and Title IV-E funding for child welfare services for children in their own homes and for children receiving placement services. Major changes include permanency hearings and the matters to be determined, requirements related to reasonable efforts including aggravated circumstances contrary to the welfare and best interests and redefining permanency goals for children.	Ruth O’Brien (717) 783-2800
Administration and Operation of a Children and Youth Social Services Agency 55 Pa. Code Chapter 3680	June 2011, as proposed.	This regulation incorporates the changes identified in the Child and Family Services Review, including requirements for visitation with fathers and non-custodial parents and between siblings; concurrent planning; improving permanency outcomes for children; and preserving connections with family and community for children placed out of the home.	Ruth O’Brien (717) 783-2800
Family Violence Option 55 Pa. Code Chapter 108	April 2010, as final-form.	This regulation codifies the provision in the TANF State Plan to screen and identify victims of domestic violence, refer those individuals to counseling and supportive services, establish service plans, provide universal notification and make appropriate referrals to social service agencies. This regulation will be reviewed by representatives of community legal service agencies, the welfare rights organization and other client advocacy groups.	Ruth O’Brien (717) 783-2800
Revisions to Special Allowances for Supportive Services 55 Pa. Code Chapter 165	May 2010, as proposed.	The purpose of this proposed regulation is to ensure adequate and consistent availability and distribution of special allowances. These special allowances are for supportive services to recipients of cash assistance who are engaged or intend to engage in employment and training activities approved by the Department.	Ruth O’Brien (717) 783-2800
Deficit Reduction Act of 2005 (TANF Reauthorization) 55 Pa. Code Chapter 165	December 2010, as proposed.	The purpose of this proposed regulation is to incorporate revised policies for work participation according to Federal statutes and regulations.	Ruth O’Brien (717) 783-2800

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Early and Periodic Screening Diagnosis Treatment (EPSDT) 55 Pa. Code Chapters 1101, 1121, 1123, 1147 and 1241	December 2010, as proposed.	This regulation relating to services provided as a follow-up to an EPSDT visit or encounter that are not currently recognized under the approved Medical Assistance State Plan. This regulation will be reviewed by the Medical Assistance Advisory Committee (MAAC).	Ruth O'Brien (717) 783-2800
Medical Assistance Case Management Services 55 Pa. Code Chapter 1239	January 2011, as proposed.	This regulation codifies payment for medically necessary case management services as mandated by Omnibus Budget Reconciliation Act '89 to Medical Assistance recipients under the age of 21. This regulation will be reviewed by the Medical Assistance Advisory Committee (MAAC).	Ruth O'Brien (717) 783-2800
OMNIBUS Pharmacy 55 Pa. Code Chapters 1121, 1126, 1129, 1141, 1163, 1221, 1225 and 1243	December 2010, as final-omitted.	This final regulation codifies Act 1994-49 provisions that discontinue payment for all drugs, devices, products, services and procedures that are used or related to treating infertility, including surrogacy services, effective September 1, 1994. This regulation also provides that the medical assistance program provides drug coverage to medically needy only recipients receiving nursing facility services. This includes medically needy only recipients who reside in nursing facilities and intermediate care facilities/mental retardation (ICF/MR). This regulation was reviewed by the Medical Assistance Advisory Committee (MAAC).	Ruth O'Brien (717) 783-2800
Physician Assistant/Midwife 55 Pa. Code Chapter 1141	July 2010, as final-omitted.	This final regulation codifies revised supervision requirements for physician assistants and midwives. This regulation will be reviewed by the Medical Assistance Advisory Committee (MAAC).	Ruth O'Brien (717) 783-2800
Discontinuance of the Mandatory Second Opinion Program 55 Pa. Code Chapter 1150	December 2010, as final-omitted.	This final regulation removes the mandatory second opinion program requirement for certain surgical procedures. This regulation will be reviewed by the Medical Assistance Advisory Committee (MAAC).	Ruth O'Brien (717) 783-2800
New Definition of "Emergency Medical Condition" 55 Pa. Code Chapters 1101, 1141, 1150 and 1221	December 2010, as proposed.	This regulation codifies the revised definition of "emergency medical condition" contained in the Balanced Budget Act of 1997, effective July 1, 1998. This regulation will be reviewed by the Medical Assistance Advisory Committee (MAAC).	Ruth O'Brien (717) 783-2800
Definition of "Medically Necessary" 55 Pa. Code Chapter 1101	July 2010, as proposed.	This proposed regulation replaces the current definition of "medically necessary" with the definition found in the HealthChoices Request for Proposal. This regulation was reviewed on 9/21/01 by the Medical Assistance Advisory Committee (MAAC).	Ruth O'Brien (717) 783-2800
Tobacco Cessation and Nutritional Supplements 55 Pa. Code Chapter 1121	December 2010, as final-omitted.	This final regulation will provide coverage under the Medical Assistance Program for tobacco cessation products and counseling services and will extend coverage for nutritional supplements to eligible Medical Assistance recipients 21 years of age and older. This regulation will be reviewed by the Medical Assistance Advisory Committee (MAAC).	Ruth O'Brien (717) 783-2800
Dental Services 55 Pa. Code Chapter 1149	June 2011, as final-omitted.	This final regulation will provide coverage for crown core build-up and will revise the Medical Assistance Orthodontia Program. This regulation will be reviewed by the Medical Assistance Advisory Committee (MAAC).	Ruth O'Brien (717) 783-2800



<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Civil Rights Requirements for Nursing Facilities 55 Pa. Code Chapter 1187	August 2010, as proposed.	This regulation will require nursing facilities to request and maintain a file of civil rights compliance information on each applicant. Through review of the civil rights information, the Department may better ensure that the Medical Assistance program is operated in conformity with applicable laws that prohibit discrimination on race, color, national origin and disability.	Ruth O'Brien (717) 783-2800
Assisted Living Residence 55 Pa. Code Chapter 2800	April 2010, as final-form.	This rulemaking will provide a system of licensure and regulation of assisted living residences to ensure accountability and a balance of availability between institutional and home- and community-based long term care. This will help Pennsylvanians to age in place, maintain their independence and exercise decision making and personal choice.	Ruth O'Brien (717) 783-2800
Phase-Out of County Costs in Rate Setting and Phase-In of Minimum Occupancy Requirements for Bed Hold Payments 55 Pa. Code Chapters 1187 and 1189	July 2010, as final-form.	Act 44 of 2008 requires the Department to promulgate regulations that create minimum occupancy requirements for nursing facility bed hold payments and phases out the use of county nursing facility costs in the establishment of peer group prices for nonpublic nursing facility rates.	Ruth O'Brien (717) 783-2800
Participation Review Process 55 Pa. Code Chapter 1187	June 2010, as proposed.	Act 16 of 2007 requires the Department to promulgate regulations that establish the process and criteria to be used to review and respond to requests for increases in Medical Assistance certified nursing facility beds.	Ruth O'Brien (717) 783-2800
Medical Assistance Copayment Changes 55 Pa. Code Chapter 1101	June 2011, as final-omitted.	This regulation will codify new Medical Assistance copayment exclusions mandated by the Federal Deficit Reduction Act (DRA) of 2005, and reduce the copayment for brand name drugs identified as preferred on the Department's Preferred Drug List (PDL) as authorized under the DRA. This regulation will be reviewed by the Medical Assistance Advisory Committee (MAAC).	Ruth O'Brien (717) 783-2800
Nursing Facility Rate Setting Changes to the Resident Assessment Instrument 55 Pa. Code Chapter 1187	June 2010, as proposed.	This regulation will use 5.12 34 Grouper as a result of CMS's final rule (CMS 1410-F) directing states to transition from MDS 2.0 to MDS 3.0 on October 1, 2020.	Ruth O'Brien (717) 783-2800
Nursing Facility Cost Reporting Change to Major Moveable Rentals 55 Pa. Code Chapter 1187	June 2010, as proposed.	Reduction of paperwork requirement.	Ruth O'Brien (717) 783-2800
Nursing Facility Reconfiguration/Rightsizing 55 Pa. Code Chapter 1187	July 2010, as proposed.	Transitioning Medical Assistance certified nursing facility beds to meet consumer demands.	Ruth O'Brien (717) 783-2800

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Third Party Liability Programs 55 Pa. Code Chapter 259	October 2010, as proposed.	Section 1902(a)(25) of the Social Security Act (42 U.S.C. § 1396a(a)(25)) requires the Department to develop and implement a TPL program to ensure that Medicaid is the payor of last resort. Section 1906 of the Social Security Act (42 U.S.C. § 1396(e)) authorizes the Department to have a special program to enroll certain Medical Assistance recipients into group health insurance. Both the general TPL program and the special group health insurance program have been in operation in Pennsylvania for a number of years. During this period of operation, questions have arisen as to interpretation and procedures under the Federal and State's statutes. This proposed regulation is needed to supply guidance with respect to issues not directly addressed by the Federal and State statutes, to resolve ambiguities and to fill gaps in the State statutory language.	Ruth O'Brien (717) 783-2800
Medical Assistance Estate Recovery Changes 55 Pa. Code Chapter 258	October 2010, as proposed.	This regulation will incorporate additions and changes to the estate recovery program regulation that was codified in February 2003. The changes reflect modification and additions identified since implementation. These include additional and clarified definitions; inclusion of language regarding the Long Term Care Partnership; modification of the Department's priority of claim based on a change to 20 Pa.C.S. § 3392 relating to classification and order of payment; and clarifications regarding undue hardship waivers, postponement of collection and computation of claim.	Ruth O'Brien (717) 783-2800
Family-Based Mental Health Service Providers 55 Pa. Code Chapter 5260	September 2010, as proposed.	This proposed regulation would establish requirements for the delivery of services, and payment of family-based mental health services for children and adolescents.	Ruth O'Brien (717) 783-2800
Residential Treatment Facilities (RTF) for Mental Health Services 55 Pa. Code Chapters 31, 1157 and 1165	June 2010, as proposed.	This regulation codifies coverage for mental health services to children under 21 years of age that are provided in a residential treatment facility. This regulation was reviewed by the Medical Assistance Advisory Committee (MAAC) on 3/28/02 and again by the MAAC as well as other interested stakeholders on 4/20/06. The comments and revised regulations are under review by the Department.	Ruth O'Brien (717) 783-2800
Psychiatric Rehabilitation Services 55 Pa. Code Chapters	December 2010, as proposed.	The Office of Mental Health and Substance Abuse Services is in the process of amending the Commonwealth's Title XIX Medicaid State Plan to add Psychiatric Rehabilitation Services (PRS) to the Rehabilitation option. This service is being added under the provision of 42 CFR 44.130(d) "Rehabilitation Services." Psychiatric rehabilitation is a therapeutic rehabilitation service for individuals with mental illness designed to increase competence in normal life activities and allows individuals to pursue life goals with the greatest amount of independence. The proposed regulation will promulgate the minimum standards for the delivery of PRS.	Ruth O'Brien (717) 783-2800

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Integrated Treatment for Outpatient Clinics (formerly referred to as "Psychiatric Outpatient Clinics") 55 Pa. Code Chapter 5200	December 2010, as proposed.	These regulations would be promulgated, simultaneously with identical regulations from the Department of Health, to permit providers of drug and alcohol treatment services and mental health treatment services to obtain licenses from the Departments of Health and Public Welfare authorizing them to deliver integrated treatment on an outpatient basis to persons suffering from co-occurring psychiatric and substance use disorders. The proposed regulations would establish minimum requirements for licensure, including staffing, training, records, and other aspects required for appropriate treatment delivery. There are currently no regulations which provide for licensure of providers of integrated treatment for co-occurring disorders. Instead, facilities that wish to provide integrated treatment currently must meet all the requirements to obtain separate licenses for drug and alcohol and mental health treatment. The proposed regulations would simplify the survey and licensure process for providers. These regulations would be published pursuant to the Department's authority under Articles IX and X of the Public Welfare Code (62 P. S. §§ 901—922, 1001—1031, and 1051—1059).	Ruth O'Brien (717) 783-2800
Intermediate Care Facilities for the Mentally Retarded 55 Pa. Code Chapter 6650	March 2011, as proposed.	This regulation applies to private and public residential facilities receiving monies for intermediate care facilities for the mentally retarded (ICFs/MR) or intermediate care facilities for persons with other related conditions (ICFs/ORC). This regulation will include facility capacity, facility expansion, new ICF/MR development, restraints, incident management, conversion of existing ICF/MR to the Medicaid Consolidated Waiver program, medication administration, medication administration training, self-administration of medications and medication log.	Ruth O'Brien (717) 783-2800
Regulatory Revisions: Adult Training Facilities; Vocational Facilities; Community Homes for Individuals with Mental Retardation; Family Living Homes 55 Pa. Code Chapters 2380, 2390, 6400 and 6500	March 2011 as proposed.	The regulatory revisions will establish consistent new business practices for providers to ensure they meet the necessary health and safety needs of the individuals they serve. The regulatory revisions will also increase consistency across services and providers per Federal requirements.	Ruth O'Brien (717) 783-2800
Individual Support Plans 55 Pa. Code Chapters 2380, 2390, 6400 and 6500	June 2010, as final-form.	This proposed rulemaking will amend the current Individual Program Plan/Individual Written Program Plan regulations to reflect current practices and requirements related to Individual Support Plans.	Ruth O'Brien (717) 783-2800

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Child Care Facilities 55 Pa. Code Chapters 3270, 3280 and 3290	March 2010, as proposed.	The proposed amendments to the child care facility regulations relating to professional development requirements for all child care practitioners will strengthen the child care work force and provide practitioners with the knowledge and competencies needed to provide safe and healthy care to children. The changes will increase the minimum standards for annual training hours, require minimum standards for entities that offer professional development, establish a core curriculum for practitioners and ensure the practitioners meet the professional development requirements through submission of documentation at the time of registration renewal.	Ruth O'Brien (717) 783-2800
<b>REVENUE</b>			
Support Offset and Other Personal Income Tax Provisions	July, 2010, as proposed.	This regulatory change will amend certain regulatory provisions to provide for the intercept of income tax refunds from individuals who are delinquent in support payments and redirect the funds accordingly. Other amendments are proposed to update and/or clarify personal income tax provisions.	Douglas Berguson (717) 346-4633
Amendments to Chapter 117. Return and Payment of Tax	June, 2010, as proposed.	The proposed regulation will amend § 117.9 and add § 117.9b to reflect the Department's policy regarding the form of Pennsylvania Personal Income Tax returns. In addition, the regulation will provide clear instructions for taxpayers regarding reporting requirements.	Douglas Berguson (717) 346-4633
Pennsylvania Subchapter S Corporations— Election Language 61 Pa. Code Chapter 107a	July, 2010, as proposed.	The Department is promulgating a new rulemaking as a result of Act 2006-67, which made significant changes to how S corporations are taxed under Pennsylvania Personal Income Tax.	Douglas Berguson (717) 346-4633
Corporate Net Income Tax 61 Pa. Code §§ 151.14, 153.54 and 153.66— Amended Report	July, 2010, as final.	The proposed regulation provides a procedure for the filing of amended corporate tax reports for tax reports governed by the assessment process enacted in Act 119 of 2006. Obsolete language will be replaced.	Douglas Berguson (717) 346-4633
Pennsylvania Sales and Use Tax Amendments to 61 Pa. Code § 53.1 Clothing	March, 2010, as final.	The proposed regulation will amend § 53.1 to conform with the statute, as well as amend definitions and clarify examples.	Douglas Berguson (717) 346-4633
§ 119.30 Innocent Spouse Relief	March, 2010, as proposed.	The Department is promulgating a new rulemaking to clarify the Department's policy on Innocent Spouse Relief for Pennsylvania Personal Income Tax as enacted under Act 87 of 2002.	Douglas Berguson (717) 346-4633
<b>SECURITIES COMMISSION</b>			
No regulations being developed or considered at this time.			



<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<b>STATE</b>			
Bureau of Commissions, Elections and Legislation  —Lobbying Disclosure Registration Fee—(16-50)	Spring 2010, as final.	The rulemaking would increase the biennial registration fee for individuals and entities required to be registered under the Lobbying Disclosure Act from \$100 to \$200. Statutory Authority: Section 13A08(j) of the Lobbying Disclosure Act, 65 Pa.C.S. § 13A08(j), provides that the Department may by regulation adjust the filing fee established under section 13A10 of the act, if the Department determines that a higher fee is necessary to cover the costs of carrying out the provisions of the act.	Shauna Graves (717) 783-0736
—Electronic Notarization Standards— 4 Pa. Code, Subpart F (number not yet assigned)	Spring 2010, as proposed.	The proposed regulation would establish standards for notaries to use electronic notarization. Statutory Authority: Section 22.3 of the Notary Public Law of 1953, 57 P. S. § 168.3.	Martha Brown (717) 783-2804
Bureau of Professional and Occupational Affairs  —Schedule of Civil Penalties for violations of the Clean Indoor Air Act— 49 Pa. Code Chapter 43b (16-46)	Spring 2010, as proposed.	This regulation would create a schedule of civil penalties for violations of the Act of June 13, 2008 (P. L. 182, No. 27), known as the Clean Indoor Air Act. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a), authorizes the Commissioner to set forth schedules of civil penalties. Section 5(b)(1)(ii) of the Clean Indoor Air Act, 35 P. S. § 637.5(b)(1)(ii), authorizes the Bureau to enforce the act.	Cynthia K. Montgomery (717) 783-7200
State Board of Accountancy  —Continuing Education— 49 Pa. Code §§ 11.61—11.69a (16A-5511)  —General Revisions— 49 Pa. Code Chapter 11 (number not yet assigned)  —Civil Penalty Schedule— Accountants— 49 Pa. Code § 43b.10a. (16-48)	Spring 2010, as proposed.  Spring 2010, as proposed.  Spring 2010, as proposed.	The regulation would amend continuing professional education requirements for licensed certified public accountants and public accountants. Statutory Authority: Section 3 of the C.P.A. Law, 63 P. S. § 9.3.  This proposed rulemaking would implement the amendments to the CPA Law made by the Act of July 9, 2008 (P. L. 954, No. 73). Statutory Authority: Section 3 of the C.P.A. Law, 63 P. S. § 9.3.  This proposed regulation would adopt a schedule of civil penalties for violation of the continuing education regulations of the Board. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a), authorizes the Commissioner of Professional and Occupational Affairs to set forth schedules of civil penalties, with the approval of the Board.	Sara Fox (717) 783-1404

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<p>State Architects Licensure Board</p> <p>—General Revisions— 49 Pa. Code Chapter 9 (number not yet assigned)</p> <p>—Experience Requirement— 49 Pa. Code § 9.46 (number not yet assigned)</p>	<p>Summer 2010, as proposed.</p> <p>Summer 2010, as proposed.</p>	<p>This regulation would provide a general update of the regulations of the State Architects Licensure Board. Statutory Authority: Section 6(a) and (d) of the Architects Licensing Law, 63 P. S. § 34.6(a) and (d).</p> <p>This regulation would clarify the amount of experience a candidate must have as a prerequisite to being admitted to the license examination. Statutory Authority: Section 6(a) of the Architects Licensure Law, 63 P. S. § 34.6(a).</p>	<p>Penny Walker (717) 783-3397</p>
<p>State Board of Barber Examiners</p> <p>—Student Records and Curriculum— 49 Pa. Code Chapter 3 (16A-427)</p> <p>—Fees— 49 Pa. Code § 3.103 (16A-428)</p>	<p>Spring 2010, as final.</p> <p>Winter 2009/2010, as proposed.</p>	<p>This regulation would amend the current regulations to allow for part-time attendance at barber schools; to allow for transfer of hours between a barber shop and a barber school or between barber shops regardless of whether the shop or school is in-State or out-of-State; to require shop owners and schools to submit a quarterly report of student hours to the Board; to require a shop owner, or a shop owner's designee, to notify the Board of each student to be trained in the shop. Statutory Authority: Section 15-A.4(b) of the Barbers' License Law, 63 P. S. § 566.4(b).</p> <p>The proposed rulemaking would increase biennial renewal fees and fees for other board services. Statutory Authority: Section 14 of the Barbers License Law, 63 P. S. § 564.</p>	<p>Kelly Diller (717) 783-3402</p>
<p>State Board of Chiropractic</p> <p>—Chiropractic specialties— 49 Pa. Code Chapter 5 (16A-4312)</p> <p>Review of Chiropractic Treatment— 49 Pa. Code Chapter 5 (16A-4315)</p> <p>—Assistance of Unlicensed Supportive Personnel— 49 Pa. Code Chapter 5 (16A-4316)</p>	<p>Spring 2010, as proposed.</p> <p>Spring 2010, as proposed.</p> <p>Spring 2010, as proposed.</p>	<p>The Chiropractic Practice Act prohibits licensees from holding themselves out as specialists unless they possess a post-graduate certification in that specialty. This regulation would identify the certifications acceptable to the Board. Statutory Authority: Section 302(3) of the Chiropractic Practice Act, 63 P. S. § 625.302(3).</p> <p>This proposed rulemaking would establish standards for chiropractors that engage in chiropractic peer review. Statutory Authority: Section 302(3) of the Chiropractic Practice Act, 63 P. S. § 625.302(3).</p> <p>This proposed rulemaking would establish standards for the delegation of tasks to unlicensed supportive personnel. Statutory Authority: Sections 302(3) and 601 of the Chiropractic Practice Act, 63 P. S. §§ 624.302(3) and 625.601.</p>	<p>Deborah Smith (717) 783-7155</p>

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
—Continuing Education Violations— 49 Pa. Code § 5.77 (16A-4318)	Summer 2010, as final.	This regulation would adopt a requirement that continuing education deficiencies be made up within 6 months and provides for disciplinary action under the Act 48 citation process. Statutory Authority: Sections 302(3), 506(a)(9) and 507(a) of the Chiropractic Practice Act, 63 P. S. §§ 625.302(3), 625.506(a)(9) and 625.507(a).	Deborah Smith (717) 783-7155
—Reciprocal Licensure— 49 Pa. Code § 5.13 (number not yet assigned)	Summer 2010, as proposed.	This proposed rulemaking would provide a revised method of licensing out-of-State chiropractors by reciprocity. Statutory Authority: Sections 302(3) and 504 of the Chiropractic Practice Act, 63 P. S. §§ 625.302(3) and 625.504.	
—Schedule of Civil Penalties— Chiropractors 49 Pa. Code Chapter 43b (16-44)	Summer 2010, as final.	This proposed regulation would adopt a schedule of civil penalties for violation of the continuing education regulations of the Board. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a), authorizes the Commissioner of Professional and Occupational Affairs to set forth schedules of civil penalties with the approval of the Board.	
—Volunteer license— 49 Pa. Code § 5.20 (number not yet assigned)	Spring 2010, as final (proposed-omitted).	This regulation would conform the volunteer license regulations to the amendments to the Volunteer Health Services Act under Act 58 of 2002. Statutory Authority: Section 302 of the Chiropractic Practice Act, 63 P. S. § 625.302.	
Corporation Bureau —UCC Revised Article 9— (16-35)	Spring 2010, as proposed.	This regulation would adopt (with some revisions) the Model rules promulgated by the International Association of Corporate Administrators, which call for the delivery of filings by electronic means and acceptance of credit card payments. Statutory Authority: Section 9526 of the Uniform Commercial Code Modernization Act of 2001, 13 Pa.C.S. § 9526.	Martha Brown (717) 787-6802
State Board of Cosmetology —Fees— 49 Pa. Code § 7.2 (16A-4515)	Spring 2010, as proposed.	The proposed regulation would increase biennial renewal fees for all licensee classifications and would increase certain application fees where the current fees have been determined to be inadequate. Statutory Authority: Section 16(d) of the Beauty Culture Law, 63 P. S. § 522(d), requires the Board to increase fees by regulation to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to match expenditures over a 2-year period.	Kelly Diller (717) 783-7130
—Sanitation— 49 Pa. Code Chapter 7 (16A-4516)	Spring 2010, as proposed.	This regulation would update the Board's regulations on sanitation to conform to modern standards within the profession. Statutory Authority: Sections 11 and 14 of the Act of May 3, 1933 (P. L. 242, No. 86), commonly referred to as the Beauty Culture Law, 63 P. S. §§ 517 and 520.	
—Schedule of Civil Penalties— 49 Pa. Code Chapter 43b, § 43b.5. (number not yet assigned)	Spring 2010, as proposed.	This regulation would amend the schedule of civil penalties for the State Board of Cosmetology to implement Act 48 civil penalties for failure of a school to submit quarterly reports. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<p>State Board of Crane Operators</p> <p>—Implementation of the Crane Operator Licensure Act— 49 Pa. Code Chapter 36 (16A-7101)</p>	Spring 2010, as proposed.	This proposed regulation would implement the Crane Operator Licensure Act, Act 100 of 2008. Statutory Authority: Section 2102 of the act of October 9, 2008, (P. L. 1363, No. 100), 63 P. S. § 2400.2102.	Penny Walker (717) 783-3397
<p>State Board of Dentistry</p> <p>—EFDA Program Approval— 49 Pa. Code Chapter 33 (16A-4616)</p> <p>—Licensure by examination— 49 Pa. Code § 33.103 (16A-4620)</p> <p>—Anesthesia Update— 49 Pa. Code, Subchapter E, §§ 33.331—33.342 (16A-4621)</p> <p>—Volunteer License— 49 Pa. Code § 33.110 (Number not yet assigned)</p>	<p>Summer 2010, as final.</p> <p>Spring 2010, as final.</p> <p>Summer 2010, as proposed.</p> <p>Spring 2010, as final (proposed-omitted).</p>	<p>This regulation would establish criteria for Board approval of education programs for expanded function dental assistants. Statutory Authority: Section 3(a) of the Dental Law, 63 P. S. § 122(a).</p> <p>This regulation would expand the range of regional clinical examinations that may be accepted by the Board for the purposes of licensure by examination and licensure by criteria approval. Statutory authority: Section 3(c), (d) and (o) of the Dental Law, 63 P. S. § 122(c), (d) and (o).</p> <p>This regulation would update the standards for the administration of general anesthesia, deep sedation, moderate sedation, minimal sedation and nitrous oxide/oxygen analgesia in dental offices. Statutory Authority: Sections 3(o) and 11.2 of the Dental Law, 63 P. S. §§ 122(o) and 130c.</p> <p>This regulation would amend the current volunteer license regulations to conform to amendments to the Volunteer Health Services Act made by Act 58 of 2002. Statutory Authority: Section 3(o) of the Dental Law, 63 P. S. § 122(o).</p>	<p>Lisa Burns (717) 783-7162</p>
<p>State Registration Board for Professional Engineers, Land Surveyors and Geologists</p> <p>—General Revisions— 49 Pa. Code Chapter 37 (16A-479)</p>	Spring 2010, as proposed.	The regulation would clarify education and experience requirements for regular and “grandfathered” candidates for examination and licensure; revise categories of acceptable professional references for candidates; update the branches of engineering for which license examinations are offered; prescribe standards relating to the use of an electronic seal and signature; clarify criteria for approval of fictitious and corporate names that use variations of professional titles; eliminate unnecessary administrative requirements; and make editorial changes. Statutory Authority: Section 4 of the Engineer, Land Surveyor and Geologist Registration Law, 63 P. S. § 151.	Terrie Kocher (717) 783-7049



Regulation Being Considered	Proposed Date of Promulgation	Need and Legal Basis for Action	Agency Contact
<p>—Continuing Education— 49 Pa. Code Chapter 37 (16A-4710)</p> <p>—Schedule of Civil Penalties— Engineers, Geologists and Land Surveyors 49 Pa. Code Chapter 43b. (16-43)</p>	<p>Spring 2010, as final.</p> <p>Spring 2010, as final.</p>	<p>The regulation would set forth continuing education requirements for professional engineers, geologists and land surveyors. Statutory Authority: Sections 4(1) and 4.5(a) of the Engineer, Land Surveyor and Geologist Registration Law, 63 P. S. §§ 151.4(1) and 151.4.5(a).</p> <p>This regulation would adopt a schedule of civil penalties for violations of the continuing education regulations being promulgated by the State Board of Engineers, Land Surveyors and Geologists (16A-4710). Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a), authorizes the Commissioner of Professional and Occupational Affairs to set forth schedules of civil penalties, with the approval of the Board.</p>	
<p>State Board of Funeral Directors</p> <p>—Prened Activities of Unlicensed Employee— 49 Pa. Code Chapter 13 (16A-4816)</p> <p>—Continuing education enforcement— 49 Pa. Code Chapter 13, §§ 13.231 and 13.401 (16A-4818)</p> <p>—Schedule of Civil Penalties— continuing education violations— 49 Pa. Code Chapter 43, § 43b.6. (16-47)</p> <p>—Supervision at Funeral Services— 49 Pa. Code § 13.215 (number not yet assigned)</p>	<p>Spring 2010, as final.</p> <p>Spring 2010, as final.</p> <p>Spring 2010, as final.</p> <p>Summer 2010, as proposed.</p>	<p>The regulation would clarify what conduct by an unlicensed individual is permitted with regard to preneed funeral contracts, as strongly urged by the court in <i>Walker v. Flitton</i>, 364 F.Supp.2d 503 (U.S.D.C. M.D. Pa. 2005). Statutory Authority: Sections 13(c) and 16(a) of the Funeral Director Law, 63 P. S. §§ 479.13(c) and 479.16(a).</p> <p>This regulation would provide for the enforcement of continuing education violations through the Act 48 citation process. Statutory authority: Sections 10(b) and 16(a) of the Funeral Director Law, 63 P. S. §§ 479.10(b) and 479.16(a).</p> <p>This regulation would establish the civil penalty schedule for violations of the Funeral Board's continuing education violations. Statutory Authority: Section 5(a) of the act of July 2, 1993 (P. L. 345, No. 48), 63 P. S. § 2205(a); and sections 11(a)(6) and 17(b) of the Funeral Director Law, 63 P. S. §§ 479.11(a)(6) and 479.17(b).</p> <p>The proposed rulemaking would update the Board's regulations to address current practice. Statutory Authority: Sections 11(a)(5) and 16(a) of the Funeral Director Law, 63 P. S. §§ 479.11(a)(5) and 479.16(a).</p>	<p>Heidy Weirich (717) 783-3397</p>
<p>State Board of Landscape Architects</p> <p>—Biennial Renewal Fees— 49 Pa. Code § 15.12 (16A-619)</p> <p>—Licensure Requirements and Continuing Education— 49 Pa. Code Chapter 15 (16A-6110)</p>	<p>Spring 2010, as proposed.</p> <p>Spring 2010, as proposed.</p>	<p>This proposed regulation would increase the biennial registration fee for landscape architects from \$125 to \$194. Statutory Authority: Section 5 of the Landscape Architects' Registration Law, 63 P. S. § 905.</p> <p>This proposed regulation would implement the act of July 17, 2009 (P. L. 94, No. 24). Statutory Authority: Section 4(9) of the Landscape Architects' Registration law, 63 P. S. § 904(9).</p>	<p>Terrie Kocher (717) 783-7049</p>

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
—Schedule of Civil Penalties—Landscape Architects 49 Pa. Code Chapter 43b (number not yet assigned)	Spring 2010, as proposed.	This proposed regulation would adopt a schedule of civil penalties for unlicensed practice and other violations of the Landscape Architects Registration Law. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a), authorizes the Commissioner of Professional and Occupational Affairs to set forth schedules of civil penalties, with the approval of the Board.	
State Board of Massage Therapy  —Implementation of the Massage Therapy Law— 49 Pa. Code Chapter 20 (16A-7201)	Spring 2010, as proposed.	This regulation is required to implement the Massage Therapy Law, act of October 9, 2008 (P.L. 1438, No. 118). Statutory Authority: Section 50 of the Massage Therapy Law, 63 P. S. § 627.50, requires the Board to promulgate regulations within 18 months.	Teresa Lazo (717) 783-7200
State Board of Medicine  —General Revisions— 49 Pa. Code Chapters 16, 17 and 18 (16A-4925)  —Clarification of Medicine and Surgery— 49 Pa. Code Chapters 16 and 17 (16A-4927)  —Behavior Specialists— 49 Pa. Code Chapter 18 (16A-4929)  —Licensure of Respiratory Therapists and Physician Assistants— 49 Pa. Code Chapter 18 (16A-4930)	Spring 2010, as proposed.  Spring 2010, as proposed.  Spring 2010, as proposed.  Spring 2010, as proposed.	This proposed rulemaking would implement Acts 29, 46 and 48 of 2007, and would generally update the regulations of the Board relating to physicians, physician assistants, certified registered nurse practitioners, respiratory care practitioners, and volunteer licensees. Statutory Authority: Acts 29, 46 and 49 of 2007 direct the Board to adopt, promulgate and enforce regulations to effectuate the amendments adopted in the respective Acts. In addition, Section 8 of the Medical Practice Act of 1985, 63 P. S. § 422.8, authorizes the Board to promulgate regulations that are reasonably necessary to carry out the purposes of the Act.  This rulemaking would amend basic definitions and establish minimum standards of practice relating to examinations preceding treatment and relating to certain medical procedures. Statutory Authority: Section 8 of the Medical Practice Act of 1985, 63 P. S. § 422.8.  The proposed rulemaking implements the licensure or certification of behavior specialists as required by the Act of July 9, 2008 (P. L. 885, No. 62). Statutory Authority: Section 3(g) of the Act of July 9, 2008 (P. L. 885, No. 62) requires the Board, in consultation with the Department of Public Welfare, to promulgate regulations providing for the licensure or certification of behavior specialists.  The proposed rulemaking would implement the amendments made to the Medical Practice Act by the Act of July 4, 2008 (P. L. 580, No. 45) relating to licensure of respiratory therapists and physician assistants. Statutory authority: Section 8 of the Act of July 4, 2008 (P. L. 580, No. 45) requires the Board and the State Board of Osteopathic Medicine to jointly promulgate regulations to implement the amendments within 18 months.	Tammy Radel (717) 783-1400

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
—Perfusionists— 49 Pa. Code Chapter 18, Subchapter J (16A-4931)	Spring 2010, as proposed.	The proposed rulemaking would set forth the requirements for licensure of perfusionists. Statutory Authority: Section 4 of the Act of June 11, 2008 (P. L. 154 No. 19) requires the Board to promulgate regulations to implement licensure of perfusionists within 18 months of the effective date. The act was effective on August 10, 2008.	Tammy Radel (717) 783-1400
—Schedule of Civil Penalties— 49 Pa. Code Chapter 43b, § 43b.20 (number not yet assigned)	Spring 2010, as proposed.	This regulation would amend the schedule of civil penalties for the State Board of Medicine to implement Act 48 civil penalties for practicing on a lapsed license and for continuing education violations. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	
State Board of Nursing			
—LPN/IV Therapy— 49 Pa. Code § 21.145 (16A-5122)	Spring 2010, as proposed.	This regulation addresses the LPN's role in working with peripherally inserted central catheters (PICC lines). Statutory Authority: Section 17.6 of the Practical Nurse Law, 63 P. S. § 667.6.	Ann Steffanic (717) 783-7142
—Clinical Nurse Specialists— 49 Pa. Code, Subchapter H, §§ 21.801—21.831 (16A-5133)	Spring 2010, as final.	This proposed regulation would implement Act 49 of 2007, which amended the professional Nursing Law to provide for the certification of clinical nurse specialists. Statutory Authority: Section 5 of Act 49 requires the Board to promulgate regulations within 18 months. Section 2.1(k) of the Professional Nursing Law, 63 P. S. § 212.1(k) authorizes the Board to establish rules and regulations for the practice of professional nursing and the administration of the Act.	
—Updated Applications— 49 Pa. Code § 21.151 (16A-5134)	Spring 2010, as proposed.	The proposed rulemaking would provide for admission to the practical nurse exam for applicants who have graduated from a foreign practical nursing program that is equivalent to an LPN education program of study required in this Commonwealth at the time the program was completed as determined by the Commission on Graduate of Foreign Nursing Schools (CGFNS). Statutory Authority: Sections 5 and 17.6 of the Practical Nurse Law, 63 P. S. §§ 655 and 667.6.	
—Reactivation/ Re-licensure after Lapse— 49 Pa. Code Chapter 21 (16A-5135)	Summer 2010, as proposed.	This regulation would set standards for the reactivation/relicensure of nurses whose licenses have lapsed for a significant period of time. Statutory Authority: Sections 2.1 and 11 of the Professional Nursing Law, 63 P. S. §§ 212.1 and 221; and sections 13.1 and 17.6 of the Practical Nurse Law, 63 P. S. §§ 663.1 and 667.6, authorize the Board to regulate the renewal of expired or inactive licenses and to promulgate regulations generally.	Ann Steffanic (717) 783-7142
—Biennial Renewal Fees— 49 Pa. Code Chapter 21 (16A-5136)	Spring 2010, as final.	This regulation is needed to increase the biennial renewal fees for nurses. Statutory authority: Section 11.2 of the Professional Nursing Law, 63 P. S. § 221.2, and Section 17.5 of the Practical Nurse Law, 63 P. S. § 667.5, set forth the authority to set fees by regulation.	

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
—Out-of-State Nursing Education Programs using Pennsylvania Clinical Sites— 49 Pa. Code Chapter 21 (16A-5137)	Summer 2010, as proposed.	This regulation will require out-of-State educational programs that intend to place nursing students in Pennsylvania facilities for clinical education with a Pennsylvania licensed nurse preceptor to apply to the Board for permission to utilize the clinical site. This same requirement is placed on Pennsylvania nursing education programs. Statutory Authority: Section 6.1 of the Professional Nursing Law, 63 P. S. § 216.1 and Section 9 of the Practical Nurse Law, 63 P. S. § 659.	
—Fees for Nursing Education Programs— 49 Pa. Code Chapter 21 (number not yet assigned)	Summer 2010, as proposed.	This regulation is necessary to set fees for the approval of nursing education programs. Statutory Authority: Section 11.2 of the Professional Nursing Law, 63 P. S. § 221.2, and Section 17.5 of the Practical Nursing Law, 63 P. S. § 667.5, set forth the authority to the setting of fees by regulation. Section 6.2 of the Professional Nursing Law, 63 P. S. § 216.2, provides the Board's authority to approve nursing education programs. Sections 2.1(k) of the Professional Nursing Law, 63 P. S. § 212.1(k) and 17.6 of the Practical Nursing Law, 63 P. S. § 667.6, provide the general rulemaking authority of the Board.	
—Volunteer License— 49 Pa. Code Chapter 21, Subchapter F, §§ 21.601—21.607 (number not yet assigned)	Spring 2010, as final (proposed-omitted).	This regulation would amend the volunteer license regulations to conform to amendments to the Volunteer Health Services Act made by Act 58 of 2002. Statutory Authority: Section 2.1(k) of the Professional Nursing Law, 63 P. S. § 212.1(k).	
State Board of Examiners of Nursing Home Administrators			
—Temporary Permits— 49 Pa. Code § 39.1, 39.4 and 39.17 (16A-629)	Spring 2010, as final.	The proposed rulemaking would clarify, update and expand on the temporary permit requirements under section 14 of the Nursing Home Administrators License Act, 63 P. S. § 1114. Statutory Authority: Section 4(c) and 14 of the Nursing Home Administrators License Act, 63 P. S. §§ 1104 (c) and 1114.	Chris Stuckey
—Sexual Misconduct— 49 Pa. Code §§ 39.1 and 39.9 (16A-6211)	Summer 2010, as proposed.	This regulation would add sexual abuse, sexual misconduct and sexual harassment as offenses for which a nursing home administrator's license may be disciplined. Statutory Authority: Sections 4(c) and 6(g) of the Nursing Home Administrators Licensure Act, 63 P. S. §§ 1104(c) and 1106(g).	
—Continuing Education— 49 Pa. Code § 39.61 (16A-6212)	Spring 2010, as final.	This rulemaking would amend the Board's existing regulations relating to continuing education clock hours. Statutory Authority: Section 9(b) of the Nursing Home Administrators Licensure Act, 63 P. S. § 1109(b).	



<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<p>—Continued Competence— 49 Pa. Code Chapter 39 (16A-6213)</p> <p>Schedule of Civil Penalties— 49 Pa. Code Chapter 43b, § 43b.17 (number not yet assigned)</p>	<p>Spring 2010, as proposed.</p> <p>Spring 2010, as proposed.</p>	<p>This regulation would provide the requirements for demonstrating continued competence when reactivating a license that has been inactive for more than 5 years. Statutory Authority: Section 4(a)(4), (9) and (c) of the Nursing Home Administrators Licensure Act, 63 P. S. § 1104(a)(4),(9) and (c).</p> <p>This regulation would amend the schedule of civil penalties for the State Board of Examiners of Nursing Home Administrators to implement Act 48 civil penalties for continuing education violations. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a). (717) 783-7155</p>	
<p>State Board of Occupational Therapy Education and Licensure</p> <p>—Continued Competency— 49 Pa. Code §§ 42.50-42.58 (16A-677)</p>	<p>Spring 2010, as proposed.</p>	<p>The proposed rulemaking would implement section 15(a) of the Occupational Therapy Practice Act, 63 P. S. § 1515(a), which authorizes the board to establish additional requirements for the license renewal designed to assure continued competency. Statutory Authority: Section 5(b) of the Occupational Therapy Practice Act, 63 P. S. § 1505(b).</p>	<p>Chris Stuckey (717) 783-1389</p>
<p>State Board of Optometry</p> <p>—Continuing Education— 49 Pa. Code §§ 23.81 and 23.82 (16A-5212)</p> <p>Schedule of Civil Penalties— Optometrists 49 Pa. Code Chapter 43b (number not yet assigned)</p> <p>—Volunteer License— 49 Pa. Code § 23.26 (number not yet assigned)</p>	<p>Spring 2010, as final (proposed-omitted).</p> <p>Spring 2010, as proposed.</p> <p>Spring 2010, as final (proposed-omitted).</p>	<p>This regulation would amend the continuing education requirements to clarify the need for a licensee to complete the licensee's continuing education as a prerequisite to renew a lapsed or inactive license within the 2 years immediately preceding renewal or reactivation. Statutory Authority: Sections 3(b)(14) and 5 of the Optometric Practice and Licensure Act (63 P. S. §§ 244.3(b)(14) and 244.5).</p> <p>This proposed regulation would adopt a schedule of civil penalties for continuing education violations. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a), authorizes the Commissioner to set forth schedules of civil penalties.</p> <p>This regulation would amend the Board's volunteer license regulations to conform to amendments to the Volunteer Health Services Act made by Act 58 of 2002. Statutory Authority: Section 3(b)(14) of the Optometric Practice and Licensure Act, 63 P. S. § 244.3(b)(14).</p>	<p>Deborah Smith (717) 783-7155</p>

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
State Board of Osteopathic Medicine			
—Miscellaneous Provisions— 49 Pa. Code Chapter 25 (16A-5319)	Spring 2010, as proposed.	This regulation would implement Acts 29 and 46 of 2007 pertaining to supervision of physician assistants and continuing medical education for volunteer license holders. Statutory Authority: Section 10(h) of the Osteopathic Medical Practice Act (Act), 63 P. S. § 271.10(h), authorizes the Board to establish rules and regulations relating to physician assistants; and section 16 of the Act, 63 P. S. § 271.16, authorizes the Board to adopt regulations as are reasonably necessary to carry out the purposes of the Act.	Gina Bittner (717) 783-4858
—Licensure of Respiratory Therapists and Physician Assistants— 49 Pa. Code Chapter 25 (16A-5320)	Spring 2010, as proposed.	The proposed rulemaking implements the amendments made to the Osteopathic Medical Practice Act by the Act of July 4, 2008 (P. L. 589, No. 46) relating to licensure of respiratory therapists and physician assistants. Statutory authority: Section 8 of the Act of July 4, 2008 (P. L. 589, No. 46) requires the Board and the State Board of Medicine to jointly promulgate regulations to implement the amendments within 18 months.	
—Perfusionists— 49 Pa. Code Chapter 25 (16A-5321)	Spring 2010, as proposed.	The proposed rulemaking would set forth the requirements for licensure of perfusionists. Statutory Authority: Section 4 of the Act of June 11, 2008 (P.L 161, No. 20) requires the Board to promulgate regulations to implement licensure of perfusionists within 18 months of the effective date. The act was effective on August 10, 2008.	
—Reduction of Biennial Renewal Fee for Osteopathic Physicians— 49 Pa. Code § 25.231 (16A-5322)	Spring 2010, as final (proposed-omitted).	The rulemaking is needed to decrease the biennial renewal fee for osteopathic physicians. Statutory Authority: Section 13.1 of the Osteopathic Medical Practice Act (act), 63 P. S. § 271.13a.	
—Volunteer License— 49 Pa. Code Chapter 25, Subchapter L, §§ 25.601—25.607. (number not yet assigned)	Spring 2010, as final (proposed-omitted).	This regulation would amend the Board's volunteer license regulations to conform to amendments to the Volunteer Health Services Act made by Act 58 of 2002. Statutory Authority: Section 16 of the Osteopathic Medicine Act, 63 P. S. § 271.16.	
—Schedule of Civil Penalties— 49 Pa. Code Chapter 43b. (number not yet assigned)	Spring 2010, as proposed.	This regulation would establish a schedule of civil penalties for the State Board of Osteopathic Medicine to implement Act 48 civil penalties for failure to report complaints filed against an osteopathic physician in a medical professional liability action. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
State Board of Pharmacy  —Compounding Practices— 49 Pa. Code Chapter 27 (16A-5419)  —Cancer Drug Repository Program— 49 Pa. Code Chapter 27 (16A-5423)  —Pharmacy Internship— 49 Pa. Code Chapter 27 (16A-5424)  —Schedule of Civil Penalties— 49 Pa. Code Chapter 43b, § 43b.7 (number not yet assigned)	Spring 2010, as proposed.  Spring 2010, as proposed.  Spring 2010, as proposed.  Spring 2010, as proposed.	This rulemaking would establish standards for the compounding of drugs by pharmacists. Statutory Authority: Section 6(k)(9) of the Pharmacy Act, 63 P. S. § 390-6(k)(9) grants the authority to promulgate rules and regulations to effectuate the purposes of the act. Section 2 of the Pharmacy Act, 63 P. S. § 390-2(11) defines the practice of pharmacy to include the compounding of drugs.  The proposed rulemaking would establish the eligibility criteria, standards and procedures for the administration of a cancer drug repository program. Statutory authority: Section 7 of the Act of May 13, 2008 (P. L. 139, No. 14), known as the Cancer Drug Repository Program Act, requires the Board to promulgate regulations to carry out the purposes of the act within 90 days of the effective date. The effective date was July 12, 2008.  This rulemaking would update the Board's regulations relating to the pharmacy internship required under section 3 of the Pharmacy Act. Statutory Authority: Section 3 of the Pharmacy Act, 63 P. S. § 390-3(c) requires the Board to establish by regulation the internship requirements which must be satisfactorily completed prior to issuance of a pharmacist license.  This regulation would amend the schedule of civil penalties for the State Board of Pharmacy to implement Act 48 civil penalties for continuing education violations. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	Melanie Zimmerman (717) 783-7156
State Board of Physical Therapy  —Continuing Education Providers— 49 Pa. Code § 40.63 (16A-6513)  —Act 38 Revisions— 49 Pa. Code Chapter 40 (16A-6514)  —Schedule of Civil Penalties— 49 Pa. Code Chapter 43b (number not yet assigned)	Spring 2010, as final.  Spring 2010, as proposed.  Spring 2010, as proposed.	This proposed rulemaking would clarify and update the continuing education requirements relating to approved providers of continuing education. Statutory authority: Sections 3(a) and 9(c)(2) of the Physical Therapy Practice Act, 63 P. S. §§ 1303(a) and 1303(c)(2).  The proposed rulemaking would implement the amendments to the Physical Therapy Practice Act made by the Act of July 4, 2008 (P. L. 293, No. 38). Statutory authority: Section 16 of the Act of July 4, 2008 (P. L. 293, No. 38) requires the Board to promulgate regulations to implement the amendments and additions of that act within 18 months of the effective date. The act is effective on October 2, 2008.  This regulation would establish a schedule of civil penalties for the State Board of Physical Therapy to implement Act 48 civil penalties for practicing on a lapsed license. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	Michelle Roberts (717) 783-7134

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<p>State Board of Podiatry</p> <p>—Certificate of Authority to Perform Acupuncture— 49 Pa. Code Chapter 29 (16A-449)</p> <p>—Continuing Education— 49 Pa. Code §§ 29.61 and 29.63 (16A-4410)</p> <p>—Schedule of Civil Penalties—Podiatrists 49 Pa. Code Chapter 43b (Number not yet assigned)</p> <p>—Volunteer License— 49 Pa. Code § 29.55 (number not yet assigned)</p>	<p>Spring 2010, as proposed.</p> <p>Spring 2010, as final.</p> <p>Spring 2010, as proposed.</p> <p>Spring 2010, as final (proposed-omitted).</p>	<p>This regulation would establish the fees and regulate the practice of acupuncture by podiatrists under the Acupuncture Registration Act. Statutory Authority: Section 3 of the Acupuncture Registration Act, 63 P. S. § 1803.</p> <p>This regulation would increase the biennial continuing education requirement from 30 hours to 50 hours and expand the categories of approved continuing education providers. Statutory Authority: Section 9.1 of the Podiatry Practice Act, 63 P. S. § 42.9a.</p> <p>This proposed regulation would adopt a schedule of civil penalties for continuing education violations. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a), authorizes the Commissioner to set forth schedules of civil penalties.</p> <p>This regulation would amend the Board's volunteer license regulations to conform to amendments to the Volunteer Health Services Act made by Act 58 of 2002. Statutory Authority: Section 15 of the Podiatry Practice Act, 63 P. S. § 42.15.</p>	<p>Gina Bittner (717) 783-4858</p>
<p>State Board of Psychology</p> <p>—Qualifications— 49 Pa. Code Chapter 41 (16A-6315)</p> <p>—Continuing Education— 49 Pa. Code § 41.59 (16A-6317)</p> <p>—Code of Conduct— 49 Pa. Code § 41.61 (16A-6318)</p> <p>—Schedule of Civil Penalties— 49 Pa. Code Chapter 43b (number not yet assigned)</p>	<p>Spring 2010, as final.</p> <p>Spring 2010, as proposed.</p> <p>Spring 2010, as proposed.</p> <p>Spring 2010, as proposed.</p>	<p>This regulation would amend education, experience and examination requirements as well as creates new and amends existing supervisor requirements. Statutory Authority: Sections 3.2(1) and (2) of the Professional Psychologists Practice Act, 63 P. S. §§ 1203.2(1) and (2).</p> <p>This regulation would amend the Board's continuing education requirements regarding home study, instruction and carry over. Statutory Authority: Section 15 of the Professional Psychologists Practice Act, 63 P. S. § 1215.</p> <p>This regulation would update the Board's Code of Conduct so that it would be in line with changes to the American Psychological Association and the Association of State and Provincial Psychology Boards. Statutory Authority: Section 3.2(2) of the Professional Psychologists Practice Act, 63 P. S. § 1203.2(2).</p> <p>This regulation would establish a schedule of civil penalties for the State Board of Psychology to implement Act 48 civil penalties for continuing education violations. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).</p>	<p>Chris Stuckey (717) 783-7155</p>



<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<p>State Board of Certified Real Estate Appraisers</p> <p>Certification of Appraisers and Licensure of Appraiser Trainees— 49 Pa. Code Chapter 36 (16A-7015)</p> <p>Continuing Education Enforcement— 49 Pa. Code §§ 36.41 and 36.241 (16A-7016)</p> <p>Schedule of Civil Penalties— Real Estate Appraisers— 49 Pa. Code § 43b.15a (16-49)</p>	<p>Fall 2010, as final.</p> <p>Spring 2010, as proposed.</p> <p>Spring 2010, as proposed.</p>	<p>The proposed rulemaking would implement the amendments to the Real Estate Appraisers Certification Act made by the Act of July 8, 2008 (P. L. 833, No. 59), and makes other amendments required to comply with a recent audit of the Appraisal Subcommittee, which identified areas of the Board's regulations that did not conform with AQB criteria. Statutory Authority: Section 5(2) of the Real Estate Appraisers Certification Act, 63 P. S. § 457.5(2).</p> <p>The proposed rulemaking establishes procedures for the enforcement of noncompliance with continuing education requirements. Statutory Authority: Section 5(2) of the Real Estate Appraisers Certification Act, 63 P. S. § 457.5(2).</p> <p>The proposed rulemaking will codify and amend the Board's current schedule of civil penalties statement of policy. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a), authorizes the Commissioner to set forth schedules of civil penalties, with the approval of the Board.</p>	<p>Heidy Weirich (717) 783-3397</p>
<p>State Real Estate Commission</p> <p>—Education— 49 Pa. Code §§ 35.384 and 35.385 (16A-5613)</p> <p>—Fees— 49 Pa. Code § 35.203 (16A-5615)</p> <p>—Seller's Property Disclosure Statement— 49 Pa. Code § 33.335a (16A-5618)</p> <p>—Property Management— 49 Pa. Code Chapter 35 (16A-5619)</p> <p>—Advertising and Solicitation— 49 Pa. Code § 35.305 (16A-5620)</p>	<p>Spring 2010, as proposed.</p> <p>Spring 2010, as final.</p> <p>Spring 2010, as proposed.</p> <p>Spring 2010, as proposed.</p> <p>Spring 2010, as proposed.</p>	<p>This proposed regulation would require new licensees to complete a mandatory 14-hour post-licensure course in lieu of their continuing education. Statutory Authority: Sections 404 and 404.1 of the Real Estate Licensing and Registration Act, 63 P. S. §§ 455.404 and 455.404a.</p> <p>The regulation would amend current fees by consolidating the initial licensure fee charged to new applicants from a two-tiered structure to a single fee in order to allow the Commission to establish an online application in that the current system cannot accommodate a two-tiered fee structure. Statutory Authority: Sections 404 and 407 of the Real Estate Licensing and Registration Act, 63 P. S. §§ 455.404 and 455.407.</p> <p>This regulation would adopt a form "seller's property disclosure statement" as required by Act 114 of 2000. Statutory Authority: Section 7304(a) of the Residential Real Estate Transfers Law, 63 P. S. § 7304(a).</p> <p>The proposed regulation would establish standards for licensees who engage in property management. Statutory Authority: Section 404 of the Real Estate Licensing and Registration Act, 63 P. S. § 455.404.</p> <p>The proposed regulation would require licensees to advertise or otherwise hold themselves out to the public only under the name listed on their licenses. Statutory Authority: Section 404 of the Real Estate Licensing and Registration Act, 63 P. S. § 455.404.</p>	<p>Patricia Ridley (717) 783-3658</p>

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
—Schedule of Civil Penalties— 49 Pa. Code Chapter 43b, § 43b.8 (number not yet assigned)	Spring 2010, as proposed.	This regulation would amend the schedule of civil penalties for the State Real Estate Commission to implement Act 48 civil penalties for continuing education violations. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	
State Board of Social Workers, Marriage and Family Therapists and Professional Counselors			
—Standards of Professional Conduct— 49 Pa. Code Chapters 47, 48 and 49 (16A-6911)	Spring 2010, as final.	The regulation would establish a code of ethics and standards of professional conduct for social workers, clinical social workers, marriage and family therapists, and professional counselors licensed by the board. Statutory Authority: Section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act, 63 P. S. § 1906(2).	Sandra Matter (717) 783-1389
—Implementation of Act 68 of 2008; Hours of Supervised Clinical Experience and Licensure by Endorsement— 49 Pa. Code Chapters 47, 48 and 19 (16A-6916)	Spring 2010, as proposed	This proposed rulemaking would implement the reduction in the number of required hours of supervised clinical experience from 3,600 to 3,000 and provide for licensure by endorsement as required by the Act of July 9, 2008 (P. L. 929, No. 68). Statutory Authority: Section 4 of the Act of July 9, 2008 (P. L. 929, No. 68) provides that the Board shall promulgate regulations to implement the amendments within three years of the effective date of the act. Act 68 is effective on September 7, 2008	
—Schedule of Civil Penalties— 49 Pa. Code Chapter 43b (number not yet assigned)	Spring 2010, as proposed.	This regulation would establish a schedule of civil penalties for the State Board of Social Workers, Marriage and Family Therapists and Professional Counselors to implement Act 48 civil penalties for practicing without a license or practicing on a lapsed license. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	
State Board of Examiners in Speech-Language and Hearing			
—General Revisions— 49 Pa. Code Chapter 45 (number not yet assigned)	Summer 2010, as proposed.	This regulation would update of the regulations of the Board to delete or amend outdated regulations. Statutory Authority: Section 5(2) of the Speech-Language and Hearing Licensure Act, 63 P. S. § 1705(2).	Sandra Matter (717) 783-1389
—Schedule of Civil Penalties— 49 Pa. Code Chapter 43b (number not yet assigned)	Spring 2010, as proposed.	This regulation would amend the schedule of civil penalties for the State Board of Speech-Language and Hearing to implement Act 48 civil penalties for continuing education violations. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<p>State Board of Vehicle Manufacturers, Dealers and Salespersons</p> <p>—Salesperson License— 49 Pa. Code Chapter 19 (16A-609)</p> <p>—Fee for Out-of-State RV Dealer Participating in a Show— 49 Pa. Code § 19.4 (number not yet assigned)</p>	<p>Spring 2010, as proposed.</p> <p>Spring 2010, as proposed.</p>	<p>This regulation would clarify and update the requirements for salespersons in order to permit salespersons to sell at other locations of the same dealer. Statutory Authority: Section 4(9) of the Board of Vehicles Act, 63 P. S. § 818.4(9).</p> <p>This regulation would establish a fee for processing applications under section 32.1(c) of the act, 63 P. S. § 818.32a(c), for out-of-State RV dealers to register with the Board in order to participate in an RV show in this Commonwealth. Statutory Authority: Sections 4(9) and 32.1(c) of the Board of Vehicles Act, 63 P. S. §§ 818.4(9) and 818.32.1(c).</p>	<p>Janice Cline (717) 783-1697</p>
<p>State Board of Veterinary Medicine</p> <p>—Veterinary Dentistry— 49 Pa. Code Chapter 31 (16A-5718)</p> <p>—Facilities— 49 Pa. Code Chapter 31 (16A-5720)</p> <p>—Responsibility to Clients and Patients— 49 Pa. Code § 31.21 (16A-5722)</p> <p>—Biennial Renewal Fees— 49 Pa. Code § 31.41 (16A-5723)</p> <p>—Schedule of Civil Penalties— Veterinarians and Veterinary Technicians— 49 Pa. Code § 43b.21a. (16A-51)</p>	<p>Spring 2010, as proposed.</p> <p>Spring 2010, as proposed.</p> <p>Spring 2010, as final.</p> <p>Summer 2010, as final.</p> <p>Spring 2010, as proposed.</p>	<p>This regulation would address issues relating to veterinary dentistry. Statutory Authority: Section 5 of the Veterinary Medicine Practice Act, 63 P. S. § 485.5.</p> <p>This regulation would establish standards for and require registration of veterinary facilities. Statutory Authority: Sections 5 and 27 of the Veterinary Medicine Practice Act, 63 P. S. §§ 485.5 and 485.27.</p> <p>This regulation would amend, update and clarify Principle 7 of the Rules of Professional Conduct for Veterinarians relating to veterinarians' responsibilities to clients and patients. Statutory Authority: Section 5 of the Veterinary Medicine Practice Act, 63 P. S. § 485.5.</p> <p>This regulation would provide for graduated increases in the biennial renewal fees for veterinarians and veterinary technicians. Statutory Authority: Section 13 of the Veterinary Medicine Practice Act, 63 P. S. § 485.13.</p> <p>This proposed regulation would adopt a schedule of civil penalties for continuing education violations. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a), authorizes the Commissioner to set forth schedules of civil penalties, with the approval of the Board.</p>	<p>Michelle Roberts (717) 783-7134</p>

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<b>STATE EMPLOYEES' RETIREMENT SYSTEM</b>			
4 Pa. Code § 247.7(a). Priority of death benefit payment. (This proposed regulation will clarify the priority of death benefit payments to be made by SERS pursuant to the second sentence of 71 Pa.C.S. § 5905(g).)	The final rulemaking is proceeding consistent with the Commonwealth Documents Law (CDL).	The statute does not set priorities among conflicting demands on members' death benefits. A regulation would enable consistent application of the statute and would reduce litigation of priority issues.	Salvatore Darigo, Esq. (717) 787-7317  Robert Gentzel (717) 787-9657  David Durbin (717) 783-7210
4 Pa. Code § 247.6(a). Termination of Annuities. (This proposed regulation would delete the 30-day requirement to elect multiple service.)	The final rulemaking is proceeding consistent with the CDL.	The 30-day requirement in the regulation has been rendered obsolete by changes to SERS' enabling legislation.	Jill Vecchio, Esq. (717) 787-7317  Robert Gentzel (717) 787-9657  David Durbin (717) 783-7210
4 Pa. Code § 249.7(h). Rights and Duties of Employes and Members. (The new regulation mandates that a nomination of beneficiary must be in writing and on a form to be supplied by and filed with the Board.)	The final rulemaking is proceeding consistent with the CDL.	A lack of named beneficiaries can cause significant legal and administrative ambiguities. This amendment would avoid that potential for litigation.	Jill Vecchio, Esq. (717) 787-7317  Robert Gentzel (717) 787-9657  David Durbin (717) 783-7210
4 Pa. Code § 241.1. Definitions. (Gender neutral terms would be substituted and an operational provision that is found elsewhere would be removed from this definitional section.)	The final rulemakings are proceeding consistent with the CDL.	A lack of named beneficiaries can cause significant legal and administrative ambiguities. This amendment would avoid that potential for litigation.	Jill Vecchio, Esq. (717) 787-7317  Robert Gentzel (717) 787-9657  David Durbin (717) 783-7210
4 Pa. Code § 247.11. Priority of taxation, attachments and assignments of funds. (This proposed regulation will clarify the priority of payments to be made from the members' accounts by SERS pursuant to 71 Pa.C.S. § 5953.)	SERS is reviewing the Independent Regulatory Review Commission (IRRC) staff comments and preparing a final rulemaking package for promulgation consistent with the CDL.	The statute does not set priorities among conflicting demands on members' accounts. A recent court decision has offered partial guidance in this area. A regulation would enable consistent application of the statute and would reduce litigation of priority issues. This is also being considered as a statutory amendment.	Brian McDonough, Esq. (717) 787-7317  Robert Gentzel (717) 787-9657  David Durbin (717) 783-7210



<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
4 Pa. Code § 249.53. Exemption from execution; assignment of rights. (This proposed regulation amendment would delete State Employees' Credit Union payment language.)	SERS is preparing a final rulemaking package for promulgation consistent with the CDL and the requirements of 4 Pa. Code § 247.11.	The language is obsolete. No credit union currently meets the statutory requirements and it is unlikely that any new ones will. A corresponding statutory amendment is also being considered.	Brian McDonough, Esq. (717) 787-7317  Robert Gentzel (717) 787-9657  David Durbin (717) 783-7210
4 Pa. Code § 247.51. Time for Recomputation of Annuity. (The proposed language would impose a time limit for annuitants to change the optional payment plan authorized by the second to the last sentence of 71 Pa.C.S. § 5907(j).)	2010.	This new regulation would provide guidance on when an annuitant is permitted to change their optional payment plan. There is no time frame in the statute for this election to occur causing administrative difficulties including permitting anti-selection of death benefits, requiring members to make a declaration under discontinued disability benefits and negating an option change absent another qualifying event.	Brian McDonough, Esq. (717) 787-7317  Robert Gentzel (717) 787-9657  David Durbin (717) 783-7210
4 Pa. Code § 247.4(c). Disability Annuities. (This proposed regulation will clarify: 1) the methodology used to determine the employer-funded offset credit; 2) the service-connected disability supplement; and 3) the rights of terminated members to apply for a disability.)	2011.	The statute does not expressly determine the methodology, the effects of these formulas and when terminated members can apply. Recent court and administrative decisions have offered partial guidance in this area. A regulation would enable consistent application of the statute and would reduce litigation of disability and supplement issues. This is also being considered as a statutory amendment.	M. Catherine Nolan, Esq. (717) 787-7317  Robert Gentzel (717) 787-9657  David Durbin (717) 783-7210
4 Pa. Code § 243.8. Membership rules for educational employees.	2011.	This new regulation would clarify the requirements for membership and final average salary calculations for educational employees.	Brian McDonough, Esq. (717) 787-7317  Robert Gentzel (717) 787-9657  David Durbin (717) 783-7210
4 Pa. Code § 245.4. Member contributions for the purchase of credit for previous State service or to become a full coverage member. (The regulation would be amended to specify the effects of a service purchase or reinstatement.)	2011.	This regulation would be amended to clarify the effects of the reinstatement or purchase of previous State service.  A recent administrative decision has offered partial guidance in this area. A regulation would enable consistent application of the statute and would reduce litigation of purchase of service issues. This is also being considered as a statutory amendment.	Brian McDonough, Esq. (717) 787-7317  Robert Gentzel (717) 787-9657  David Durbin (717) 783-7210
<b>STATE POLICE</b>			
DNA Detection of Sexual and Violent Offenders. 37 Pa. Code Chapter 58	June 2010, as proposed.	Act 185 of 2004 repealed Chapter 47 of Title 42 of the Pennsylvania Consolidated Statutes and amended Title 44 to add Chapter 23, DNA Data and Testing. The act requires the State Police to promulgate rules and regulations to carry out its provisions.	Syndi L. Guido Policy Director (717) 772-0905

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Administration of Megan's Law—Neighbor Notification 37 Pa. Code Chapter 55	June 2010, as proposed.	Act 18 of 2000, known as Megan's Law, provides for the registration of sexual offenders and community notification for sexually violent predators. The act requires the Department to promulgate guidelines for the general administration of the act in consultation with the Department of Corrections, the Office of Attorney General, the Pennsylvania Board of Probation and Parole, and the chairpersons and minority chairpersons of the Senate and House Judiciary Committees. The act also requires the Department to write regulations regarding neighbor notification of sexually violent predators' residence, school, or employer. See 42 Pa.C.S. § 9799.1 Although the requisite guidelines and regulations have been promulgated, the Department is in the process of updating them in light of subsequent and anticipated amendments to Megan's Law.	Syndi L. Guido Policy Director (717) 772-0905
<b>STATE SYSTEM OF HIGHER EDUCATION</b>			
No regulations being developed or considered at this date.			
<b>TRANSPORTATION</b>			
43—Temporary Registration Cards and Plates  67 Pa. Code Chapter 43	June 2010.	Act 152 of 2002 enacted legislation (requiring contracts for all messenger and agent services) that supersedes several facets of this regulation. Based on the legislation, any reference to bond, hearings, written warnings, suspensions, revocations or fines will be removed from the regulation, as these items are now addressed in the required contracts.	Andy Cleaver (717) 787-2171
175—Vehicle Equipment and Inspection  67 Pa. Code Chapter 175	February 2010.	Many changes are needed to bring the regulations in line with changes in the Vehicle Code. Other changes are being proposed to add convenience for customers, to update forms and processes, to accommodate changes in vehicle technology and to implement an initiative to update recertification requirements for safety inspectors and electronic recordkeeping of vehicle safety inspection findings. The regulation revisions also propose to eliminate the issuance of refunds for unused inspection stickers, which would be a savings to the Commonwealth.	John Munafò (717) 787-2171
79—Restrictions on Driver's License  67 Pa. Code Chapter 79	October 2010.	The regulations are currently under review for revision.	Scott Shenk (717) 783-5958
21—Odometer Read Disclosure Statements  67 Pa. Code Chapter 21	June 2010.	Changes are needed to bring the regulation current with the Vehicle Code to specify the age at which a vehicle becomes exempt from odometer disclosure.	Andy Cleaver (717) 787-2171
23—Delivery of Certificates of Title  67 Pa. Code Chapter 23	June 2010.	The method of title delivery has changed due to the electronic lien and title program (75 PA C. S., Section 1151). This Chapter needs to be updated to reflect the ability to transmit titles with liens electronically, rather than by mail.	Andy Cleaver (717) 787-2171
17—Authorization to Verify ID Numbers  67 Pa. Code Chapter 17	June 2010.	Changes are needed to document the Vehicle Identification Number (VIN) verification process. The VIN verification process is not currently documented in either the Vehicle Code or in regulations.	Andy Cleaver (717) 787-2171

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
71—School Bus Drivers  67 Pa. Code Chapter 71	February 2010.	The regulations will be updated and published for the second and final time, which will clarify the requirements for diabetic drivers in part by making terminology consistent with the American Diabetic Association.	Scott Shenk (717) 783-5958
71—School Bus Drivers  67 Pa. Code Chapter 71	May 2010.	The regulations are being updated to clarify the requirements for drivers that have cardiovascular conditions, cognitive conditions and sleep apnea. The new language will ensure that only competent school bus drivers are licensed.	Scott Shenk (717) 783-5958
83—Physical & Mental Criteria—Including Vision Standards Relating to the Licensing of Drivers  67 Pa. Code Chapter 83	February 2010.	The regulation will be updated and published for the second and final time, which will update the requirements for diabetic drivers. This change will also incorporate the change required by HB1912, Act 756, passed July 15, 2004, that allows chiropractors to conduct exams for learner's permits.	Scott Shenk (717) 783-5958
67 Pa. Code Chapter 83	May 2010.	The regulations are being updated to clarify and add standards for drivers that have cardiovascular conditions, cognitive conditions, loss of consciousness disorders and sleep apnea to ensure that only qualified drivers are licensed to operate a motor vehicle.	Scott Shenk (717) 783-5958
84—Dual Control Learner's Permit  67 Pa. Code Chapter 84	May 2010.	The regulation is being updated to clarify the requirements for issuing a dual control learner's permit.	Scott Shenk (717) 783-5958
105—Mechanical Electrical and Electronic Speed Timing Devices  67 Pa. Code Chapter 105	March 2010.	The regulations are being updated to reflect changes in equipment technology relating to calibration and maintenance of speed timing devices used for law enforcement purposes and to delete references to obsolete equipment and calibration procedures.	John Munafò (717) 787-2171
255—Messenger Services  67 Pa. Code Chapter 255	June 2010.	Act 152 of 2002 enacted legislation (requiring contracts for all messenger and agent services) that supersedes several facets of this regulation. Based on the legislation, any reference to bond, hearings, written warnings, suspensions, revocations, or fines will be removed from the regulation as these items are now addressed in the required contracts.	Andy Cleaver (717) 787-2171
171—School Buses and School Vehicles.  67 Pa. Code Chapter 171	June 2010.	Regulations are being updated to incorporate current technology. Regulations have been reviewed with industry and are ready to begin the promulgation process.	Scott Shenk (717) 783-5958
Chapter 427—Public Transportation (Act 44 of 2008)	July 2009.	Act 44 of 2008, Chapter 15, Sustainable Mobility Options, authorizes almost all public transportation funding programs for the Commonwealth. The legislation requires the Department to develop regulations for several sections of the legislation. The temporary regulations were published in the Pennsylvania Bulletin on July 18, 2009.	LaVerne Collins (717) 787-1214

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
471—Airport Rating & Licensing; 473—Aviation Development Grants; 477—Local Real Estate Tax Reimbursement Grants; 479—Obstructions to Aircraft  67 Pa. Code Chapters 471, 473, 477 and 479	March 2010.	The various chapters of the regulation need to be updated as described as follows.  The purpose of the amendments to Chapter 471 is to provide clarification of requirements and provide greater flexibility in the licensing of various categories and types of landing facilities. The amendments provide the flexibility to accommodate various levels of airport operations and advances in technology that were not envisioned or available at the time the regulation was originally adopted.  The purpose of the amendments to Chapter 473 is to allow for increased flexibility for the Department in providing a higher state share for granted projects and allow for a more efficient use of the Aviation Development grant funds available.  The purpose of the amendments to Chapters 477 and 479 is to simplify and better organize these Chapters in relation to the Chapters 471 and 473. There were no substantive changes to these chapters.	Brian Gearhart (717) 705-1250
Chapter 175.96— Vehicle Equipment and Inspection Regulations	February 2010.	The motor vehicle code does not allow for the utilization of laser guided systems which is an innovative technology that could be used to increase quality, efficiency and safety associated with snow plow and line painting operations. We are seeking approval to insert the language “Laser guided systems for use during plowing operations are authorized” into the Medium and Heavy Trucks and Buses section of Pub 45, Vehicle Equipment and Inspection Regulations, Chapter 175.96 (h) as it pertains to Department operations.	James Smith (717) 787-4299
Chapter 101— Authorizing Appropriately Attired Persons to Direct, Control or Regulate Traffic	April 2010.	The proposed regulation change is needed to be consistent with a Federal Highway Administration rule making (23 CFR Part 634: “Worker Visibility Rule” - issued November 24, 2008).	Matt Briggs (717) 783-6268
Title 67, Chapter 459 Occupancy of Highways by Utilities	April 2010.	The Department intends to update the permit fees within the chapter. The fee schedule indicated in § 459.4 has not been modified since it was implemented in March of 1989. With the increasing processing and procedural costs these fees do not allow the Department to obtain the permit review costs.	Mike Dzurko (717) 787-3620
Chapter 233 Automated Red Light Enforcement	July 2009.	Section 3116 of the Pennsylvania Vehicle Code provides the legal authority for the establishment of a pilot automated red light enforcement (ARLE) program within the City of Philadelphia. Section 3116(l)(2) says that the revenues remaining from ARLE fines, after deducting the system administrator’s operation and maintenance costs, shall be deposited into the Motor License Fund and shall be used by the Department to develop, by regulation, a Transportation Enhancements Grant Program. Therefore, a completely new regulation is needed to establish the provisions of this new Transportation Enhancements Grant Program.	Glenn Rowe (717) 787-3620

[Pa.B. Doc. No. 10-244. Filed for public inspection February 5, 2010, 9:00 a.m.]



# HUMAN RELATIONS COMMISSION

## Public Comment Period Extended

The Pennsylvania Human Relations Commission, or PHRC, has extended the public comment period until March 5, 2010, on proposed policy guidance titled, *The Disparate Impact Discrimination Implications of a Denial of Employment Based on a Criminal Record*. Proposed guidance is intended to assist public and private employers, employment agencies and labor unions in their efforts to comply with the employment provisions found in the Pennsylvania Human Relations Act (43 P.S. §§ 951—963).

Policy guidance, unlike PHRC regulations, does not have the full force and effect of law, but is meant to serve as a tool to help ensure equal opportunity for all who seek employment in this Commonwealth. Guidance is also intended as a preventative measure to reduce employment discrimination by helping jobseekers, employees and employers understand the implications of adopting hiring and job retention policies that may disparately impact racial minority job applicants and employees.

### Public Comments:

Public comments, prior to final consideration of the proposed guidance, will be received by the PHRC until March 5, 2010. Comments may be submitted by e-mail to [phrc@state.pa.us](mailto:phrc@state.pa.us) and should include the subject line, "Comments on Proposed Policy Guidance." Comments can also be mailed to Homer C. Floyd, Executive Director, 301 Chestnut Street, Suite 300, Harrisburg, PA 17101-1702. Comments submitted by fax will not be accepted.

### Consideration of Comments

Commissioners will have the opportunity to review comments prior to consideration of final policy guidance, which is tentatively scheduled during their monthly public meeting on March 22, 2010 at the address listed previously. The meeting begins at 1 p.m. and is open to the public. To determine whether consideration of comments will be on the agenda, contact the commission the week prior to the meeting at (717) 787-4410.

HOMER C. FLOYD,  
Executive Director

[Pa.B. Doc. No. 10-245. Filed for public inspection February 5, 2010, 9:00 a.m.]

# INDEPENDENT REGULATORY REVIEW COMMISSION

## Action Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10 a.m., Thursday, January 21, 2010, and announced the following:

### Action Taken—Regulation Approved:

Pennsylvania Gaming Control Board #125-103: Employees; Slot Machines; Accounting and Internal Controls; and

Compulsive and Problem Gambling (amends 58 Pa. Code Chapters 435a, 461a, 463a, 465a and 501a)

## Approval Order

Public Meeting held  
January 21, 2010

*Commissioners Voting:* Arthur Coccodrilli, Chairperson; George D. Bedwick, Vice Chairperson; S. David Fine-man, Esq., by Phone; Silvan B. Lutkewitte, III; John F. Mizner, Esq.;

*Pennsylvania Gaming Control Board Employees; Slot Machines; Accounting and Internal Controls; and Compulsive and Problem Gambling; Regulation No. 125-103 (#2781)*

On August 10, 2009, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Gaming Control Board (Board). This rulemaking amends 58 Pa. Code Chapters 435a, 461a, 463a, 465a and 501a. The proposed regulation was published in the August 22, 2009 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on December 10, 2009.

This regulation amends existing provisions to clarify reporting requirements, add flexibility for licensees and make the Board's regulations consistent with industry practice.

We have determined this regulation is consistent with the statutory authority of the Board (4 Pa.C.S. § 1202(b)(30)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

### By Order of the Commission:

This regulation is approved.

ARTHUR COCCODRILLI,  
Chairperson

[Pa.B. Doc. No. 10-246. Filed for public inspection February 5, 2010, 9:00 a.m.]

## Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P.S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P.S. § 645.5b).

The Commission has issued comments on the following proposed regulation. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
7-442	Environmental Quality Board Beneficial Use of Coal Ash 39 Pa.B. Page 6429 (November 7, 2009)	12/22/09	1/21/10

**Environmental Quality Board  
Regulation #7-442 (IRRC #2808)**

**Beneficial Use of Coal Ash**

**January 21, 2010**

We submit for your consideration the following comments on the proposed rulemaking published in the November 7, 2009 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Environmental Quality Board (EQB) to respond to all comments received from us or any other source.

**1. General—Protection of the public health, safety and welfare; Effect on this Commonwealth's natural resources; Economic impact; Need; Reasonableness.**

*Need for the regulation*

The Pennsylvania Chamber of Business and Industry commented in support of the beneficial use of coal ash, but at the same time asks the EQB to review the proposed regulation to make sure the requirements are necessary and warranted. It expresses concern that the regulatory requirements could deter beneficial coal ash use activities. It suggests that the regulatory balance be properly drawn.

ARIPPA directly questions the need for the regulation, given that the current framework for beneficially using coal ash is working and nationally recognized. Also, it believes that problems with coal ash disposal have been isolated incidents.

We recognize the benefits the EQB explained in the Preamble, including the explanation that "most costs that would be associated with the regulations are already part of the Department's program." However, we are also concerned that commentators believe that the regulatory requirements could deter beneficial coal ash use activities. Therefore, we request further explanation from the EQB regarding the need to establish requirements in regulation rather than continuing with the current program which appears to be successful.

*Protection of the public health, safety and welfare; Economic impact*

The regulation specifies many limits for the content and placement of coal ash. These limits include sections:

- 290.101(d) which only requires water quality monitoring if more than 10,000 tons of coal ash per acre is placed or more than 100,000 tons in total.
- 290.101(e) which specifies coal ash may not be placed within eight feet of a water table.
- 290.102(d)(1) and 290.105(e)(1) which require a pH in the range of six to nine.

- 290.102(d)(6) which states coal ash shall be covered by 12 inches of soil.
- 290.104(f)(2) and 290.105(e)(3) which require placement of coal ash to be accomplished by mixing with spoil material or by spreading in horizontal layers no greater than two feet thick.
- 290.104(f)(3) and 290.105(e)(3) which require coal ash to be spread and compacted within 24 hours of its site delivery.
- 290.105(e)(9) which specifies distances from streams, water supplies, sinkholes and wetlands.
- 290.202 which includes several certification standards.
- 290.301 which specifies sampling and the number of years water quality has to be monitored.
- 290.302 which specifies the number, location and depth of monitoring points.
- 290.305(c) and (d) which specify standards with distance limits at and beyond 500 feet from the perimeter of the permitted coal ash placement area or the property boundary.
- 290.404 which specifies several areas where coal ash is prohibited.
- 290.405(b) which specifies that stored coal ash shall be separated from the water table by at least four feet.
- 290.410 which specifies standards for liners and leachate detection zones.
- 290.411(a) which requires at least eight feet between the liner and the water table.

Some commentators representing the industries that produce the coal ash believe the limits are too restrictive and costly, and suggest lesser regulation of them. On the other hand, some commentators believe the limits are too lax and could result in pollution. The EQB should explain how it selected these limits and how they protect the public health, safety and welfare. We will review the EQB's response in our consideration of whether the final-form regulation is in the public interest.

*Implementation procedures*

In the Preamble, the EQB explains that prior to this proposed rulemaking, the beneficial use of coal ash was managed through existing residual waste regulations and technical guidance documents. The Preamble mentions coal ash placement going back 25 years or more. Commentators questioned the effect of the regulation on past placement of coal ash. The commentators included concerns with water quality monitoring, the regulation's effect on circulating fluidized bed ash and the impact of escalating compliance costs. The EQB should explain how it will transition previously approved coal ash sites and operations that depend on disposal of ash to the requirements in the final-form regulation.

*Out-of-state coal ash*

In the Preamble, the EQB states that:

- This Commonwealth has hundreds of thousands of acres of mine lands that need to be reclaimed;
- More than two billion tons of waste coal piles are scattered across the Anthracite and Bituminous Coal Regions of this Commonwealth; and
- The Department [of Environmental Protection] has observed numerous instances where removal of the

piles and reclamation has significantly reduced pollutant loads for metals, such as arsenic, zinc, nickel, iron and manganese.

The Preamble explains that the burning of waste coal piles from Pennsylvania mines serves several purposes, including the aesthetics of removing the piles, removal of the pollutant runoff from piles, fuel for power plants, reduction of the piles into ash, and the ultimate reclamation of the lands at reduced pollutant loads. However, in the response to Regulatory Analysis Form Question 25, the EQB mentions certification of out-of-state coal ash.

We are concerned with importing waste coal and coal ash into Pennsylvania. Importing waste coal and coal ash could effectively compromise the environmental benefits for Pennsylvania by slowing the reduction of coal piles within this Commonwealth while another state receives the environmental benefits. Therefore, we request an explanation of whether out-of-State waste coal and coal ash will be imported into Commonwealth and the impact on the benefits of beneficial use of coal ash if waste coal and coal ash is imported.

#### *Bonds*

Several commentators believe bonds should be required to address long-term water quality problems and to protect taxpayers from potentially expensive clean up costs. They believe these bonds should be required before a permit is issued to place the coal ash. The EQB should explain how the regulation adequately protects the Commonwealth from any long-term financial obligations if the placement of coal ash causes water quality problems.

#### *Comment of the United States Department of the Interior*

By letter dated January 8, 2010, the United States Department of Interior (USDI) submitted comment on the proposed regulation to the Commission. It is our understanding that the USDI attempted to submit these comments to the EQB during the public comment period, but due to an error the comments were not received by the EQB. Upon review of the USDI comment, we believe it has provided many beneficial comments and suggestions to the EQB that should be considered. Therefore, we incorporate the USDI comment in our comments for purposes of the EQB's consideration and response. We will consider the EQB's responses to the USDI as part of our consideration of whether the final-form regulation is in the public interest.

### **Chapter 287. Residual Waste Management— General Provisions**

#### **2. Section 287.1. Definitions.—Reasonableness; Clarity.**

##### *Coal ash*

The EQB is amending its existing definition of the term to more closely match the statutory definition found in the Solid Waste Management Act (SWMA) (35 P.S. §§ 6018.101—6018.1003). Some commentators have suggested that the definition be expanded to include blended fuels. Other commentators believe a separate definition of circulating fluidized bed coal ash is needed to recognize the different characteristics of this type of material. We ask the EQB to explain why the revised definition of coal ash is adequate to address the various types of ash that can be generated and possibly used for a beneficial purpose as outlined Chapter 290.

##### *Structural fill*

A commentator believes that the revised definition of this term will prevent the use of coal ash as valley fill or

for filling open pits and that the prohibition is contrary to the intent of this regulation. Why has the EQB decided to prohibit the use of coal as valley fill or for filling open pits?

### **Chapter 290. Beneficial Use of Coal Ash Subchapter B. Beneficial Use of Coal Ash**

#### **3. General.—Reasonableness; Need.**

Several commentators have stated that coal ash that will be incorporated into a product should not be assessed in the same manner as coal ash being placed on the ground. For example, they believe coal ash used for the production of concrete does not pose the same risk to public health as coal ash placed in abandoned mines. In the Preamble to the final-form regulation, the EQB should explain why all coal ash, regardless of its potential beneficial use, has to be assessed in the same manner.

#### **4. Section 290.101. General requirements for the beneficial use of coal ash.—Protection of the public health, safety and welfare; Effect on this Commonwealth's natural resources; Reasonableness; Need; Implementation procedures.**

##### *Subsection (a)*

This subsection allows coal ash to be beneficially used without a permit if the person proposing the use complies with this Chapter. A commentator has suggested that the public health would be better protected if a permit is required for activities such as using coal ash as structural fill or a soil substitute. In the Preamble to the final-form regulation, we ask the EQB to explain how this proposed regulation adequately protects the public health.

##### *Subsection (d)*

This subsection would allow the Department to waive or modify the water quality monitoring requirements for uses listed under § 290.106(b)(1)—(6). How would a person request such a waiver? How will the Department evaluate and administer such a request? The process for requesting a waiver should be included in the final-form regulation.

##### *Subsection (f)*

This subsection states that coal ash may not be used in a way that causes water pollution. What is meant by the phrase "causes water pollution"?

#### **5. Section 290.102. Use of coal ash as structural fill.—Protection of the public health, safety and welfare; Effect on this Commonwealth's natural resources; Implementation procedures; Clarity**

##### *Subsection (a)*

This section requires a person proposing to use coal ash as structural fill to submit a written notice to the Department 60 days before its use. Commentators have suggested that the 60-day notification requirement only be applicable to new projects or active projects that extend beyond two years of the effective date of the regulation. As noted above in our general comments on the effective date of the regulation, how will the Department administer this provision?

In addition, § 290.103, relating to use of coal ash as a soil substitute or soil additive, contains a similar notification requirement but also requires the Department to inform the person that the proposed use is consistent with that section. Has the EQB considered adding a similar requirement to § 290.102(a)? If the EQB does add a similar requirement, we ask that it specify how and when a response will be provided.



*Subsection (b)*

When will the Department publish the notice that coal ash will be used as structural fill, before or after it is actually used?

*Subsection (c)*

This subsection imposes public notification requirements when more than 10,000 tons of coal ash per acre is to be used on a project or more than 100,000 tons of coal ash in total will be used at a project. How did the EQB determine that the threshold limits listed in this subsection and § 209.105(b)(6), relating to the use of coal ash at abandoned coal surface mine sites, adequately protect the public health?

Also, can internet addresses be used in addition to the public offices under subsection (c)(3)?

*Subsection (d)*

Subsection (d)(4) states that surface runoff from the fill area shall be “minimized.” This term is also used throughout the proposed regulation, including:

§ 209.102(d)(8)	§ 209.104(g)(4)	§ 209.303(a)(3)(iii)
§ 209.102(e)(3)	§ 209.104(h)(2)	§ 209.403(a)
§ 209.103(d)(8)	§ 209.105(e)(4)	§ 209.403(b)
§ 209.104(f)(9)	§ 209.105(e)(8)	§ 209.404(a)(4).

The term “minimize” does not establish a binding standard that can be evenly applied to all members of the regulated community or give enough guidance to the regulated community so that they know how to comply. The EQB should amend these provisions to provide a standard that can be clearly understood.

*Subsection (e)*

Subsection (e)(2) and §§ 290.103(e)(3) and 290.105(e)(9)(ii) prohibit the placement of coal ash within 300 feet of a water supply unless a written waiver from the owner of the water supply is obtained. A commentator believes this provision does not provide enough protection to the owner. For example, will the owner understand the science of ash placement? However, another commentator believes the consent requirement is inconsistent with SWMA, the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.101—6020.1305) and The Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908) because beneficially used coal ash is not waste. The Department should explain how this provision adequately protects the public health and why it is consistent with other regulations and environmental statutes.

The phrase “in a form acceptable to the Department” found in Subsection(e)(2) is vague. How will members of the regulated community know what is appropriate? This phrase also appears in §§ 290.103 (e)(3) and 290.105(e)(9)(ii).

**6. Section 290.103. Use of coal ash as a soil substitute or soil additive.—Protection of the public health, safety and welfare; Need; Implementation procedures; Clarity.**

*Public notice*

This section does not contain public notification requirements found in § 290.102. Would the public health be better protected if similar notification requirements were included in this section?

*Subsection (a)*

This is general information that is already addressed under § 290.101(a), which pertains to general requirements. What is the need to duplicate that language in this subsection?

*Subsection (c)*

Similar to our second concern on § 290.102(a), we recommend that this subsection specify how and when the Department will inform the person proposing to beneficially use coal ash that the use is consistent with this section.

*Subsection (d)*

Subsection (d)(5) states, “Coal ash shall be applied at a rate per acre that will protect public health, public safety and the environment.” This requirement is vague. Who makes this determination? What criteria will be used to make this determination? The phrase also appears in § 290.105(e)(10)(i), relating to the beneficial use of coal ash at abandoned coal surface mine sites.

*Reporting of the use of coal ash*

Other sections of the proposed rulemaking require certain information to be reported to the Department by January 31st of each year. See §§ 290.102(f), 290.104(j) and 290.105(f). Is there a need to report any information pertaining to this section to the Department?

**7. Section 290.104. Beneficial use of coal ash at coal mining activity sites.—Protection of the public health, safety and welfare; Implementation procedures; Fiscal impact; Clarity.**

*Subsection (a)*

The reference to “other applicable environmental statutes and regulations promulgated thereunder” under Subsection (a)(1) is vague. Similar language appears in §§ 290.105(a)(1) and 290.409(1). We recommend that more specific references be included in the final-form regulation.

*Subsection (b)*

This section requires a person proposing to use coal ash at coal mining activity sites to obtain a permit from the Department. How soon before coal ash is used must a person request permission from the Department? In what form must the request be made? How and when will the Department respond to the request? Can coal ash be used before Department approval occurs? These issues should be addressed in the final-form regulation. Alternatively, if this permit process is guided by other Department regulations, an appropriate cross-reference should be included in this subsection.

Subsection (b)(2) makes reference to a “certification number.” This is the first time this term is used in Chapter 290. We are aware that § 290.201(d) identifies what this term is. However, we believe the regulated community would benefit from a definition of this term. We note that the term also appears in Subsection (j) and the term “certification identity number” is used in §§ 290.105(b)(2), 290.105(f) and 290.201(d).

*Subsection (c)*

Commentators who presumably will be paying the fee believe it is excessive and unnecessary. The EQB should further explain how the fee was derived and why it is needed.



*Subsection (e)*

In subsection (e), the phrases “overall improvement” and “prevent the degradation” are vague. In addition, the phrase “overall improvement” could be interpreted to only require a degree of improvement. For example, if the polluting acid drainage from waste coal is the baseline standard, either of these provisions could allow further pollution, even though they may meet the regulation’s requirement to be an overall improvement and prevent degradation. The EQB should explain how it intends for these requirements to be implemented and consider amending them.

*Subsection (f)*

This subsection addresses additional operating requirements for the placement of coal ash at coal surface mining and coal refuse reprocessing sites. We have six concerns. First, what is meant by the terms “coal surface mining” and “coal refuse reprocessing sites” and what is meant by the term “coal refuse disposal sites” under subsection (h)?

Second, a commentator is concerned that the volume limitations set forth in subsection (f)(1) could be a disincentive to reining activities taking place in the anthracite region and that rules should be written to account for volumes that were removed decades ago. How will the Department administer this provision? Will this provision allow volumes previously removed to be counted towards the volume limitations?

Third, a commentator believes the costs associated with this regulation and the volume limitations of this subsection will not make it economical to reclaim existing small coal refuse piles. We ask the EQB to explain how these regulations will not have a negative impact on the reclamation activities taking place throughout the Commonwealth.

Fourth, according to a commentator, coal mining and sales activities are accounted for on a tonnage basis, not a volume basis. Has the Department considered allowing either a volume or tonnage measurement?

Fifth, subsection (f)(4) imposes compaction standards on coal ash. It requires coal ash from each source to be tested individually. Commentators have noted that coal ash placed at a site can come from more than one source. What is the need for testing each source of coal ash?

Sixth, commentators are concerned that the prohibition on placing coal ash on coal refuse processing sites under subsection (f)(5) would eliminate this activity in the future. They believe the regulation should allow for the controlled reconstruction of these sites. What is the basis for this prohibition?

*Subsection (i)*

This subsection requires a person using coal ash at a coal mining activity site to sample the ash on a quarterly basis. Commentators have two concerns with this provision. First, since generators of coal ash are required to perform chemical analysis of the ash, what is the need for this provision?

Second, if the ash source and the ash placement are located at the same site and the only ash being placed comes from that generator, what is the need for the additional sampling?

**8. Section 290.105. Coal ash beneficial use at abandoned coal surface mine sites.—Implementation procedures; Clarity.**

*General*

We have three general concerns with this section. First, this section replaces § 287.664, titled “Coal ash beneficial use at abandoned and **non-coal surface mines.**” (Emphasis added.) Is the Department eliminating the placement of coal ash at non-coal mining sites, such as quarries? If so, what is the reason for this change of policy?

Second, to be consistent with the three previous sections, the title of this section should be amended to “Beneficial use of coal ash at abandoned coal surface mine sites.”

Third, what specifically is meant by the term “abandoned coal surface mine sites”? Can a cross-reference be added to a definition of this term?

*Subsection (a)*

This subsection requires written approval from the Department before coal ash can be beneficially used at abandoned coal surface mine sites. We question how the approval process will work. How soon before coal ash is beneficially used must a person seek approval from the Department? In what manner must the request be made? How and when will the Department respond to the request? What criteria will the Department use to determine if coal ash can be placed at a site? The final-form regulation should provide more direction on how this process will work.

*Subsection (b)(5)*

Who determines if a water quality monitoring plan is needed under this subsection?

**9. Section 290.106. Other beneficial uses of coal ash.—Implementation procedures; Clarity.**

*Subsection (b)*

We have two concerns with subsection (b). First, subsections (b)(3)(i), (b)(6) and (b)(7)(i) require a person wishing to use coal ash for certain purposes to provide advance written notice to the Department before using the coal ash. How far in advance must the notice be given?

Second, subsection (b)(4) requires bottom ash or boiler slag used as antiskid material or road surface preparation material to be consistent with “Department of Transportation specifications or other applicable specifications.” This requirement is vague. The final-form regulation should specify what specifications would be acceptable.

**Subchapter C. Coal Ash Certification**

**10. Section 290.201. Coal ash certification.—Protection of the public health, safety and welfare; Effect on this Commonwealth’s natural resources; Implementation procedures; Fiscal impact; Clarity.**

*Subsection (c)*

Commentators have questioned the need for all of the tests required under subsection (c). For example, what is the need for certification if the coal ash does not come into contact with the ground? Is it appropriate to test for moisture content for all material? What is the need for testing for permeability if the coal ash is not being used as low-permeability material? Why is it necessary to determine the neutralization potential of coal ash when that might not be its intended use? In the Preamble to the final-form regulation, the Department should further explain why all of the tests contained in this subsection are appropriate.

In addition, once a request for coal ash certification is made under subsection (c), how long will the Department have to either certify the coal ash or reject it?

*Subsection (e)*

How will the Department determine what the exact monitoring requirements are for each generator of certified coal ash under subsection (e)? How will the generator be notified of what their specific monitoring requirements are? Can the provisions of this section be uniformly applied to all generators of coal ash seeking to beneficially use it?

In addition, a commentator has questioned the reliability of annual reporting to the Department of the volume in cubic yards of coal ash produced for beneficial use. They note that ash can be compacted and believe the tonnage requirements in subsection (e)(3) would provide the Department with the required data. Given this statement, what is the need for the volume reporting requirement?

*Subsection (f)*

This subsection requires the coal ash generator and the person using the coal ash to notify the Department of any changes to the information filed in the certification application or of any evidence that the coal ash may not meet certification requirements. We have two questions. First, how would the person beneficially using the coal ash know if any information contained in the certification application filed by the generator has changed? Second, what is the need for both parties to notify the Department of any changes?

**11. Section 290.202. Revocation of certification.—Clarity.**

The term “consistently” used in subsection (a)(2) is vague. It does not establish a binding standard that could be evenly applied to all members of the regulated community. This provision should be clarified in the final-form regulation.

**Subchapter D. Water Quality Monitoring**

**12. Section 290.301. Water quality monitoring.—Protection of the public health, safety and welfare; Effect on this Commonwealth’s natural resources; Implementation procedures; Fiscal impact; Clarity.**

*Subsection (a)*

This subsection requires a person to submit a water quality monitoring plan to the Department for approval before the placement or storage of coal ash at certain sites. We have several concerns. First, what is a “water quality monitoring plan”? How will the approval process work? Does a form need to be submitted? How soon before using coal ash must the application be filed? How long will the Department have to review the application? How will the applicant be notified of the Department’s decision? The final-form regulation should address these questions.

*Subsection (g)*

Several commentators have concerns with this section and the monitoring requirements required after final placement or storage of coal ash. Some commentators have recommended that the time frame for monitoring be tied to Phase III bond release requirements of Chapters 86—90. In addition, some believe the monitoring requirements are not warranted while others believe the requirements do not adequately protect the environment and the public health. In the Preamble to the final-form regula-

tion, we ask the EQB to explain why the time frames of this subsection are appropriate and how the requirement will work with other Department regulations.

**13. Section 290.302. Number, location and depth of monitoring points.—Protection of the public health, safety and welfare; Implementation procedures; Need; Fiscal impact; Clarity.**

*Scientific basis*

Several commentators have questioned the science behind the requirements of this section. They note that the quality of a particular monitoring point is more important than a preset number of points and that the number of wells should be a factor of the specific placement, location and volume of the coal ash that is to be placed. In the Preamble to the final-form regulation, the EQB should explain why the regulatory requirements contained in this section are appropriate.

**14. Section 290.304. Assessment plan.—Protection of the public health, safety and welfare; Implementation procedures; Clarity.**

*Subsection (a)*

This subsection requires an assessment plan to be submitted to the Department within 60 days under certain circumstances. We have four concerns. First, what is an assessment plan? We recommend that this term be defined.

Second, an assessment plan is required under subsection (a)(1) if a “significant change” in the quality of water has occurred. This standard is vague. How could a member of the regulated community know what constitutes a “significant change”? The final-form regulation needs to include a measurable standard.

Third, would an assessment plan be required if the “significant change” is a change that improved the quality of the water?

Fourth, are the changes that will require an assessment plan tied to actual risks to public health?

*Subsection (c)*

Under this subsection, how would one know if a person is an “expert” in the field of hydrogeology? We recommend that a more precise standard be included in the final-form regulation. We have a similar concern with § 290.305(b).

**15. Section 290.305. Abatement plan.—Clarity.**

Subsection (c)(3)(ii) references “Department guidelines for assessing the health risks of environmental pollutants.” A more specific reference to the guidelines would assist the regulated community in complying with the regulation.

**Subchapter E. Coal Ash Storage**

**16. General.—Clarity.**

There are three general concerns. First, a commentator questioned whether subchapter (E) applies to all coal ash storage or just large scale producers and users of coal ash. We agree that it is not clear what specifically triggers the requirements within subchapter E. We note, for example, that subsection 290.402(d) states that the Department will presume that a person storing coal ash contrary to the regulation is operating a waste disposal facility. Subchapter E should clearly state what actions require compliance with the regulation.

Second, several commentators believe that the beneficial uses of coal ash will not be used by smaller construction projects if the material has to be stored in compli-

ance with subchapter E. The EQB should explain the impact of subchapter E on the beneficial use of coal ash.

Finally, the distinctions provided within this subchapter are confusing. For example, what is the difference between § 209.401(a) that affects “a person storing coal ash . . .” and § 209.405(a) that affects “a person storing coal ash in piles . . .”? What volume constitutes a pile? We recommend that the EQB review subchapter E and amend it to clearly state when its requirements apply.

**17. Section 290.401. Design and operation.—Clarity.**

*Subsection (a)*

It is not clear what standard is set by requiring the person to “employ best engineering design and construction practices.” If the design and operation practices must be certified by a registered professional engineer, the regulation should directly state that requirement. We recommend that the EQB review subsection (a) and amend it to provide a clear standard.

*Subsection (d)*

This subsection states that a person storing coal ash shall “routinely” inspect facilities and equipment. This requirement is vague. A more precise inspection requirement is needed so the regulated community can comply and the Department can enforce the regulation.

**18. Section 290.402. Duration of storage.—Clarity.**

*Subsection (b)*

The term “significant quantity” used in subsection (b)(1) is vague. Reference to a more precise amount should be included in the final-form regulation.

*Subsection (e)*

The phrase “operational records that are sufficiently detailed to demonstrate to the Department” is subjective and vague. The regulation should be amended to provide a clear standard for compliance and enforcement.

*Subsection (f)*

Under this subsection, what “other requirement” does the regulation refer to? This is vague and may allow enforcement of provisions not in regulation. We recommend deleting this phrase.

**19. Section 290.404. Areas where coal ash storage is prohibited.—Implementation procedures; Economic impact; Clarity.**

*Existing coal ash storage areas*

A commentator questioned how this regulation will be administered for existing coal ash storage areas and impoundments. We believe the commentator raises a legitimate concern which could involve considerable costs. The EQB should explain how it will implement § 290.404.

*Subsection (b)*

Under paragraph (6), how can it be determined whether a particular geologic study is “competent”? Would certification by a licensed geologist qualify? The regulation should be amended to set a clear standard.

Paragraphs (9) and (10) allow waivers relating to public water supplies and properties. We suggest requiring public notice of the intent to allow these waivers so that the people who may be affected have the opportunity to provide their input or consent prior to placement of the coal ash.

**20. Section 209.407. Storage piles—leachate and runoff control.—Reasonableness.**

A commentator suggested that subsection (a) should recognize that leachate and runoff can also be directed to a treatment system. If this is accurate, we recommend adding this clarification.

**21. Section 290.410. Storage impoundments—design requirements.—Clarity.**

*Paragraph (4)*

Subparagraph (i) uses the vague term “rapidly.” We recommend replacing this term with a clear standard.

*Paragraph (5)*

Subparagraph (i) states the liner must prevent the migration of leachate through the liner “to the greatest degree that is technologically possible.” It is not clear how this standard would be applied to existing storage impoundments. We suggest adding the phrase “at the time of construction.”

**22. Section 290.412. Storage impoundments—failure.—Protection of the public health, safety and welfare.**

*Subsection (a)*

This subsection requires several actions upon failure of an impoundment, including notice to the Department, but does not require public notice. Should the public be notified if a storage impoundment fails and could cause problems beyond its boundaries?

[Pa.B. Doc. No. 10-247. Filed for public inspection February 5, 2010, 9:00 a.m.]

**Notice of Filing of Final Rulemakings**

The Independent Regulatory Review Commission (Commission) received the following regulations. They are scheduled to be considered on the date noted. The Commission’s public meetings are held at 333 Market Street, 14th Floor, Harrisburg, PA at 10 a.m. To obtain a copy of the regulation, interested parties should first contact the promulgating agency. If a copy cannot be obtained from the promulgating agency, the Commission will provide a copy or copy can be obtained on the web site, [www.irrc.state.pa.us](http://www.irrc.state.pa.us).

*Final-Form*

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Public Meeting</i>
18-413	Department of Transportation Interstate Motor Carrier Safety Requirements (Withdrawn and Resubmitted)	1/22/09	2/25/10
18-414	Department of Transportation Intrastate Motor Carrier Safety Requirements (Withdrawn and Resubmitted)	1/22/09	2/25/10
15-446	Department of Revenue Clothing	1/25/10	2/25/10



<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Public Meeting</i>
7-436	Environmental Quality Board Blue Eye Run et al. (Water Quality Network (WQN) Package); Stream Redesignations	1/25/10	2/25/10
7-434	Environmental Quality Board Environmental Laboratory Accreditation	1/25/10	2/25/10

ARTHUR COCCODRILLI,  
*Chairperson*

[Pa.B. Doc. No. 10-248. Filed for public inspection February 5, 2010, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Allstate Property and Casualty Insurance Company; Homeowners; Rate Revision; Rate Filing

On January 13, 2010 the Insurance Department (Department) received from Allstate Property and Casualty Insurance Company a filing for a rate level change for homeowners insurance.

The company requests an overall 18.3% increase amounting to \$16,468,923 annually, to be effective April 5, 2010 for new business and May 20, 2010 for renewal business.

Unless formal administrative action is taken prior to February 12, 2010 the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at [www.insurance.pa.gov](http://www.insurance.pa.gov). On the "At a Glance" tab, click on the link "Current Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to Michael McKenney, Insurance Department, Office of Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [mmckenney@state.pa.us](mailto:mmckenney@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 10-249. Filed for public inspection February 5, 2010, 9:00 a.m.]

### Application and Request for a Certificate of Authority to Provide a Continuing Care Retirement Community by Bradford Ecumenical Home, Inc.

Bradford Ecumenical Home, Inc. has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at Bradford Ecumenical Home, Inc. in Bradford, PA. The initial filing was received on December 23, 2009, and was made under the requirements set forth under the Continuing Care Provider Registration and Disclosure Act of 1984 (40 P. S. §§ 3201—3325).

Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority

are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party; identification of the application to which the statement is addressed; and a concise statement with sufficient detail to inform the Department of the exact basis of the statement. Written statements should be directed to Steven L. Yerger, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557 or [syerger@state.pa.us](mailto:syerger@state.pa.us).

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 10-250. Filed for public inspection February 5, 2010, 9:00 a.m.]

### Application and Request for a Certificate of Authority to Provide a Continuing Care Retirement Community by Oakwood Healthcare, LLC

Oakwood Healthcare, LLC has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at Oakwood Healthcare and Rehabilitation Center in Philadelphia, PA. The initial filing was received on December 18, 2009, and was made under the requirements set forth under the Continuing Care Provider Registration and Disclosure Act of 1984 (40 P. S. §§ 3201—3225).

Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party; identification of the application to which the statement is addressed; and a concise statement with sufficient detail to inform the Department of the exact basis of the statement. Written statements should be directed to Steven L. Yerger, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, or [syerger@state.pa.us](mailto:syerger@state.pa.us).

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 10-251. Filed for public inspection February 5, 2010, 9:00 a.m.]

### Harper Oil Company; Hearing

#### Appeal of Harper Oil Company under the Storage Tank and Spill Prevention Act; Underground Storage Tank Indemnification Fund; USTIF File No. 2008-0116(M); Doc. No. UT10-01-013

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law); 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure); and any other relevant procedure provisions of law.

A prehearing telephone conference shall be held on March 25, 2010, at 10 a.m. Motions preliminary to those at hearing, protests, petitions to intervene, notices of appearance or notices of intervention, if any, must be filed with the Hearings Administrator at the Administrative



Hearings Office, Room 200, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA 17102, on or before March 10, 2010. Answers to petitions to intervene, if any, shall be filed on or before March 24, 2010.

A date for a hearing shall be determined, if necessary, at the prehearing/settlement telephone conference.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Donna R. Fleischauer, Human Resources Director, at (717) 705-4194.

JOEL SCOTT ARIO,  
Insurance Commissioner

[Pa.B. Doc. No. 10-252. Filed for public inspection February 5, 2010, 9:00 a.m.]

### List of Names of Qualified Unlicensed Reinsurers

Under section 319.1 of The Insurance Company Law of 1921 (40 P.S. § 442.1), the Insurance Commissioner (Commissioner) hereby lists reinsurers not licensed by the Insurance Department (Department) which shall be considered qualified to accept reinsurance from insurers licensed by the Department.

This listing of qualified unlicensed reinsurers shall be published in the *Pennsylvania Bulletin* when additions to or deletions from such listing are made by the Commissioner. This present listing shall replace in their entirety previously published listings of qualified unlicensed reinsurers which appeared at 6 Pa.B. 2423 (September 25, 1976); 6 Pa.B. 3140 (December 18, 1976); 7 Pa.B. 501 (February 19, 1977); 7 Pa.B. 1766 (June 25, 1977); 8 Pa.B. 276 (January 28, 1978); 8 Pa.B. 1646 (June 17, 1978); 8 Pa.B. 3461 (December 2, 1978); 9 Pa.B. 4235 (December 22, 1979); 11 Pa.B. 38 (January 3, 1981); 12 Pa.B. 37 (January 2, 1982); 12 Pa.B. 2368 (July 23, 1982); 13 Pa.B. 657 (February 5, 1983); 13 Pa.B. 2826 (September 10, 1983); 14 Pa.B. 1053 (March 24, 1984); 14 Pa.B. 3065 (August 18, 1984); 15 Pa.B. 402 (February 2, 1985); 15 Pa.B. 3214 (September 7, 1985); 16 Pa.B. 290 (January 25, 1986); 17 Pa.B. 461 (January 24, 1987); 17 Pa.B. 5368 (December 26, 1987); 18 Pa.B. 5540 (December 10, 1988); 19 Pa.B. 713 (February 18, 1989); 19 Pa.B. 3129 (July 22, 1989); 19 Pa.B. 5476 (December 23, 1989); 20 Pa.B. 6227 (December 15, 1990); 21 Pa.B. 3286 (July 20, 1991); 21 Pa.B. 5445 (November 23, 1991); 22 Pa.B. 4591 (September 5, 1992); 23 Pa.B. 60 (January 2, 1993); 23 Pa.B. 5678 (November 27, 1993); 24 Pa.B. 4151 (August 13, 1994); 24 Pa.B. 6033 (December 3, 1994); 25 Pa.B. 5799 (December 16, 1995); 26 Pa.B. 5665 (November 16, 1996); 27 Pa.B. 2593 (May 24, 1997); 27 Pa.B. 6019 (November 15, 1997); 28 Pa.B. 5733 (November 14, 1998); 28 Pa.B. 5922 (December 5, 1998); 29 Pa.B. 5965 (November 20, 1999); 30 Pa.B. 5033 (November 18, 2000); 31 Pa.B. 205 (January 13, 2001); 31 Pa.B. 6251 (November 10, 2001); 31 Pa.B. 7083 (December 29, 2001); 33 Pa.B. 92 (January 4, 2003); 33 Pa.B. 6474 (December 27, 2003); 34 Pa.B. 6617 (December 11, 2004); 35 Pa.B. 7073 (December 31, 2005); 36 Pa.B. 7359 (December 2, 2006) and 38 Pa.B. 327 (January 12, 2008); 38 Pa.B. 6670 (December 6, 2008).

#### Changes to the Qualified Unlicensed Reinsurers List

The following companies have been added since the list was published at 38 Pa.B. 6670:

- Farm Bureau Mutual Insurance Company of Michigan

- Genworth Mortgage Reinsurance Corporation

The following companies have changed their name since the list was published at 38 Pa.B. 6670:

- AIG Excess Liability Insurance Company Limited was renamed Chartis Select Insurance Company

- American International Specialty Lines Insurance Company was renamed Chartis Specialty Insurance Company

- Allstate Floridian Insurance Company was renamed Castle Key Insurance Company

#### Qualified Reinsurers List

1. 10651 AIG Global Trade & Political Risk Insurance Company, Parsippany, New Jersey

2. 10852 Allstate New Jersey Insurance Company, Northbrook, Illinois

3. 37990 American Empire Insurance Company, Cincinnati, Ohio

4. 10316 Appalachian Insurance Company, Johnston, Rhode Island

5. 11680 Aspen Insurance UK Limited, London, England

6. 27189 Associated International Insurance Company, Woodland Hills, California

7. 50687 Attorneys' Title Insurance Fund, Inc., Orlando, Florida

8. 19925 Audubon Indemnity Company, Ridgeland, Mississippi

9. 98167 Blue Cross Blue Shield of Florida, Jacksonville, Florida

10. 30511 Castle Key Insurance Company, Northbrook, Illinois

11. 36951 Century Surety Company, Columbus, Ohio

12. 10932 Chartis Select Insurance Company, Wilmington, Delaware

13. 26883 Chartis Specialty Insurance Company, Anchorage, Alaska

14. 36552 Coliseum Reinsurance Company, Wilmington, Delaware

15. 39993 Colony Insurance Company, Richmond, Virginia

16. 40371 Columbia Mutual Insurance Company, Columbia, Missouri

17. 27955 Commercial Risk Re-Insurance Company, South Burlington, Vermont

18. 40509 EMC Reinsurance Company, Des Moines, Iowa

19. 39020 Essex Insurance Company, Wilmington, Delaware

20. 35378 Evanston Insurance Company, Evanston, Illinois

21. 21555 Farm Bureau Mutual Insurance Company of Michigan, Lansing, MI

22. 97071 Generali USA Life Reassurance Company, Lansing, Michigan

23. 11049 Genworth Mortgage Reinsurance Corporation, Raleigh, NC

24. 37532 Great American E. & S. Insurance Company, Wilmington, Delaware
25. 41858 Great American Fidelity Insurance Company, Wilmington, Delaware
26. 14117 Grinnell Mutual Reinsurance Company, Grinnell, Iowa
27. 88340 Hannover Life Reassurance Company of America, Orlando, Florida
28. 10241 Hannover Ruckversicherung AG, Hannover, Germany
29. 93505 Hartford International Life Reassurance Corporation, Hartford, Connecticut
30. 78972 Healthy Alliance Life Insurance Company, St. Louis, Missouri
31. 42374 Houston Casualty Company, Houston, Texas
32. 27960 Illinois Union Insurance Company, Chicago, Illinois
33. 22829 Interstate Fire & Casualty Company, Chicago, Illinois
34. 35637 Landmark Insurance Company, Los Angeles, California
35. 19437 Lexington Insurance Company, Wilmington, Delaware
36. 41939 Liberty Northwest Insurance Corporation, Portland, Oregon
37. Lloyd's Underwriters, London, England
38. 12324 Mapfre Re, Compania de Reaseguros, S.A., Madrid, Spain
39. 10744 Markel International Insurance Company Limited, London, England
40. 33189 Max Specialty Insurance Company, Wilmington, Delaware
41. 32089 Medmarc Mutual Insurance Company, Montpelier, Vermont
42. 20079 National Fire & Marine Insurance Company, Omaha, Nebraska
43. 41629 New England Reinsurance Corporation, Hartford, Connecticut
44. 17400 Noetic Specialty Insurance Company, Chicago, Illinois
45. 31143 Old Republic Union Insurance Company, Chicago, Illinois
46. 88099 Optimum Re Insurance Company, Dallas, Texas
47. 38636 Partner Reinsurance Company of the U. S., New York, New York
48. 88536 Protective Life and Annuity Insurance Company, Birmingham, Alabama
49. 29807 PXRE Reinsurance Company, Hartford, Connecticut
50. 87017 SCOR Global Life Re Insurance Company of Texas, Los Angeles, California
51. RiverStone Insurance (UK) Limited, London, England
52. 28053 Rockhill Insurance Company, Phoenix, Arizona
53. 21911 San Francisco Reinsurance Company, Novato, California
54. 90670 Scottish Re Life Corporation, Wilmington, Delaware
55. 41297 Scottsdale Insurance Company, Columbus, Ohio
56. 23388 Shelter Mutual Insurance Company, Columbia, Missouri
57. 26557 Shelter Reinsurance Company, Columbia, Missouri
58. 39187 Suecia Insurance Company, Nanuet, New York
59. 19887 Trinity Universal Insurance Company, Dallas, Texas
60. 37982 Tudor Insurance Company, Keene, New Hampshire
61. 10292 Unionamerica Insurance Company Limited, London, England
62. 36048 Unione Italiana Reinsurance Company of America, Inc., New York, New York
63. 10172 Westchester Surplus Lines Insurance Company, Atlanta, Georgia
64. 13196 Western World Insurance Company, Keene, New Hampshire
65. 10242 Zurich Specialties London Limited, London, England

JOEL SCOTT ARIO,  
Insurance Commissioner

[Pa.B. Doc. No. 10-253. Filed for public inspection February 5, 2010, 9:00 a.m.]

### Notice to Workers' Compensation Insurance Carriers

Insurance companies that write Workers' Compensation are required to report workers' compensation premium, loss and claim count information using 2009 Special Schedule "W". Authority for this call is contained in section 655 of the Insurance Company Law of 1921 (40 P. S. Section 815). Information to be reported by April 15, 2010 includes the following:

For calendar year 2009:

- Premiums—Written, Unearned, Earned
- Losses—*Indemnity vs. Medical for Paid*, Reserves (*Case vs. Bulk & IBNR*), Incurred
- Amounts added to premium to yield Standard Earned Premium at Designated Statistical Reporting Level
- Deductible adjustments to yield first dollar premiums and losses

For evaluations as of December 31, 2008 and December 31, 2009, policy year information for large deductible (that is, deductible > \$100,000) policies versus all other policies including small deductible policies on a first dollar basis:

- Premiums—Earned
- Losses—*Indemnity vs. Medical for Paid*, Reserves (*Case vs. Bulk & IBNR*), Incurred
- Claim counts—*Indemnity vs. Medical for Incurred*, Closed with and without payments

Information regarding the submission of 2009 Special Schedule "W" has been sent to carriers and has also been posted at the Department's web site address, <http://www.insurance.pa.gov>.

Persons who have not received this information or have questions concerning information contained in this notice should contact Bojan Zorkic, Actuarial Associate, 1311 Strawberry Square, Harrisburg, PA 17120, (717) 787-6968 or [bzorkic@state.pa.us](mailto:bzorkic@state.pa.us).

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 10-254. Filed for public inspection February 5, 2010, 9:00 a.m.]

### Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insured has requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68) (Act 68) in connection with the termination of the insured's automobile policy. The hearing will be held in accordance with the requirements of Act 68; 1 Pa. Code Part II (relating to the 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 offices in Harrisburg, PA. Failure by an appellant to appear at the 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 Deborah L. Kuhn; file no. 09-183-80881; Nationwide Mutual Insurance Company; Doc. No. P10-01-005; March 2, 2010, 9:30 a.m.

Parties may appear with or without counsel and offer relevant testimony 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.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal, and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

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, contact Donna R. Fleischauer, Human Resources Director, at (717) 705-4194.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 10-255. Filed for public inspection February 5, 2010, 9:00 a.m.]

### RiverSource Life Insurance Company; Rate Increase Filing for LTC Form 30160A-PA; Rate Filing

RiverSource Life Insurance Company (previously called IDS Life Insurance Company) is requesting approval to increase the premium 10% on Long Term Care policy form 30160A-PA. A total of 2,180 Pennsylvania policyholders will be affected by this rate adjustment.

Unless formal administrative action is taken prior to April 3, 2010 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.ins.state.pa.us](http://www.ins.state.pa.us). Scroll down the home page and click on "Consumer Information" located on the left side. Next scroll down to "General Information," located in the middle of the page, and click on "Notices". The pdf copy of this filing is located at the link "Filing.pdf" following the name of the filing.

Interested parties are invited to submit written comments, suggestions or objections to James Lavery, Actuary, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, [jlavery@state.pa.gov](mailto:jlavery@state.pa.gov) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 10-256. Filed for public inspection February 5, 2010, 9:00 a.m.]

## PENNSYLVANIA COUNCIL ON AGING

### 2010 Meeting Dates

Under 65 Pa.C.S. §§ 701—716 (relating to Sunshine Act), the Pennsylvania Council on Aging (Council) has established the following meeting dates for the calendar year 2010:

Wednesday, February 24, 2010

Wednesday, April 28, 2010

Wednesday, June 9, 2010

Wednesday, August 11, 2010

Wednesday, December 9, 2010

Meetings of the Council will be held in the Fifth Floor Conference Room, 555 Walnut Street, Harrisburg, PA. Meetings are from 9 a.m. to 2 p.m.

Persons with a disability who wish to attend the previously-listed meetings and require an auxiliary aid, service or other accommodation to participate in the



proceedings should contact William White, Acting Executive Director at (717) 783-1550 to discuss how the Council may best accommodate their needs.

WILLIAM WHITE,  
*Acting Executive Director*

[Pa.B. Doc. No. 10-257. Filed for public inspection February 5, 2010, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by February 22, 2010. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

#### **Applications of the following for approval to begin operating as common carriers for transportation of persons as described under each application.**

**A-2010-2154830. Transcend, Inc., T/A Transcend Transportation Service** (P. O. Box 232, Hunt Valley, Maryland 21030)—a corporation of the State of Maryland, persons, in paratransit service, to medical appointments using sedans and wheelchair lift vans from points in the Counties of Adams, York, Dauphin, Lancaster, Cumberland, Lebanon, Perry, Franklin, Chester, Delaware, Montgomery, Philadelphia, Bucks and Berks, to points in Pennsylvania, and return; excluding that service which is under the jurisdiction of the Philadelphia Parking Authority.

#### **Applications of the following for approval of the additional right and privilege of operating motor vehicles as common carriers for transportation of persons as described under each application.**

**A-2010-2153977. Pocono Limousine Service, Inc.** (P. O. Box 340, Rt. 61 North, Mt. Pocono, Monroe County, Pennsylvania 18344)—a corporation of the Commonwealth, persons in group and party service, in vehicles seating eleven to fifteen passengers, including the driver, from points in the Counties of Monroe, Pike, Wayne, Carbon, Luzerne, Lackawanna, Northampton, Lehigh, Schuylkill and Philadelphia, to points in Pennsylvania, and return; excluding that service which is under the jurisdiction of the Philadelphia Parking Authority.

**Application of the following for the approval of the right and privilege to discontinue/abandon operating as common carriers by motor vehicle and for cancellation of the certificate of public convenience as described under the application.**

**A-2009-2140953. S & S Transit, Inc.** (2500 Clyde Avenue, North Versailles, Allegheny County, PA 15137), a corporation of the Commonwealth, for the discontinuance of service and cancellation of its Certificate of Public Convenience as a common carrier, by motor vehicle, authorizing the transportation of persons in group and party service, in vehicles seating fifteen or less, including the driver, between points in the County of Westmoreland, and from points in said County and the County of Allegheny, to points in Pennsylvania, and return.

**A-2010-2153671. Wall Street West Limousine Service, LLC** (6506 Runny Mead Lane, Tobyhanna, Monroe County, PA 18466)—discontinuance of service, persons, in limousine service, from points in Monroe County to points in Pennsylvania, and return; excluding service which is under the jurisdiction of the Philadelphia Parking Authority.

**A-2010-2154296 Pacifico Limousine, LLC** (7001 Holstein Avenue, Philadelphia, Philadelphia County, PA 19153)—discontinuance of service, persons, in limousine service, between points in Pennsylvania, excluding service between points in Allegheny County; excluding service which is under the jurisdiction of the Philadelphia Parking Authority.

JAMES J. McNULTY,  
*Secretary*

[Pa.B. Doc. No. 10-258. Filed for public inspection February 5, 2010, 9:00 a.m.]

### Water Service

**A-2010-2154670. Borough of Schuylkill Haven.** Application of the Borough of Schuylkill Haven for approval to begin to supply domestic water service to the public in additional territory in portions of North Manheim Township located in Schuylkill County, PA.

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 February 22, 2010. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

*Applicant:* Borough of Schuylkill Haven

*Through and By Counsel:* Mark Semanchik, Esquire, 44 North Balliet Street, Frackville, PA 17931

JAMES J. McNULTY,  
*Secretary*

[Pa.B. Doc. No. 10-259. Filed for public inspection February 5, 2010, 9:00 a.m.]

### Water Service

**A-2010-2154515. City of Lancaster Water Department.** Application of the City of Lancaster Water Department to seek approval to begin to offer, render, furnish or supply water service to the public in additional portions of East Lampeter Township, Lancaster County, PA.



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 February 22, 2010. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

*Applicant:* City of Lancaster

*Through and By Counsel:* Scott H. DeBroff, Esquire, Alicia R. Petersen, Esquire, Rhoads & Sinon, LLP, One South Market Square, P. O. Box 1146, Harrisburg, PA 17108-1146

JAMES J. McNULTY,  
*Secretary*

[Pa.B. Doc. No. 10-260. Filed for public inspection February 5, 2010, 9:00 a.m.]

### Water Service

**A-2010-2154276. Pennsylvania-American Water Company and Sutton Hills Home Owners Association, Inc.** Application of Pennsylvania-American Water Company and Sutton Hills Home Owners Association, Inc., for approval of: 1) the transfer, by sale, of the water works property and rights of the Sutton Hills Home Owners Association, Inc. to Pennsylvania-American Water Company; and 2) the Commencement by Pennsylvania-American Water Company of water service to the public in additional portions of Jackson Township, Luzerne County, presently served by Sutton Hills Home Owners Association, Inc.

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 February 22, 2010. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

*Applicant:* Pennsylvania-American Water Company

*Through and By Counsel:* Velma A. Redmond, Esquire, Susan Simms Marsh, Esquire, Seth A. Mendelsohn, Esquire, 800 West Hersheypark Drive, Hershey, PA 17033

JAMES J. McNULTY,  
*Secretary*

[Pa.B. Doc. No. 10-261. Filed for public inspection February 5, 2010, 9:00 a.m.]

## PENNSYLVANIA STIMULUS OVERSIGHT COMMISSION

### Change in Meeting Location

The next public meeting of the Pennsylvania Stimulus Oversight Commission is scheduled for Thursday, Febru-

ary 11th, 2010. The meeting will be held at 11 a.m. in Conference Room 1, 6th floor, Forum Place Building, 555 Walnut Street, Harrisburg.

RONALD NAPELES,  
*Chairperson*

[Pa.B. Doc. No. 10-262. Filed for public inspection February 5, 2010, 9:00 a.m.]

## STATE BOARD OF BARBER EXAMINERS

**Bureau of Professional and Occupational Affairs v. Marcus Rivas and Gilberto Melendez, Jr., d/b/a BZ Ballaz Club; Doc. No. 0990-42-2008**

On December 22, 2009, Marcos Rivas and Gilberto Melendez, Jr., d/b/a BZ Ballaz Club, License No. BO432239, of Philadelphia County, were suspended ordered to pay a civil penalty of \$750 because they violated a lawful order of the Board.

Individuals may obtain a copy of the adjudication by writing to David Markowitz, Board Counsel, State Board of Barber Examiners, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the State Board of Barber Examiners' (Board) final decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court, must serve the Board with a copy of their petition for review. The Board contact for receiving service of the appeals is the previously-named Board Counsel.

L. ANTHONY SPOSSEY,  
*Chairperson*

[Pa.B. Doc. No. 10-263. Filed for public inspection February 5, 2010, 9:00 a.m.]

## STATE BOARD OF COSMETOLOGY

**Bureau of Professional and Occupational Affairs v. Timothy Barnhart; Doc. No. 38672-45-2008**

On December 4, 2009, Timothy Barnhart, license no. CO214338L, of McDonald, Washington County, was ordered to pay a civil penalty of \$500, because he practiced in a place other than a licensed shop.

Individuals may obtain a copy of the adjudication by writing to David Markowitz, Board Counsel, State Board of Cosmetology, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the State Board of Cosmetology'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 Com-

monwealth 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.

SUSANNE M. PHILO,  
*Chairperson*

[Pa.B. Doc. No. 10-264. Filed for public inspection February 5, 2010, 9:00 a.m.]

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## STATE BOARD OF NURSING

**Bureau of Professional and Occupational Affairs v.  
Chrystal Walters; Doc. No. 2042-51-09**

On November 10, 2009, Chrystal Walters, license no. PN268295, of Clarksville, Greene County, was suspended under the Order of the Court of Common Pleas of Philadelphia County dated November 6, 2009, which the Court issued under section 4355 of the Domestic Relations Code. The suspension is effective immediately.

Individuals may obtain a copy of the order by writing to Cynthia K. Montgomery, Senior Counsel in Charge, State Board of Nursing, Penn Center, 3rd Floor, P. O. Box 2649, Harrisburg, PA 17105-2649.

ANN L. O'SULLIVAN, Ph.D., FANN, CRNP,  
*Chairperson*

[Pa.B. Doc. No. 10-265. Filed for public inspection February 5, 2010, 9:00 a.m.]

## STATE BOARD OF OSTEOPATHIC MEDICINE

**Bureau of Professional and Occupational Affairs v.  
Michael A. Stockton, DO; Doc. No. 1454-53-09**

On January 6, 2010, Michael A. Stockton, License No. OS007293E, of Bridgeville, Allegheny County and Columbus, Ohio, had his Pennsylvania license revoked based on disciplinary action taken against his license to practice osteopathic medicine by the proper licensing authority of Ohio.

Individuals may obtain a copy of the final order by writing to Steven R. Dade, Board Counsel, State Board of Osteopathic Medicine, P. O. Box 2649, Harrisburg, PA 17105-2649.

This final order represents the State Board of Osteopathic Medicine'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.

JOSEPH C. GALLAGHER, Jr., DO,  
*Chairperson*

[Pa.B. Doc. No. 10-266. Filed for public inspection February 5, 2010, 9:00 a.m.]







