

PENNSYLVANIA BULLETIN

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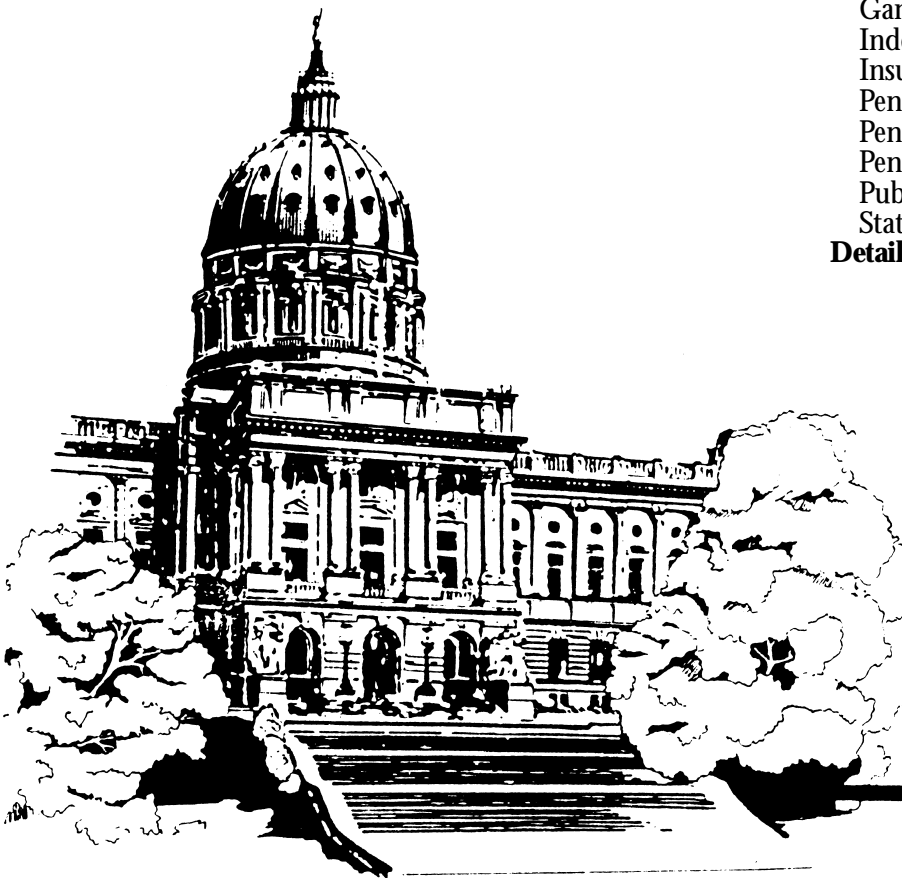
Saturday, June 6, 2009 • Harrisburg, PA

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**Latest Pennsylvania Code Reporter
(Master Transmittal Sheet):**

No. 415, June 2009

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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 2009.

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THE COURTS

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Transfer of Attorney to Inactive Status

Notice is hereby given that Aaron Thomas Flamm of Jersey City, NJ, has been transferred to inactive status by Order of the Supreme Court of Pennsylvania dated April 17, 2009, under Pennsylvania Rules of Disciplinary Enforcement 219, which requires that all attorneys admitted to practice in any court of this Commonwealth must pay an annual assessment of \$175. The Order became effective May 17, 2009.

Notice with respect to attorneys having Pennsylvania registration addresses, which have been transferred to inactive status by said Order, was published in the appropriate county legal journal.

ELAINE M. BIXLER,
Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 09-1013. Filed for public inspection June 5, 2009, 9:00 a.m.]

SUPREME COURT

Regular Sessions of the Supreme Court of Pennsylvania for the Year 2010; No. 126 M.D. No. 3

Order

Per Curiam:

And Now, this 20th day of May, 2009, *It Is Hereby Ordered* that the argument sessions of the Commonwealth Court of Pennsylvania shall be held in the year 2010 as follows:

| <i>Dates</i> | <i>Situs</i> |
|-----------------|--------------|
| February 8—12 | Philadelphia |
| March 15—19 | Harrisburg |
| April 19—23 | Pittsburgh |
| May 17—21 | Philadelphia |
| June 21—25 | Harrisburg |
| September 13—17 | Harrisburg |
| October 12—15 | Philadelphia |
| November 8—12 | Pittsburgh |
| December 6—10 | Harrisburg |

BONNIE BRIGANCE LEADBETTER,
President Judge

[Pa.B. Doc. No. 09-1014. Filed for public inspection June 5, 2009, 9:00 a.m.]

RULES AND REGULATIONS

Title 37—LAW

BOARD OF PROBATION AND PAROLE

[37 PA. CODE CH. 79]

County Probation and Parole Officers' Firearm Education and Training Commission

The County Probation and Parole Officers' Firearm Education and Training Commission (FETC) adds Chapter 79 (relating to the County Probation and Parole Officers' Firearm Education and Training Commission) to read as set forth in Annex A.

Authority

The FETC under the County Probation and Parole Officers' Firearm Education and Training Law (act) (61 P. S. §§ 332.1—332.9) by this order, adopts the regulation set forth in Annex A under the authority of section 332.5(13) of the act which empowers the FETC commissioners, "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." Notice of the proposed rulemaking was published at 36 Pa.B. 6510 (October 28, 2006).

Purpose

This final-form rulemaking implements the requirements of the act. The regulations contain procedures which must be followed by interested third parties and which are directly applicable to the training programs and reimbursement mechanisms that are available for county probation and parole officers. The first part of the regulations (§§ 79.11—79.33 (relating to initial certification of officers; maintenance of certification; and revocation of certification)) explain the processes involved in obtaining certification to carry firearms from the FETC, maintaining the certifications and revocation of these certifications. The next part (§§ 79.51 and 79.52 (relating to training expense)) explains the procedures, which are applicable to training expense reimbursements. The next part (§§ 79.61—79.65 (relating to approval of instructors, schools and vendors)) explains the procedures that interested instructors, schools and vendors must follow to be approved for use within the various FETC training and education programs. The final part (§§ 79.71—79.87 (relating to request for reconsideration of Commission decisions; and notice and hearings)) explains the procedures that persons or schools who are aggrieved by FETC decisions should follow.

Affected Parties

The final-form rulemaking is intended to provide guidance and direction to county probation and parole officers pertaining to the processes to be followed so that they can be certified to carry a firearm within their respective counties, maintain the certifications and be afforded an opportunity to be heard in the event their certifications are revoked by the FETC. Additionally, the final-form rulemaking is intended to provide guidance and direction to any schools or vendors who wish to be considered for conducting FETC training and education programs.

Fiscal Impact

Commonwealth

The FETC has determined that the final-form rulemaking will have no adverse financial impact on the Commonwealth since all funds budgeted for the FETC are derived from the County Probation and Parole Officers' Firearm Education and Training Fund (Fund), which, under the act, is a restricted receipts account within the General Fund. Moneys for this Fund are derived from costs imposed on any person who accepts Accelerated Rehabilitative Disposition or pleads guilty or nolo contendere or is convicted of a felony or misdemeanor. This Fund is used exclusively for the training activities and expenses of the FETC.

Political Subdivisions

For those counties that choose to carry firearms, the final-form rulemaking is implementing a program that is already in effect and funding for the program is in place in those counties. Therefore, there is no new significant fiscal impact for these counties, either direct or indirect. For counties electing to participate after the implementation of the final-form rulemaking, the start-up costs of participation could be significant depending on numerous variables such as the number of officers or the type of equipment purchased by the county. Accordingly, it is impossible to estimate these costs.

Private Sector

The final-form rulemaking will have no adverse fiscal impact on the private sector.

General Public

The final-form rulemaking will not impose any costs and will have no adverse fiscal impact on the general public.

Cost and Paperwork Requirements

The final-form rulemaking provides guidance and procedural information for implementing a program, which is already in effect and for which funding is already in place. Therefore, there will be no new fiscal impact. The final-form regulation does not affect the existing reporting, recordkeeping, or other paperwork requirements of the FETC, other government units or the general public.

Public Comment

No public comments were received in response to the proposed regulations. Comments were received from the Independent Regulatory Review Commission (IRRC); those comments are summarized as follows. No comments were received from the General Assembly or other State agencies.

Discussion of Comments and Major Changes

Following is a summary of the major comments received from IRRC within the public comment period following publication of the proposed rulemaking and the FETC's response to those comments.

General Comment—Economic or fiscal impact; clarity and lack of ambiguity; reasonableness of the requirements.

IRRC expressed concern that many of the phrases within the regulation were vague. The reason for this concern was: (1) without adequate notice of what the requirements the FETC is imposing, the regulated community would have difficulty determining what actions on

its part constitute compliance; (2) reference to nonregulatory documents should not be used to enforce standards contained in the regulation; and (3) the lack of clarity would place the regulated community at a disadvantage with regard to compliance.

The FETC identified and reviewed the vague phrases and made changes as appropriate. In some cases the phrases are needed so that the FETC can quickly respond to needed changes within the FETC processes and documents. It is the FETC's position that the phrases will not work to the detriment of the regulated community since the FETC maintains a close working relationship with it and consistently updates its web site to provide the most current information to it pertaining to the activities of the FETC.

§ 79.2. Definitions.

IRRC expressed concern that the definition of "certified firearms instructor" was inconsistent with § 79.61(b) (relating to approval of instructors). Accordingly, the FETC changed this definition by adding the verbiage "and who is approved by the Commission under §§ 79.61(a)(1) and deleting "who meets the minimum qualifications for instructors as established by the Commission and."

IRRC expressed concern that the definition of "county-conducted training" was not in conformity with § 79.61(a)(2) which includes training by the FBI, Pennsylvania State Police and the National Rifle Association. It is the FETC's position that § 79.61(a)(2) does not apply to county-conducted training but instead references the types of law enforcement classes that one must have completed to meet the minimum qualifications for a Certified Firearms Instructor (CFI). Accordingly, this change was not made. However, the definition of "county-conducted training" was clarified to explain that it is referencing trainings conducted by a county but approved by the Commission.

IRRC expressed concern that the definition of "in-service training" contained the phrase "under the act" and recommended deleting this phrase. The FETC deleted the phrase "under the act" from this definition.

IRRC expressed three concerns with the definition of "master instructor." IRRC found this definition to be inconsistent with § 79.61(b) because § 79.61(b) requires that master instructors be approved by the FETC. The second concern was that the definition contained the phrase "Commission-CFI" rather than "CFI." The third concern was that a cross-reference was lacking to more specifically describe the minimum qualifications. The FETC made these changes by deleting the word "Commission" from "Commission-certified firearms instructor" and adding "and who is approved by the Commission under § 79.61(a)(2)."

IRRC expressed concern about the potential inability of the regulated community to access the appropriate form for purposes of seeking action from the FETC. The FETC has moved to a virtually paperless process by means of its Firearms Commission Training Management System. Accordingly, a definition for the acronym pertaining to this system was added and the regulations changed to state when the submission is to be made by means of this system.

§ 79.3. Enrollment.

IRRC expressed concern that this section was too broad and inconsistent with the act since the act states four minimum requirements to participate in the training

program or the participant can be granted a waiver. Accordingly, this section was changed to add at the end of the regulation the following language, "and be based upon all relevant factors pertaining to the ability of the Commission to hold a program including the number of openings in a particular training program, the timing of the submitted application for training, the financial viability of conducting the training and the availability of instructors and facilities to hold the program."

§ 79.12. Applications.

Paragraph (b) is revised to explain that the submission process is by means of the FCTMS.

§ 79.13. Requirements for Completion.

Paragraph (1)—IRRC expressed concern about the word "prescribed" because it is not clear what is meant by "prescribed program" nor who prescribes the program. Accordingly, per IRRC's suggestion, the word "prescribed" was replaced with "approved."

Paragraph (2)—IRRC expressed concern about the phrase "Compliance with Student Code of Conduct for the programs as established by the Commission." Its concern was that the phrase was vague because it is not clear who establishes the Student Code of Conduct or where a copy of the document can be obtained. Accordingly, this paragraph was changed to read, "Compliance with Student Code of Conduct for such programs as reviewed and approved annually by the Commission and set forth in the course syllabus for each training program and on the Commission's web site; . . ."

Paragraph (3)—IRRC expressed concern that this section was not clear in explaining when a passing score on a component would be inapplicable and who would make that determination. IRRC expressed concern that the FETC would be unable to determine if a candidate satisfactorily completed a course without administering a written examination. It is the FETC's position that what constitutes a satisfactory completion of a course is different for each course. Some of the courses require that students achieve a passing score on a written examination but not all of the courses have this requirement. The phrase "if applicable" at the beginning of this paragraph serves the purpose of highlighting this fact. Nonetheless, the FETC has deleted "if applicable" from the final regulation and added the phrase "graded or evaluated, or both" before "written, oral and range components of a training program."

§ 79.15. Failure to Complete Basic Training.

Subsection (b)—IRRC recommended replacing the phrase "for the reasons under § 79.13" with the phrase "requirements for completion under § 79.13." The FETC did not fully follow this recommendation and instead replaced the phrase "for the reasons" with "requirements."

Subsection (d)—IRRC expressed two concerns pertaining to this subsection.

The first concern that IRRC expressed was that this subsection was inconsistent with §§ 79.22 and 79.23 (relating to range requalification examinations; and failure to complete range requalification or in-service training) since these sections use the term "range" and this subsection uses the term "firing." Accordingly, the word "firing" was deleted from this subsection.

The second concern that IRRC expressed pertained to the chief probation officer's submission of ". . . a request to the Executive Director seeking permission . . ." IRRC's concerns was that this subsection did not specify a time

frame within which the Executive Director must respond to this request. Accordingly, this subsection was changed to require that the request be submitted in writing and the following sentence was added, "The Executive Director will grant or deny the permission, in writing, within 15 business days after receiving the written request from the officer's Chief Probation Officer."

§ 79.21. Maintenance of Certification.

IRRC recommended that the minimum number of hours of in-service training be set forth somewhere in the regulations. Additionally, IRRC recommended that the regulation state where the specifics of each in-service training will be published. Accordingly, the FETC revised this section of the regulation to explain how long an officer's certification is effective in subsection (a). The FETC added the following language to subsection (b)(1), "At least 4 hours of" to the beginning of this subsection. The FETC also added language indicating that this 4 hours must be completed on an annual basis and that the specifics of the training will be on the FETC web site.

§ 79.22. Range Requalification Examinations.

IRRC questioned the need for limiting range requalifications to the period between April 1 and October 31 in subsection (c). This limitation is required due to the possibility of inclement weather during the winter months thereby making the outdoor ranges unavailable and it is required for administrative purposes. Nevertheless, the FETC revised this subsection of the regulation to delete the April 1st starting date but retained the October 31st end date. The FETC also carved out an exception for certain range requalification matters by adding language to the end of subsection (c). Additionally, subsection (e) was revised to add a reference to the FETC's web site.

§ 79.23. Failure to Complete Range Requalification or In-service Training.

IRRC recommended that the regulation specify a time limit for achieving a passing score. Accordingly, the FETC revised this section to set forth a time frame within which an officer must achieve a passing score.

§ 79.24. Extensions.

Subsection (a) was revised to add a reference to the FETC's web site. Additionally, subsection (a)(1)(iii) was revised to cross-reference subsections (a)(1)(i) and (ii) to better describe some of the types of supporting documentation that must be submitted.

IRRC pointed out that the cross-reference in subsection (d) was incorrect. This incorrect cross-reference has been corrected. Additionally, FETC revised this subsection to require that a request to conduct a range requalification examination be in writing.

IRRC expressed concern that subsection (e) was inconsistent with § 79.14 (relating to duration of certification). Subsection (e) provided that an officer who has been granted an extension will have his certification suspended on October 31 of the year in which the officer's current certification expires whereas § 79.14 provided that a certification would remain valid through December 31. The FETC reconciled these two provisions by deleting the October 31 date and adding language providing that a granted extension shall be effective to the ending date of the granted period of extension.

§ 79.31. Reasons for Revocation of Certification.

IRRC expressed concern about the provision in this section that provided the FETC with the authority "to revoke an officer's certification for any reason . . ." IRRC

alleged that this was inconsistent with the FETC legislation, specifically 61 P.S. § 332.5(2). Accordingly, the FETC revised this regulation by deleting the "for any reason" verbiage and cross-referencing § 79.21 (relating to maintenance of certification).

In referencing paragraph (3), IRRC recommended that "Commission-sponsored event" be defined. The FETC revised this subpart by deleting the phrase "Commission-sponsored event" and adding "an event or training that is conducted by the Commission." The FETC also clarified what constitutes "unprofessional conduct" for purposes of revoking certifications.

IRRC expressed three concerns with paragraph (5): (1) that this paragraph did not comport with the FETC act, namely 61 P.S. § 332.5(2); (2) that an individual officer's certification could be revoked due to the actions or inactions of others; and (3) that an individual officer's certification could be revoked when an individual officer may not even have knowledge that the FETC is in need of information. Accordingly, this subpart was deleted in its entirety.

§ 79.32. Revocation of Certification for Failure to Pass Range Requalification Examination.

IRRC expressed concern that under subsection (a), certification is revoked immediately whereas under § 79.14 a certification remains valid through December 31. The FETC reconciled these provisions by revising § 79.21 to better recognize the requirements of not only § 79.32 (relating to revocation of certification for failure to pass range requalification examination) but also §§ 79.31 and 79.33 (relating to reasons for revocation of certification; and revocation of certification for failure to submit a timely request).

IRRC questioned why range requalification examinations were not permitted after October 31. This limitation is required due to the possibility of inclement weather during the winter months thereby making the outdoor ranges unavailable and it is required for administrative purposes.

§ 79.41. Failure to Achieve a Passing Score on a Range Requalification Examination.

Paragraph (1) was subsequently revised to explain that the submission process is done by means of the FCTMS.

§ 79.42. Failure to Complete Range Requalification Within Required Time Frames.

Based upon the comments received from IRRC, the title of this section is changed to "Failure to meet range requalification requirements time frames." Based upon this change, subsection (a) is revised to add language that is consistent with the title change.

Subsection (a)(1) was revised to add a reference to the FETC's web site.

IRRC expressed concern about subsection (b) limiting requalification to "in no case later than March 31st of the year in which the application is filed with the Executive Director." IRRC questioned how an officer could comply by March 31st when subsection (a)(3) and § 79.22(c) limit range requalification examinations to the period between April 1 and October 31. IRRC also questioned why there is a limitation on requalifications to the months of January, February or March. The FETC revised this subsection to require that the recertification requirements set forth in § 79.42 (relating to failure to meet range requalification within required time frames) be satisfied within 180 calendar days of the date that the application

for recertification is granted by the FETC. Since there are a variety of reasons that officers seek recertification with a variety of different time frames the FETC reserves the right to grant the officer additional time depending upon the circumstances surrounding the request. The time frame that the officer must satisfy will be set forth in the FETC's approval letter that is sent to the affected officer.

§ 79.43. Failure to Meet Mandatory In-Service Training Requirements.

Revisions were made to this section to add appropriate cross-references within this section to the FETC's web site. Additionally, subsection (b) was revised to reference the approval letter process pertaining the recertification process.

§ 79.44. Non-Recertifiable Revocations.

IRRC commented that the cross-reference printed in the *Pennsylvania Bulletin* was incorrect. This correction has been made.

§ 79.51. Reimbursement of Expenses.

In subsection (a), IRRC commented that the phrase "...but will, from time to time, be further specified by the Commission" was vague. It has been deleted.

In subsection (d), IRRC commented that the phrase "...in accordance with Commission policies in effect on the dates of the county-conducted basic training or county-conducted in-service training" was vague. The Commission does not find this phrase to be vague. This phrase, when taken in the context of the entire section is explaining what types of reimbursements counties that conduct basic or in-service trainings can expect. These reimbursements vary and are generally based upon the FETC's annual budget. While the FETC did not revise this phrase, the last sentence of this subpart was deleted, per later comments received informally from IRRC, which were received after the allowable time period for submission of comments.

§ 79.61. Approval of Instructors.

IRRC recommended including a cross-reference in subsection (d) explaining how an instructor can appeal an action by the FETC under this section. Accordingly, subsection (d) is revised to cross-reference § 79.72 (relating to procedure for officers, CFIs, MIs or schools seeking reconsideration). Section 79.62(f) of the regulations was also changed to comply with IRRC's recommendation.

Subsection (a) was revised to explain that the submission process is by means of the FCTMS.

Subsection (a)(1) was revised to comply with existing FETC practice in that the Academic CFI is not used by the FETC in designating CFIs. Accordingly, the bifurcation of CFI between Academic and Range was deleted.

Subsection (a)(2) was revised to require that an instructor serve as a CFI for at least a 36-month period prior to being eligible for MI status.

Subsection (b) was revised to indicate which date controls for purposes of calculating the 36-month period when a CFI subsequently attains MI status.

Subsection (c)(1) was revised to comply with existing FETC practice.

Subsection (d) was revised to reference the available reconsideration procedure should a CFI or MI whose certification is revoked by the FETC wish to pursue reconsideration.

§ 79.62. Approval of Schools and Vendors.

Subsection (f) was revised to reference the available reconsideration procedure should a school or vendor whose certification is revoked by the FETC wish to pursue reconsideration.

§ 79.63. Requirements for In-Service Training Course(s).

Subsection (b) was revised based upon an informal comment received from IRRC that the phrase "in such format and follow such procedures as established by the Executive Director" was vague. This comment was received after the allowable time period for submission of comments. Nonetheless, the FETC is deleting this phrase and simply requiring that the proposal be submitted in writing.

§ 79.64. County-Conducted Basic Training and § 79.65. County-Conducted In-Service Training.

IRRC commented that various phrases within subsections (a), (c), (d) and (g) were vague. The referenced phrases in subsections (a) and (c) have been revised to make reference to the FETC's web site as well as the terms and conditions which will be set forth in the FETC's written approval letter. Additionally, subsection (c) was revised to reference Forms 19b and 19c, respectively, which sets forth the procedures that a county must follow when conducting this training. It is the FETC's position that subsection (d) is not vague. It specifically states that all training sites that a county wishes to utilize to conduct training must be pre-approved by the FETC's Executive Director. This is clear and not vague. However, at the suggestion of IRRC, the phrase "meet Commission standards" was deleted. Subsection (g) was revised to add a specific time frame of 30 days for the submission to the FETC's Executive Director all required training forms and to reference the approval letter for purposes of determining which forms and materials must be submitted within the 30-day time frame.

§ 79.72. Procedure for Officers or Schools Seeking Reconsideration.

IRRC expressed concerns about subsection (a)(5) which stated, "Results and opinion in letter-rulings will have no precedential authority and are subject to withdrawal or change at any time to conform to new or different interpretations of the law." IRRC alleged that the wording of this subsection would allow the FETC to independently reverse decisions based upon internal "new or different interpretations of the law." IRRC also questioned how an officer or school could rely on letter-ruling decisions if they can be changed or withdrawn. Finally, IRRC expressed concern that if a letter ruling is changed, the officer or school who wishes to appeal the change would not be able to do so because the appeal time period would have passed. Based upon these concerns, the FETC deleted the following language in subsection (a)(5), "... and are subject to withdrawal or change at any time to conform to new or different interpretations of the law." Additionally, the title of this section was changed to allow CFIs and MIs to seek reconsideration of FETC decisions. This latter change is also reflected in subsections (a) and (a)(1). Finally, subsections (a)(1) and (a)(2)(ii) were changed to address vendors who may be aggrieved by FETC decisions.

§ 79.84. Hearings.

IRRC commented that this section was not identical to the cross-referenced 1 Pa. Code § 35.111 (relating to conferences to adjust, settle or expedite proceedings). Accordingly, the FETC revised this language by deleting

the identical reference and adding, "If a prehearing conference is held, it will be under . . ."

§ 79.86. Failure to Appear at a Hearing.

IRRC questioned the necessity of subsection (c). IRRC also questioned why there was not a "good cause" requirement in subsection (c). Subsection (c) addresses a situation that is not addressed in subsections (a) and (b). It addresses those situations whereby a hearing examiner, for whatever reason, appears for a hearing when none of the parties appear. This can occur due to the fault of the hearing examiner or due to miscommunications among the parties and the hearing examiner. Subsection (c) mandates that in such instances, regardless of whether good cause exists or not, that the hearing be rescheduled. Accordingly, no change was made based upon this comment. However, subsections (a) and (c) were revised to include CFIs and MIs in the process.

§ 79.87. Hearing Examiner Recommendation.

IRRC recommended that the FETC review and explain the cross reference to appeals "in accordance with Pa.R.A.P. and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law)." The FETC has reviewed this cross reference and finds it to be accurate and correct. It is a cross reference to the statutory law and rules of court related to appeals of administrative agency adjudications.

Effective Date

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

Sunset Date

No sunset date has been assigned. The FETC will review the efficacy of this regulation on an ongoing basis.

Regulatory Review Act

Under § 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)), the FETC submitted a copy of this regulation to IRRC and to the Chairpersons of the House and Senate Standing Committees on Judiciary (Committees) on April 6, 2009. In compliance with the Regulatory Review Act, the FETC also provided the Committees and IRRC with copies of all public comments received, as well as other documentation.

In preparing the final-form regulation, the FETC reviewed and considered comments received from the Committees, IRRC and the public.

In accordance with § 5.1(j.1) and (j.2) of the Regulatory Review Act, this regulation was deemed approved by the Committees on April 23, 2009. IRRC met on April 23, 2009, and approved the regulation.

In addition to submitting the final-form rulemaking, the FETC has provided IRRC and the Committees with a copy of a Regulatory Analysis Form prepared by the FETC. A copy of this form is available to the public upon request.

Findings

The FETC finds:

(a) The public notice of intention to adopt the administrative regulation by this Order has been given under §§ 201 and 202 of the Commonwealth Documents Law (45 P. S. §§ 1201 and 1202) and the regulations at 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(b) That the adoption of this regulation in the manner provided by this Order is necessary and appropriate for the administration and enforcement of the act.

Order

The FETC acting under section 332.5(13) of the act orders:

(a) The regulations of the FETC, 37 Pa. Code Chapter 79, are amended by adding §§ 79.1—79.3, 79.11—79.15, 79.21—79.24, 79.31—79.33, 79.41—79.44, 79.51, 79.52, 79.61—79.65, 79.71, 79.72 and 79.81—79.87 to read as set forth in Annex A.

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

(c) The Chairperson of the FETC shall certify and deposit this Order and Annex A with the Legislative Reference Bureau as required by law.

(d) This Order shall take effect upon final publication in the *Pennsylvania Bulletin*.

SCOTT SCHLECHTER,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 39 Pa.B. 2420 (May 9, 2009).)

Fiscal Note: Fiscal Note 41-18 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 37. LAW

**PART II. BOARD OF PROBATION AND PAROLE
CHAPTER 79. COUNTY PROBATION AND PAROLE
OFFICERS' FIREARM EDUCATION AND
TRAINING COMMISSION**

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GENERAL PROVISIONS

§ 79.1. Scope.

This part sets forth standards and procedures relating to the certification of county probation and parole officers and their qualification to carry or use firearms in the performance of their duties.

§ 79.2. Definitions.

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

Act—The County Probation and Parole Officers' Firearm Education and Training Law (61 P. S. §§ 332.1—332.9).

Basic training—The initial training provided by the Commission.

CFI—Certified Firearms Instructor—A firearms instructor who is approved by the Commission under § 79.61(a)(1) (relating to approval of instructors.)

Commission—Firearm Education and Training Commission.

County conducted training—Any Commission-approved training not presented by the Commission but presented by a county.

Executive Director—The administrative officer reporting directly to the Commission who is responsible for program management.

FCTMS—Firearms Commission Training Management System.

In-service training—The continuing training necessary for county probation and parole officers to maintain certification.

MI—Master Instructor—A CFI who meets the minimum qualifications to become an MI and who is approved by the Commission under § 79.61(a)(2).

(b) The definitions in section 2 of the act (61 P. S. § 332.2) are incorporated by reference.

§ 79.3. Enrollment.

Enrollment in programs under this part will be based upon all relevant factors pertaining to the ability of the Commission to hold a program including the number of openings in a particular training program, the timing of the submitted application for training, the financial viability of conducting the training and the availability of instructors and facilities to hold the program.

INITIAL CERTIFICATION OF OFFICERS

§ 79.11. Certification.

Certification of those county probation/parole officers who have satisfactorily completed basic training or who have been granted a waiver by the Commission will be recognized through the issuance of a certificate, which will bear a certification number.

§ 79.12. Applications.

(a) The requirements for program participation or waiver in section 7 of the act (61 P. S. § 332.7) are incorporated by reference.

(b) Application procedures to participate in training programs approved by the Commission will require any officer or county, or both, to submit information in a format as specified on FCTMS (<http://www.fetc.state.pa.us/fetc/site/default.asp>).

§ 79.13. Requirements for completions.

Satisfactory completion is defined as meeting the following requirements:

(1) Attendance at the entire approved training program.

(2) Compliance with Student Code of Conduct for the programs as reviewed and approved annually by the Commission and set forth in the course syllabus for a training program and on the Commission's web site.

(3) Attainment of a passing score on all components of a training program that are graded or evaluated, or both, including written, oral and range components of a training program.

§ 79.14. Duration of certification.

The certification of officers by the Commission as a result of satisfactory completion of the basic training during a calendar year will remain valid through December 31 of the following calendar year, unless revoked under § 79.31 (relating to reasons for revocation of certification).

§ 79.15. Failure to complete basic training.

(a) An officer who fails to achieve a passing score on the written examination portion of basic training will not be allowed to continue in that basic training program. The officer may reapply to the Commission to enroll and participate in subsequent basic training programs.

(b) If an officer achieves a passing score on the written examination, but otherwise fails to complete the basic training requirements under § 79.13 (relating to requirements for completion), the officer's passing score will be recognized by the Commission for 1 year from the date of attainment of the passing score on the written examination. If the officer enrolls in a subsequent basic training program during this 1-year period, the officer will be required to attend and complete only the portion of the basic training that was not successfully completed.

(c) If an officer fails to achieve a passing score on the range portion of basic training, the Executive Director will notify the officer's chief probation officer, by means of certified mail, that the officer did not achieve a passing score on this portion of basic training.

(d) An officer who fails to achieve a passing score on the range portion of basic training may be afforded one additional opportunity to shoot the range portion of basic training within 90 calendar days from the date the officer fails to achieve a passing score if the officer's chief probation officer submits a written request to the Executive Director seeking permission for the officer to shoot the range portion of basic training within 45 calendar days of the date that the officer failed to achieve a passing score. The Executive Director will grant or deny the permission, in writing, within 15 business days after receiving the written request from the officer's chief probation officer.

- (1) The request must include the following:
- (i) A proposed date, time and location for the shoot.
 - (ii) The name of the CFI who will conduct the examination.
 - (iii) A written statement from a CFI that the CFI provided remedial range training and that the officer is competent to pass the range portion of basic training.
- (2) The examination may be subject to monitoring by the Commission without notice.

MAINTENANCE OF CERTIFICATION

§ 79.21. Maintenance of certification.

(a) Certifications are effective until December 31 of the calendar year following the issuance of the original or renewed certification unless the Certification has been revoked under §§ 79.31, 79.32 or 79.33 (relating to revocation of certification).

(b) To maintain certification beyond December 31 of the calendar year following the issuance of the original Certification or renewed certification, an officer must successfully complete the following:

(1) At least 4 hours of in-service training, on an annual basis, the specifics of which the Commission will publish by the end of the first quarter of each calendar year on the Commission's web site (<http://www.fetc.state.pa.us/fetc/site/default.asp>).

(2) A range requalification examination under § 79.22 (relating to range requalification examinations).

(c) This section does not apply to the extent an officer's certification is revoked under § 79.31 (relating to reasons for relocation of certification).

§ 79.22. Range requalification examinations.

(a) Range requalification examinations will require the officer to demonstrate continuing proficiency which includes weapons handling, range safety and marksmanship.

(b) A range requalification examination shall be completed during a Commission-conducted event or a training event sanctioned by the Commission.

(c) Range requalification examinations must be conducted by October 31 of each calendar year, except as specified in § 79.42(b) (relating to failure to meet range requalification requirements time frames).

(d) The course of fire for the range requalification examination shall be conducted using the same procedures that are followed for the range portion of basic training.

(e) Counties or departments desiring to conduct a range requalification examination shall follow an application process specified on the FCTMS (<http://www.fetc.state.pa.us/fetc/site/default.asp>).

(1) The first time that a county or CFI conducts a Commission-sanctioned range requalification examination, oversight must be provided by a member of the Commission, a Commission-approved representative, or a CFI who is not employed by the county or counties whose personnel are being examined.

(2) In subsequent years, the county may conduct the Commission sanctioned range requalification examination without oversight.

(3) Any county conducting Commission-sanctioned range requalification examinations is subject to periodic

inspection and audit by the Executive Director or a representative of the Commission.

§ 79.23. Failure to complete range requalification or in-service training.

(a) An officer who fails to achieve a passing score on any evaluation, which is a part of the range requalification examination or in-service training, will be permitted one additional opportunity to achieve a passing score on the portion failed within 30 calendar days of failing to achieve a passing score on any portion of an evaluation, or prior to October 31st of each calendar year, whichever time frame is shorter.

(b) An officer who fails to satisfactorily complete an in-service training requirement will not receive credit for the Commission-specified number of hours of training for that course, and may be subject to revocation of certification under §§ 79.31—79.33 (relating to revocation of certification).

§ 79.24. Extensions.

(a) An officer who is unable to comply with § 79.21 (relating to maintenance of certification) due to extraordinary circumstances may, through his chief probation officer, submit a written request, on a form and in a format set forth on the FCTMS (<http://www.fetc.state.pa.us/fetc/site/default.asp>) to the Executive Director by October 31 of the year in which the officer's current certification will expire.

(1) The request must include the following:

(i) The specific reason for the requested extension of time.

(ii) The specific length of time of the requested extension.

(iii) Documentation to support the information that the officer supplied under subparagraph (1)(i) and (ii) including, documents such as copies of military orders or a letter from the chief probation officer.

(2) When the request is due to medical reasons, the supporting documentation must include a written statement from the officer's physician indicating that at the present time and for the period of the requested extension the officer is not medically capable of participating in a range requalification examination or in-service training.

(b) The Executive Director will review the written request for extension of time and make a recommendation to the Commission. The Commission will provide written notification to the officer and the officer's chief probation officer of its decision.

(c) If the request for extension is approved, the officer shall comply with § 79.21 no later than the ending date of the granted period of extension.

(d) If the extension is to comply with § 79.21(b)(2), the officer's chief probation officer shall send a written request to the Executive Director to conduct a range requalification examination.

(1) The Executive Director must receive the request no later than 15 business days prior to the date of the range requalification examination.

(2) The range requalification examination may occur at any time during the period of the Commission-approved extension.

(e) The certification of an officer who has been granted an extension under § 79.24 (relating to extensions) shall be effective to the ending date of the granted period of extension.

REVOCAION OF CERTIFICATION

§ 79.31. Reasons for revocation of certification.

The Commission may revoke an officer's certification for failure to comply with § 79.21 (relating to maintenance of certification) or for any of the following:

(1) Conviction of any crime that subjects the officer to the disabilities under the Gun Control Act of 1968 (18 U.S.C.A. §§ 921—930), or 18 Pa.C.S. Chapter 61, Subchapter A (relating to the Pennsylvania Uniform Firearms Act of 1995), or both.

(2) Unsafe conduct during any Commission training.

(3) Unprofessional conduct, as delineated in the Student Code of Conduct, during an event or training that is conducted by the Commission.

(4) Providing false or misleading information, either orally or in writing, to the Commission, its employees or agents.

§ 79.32 Revocation of certification for failure to pass range requalification examination.

(a) The Executive Director, upon receipt of the range requalification examination results, will immediately revoke the certification of an officer who fails to requalify.

(b) The officer who has failed to requalify will be notified of the revocation of certification in writing.

(1) Copies of the revocation notification will be sent to the chief probation officer and president judge of the officer's employing county and judicial district.

(2) The notice of revocation of certification will advise the officer that one additional opportunity to successfully complete the range requalification examination is available after the officer participates in Commission-sanctioned remedial training.

(i) Before an officer takes a Commission-sanctioned remedial training, a CFI, who has previously conducted remedial training, shall provide written documentation to the Executive Director stating that the officer to be reexamined has demonstrated sufficient improvement which warrants another opportunity to take a requalification reexamination.

(ii) The requalification examination shall occur within no more than 30 days of the initial failure of the range requalification examination.

(iii) Range requalification examinations will not be permitted after October 31 of the calendar year in which the failure occurred.

(c) Unless the officer successfully completes the range requalification examination after completion of the Commission sanctioned remedial training, the revocation of certification will remain in effect.

§ 79.33 Revocation of certification for failure to submit a timely request.

If the officer's chief probation officer fails to submit a request for a range requalification examination to the Executive Director prior to the expiration of the extension period granted by the Commission under § 79.24 (relating to extensions), the officer's certification will be immediately revoked upon expiration of the extension period and no further extensions will be granted.

RECERTIFICATION OF OFFICERS FOLLOWING REVOCATION

§ 79.41. Failure to achieve a passing score on a range requalification examination.

When an officer's certification has been revoked due to the officer's failure to achieve a passing score under

§ 79.23 (relating to failure to complete range requalification or in-service training), the officer seeking recertification shall do the following:

(1) Submit an application in a format as specified on the FCTMS (<http://www.fetc.state.pa.us/fetc/site/default.asp>). The application shall be co-signed by the chief probation officer who shall state that the officer is competent and safe to participate in Commission training activities.

(2) Enroll in, attend, and satisfactorily complete a Commission-sponsored basic training.

§ 79.42. Failure to meet range requalification within required time frames.

(a) When an officer's certification has been revoked due to the officer's failure to meet the time requirements of range requalifications in § 79.22 (relating to range requalifications), the officer seeking recertification shall do the following:

(1) Submit an application to the Executive Director within 20 calendar days of the effective date of the revocation of certification. The application must be on a form set forth on the FCTMS (<http://www.fetc.state.pa.us/fetc/site/default.asp>) and shall be co-signed by the chief probation officer.

(2) Pass any written examinations, as described in § 79.13 (relating to requirements for completion). The examinations will be administered by the Executive Director, a designee, or other authorized Commission staff or a Commission member.

(3) Successfully complete the range requalification requirements as set forth in § 79.22.

(b) The requirements for recertification set forth in § 79.42 (relating to failure to meet range requalification within required time frames) shall be completed within 180 calendar days of the date in which the application is granted by the Commission, unless, due to extraordinary circumstances, the Commission grants additional time.

§ 79.43. Failure to meet mandatory in-service training requirements.

(a) When an officer's certification is revoked due to the officer's failure to meet any mandatory in-service training requirements set forth in § 79.21(b) (relating to maintenance of certification), the officer seeking recertification shall do the following:

(1) Submit an application to the Executive Director which must be in such format as specified on the FCTMS (<http://www.fetc.state.pa.us/fetc/site/default.asp>) and shall be co-signed by the chief probation officer.

(2) Enroll in, attend and complete a Commission-sponsored basic training program, or enroll in, attend and complete the next available offerings of any mandatory in-service training, which were not completed as required by the Commission.

(3) Successfully complete the range requalification examination as set forth in § 79.22 (relating to range requalification examinations).

(b) The requirements for recertification set forth in § 79.43 (relating to failure to meet mandatory in-service training requirements) shall be set forth in the Commission's written approval letter which will direct the officer to the training or examination that must be completed and the time frame within which this must be completed prior to the officer being recertified.

§ 79.44. Nonrecertifiable revocations.

When an officer's certification is revoked under § 79.31(1) or (4), or both, (relating to reasons for revocation of certificate), the officer shall be ineligible for recertification.

TRAINING EXPENSE**§ 79.51. Reimbursement of expenses.**

(a) Subject to the availability of funds, the Commission may assume the costs or reimburse expenses incurred, or both, during an officer's attendance at a basic training program or in-service training (including range requalification). The reimbursement will not include personnel costs. Expenses determined eligible by the Commission will be reimbursed at rates that are currently recognized by the Commonwealth.

(b) Instructors are not eligible for Commission reimbursement for any expenditure incurred when engaged in county-conducted basic training under § 79.64 (relating to county-conducted basic training) or an in-service training course developed by an entity other than the Commission or a Commission-approved vendor under § 79.63 (relating to requirements for in-service training courses) or county-conducted in-service training under § 79.65 (relating to county-conducted in-service training).

(c) Students are not eligible for Commission reimbursement for any expenditure incurred when they participate in county-conducted basic training under § 79.64 or an in-service training course developed by an entity other than the Commission or a Commission-approved vendor under § 79.63 or county-conducted in-service training under § 79.65.

(d) The Commission may reimburse, in accordance with Commission policies in effect on the dates of the county-conducted basic training or county-conducted in-service training, the county for selected expenditures associated with the county-conducted basic training or county-conducted in-service training, or both.

§ 79.52. Reimbursement limitations.

The Commission will assume only the costs or reimburse eligible training expenses, or both, incurred for an officer's initial basic training. Reimbursement of expenses will be contingent upon the county's compliance with all Commission regulations, policies and procedures and upon the satisfactory submission of any requested information, data, forms, reports or documents. Commission reimbursement for ammunition and lodging is available for only one basic training per officer.

APPROVAL OF INSTRUCTORS, SCHOOLS AND VENDORS**§ 79.61. Approval of instructors.**

(a) An individual seeking approval to become a CFI or MI in programs offered by the Commission shall submit an application in a format as specified on the FCTMS (<http://www.fetc.state.pa.us/fetc/site/default.asp>).

(1) *Minimum qualifications for CFI.* The application for approval as a CFI in any Commission training, waiver or requalification examination program will include, but not be limited to, verification that the applicant has satisfactorily completed a law enforcement firearms instructor training course offered by entities such as: FBI, Pennsylvania State Police, National Rifle Association or any other course which may be approved by the Commission and documentation that the applicant has conducted at least 12 hours of law enforcement firearms instruction within the 24 months preceding the application submission date.

(2) *Minimum qualifications for an MI.* The applicant shall be a Commission CFI for 36 months following approval as a CFI by the Commission and submit an application for designation as an MI to the Executive Director. The applicant shall have been a lead instructor for the academic/classroom portion of a Commission Basic Training Program and a range master for the range portion of the training.

(b) Certifications for both CFI and MI shall be for a period of 36 months following approval by the Commission unless sooner revoked by the Commission. When a CFI attains MI status, the 36-month period shall be calculated based upon the date that MI status is attained.

(c) To renew certification an instructor shall be required to submit an application for renewal of certification. The application must at least include documentation demonstrating that the instructor has provided the following:

(1) For CFI certification renewal, a minimum of 12 hours of relevant academic and range instruction to county probation personnel in the preceding 36 months, including at least one basic training. The requirement to conduct one basic training during the preceding 36-month period for CFI renewal may be waived by the Commission.

(2) For MI certification renewal, a minimum of 12 hours of relevant academic instruction and a minimum of 12 hours of range firearms instruction to county probation personnel in the preceding 36 months.

(d) The Commission reserves the right to revoke its certification of any CFI or MI, or both, without notice. An affected CFI or MI may seek reconsideration of the revocations under § 79.72 (relating to procedure for officers, CFIs, MIs or schools seeking reconsideration).

§ 79.62. Approval of schools and vendors.

(a) Schools certified under 53 Pa.C.S. §§ 2162—2171 (relating to municipal police education and training) are preapproved to conduct training as the Commission may, in particular geographic areas of the Commonwealth, require.

(b) Vendors and other entities may become approved to conduct Commission training, as the needs of the Commission dictate, through the Commonwealth's competitive bid process. Selected vendors will enter into a contract with the Commission to conduct specific training, to a particular population, for a specific period of time and to contractual standards. Approval of these entities to conduct Commission training may terminate upon expiration of the contract.

(c) Schools and vendors conducting training for the Commission shall use only instructors and curricula which have been preapproved by the Commission.

(d) Training conducted by a school or vendor must be approved and scheduled through the Executive Director, in writing, prior to any advertisement, registration or other obligation for that training.

(e) The Commission will inspect each approved school or vendor actively providing training at least once every 2 years, but reserves the right to monitor, without notice, any training conducted by approved schools or vendors, and to review and inspect related program records, materials and facilities at any time.

(f) The Commission reserves the right to suspend or revoke the approval of any school or vendor without notice. An affected school or vendor may seek reconsideration.

tion of the revocations under § 79.72 (relating to procedure for officers, CFIs, MIs or schools seeking reconsideration.)

§ 79.63. Requirements for in-service training courses.

(a) To receive credit toward Commission mandated in-service training, counties shall obtain preapproval from the Commission to conduct an in-service training course developed by an entity other than the Commission or a Commission-approved school or vendor.

(b) Counties seeking approval of an in-service training course developed by an entity other than the Commission or a Commission-approved school or vendor shall submit an application to the Executive Director at least 90 calendar days prior to the first proposed day of training. The proposal must be submitted in writing to the Executive Director.

(c) Upon approval by the Commission, the approved in-service training course may be conducted by the county in accordance with § 79.65 (relating to county-conducted in-service training).

(d) The Commission prior to the first proposed day of training must approve any changes or modifications to the in-service training course that is approved by the Commission.

§ 79.64. County-conducted basic training.

(a) To be recognized by the Commission, a basic training conducted by a county must be preapproved by the Commission and be carried out in accordance with the terms and conditions in the Commission's approval letter.

(b) An MI shall supervise all county-conducted basic training.

(c) A county desiring to conduct a basic training shall submit an application for county-conducted basic training, including all required documentation, to the Executive Director on Form 19b as found on the Commission's web site (<http://www.fetc.state.pa.us/fetc/site/default.asp>).

(d) County-conducted basic training must be conducted on training sites, both classroom and range, that are preapproved by the Executive Director.

(e) Only students who have submitted a basic training application, which has been approved by the Executive Director, shall participate in a county-conducted basic training.

(f) The entire county-conducted basic training must be completed within 30 consecutive calendar days and on the dates, times and at locations specified in the application.

(g) Upon request of the Executive Director or at the conclusion of the training, the county shall submit to the Executive Director all forms and materials referenced in the Commission's basic training approval letter in 30 calendar days.

(h) A county that is conducting an approved basic training may accept any Commission-approved student for participation in the training.

(i) Materials to support county-conducted basic training may be provided to the county by the Commission solely at the discretion of the Commission.

(j) The Commission reserves the right to monitor and inspect all aspects of county-conducted basic training without notice to the county that is conducting the training.

§ 79.65. County-conducted in-service training.

(a) To be recognized by the Commission, an in-service training course must be preapproved by the Commission and conducted in accordance with the terms and conditions set forth in the Commission's approval letter.

(b) An MI shall supervise all county-conducted in-service training.

(c) A county desiring to conduct in-service training shall submit an application for county-conducted in-service training, including the required documentation, to the Executive Director on Form 19c as found on the Commission's web site (<http://www.fetc.state.pa.us/fetc/site/default.asp>).

(d) County-conducted in-service training must be conducted on training sites, both classroom and range, that are preapproved by the Executive Director.

(e) Only students who have submitted an application for in-service training that has been approved by the Executive Director shall participate in county-conducted in-service training.

(f) The entire county-conducted in-service training must be completed within 30 consecutive calendar days and on the dates, times and at the locations specified in the application.

(g) Upon request of the Executive Director or at the conclusion of the training, the county shall submit to the Executive Director all forms and materials referenced in the Commission's in-service training approval letter in 30 calendar days.

(h) A county that is conducting approved in-service training may accept any Commission-approved student for participation in the training.

(i) Materials to support county-conducted in-service training may be provided to the county by the Commission solely at the discretion of the Commission.

(j) The Commission reserves the right to monitor and inspect all aspects of any county-conducted in-service training without notice to the county conducting the training.

RECONSIDERATION OF COMMISSION DECISIONS

§ 79.71. Decisions of instructors.

Commission instructors have the authority to summarize and immediately terminate an officer's participation in any Commission sanctioned training activity if any Commission instructor believes, in the Commission instructor's sole discretion, that an officer presents a safety concern, disrupts the learning environment, or violates the Commission's Student Code of Conduct.

§ 79.72. Procedure for officers, CFIs, MIs or schools seeking reconsideration.

(a) *Procedure.* An officer, CFI, MI or school shall first seek reconsideration of a Commission decision through a letter-ruling process, which consists of the following steps:

(1) The officer, CFI, MI or school shall submit to the Executive Director a written request for reconsideration no later than 20 days after mailing of a Commission notice, which results in adverse action for the school or individual.

(2) The request for reconsideration must, at a minimum, contain the following details:

(i) The name, address, telephone number and electronic mail address of the aggrieved individual or school.

(ii) A copy of the Commission notice, which results in adverse action for the school or individual.

(iii) A concise and thorough explanation of the basis for the Request for Reconsideration.

(iv) The relief being sought.

(3) The Commission will review the request for reconsideration at its next regularly scheduled meeting. The individual or entity seeking reconsideration will be notified of the time and place of the meeting.

(4) Following review of the request for reconsideration, the Commission will render a decision regarding the request for reconsideration. Within 10 days of the date of the decision, the Commission will forward to the individual or entity, by means of certified mail, return receipt requested, a letter ruling specifying the decision and the reasons for the Commission's decision and explaining the right to a formal hearing if the individual/school/vendor does not accept the results set forth in the letter.

(5) Results and opinions set forth in letter-rulings will have no precedential authority.

(b) *Cross-reference.* This section supplements 1 Pa. Code § 35.10 (relating to form and content of formal complaints).

NOTICE AND HEARINGS

§ 79.81. General Rules of Administrative Practice and Procedure.

Title 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) is applicable to the proceedings of the Commission insofar as it is not superseded by §§ 79.82—79.87.

§ 79.82. Notice.

(a) If an officer, CFI, MI or school wishes to pursue an appeal to a formal hearing, the officer, CFI, MI or school shall submit to the Executive Director a written request for hearing no later than 30 calendar days after mailing of the Commission's letter-ruling regarding the request for reconsideration.

(b) A request for hearing must be in writing and contain at least the following information:

(1) The name, address, telephone number and electronic mail address of the officer or school filing the written request for hearing.

(2) A copy of the Commission's letter-ruling on the request for reconsideration.

(3) A concise statement of the complaint.

(4) A concise statement of all relevant facts and the grounds upon which the complaint is based.

(5) The relief being sought.

(c) The date of receipt by the Executive Director of the written hearing request from the officer, CFI, MI or school and not the date of deposit in the mails is determinative of a timely request for a hearing.

(d) This section supplements 1 Pa. Code § 35.10 (relating to form and content of formal complaints).

§ 79.83. Appointment of hearing examiner.

(a) When the Executive Director receives a request for hearing, the Commission's Chairperson or a designee will appoint a hearing examiner to preside over the formal hearing.

(b) It will be the responsibility of the appointed hearing examiner to schedule the hearing and conduct it in accordance with this section and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(c) Subsection (a) supplements 1 Pa. Code § 35.185 (relating to designation of presiding officers). Subsection (b) supplements 1 Pa. Code § 35.187 (relating to authority delegated to presiding officers).

§ 79.84. Hearings.

(a) Hearings will be conducted in accordance with 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law).

(b) Legal counsel may represent the aggrieved individual or entity and the costs incurred for the representation shall be borne by the individual or entity.

(c) The hearing examiner will notify the aggrieved individual and, if applicable, the aggrieved entity and the Commission of the date, time and location of the hearing at least 60 days prior to the selected date. A courtesy copy will be forwarded to the appropriate chief probation officer and president judge. This subsection supersedes 1 Pa. Code § 35.105 (relating to notice of nonrulemaking proceedings).

(d) A prehearing conference may be held at the discretion of the hearing examiner. If a prehearing conference is held, it will be under 1 Pa. Code § 35.111 (relating to conferences to expedite hearings).

§ 79.85. Continuances.

(a) Continuances of hearings conducted under this section will only be granted upon a showing of good cause by the party requesting the continuance.

(b) Requests for continuances shall be made in writing to the hearing examiner.

(c) A party's objections, if any, to a request for a continuance must be in writing and delivered to the hearing examiner and the other party. Objections shall be made immediately upon receipt of notification of a request for a continuance.

(d) This section supersedes 1 Pa. Code § 31.15(b) (relating to extensions of time).

§ 79.86. Failure to appear at a hearing.

(a) If an officer, CFI, MI or school or the officer's, CFI's, MI's or school's representative fails to appear at the scheduled hearing without good cause, as determined by the hearing examiner, the request for hearing shall be deemed abandoned and shall be dismissed with prejudice.

(b) If the Commission fails to appear at the hearing without good cause as determined by the hearing examiner, the hearing shall proceed in absentia.

(c) If neither the officer, CFI, MI or school nor the Commission or their representatives appear at the hearing, the hearing examiner shall reschedule the hearing.

§ 79.87. Hearing examiner recommendation.

(a) Within 30 days of conclusion of the hearings, the hearing examiner will propose findings of fact and conclusions of law to the Commission.

(b) Upon receipt and after review of the hearing examiner's proposed findings of fact and conclusions of law and any exceptions and briefs, which may be submitted by either party, the Commission, or its designees, shall issue a final adjudication.

(c) The Executive Director shall forward the final adjudication to the officer, CFI, MI or school, or their legal counsel, if the officer, CFI, MI or school has made the Executive Director aware of the representation, and the appropriate chief probation officer and president judge.

(d) The officer, CFI, MI, school or Commission shall have the right to appeal the final adjudication in accordance with Pa.R.A.P. and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law).

[Pa.B. Doc. No. 09-1015. Filed for public inspection June 5, 2009, 9:00 a.m.]

Title 58—RECREATION

GAME COMMISSION [58 PA. CODE CH. 131] Preliminary Provisions

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 21, 2009, meeting, adopted the following rulemaking:

Amend § 131.8 (relating to replacement costs for wildlife killed) to provide a more comprehensive list of applicable costs for all of the various wildlife species found within this Commonwealth.

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the final-form rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

Notice of proposed rulemaking was published at 39 Pa.B. 1531 (March 28, 2009).

1. Purpose and Authority

Section 925(i) of the code specifically states that “In addition to the fines and costs imposed for violations pursuant to subsection (b), the costs incurred by the Commission for the replacement of the species involved in the violation shall be assessed by the magisterial district judges in the amount as is fixed by the regulation of the Commission.” Despite the fact that the Commission has set replacement cost values for bear, elk and threatened or endangered species, it has never done so for many other species. Without clear authority or guidance on assessing replacement costs for these other species, the courts rarely assess replacement costs for the same resulting in unanswered losses to the Commonwealth. In an effort to avoid these losses, the Commission amended § 131.8 to provide a more comprehensive list of applicable costs for all of the various wildlife species found within this Commonwealth.

Section 2102(a) of the code (relating to regulations) provides that “The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth.” The amendments to § 131.8 were adopted under this authority.

2. Regulatory Requirements

The final-form rulemaking amends § 131.8 to provide a more comprehensive list of applicable costs for all of the various wildlife species found within this Commonwealth.

3. Persons Affected

Persons unlawfully killing game or wildlife within this Commonwealth may be affected by the final-form rulemaking.

4. Comment and Response Summary

There were no official comments received regarding this final-form rulemaking.

5. Cost and Paperwork Requirements

The final-form rulemaking should not result in any additional cost or paperwork.

6. Effective Date

The final-form rulemaking will be effective upon final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

7. Contact Person

For further information regarding the final-form rulemaking, contact Richard A. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

Findings

The Commission finds that:

(1) Public notice of intention to adopt the administrative amendment adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) The adoption of the amendment of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 131, are amended by amending § 131.8 to read as set forth in Annex A.

(b) The Executive Director of the Commission shall certify this order and 39 Pa.B. 1531 and deposit them with the Legislative Reference Bureau as required by law.

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

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-281 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 131. PRELIMINARY PROVISIONS

§ 131.8. Replacement costs for wildlife killed.

Under section 925(i) of the act (relating to fines and penalties for violations), in addition to any fines and costs

imposed for violations of the act and this title, any person who unlawfully kills or possesses wildlife may be assessed replacement costs according to the following minimum cost scale:

(1) *General class:*

(i) Each threatened or endangered bird or mammal, \$5,000.

(ii) Each elk, \$1,500.

(iii) Each bear, \$1,500.

(iv) Each deer, \$800.

(v) Each bobcat, \$500.

(vi) Each otter, \$500.

(vii) Each turkey, \$300.

(viii) Each beaver, \$300.

(ix) Any other wildlife, \$200.

(2) *Trophy class:*

(i) Each elk with a Boone and Crockett green score of 200 points or more, \$5,000.

(ii) Each deer with a Boone and Crockett green score of 115 point or more, \$5,000.

(iii) Each black bear with a field dressed weight of 350 pounds or more, \$5,000.

[Pa.B. Doc. No. 09-1016. Filed for public inspection June 5, 2009, 9:00 a.m.]

GAME COMMISSION
[58 PA. CODE CH. 139]
Seasons and Bag Limits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 21, 2009, meeting, adopted the following rulemaking:

Amend § 139.4 (relating to seasons and bag limits for the license year) to provide updated seasons and bag limits for the 2009-2010 hunting license year.

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the final-form rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

Notice of proposed rulemaking was published at 39 Pa.B. 1532 (March 28, 2009).

1. *Purpose and Authority*

The Commission is required to set hunting and furtaking seasons and bag limits on an annual basis. Although similar to last year, the 2009-2010 seasons and bag limits have been amended to conform to current available scientific data, population and harvest records, field surveys and professional staff observations, as well as recommendations received from staff, organized sporting groups, members of the agricultural community and others interested in the wildlife resources of the Commonwealth. Some notable changes for hunters next season will be closures to all pheasant hunting in any area designated as a wild pheasant recovery area within any wildlife management unit, reduced wild turkey hunting opportunities in WMU's 2D, 5C and 5D, expanded wild turkey hunting opportunities in WMU 2F, and finally

expanded flintlock muzzleloader deer hunting opportunities in WMU's 2B, 5C and 5D. As the next license year is fast approaching, the Commission amended § 139.4 to provide updated seasons and bag limits for the 2009-2010 license year.

Section 322(c)(1) of the code (relating to powers and duties of the commission) specifically empowers the Commission to "fix seasons, daily shooting or taking hours, and any modification thereof, and daily, season and possession limits for any species of game or wildlife." Section 2102(b)(1) of the code authorizes the Commission to "promulgate regulations relating to seasons and bag limits for hunting or furtaking . . ." The amendments to § 139.4 were adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking amended § 139.4 to provide updated seasons and bag limits for the 2009-2010 license year.

3. *Persons Affected*

Persons wishing to hunt or trap game or wildlife within this Commonwealth during the 2009-2010 license year will be affected by the final-form rulemaking.

4. *Comment and Response Summary*

The Commission received a total of 79 official comments concerning this final-form rulemaking. The comments received concerned the following subtopics:

Deer Season (in general)

Out of a total of 61 comments received concerning this subtopic, three supported and 29 opposed the Commission's current deer program, one supported and 12 opposed retaining concurrent deer seasons, two supported retaining concurrent deer seasons for youth, one requested split antlered/antlerless seasons in all WMU's, two opposed the split antlered/antlerless season in WMU 2G, one opposed the split antlered/antlerless season in WMU 3C, one opposed the split antlered/antlerless season in WMU 4B, one requested a closure to antlerless deer hunting for the first 5 days of the regular firearms deer season in WMU 5A, two requested opening deer rifle season the first Saturday after Thanksgiving, one requested a general expansion of deer seasons in urban WMU's, one requested that seniors be permitted to harvest an antlered or an antlerless deer with an antlered tag, one requested that the Commission limit hunters to one deer a year, one requested an extension of the deer seasons in the special regulations areas until February or March, one requested a general reduction in the length of regular firearms deer season and one requested a closure of all deer seasons for 1 year to permit the herd to recover.

Deer Archery Season

The single comment received concerning this subtopic opposed the length of the archery deer seasons.

Turkey Season

Out of a total of four comments received concerning this subtopic, one opposed the closure to fall turkey hunting in WMU 5A, requested the creation of a winter turkey season and one requested the creation of a senior-only day for the fall and/or spring turkey seasons.

Small Game Season

Out of a total of four comments received concerning this subtopic, one requested the addition of 6 days to the snowshoe hare season in 2009-2010, two requested a

general expansion of rabbit season and one requested an increase to the squirrel bag limit.

Furbearers

Out of a total of three comments received concerning this subtopic, one requested opening a season on river otters, one requested a general expansion of muskrat season and one requested a general reduction to the liberal harvesting of coyotes.

Waterfowl

Out of a total of six comments received concerning this subtopic, one requested a general extension of Canada goose season until April, one requested an increase in Canada goose harvest opportunities due to airline concerns, one requested an increase in Canada goose harvest in the Atlantic Population Zone and one requested a general expansion of crow season.

5. *Cost and Paperwork Requirements*

The final-form rulemaking should not result in any additional cost or paperwork.

6. *Effective Date*

The effective dates of the final-form rulemaking are July 1, 2009, to June 30, 2010.

7. *Contact Person*

For further information regarding the final-form rulemaking, contact Richard A. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

Findings

The Commission finds that:

(1) Public notice of intention to adopt the administrative amendments adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) The adoption of these amendments of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 139, are amended by amending § 139.4 to read as set forth in Annex A.

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

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

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-278 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 139. SEASONS AND BAG LIMITS

§ 139.4. Seasons and bag limits for the license year.

(SEASONS AND BAG LIMITS TABLE)

**2009-2010 OPEN HUNTING AND FURTAKING SEASONS, DAILY LIMIT, FIELD POSSESSION LIMIT AND SEASON LIMIT
OPEN SEASON INCLUDES FIRST AND LAST DATES LISTED**

| Species | First Day | Last Day | Daily Limit | Field Possession Limit After First Day |
|--------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|---------------------------------------------------|--------------------|-----------------------------------------------|
| Squirrels—(Combined species) Eligible Junior Hunters only, with or without the required license, when properly accompanied as required by law | Oct. 10 | Oct. 16 | 6 | 12 |
| Squirrels—(Combined species) | Oct. 17 and Dec. 14 and Dec. 26 | Nov. 28 and Dec. 23 and Feb. 6, 2010 | 6 | 12 |
| Ruffed Grouse | Oct. 17 and Dec. 14 and Dec. 26 | Nov. 28 and Dec. 23 and Jan. 23, 2010 | 2 | 4 |

| Species | First Day | Last Day | Daily Limit | Field Possession Limit After First Day |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|-----------------|--------------------|-----------------------------------------------|
| Rabbits, Cottontail | Oct. 24 | Nov. 28 | 4 | 8 |
| | Dec. 14 | Dec. 23 | | |
| | Dec. 26 | Feb. 6, 2010 | | |
| Ring-necked Pheasant—There is no open season for the taking of pheasants in any area designated as a wild pheasant recovery area within any wildlife management unit. | | | | |
| Ring-necked Pheasant—Male only in WMUs 2A, 2B, 2C, 4C, 4E, 5A and 5B Eligible Junior Hunters only, with or without the required license, when properly accompanied as required by law. | Oct. 10 | Oct. 17 | 2 | 4 |
| Ring-necked Pheasant—Male or female combined in WMUs 1A, 1B, 2D, 2E, 2F, 2G, 3A, 3B, 3C, 3D, 4A, 4B, 4D, 5C and 5D Eligible Junior Hunters only, with or without the required license, when properly accompanied as required by law. | Oct. 10 | Oct. 17 | 2 | 4 |
| Ring-necked Pheasant—Male only in WMUs 2A, 2B, 2C, 4C, 4E, 5A and 5B | Oct. 24 | Nov. 28 | 2 | 4 |
| Ring-necked Pheasant—Male or female combined in WMUs 1A, 1B, 2D, 2E, 2F, 2G, and 3A, 3B, 3C, 3D, 4A, 4B, 4D, 5C and 5D | Oct. 24 | Nov. 28 | 2 | 4 |
| | Dec. 14 | Dec. 23 | | |
| | Dec. 26 | Feb. 6, 2010 | | |
| Bobwhite Quail—The hunting and taking of bobwhite quail is permitted in all WMUs except in WMUs 4A, 4B, 5A, 5B, 5C and 5D where the season is closed. | Oct. 24 | Nov. 28 | 4 | 8 |
| Hares (Snowshoe Rabbits) or Varying Hares | Dec. 26 | Jan. 1, 2010 | 1 | 2 |
| Woodchucks (Groundhog) | No closed season except during the regular firearms deer seasons and until noon daily during the spring gobbler turkey season. | | | Unlimited |
| Species | First Day | Last Day | Daily Limit | Season Limit |
| Turkey—Male or Female | | | 1 | 1 |
| WMUs 1A, 1B and 2A (Shotgun, Bow and Arrow only) | Oct. 31 | Nov. 14 | | |
| WMU 2B (Shotgun, Bow and Arrow only) | Oct. 31 | Nov. 21 | | |
| WMUs 2C, 2D, 2E, 2F, 4A and 4B | Oct. 31 | Nov. 14 | | |
| WMUs 2G, 3A, 3B, 3C, 3D, 4C, 4D and 4E | Oct. 31 | Nov. 21 | | |
| WMUs 5A and 5B | Closed to fall turkey hunting | | | |
| WMUs 5C and 5D (Shotgun, Bow and Arrow only) | Oct. 31 | Nov. 4 | | |

| Species | First Day | Last Day | Daily Limit | Season Limit |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|----------------|-------------|--------------|
| Turkey (Spring Gobbler) Statewide ¹ Bearded Bird only | May 1, 2010 | May 31, 2010 | 1 | 2 |
| Turkey (Spring Gobbler) Statewide Youth Hunt ¹ Bearded Bird only Eligible junior hunters only, with the required license and when properly accompanied | April 24, 2010 | April 24, 2010 | 1 | 1 |

MIGRATORY GAME BIRDS

Except as further restricted by this chapter, the seasons, bag limits, hunting hours and hunting regulations for migratory game birds shall conform to regulations adopted by the United States Secretary of the Interior under authority of the Migratory Bird Treaty Act (16 U.S.C.A. §§ 703—711) as published in the *Federal Register* on or about August 27 and September 28 of each year. Exceptions:

- (a) Hunting hours in § 141.4 (relating to hunting hours).
- (b) Nontoxic shot as approved by the Director of the United States Fish and Wildlife Service is required for use Statewide in hunting and taking of migratory waterfowl.

| Species | First Day | Last Day | Daily Limit | Field Possession Limit After First Day |
|------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|---------------|-------------|----------------------------------------|
| Crows (Hunting permitted on Friday, Saturday and Sunday only) | July 3 | April 4, 2010 | | Unlimited |
| Starlings and English Sparrows | No closed season except during the Unlimited regular firearms deer seasons and until noon daily during the spring gobbler turkey season | | | |

FALCONRY

| | | | | |
|-------------------------------------------------|---------|---------------|---|----|
| Squirrels—(Combined species) | Sept. 1 | Mar. 31, 2010 | 6 | 12 |
| Quail | Sept. 1 | Mar. 31, 2010 | 4 | 8 |
| Ruffed Grouse | Sept. 1 | Mar. 31, 2010 | 2 | 4 |
| Cottontail Rabbits | Sept. 1 | Mar. 31, 2010 | 4 | 8 |
| Snowshoe or Varying Hare | Sept. 1 | Mar. 31, 2010 | 1 | 2 |
| Ring-necked Pheasant—Male and Female—(Combined) | Sept. 1 | Mar. 31, 2010 | 2 | 4 |

Migratory Game Birds—Seasons and bag limits shall be in accordance with Federal regulations.

WHITE-TAILED DEER

| Species | First Day | Last Day | Daily Limit |
|----------------------------------------------------------------------------------------------------------------------------------------------------|-----------|--------------|-----------------------------------------------------------------------------|
| Deer, Archery (Antlered and Antlerless) ² (Statewide) | Oct. 3 | Nov. 14 | One antlered and an antlerless deer with each required antlerless license. |
| | Dec. 26 | Jan. 9, 2010 | |
| Deer, Archery (Antlerless) WMUs 2B, 5C and 5D | Sept. 19 | Oct. 2 | An antlerless deer with each required antlerless license. |
| | Nov. 16 | Nov. 28 | |
| | Dec. 14 | Dec. 23 | |
| Deer, Regular firearms (Antlered and Antlerless) ² WMUs 1A, 1B, 2A, 2B, 2C, 2E, 2F, 3A, 3B, 3D, 4A, 4C, 4D, 4E, 5A, 5B, 5C and 5D | Nov. 30 | Dec. 12 | One antlered, and an antlerless deer with each required antlerless license. |

| Species | First Day | Last Day | Daily Limit |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|--------------------------|-----------------------------------------------------------------------------------------------------------|
| Deer, Regular firearms (Antlered only) ^{2 and 3} WMUs 2D, 2G, 3C and 4B | Nov. 30 | Dec. 4 | One antlered deer. |
| Deer, Regular firearms (Antlered and Antlerless) ^{2 and 3} WMUs 2D, 2G, 3C and 4B | Dec. 5 | Dec. 12 | One antlered, and an antlerless deer with each required antlerless license. |
| Deer, Special firearms (Antlerless only) (Statewide) Only Junior and Senior License Holders, ⁴ Commission Disabled Person Permit Holders (to use a vehicle as a blind), and Residents serving on active duty in the U.S. Armed Forces, or in the U.S. Coast Guard, with required antlerless license | Oct. 22 | Oct. 24 | An antlerless deer with each required antlerless license. |
| Deer, Muzzleloading (Antlerless only) (Statewide) | Oct. 17 | Oct. 24 | An antlerless deer with each required antlerless license. |
| Deer, Flintlock (Antlered or Antlerless) ² (Statewide) | Dec. 26 | Jan. 9, 2010 | One antlered, or one antlerless-plus an additional antlerless deer with each required antlerless license. |
| Deer, Flintlock (Antlered or Antlerless) ² WMUs 2B, 5C and 5D | Dec. 26 | Jan. 23, 2010 | An antlerless deer with each required antlerless license. |
| Deer, Extended Regular firearms (Antlerless) WMUs 2B, 5C and 5D | Dec. 14 Dec. 26 | Dec. 23 Jan. 23, 2010 | An antlerless deer and with each required antlerless license. |
| Deer, Antlerless (Letterkenny Army Depot, Franklin County and New Cumberland Army Depot, York County and Fort Detrick, Raven Rock Site, Adams County) | Hunting is permitted on days established by the United States Department of the Army. | | An antlerless deer with each required antlerless license. |

BLACK BEAR

| Species | First Day | Last Day | Daily Limit | Season Limit |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|-----------------|--------------------|---------------------|
| Bear, any age (Archery only) ⁵ WMUs 2C, 2D, 2E, 2F, 2G, 3A, 4A, 4B & 4D | Nov. 18 | Nov. 19 | 1 | 1 |
| Bear, any age (Statewide) ⁵ | Nov. 23 | Nov. 25 | 1 | 1 |
| Bear, any age ⁵ Portions of WMU 3B, East of Rt. 14 from Troy to Canton, East of Rt. 154 from Canton to Rt. 220 at Laporte and East of Rt. 42 from Laporte to Rt. 118 and that portion of 4E, East of Rt. 42. | Nov. 30 | Dec. 5 | 1 | 1 |
| Portions of WMUs 2G in Lycoming and Clinton Counties and 3B in Lycoming County that lie North of the West Branch of the Susquehanna River from the Rt. 405 Bridge, West to Rt. 15 at Williamsport, Rt. 15 to Rt. 220, and North of Rt. 220 to the Mill Hall exit, North of SR 2015 to Rt. 150; East of Rt. 150 to Lusk Run Rd. and South of Lusk Run Rd. to Rt. 120, Rt. 120 to Veterans Street Bridge to SR 1001; East of SR 1001 to Croak Hollow Rd., South of Croak Hollow Rd. to Rt. 664 (at Swisssdale), South of Rt. 664 to Little Plum Rd. (the intersection of SR 1003), South of SR 1003 to SR 1006, South of SR 1006 to Sulphur Run Rd., South of Sulphur Run Rd. to Rt. 44, East of Rt. 44 to Rt. 973, South of Rt. 973 to Rt. 87, West of Rt. 87 to Rt. 864, South of Rt. 864 to Rt. 220 and West of Rt. 220 to Rt. 405 and West of Rt. 405 to the West Branch of the Susquehanna River. | | | | |
| Bear, any age ⁵ WMUs 4C, 4D, 4E, 5B and 5C | Dec. 2 | Dec. 5 | 1 | 1 |

| Species | First Day | Last Day | Daily Limit | Season Limit |
|-------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|-------------|--------------|
| ELK | | | | |
| Elk, (Antlered and Antlerless) ⁶ With each required license | Nov. 2 | Nov. 7 | 1 | 1 |
| Elk, (Antlered and Antlerless) ⁶ With a special conservation license | Sept. 1 | Nov. 7 | 1 | 1 |
| FUR TAKING—TRAPPING | | | | |
| Minks and Muskrats (Statewide) | Nov. 21 | Jan. 10, 2010 | | Unlimited |
| Beaver (Statewide) | Dec. 26 | Mar. 31, 2010 | | |
| WMUs 2E, 2F and 2G (Combined) | | | 20 | 20 |
| WMUs 1A, 1B, 3A, 3B, 3C and 3D (Combined) | | | 20 | 40 |
| WMUs 2A, 2B, 2C, 2D, 4A, 4B, 4C, 4D, 4E, 5A, 5B, 5C and 5D (Combined) | | | 10 | 10 |
| Coyotes, Foxes, Opossums, Raccoons, Skunks, Weasels—(Statewide) | Oct. 25 | Feb. 21, 2010 | | Unlimited |
| Coyotes & Foxes—(Statewide) (Cable restraint devices may be used) | Jan. 1 | Feb. 21, 2010 | | Unlimited |
| Bobcat ⁷ WMUs 2A, 2C, 2E, 2F, 2G, 3A, 3B, 3C, 3D, 4A, 4D and 4E | Oct. 25 | Feb. 21, 2010 | 1 | 1 |
| FUR TAKING—HUNTING | | | | |
| Coyotes—(Statewide) | Outside of any deer or bear season may be taken with a hunting license or a furtaker's license and without wearing orange. | | | Unlimited |
| Coyotes—(During any archery deer season) | May be taken while lawfully hunting deer or with a furtaker's license. | | | |
| Coyotes—(During the regular firearms deer season and any bear season) | May be taken while lawfully hunting deer or bear or with a furtaker's license while wearing 250 square inches of daylight fluorescent orange-colored material in a 360° arc. | | | |
| Coyotes—(During the spring gobbler turkey season) | May be taken by persons who have a valid tag and meet fluorescent orange and shot size requirements. | | | |
| Opossums, Skunks, Weasels ⁸ (Statewide) | No closed season. These species may not be hunted prior to noon during the spring gobbler turkey season. | | | |
| Raccoons and Foxes—(Statewide) ⁸ | Oct. 24 | Feb. 20, 2010 | | Unlimited |
| Bobcat ⁷ WMUs 2A, 2C, 2E, 2F, 2G, 3A, 3B, 3C, 3D, 4A, 4D and 4E | Oct. 24 | Feb. 20, 2010 | 1 | 1 |

No open seasons on other wild birds or wild mammals.

¹ Only persons who possess a special wild turkey license as provided for in section 2709 of the act (relating to license costs and fees) may take a second spring gobbler during the hunting license year; all other persons, including mentored youth hunters, may take only one spring gobbler. A maximum of 2 gobblers per license year may be taken by any combination of licenses or exceptions for mentored youth.

² Only one antlered deer (buck) may be taken during the hunting license year.

³ Season changes in WMUs 2D, 2G, 3C and 4B are for the purpose of a 4 year study which must be completed before additional units are modified.

⁴ Includes persons who have reached or will reach their 65th birthday in the year of the application for the license and hold a valid adult license or qualify for license and fee exemptions under section 2706 of the act (relating to resident license and fee exemptions).

⁵ Only one bear may be taken during the hunting license year.

⁶ Only one elk may be taken during the hunting license year.

⁷ Bobcat may only be taken by furtakers in possession of a Bobcat Hunting-Trapping Permit and may not be taken during the regular antlered and antlerless deer season.

⁸ May not be taken during the regular antlered and antlerless deer season.

[Pa.B. Doc. No. 09-1017. Filed for public inspection June 5, 2009, 9:00 a.m.]

GAME COMMISSION
[58 PA. CODE CH. 141]
Hunting and Trapping

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 21, 2009, meeting, adopted the following rule-making:

Add § 141.28 (relating to wild pheasant recovery areas) to define the geographic locations of the wild pheasant recovery areas and prohibit the release of propagated pheasants and certain dog training activities within the locations.

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the final-form rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

Notice of proposed rulemaking was published at 39 Pa.B. 1391 (March 21, 2009).

1. Purpose and Authority

The Ring-necked Pheasant Management Plan calls for restoring self-sustaining and huntable ring-necked pheasant populations in suitable habitats by establishing Wild Pheasant Recovery Areas (WPRAs). Wild-trapped pheasants will be released in WPRAs in an effort to establish populations of at least ten hens per square-mile in the spring. WPRAs will remain closed to game farm pheasant stocking, pheasant hunting, and dog training activities. The moratorium on game farm pheasant releases is aimed at minimizing the possibility of reducing genetic diversity and improving survivorship of wild pheasants. Pheasant hunting curtailment is important to eliminating the incidental taking of hen pheasants thus limiting population viability. Dog training restrictions are essential to maximizing survivorship and direct taking of hens, especially during the spring nesting and summer brood rearing periods. The Commission added § 141.28 to define the geographic locations of the wild pheasant recovery areas and prohibit the release of propagated pheasants and certain dog training activities within same.

Section 322(c)(4) of the code (relating to powers and duties of the commission) specifically authorizes the Commission to "Define geographic limitations or restrictions." Section 2102(c) of the code (relating to regulations) directs that "The commission shall promulgate regulations concerning the transportation, introduction into the wild, importation, exportation, sale, offering for sale or purchase of game or wildlife or the disturbing of game or wildlife in their natural habitat." Section 2102(a) of the code provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendments to § 141.28 were adopted under this authority.

2. Regulatory Requirements

The final-form rulemaking added § 141.28 to define the geographic locations of the wild pheasant recovery areas and prohibit the release of propagated pheasants and certain dog training activities within the locations.

3. Persons Affected

Persons wishing to hunt wild pheasants, release propagated pheasants or train dogs within this Commonwealth may be affected by the final-form rulemaking.

4. Comment and Response Summary

There were no official comments received regarding this final-form rulemaking.

5. Cost and Paperwork Requirements

The final-form rulemaking should not result in any additional cost or paperwork.

6. Effective Date

The final-form rulemaking will be effective upon final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

7. *Contact Person*

For further information regarding the final-form rule-making, contact Richard A. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

Findings

The Commission finds that:

(1) Public notice of intention to adopt the administrative regulation adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) The adoption of this regulation of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 141, are amended by adding § 141.28 to read as set forth in Annex A.

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

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

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-279 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter B. SMALL GAME

§ 141.28. Wild pheasant recovery areas.

(a) *Definition.* For the purpose of this section, the phrase "wild pheasant recovery area" (WPRAs) includes and is limited to the following geographic locations.

(1) *Pike Run WPRAs.* The portion of Washington County, WMU 2A, bounded on the east by the Monongahela River, on the north by I-70, on the west by PA Rt. 917 to Swagler Rd. to Spring Valley Rd. to PA Rt. 2015 to Lone Pine Rd. to the intersection with Tenmile Creek in West Zollarsville, and bounded on the south by Tenmile Creek.

(2) *Somerset WPRAs.* That portion of Somerset County, WMU 2C, bounded on the western side starting at the intersection of Coleman Station Rd. and Stutzmantown Rd. proceeding south on Coleman Station Rd., crossing SR 31, to Brotherton Rd., continuing south to Round Hill Rd., then east onto Wills Church Rd., then to Archery Rd. The boundary then follows Berlin Plank Rd. (US Rt. 219) south into the town of Berlin where it joins the Mason Dixon Hwy. (US Rt. 219) proceeding south to Pine Hill Rd. to Walker School Rd. then east on Maple Valley Rd., to Sawmill Rd. to the Cumberland Hwy. (SR 160). The boundary then follows the Cumberland Hwy. (SR 160)

south to Salco Rd. and then proceeds north on Salco Rd. to Huckleberry Hwy. (SR 160) in the town of Berlin. The boundary follows Huckleberry Hwy. (SR 160) north, crossing SR 31, to the intersection of Roxbury Rd., then north to Shanksville Rd. The boundary then proceeds north to Stutzmantown Rd., then west to the beginning at the intersection of Coleman Station Rd.

(3) *Central Susquehanna WPRAs.* Portions of WMU 4E in Northumberland, Montour, Columbia and Lycoming counties from the West Branch of the Susquehanna River south to the intersection with PA Rt. 642 and the West Branch of the Susquehanna River in Milton. The southern boundary is defined by PA Rt. 642 east from Milton to Maudsley, then north on PA Rt. 642 to just south of Jerseytown, proceeding east on Eversgrove Rd. to Evers Grove at PA Rt. 42. Proceeding south on PA Rt. 42 to Mordansville, northeast of Mordansville along Robbins Rd. (Rt. 600) to Mordansville Rd. (Rt. 541), south on Millertown Rd. (Rt. 4011), then continuing east to follow Mount Pleasant Rd. (Rt. 4020) and Mount Pleasant St. (PA Rt. 4034) to Orangeville at the southeast corner of the WPRAs. PA Rt. 487 lines the eastern boundary from Orangeville north to Maple Grove/intersection with PA Rt. 254. The northern boundary begins with PA Rt. 254 west of Maple Grove to the intersection with Winters Rd. (Rt. 459) proceeding west to the intersection with Austin Trail (PA Rt. 4039). Continuing west on Owl Rd. (Rt. 599), north and west on Reese Rd. (Rt. 578), and north and west on Trivelpiece Rd. (Rt. 576). Eagle Rd. (PA Rt. 4037) then continues northwest to the intersection with Whitehorse Rd./Whitehorse Pike (Rt. 661) heading west to just south of Sereno, and then south on PA Rt. 42 to Millville. From Millville, proceeding southwest on PA Rt. 254 to Jerseytown. Then northwest on PA Rt. 44, north on Swartz Rd., west on Shultz Rd., north on Ants Hill Rd., west on Wolf Hollow Rd., then north on Katy's Church Rd. Crossing into Lycoming County and proceeding northwest on G Wagner Rd., west on Ridge Rd., crossing into Montour County, southwest on County Line Rd., south on Muncy Exchange Rd. (PA Rt. 1003), west on Hickory Rd. (PA Rt. 1008), west on Mingle Rd. (Rt. 433), west on Hickory Rd. (PA Rt. 1008) for the second time, and proceeding north on Gearhart Hollow Rd. (Rt. 441). Continuing west on Showers Rd. (PA Rt. 1010), crossing into Northumberland County, proceeding north and west on Pugmore Lane, north on Hockley Hill Rd. (PA Rt. 1011), west on Miller Rd. (Rt. 653), continuing southwest on Balliet Rd. (Rt. 664). Proceeding northwest and west on Schmidt Rd. (Rt. 564). continuing north on Susquehanna Trail (PA Rt. 1007), continuing west on Hughes Rd. (Rt. 655), crossing under I-180, proceeding south on Crawford Rd. (Rt. 507) to PA Rt. 54. Proceeding northwest on PA Rt. 54 to the West Branch of the Susquehanna River.

(b) *Prohibitions.* It is unlawful to:

(1) Release artificially propagated pheasants any time within any area designated as a wild pheasant recovery area.

(2) Train dogs in any manner from the end of small game season through July 31 within any area designated as a wild pheasant recovery area.

[Pa.B. Doc. No. 09-1018. Filed for public inspection June 5, 2009, 9:00 a.m.]

GAME COMMISSION
[58 PA. CODE CH. 141]
Hunting and Trapping

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 21, 2009, meeting, adopted the following rule-making:

Amend § 141.66 (relating to cable restraints) to permit properly licensed trappers to take and utilize nontarget furbearing species captured in a cable restraint device during an open season for the same.

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the final-form rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

Notice of proposed rulemaking was published at 39 Pa.B. 1392 (March 21, 2009).

1. Purpose and Authority

In January 2005, the Commission first defined and authorized the limited use of cable restraint devices to harvest red fox, gray fox and coyote. Since the inception of its lawful use by this Commonwealth's trappers, the Commission has identified a low but recognizable incidence of nontarget furbearing species (including raccoons, opossum, skunk and bobcat) being captured in legal sets of these devices. Due to the limited authorization on the species that can be lawfully harvested through the use of the cable restraint devices, the Commission has historically treated the capture of all other nontarget furbearing species as mistake catches despite the fact that there are typically open seasons on these species at the time of capture. In an effort to avoid this result, the Commission amended § 141.66 to permit properly licensed trappers to take and utilize nontarget furbearing species captured in a cable restraint device during an open season for the same. The amendment will also allow an incidentally captured bobcat to be harvested if the trapper possesses a valid bobcat harvest permit. This modification does not in any manner change the legal definition of a legal cable restraint or the manner or location where these devices may be set.

Section 2102(d) of the code (relating to regulations) authorizes the Commission to "promulgate regulations stipulating the size and type of traps, the type of firearms and ammunition and other devices which may be used, the manner in which and the location where the devices may be used, the species the devices may be used for and the season when the devices may be used." Section 2102(a) of the code provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendments to § 141.66 were adopted under this authority.

2. Regulatory Requirements

The final-form rulemaking amended § 141.66 to permit properly licensed trappers to take and utilize nontarget

furbearing species captured in a cable restraint device during an open season for the same.

3. Persons Affected

Persons wishing to trap furbearing species with cable restraint devices within this Commonwealth may be affected by the final-form rulemaking.

4. Comment and Response Summary

There were no official comments received regarding this final-form rulemaking.

5. Cost and Paperwork Requirements

The final-form rulemaking should not result in any additional cost or paperwork. Rather, the final-form rulemaking will likely reduce costs and paperwork associated with the disposition of furbearing species mistakenly captured in cable restraint devices.

6. Effective Date

The final-form rulemaking will be effective upon final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

7. Contact Person

For further information regarding the final-form rulemaking, contact Richard A. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

Findings

The Commission finds that:

(1) Public notice of intention to adopt the administrative amendment adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) The adoption of the amendment of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 141, are amended by amending § 141.66 to read as set forth at 39 Pa.B. 1392.

(b) The Executive Director of the Commission shall certify this order and 39 Pa.B. 1392 and deposit them with the Legislative Reference Bureau as required by law.

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

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-280 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 09-1019. Filed for public inspection June 5, 2009, 9:00 a.m.]

GAME COMMISSION
[58 PA. CODE CH. 141]
Hunting and Trapping

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 21, 2009, meeting, adopted the following rule-making:

Amend Chapter 141, Appendix G to update the tables of hunting hours for the 2009-2010 hunting year to reflect the annual change in days and subsequent hunting times.

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the final-form rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

Notice of proposed rulemaking was published at 39 Pa.B. 1393 (March 21, 2009).

1. *Purpose and Authority*

Each year there is a shift in calendar days for each month. As a result of this occurrence, the tables of hunting hours found in Chapter 141, Appendix G must be amended and updated each year to reflect the current year's hunting dates and corresponding legal hunting hours. The Commission amended Chapter 141, Appendix G to update the tables of hunting hours for the 2009-2010 hunting year to reflect the annual change in days and subsequent hunting times.

Section 322(c)(1) of the code (relating to powers and duties of the Commission) specifically empowers the Commission to "fix seasons, daily shooting or taking hours, and any modification thereof, and daily, season and possession limits for any species of game or wildlife." Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendments to Chapter 141, Appendix G were adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking amended Chapter 141, Appendix G to update the tables of hunting hours for the 2009-2010 hunting year to reflect the annual change in days and subsequent hunting times.

3. *Persons Affected*

Persons wishing to hunt or trap within this Commonwealth during the 2009-2010 hunting year will be affected by the final-form rulemaking.

4. *Comment and Response Summary*

The Commission received one comment regarding this final-form rulemaking in support of all day hunting during the spring gobbler season.

5. *Cost and Paperwork Requirements*

The final-form rulemaking should not result in any additional cost or paperwork.

6. *Effective Date*

The effective dates of the final-form rulemaking are July 1, 2009, to June 30, 2010.

7. *Contact Person*

For further information regarding the final-form rule-making, contact Richard A. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

Findings

The Commission finds that:

(1) Public notice of intention to adopt the administrative amendment adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) The adoption of the amendment of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 141, are amended by amending Appendix G to read as set forth at 39 Pa.B. 1393.

(b) The Executive Director of the Commission shall certify this order and 39 Pa.B. 1393 and deposit them with the Legislative Reference Bureau as required by law.

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

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-282 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 09-1020. Filed for public inspection June 5, 2009, 9:00 a.m.]

GAME COMMISSION
[58 PA. CODE CH. 141]
Hunting and Trapping

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 21, 2009, meeting, adopted the following rule-making:

Amend §§ 141.43 and 141.44 (relating to deer; and bear) to remove the prohibition on the use of magnifying telescopic sights on bows and crossbows during deer and bear archery seasons.

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the final-form rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

Notice of proposed rulemaking was published at 39 Pa.B. 1668 (April 4, 2009).

1. Purpose and Authority

On January 27, 2009, the Commission adopted regulatory amendments that, in relevant part, authorized the use of the crossbow during deer and bear archery seasons. This authorization was qualified by language prohibiting the use of magnifying telescopic sights on bows and crossbows. In light of extensive public comment received by the Commission concerning the prohibition on the use of magnifying telescopic sights on bows and crossbows during the respective archery seasons, the Commission revisited and promoted further discussion on the issue. To this end, the Commission amended §§ 141.43 and 141.44 to remove the prohibition on the use of magnifying telescopic sights on bows and crossbows.

Section 2102(d) of the code (relating to regulations) authorizes the Commission to "promulgate regulations stipulating the size and type of traps, the type of firearms and ammunition and other devices which may be used, the manner in which and the location where the devices may be used, the species the devices may be used for and the season when the devices may be used." Section 2102(a) of the code provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendments to §§ 141.43 and 141.44 were adopted under this authority.

2. Regulatory Requirements

The final-form rulemaking amended §§ 141.43 and 141.44 to remove the prohibition on the use of magnifying telescopic sights on bows and crossbows during deer and bear archery seasons.

3. Persons Affected

Persons wishing to hunt white-tailed deer or black bear during their respective archery seasons within this Commonwealth may be affected by the final-form rulemaking.

4. Comment and Response Summary

Out of a total of 366 comments received concerning this rulemaking, 303 supported and 63 opposed the removal of the prohibition against magnifying telescopic sights on crossbows during deer archery seasons.

5. Cost and Paperwork Requirements

The final-form rulemaking should not result in any additional cost or paperwork.

6. Effective Date

The final-form rulemaking will be effective upon final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

7. Contact Person

For further information regarding the final-form rulemaking, contact Richard A. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

Findings

The Commission finds that:

(1) Public notice of intention to adopt the administrative amendments adopted by this order has been given

under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder; 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) The adoption of these amendments of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 141, are amended by amending §§ 141.43 and 141.44 to read as set forth at 39 Pa.B. 1668.

(b) The Executive Director of the Commission shall certify this order and 39 Pa.B. 1668 and deposit them with the Legislative Reference Bureau as required by law.

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

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-284 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 09-1021. Filed for public inspection June 5, 2009, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CHS. 143 AND 147]

Hunting and Furtaker Licenses and Special Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 21, 2009, meeting, adopted the following rulemaking:

Eliminate Chapter 143, Subchapter M (relating to mentored youth hunting program license exemption) and add Chapter 147, Subchapter X (relating to mentored youth hunting program permit) to implement a permitting process to gain authorization to participate in the program.

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the final rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

Notice of proposed rulemaking was published at 39 Pa.B. 1529 (March 28, 2009).

1. Purpose and Authority

Since the successful implementation of the Mentored Youth Hunting Program (MYHP) in the fall of 2006, the Commission has been striving to find ways to improve this innovative new program. In October this past fall, the Commission first improved the program with the addition of the coyotes to the list of species that may be lawfully pursued by mentored youth. The Commission has since improved the MYHP by implementing a permitting process to gain authorization to participate in the program. The use of a permitting process will provide a

two-fold benefit by providing the Commission with an accurate identification and count of participants in the program as well as provide participants with official big game tags appropriate for the species that may be taken by mentored youth.

When the MYHP was in its initial development, the steering committee recommended that a permit or a junior license be required. Unfortunately, the Commission did not have access to a financially feasible administrative process to issue the permit in this manner at that time. Now, with the advent of the Pennsylvania Automated License System (PALS), there is an economical and efficient mechanism to facilitate issuance of the permits and their big game tags. While functionality of the MYHP in the field will remain largely the same, participants will now be required to apply for and receive a permit through the PALS system at any of its issuing agent locations across the Commonwealth prior to participating in the program. Permit applications will require participants to supply the required identification information and pay a nominal fee of \$1, plus any transactional and issuing agent fees.

Section 2701(a) of the code (relating to license requirements) states that "Except in defense of person or property or pursuant to exemptions authorized by the commission for implementing a mentored youth hunting program, every person, prior to engaging in any of the privileges granted by this title, shall first obtain the applicable license subject to any conditions or other requirements imposed by this title." Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The elimination of Chapter 143, Subchapter M and creation of Chapter 147, Subchapter X was adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking eliminated Chapter 143, Subchapter M (relating to mentored youth hunting program license exemption) and added Chapter 147, Subchapter X (relating to mentored youth hunting program permit) to implement a permitting process to gain authorization to participate in the program.

3. *Persons Affected*

Persons wishing to hunt or trap within this Commonwealth under the mentored youth hunting program will be affected by the final-form rulemaking.

4. *Comment and Response Summary*

Out of a total of four comments received concerning this rulemaking, two supported and two opposed the MYHP permit.

5. *Cost and Paperwork Requirements*

The final-form rulemaking may result in some additional cost and paperwork associated with the implementation of the MYHP permit within the Commission's new PALS. However, the Commission has determined that if there is any additional expense associated with this effort, it will not be substantial and would be absorbed by the current budget.

6. *Effective Date*

The final-form rulemaking will be effective upon final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

7. *Contact Person*

For further information regarding the final-form rulemaking, contact Richard A. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

Findings

The Commission finds that:

(1) Public notice of intention to adopt the administrative amendments adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) The adoption of these amendments of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapters 143 and 147, are amended by deleting §§ 143.241—143.247 and adding §§ 147.801—147.803 and 147.805—147.807 at 39 Pa.B. 1529 and by adding § 147.804 to read as set forth in Annex A.

(b) The Executive Director of the Commission shall certify this order, 39 Pa.B. 1529 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

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

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-283 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 147. SPECIAL PERMITS

Subchapter X. MENTORED YOUTH HUNTING PROGRAM PERMIT

§ 147.804. General.

(a) A mentor shall possess a valid Pennsylvania hunting license or qualify for license and fee exemptions under section 2706 of the act (relating to resident license and fee exemptions) prior to engaging in any mentored youth hunting activities.

(b) A mentored youth shall possess a valid mentored youth hunting permit prior to engaging in any mentored youth hunting activities.

(c) A mentored youth's hunting eligibility is restricted to the following species: squirrel, woodchuck, coyote, deer and wild turkey. A mentored youth's hunting eligibility is further limited to:

- (i) Spring gobbler season only for turkey.
- (ii) Antlered deer only during any applicable deer seasons. However, mentored youth hunters are subject to the same antler restrictions that apply to junior license holders as provided in the definition of antlered deer in § 131.2 (relating to definitions).
- (d) A mentored youth's hunting eligibility is further constrained by applicable hunting seasons, daily limits, field possession limits and season limits provided in § 139.4 (relating to seasons and bag limits for the license year).
- (e) A mentored youth is eligible to hunt during any special youth hunting seasons that apply to any species specified in subsection (c).
- (f) A mentored youth shall tag and report all big game harvested in the manner provided for in section 2323 of the act (relating to tagging and reporting big game kills).

[Pa.B. Doc. No. 09-1022. Filed for public inspection June 5, 2009, 9:00 a.m.]

PROPOSED RULEMAKING

DEPARTMENT OF BANKING

[10 PA. CODE CH. 44]

Mortgage Licensee Education

The Department of Banking (the Department), is soliciting input regarding the Department's proposed rulemaking regarding prelicensure education and testing and continuing education requirements for licensees under 7 Pa.C.S. Chapter 61 (relating to mortgage loan industry licensing and consumer protection) (known as the Mortgage Act).

Purpose of Proposed Rulemaking

The Department is promulgating this regulation as a result of the passage of the Mortgage Act which on November 5, 2008, enacted a new regulatory scheme for mortgage professionals and repealed Chapter 3 of the Mortgage Brokers and Bankers and Consumer Equity Protection Act (the MBBCEPA), 63 P. S. §§ 456.101—456.521 and the Secondary Mortgage Loan Act (the SMLA), 7 P. S. §§ 6601—6626. The Mortgage Act imposes prelicensure education and testing requirements as well as continuing education requirements for all licensees under the act. This proposed rulemaking will amend the currently existing continuing education regulation promulgated under the MBBCEPA at 10 Pa. Code Chapter 44.

Explanation of Proposed Regulatory Requirements

Under the Mortgage Act, the proposed regulation requires the following:

(a) Applicants who are seeking a license as a mortgage broker, mortgage lender and mortgage loan correspondent must have: (i) an individual who is a director, partner or ultimate equitable owner of 10% or more of an applicant successfully complete at least 12 hours of education and testing prior to licensure; and (ii) all mortgage originators to be employed by the licensee to have successfully completed the prelicensing education and testing requirements of the Mortgage Act. Once these applicants have received a mortgage broker, mortgage lender or mortgage loan correspondent license, they must have: (i) at least one individual at each licensed office, who is not a mortgage originator, successfully complete at least 6 hours of education per annual renewal license period; and (ii) ensure that all mortgage originators employed by the licensee successfully complete at least 6 credit hours of education per annual renewal license period; and,

(b) Applicants for a mortgage originator license must successfully complete at least 12 hours of prelicensure education and testing. After licensure, mortgage originators must successfully complete 6 hours of education per annual renewal license period.

Entities Affected

All existing and future licensees under the Mortgage Act will be affected by the proposed rulemaking at the time the regulation is effective. It is anticipated that there will be approximately 9,149 licensees under the Mortgage Act.

Costs and Paperwork Requirements

The proposed rulemaking will have no fiscal impact on the Department, the Commonwealth and its political subdivisions.

Applicants under the Mortgage Act will be required to pay fees and costs associated with taking 12 credit hours of prelicensure education and testing programs and licensees will be required to pay fees and costs associated with taking 6 hours of continuing education programs. Costs may include the tuition for each credit hour of education, testing, travel and travel-related expenses. It is unclear at this time what the credit hour/testing charges by education providers will be. However, for comparison, under the MBBCEPA, licensees were required to annually complete 6 credit hours of continuing education offered by Department approved providers. The cost for 6 hours of continuing education credit ranged from \$95—\$225. Assuming education providers charge in the same range for prelicensure education and testing, the prelicensure education requirement costs will range from \$190—\$450 per licensee.

The ultimate cost to licensees will depend upon variables such as the number of licensed offices the licensee operates (an individual at each licensed office who is not a mortgage originator must complete the continuing education requirements) and whether companies will assume the costs of the education and testing requirements for their mortgage originator employees. The education costs may be mitigated for licensees who are licensed in multiple jurisdictions because the regulation allows for reciprocity with other states' education courses for the non-Pennsylvania specific education programs. Therefore, licensees that have completed non-Pennsylvania specific courses approved by another states' mortgage regulator or by the National Mortgage Licensing System and Registry will receive the equivalent education credit in this Commonwealth. Applicants and licensees that do not comply with the regulation may suffer penalties, including the revocation or suspension of their license or denial of their application.

Lastly, relating to costs, the Department will charge a fee to educate providers for review and approval of their education courses. Under the MBBCEPA, the Department charged a \$750 annual fee to education providers for reviewing and approving proposed education programs. The Department does not intend to increase this fee for the 2009 annual renewal period.

Regarding recordkeeping, promulgation of the regulation will generally increase reporting, recordkeeping and other paperwork requirements for the industry as well as the Department. Licensees will be required to demonstrate to the satisfaction of the Department that they have met all prelicensure and continuing education requirements by maintaining records of successfully completed programs for 2 years after the completion of each program, not counting the year in which the program was completed. The increase in recordkeeping is entirely attributable to the Mortgage Act's creation of a new license type and the imposition of education requirements on licensees that did not previously have mandatory education or testing, or both requirements. Only licensees that were licensed under the MBBCEPA were previously required to maintain records of continuing education programs. Licensees under the SMLA did not have any education requirements and mortgage originators are a new class of licensee and, therefore, the Mortgage Act's education requirements naturally impose new recordkeeping responsibilities.

Effectiveness/Sunset Date

All provisions of the proposed rulemaking will be effective 14 days from the date of publication of the final-form regulation in the *Pennsylvania Bulletin*. There is no sunset date.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on May 27, 2009, the Department submitted a copy of this proposed rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and the Chairperson of the House Committee on Commerce and the Senate Committee on Banking and Insurance. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations or objections to the proposed rulemaking within 30 days after the close of the public comment period, specifying the regulatory review criteria that have not been met. The Regulatory Review Act sets forth procedures that permit the General Assembly and the Governor to review IRRC's comments, recommendations or objections prior to final adoption of the proposed rulemaking.

Public Comments

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking within 30 days after publication in the *Pennsylvania Bulletin* to the Office of Chief Counsel, Department of Banking, Attention: Public Comment on Regulation 3-44, 17 North Second Street, Suite 1300, Harrisburg, PA 17101-2290, (717) 787-1471, (717) 783-8427.

STEVEN KAPLAN,
Secretary

Annex A**TITLE 10. BANKS AND BANKING****PART IV. BUREAU OF CONSUMER CREDIT AGENCIES****CHAPTER 44. MORTGAGE [BANKERS AND BROKERS AND CONSUMER EQUITY PROTECTION] LICENSEE EDUCATION****§ 44.1. Definitions.**

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

Act—[**The Mortgage Bankers and Brokers and Consumer Equity Protection Act (63 P. S. §§ 456.101—456.3101.)**] 7 Pa.C.S. Chapter 61 (relating to mortgage loan industry licensing and consumer protection).

Annual renewal date—[**July**] January 1 of each calendar year.

Annual renewal period—The licensing term commencing [**July 1 of 1-calendar year**] on the annual renewal date and ending on [**June 30**] December 31 of the [**following**] same calendar year.

Applicant—As defined in 7 Pa.C.S. § 6102 (relating to definitions).

[Continuing education program—

(i) An educational program as required by section 304(e) of the act (63 P. S. § 456.304(e)) which contributes directly to the enhancement of the professional competence of a mortgage professional to engage in the first mortgage loan business.

(ii) The term does not include programs which instruct in matters such as office or business management, personnel management or similar subjects not directly related to the first mortgage loan business.

Continuing education provider—A provider of a continuing education program that has been approved by the Department.]

* * * * *

Education program—

(i) A program providing education and a written or electronic testing component as required under 7 Pa.C.S. § 6131(g) (relating to application for license) offered by an education provider to the public or to its own employees which contributes directly to the enhancement of the professional competence of an applicant, licensee or individual to engage in the mortgage loan business and which has been approved by the Department.

(ii) The term does not include programs which instruct in matters such as office or business management, personnel management or similar subjects not directly related to the mortgage loan business.

Education provider—A provider of an education program. A licensee, other than a mortgage originator, may be an education provider.

[First mortgage loan business—The first mortgage loan business as defined in section 302 of the act (63 P. S. § 456.302).]

Instructor—An individual responsible for teaching [**a continuing**] an education program that has been approved by the Department.

Licensee—A [**person licensed under the act**] licensee as defined in 7 Pa.C.S. § 6102.

[Limited mortgage broker—A limited mortgage broker as defined in section 302 of the act.

Loan correspondent—A loan correspondent as defined in section 302 of the act.

Mortgage banker—A mortgage banker as defined in section 302 of the act.

Mortgage broker—A mortgage broker as defined in section 302 of the act.]

Mortgage loan business—The mortgage loan business as defined in 7 Pa.C.S. § 6102.

Mortgage originator—A mortgage originator as defined in 7 Pa.C.S. § 6102.

[Mortgage professional—

(i) A manager of each licensed office maintained by a licensee; any owner, director, officer or W-2 employee of a licensee who has the authority to underwrite or approve loans, either individually or in combination with other individuals as members of a committee; or any owner, director, officer or W-2 employee of a licensee who, as part of his

official duties, directly contacts borrowers to present, negotiate or advise regarding loan terms.

(ii) A mortgage professional does not include any individual who engages solely in processing loan applications or other administrative or clerical functions, or both.]

Nationwide Mortgage Licensing System and Registry—As defined in 12 U.S.C. § 5103 (relating to definitions).

Person—A person as defined in [section 302 of the act] 7 Pa.C.S. § 6102.

§ 44.2. Requirements for applicant education and testing.

(a) [Except as provided in subsection (b), to renew a license, a licensee shall demonstrate to the satisfaction of the Department that:

(1) In the case of a mortgage banker, mortgage broker or loan correspondent, the licensee maintains at least one separate mortgage professional at each licensed office who has successfully completed during the annual renewal period at least 6 credit hours of continuing education programs which shall include 1 credit hour of Pennsylvania residential mortgage law, including the act and the Loan Interest and Protection Law (41 P. S. §§ 101—605), 1 credit hour of business ethics and 4 credit hours from among one or more of the following subject areas:

(i) Federal residential mortgage law, including the Real Estate Settlement Procedures Act (12 U.S.C.A. §§ 2601—2617), the Truth in Lending Act (15 U.S.C.A. §§ 1601—1667e) and the Equal Credit Opportunity Act (15 U.S.C.A. §§ 1691—1691f).

(ii) The first mortgage loan business.

(2) In the case of a limited mortgage broker, the licensed individual has successfully completed during the annual renewal period at least 2 credit hours of continuing education programs which shall include 1 credit hour of Pennsylvania residential mortgage law, including the act and the Loan Interest and Protection Law and 1 credit hour from among one or more of the following subject areas:

(i) Business ethics.

(ii) Federal residential mortgage law, including the Real Estate Settlement Procedures Act, the Truth in Lending Act and the Equal Credit Opportunity Act.

(iii) The first mortgage loan business.

(b) The continuing education requirements imposed by this chapter shall apply to all renewals of licenses except when an initial licensee has been licensed by the Department for less than 6 months prior to its first annual renewal date, in which case the licensee shall be in compliance with this chapter within 6 months after its first annual renewal date.

(c) A mortgage professional who acts as an instructor shall be credited with 2 credit hours of continuing education for every 1 credit hour taught per annual renewal period.

(d) Continuing education program credit hours earned in excess of the minimum requirement established by this section during any annual re-

newal period may not be carried over to a successive annual renewal period.]

To qualify for a license, an applicant shall demonstrate to the satisfaction of the Department that one of the following applies:

(1) In the case of a mortgage originator license applicant, the applicant has successfully completed at least 12 credit hours of education programs as delineated under subsection (b).

(2) In the case of any other license applicant:

(i) An individual who is a director, partner or ultimate equitable owner of 10% or more of an applicant has successfully completed at least 12 credit hours of education programs as delineated under subsection (b).

(ii) All of the mortgage originators to be employed by the applicant have successfully completed at least 12 credit hours of education programs as delineated under subsection (b).

(b) The 12 credit hours of education programs required under subsection (a) must consist of 2 credit hours of Pennsylvania residential mortgage law, including the act and the Loan Interest and Protection Law (41 P. S. §§ 101—605), 1 credit hour of business ethics and 9 credit hours from among one or more of the following subject areas:

(1) Federal residential mortgage law, including the Real Estate Settlement Procedures Act (12 U.S.C. §§ 2601—2617), the Truth in Lending Act (15 U.S.C. §§ 1601—1667e) and the Equal Credit Opportunity Act (15 U.S.C. §§ 1691—1691f).

(2) The mortgage loan business.

(c) Testing components of the education programs required by subsection (a) shall address the subjects delineated by subsection (b).

(d) Other than the 2 credit hours of Pennsylvania residential mortgage law education programs delineated by subsection (b) and the testing requirements set forth in subsection (c), education credit hours and testing completed pursuant to another state mortgage regulator's requirements will be accepted by the Department as fulfilling the requirements of this section, subject to the following conditions:

(1) The education credit hours have been approved by another state mortgage regulator or the Nationwide Mortgage Licensing System and Registry.

(2) The education credit hours have been successfully completed within the 12 months immediately preceding the date of the submission of the applicant's license application.

§ 44.2a. Requirements for licensee continuing education.

(a) Except as provided in subsection (c), to renew a license, a licensee shall demonstrate to the satisfaction of the Department that one of the following applies:

(1) In the case of a mortgage originator, the licensee has successfully completed at least 6 credit hours of education programs during the annual renewal period immediately preceding each annual renewal date.

(2) In the case of any other licensee the following apply:

(i) At least one individual at each licensed office who is not licensed as a mortgage originator has successfully completed at least 6 credit hours of education programs delineated under subsection (b) during the annual renewal period immediately preceding each annual renewal date, unless all of the nonclerical staff of a particular licensed office are licensed as mortgage originators.

(ii) All of the mortgage originators employed by the licensee have successfully completed the education programs as delineated under subsection (b).

(b) The 6 credit hours of education programs required under subsection (a) shall consist of 1 credit hour of Pennsylvania residential mortgage law, including the act and the Loan Interest and Protection Law (41 P. S. §§ 101—605), 1 credit hour of business ethics and 4 credit hours from among one or more of the following subject areas:

(1) Federal residential mortgage law, including the Real Estate Settlement Procedures Act (12 U.S.C. §§ 2601—2617), the Truth in Lending Act (15 U.S.C. §§ 1601—1667e) and the Equal Credit Opportunity Act (15 U.S.C. §§ 1691—1691f).

(2) The mortgage loan business.

(c) The education requirements imposed by this chapter are waived for the first annual renewal period for licensees that received an initial license from the Department less than 2 months prior to the licensee's first annual renewal date.

(d) Education program credit hours earned in excess of the minimum requirement established by this section during any annual renewal period may not be carried over to a successive annual renewal period.

(e) Other than the credit hour of Pennsylvania residential mortgage law delineated under subsection (b), education credit hours completed pursuant to another state mortgage regulator's requirements will be accepted by the Department as fulfilling the requirements of this section, subject to the following conditions:

(1) The education credit hours have been approved by another state mortgage regulator or the Nationwide Mortgage Licensing System and Registry.

(2) The education credit hours have been completed during the annual renewal period.

§ 44.3. Reporting, verification and recordkeeping.

(a) [Except as provided in § 44.2(b) (relating to requirements), a licensee shall include as part of its renewal application a statement that the requirements of this chapter have been completed by at least one separate mortgage professional at each licensed office, or in the case of a limited mortgage broker, by the licensed individual. The statement shall include a list of continuing education programs completed by the designated mortgage professional for each licensed office or the individual limited mortgage broker licensee. The list shall include:

- (1) The name of continuing education providers.
- (2) The name of continuing education programs.
- (3) The number of credit hours attended by the mortgage professional.
- (4) The locations and dates attended.]

Applicants and licensees shall provide evidence of the completion of the requirements of this chapter on a form prescribed by the Department.

(b) The Department may verify satisfactory completion of the requirements of this chapter [by methods including examination of the licensee] under its authority under 7 Pa.C.S. § 6138(a)(1) (relating to authority of Department).

(c) The Department may assess licensees [examination] the costs [for examinations made under subsection (b) consistent with section 308(a)(4) of the act (63 P. S. § 456.308(a)(4))] of verifying a licensee's compliance with this chapter under its authority under 7 Pa.C.S. § 6138(a)(1).

(d) A licensee shall retain all original documents relating to the successful completion of each [continuing] education program by [each mortgage professional] the licensee for [3] the 4 annual renewal periods immediately following the annual renewal period during which the licensee successfully completed the education program.

§ 44.4. Review and approval of education programs.

(a) *Approval of programs.* The Department will have the sole authority to approve or deny continuing education programs. The Department [does] may not approve or endorse continuing education providers. Education programs that are approved by another state mortgage regulator or the National Mortgage Licensing System and Registry and do not relate to Pennsylvania residential mortgage law are deemed approved by the Department.

(b) *Applying for program approval.* A prospective [continuing] education provider may apply for [continuing] education program approval on an application provided by the Department. The application shall be submitted to the Department at least [90] 60 days prior to the first date [that] of the annual renewal period in which the [proposed continuing] education program [will] is proposed to be offered. The [applicant] prospective education provider shall attach:

(1) An outline of the proposed [continuing] education program, and the method of instruction and testing, either in-person or through interactive technology.

* * * * *

(c) *Program requirements.*

(1) The proposed [continuing] education program is required to satisfy the following criteria to be considered. The program shall be:

[(1)] (i) A formal program of learning and testing which contributes directly to the professional competence of [a mortgage professional] an applicant, licensee or individual to engage in the mortgage loan business.

[(2)] (ii) At least 1 credit hour.

[(3)] (iii) Conducted by one or more **individuals qualified to be [instructors] an instructor**. The following individuals are not qualified to be an instructor, unless the Department determines otherwise:

[(i)] (A) An individual who has had his license suspended or revoked by the Department.

[(ii)] (B) An individual who has been the owner, director, member, partner or officer of a licensee that has had its license suspended or revoked by the Department.

[(iii)] (C) An individual who has been a party, or who has been the owner, director, member, partner or officer of a licensee which has been a party to a Department order or agreement prohibiting the individual from engaging in the [first] mortgage loan business in this Commonwealth or acting in any other capacity related to activities regulated by the Department.

(D) An individual who has pled guilty, been convicted of or pled nolo contendere to a crime of moral turpitude or felony.

(2) The Department shall be notified in writing at least 10 days prior to any change in instructors. Any new instructor is subject to the criteria contained in paragraph (1)(iii).

(3) A licensee or individual who acts as an instructor shall be credited with 2 credit hours of education for every 1 credit hour taught per annual renewal period.

(4) Education programs offered solely to satisfy the requirements of § 44.2a (relating to requirements for licensee continuing education) are not required to include a testing component.

(d) The Department will have [60] 45 days from receipt of a completed application to approve or deny the proposed [continuing] education program. An application will be deemed completed when the requirements of subsections (b) and (c) have been fulfilled. If the Department fails to approve or deny an application submitted by a prospective [continuing] education provider within [60] 45 days of its receipt, the [continuing] education program will be deemed approved by the Department. The Department may deny an application submitted by a prospective [continuing] education provider if the [continuing] education program or provider fails to satisfy any of the conditions or requirements contained in this chapter or the act.

(e) Approval of [a continuing] an education program by the Department is valid for 1 annual renewal period and does not constitute permanent approval of the [continuing] education program.

(f) [Continuing education] Education providers shall provide free access to Department personnel to monitor their [continuing] education programs. **To ensure the Department's access to education programs, education providers shall provide the Department with notification of the date, time and location of each education program that is offered by the education provider during the annual renewal period.**

(g) [Continuing education] Education providers shall retain original records of attendance for each [continuing] education program conducted by the [continuing] education provider for [3] the 4 annual renewal periods **immediately following the annual renewal period during which the education program was conducted** and shall provide the Department access to the records upon request.

§ 44.5. Enforcement.

(a) [The Department may levy a fine of up to \$2,000 for each offense under section 314(c) of the act (63 P. S. § 456.314.(c)) or suspend, revoke or refuse to renew a license under section 313(a) of the act (63 P. S. § 456.313(a)), if a licensee fails to comply with any requirements of this chapter] **Violations of this chapter shall be violations of the act.**

(b) The Department may revoke its approval of [a continuing] an education provider's [continuing] education program if the [continuing] education provider fails to comply with any requirement of this chapter or the act.

[Pa.B. Doc. No. 09-1023. Filed for public inspection June 5, 2009, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CHS. 141 AND 147]

Hunting and Trapping and Special Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed the following rulemaking at its April 21, 2009, meeting:

Amend §§ 141.47 and 147.701 (relating to elk; and general), remove § 141.49 (relating to elk guide permits) and add Chapter 147, Subchapter Y (relating to guiding permit) to relocate, consolidate and more clearly define the permitting process for persons interested in guiding other hunters or trappers for certain designated species.

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

The proposed rulemaking was made public at the April 21, 2009, meeting of the Commission. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until July 3, 2009.

1. Purpose and Authority

Currently, §§ 141.47, 141.49 and 147.701 separately provide for the permitting of persons guiding other hunters or trappers in their pursuit of elk and bobcats. The Commission is proposing to amend §§ 141.47 and 147.701, remove § 141.49, and add Subchapter Y, §§ 147.901—147.905, to Chapter 147 to relocate, consolidate and more clearly define the permitting process for persons interested in guiding other hunters or trappers for certain designated species. Some notable changes will be increases in the permit fees as well as more stringent eligibility standards.

Section 2901(b) of the code (relating to authority to issue permits) provides "the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued." The amendments to §§ 141.47, 141.49, 147.701 and Chapter 147, Subchapter Y were proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend §§ 141.47 and 147.701, remove § 141.49, and add Subchapter Y, §§ 147.901—147.905, to Chapter 147 to relocate, consolidate and more clearly define the permitting process for persons interested in guiding other hunters or trappers for certain designated species.

3. Persons Affected

Persons unlawfully interested in guiding other hunters or trappers for certain designated species will be affected by the proposed rulemaking.

4. Cost and Paperwork Requirements

The proposed rulemaking should not result in any additional cost or paperwork.

5. Effective Date

The proposed rulemaking will be effective upon final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

6. Contact Person

For further information regarding the proposed rulemaking, contact Richard A. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE, Executive Director

Fiscal Note: 48-288. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter C. BIG GAME

§ 141.47. Elk.

* * * * *

(b) *Prohibitions.* While hunting elk during the elk season, it is unlawful to:

* * * * *

(4) [Act or conspire to act as a guide for any person without first securing a permit from the Commission and attending an orientation program sponsored by the Commission.

(5) Act or conspire to act as a client for any guide who has not secured a permit from the Commission and attended an orientation program sponsored by the Commission.

(6)] Drive or herd elk.

[(7)] (5) * * *

[(8)] (6) * * *

§ 141.49. [Elk guide permits] (Reserved).

[The fee for elk guide permits shall be:

(1) Resident—\$10.

(2) Nonresident—\$25.]

CHAPTER 147. SPECIAL PERMITS

Subchapter S. BOBCAT HUNTING-TRAPPING PERMIT

§ 147.701. General.

This section provides for permits to be issued for the hunting and trapping of bobcat during the season established and in areas designated under § 139.4 (relating to seasons and bag limits for the license year).

* * * * *

[(9) A bobcat guide permit will be issued as follows:

(i) A person who assists another person to hunt or take bobcats in any manner shall first secure a bobcat guide permit from the Commission.

(ii) The fee for a bobcat guide permit is \$10 for residents and \$25 for nonresidents.]

(Editor's Note: The following text is new and has been printed in regular print to enhance readability.)

Subchapter Y. GUIDING PERMIT

- Sec. 147.901. Purpose and scope.
- 147.902. Definitions.
- 147.903. Application.
- 147.904. Permit.
- 147.905. Violations.

§ 147.901. Purpose and scope.

The purpose of this subchapter is to provide for the issuance of guiding permits to authorize eligible applicants to serve as guides for persons hunting, trapping or otherwise taking certain designated species of game or wildlife.

§ 147.902. Definitions.

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

Guide—A person who assists another person in any manner to hunt, trap or otherwise take certain designated species of game or wildlife.

Guiding—

(i) The act of assisting or conspiring to assist another person in any manner to hunt, trap or otherwise take certain designated species of game or wildlife by locating, calling or directing another person to the quarry.

(ii) The term is not intended to include or authorize assistance taking the form of any overt act directly connected with harvesting game or wildlife by discharging a firearm, bow or crossbow or setting or resetting a trap or snare.

§ 147.903. Application.

(a) Applications for guiding permits issued under this subchapter shall be made through the applicant's local district wildlife conservation officer on the appropriate form provided by the Commission.

(b) Each application must include the name, address, telephone number and date of birth of the applicant, as

well as the specific eligible species of game or wildlife sought to be covered by the permit.

(c) Applications for guiding permits will only be accepted from persons who possess a valid hunting license or qualify for license and fee exemptions under section 2706 of the act (relating to license and fee exemptions) and have no prior record of violations of the act or this title or related license revocations within the previous 10 years.

(d) The fee for guiding permits will be \$25 for residents and \$50 for nonresidents for each respective eligible species of game or wildlife to be covered by the permit.

§ 147.904. Permit.

(a) *General rule.* A guiding permit issued under this subchapter is required for any person to engage in any guiding activities for the following designated species of game or wildlife: elk and bobcat.

(b) *Additional permits.* Possession of a guiding permit issued under this subchapter does not diminish an individual's obligation to obtain any other applicable Federal, State or local permits concerning the guiding activities.

(c) *Guiding on State game lands.* Notwithstanding the general prohibitions of § 135.41 (relating to state game lands), a guiding permit issued under this subchapter will authorize its holder to engage in commercial guiding activities on State game lands for an eligible species of game or wildlife.

(d) *Orientation.* In any year the Commission establishes an orientation program for an eligible species of game or wildlife, the continuing validity of any guiding permit issued under this subchapter covering the eligible species is premised upon the permit holder's completion of the orientation program prior to engaging in any guiding activities for the eligible species of game or wildlife.

§ 147.905. Violations.

The Director may deny, revoke or suspend any permit for any violation of this subchapter upon written notice to the permittee.

[Pa.B. Doc. No. 09-1024. Filed for public inspection June 5, 2009, 9:00 a.m.]

**[58 PA. CODE CH. 135]
Lands and Buildings**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed the following rulemaking at its April 21, 2009, meeting:

Amend § 135.41 (relating to state game lands) to specifically prohibit the use or possession of drug paraphernalia on State game lands (SGL).

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

The proposed rulemaking was made public at the April 21, 2009, meeting of the Commission. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until July 3, 2009.

1. Purpose and Authority

Drug use and related drug crime has been a recurring problem that has plagued SGLs properties across this Commonwealth for decades. The Commission has and will continue to maintain a zero tolerance policy for drug use and related drug crime on SGLs in its continuing efforts to maintain these lands for their primary purposes of providing and conserving habitat for the Commonwealth's wildlife resources as well as providing public access to open lands for recreational hunting and trapping activities. The Commission has determined that although current regulatory provisions clearly prohibit the use and possession of controlled substances, they fail to clearly prohibit the use and possession of drug paraphernalia. The Commission has also determined that the use and possession of drug paraphernalia on SGLs is just as deleterious as their related drug substances. In an effort to address this concern, the Commission is proposing to amend § 135.41 to specifically prohibit the use or possession of drug paraphernalia on SGLs.

Section 721(a) of the code (relating to control of property) provides "The administration of all lands and waters owned, leased or otherwise controlled by the commission shall be under the sole control of the director, and the commission shall promulgate regulations . . . for its use and protection as necessary to properly manage these lands or waters." Section 741(b) of the code (relating to commission actions for damage to buildings or property) provides "The commission shall promulgate regulations to protect users, improvements, lands and buildings under its control. These regulations shall cover, but need not be limited to . . . regulations required to properly protect and preserve these lands for their intended use." The amendments to § 135.41 were proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend § 135.41 by adding language to specifically prohibit the use or possession of drug paraphernalia on SGLs.

3. Persons Affected

Persons unlawfully using or possessing drug paraphernalia on SGLs will be affected by the proposed rulemaking.

4. Cost and Paperwork Requirements

The proposed rulemaking should not result in any additional cost or paperwork.

5. Effective Date

The proposed rulemaking will be effective upon final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

6. Contact Person

For further information regarding the proposed rulemaking, contact Richard A. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-285. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 58. RECREATION
PART III. GAME COMMISSION
CHAPTER 135. LANDS AND BUILDINGS
Subchapter C. STATE GAME LANDS

§ 135.41. State game lands.

* * * * *

(c) *Additional prohibitions.* In addition to the prohibitions contained in the act pertaining to State game lands and § 135.2, except with the written permission of the Director, it is unlawful to:

* * * * *

(10) Use or possess any controlled substance **or drug paraphernalia** as defined or classified under The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-143).

* * * * *

[Pa.B. Doc. No. 09-1025. Filed for public inspection June 5, 2009, 9:00 a.m.]

[58 PA. CODE CH. 135]
Lands and Buildings

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed the following rulemaking at its April 21, 2009, meeting:

Amend § 135.48 (relating to state game lands roads open to vehicular traffic for disabled persons) to remove the one-way travel limitation affecting the limited travel permitted on designated State game land (SGL) roads and replace it with an open travel allowance that is subject to further limitation based upon existing weather or road conditions as indicated by conspicuous signage or postings.

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

The proposed rulemaking was made public at the April 21, 2009, meeting of the Commission. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until July 3, 2009.

1. Purpose and Authority

During the fall hunting seasons each year, the Commission enhances disabled hunter/trapper access to interior portions of its various SGL landholdings across this Commonwealth by opening certain designated roads normally closed to public travel to limited vehicular travel by persons issued a Disabled Persons Permit. Traditionally, travel on these designated roads has been strictly limited to one-way travel. In an effort to further expand this access, the Commission has determined that directional travel and related limitations should be determined on a location specific rather than on an across the board basis. Under this structure, some roads will remain limited to one-way travel while other roads may be expanded to two-way travel, all based upon location and specific conditions. The Commission is proposing to amend

§ 135.48 to remove the one-way travel limitation affecting the limited travel permitted on designated SGL roads and replace it with an open travel allowance that is subject to further limitation based upon existing weather or road conditions as indicated by conspicuous signage or postings.

Section 721(a) of the code (relating to control of property) provides “The administration of all lands and waters owned, leased or otherwise controlled by the commission shall be under the sole control of the director, and the commission shall promulgate regulations . . . for its use and protection as necessary to properly manage these lands or waters.” Section 741(b) of the code (relating to commission actions for damage to buildings or property) provides “The commission shall promulgate regulations to protect users, improvements, lands and buildings under its control. These regulations shall cover, but need not be limited to . . . regulations required to properly protect and preserve these lands for their intended use.” The amendments to § 135.48 were proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend § 135.48 by replacing the language limiting travel on designated SGL roads to one-way travel only with an open travel allowance that is subject to further limitation based upon existing weather or road conditions as indicated by conspicuous signage or postings.

3. Persons Affected

Eligible persons wishing to travel on designated SGL roads may be affected by the proposed rulemaking.

4. Cost and Paperwork Requirements

The proposed rulemaking may result in some additional cost and paperwork associated with the production and deployment of any necessary signage or postings. However, the Commission has determined that if there is any additional expense associated with this effort, it will be minimal and will be absorbed by the current budget.

5. Effective Date

The proposed rulemaking will be effective upon final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

6. Contact Person

For further information regarding the proposed rulemaking, contact Richard A. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-286. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 58. RECREATION
PART III. GAME COMMISSION
CHAPTER 135. LANDS AND BUILDINGS
Subchapter C. STATE GAME LANDS

§ 135.48. State game lands roads open to vehicular traffic for disabled persons.

(a) *Vehicular traffic permitted.* Vehicular traffic will be permitted on designated roads on State game lands for persons issued a Disabled Persons Permit under section 2923(a) of the act (relating to disabled person permits). State game lands roads open to vehicular traffic for

disabled persons will be designated by the Director. The Commission will make a list of these open roads available to the permittee.

(1) [Roads will be open for one-way travel, weather permitting, from 14 days prior to the opening day of archery season to the closing day of the muzzleloader/archery season] Roads designated for limited open travel will be open from 14 days prior to the opening day of archery season to the closing day of the muzzleloader/archery season. Any travel authorized by this section is subject to further limitation based upon existing weather or road conditions as indicated by conspicuous signage or postings.

* * * * *

[Pa.B. Doc. No. 09-1026. Filed for public inspection June 5, 2009, 9:00 a.m.]

**[58 PA. CODE CH. 147]
Special Permits**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed the following rulemaking at its April 21, 2009, meeting:

Amend § 147.142 (relating to possession of wildlife accidentally killed by a motor vehicle) to expand the section's coverage to apply to wildlife disposition generally under a consumption permit.

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

The proposed rulemaking was made public at the April 21, 2009, meeting of the Commission. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until July 3, 2009.

1. Purpose and Authority

The code and its attendant regulations limit the circumstances in which residents of this Commonwealth may possess and consume the edible portions of game or wildlife to the current eligibility criteria of § 147.142. There are no provisions for other circumstances, including, but not limited to, mistake kills, agricultural or property protection kills and illegal kills. Despite this absence of a specific permit classification, the Commission has found pragmatic approaches to informally authorize the possession and consumption of the edible portions of the applicable game or wildlife to make legitimate use of these valuable wildlife resources. The Commission has determined that it has become necessary to more formally and clearly define and implement a permitting process by which these distributions should occur. The Commission is proposing to amend § 147.142 to expand the section's coverage to apply to wildlife disposition generally under a consumption permit.

Section 2901(b) of the code (relating to authority to issue permits) provides "the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activi-

ties which may be performed under authority of any permit issued." The amendments to § 147.142 were proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend § 147.142 by expanding the section's coverage to apply to wildlife disposition generally under a consumption permit.

3. Persons Affected

Persons wishing to possess and consume the edible portions of game or wildlife killed by means other than lawful hunting or trapping will be affected by the proposed rulemaking.

4. Cost and Paperwork Requirements

The proposed rulemaking should not result in any additional cost or paperwork.

5. Effective Date

The proposed rulemaking will be effective upon final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

6. Contact Person

For further information regarding the proposed rulemaking, contact Richard A. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-289. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 147. SPECIAL PERMITS

Subchapter H. PROTECTED SPECIMEN

§ 147.142. [Possession of wildlife accidentally killed by a motor vehicle] Wildlife disposition.

[(a) A resident of this Commonwealth may immediately take possession of a deer accidentally killed on the highway and transport it to a place of safekeeping within this Commonwealth. The person taking possession shall contact a regional office or a local Commission officer, for a permit number within 24 hours after having taken possession of the deer. The permit number shall be considered a valid permit for the purposes of the act and this part and shall be valid for a period not to exceed 120 days from the date of issuance. The whole or any part of the deer may not be given to any person nor may any edible part be removed from the recipient's place of residence. The recipient may not sell or transfer the hide to another party except the hide may be given to the deer processor. Unused parts of the deer must be disposed of lawfully.

(b) Holders of a valid furtakers license may take possession of a furbearer, except river otters, bobcats and fishers, accidentally killed on the highway. Persons taking possession of any furbearer under this section during the closed season for taking that furbearer shall within 24 hours contact any Commission regional office to make notification of said possession.

(c) It is unlawful:

(1) To possess a deer accidentally killed on the highway for more than 24 hours without applying for a permit number.

(2) To give the whole or an edible part of a deer to a person.

(3) To fail to comply with one or more conditions of the permit.

(4) For a nonresident to possess a deer accidentally killed on the highway.

(5) To possess a furbearer accidentally killed on the highway during the closed season for more than 24 hours without notifying the Commission.

(6) To possess a river otter, bobcat or fisher accidentally killed on the highway, unless otherwise permitted by the Commission.

(d) This section is not applicable under circumstances when a person is charged with violating another statute or regulation involving deer or furbearers. This section may not be used nor will it be accepted as a defense in a legal proceeding involving these cases.

(e) This section may not be construed in any manner to limit lawful possession of furbearers under § 147.141 (relating to sale of wildlife and wildlife parts).]

(a) *Consumption permit.* The Commission, in its sole discretion, may issue a consumption permit to a resident of this Commonwealth to authorize the possession and consumption of the edible portions of any game or wildlife carcass. A permit issued under this subsection will be valid for a period not to exceed 120 days from the date of issuance. The whole or any part of any game or wildlife possessed under this subsection may not be transferred to another person nor may any edible portion be removed from the possessor's place of residence for any purpose other than processing. Inedible portions of any game or wildlife possessed under this subsection shall be surrendered to the Commission or disposed of in a manner directed by the Commission.

(1) *General procedures.* Except as otherwise provided in paragraph (2), a person shall contact the

Commission to obtain a paper consumption permit prior to taking possession of the carcass of any game or wildlife.

(2) *Special procedures for deer and turkey accidentally killed by a motor vehicle.* A person is authorized to take immediate possession of the carcass of a deer or turkey evidently killed accidentally by a motor vehicle and transport it to a place of safekeeping within this Commonwealth. A person taking possession of a deer or turkey carcass under this paragraph shall contact the Commission to obtain a permit number within 24 hours after having taken possession of the deer or turkey carcass. The issued permit number itself shall be considered a valid permit for the purposes of authorizing the continued possession of the edible portions of the deer or turkey carcass.

(b) *Furbearing species accidentally killed by a motor vehicle.* A person holding a valid Pennsylvania furtaker's license is authorized to take immediate possession of and utilize the edible and inedible portions of any furbearer, except river otters, bobcats and fishers, evidently killed accidentally by a motor vehicle. Any person taking possession of any furbearer under this subsection during the closed season for the taking of same shall contact the Commission to make notification of the possession within 24 hours.

(c) *Unlawful acts.* It is unlawful to:

(1) Possess the whole or any part of any wildlife without receiving any required permit, making any required notification or meeting any applicable eligibility standards within any applicable time restrictions.

(2) Fail to surrender the inedible portions of any game or wildlife possessed under the authorizations of subsection (a) to the Commission or to dispose of the same in the manner directed by the Commission.

(3) Violate other provisions of this section.

(d) *Inapplicability.* This section does not limit the lawful possession of the whole or any part of any wildlife that is otherwise authorized by § 147.141 (relating to the sale of wildlife and wildlife parts).

[Pa.B. Doc. No. 09-1027. Filed for public inspection June 5, 2009, 9:00 a.m.]

NOTICES

DEPARTMENT OF BANKING

Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 9, 2002 (P. L. 1572, No. 207), known as the Credit Union Code, has taken the following action on applications received for the week ending May 26, 2009.

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

BANKING INSTITUTIONS

Consolidations, Mergers and Absorptions

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|-------------------------------------------------------------------------------------------------------------|-----------------|---------------|
| 5-26-2009 | NOVA Bank, Berwyn, and Pennsylvania Business Bank, Berwyn Surviving Institution: NOVA Bank, Berwyn | Berwyn | Effective |

Branch Applications

De Novo Branches

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|---------------------------------------------------------|--------------------------------------------------------------|---------------|
| 5-26-2009 | AmeriServ Financial Bank Johnstown Cambria County | 1857 North Atherton Street State College Centre County | Filed |
| 5-26-2009 | Manor Bank Manor Westmoreland County | 799 SR 130 Penn Township Westmoreland County | Filed |

Branch Discontinuances

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|-----------------------------------------------------------------------|------------------------------------------------------------------------------------|---------------|
| 5-16-2009 | Beneficial Mutual Savings Bank Philadelphia Philadelphia County | 8400 Bustleton Avenue Suite 100 Philadelphia Philadelphia County | Closed |
| 5-16-2009 | Beneficial Mutual Savings Bank Philadelphia Philadelphia County | 12377 Academy Road Philadelphia Philadelphia County | Closed |
| 5-16-2009 | Beneficial Mutual Savings Bank Philadelphia Philadelphia County | 414 Cooper Street Beverly Burlington County, NJ | Closed |
| 5-16-2009 | Beneficial Mutual Savings Bank Philadelphia Philadelphia County | 1 Rose Street and Beverly Rancocas Road Willingboro Burlington County, NJ | Closed |

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

No activity.

The Department's web site at www.banking.state.pa.us includes public notices for more recently filed applications.

STEVEN KAPLAN,
Secretary

[Pa.B. Doc. No. 09-1028. Filed for public inspection June 5, 2009, 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

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

| <i>NPDES No. (Type)</i> | <i>Facility Name & Address</i> | <i>County & Municipality</i> | <i>Stream Name (Watershed #)</i> | <i>EPA Waived Y/N?</i> |
|-----------------------------|-------------------------------------------------------------------------------------------------------------------------|--------------------------------------|---------------------------------------------|----------------------------|
| PA0246760 (IW) | Franklin County General Authority—Cumberland Valley Business Park 5540 Coffey Avenue Chambersburg, PA 17201 | Franklin County Greene Township | Dry Swale to Conococheague Creek 13-C | Y |

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

| <i>NPDES No. (Type)</i> | <i>Facility Name & Address</i> | <i>County & Municipality</i> | <i>Stream Name (Watershed #)</i> | <i>EPA Waived Y/N ?</i> |
|-----------------------------|-----------------------------------------------------------|---------------------------------------|--------------------------------------|-----------------------------|
| PA0110680 IW | Wood-Mode, Inc. One Second Street Kreamer, PA 17833 | Snyder County Middlecreek Township | Middle Creek 6A | Y |

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

| <i>NPDES No. (Type)</i> | <i>Facility Name & Address</i> | <i>County & Municipality</i> | <i>Stream Name (Watershed #)</i> | <i>EPA Waived Y/N ?</i> |
|-----------------------------|------------------------------------------------------------------|-----------------------------------------|--------------------------------------|-----------------------------|
| PA0222984 | Spartansburg Borough STP Grade Road Spartansburg, PA 16434 | Spartansburg Borough Crawford County | East Branch Oil Creek 16-E | Y |

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

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

PA0013463, Amendment No. 1, Industrial Waste, SIC 3312, **U.S. Steel Corporation**, One Ben Fairless Drive, Fairless Hills, PA 19030. This proposed facility is located in Falls Township, **Bucks County**.

Description of Proposed Activity: Permit amendment to reflect DRBC Docket D-78-68-2 Provisions.

The receiving stream, Delaware River, is in the State Water Plan Watershed 2E and is classified for: WWF and MF. The nearest downstream public water supply intake for Baxter Water Treatment Plant is located on the Delaware River and is 10 miles below the point of discharge.

The proposed effluent limits for Outfall 002 are as follows:

| <i>Parameters</i> | <i>Concentrations (mg/l)</i> | |
|-------------------------|---------------------------------------------------------|-----------------------------------------|
| | <i>Maximum Daily (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
| Temperature | | 110° F |
| Oil and Grease | 15 (Average Monthly) | 30 |
| pH | Within limits of 6.0 to 9.0 Standard Units at all times | |
| CBOD ₅ * | Monitor and Report | |
| COD* | Monitor and Report | |
| Oil and Grease | Monitor and Report | |
| Total Suspended Solids* | Monitor and Report | |
| Total Suspended Solids* | Monitor and Report | |
| Total Lead* | Monitor and Report | |
| Total Chromium* | Monitor and Report | |
| Total Copper* | Monitor and Report | |
| Total Cadmium* | Monitor and Report | |
| Iron (Dissolved)* | Monitor and Report | |
| PCBs, Total | Monitor and Report | |

* These parameters shall be monitored during storm event while no NCCW discharges.

The proposed effluent limits for Outfall 003, consist of treated process wastewater, cooling wastewater and treated sewage are as follows:

Tidal conditions at Outfall 003 make monitoring impossible. Therefore, contributions to Outfall 003 are monitored at monitoring points as follows:

| <i>Monitoring Point</i> | <i>Description of Wastewater</i> |
|-------------------------|----------------------------------------------------------------|
| MP 103 | Treated Process Wastewater from Terminal Treatment Plant |
| MP 203 | Treated Sewage Wastewater |
| MP 303 | SWRO |
| MP 404 | Treated Process Wastewater from Finishing Mill Treatment Plant |

The proposed effluent limits for Monitoring Point MP 103, treated process wastewater from Terminal Treatment Plant, based on an average flow of 3.75 mgd, are as follows:

| <i>Parameters</i> | <i>Mass (lbs/day)</i> | | <i>Concentrations (mg/l)</i> | | |
|--------------------------------|------------------------|---------------------------------------------------------|------------------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| BOD ₅ (Influent) | | | Monitor and Report | Monitor and Report | |
| (Effluent) | | | Monitor and Report | Monitor and Report | |
| Total Suspended Solids | 463 | 1,063 | Monitor and Report | Monitor and Report | 37.5 |
| Total Dissolved Solids | | | 1,100 | 2,200 | 2,750 |
| Oil and Grease | 240 | 440 | Monitor and Report | Monitor and Report | 19.2 |
| CBOD ₂₀ | 750 | | | | |
| BOD ₅ (% Removal) | 88.5 | | | | |
| Phenols, Total | Monitor and Report | Monitor and Report | Monitor and Report | Monitor and Report | |
| pH | | Within limits of 6.0 to 9.0 Standard Units at all times | | | |
| Color (Pt-Co) | | | 100 | | Monitor and Report |
| Total Residual Chlorine* | | | 0.31 | | 0.5 |
| Temperature (° F) | | | | | 110° |
| Chromium, Total | 4.79 | 6.22 | Monitor and Report | Monitor and Report | 0.37 |
| Zinc, Total | 21.83 | 24.77 | Monitor and Report | Monitor and Report | 1.75 |
| Ammonia Nitrogen | | | 35 | | 70 |
| Toxicity (Chronic) TUc | | | Monitor and Report | | |
| Toxicity (Acute) TUa | | | Monitor and Report | | |
| PCBs, Total | | | | Monitor and Report | |

* This limit is applicable only when chlorine is used in the process for algae control.

The proposed effluent limits for monitoring point MP 203 (treated sewage), based on an average flow of 0.163 mgd, are as follows:

| <i>Parameters</i> | <i>Average Monthly (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|------------------------------|----------------------------------------------------------|-------------------------------------|
| BOD ₅ | 25 | 50 |
| BOD ₅ (% Removal) | Minimum of 88.5% per DRBC Requirements | |
| Suspended Solids | 30 | 60 |
| CBOD ₂₀ (lbs/day) | 67 | |
| Total Residual Chlorine | 0.5 | 1.2 |
| Fecal Coliform | 200 colonies/100 ml as a Geometric Average | |
| pH | Within limits of 6.0 to 9.0 Standards Units at all times | |
| Phosphorus as P | | Monitor and Report (Daily Maximum) |
| Copper, Total | | Monitor and Report (Daily Maximum) |
| Lead, Total | | Monitor and Report (Daily Maximum) |
| Zinc, Total | | Monitor and Report (Daily Maximum) |
| Ammonia Nitrogen | 35 | 70 |
| Color (Pt-Co Units) | 100 | |
| Toxicity (Chronic) TUc | Monitor and Report | |
| Toxicity (Acute) TUa | Monitor and Report | |
| PCBs, Total | Monitor and Report | |
| Total Dissolved Solids | Monitor and Report | |

The proposed effluent limits for monitoring point MP 303 during storm events are as follows:

| <i>Parameters</i> | <i>Average Annual (mg/l)</i> | <i>Maximum Daily (mg/l)</i> |
|-------------------|------------------------------|-----------------------------|
| CBOD ₅ | | Monitor and Report |
| Oil and Grease | | Monitor and Report |
| pH | | Monitor and Report |
| Fecal Coliform | | Monitor and Report |
| Iron (Dissolved)* | | Monitor and Report |

The proposed effluent limits for monitoring point MP 403, treated process wastewater from Finishing Mill Treatment Plant, based on an average flow of 0.856 mgd, are as follows:

| <i>Parameters</i> | <i>Mass (lbs/day)</i> | | <i>Concentrations (mg/l)</i> | | |
|----------------------|------------------------|----------------------|------------------------------|----------------------|-------------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum (mg/l)</i> |
| Lead, Total | 1.49 | 4.49 | Monitor and Report | Monitor and Report | 0.52 |
| Zinc, Total | 1.47 | 4.41 | Monitor and Report | Monitor and Report | 0.52 |
| Chromium, Total | Monitor and Report | Monitor and Report | 0.1 | 0.3 | 0.3 |
| Nickel, Total | Monitor and Report | Monitor and Report | 0.2 | 0.45 | 0.5 |
| Naphthalene | | 0.071 | Monitor and Report | Monitor and Report | 0.012 |
| Chromium, Hex | 0.095 | 0.284 | Monitor and Report | Monitor and Report | 0.035 |
| Copper, Total | Monitor and Report | Monitor and Report | 0.1 | 0.3 | 0.3 |
| Tetra Chloroethylene | | 0.107 | | Monitor and Report | 0.018 |

The proposed effluent limits for Outfalls 005, 007 and 009 (stormwater) are as follows:

| <i>Parameters</i> | <i>Average Annual (mg/l)</i> | <i>Maximum Daily (mg/l)</i> |
|----------------------------------------|------------------------------|-----------------------------|
| CBOD ₅ | | Monitor and Report |
| Total Suspended Solids | | Monitor and Report |
| Oil and Grease | | Monitor and Report |
| pH | | Monitor and Report |
| Iron (Dissolved) (005 and 009 only) | | Monitor and Report |
| Total Zinc (007 only) | | Monitor and Report |

The proposed effluent limits for Outfalls 010 and 011 (Intake Screen backwash water) are as follows:

The materials (solids and other debris) physically or mechanically removed by USS in backwash operation shall not be returned to surface waters. The disposal of this material shall prevent any discharge of removed substances to the surface waters.

In addition to the effluent limits, the permit contains the following major special conditions:

1. The EPA Waiver is not in effect.
2. CBOD₂₀ Allowances.
3. 88.5% Reduction of BOD₅ per DRBC Requirements.
4. Thermal Requirements.
5. Approved Chemical Additives.
6. Special Test Methods for Certain Pollutants.
7. PCBs Monitoring and PMPs Requirements.

PA0040991, Industrial Waste, SIC 5171, **ConocoPhillips Company**, P. O. Box 1839, Pasadena, TX 77501-1839. This facility is located in the City of Philadelphia, **Philadelphia County**.

The application is for renewal of an NPDES permit to discharge stormwater runoff from ConocoPhillips—Philadelphia Terminal located at 4120 G Street, Philadelphia, PA. This is an existing discharge to Frankford Creek. At the point of discharge, stream is in the State Water Plan Watershed 3J and is classified for WWF.

The proposed effluent limits for Outfall 002, based on an average storm event, are as follows:

| <i>Parameter</i> | <i>Effluent Concentration Limitations (mg/l)</i> | | |
|------------------------------------------|--------------------------------------------------|----------------------|------------------------------|
| | <i>Average Month</i> | <i>Daily Maximum</i> | <i>Instantaneous Maximum</i> |
| Total Recoverable Petroleum Hydrocarbons | 15 | | 30 |

The proposed effluent limits for Outfalls 002, during Hydrostatic test water discharges, are as follows:

| <i>Parameter</i> | <i>Instantaneous Maximum (mg/l)</i> |
|---------------------------|---------------------------------------------------------|
| Flow (gpm) | Monitor and Report |
| Duration (Hours) | Monitor and Report |
| Dissolved Oxygen | Minimum of 5.0 mg/l |
| Total Suspended Solids | 60 |
| Oil and Grease | 30 |
| Iron | 7.0 |
| Benzene* | 0.0025 |
| Total BETX* | 0.25 |
| Ethylbenzene* | Monitor and Report |
| Toluene* | Monitor and Report |
| Xylene (Total)* | Monitor and Report |
| Total Residual Chlorine** | 0.5 mg/l |
| pH (Standard Units) | Within limits of 6.0 to 9.0 Standard Units at all times |

* Not applicable to new pipelines and/or tanks.

** Applicable only if chlorinated water is used as the source of test water.

The EPA waiver is in effect.

Other Requirements:

1. Product Contaminated Stormwater Runoff.
2. PPC Plan Requirements.
3. Hydrostatic Test Water Discharge Requirements.
4. Other Wastewater Discharge Associated with the Facility.

PA0042617, Industrial Waste, SIC 3317, **Accellent, Inc.**, 200 West Seventh Avenue, Trappe, PA 19426-0992. This existing facility is located in Trappe Borough, **Montgomery County**.

Description of Proposed Activity: Renewal of an NPDES permit to discharge contaminated groundwater following treatment through an air stripper system (Outfall 002), noncontact cooling water on an emergency basis (Outfall 001), and stormwater (Outfall 003) to a UNT to Perkiomen Creek.

The receiving stream, a UNT to Perkiomen Creek, is in the State Water Plan Watershed 3E and is classified for: TSF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Aqua, Inc., is located on Perkiomen Creek and is approximately 6 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.144 mgd. Discharge occurs only in emergency situations (for example, power failure).

| <i>Parameters</i> | <i>Mass (lb/day)</i> | | <i>Concentration (mg/l)</i> | | |
|---------------------|------------------------|----------------------|-----------------------------|----------------------|-------------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum (mg/l)</i> |
| Temperature | | | | | 110° F |
| pH (Standard Units) | | | 6.0, minimum | | 9.0 |

The proposed effluent limits for Outfall 002 are based on a design flow of 0.112 mgd:

| <i>Parameters</i> | <i>Mass (lb/day)</i> | | <i>Concentration (mg/l)</i> | | |
|-----------------------|------------------------|----------------------|-----------------------------|----------------------|-------------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum (mg/l)</i> |
| Trichloroethylene | | | 0.005 | 0.01 | 0.013 |
| 1,1,1-Trichloroethane | | | 0.2 | 0.4 | 0.5 |
| 1,4-Dioxane | | | Monitor | Monitor | Monitor |
| Chromium, Hexavalent | | | 0.009 | 0.018 | 0.023 |

The proposed effluent limits for Outfall 003 are based on a design flow of an average storm event.

| <i>Parameters</i> | <i>Mass (lb/day)</i> | | <i>Concentration (mg/l)</i> | | |
|-------------------------|------------------------|----------------------|-----------------------------|----------------------|-------------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum (mg/l)</i> |
| CBOD ₅ | | | | Monitor | |
| COD | | | | Monitor | |
| Oil and Grease | | | | Monitor | |
| pH (Standard Units) | | | | Monitor | |
| Total Suspended Solids | | | | Monitor | |
| Total Kjeldahl Nitrogen | | | | Monitor | |
| Total Phosphorus | | | | Monitor | |
| Total Iron | | | | Monitor | |

In addition to the effluent limits, the permit contains the following major special conditions:

1. Remedial Measures if Public Nuisance.
2. Dry Stream Discharge.
3. BAT/ELG Reopener.
4. Maximum 2° F Temperature Change.
5. No Chemical Addition Without Approval.
6. Approved Test Method.
7. Change in Ownership.
8. Proper Sludge Disposal.
9. TMDL/WLA Analysis.
10. Air Stripper Wastewater.
11. Stormwater Requirements.
12. Hexavalent Chromium Removal.
13. Groundwater Monitoring Summary Reports.
14. Chemical Additive Approval.

PA0050911, Sewage Waste, SIC Code 4952, **Upper Perkiomen School District**, 2229 East Buck Road, Suite 2, Pennsburg, PA 18073. This proposed facility is located in Marlborough Township, **Montgomery County**. The permittee request renewal of an NPDES permit to discharge treated sewage from Marlborough Elementary School sewage treatment plant located at 1450 Gravel Pike, Green Lane, PA. This is an existing discharge to Green Lane Reservoir at RM Index 21.31 (Perkiomen Creek).

The receiving stream, Green Lake (Perkiomen Creek), is in the State Water Plan Watershed 3E and is classified for: TSF. The nearest downstream public water supply intake for Aqua Pennsylvania, Pickering Creek water treatment plant is on Perkiomen Creek and is 20.33 miles below point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.00425 mgd:

| <i>Parameters</i> | <i>Mass (lb/day)</i> | | <i>Concentration (mg/l)</i> | | |
|------------------------------|------------------------|----------------------|----------------------------------------------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| CBOD ₅ | | | 25 | 40 | 50 |
| Total Suspended Solids | | | 30 | 45 | 60 |
| NH ₃ -N | | | 4.0 | | 8.0 |
| Phosphorus as P | | | 0.5 | | 1.0 |
| Fecal Coliform (#/100 ml) | | | 200 | | 1,000* |
| Dissolved Oxygen | | | Minimum of 4.0 mg/l at all the times. | | |
| pH (Standard Units) | | | Within Limits of 6.0 to 9.0 Standard Units at all times. | | |

* Shall not exceed in more than 10% of samples.

The EPA waiver is in effect.

In addition to the effluent limits, the permit contains the following major special conditions:

1. Abandon STP.
2. Remedial Measures.
3. No Stormwater.
4. Proper Sludge Disposal.
5. TMDL Limits.
6. Laboratory Certifications.

PA0036897, Sewage, **Borough of South Coatesville**, 136 Modena Road, South Coatesville, PA 19320. This existing facility is located in South Coatesville Borough, **Chester County**.

Description of Proposed Activity: This application requests renewal of the NPDES permit for an existing discharge of treated sewage from the South Coatesville sewage treatment plant.

The receiving stream, West Branch Brandywine Creek, is in the State Water Plan Watershed 3H and is classified for: WWF, potable water supply, industrial water supply, livestock water supply, wildlife water supply, irrigation, boating, fishing, water contact sports and esthetics.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.381 mgd.

| <i>Parameters</i> | <i>Mass (lb/day)</i> | | <i>Concentration (mg/l)</i> | | |
|-------------------------|------------------------|-----------------------|-----------------------------|-----------------------|-------------------------------------|
| | <i>Monthly Average</i> | <i>Weekly Average</i> | <i>Monthly Average</i> | <i>Weekly Average</i> | <i>Instantaneous Maximum (mg/l)</i> |
| CBOD ₅ | 79 | 127 | 25 | 40 | 50 |
| Total Suspended Solids | 95 | 143 | 30 | 45 | 60 |
| Ammonia as N | | | | | |
| (5-1 to 10-30) | 22 | | 7.0 | | 14 |
| (11-1 to 4-30) | 67 | | 21 | | 42 |
| Total Phosphorus | 6.4 | | 2.0 | | 4.0 |
| Fecal Coliform | | | 200/100 ml | | 1,000/100 ml |
| Dissolved Oxygen | | | 2.0 (minimum) | | |
| pH (Standard Units) | | | 6.0 (minimum) | | 9.0 |
| Total Residual Chlorine | | | 0.5 | | 1.2 |

In addition to the effluent limits, the permit contains the following major special conditions:

1. Notification of Designation of Operator.
2. Average Weekly Definition.
3. Remedial Measures if Unsatisfactory Effluent.
4. No Stormwater.
5. Acquire Necessary Property Rights.
6. Total Residual Chlorine Requirement.
7. Sludge Disposal Requirement.
8. I-Max Requirements.
9. Laboratory Certification.
10. Certified Operator.
11. Fecal Coliform I-Max Reporting.
12. Fecal Coliform 10% Rule.

PA0020575, Sewage, SIC 4952, **Rose Valley Borough**, P. O. Box 198, Old Mill Lane, Rose Valley, PA 19065. This proposed facility is located in Rose Valley Borough, **Delaware County**.

Description of Proposed Activity: renewal of an NPDES permit to discharge treated sewage from Rose Valley Borough STP.

The receiving stream, Ridley Creek, is in the State Water Plan Watershed 3G and is classified for: TSF, aquatic life, water supply and recreation. There is no downstream public water supply intake below the point of discharge.

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

| <i>Parameters</i> | <i>Average Monthly (mg/l)</i> | <i>Average Weekly (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|------------------------|-------------------------------|------------------------------|-------------------------------------|
| CBOD ₅ | 25 | 40 | 50 |
| Total Suspended Solids | 30 | 45 | 60 |
| Ammonia as N | Monitor and Report | | Monitor and Report |
| Phosphorus, Total | Monitor and Report | | Monitor and Report |

| <i>Parameters</i> | <i>Average Monthly (mg/l)</i> | <i>Average Weekly (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|-------------------------|--------------------------------------------|------------------------------|-------------------------------------|
| Fecal Coliform | 200/100 ml | | 1,000/100 ml |
| Dissolved Oxygen | | | 2.0 (Instantaneous Minimum) |
| Total Residual Chlorine | 0.5 | | 1.6 |
| pH | 6.0 to 9.0 Standard Units at all the times | | |

In addition to the effluent limits, the permit contains the following major special conditions:

1. Operator Notification.
2. Average Weekly Definition.
3. Remedial Measures if Unsatisfactory Effluent.
4. No Stormwater.
5. Acquire Necessary Property Rights.
6. Change of Ownership.
7. Chlorine Minimization.
8. Proper Sludge Disposal.
9. TMDL/WLA Analysis.
10. Operator Education Requirement.
11. Laboratory Certification.
12. Fecal Coliform Reporting.

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

Application No. PA 0247120, CAFO, Marietta Farm, 29 Engle Road, Marietta, PA 17547.

Shady Brae Farms, Inc. has submitted an NPDES permit application for the Marietta Farm, a poultry layer operation located in Conoy Township, **Lancaster County**. The CAFO is situated near a UNT to the Susquehanna River (Watershed 7-G), which is classified as a WWF. The CAFO has a target animal population of approximately 1,807 animal equivalent units consisting of 540,000 laying hens. A release or discharge to waters of this Commonwealth under normal operating conditions is not expected. Normal operating conditions are defined as conditions below a 25-year, 24-hour storm event.

The Department of Environmental Protection (Department) has conducted administrative and technical reviews of the application. Based on the preliminary review and application of lawful standards and regulations, the Department has made a tentative determination to issue the NPDES permit for the operation subject to the terms and conditions and monitoring and reporting requirements specified in the permit. The permit application and draft permit are on file at the Southcentral Regional Office of the Department.

Persons may make an appointment to review the Department's files by calling the file review coordinator at (717) 705-4732.

The Environmental Protection Agency permit waiver provision under 40 CFR 123.24(e) does not apply to this NPDES permit.

Application No. PA 0261289, Sewage, Garren Wilkins, 10538 Hyndman Road, Manns Choice, PA 15537. This facility is located in Harrison Township, Bedford County.

Description of activity: The application is for issuance of an NPDES permit for a new discharge of treated sewage.

The receiving stream, UNT Buffalo Run, is in Watershed 11-C, and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Bedford Borough Water Authority is located on the Raystown Branch Juniata, approximately 7 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.0004 mgd are:

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|-------------------------|-------------------------------|-------------------------------------|
| CBOD ₅ | 25 | 50 |
| Total Suspended Solids | 30 | 60 |
| Total Residual Chlorine | Report | |

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|---------------------------------|-------------------------------------|-----------------------------------------|
| 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 | |

Persons 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.

PA0027928, Industrial Waste, SIC 5171, **Gulf Oil Limited Partnership**, 400 Grand Avenue, Pittsburgh, PA 15225. This application is for renewal of an NPDES permit to discharge treated process water, stormwater and untreated hydrostatic test water from the Neville Island Terminal in Neville Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Ohio River (Back Channel), which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply is the Robinson Township Authority.

Outfall 001: existing discharge, design flow of variable mgd.*

| <i>Parameter</i> | <i>Mass (lb/day)</i> | | <i>Concentration (mg/l)</i> | | |
|--------------------------------|-------------------------------------------------------|--------------------------|-----------------------------|--------------------------|----------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| Flow | Monitor and Report | | Monitor and Report | | |
| Total Recoverable Hydrocarbons | | | Monitor and Report | | |
| Suspended Solids | | | 30 | | 60 |
| Oil and Grease | | | 15 | | 30 |
| pH | not less than 6.0 nor greater than 9.0 Standard Units | | | | |

* Flow is dependent on rain event.

Other Conditions: Applicable petroleum marketing terminal standard conditions.
Applicable hydrostatic testing standard condition.

The EPA waiver is in effect.

PA0205729, Sewage, **John W. and Lynne M. Lindley**, 208 Rural Valley Road, Claysville, PA 15323 and **Barry J. Goff**, 206 Rural Valley Road, Claysville, PA 15323. This application is for renewal of an NPDES permit to discharge treated sewage from Lindley/Goff Small Flow Treatment Facility in Blaine Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Wolf Run, which are classified as a HQ-WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility are not present in Pennsylvania.

Outfall 001: existing discharge, design flow of 0.0008 mgd.

| <i>Parameter</i> | <i>Concentration (mg/l)</i> | | | |
|-------------------------------------------------|----------------------------------------|---------------------------|--------------------------|----------------------------------|
| | <i>Average Monthly</i> | <i>Average Weekly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| CBOD ₅ | 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 |
| 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 1st month—36th month | Monitor and Report | | | |
| 37th month—expiration | 1.4 | | | 3.3 |
| Dissolved Oxygen | not less than 9.0 mg/l | | | |
| pH | not less than 6.0 nor greater than 9.0 | | | |

The EPA waiver is in effect.

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

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

WQM Permit No. 2809403, Sewerage, **Kevin and Katrina Holford**, 467 East King Street, Shippensburg, PA 17257. This proposed facility is located in Lurgan Township, **Franklin County**.

Description of Proposed Action/Activity: Seeking approval for the construction/operation of a small flow sewage treatment system to serve their single-family residence at Newburg Road, Shippensburg, PA 17240.

WQM Permit No. 2809404, Sewerage, **Antrim Township Municipal Authority, Antrim Township Municipal Building**, 10655 Antrim Church Road, Greencastle, PA 17225. This proposed facility is located in Antrim Township, **Franklin County**.

Description of Proposed Action/Activity: Seeking approval for the construction/operation of a new 90,000 gallons Sludge Tank, upgrade the existing Sludge Digestion Tank, new Blowers and installation of a new Solar Sludge Drier System at the wastewater treatment plant.

WQM Permit No. 6709401, Sewerage, **Southwestern School District, Manheim Elementary School**, 225 Bowman Road, Hanover, PA 17331-4297. This proposed facility is located in Manheim Township, **York County**.

Description of Proposed Action/Activity: Seeking approval for the construction/operation for wastewater treatment and disposal facility from the Manheim Elementary School with subsurface disposal.

WQM Permit No. 3683415, Amendment 09-2, Sewerage, **City of Lancaster**, 120 North Duke Street, P. O. Box 1599, Lancaster, PA 17608-1599. This proposed facility is located in Lancaster City, **Lancaster County**.

Description of Proposed Action/Activity: Seeking approval for upgrades to the North Sewage Pumping Station CSO Storage Basin.

WQM Permit No. 3683415, Amendment 09-1, Sewerage, **City of Lancaster**, 120 North Duke Street, P. O. Box 1599, Lancaster, PA 17608-1599. This proposed facility is located in Lancaster City, **Lancaster County**.

Description of Proposed Action/Activity: Seeking approval for the addition of two bar screens at the north train and grit removal units at both the north and south trains.

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

WQM Permit No. 3009201, Industrial Waste, **CNX Gas Company, LLC**, 2481 John Nash Boulevard, Bluefield, WV 24701. This proposed facility is located in Center Township, **Greene County**.

Description of Proposed Action/Activity: Application for the construction and operation of a reverse osmosis treatment facility.

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

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

WQM Permit No. 1109402, Sewerage, **Charles Hensel**, 115 Hamel Lane, Johnstown, PA 15909. This proposed facility is located in Upper Yoder Township, **Cambria County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sewage treatment plant to serve two existing homes.

WQM Permit No. WQG026125, Sewerage, **Marshall Township Municipal Sanitary Authority**, P. O. Box 2063, Warrendale, PA 15086. This proposed facility is located in Vandergrift Borough, **Westmoreland County**.

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

WQM Permit No. WQG026126, Sewerage, **Borough of Arona**, P. O. Box 182, Arona, PA 15617. This proposed facility is located in Arona Borough, **Westmoreland County**.

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

The Pennsylvania Infrastructure Investment Authority which administers Pennsylvania's State Revolving Fund has been identified as a possible funding source. The Department of Environmental Protection's review of the sewage facilities plan revision has not identified any significant environmental impacts resulting from this proposal.

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

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

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

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

Northampton County Conservation District: Greystone Building, Gracedale Complex, Nazareth, PA 18064-9211, (610) 746-1971.

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|----------------------------------------------------------------------------------------------------|---------------|---------------------|----------------------------|
| PAI024808019 | Zion Wesleyan Church of Point Philip Attn: Ted Leininger 2459 Scenic Drive Bath, PA 18014 | Northampton | Moore Township | Bushkill Creek HQ-CWF |

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

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|----------------------------------------------------------------------------------------------------------------------------------------|---------------|-------------------------|-------------------------------|
| PAI023905033(1) | City of Allentown Attn: Greg Weitzel 3000 Parkway Boulevard Allentown, PA 18104 | Lehigh | City of Allentown | Cedar Creek HQ-CWF |
| PAI023908003 | Kings Real Estate Dev. Management Co. Attn: Carmen Tessitore 315 South Cedar Crest Boulevard Suite 300 Allentown, PA 18103 | Lehigh | Upper Macungie Township | Little Lehigh Creek HQ-CWF |

Northcentral Region: Water 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 & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|-------------------------------------------------------------------------------------------------------------|---------------|-----------------------|----------------------------|
| PAI041409005 | Ronald J. Woodhead Centre Regional Recreation Authority 2643 Gateway Drive State College, PA 16801 | Centre | State College Borough | Thompson Run HQ-CWF |

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

Jefferson County Conservation District: 1514 Route 28, Brookville, PA 15825, (814) 849-7463.

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|----------------------------------------------------------------------------------------------------------------------------------|---------------|-------------------------------------|----------------------------|
| PAI063309001 | North Fork Creek Water Treatment Plant Brookville Municipal Authority 18 Western Avenue Suite A Brookville, PA 15825 | Jefferson | Brookville Borough Rose Township | North Fork Creek HQ-CWF |

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

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

CAFO Notices of Intent Received

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

Watershed Management Program, PAG122206, Koch's Turkey Farm, 416 Valley Road, Tamaqua, PA 18252.

This facility is located in Walker Township, **Schuylkill County**. Koch's Turkey Farm operates two separate farms (Home Farm and Zehner Farm) as one facility. The Home Farm is located on Valley Road. The Zehner Farm is located approximately 4.7 miles to the east at the intersection of Route 443 and Wildcat Road. The Home Farm houses approximately 83,268 hens (580.56 Animal Equivalent Units (AEU's)), 36,644 toms (440.62 AEU's) and five horses (1,961.56 AEU's). The Zehner Farm houses approximately 64,097 hens (398.98 AEU's) and 43,392 toms (536.40 AEU's). All of the acreage surrounding the Home Farm has been reserved for the land application of process water from the turkey processing plant. 55.4 acres of crop ground at the Zehner Farm and 5.4 acres of pasture at the Home Farm have been included in the NOI. Corn, soybeans and grass hay are grown in rotation. The facility generates approximately 5,800 tons of manure which is exported offsite. Koch's Turkey Farm is located near Cold Run and Beaver Creek in the Upper Schuylkill River Watershed.

Except for the chronic or catastrophic rainfall events defined as over the 25-year/24-hour rain storms, the CAFO general permit is a nondischarge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with the Pennsylvania Nutrient Management Act and the Clean Stream Law constitutes compliance with the State narrative water quality standards.

Watershed Management Program, PAG122205, Hegins Valley Layer Complex, 824 Church Road, Hegins, PA 17964.

This operation uses 23 acres of a 187 acre farm, located in Hubley Township, **Schuylkill County**. The number of layers consists of 798,965 units at 3.48 pounds each for a total of 2,780 Animal Equivalent Units (AEUs). There are birds housed in eight layer houses. The operation generates approximately 10,425 tons of manure annually. No manure generated is land applied to the farming portion of the operation by the permittee. The Hegins Valley Layer Complex is located near Pine Creek, a designated CWF, and tributary to the Schuylkill River.

The proposed effluent limits for the operation/activity include: Except for the chronic or catastrophic rainfall events defined as over the 25-year/24-hour rain storms, the CAFO general permit is a nondischarge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with the Pennsylvania Nutrient Management Act and The Clean Stream Law constitutes compliance with the State narrative water quality standards.

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 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> |
|---------------------------------------------------------------------------------------------|---------------|--------------------|--------------------------------|--------------------|---------------------------------------------------|--------------------|
| M & M Farms Monte and Mary Edgin 10368 Chester Furnace Road Shirleysburg, PA 17260 | Huntingdon | 221.9 | 615.8 | Swine | NA | Renewal |

| <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> |
|------------------------------------------------|---------------|--------------------|--------------------------------|--------------------|---------------------------------------------------|--------------------|
| 105 Hoover Lane Loysville, PA 17047 | | | | | | |

PUBLIC WATER SUPPLY (PWS) PERMIT

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

Persons wishing to comment on a permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of Environmental Protection (Department) of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

Following the comment period, the Department will make a final determination regarding the proposed permit. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The permit application and any related documents are on file at the office listed before the application and are available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability who require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

SAFE DRINKING WATER

Applications Received under the Pennsylvania Safe Drinking Water Act

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

Permit Application No. 3909505, Public Water Supply.

| | |
|----------------------|--------------------------------------------------------------------------------------------------|
| Applicant | Salisbury Township 2900 South Pike Avenue Allentown, PA 18103 Salisbury Township |
| | Lehigh County |
| Responsible Official | Randy Soriano Salisbury Township 2900 South Pike Avenue Allentown, PA 18103 |
| Type of Facility | Public Water Supply |

| <i>Animal Equivalent Units</i> | <i>Animal Type</i> | <i>Special Protection Waters (HQ or EV or NA)</i> | <i>Renewal/New</i> |
|--------------------------------|--------------------|---------------------------------------------------|--------------------|
| | | | |

Consulting Engineer David J. Tetteimer, P. E.
Keystone Consulting Engineers, Inc.
6235 Hamilton Boulevard
Wescosville, PA 18106

Application Received Date May 11, 2009

Description of Action Applicant proposes upgrading the existing water service booster pumps from 400 gpm to 640 gpm at their existing Flexer Avenue Booser Pump Station.

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

Application No. 0809503—Construction, Public Water Supply.

Applicant **Ulster Municipal Authority**
Township or Borough Ulster Township
County **Bradford**
Responsible Official Franklin Walker, President
Ulster Municipal Authority
P. O. Box 157
Ulster, PA 18850

Type of Facility Public Water Supply—Construction

Consulting Engineer Mark V. Glenn, P. E.
Gwin, Dobson & Foreman, Inc.
3121 Fairway Drive
Altoona, PA 16602

Application Received Date May 26, 2009

Description of Action Construction of water treatment facility and appurtenances.

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

Application No. 3709502, Public Water Supply.

Applicant **PA American Water New Castle**
Township or Borough Neshannock Township
New Castle Borough
Lawrence County
Responsible Official William H. Lage, P. E.
Consulting Engineer Molly Page, P. E.
AECOM
1375 East 9th Street
Suite 2801
Cleveland, OH 44114

Application Received Date May 13, 2009

| | |
|------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| Description of Action | Adding filter-to-water (FTW) capability to avoid initial filtered water turbidity excursions during early stages of a filtration cycle. |
| Application No. 3309501, Public Water Supply. | |
| Applicant | Brookville Municipal Authority |
| Township or Borough | Brookville Borough Rose Township Jefferson County |
| Responsible Official | Terrance J. O'Neill Water/Wastewater Commissioner |
| Consulting Engineer | Mark V. Glenn, P. E. President Gwinn, Dobson & Foreman, Inc. 3121 Fairway Drive Altoona, PA 16602-4475 |
| Application Received Date | May 15, 2009 |
| Description of Action | Proposed construction of a new physical/chemical water treatment facility utilizing microfiltration membrane technology. |

WATER ALLOCATIONS

Applications received under the act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. § 631—641) relating to the Acquisition of Rights to Divert Waters of the Commonwealth

Southcentral Region: Watershed Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

WA 07-1032, Water Allocations. Bellmeade Civic Association, Blair County. The applicant is requesting the right to purchase a maximum of 50,000 gpd from an interconnection to be constructed in Antis Township, Blair County, Consulting Engineer: Mark Glenn, Gwin, Dobson & Forman, Inc. Date Application Received April 10, 2009.

WA 01-4D, Water Allocations. New Oxford Municipal Authority, Adams County. The applicant is requesting the right to withdraw a maximum of 1.8 mgd from an existing intake in South Branch West Conewago Creek, Consulting Engineer: Peter Lusardi, CET Engineering Services, Inc. Date Application Received November 3, 2008.

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.

Cooper Residence, City of Philadelphia, Philadelphia County. Richard Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073, Ed Applegate, State Farm, P. O. Box 11, Concordville, PA 19331 on behalf of Robin Cooper, 2456 78th Avenue, Philadelphia, PA 19150 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of No. 2 fuel oil. The intended future use of the site is residential. A summary of the Notice of Intent to Remediate was reported to have been published in the *Philadelphia Tribune* on May 5, 2009.

Sirovica Residence, Doylestown Township, Bucks County. Richard Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073, Cathy Krawczyk, Merchants Insurance Company, 250 Main Street, Buffalo, NY 14202 on behalf of Elias Evans, 314 Willow Brooks Road, Horsham, PA 19044 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted

with the release of No. 2 fuel oil. A summary of the Notice of Intent to Remediate was reported to have been published in *The Intelligencer* on May 3, 2009.

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

Degirmenci Residence, 1619 1/2 West Allen Street, Allentown, **Lehigh County**. Richard D. Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073 has submitted a Notice of Intent to Remediate (on behalf of his client, Levent Degirmenci, 1619 1/2 West Allen Street, Allentown, PA 18102), concerning the remediation of soil found to have been impacted by No. 2 fuel oil as a result of a release from a corroded burst seam on an aboveground storage tank. The applicant proposes to remediate the site to meet the Statewide Health Standard. The intended future use of the site will remain Residential. A summary of the Notice of Intent to Remediate was published in *The Express-Times* on April 30, 2009. A Final Report was simultaneously submitted.

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

Handelman Residence, Lower Paxton Township, **Dauphin County**. Marshall Miller & Associates, Inc., 3913 Hartzdale Drive, Suite 1306, Camp Hill, PA 17011, on behalf of Jared Handelman, 5340 Windsor Road, Harrisburg, PA 17112, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with No. 2 heating oil. The site will be remediated to the Residential Statewide Health Standard, and the future use of the property will be Residential.

Pawelski Residence, Alsace Township, **Berks County**. Herrygers Environmental Services, LLC, 214 Beltrees Drive, Lexington, SC 29072, on behalf of Frank Pawelski, 109 Skyline Drive, Reading, PA 19606, submitted a Notice of Intent to Remediate site soils contaminated with No. 2 heating oil. The site will be remediated to the Residential Statewide Health Standard, and the future use of the property will be Residential.

ArcelorMittal Steelton Facility—Area 8 Landfill, Swatara Township, **Dauphin County**. ARM Group, 1129 West Governor Road, P. O. Box 797, Hershey, PA, on behalf of ArcelorMittal Steelton, LLC, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with metals. The site will be remediated to meet a combination of the Site-Specific and Nonresidential Statewide Health Standards, and will continue to be a closed landfill.

Reinert Residence, Londonderry Township, **Dauphin County**. Alternative Environmental Solutions, Inc., 480 New Holland Avenue, Lancaster, PA 17602, on behalf of Mr. and Mrs. Paul Reinert, 2248 Schoolhouse Road, Middletown, PA 17057, submitted a Notice of Intent to Remediate site soil contaminated with No. 2 fuel oil. The site will be remediated to the Residential Statewide Health Standard.

HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

Applications received, under the Solid Waste Management Act of July 7, 1980 (P. L. 380, No. 97) (35 P. S. §§ 6018.101—6018.1003) and Regulations to Operate or for the closure and post-closure care of a Hazardous Waste Treatment, Storage or Disposal Facility.

Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permit ID No. PAD980552848, Newell Rubbermaid, 2707 Butterfield Road, Oakbrook, IL 60523-1267. Application for a renewal of a hazardous waste remedial action plan approval for the Palmieri site in Center Township, **Beaver County** was received in the Regional Office on May 21, 2009.

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

NEW SOURCES AND MODIFICATIONS

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

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

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

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

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

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

PLAN APPROVALS

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

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

23-00030: ConocoPhillips Co. (4101 Post Road, Trainer, PA 19061-3812) for installation and modification of an Alkylation unit and associated equipment at their Trainer facility in Trainer Borough, **Delaware County**. This facility is a Title V facility. This installation and modification will result in minor emission increases. The Plan Approval and Operating Permit will contain recordkeeping requirements and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

09-0209: Univar USA Inc., (4 Steel Road East, Morrisville, PA 19067) a Plan Approval application for an existing liquid organic chemical transfer and repackaging facility consisting of storage tanks along with bulk loading stations, rail unloading stations and drum loading stations in Morrisville, **Bucks County**. Univar USA would be a Natural Minor facility. Univar will not exceed the VOC and HAP thresholds. 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, Ray Kempa, New Source Review Chief, (570) 826-2507.

54-310-046: HMMK, LLC—d/b/a Foster Materials (6100 Easton Road, Pipersville, PA 18947) for modification and operation of a stone crushing plant at their facility in Foster Township, **Schuylkill County**. The company will modify the existing stone crushing plant by replacing one existing tertiary crusher (HIS) with a VSI tertiary crusher controlled by a baghouse and addition of a product screen. The company will continue use the wet suppression system to control the particulate emissions from the operations. Expected total particulate from the baghouse will be less than 0.014 gr/dscf. The use of baghouse for VSI tertiary crusher and water sprays for other plan equipment to the extent that the operation will have no fugitive emissions would constitute the BAT for this type of sources. NSPS Subpart (OOO) is applicable to this plant equipment and the company will comply with the requirements. The company will operate the facility and maintain the sources in accordance with the good engineering practices to assure proper operation of sources. 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.

35-322-010: Alliance Sanitary Landfill, Inc. (398 South Keyser Avenue, Taylor, PA 18517) for installation and operation of one 6,000-scfm capacity enclosed flare, one 3,300-scfm capacity enclosed flare and one 500-scfm capacity open flare to provide redundant capacity for the combustion of landfill gas at their site in Taylor and Old Forge Boroughs and Ransom Township, **Lackawanna County**. The proposed flare systems will provide suffi-

cient combustion capacity and backup flare capacity to destroy all of the landfill gas generated over the life of the landfill. The installation of the flares are intended to provide sufficient capacity for combustion of landfill gas from the existing Area I and Area II sites of landfill. This action does not represent any additional waste being introduced into the landfill, or an expansion of the landfill, merely the installation of control devices. No additional gas is being generated since the gas generation is based on the size and volume of the landfill. The company has proposed no other changes. Alliance Sanitary Landfill is a major facility subject to Title V permitting requirements and is located. The VOC emissions from the landfill will be controlled by enclosed landfill gas flares and will continue to be less than 50 tpy. 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.

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

36-05148A: Country Value Woodworks, LLC (2302 Beaver Valley Pike, New Providence, PA 17560) for operation of a wood furniture finishing operation in Providence Township, **Lancaster County**. This facility has a potential to emit 57 tpy of VOC's without limits. Country Value Woodworks is limiting its emissions to below 25 tpy of VOC's. Actual emissions are expected to be 13 tpy of VOC's. The plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

OPERATING PERMITS

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

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

23-00016: PQ, Corp. (1201 West Front Street, Chester, PA 19013) for renewal of a Title V Operating Permit in the City of Chester, **Delaware County**. The initial permit was issued July 6, 2000. PQ operates a glass manufacturing process. Under this permit renewal, Source IDs 036 and 104 are being removed and Source ID 037, which was installed under General Plan Approval/General Permit No. 23-302-141GP, is being incorporated into the Title V Operating Permit. Individual limits apply to the various sources at the facility. None of these limits will be changed. The facility is not subject to Compliance Assurance Monitoring under 40 CFR Part 64. The Operating Permit will contain requirements to keep the facility operating within all applicable air quality requirements for this source.

09-00124: Fairless Energy, LLC (50 Sinter Road, Fairless Hills, PA 19030) for operation of an electric generating station in Falls Township, **Bucks County**. The permit is being reopened and reissued for cause in accordance with 25 Pa. Code § 127.542(a)(3). The Department of Environmental Protection (Department) has determined that a mistake was made to condition No. 005, Section C of Title V operating permit 09-00124. The exception to the visible emissions limitations stated in the condition is not applicable for periods of startup, shutdown and malfunction under this Commonwealth's law.

The Department will remove this exemption language from the condition and reissue the Title V operating permit. This change shall affect only parts of the permit for which cause to revise exists.

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

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

46-00213: Cremation Society of Pennsylvania (371 East Church Road, King of Prussia, PA 19406) for operation of a human crematorium in Upper Merion Township, **Montgomery County**. The permit is for a non-Title V (State-only) facility. The main source of air emissions is one human crematorium, rated at 1.9 mmBtu/hr. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

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

01-05021: Knouse Foods Cooperative, Inc. (P. O. Box 807, Biglerville, PA 17307) to operate their Gardners fruit processing facility in Tyrone Township, **Adams County**. This is a renewal of the State-only operating permit issued in 2003.

01-05022: Knouse Foods Cooperative, Inc. (P. O. Box 807, Biglerville, PA 17307) to operate their Orrtanna fruit processing facility in Hamiltonban Township, **Adams County**. This is a renewal of the State-only operating permit issued in 2003.

06-03025: Reading Plating & Polishing Works, Inc. (1833 Cotton Street, Reading, PA 19606-1712) for operation of their existing decorative chrome plating facility in the City of Reading, **Berks County**. The facility wide (State-only) operating permit shall contain testing, monitoring, recordkeeping and reporting requirements, emission restrictions, and work practice standards designed to keep the facility operating within all applicable air quality requirements.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Matthew Williams, New Source Review Chief, (814) 332-6940.

25-00917: Performance Castings, Inc. (242 East 16th Street, Erie, PA 16503) for a re-issuance Natural Minor Permit to operate gray and ductile iron foundries in City of Erie, **Erie County**. The significant emitting sources are electric induction furnace, inoculation, charge handling, pouring casting, casting cooling, casting shakeout, grinding and shot blasting, core ovens, shell core machines and binders-sand muller operation. The facility is subject to 40 CFR 63 Subpart ZZZZ—National Emission Standards for HAPs for Iron and Steel Foundries Area Sources. The facility is natural minor because the emissions are less than Title V emission threshold limits.

42-00215: Kane Area School District—Kane Area High School (400 West Hemlock Avenue, Kane, PA 16735-1644) to issue a Natural Minor Operating Permit for this educational facility in Wetmore Township, **McKean County**. The facility's primary emissions are from a Wood Fired Boiler and four Natural Gas Fired Boilers used to provide comfort heat and hot water to the school.

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.

Where a National Pollutant Discharge Elimination System (NPDES) number is listed, the mining activity permit application was accompanied by an application for an individual NPDES permit. The Department has made a tentative determination to issue the NPDES permit in conjunction with the mining activity permit, but the issuance of the NPDES permit is contingent upon the approval of the associated mining activity permit.

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

For noncoal mining activities, the proposed limits are found in Table 2. Discharges from noncoal mines located in some geologic settings (for example, in the coal fields)

may require additional effluent limits. If additional effluent limits are needed for an NPDES permit associated with a noncoal mining permit, then the permit description below specifies the parameters. The limits will be in the ranges specified in Table 1.

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

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

Persons wishing to comment on an NPDES permit application should submit a statement to the Department at the address of the district mining office indicated previously each application within 30 days of this public notice. Comments received within the comment period will be considered in the final determinations regarding the NPDES permit applications. Comments must include

the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

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

Coal Applications Received

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

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

¹ The parameter is applicable at all times.

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

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

56880103, NPDES No. PA0598143 and General Permit GP-12-56880103, Future Industries, Inc., P. O. Box 157, Meyersdale, PA 15552, revision of an existing bituminous surface to obtain coverage for coal processing under air quality general permit GP-12 in Summit Township, **Somerset County**, affecting 64.5 acres. Receiving streams: two UNTs to Bigby Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received April 6, 2009.

5690108 and NPDES No. PA0262803. Hoffman Mining, Inc., P. O. Box 130, 118 Runway Road, Friedens, PA 15541, commencement, operation and restoration of a bituminous surface mine in Shade Township, **Somerset County**, affecting 185.0 acres. Receiving streams: UNTs to/and Dark Shade Creek classified for the following use:

CWF. There are no potable water supply intakes within 10 miles downstream. Application received May 13, 2009.

56940101 and NPDES No. PA0212768. Future Industries, Inc., P. O. Box 157, Meyersdale, PA 15552, permit renewal for the continued operation and restoration of a bituminous surface and auger mine in Brothersvalley Township, **Somerset County**, affecting 205.9 acres. Receiving streams: UNTs to/and Buffalo Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received May 15, 2009.

11020202 and NPDES No. PA0249254. Ebensburg Power Company, 2840 New Germany Road, P. O. Box 845, Ebensburg, PA 15931, permit renewal for the continued operation and restoration of a bituminous surface mine in Nanty Glo Borough and Jackson Township, **Cambria County**, affecting 41.4 acres. Receiving streams: tributary to south branch Blacklick Creek to Blacklick Creek to Two Lick Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received May 14, 2009.

32030105 and NPDES No. PA0249131. P & N Coal Company, Inc., P. O. Box 332, Punxsutawney, PA 15767, permit renewal for reclamation only of a bituminous surface and auger mine in East Mahoning Township, **Indiana County**, affecting 54.0 acres. Receiving stream:

Little Mahoning Creek Watershed classified for the following use: HQ-CWF. There are no potable water supply intakes within 10 miles downstream. Application received May 11, 2009.

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 in Brushvalley Township, **Indiana County**, affecting 133.2 acres. Receiving streams: UNT to Brushcreek and UNT to Yellow Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received May 15, 2009.

07890101 and NPDES No. PA0598381. Cooney Brothers Coal Company, P. O. Box 246, Cresson, PA 16630, permit renewal for reclamation only of a bituminous surface mine in Logan Township, **Blair County**, affecting 112.0 acres. Receiving streams: UNTs to Kittanning Run and UNTs to Little Laurel Run classified for the following use: CWF. The first downstream potable water

supply intake from the point of discharge is Altoona City Blair County Authority Burgoon Run Glenwhite SWI. Application received May 19, 2009.

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

03860101 and NPDES Permit No. PA0591211. State Industries, Inc. (P. O. Box 1022, Kittanning, PA 16201). Renewal application for reclamation only to an existing bituminous surface mine, located in Boggs Township, **Armstrong County**, affecting 170.6 acres. Receiving stream: North Fork of Pine Creek, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received May 20, 2009.

Noncoal Applications Received

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

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

* The parameter is applicable at all times.

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

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

54090301. Pottsville Materials, LLC, (P. O. Box 196, Skippack, PA 19474), commencement, operation and restoration of a quarry operation in New Castle Township, **Schuylkill County** affecting 179.0 acres, receiving stream: Mill Creek and East Branch Schuylkill River by means of Wadesville Pit, classified for the following use: CWF. Application received May 15, 2009.

52090301 and NPDES Permit No. PA0224791. Dingman's Ferry Stone, Inc., (P. O. Box 686, Dingman's Ferry, PA 18328), commencement, operation and restoration of a quarry operation in Delaware Township, **Pike County** affecting 68.6 acres, receiving stream: Hornsbeck Creek, classified for the following use: HQ-CWF. Application received May 21, 2009.

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 Flood Plain Management Act (32 P. S. § 679.302) and requests for certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E54-339. Borough of Tamaqua, 320 East Broad Street, Tamaqua, PA 18252, in Borough of Tamaqua, **Schuylkill County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain an at-grade 6-foot wide asphalt walkway with a railing for a length of approximately 800 feet in the floodway of the Little Schuylkill River (CWF). The project is located approximately 0.10 mile northeast of the intersection of Cedar Street and State Highway 309 (Tamaqua, PA Quadrangle Latitude: 40° 47' 48"; Longitude: 75° 58' 0").

E45-543. Farda Realty Associates, LP, P. O. Box 130, Tannersville, PA 18372, in Pocono Township, **Monroe County**, United States Army Corps of Engineers, Philadelphia District.

To remove the existing structures in and along tributaries to Pocono Creek (HQ-CWF), which are associated with the former "Summit Resort" and to construct and maintain the following water obstructions and encroachments: 1) a 45-foot long by 10-foot wide by 3.5 high opened bottom arch culvert stream crossing of a tributary to Pocono Creek; 2) a 185-foot long stream enclosure of a natural spring into a 15-inch diameter HDPE pipe; 3) a concrete encased electrical, communications, water and sewage utility line crossing of a 48-inch CMP culvert; 4) a R-5 riprap stormwater outfall; and 5) a 6-inch diameter sewage treatment plant outfall structure in a tributary to Pocono Creek. The purpose of the project is to replace, update and improve the "outback lodge and water park" project site. The project is located 0.33 mile southwest of the intersection of I-80 and SR 0715 (Mount Pocono, PA Quadrangle Latitude: 41° 2' 9"; Longitude: 75° 19' 0").

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

E67-863. York Properties Association, LLC, 209 Sigma Drive, Pittsburgh, PA 15238, SeniorLife Project in Springettsbury Township, **York County**, United States Army Corps of Engineers, Baltimore District.

The applicant proposes to: (1) to install and maintain a precast stream enclosure having a single waterway opening of 8.0 feet wide by 2.5 feet high (6-inch depressed invert) and 240.0 long with concrete wing walls in a UNT to Mill Creek (WWF); (2) install and maintain a 15-inch stormwater outfall located in the upstream wing wall of the enclosure; and (3) install utility line stream crossings for gas, electric, water and sewer lines under the proposed stream enclosure (York, PA Quadrangle N: 20.6 inches; W: 8.2 inches, Latitude: 39° 59' 15.5"; Longitude: 76° 41' 04") Watershed 7H. The project proposes to directly affect 250.0 linear feet of stream for the purpose of road widening and other improvements along Memory Lane Extended.

E36-856. Lancaster Area Sewer Authority (LASA), 130 Centerville Road, Lancaster, PA 17603, Manor Town-

ship, **Lancaster County**, United States Army Corps of Engineers, Baltimore District.

To install and maintain 117.0 feet of 8-inch diameter PVC sanitary force main and 1,085.0 feet of 12-inch diameter PVC sanitary gravity line in the floodway, and 2,653.0 feet of 8-inch diameter PVC sanitary force main and 2,683.0 feet of 12-inch diameter sanitary gravity line in the floodplain of the West Branch of the Little Conestoga Creek (WWF). Also to construct and maintain a 965.0 square foot sewage pump station and associated grading for access in the floodplain of the West branch of the Conestoga Creek (WWF), all for the purpose of connecting two residential developments to an existing LASA sanitary system located at a point following Central Manor Road from the intersection of Central Manor Road and Route 999 to the intersection of Central Manor and Anchor Roads (Safe Harbor, PA Quadrangle 20.25 inches North; 4.38 inches West, Latitude: 39° 59' 4.77" N; Longitude: 76° 24' 18.67" W) in Manor Township, Lancaster County.

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

E20-573A. Sharon Rice, Bloomfield Township, **Crawford County**, United States Army Corps of Engineers, Pittsburgh District.

To amend existing permit E20-573 which allowed construction and maintenance of a 65 ft. long by 32 in. wide walking deck connected to a 20 ft. by 4 ft. private boat dock on Canadohta Lake, across the street from 24448 Willow Street (Canadohta Lake, PA Quadrangle N: 41° 49' 00"; W: 79° 50' 3.45"), Bloomfield Township, Crawford County, approximately 100 ft. south of the intersection of Willow Street and Lakeview Drive in Bloomfield Township, Crawford County. The deck and dock will be raised approximately 2 ft. above normal summer lake pool elevation. The amendment requests construction and maintenance of an 80 ft. long by 48 in. wide dock connected to a 20 ft. by 6 ft. private dock.

E20-576. Linesville Pine Joint Municipal Authority, Regional Sewage Facilities Project, in the Borough of Linesville and Pine Township, **Crawford County**, United States Army Corps of Engineers, Pittsburgh District (Pittsburgh, PA Quadrangle N: 41° 39' 22.5"; W: 80° 25' 25.7").

The applicant proposes to rehabilitate a portion of the Linesville Borough sewer system, install 59,100 linear feet of gravity sanitary sewers, 22,000 linear feet of low pressure force main and 6,250 linear feet of pump station force main in Pine Township and currently unsewered areas of Linesville Borough, construct a new regional wastewater treatment facility and associated lift stations involving to construct and maintain: 1) 18 sewer line stream crossings of Linesville Creek and UNTs Pymatuning Reservoir; 2) 18 wetland crossings of PEM, PSS and PFO wetlands; 3) a storm sewer outfall to Linesville Creek; 4) a sewage treatment plant effluent outfall to Pymatuning Reservoir; 5) to fill 0.13 acre of PSS wetland and to construct and maintain a lift station within the floodplain of a UNT Pymatuning Reservoir (N: 41° 39' 26.5"; W: 80° 27' 38.8"); and 6) to fill 0.04 acre of PEM wetland and construct and maintain a lift station (N: 41° 39' 17.5"; W: 80° 25' 16"). Linesville Creek is a perennial stream classified as a WWF. Pymatuning Reservoir is a perennial body of water classified as a WWF. This project proposes to permanently impact 0.04 acre of PEM wetland and 0.013 acre of PSS wetland.

E33-236. Brookville Borough, 18 Western Avenue, Suite A, Brookville, PA 15825-1540. Membrane Water

Treatment Facility, Borough of Brookville and Rose Township, **Jefferson County**, United States Army Corps of Engineers, Pittsburgh District (Brookville, PA Quadrangle N: 41° 10' 19"; W: 79° 04' 34").

The applicant proposes to construct a 1.5 mgd water treatment facility involving to construct and maintain a water intake structure on North Fork Creek consisting of two 1.15' diameter screened stainless steel intake pipes, concrete debris deflector and a water line crossing of a UNT of North Fork Creek approximately 1,000' upstream of Brookville Waterworks Dam (D33-003). Project includes stormwater outfalls to North Fork Creek. North Fork Creek and UNT North Fork Creek are perennial streams classified as HQ-CWF.

E43-347, Norfolk Southern Corporation, 99 Spring Street, SW Atlanta, GA 30303-0142. Bridge MI-130.35, in Hempfield and West Salem Townships, **Mercer County**,

United States Army Corps of Engineers, Pittsburgh District (Greenville West, PA Quadrangle N: 41° 23' 02"; W: 80° 23' 36").

To remove the existing superstructure and support pier and to construct and maintain a three-span, through-plate-girder railroad bridge (Bridge MI-130.35) having a three clear spans of 105.0 feet, 42.0 feet and 105.0 feet respectively and a maximum underclearance of approximately 16.0 feet across the Shenango River approximately 2,000 feet NW of the intersection of Hamburg and Methodist Roads. Project includes: 1) repair of existing abutments; 2) construction of a temporary stone causeway and bents temporarily impacting approximately 0.248 acre of the Shenango River and associated back channel and scour pool; 3) permanent impact of 0.009 acre of the Shenango River and 0.005 acre of Shenango River back channel; and 4) impact of 0.011 acre of PEM wetland. The Shenango River is a perennial stream classified as a WWF.

ACTIONS

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

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

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

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

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

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

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

I. NPDES Renewal Permit Actions

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

| <i>NPDES No. (Type)</i> | <i>Facility Name & Address</i> | <i>County & Municipality</i> | <i>Stream Name (Watershed #)</i> | <i>EPA Waived Y/N ?</i> |
|-----------------------------|-----------------------------------------------------------------------------------------------|-----------------------------------------|--------------------------------------|-----------------------------|
| PAS212203 (Stormwater) | Rock Hill Concrete, Inc.— Bossardsville Plant 339 School Street Catasauqua, PA 18032 | Monroe County Hamilton Township | UNT to Lake Creek 01E | Y |
| PA0063827 | The Pines at West Penn, LLC 14 All Kings Drive New Ringgold, PA 17960 | West Penn Township Schuylkill County | UNT to Lizard Creek— CWF 2B | Y |

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

| <i>NPDES No. (Type)</i> | <i>Facility Name & Address</i> | <i>County & Municipality</i> | <i>Stream Name (Watershed #)</i> | <i>EPA Waived Y/N ?</i> |
|-----------------------------|-------------------------------------------------------------------------|--------------------------------------|--------------------------------------|-----------------------------|
| PA0088790 (IW) | The York Water Company 130 East Market Street York, PA 17045-7089 | York County York Township | East Branch Codorus Creek 7-H | Y |

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

| <i>NPDES No. (Type)</i> | <i>Facility Name & Address</i> | <i>County & Municipality</i> | <i>Stream Name (Watershed #)</i> | <i>EPA Waived Y/N</i> |
|-------------------------------|---------------------------------------------------------------------------------------------------|-----------------------------------------------------|--------------------------------------|---------------------------|
| PA0001465 Industrial Waste | Ceramic Color and Chemical Manufacturing Company P. O. Box 297 New Brighton, PA 15066 | Beaver County New Brighton Borough | Blockhouse Run | Y |
| PA0030694 Sewage | Exco-North Coast Energy, Inc. One GoJo Plaza Suite 325 Akron, OH 44311-1062 | Westmoreland County Fairfield Township | Snyders Run | Y |
| PA0093874 Sewage | Blairsville-Saltsburg School District 102 School Lane Blairsville, PA 15717-8715 | Westmoreland County Loyalhanna Township | UNT of the Kiskiminetas River | Y |
| PA0216089 Sewage | Westmoreland County Industrial Park Authority 601 Courthouse Square Greensburg, PA 15601 | Westmoreland County South Huntingdon Township | Youghiogheny River | Y |
| PA0205176 Sewage | Consolidated Steel Services, Inc. 632 Glendale Valley Boulevard Fallentimber, PA 16639 | Cambria County Reade Township | Clearfield Creek | Y |
| PA0098990 Sewage | Joseph P. Graham P. O. Box 390 Rochester, PA 15074 | Beaver County Fallston Borough | Brady Run | Y |

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

| <i>NPDES No. (Type)</i> | <i>Facility Name & Address</i> | <i>County & Municipality</i> | <i>Stream Name (Watershed #)</i> | <i>EPA Waived Y/N ?</i> |
|-----------------------------|--------------------------------------------------------------------------------------|--------------------------------------|--------------------------------------|-----------------------------|
| PA0239283 | Castle Cheese, Inc. 2850 Perry Highway Slippery Rock, PA 16057 | Scott Township Lawrence County | Slippery Rock Creek 20-C | Y |
| PA0000868 | Wheatland Tube— Council Avenue Plant One Council Avenue Wheatland, PA 16141 | Wheatland Borough Mercer County | Shenango River 20-A | N |
| PA0103942 | Camp Nazareth 339 Pew Road Mercer, PA 16137-1723 | Delaware Township Mercer County | Shenango River 20-A | Y |

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

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

NPDES Permit No. PA0065277, Sewage, **Lisa Bodnar**, P. O. Box 25, Martins Creek, PA 18053-0025. This proposed facility is located in Forks Township, **Northampton County**.

Description of Proposed Action: Issuance of NPDES Permit for discharge of up to 500 gpd of treated domestic sewage.

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

NPDES Permit No. PA0261254, Sewage, **Tim Logue**, 3256 Bean's Cove Road, Clearville, PA 15535. This proposed facility is located in Southampton Township, **Bedford County**.

Description of Proposed Action/Activity: Authorization to discharge to Wildcat Run in Watershed 13-A.

NPDES Permit No. PA0008541, Amendment 08-1, Industrial Waste, **Johnson Controls, Inc.**, P. O. Box 1592-082K, York, PA 17405. This proposed facility is located in Spring Garden Township, **York County**.

Description of Proposed Action/Activity: Transfer of Permit with authorization to discharge to Codorus Creek is Watershed 7-H.

NPDES Permit No. PA0248541, CAFO, **Pat and Karen Shea**, 3304 Mountain Road, Hamburg, PA 19526. This proposed facility is located in Upper Bern Township, **Berks County**.

Description of Proposed Action/Activity: Authorization operate a 1,406-Animal Equivalent Units layer and beef.

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

PA0233722, Richard S. Zerby, 303 Nittany Valley Drive, Bellefonte, PA 16823. This proposed facility is located in Worth Township, **Centre County**.

Description of Proposed Activity: An NPDES permit has been issued authorizing a discharge from a small flow treatment facility serving the Zerby residence.

The receiving stream, Wills Hollow Run, is in the State Water Plan Watershed 9C and is classified for: CWF. The nearest downstream public water supply intake near Milton is located on the West Branch of the Susquehanna River approximately 100 miles below the point of discharge.

The effluent limits for Outfall 001 are based on a design flow of 0.0004 mgd.

| <i>Parameters</i> | <i>Mass (lb/day)</i> | | <i>Concentration (mg/l)</i> | | |
|-------------------|------------------------|----------------------|--------------------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| CBOD ₅ | | | 10 | | 20 |
| TSS | | | 10 | | 20 |
| Fecal Coliforms | | | 200 colonies/100 ml | | |
| pH | | | Within the range of 6.0 to 9.0 | | |
| Flow | | | Monitor and Report | | |
| UV Disinfection | | | Clean | | |

NPDES Permit No. PA0233587, Industrial Wastewater, SIC Code 4941, **Emporium Hardwoods, LLC**, 15970 Route 120, Emporium, PA 15834.

The action is for the issuance of an NPDES permit authorizing the discharge (Outfall 002) of industrial stormwater to Driftwood Branch of Sinnemahoning Creek and a discharge (Outfall 001) of industrial stormwater and wastewater to a pond adjacent to Driftwood Branch of Sinnemahoning Creek, both of which are located in Shippen Township, **Cameron County**. This receiving stream is classified for TSF, aquatic life, water supply and recreation.

Facility Standard Industrial Classification (SIC): 24

Effluent Monitoring for Outfalls 001 and 002:

| <i>Discharge Parameter</i> | <i>Units</i> | <i>Sample Type</i> | <i>Measurement Frequency</i> |
|----------------------------------------------|---------------|--------------------|------------------------------|
| C-Biochemical Oxygen Demand (5-day) | mg/L | 1 Grab | 1/year |
| Chemical Oxygen Demand | mg/L | 1 Grab | 1/year |
| Oil and Grease | mg/L | 1 Grab | 1/year |
| pH | Standard Unit | 1 Grab | 1/year |
| Total Suspended Solids | mg/L | 1 Grab | 1/year |
| Total Kjeldahl Nitrogen | mg/L | 1 Grab | 1/year |
| Total Phosphorous | mg/L | 1 Grab | 1/year |
| Effluent Guideline Pollutants ⁽¹⁾ | mg/L | 1 Grab | 1/year |
| Iron (Total) | mg/L | 1 Grab | 1/year |

⁽¹⁾ Any pollutant limited in an effluent guideline, which the facility is subjected to.

In addition to the above monitoring requirements, the applicant will be required to monitor the chemical additive usage in the boiler blowdown associated with Outfall 001. The maximum chemical additive usage rates are:

| <i>Chemical Additive</i> | <i>Proposed Usage Rate*</i> |
|--------------------------|-----------------------------|
| PCT 5300B | 5.0 lbs/day |
| PCT 5410 | 2.0 lbs/day |
| PCT 5718 | 7.5 lbs/day |

*The permittee will be required to monitor the daily usage of each approved chemical additive.

The EPA waiver will be in effect.

For more information on this application, contact:
Environmental Program Manager
Water Management Program
208 West Third Street, Suite 101
Williamsport, PA 17701-6448

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

NPDES Permit No. PA0025283, Sewage, **Knox Borough**, P. O. Box 366, Knox, PA 16232-0366. This existing facility is located in Beaver Township, **Clarion County**.

Description of Action/Activity: NPDES permit for an existing discharge of treated sewage. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply, considered during the evaluation is the Parker Water System located on the Allegheny River and is approximately 18 miles below point of discharge.

NPDES Permit No. PA0041831, Sewage, **Northwest Crawford County Sewer Authority**, P. O. Box 56, Springboro, PA 16435. This proposed facility is located in Borough of Springboro, **Crawford County**.

Description of Proposed Action/Activity: Issuance of a New NPDES permit for a treated minor discharge from an existing sewage treatment works.

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

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

WQM Permit No. 4009401, Sewerage, **Mountain Top Area Joint Sanitary Authority**, 290 Morio Drive, Mountain Top, PA 18707. This proposed facility is located in Dorrance Township, **Luzerne County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit.

WQM Permit No. 4508405, Sewerage, **Pennsylvania American Water Company**, 800 West Hersheypark Drive, Hershey, PA 17033. This proposed facility is located in Stroud Township, **Monroe County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit for the upgrade of the existing processing equipment at the Blue Mountain Lake wastewater treatment plant.

WQM Permit No. 4809402, Sewerage, **Lisa Bodnar**, P. O. Box 25, Martins Creek, PA 18053-0025. This proposed facility is located in Forks Township, **Northampton County**.

Description of Proposed Action: Issuance of Water Quality Management Permit for a single-family residence 500 gpd sewage treatment plant.

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

WQM Permit No. 0508406, Sewage, **Tim Logue**, 3256 Bean's Cove Road, Clearville, PA 15535. This proposed facility is located in Southampton Township, **Bedford County**.

Description of Proposed Action/Activity: Approval for the construction/operation of sewerage facilities of: a 1,000-gallon septic tank, a 500-gallon dosing tank with 1/3 horsepower pump, a 600-square foot lined subsurface sand filter and a 415-gallon chlorine tank with chlorination and dechlorination to serve their single-family residence.

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

WQM Permit No. 1408405, Sewerage 4952, **Richard Zerby**, 303 Nittany Valley Drive, Bellefonte, PA 16823. This proposed facility is located in Worth Township, **Centre County**.

Description of Proposed Action/Activity: The applicant is approved to construct and operate a 400 gpd single-residence small flow treatment facility that will discharge to Wills Hollow Run, a CWF. The treatment system will be comprised of a 1,000 gallon capacity concrete septic tank, a peat bio-filter and ultraviolet disinfection.

WQG01410901, Sewerage, 4952, **Tawney SFTF**, 1513 McGill Hollow Road, Linden, PA 17744. This facility will be located in Woodward Township, **Lycoming County**.

Description of Action/Activity: The applicant has been approved for the construction and operation of a 400 gpd small flow treatment facility to serve a residence. The discharge will be to a UNT to Daugherty's Run, a WWF.

WQG01410902, Sewerage, 4952, **Doug and Susan Estes**, 395 Daugherty's Run Road, Williamsport, PA 17701. This facility will be located in Woodward Township, **Lycoming County**.

Description of Action/Activity: The applicant has been approved for the construction and operation of a 400 gpd small flow treatment facility to serve a residence. The discharge will be to Daugherty's Run, a WWF.

WQG01410903, Sewerage, 4952, **Robert Bird SFTF**, 2227 Quenshukeny Road, Linden, PA 17744. This facility will be located in Woodward Township, **Lycoming County**.

Description of Action/Activity: The applicant has been approved for the construction and operation of a 400 gpd small flow treatment facility to serve a residence. The discharge will be to a UNT to Quenshukeny Run, a WWF.

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

WQM Permit No. 0309401, Sewerage, **Municipal Authority of the Borough of Kittanning**, 300 South McKean Street, Kittanning, PA 16021. This proposed facility is located in Kittanning Borough, **Armstrong County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of sanitary sewers to separate a combined sewer system.

The Pennsylvania Infrastructure Investment Authority which administers Pennsylvania's State Revolving Fund has been identified as a possible funding source. The Department of Environmental Protection's review of the sewage facilities plan revision has not identified any significant environmental impacts resulting from this proposal.

WQM Permit No. 6508403, Sewerage, **Patrick J. DiCesare**, 116 Pittsburgh Street, Greensburg, PA 15601. This proposed facility is located in East Huntingdon Township, **Westmoreland County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a sewage treatment plant to serve the Valley Hi Mobile Home Park.

WQM Permit No. 3008401, Sewerage, **Greensboro Monongahela Township Sewer Authority**, P. O. Box 342, Greensboro, PA 15338. This proposed facility is located in Monongahela Township, **Greene County**.

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

WQM Permit No. 3091402-A2, Sewerage, **Greensboro Monongahela Township Joint Sewage Authority**, P. O. Box 342, Greensboro, PA 15338. This existing facility is located in Monongahela Township, **Greene County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of expansion of sewage treatment plant to serve Cabbage Flats and Mapletown areas.

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

WQM Permit No. WQG018693, Sewerage, **Habitat for Humanity of Butler County, Inc. Southwest Chapter**, 415 East Grandview Avenue, Zelenople, PA 16063. This proposed facility is located in Connoquenessing Township, **Butler County**.

Description of Proposed Action/Activity: Issuance of a Single-Residence Sewage Treatment Plant.

WQM Permit No. WQG028317, Sewerage, **Neshannock Township**, 3131 Mercer Road, New Castle, PA 16105. This proposed facility is located in Neshannock Township, **Lawrence County**.

Description of Proposed Action/Activity: Issuance of a low pressure sewage system extension to serve a proposed residential development with estimated flows of 17,600 gpd.

WQM Permit No. 2509401, Sewerage, **Summit Township Sewer Authority**, 8900 Old French Road, Erie, PA 16509. This proposed facility is located in Summit Township, **Erie County**.

Description of Proposed Action/Activity: Issuance of a permit to construct replacement sewer lines, to eliminate sewer bottlenecks located on the west side of Route 19, with new 8" lines.

WQM Permit No. WQG018696, Sewerage, **Dennis J. Mitulski**, 14268 Route 19, Cambridge Springs, PA 16403. This proposed facility is located in LeBoeuf Township, **Erie County**.

Description of Proposed Action/Activity: Issuance of a Single-Residence Sewage Treatment Plant.

IV. NPDES Stormwater Discharges from MS4 Permit Actions

V. NPDES Waiver Stormwater Discharges from MS4 Actions

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

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

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|--------------------------------------------------------------------------------------------------------------|---------------|---------------------|----------------------------|
| PAI026409004 | Middle Creek Quarry, Inc. 2893A Owego Turnpike Hawley, PA 18428 | Wayne | Palmyra Township | Middle Creek HQ-CWF, MF |
| PAI024507011 | Department of Transportation Engineering District 5-0 1002 Hamilton Street Allentown, PA 18101-1013 | Monroe | Coolbaugh Township | Tobyhanna Creek HQ-CWF |

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

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|------------------------------------------------------------------------------------|---------------|------------------------------------|----------------------------|
| PAI030608014 | Rick Greenly East Penn Manufacturing P. O. Box 147 Lyon Station, PA 19536 | Berks | Lyons Borough Richmond Township | Moselem Creek HQ-CWF |

Clinton County Conservation District: 45 Cooperation Lane, Mill Hall, PA 17751, (570) 726-3798.

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|-----------------------------------------------------------------------------------------------|---------------|---------------------------------------|------------------------------|
| PAI041809001 | Department of Conservation and Natural Resources P. O. Box 8552 Harrisburg, PA 17105 | Clinton | Bald Eagle and Grugan Townships | UNT to Holland Run 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 & County</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office & Phone No.</i> |
|-------------------------------------------|-------------------|------------------------------------------------------------------------------------------------------------------------------|----------------------------|----------------------------------------------------------|
| South Whitehall Township Lehigh County | PAG2003908016 | Franklin Cedarpointe Assoc., LP Attn: Hamp Randolph 405 Old Pennlyn Pike Suite 200 Blue Bell, PA 19422 | Jordan Creek TSF, MF | Lehigh County Conservation District (610) 391-9583 |
| City of Allentown Lehigh County | PAG2003908009 | Connolly & Colasuonno, LLC Attn: David Connolly and Richard Colasuonno 128 East Seventh Street Plainfield, NJ 07060 | Lehigh River WWF | Lehigh County Conservation District (610) 391-9583 |

*Facility Location:
Municipality &
County**Permit No.**Applicant Name &
Address**Receiving
Water/Use**Contact Office &
Phone No.*Marion Township
Berks County

PAG2000605052-1

Larry Martin
Dutch Valley Food
Distributors, Inc.
7651 Lancaster Avenue
Myerstown, PA 17067UNT to Little
Swatara Creek
CWFBerks County
Conservation District
1238 County Welfare
Road
Suite 200
Leesport, PA 19533-9710
(610) 372-4657, Ext. 201Washington
Township
Berks County

PAG2000605070

Rich Mingey Barto Mall,
Inc.
63 Chestnut Road Paoli,
PA 19301UNT to Swamp Creek
CWF-MFBerks County
Conservation District
1238 County Welfare
Road
Suite 200
Leesport, PA 19533-9710
(610) 372-4657, Ext. 201Reading City
Berks County

PAG2000609005

Adam Mukerji
Reading Redevelopment
Authority
815 Washington Street
Reading, PA 19601Schuylkill River
WWFBerks County
Conservation District
1238 County Welfare
Road
Suite 200
Leesport, PA 19533-9710
(610) 372-4657, Ext. 201Upper Bern
Township
Berks County

PAG2000609009

Gareth H. Mitchell
Kenworth of
Pennsylvania
P. O. Box 1922
Carlisle, PA 17013Wolf Creek
CWFBerks County
Conservation District
1238 County Welfare
Road
Suite 200
Leesport, PA 19533-9710
(610) 372-4657, Ext. 201Amity Township
Berks County

PAG2000608077

Pasquale Mascaro
MB Investments
2650 Audobon Road
Audobon, PA 19403UNT to Schuylkill River
WWFBerks County
Conservation District
1238 County Welfare
Road
Suite 200
Leesport, PA 19533-9710
(610) 372-4657, Ext. 201Perry Township
Berks County

PAG2000603087-R

Nino Gianotti
22 Timberline Drive
Wyomissing, PA 19610UNT to Schuylkill River
WWFBerks County
Conservation District
1238 County Welfare
Road
Suite 200
Leesport, PA 19533-9710
(610) 372-4657, Ext. 201York Township
York County

PAG2006709002

K-D Medical Building
Partnership
Michael J. Dobish, M.D.
1010 Blymire Road
Dallastown, PA 17313UNT to Barshinger
Creek
CWFYork County Conservation
District
118 Pleasant Acres Road
York, PA 17402
(717) 840-7430Belfast Township
Fulton County

PAG2002909002

Vince Greenland
Department of
Transportation District
9-0
1620 North Juniata
Street
Hollidaysburg, PA 16648Licking Creek
CWFFulton County
Conservation District
216 North Second Street
McConnellsburg, PA
17233-1157
(717) 485-3547Upper Allen and
Lower Allen
Townships
Cumberland County

PAG2002108025

The McNaughton
Company
Francis McNaughton
4400 Deer Path Road
Suite 201
Harrisburg, PA 17110

UNT to Cedar Run

Cumberland County
Conservation District
310 Allen Road
Suite 301
Carlisle, PA 17013
(717) 240-7812

*Facility Location:
Municipality &
County*

Huntingdon
Borough
Huntingdon County

Permit No.

PAG2003109003

*Applicant Name &
Address*

Kenneth Myers
530 Washington Street
P. O. Box 592
Huntingdon, PA 16652

*Receiving
Water/Use*

Juniata River
WWF

*Contact Office &
Phone No.*

Huntingdon County
Conservation District
10605 Raystown Road
Suite A
Huntingdon, PA
16652-9603
(814) 627-1627

Cameron County
Grove Township

PAG2001209001

Gregory Dovey DGS
18th and Herr Streets
Harrisburg, PA 17125

Upper Logue Hollow
and UNT to Upper
Logue Hollow
HQ-CWF

Cameron County
Conservation District
20 East Fifth Street
Room 105
Emporium, PA 15834
(814) 486-2244, Ext. 5

*General Permit Type—PAG-3**Facility Location:
Municipality &
County*

Macungie Borough
Lehigh County

Permit No.

PAR202218

*Applicant Name &
Address*

Typer Pipe Company
Division of McWane, Inc.
3550 Brookside Road
Macungie, PA 18062

*Receiving
Water/Use*

Swabia Creek
CWF

*Contact Office &
Phone No.*

DEP—NERO
Water Management
Program
2 Public Square
Wilkes-Barre, PA
18711-2511
(570) 826-2511

South Greensburg
Borough
Westmoreland
County

PAR206102

Moore & Morford, Inc.
P. O. Box 759
Broad Street Greensburg,
PA 15601-0759

Jacks Run

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

Chartiers Township
Washington County

PAR116112

Joy Mining Machinery
177 Thorn Hill Road
Warrendale, PA 15086

Chartiers Creek

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

Scottdale Borough
Westmoreland and
Fayette Counties

PAR206118

Duraloy Technologies,
Inc.
120 Bridge Street
Scottdale, PA 15683-1748

Jacobs Creek

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

Upper Turkeyfoot
Township Somerset
County

PAR226111

King and Bungard
Lumber Company
668 Casselman Road
Markleton, PA 15551

UNT of Casselman River

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

City of St. Mary's
Elk County

PAR118340

GE Thermometrics, Inc.
967 Windfall Road
St. Marys, PA 15857

Wetlands and a
UNT of Elk Creek

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

*General Permit Type—PAG-4**Facility Location:*

| <i>Municipality & County</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office & Phone No.</i> |
|-------------------------------------------|-------------------|-----------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| Franklin County Lurgan Township | PAG043890 | Kevin and Katrina Holford 467 East King Street Shippensburg, PA 17257 | UNT Clippinger's Run WWF | DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707 |
| Woodward Township Lycoming County | PAG045263 | Robert Bird 2247 Quenshukeny Road Linden, PA 17744 | UNT to Quenshukeny Run WWF | Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666 |
| Woodward Township Lycoming County | PAG045260 | Cole Tawney 1513 McGill Hollow Road Linden, PA 17744 | UNT to Daugherty's Run WWF | Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666 |
| Woodward Township Lycoming County | PAG045261 | Doug and Susan Estes 395 Daugherty's Run Road Williamsport, PA 17701 | Daugherty's Run WWF | Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666 |
| Connoquenessing Township Butler County | PAG049516 | Habitat for Humanity of Butler County, Inc. Southwest Chapter 415 East Grandview Avenue Zelienople, PA 16063 | UNT of the Little Connoquenessing Creek 20-C | DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942 |
| Adams Township Butler County | PAG048922 | Ronald J. Shemela 139 Hammond Road Mars, PA 16046 | UNT to Glade Run 20-C | DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942 |
| Greenwood Township Crawford County | PAG048610 | Jeffrey D. Ketcham 18191 Mule Street Cochranton, PA 16314 | UNT to Sandy Creek 16-G | DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942 |
| LeBoeuf Township Erie County | PAG049518 | Dennis J. Mitulski 14268 Route 19 Cambridge Springs, PA 16403 | UNT to French Creek 16A | DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942 |

*General Permit Type—PAG-5**Facility Location:*

| <i>Municipality & County</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office & Phone No.</i> |
|-------------------------------------------------|-------------------|----------------------------------------------------------------------|----------------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| South Greensburg Borough Westmoreland County | PAG056234 | Shell Oil Products, US 3139 Village Drive Waynesboro, VA 22980 | Jacks Run | Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000 |

General Permit Type—PAG-8

| | | | | |
|---------------------------------------------|-------------------|------------------------------------------------------------------|-----------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| <i>Facility Name</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Facility Municipality and County</i> | <i>Contact Office & Phone No.</i> |
| Mon Valley Sewage Authority Treatment Plant | PAG086114 | Mon Valley Sewage Authority P. O. Box 792 Donora, PA 15033 | Carroll Township Washington County | Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000 |

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

The State Conservation Commission has taken the following actions on previously received applications for nutrient management plans under the act of July 6, 2005 (Act 38 of 2005, 3 Pa.C.S. §§ 501—522) (hereinafter referred to as Act 38), for agricultural operations that have or anticipate submitting applications for new, amended or renewed NPDES permits, or Notices of Intent for coverage under a general permit, for CAFOs, under 25 Pa. Code Chapter 92. This notice is provided in accordance with 25 Pa. Code Chapter 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

Persons aggrieved by any action may appeal under section 517 of Act 38, section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) to the Environmental Hearing Board, Second Floor, Rachael Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service at (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

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

CAFO PUBLIC NOTICE SPREADSHEET—ACTIONS

| <i>Agricultural Operation Name and Address</i> | <i>County</i> | <i>Total Acres</i> | <i>Animal Equivalent Units</i> | <i>Animal Type</i> | <i>Special Protection Waters (HQ or EV or NA)</i> | <i>Approved or Disapproved</i> |
|---------------------------------------------------------------------------------------------|---------------|--------------------|--------------------------------|--------------------|---------------------------------------------------|--------------------------------|
| Roy Diem 3409 Smoketown Road Spring Grove, PA 17362 | York | 13 | 1,367 | Layer | NA | Approved |
| M & M Farms Monte and Mary Edgin 10368 Chester Furnace Road Shirleysburg, PA 17260 | Huntingdon | 170.6 | 585.6 | Swine | NA | Approved |

**PUBLIC WATER SUPPLY (PWS)
PERMITS**

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

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay

Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once.

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

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act

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

Permit No. 3540023, Operations Permit, Public Water Supply.

Applicant **United Water Pennsylvania, Inc.**
4211 East Park Circle
P. O. Box 4151
Harrisburg, PA 17111
North Union Township

County **Schuylkill County**

Type of Facility Public Water Supply
Consulting Engineer Arthur Saunders, P. E.
United Water Pennsylvania, Inc.
4211 East Park Circle
Harrisburg, PA 17111

Permit to Operate Issued May 18, 2009

Permit No. 4009513MA, Minor Amendment, Public Water Supply.

Applicant **United Water Pennsylvania, Inc.**
4211 East Park Circle
P. O. Box 4151
Harrisburg, PA 17111
Dallas Township

County **Luzerne County**

Type of Facility Public Water Supply
Consulting Engineer Arthur C. Saunders, P. E.
United Water Pennsylvania, Inc.
4211 East Park Circle
P. O. Box 4151
Harrisburg, PA 17111

Permit to Construct Issued May 20, 2009

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

Operations Permit issued to **Tamarack and Spread Eagle MHP**, 7360109, New Providence Township, **Lancaster County** on May 13, 2009, for the operation of facilities approved under Construction Permit No. 3608509.

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

Permit No. 1408501—Operation, Public Water Supply.

Applicant **Rockview State Correctional Institute**
Township or Borough Benner Township
County **Centre**

Responsible Official Franklin J. Tennis
Superintendent
SCI Rockview
Box A
Bellefonte, PA 16823

Type of Facility Public Water Supply—Operation
Consulting Engineer Walter Jenko, P. E.
Chester Engineers
260 Airside Drive
Moon Township, PA 15108

Permit Issued Date May 19, 2009

Description of Action Operation of approximately 17,225 LF of raw water transmission main to transport Benner Spring raw water to the existing filtration plant, the Benner Spring Pump Station No. 1 and the new Benner Spring Pump Station No. 2 and valve vault.

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

Permit No. 1008503, Public Water Supply.

Applicant **Municipal Authority of Adams Township**

Township or Borough Adams Township

County **Butler County**

Type of Facility Public Water Supply

Consulting Engineer Stephen J. Draus, P. E.

Permit to Construct Issued May 22, 2009

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under section 5 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

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

Plan Location:

| Borough or Township | Borough or Township Address | County |
|---------------------|--------------------------------------|--------------|
| Tilden Township | 874 Hex Highway Hamburg, PA 19526 | Berks County |

Plan Description: The approved plan provides for a sewer extension to serve eight existing properties along Clayton Avenue and Pine Road in Tilden Township, Berks County. These existing properties will generate an additional 2,000 gallons of sewage per day to be served by the Hamburg Sewage Treatment Plant. The plan revision Department of Environmental Protection (Department) number is A3-06965-120-3M. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

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

Plan Location:

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|------------------------------|------------------------------------------|-----------------|
| Valley Joint Sewer Authority | 1 South River Street Athens, PA 18810 | Bradford County |

Plan Description: The approved plan provides for construction of Sequencing Batch Reactor with Auto Thermophilic Aerobic Digestion to meet the nutrient discharge requirements of Pennsylvania's Chesapeake Bay Strategy. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

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

Plan Location:

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|----------------------------|------------------------------------------|------------------|
| Elizabeth Township | 522 Rock Run Road Elizabeth, PA 15037 | Allegheny County |

Plan Description: The approved plan provides for abandonment of the Buena Vista Sewage Treatment Plant. This facility will be replaced with a pump station and force main along the Youghiogheny River bike trail. The new pump station will convey flow to the Municipal Authority of the City of McKeesport sewer system at Durobond. The plan also calls for upgrade of the Boston Pump Station with connection to the new force main. The Lovedale Pump Station and Simpson Howell service area will be rerouted to the Elizabeth Borough Sewage Treatment Facility by means of the Wiley Street Pump Station. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|----------------------------|--------------------------------------------------------------------------------|-------------------|
| City of Washington | City of Washington 55 West Maiden Street Washington, PA 15301 | Washington County |
| Borough of East Washington | Borough of East Washington 15 Thayer Street Washington, PA 15301 | Washington County |
| South Strabane Township | Township of South Strabane 550 Washington Road Washington, PA 15301-9622 | Washington County |
| Canton Township | Canton Township 655 Grove Avenue Washington, PA 15301 | Washington County |
| North Franklin Township | North Franklin Township 620 Franklin Farms Road Washington, PA 15301 | Washington County |

Plan Description: The approved plan provides for rerating of the Washington East Washington Joint Authority

Wastewater Treatment Facility, located in South Strabane Township, Washington County. The plan proposes a rerating of the existing treatment facility from 6.2 to 9.77 mgd. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

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

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

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

Sirovica Residence, Doylestown Township, **Bucks County**. Richard D. Trimpi, Trimpi, Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073, Elias Evans,

Mildred Sirovica Estate, 314 Willow Brooks Road, Horsham, PA 19044 on behalf of Cathy Krawczyk, Merchants Insurance Company, 250 Main Street 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.

Hoh Residence, London Britain Township, **Chester County**. Douglas Schott, Brickhouse Environmental, 515 South Franklin Street, West Chester, PA 19382, on behalf of Lawrence L. and Susan P. Hoh, 101 Foxbrook Drive, Landenberg, PA 19350 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.

Knights Road Shopping Center, City of Philadelphia, **Philadelphia County**. Steve Miller, Island Environmental, Inc., 4253 Old National Pike, Suite 4, Middletown, MD 21769, on behalf of Philip Schanzer, Marx Realty and Improvement Company, 708 Third Avenue, 15th Floor, New York, NY 10017 has submitted a Remedial Investigation Report concerning remediation of site soil and ground contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Lukas Property, Radnor Township, **Delaware County**. Jeffrey S. Fitch, EPCORP, LTD-FTICH Environmental, P. O. Box 493, Southeastern, PA 19399, Brain Fitzpatrick, P. G., Synergy Environmental, Inc., 155 Railroad Avenue, First Floor, Royersford, PA 19468 on behalf of Joseph Lukas, 714 Moonraker Court, Smithville, NJ 08205 has submitted a Remedial Investigation 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 Site-Specific Standard.

Solitario Kennels Property, East Whiteland Township, **Chester County**. Thomas Schultz, Lewis Environmental Group, P. O. Box 639, Royersford, PA 19468 on behalf of Andre P. Lutz, Turnpike Commission, P. O. Box 67676, Harrisburg, PA 17106 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.

May Residence, Chester Township, **Delaware County**. Henry Binekowski, Mulry and Cresswell Environmental, Inc., 1691 Horseshoe Pike, Suite 3, Glenmoore, PA 19343 on behalf of Joseph Caton, Excel Landscaping, 117 Printz Avenue, Norwood, PA has submitted a 90 day Final Report concerning remediation of site soil contaminated with No. 2 diesel fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Cooper Residence, City of Philadelphia, **Philadelphia County**. Richard Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073, Ed Applegate, State Farm, P. O. Box 11, Concordville, PA 19331 on behalf of Robin Cooper, 2456 78th Street, Philadelphia, PA 19150 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 Standards.

Ranallo Residence, Plumstead Township, **Bucks County**. Jeremy Bolyn, Environmental Maintenance Company, Inc., 420 East Mermaid Lane, Glenside, PA

19038 on behalf of Edward Ranallo, 4846 River Road, Point Pleasant, PA 18950 has submitted a 90 day Final Report concerning remediation of site media contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standards.

Shoemaker House Temple University Ambler Campus, Ambler Borough, **Montgomery County**. Bernard Beegle, Advanced GeoServices, 1055 Andre Drive, Suite A, West Chester, PA 19380 on behalf of Jim Gould, Lewis Environmental, P. O. Box 639, Royersford, PA 19468, John Hughes, Temple University, 580 Meetinghouse Road, Ambler, PA 19002, David McDonough, Temple University, 3307 North Broad Street, Philadelphia, PA 19140 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.

Howard Auto Repair, Abington Township, **Montgomery County**. Phil Gray, Phoenix Geo Environmental, LLC, 445 Bethlehem Pike, Suite 108, Comar, PA 18915 on behalf of Dominic Fittpalidi, 2428 Old Welsh Realty, LLC, 3120 Quarry Avenue, Ardsley, PA 19308 has submitted a Final Report concerning remediation of site soil contaminated with leaded gasoline. The report is intended to document remediation of the site to meet the Statewide Health Standard.

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

Degirmenci Residence, 1619 1/2 West Allen Street, Allentown, **Lehigh County**. Richard D. Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073 has submitted a Final Report (on behalf of his client, Levent Degirmenci, 1619 1/2 West Allen Street, Allentown, PA 18102), concerning the remediation of soil found to have been impacted by No. 2 fuel oil as a result of a release from a corroded burst seam on an aboveground storage tank. The report was submitted to document attainment of the Statewide Health Standard. A public notice regarding the submission of the Final Report was published in *The Express-Times* on April 30, 2009. A Notice of Intent to Remediate was simultaneously submitted.

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

Shipley Energy/Skimski Residence, West Manchester Township, **York County**. Mountain Research, LLC, 825 25th Street, Altoona, PA 16601, on behalf of Chris Skimski, 1237 Taxville Road, York, PA 17403, submitted a Final Report concerning remediation of site soils contaminated with home heating oil. The report is intended to document remediation of the site to meet the Residential Statewide Health Standard.

Reinert Residence, Londonderry Township, **Dauphin County**. Alternative Environmental Solutions, Inc., 480 New Holland Avenue, Lancaster, PA 17602, on behalf of Mr. and Mrs. Paul Reinert, 2248 Schoolhouse Road, Middletown, PA 17057, 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 Residential Statewide Health Standard.

Rutter's Farm Store No. 53, Newberry Township, **York County**. United Environmental Services, Inc., 86 Hillside Drive, Drums, PA 18222, on behalf of CHR Corporation, 2295 Susquehanna Trail, York, PA 17404, submitted a Final Report concerning remediation of site

soil contaminated with diesel fuel. The report is intended to document remediation of the site to meet the Residential Statewide Health Standard.

New York Wire, Inc., Spring Garden Township, **York County**. Earth Tech AECOM, 2 Market Plaza Way, Mechanicsburg, PA 17055, on behalf of New York Wire, Inc., 829 Loucks Mill Road, York, PA, submitted a Remedial Investigation and Final Report concerning remediation of site soil and groundwater contaminated with metals. The report is intended to document remediation of the site to meet a combination of the Site-Specific and Statewide Health Standards.

Ames True Temper Camp Hill, Hampden Township, **Cumberland County**. Bradburne, Briller, and Johnson, LLC, 1641 Saw Mill Run Boulevard, Pittsburgh, PA 15210-3433, on behalf of Ames True Temper, 465 Railroad Avenue, Camp Hill, PA 17011, submitted a Final Report concerning remediation of site soils contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Nonresidential Statewide Health 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:

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

Woodwright Pallet Shop, York Township, **York County**. Earth Engineering, Inc., 115 West Germantown Pike, East Norriton, PA 19401, on behalf of Joseph Allison, Gaptex, Inc., 180 South Orchard Street, York, PA 17313, submitted a Final Report concerning the remediation of site soils contaminated with VOCs and chlorinated solvents. The Final Report demonstrated attainment of the Nonresidential Statewide Health Standard and was approved by the Department of Environmental Protection on May 13, 2009.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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

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

Permit No. 101069, Southeastern Chester County Refuse Authority (SECCRA), 219 Street Road, West Grove, PA 19390. This minor permit modification is issued to establish and operate an electronic waste drop-off center at the SECCRA Landfill located in London Grove Township, **Chester County**. The permit was issued by the Southeast Regional Office on May 22, 2009.

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, Ray Kempa, New Source Review Chief, (570) 826-2507.

58-310-017GP3: F.S. Lopke Contracting, Inc. (3430 SR 434, Apalachin, NY 13732) on May 22, 2009, to construct and operate a Portable Crushing Operation with watersprays at their site in New Milford Township, **Susquehanna County**.

58-329-007GP9: F.S. Lopke Contracting, Inc. (3430 SR 434, Apalachin, NY 13732) on May 22, 2009, to install and operate a Diesel I/C Engine at their site in New Milford Township, **Susquehanna County**.

58-399-004GP5: Chesapeake Appalachia, LLC (P. O. Box 6070, Charleston, WV 25362) on May 22, 2009, to construct and operate a Natural Gas Dehydration Facility at their site in Auburn Township, **Susquehanna County**.

48-328-009GP22: Bethlehem Renewable Energy, LLC (1300 North 17th Street, Suite 1600, Arlington, VA 22209) on May 4, 2009, to construct and operate a landfill gas turbine at the site in Lower Saucon Township, **Northampton County**.

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

GP1-21-03061: Carlisle HMA, LLC (361 Alexander Spring Road, Carlisle, PA 17015) on May 12, 2009, for a Small Gas and No. 2 Oil Fired Combustion Unit under GP1 in South Middleton Township, **Cumberland County**. This is a renewal of the GP1 permit.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Mark Gorog and Barb Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

GP5-26-00587: Atlas Pipeline Pennsylvania, LLC (P. O. Box 611, Moon Township, PA 15108-0611) on May 20, 2009, to install and operate a 1,340 bhp compressor engine and a 0.250 mmBtu/hr dehydrator at their Springhill No. 2 Compressor Station in Springhill Township, **Fayette County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.

GP-42-004A: American Refining Group, Inc. (77 North Kendall Avenue, Bradford, PA 16701) on May 21, 2009, to operate a storage tank for volatile organic liquids, Tank ID No. 609 (BAQ-GPA/GP-2) in City of Bradford, **McKean County**.

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

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

15-0060D: Southeastern Chester County Refuse Authority, (P. O. Box 221, Kennett Square, PA 19348) on May 22, 2009, to install an enclosed flare for the control of VOC emissions from an existing landfill at 219 Street Road, London Grove Township, **Chester County**. The flare will have a destruction efficiency of 98% for VOC or have a VOC emission rate of 20 ppmv or less (measured as hexane at 3% oxygen). The flare will be equipped with a flow meter to continuously monitor the flow of landfill gas to the flare when operating. This facility is a minor facility. The Plan Approval will contain recordkeeping requirements and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

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

28-05029B: Fayetteville Contractors, Inc. (3185 Lincoln Way East, Fayetteville, PA 17222) on May 19, 2009,

to install a recycled asphalt processing section on the existing batch asphalt plant in Antrim Township, **Franklin County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.

25-069M: BASF Catalysts, LLC (1729 East Avenue, Erie, PA 16503) on May 15, 2009, for to install a replacement dust collector associated with a nickel catalyst reactor and screener at their facility in the City of Erie, **Erie 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, Sachin Shankar, New Source Review Chief, (484) 250-5920.

23-0066B: PyroPure, Inc.—t/a Pyromet (5 Commerce Drive, Aston, PA 19014) on May 21, 2009, to operate a replace baghouse in Chester Township, **Delaware County**.

46-0032C: SPS Technologies, Inc. (301 Highland Avenue, Jenkintown, PA 19046) on May 14, 2009, to operate a modification of a degreaser in Abington Township, **Montgomery County**.

46-0112D: Palmer International, Inc. (2036 Lucon Road, Skippack, PA 19474) on May 22, 2009, to operate a reactor w/mixing vessel in Skippack Township, **Montgomery County**.

09-0102A: Clean Earth of Southeast PA, Inc. (7 Steel Road, East, Morrisville, PA 19067) on May 22, 2009, to operate a diesel driven screen at a soil remediation facility in Falls Township, **Bucks County**.

15-0078D: Centocor, Inc. (200 Great Valley Parkway, Malvern, PA 19355) on May 22, 2009, to operate a 2 MW electric generator in East Whiteland Township, **Chester County**.

15-0054B: Highway Materials, Inc. (1750 Walton Road, Blue Bell, PA 19422) on May 22, 2009, to operate an asphalt paving mixtures and blocks operation in East Whiteland Township, **Chester County**.

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

67-05083: Conectiv Mid Meri, LLC (P. O. Box 6066, 92 DC 72, Newark, DE 19714-6066) on May 19, 2009, to construct an electric generating plant in Peach Bottom Township, **York County**. This plan approval was extended.

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

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Norman Frederick, Facilities Permitting Chief, (570) 826-2507.

TV 40-00021: Hazelton Generation, LLC (150 North Michigan Avenue, Suite 2930, Chicago, IL 60601) on May 18, 2009, to operate an electric generating station in Hazle Township, **Luzerne County**. As a result of potential emissions of NOx and SOx, the Hazelton Station is

considered a major stationary source subject to the Title V Operating Permit requirements adopted in 25 Pa. Code 127, Subchapter G. This is a renewal of the Title V Operating Permit.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

36-05009: J.L. Clark, Inc. (303 North Plum Street, Lancaster, PA 17602-2401) on May 14, 2009, for a lithographic decorative metal can coat art manufacturing facility in the City of Lancaster, **Lancaster County**. This is a renewal of the Title V permit.

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

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

46-00264: Caddick Construction Co., Inc. (P. O. Box 179, Ambler, PA 19002) on May 22, 2009, to issue a State-only Operating Permit to operate a Nonmetallic Mineral Processing Plant powered by two diesel engines at 7147 Camp Hill Road, Fort Washington, PA 19034, Whitmarsh Township, **Montgomery County**. The facility is natural minor. Plan Approval, 46-0264 is being incorporated into this new State-only Operating Permit. This Operating Permit shall include monitoring and recordkeeping designed to ensure this facility complies with all applicable air quality regulations.

46-00179: Tuscan Lehigh Dairies, LP (880 Allentown Road, Lansdale, PA 19946-5206) on May 22, 2009, for a renewal of a State-only, Natural Minor Operating Permit in Upper Gwynedd Township, **Montgomery County**. The facility operates two, dual-fired, 12.6 mmBtu/hr boilers. The permit will include monitoring, recordkeeping and reporting requirements to address all applicable air quality requirements.

46-00050: Rohm & Haas Chemicals, LLC (727 Norristown Road, Spring House, PA 19477-1015) on May 22, 2009, for renewal of a Synthetic Minor Operating Permit in Lower Gwynedd Township, **Montgomery County**. The facility has the potential to exceed major thresholds for NOx emissions but will maintain a synthetic minor status by limiting NOx emissions to below 24.99 tpy. The facility's primary sources are industrial boilers. The permit will include monitoring, recordkeeping and reporting requirements designed to address all applicable air quality requirements.

46-00160: Cognis Corp. (300 Brookside Avenue, Ambler, PA 19002) on May 22, 2009, for a renewal of the State-only (Natural Minor) Operating Permit in Lower Gwynedd Township, **Montgomery County**. Cognis Corporation operates and maintains 14 small natural gas-and/or No. 2 fuel oil-fired boilers and 17 natural gas-fired space heaters, from which the main pollutants emitted are NOx and PM. The actual emission rates of NOx and PM from the boilers and space heaters are each less than 2 tpy. No significant changes have occurred at the facility since the permit was originally issued on November 17, 2003. The renewed permit will include the same 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, Ray Kempa, New Source Review Chief, (570) 826-2507

54-00017: Lehigh Asphalt Paving & Construction Co. (P. O. Box 449, Tamaqua, PA 18252) on May 18, 2009, to re-issue a State-only (Natural Minor) Operating Permit for operation of a rock crushing operation and associated air cleaning devices at their facility in West Penn Township, **Schuylkill County**.

64-00005: Wayco, Inc. (P. O. Box Y, Waymart, PA 18472) on May 21, 2009, to re-issue a State-only (Synthetic Minor) Operating Permit for operation of a batch asphalt plant and associated air cleaning devices at their facility in Hawley Borough, **Wayne County**.

66-00006: Geary Enterprises Concrete (R. R. 1, Box 368, Falls, PA 18615-9799), on May 20, 2009, to manufacture sand, gravel and concrete in Falls Township, **Wyoming County**. This is a renewal of the State-only Natural Minor operating permit.

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

21-05010: RRI Energy Mid Atlantic Power Holdings, LLC (121 Champion Way, Suite 200, Canonsburg, PA 15317-5817) on May 19, 2009, for a peaking power generating facility in South Middleton Township, **Cumberland County**. This is renewal of the State-only operating permit and a name change from Reliant Energy.

28-03022: Valley Quarries, Inc. (169 Quarry Road, Chambersburg, PA 17201-9099) on May 19, 2009, for a rock crushing operation in Guilford Township, **Franklin County**. This is renewal of the State-only operating permit.

36-03051: Johnson & Johnson Merck Pharmacy (1838 Colonial Village Lane, Lancaster, PA 17601-6700) on May 7, 2009, to operate their pharmaceutical facility in East Lampeter Township, **Lancaster County**. This is a renewal of the State-only operating permit.

36-03175: US Boiler Co., Inc. (P. O. Box 3079, 2930 Old Tree Drive, Lancaster, PA 17604-3079) on May 15, 2009, for commercial and residential boiler manufacturing in East Hempfield Township, **Lancaster County**.

67-03017: Yorktowne Paper Mills, Inc. (1001 Loucks Mill Road, P. O. Box 2426, York, PA 17405) on May 12, 2009, to operate a paper recycling and manufacturing facility in Spring Garden Township, **York County**. This is a renewal of the State-only operating permit.

67-05028: RRI Energy Mid Atlantic Power Holdings, LLC (121 Champion Way, Suite 200, Canonsburg, PA 15317-5817) on May 19, 2009, for a peaking power generating facility in Hopewell Township, **York County**. This is renewal of the State-only operating permit and a name change from Reliant Energy.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Matthew Williams, Facilities Permitting Chief, (814) 332-6940.

25-00648: NEPA Energy, LP (South Lake Street, Northeast, PA 16428-3828) on May 20, 2009, to renew the State-only Operating Permit for their facility in North East Township, **Erie County**. The primary sources covered by the Synthetic Minor Operating Permit are the ABCO boiler and the Auxilary (Zurn) boiler. The steam from these units is used for the processing of grapes and juices by Welchs. The permit contains a site-wide restric-

tion on the NOx and CO emissions of 61.22 tpy and 64.64 tpy, respectively. The permittee is required to conduct emission testing for each of the boilers ever 5 years and must keep the hours of operation and the amount of natural gas used by each boiler to demonstrate compliance with the site-wide emission restrictions.

25-01006: Lake Erie Biofuels, LLC (1540 East Lake Road, Erie, PA 16511-1032) on May 14, 2009, a synthetic minor operating permit in the City of Erie, **Erie County**. The significant sources are two process steam boilers, the biodiesel production, storage tanks, a high pressure steam generator for the fatty acid stripper and a parts washer. The conditions of the previous plan approvals 25-1006A and 25-1006B were incorporated into the operating permit. The permittee shall be a synthetic minor source of SOx emissions by accepting an elective throughput restriction on the quantity of residual oil combusted in the two process boilers (1.21 million gallons) based on a consecutive 12-month period. The permittee shall keep records of the SOx emissions based on the quantity of residual oil burned. The facility is a natural minor facility for the remaining pollutants.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

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

09-00066: Exelon Generation Co.—Fairless Hills Generating Station (990 Steel Road S, USX Fairless Works, Fairless Hills, PA 19030-5006) on May 22, 2009, has been significantly modified to incorporate the Clean Air Interstate Rule Regulations for the facility located in Falls Township, **Bucks County**. The modified permit contains all applicable requirements including monitoring, recordkeeping and reporting.

23-00017: Exelon Generation Co.—Eddystone Generating Station (1 Industrial Highway, Eddystone, PA 19022-1585) on May 22, 2009, has been significantly modified to incorporate the Clean Air Interstate Rule Regulations for the facility located in the Eddystone Borough, **Delaware County**. The modified permit contains all applicable requirements including monitoring, recordkeeping and reporting.

15-00019: Exelon Generation Co.—Cromby Generating Station (100 Cromby Road, Phoenixville, PA 19460-1882) on May 22, 2009, has been significantly modified to incorporate the Clean Air Interstate Rule Regulations for their facility in the East Pikeland Township, **Chester County**. The modified permit contains all applicable requirements including monitoring, recordkeeping and reporting.

09-00122: Arkema, Inc.—Altuglas Int. (100 PA Route 413, Bristol, PA 19007) on May 22, 2009, for a minor modification of TVOP No. 09-00122 for their facility in Bristol Township, **Bucks County**. The minor modification is for the rerouting of several small additive tanks vents from an existing scrubber to another larger scrubber onsite. The modified TVOP includes monitoring, recordkeeping, reporting and work practice requirements designed to keep the facility operating within all applicable air quality requirements. Minor modification of TVOP No. 09-00122 is issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.462.

15-00029: Dopaco, Inc. (241 Woodbine Road, Exton, PA 19335) on May 22, 2009, for operation of their printing facility in Downingtown Borough, **Chester County**. This amendment is to address the incorporation of Plan Approval, Number 15-0029E, for a 10-color flexographic printing press that is permitted under Source 205. Administrative Amendment of State-only Operating Permit issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

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

38-03020: Tech Cast, Inc. (640 South Cherry Street, Myerstown, PA 17067-1511) on May 20, 2009, to operate a foundry in Myerstown Borough, **Lebanon County**. This State-only operating permit was administratively amended due to changes in Section G, Miscellaneous. This is Revision No. 1.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Matthew Williams, Facilities Permitting Chief, (814) 332-6940.

24-00083: Carbone of America—Benzinger Plant (215 Stackpole Street, Saint Marys, PA 15857-1401) on May 5, 2009, for an administrative amendment of the State Operating Permit to incorporate the conditions from Plan Approvals 24-083D, 24-083E, 24-083F, 24-083G, 24-083I and 24-083L. The Facility is in the City of Saint Marys, **Elk County**.

61-00185: Danco Industries, Inc. (P. O. Box 1128, Oil City, PA 16301-0628) on May 13, 2009, for an administrative amendment of the State-only Operating Permit to include the conditions from Plan Approval 61-185F at the Heath Oil Barkeyville Plant located in Clinton Township, **Venango County**.

De Minimis Emissions Increases Authorized under 25 Pa. Code § 127.449.

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

OP-65-00016: Latrobe Specialty Steel Co. (2626 South Ligonier Street, Latrobe, PA 15650-6359) on May 19, 2009, per 25 Pa. Code § 127.449(i), this notice is for the following de minimis emission increase at the Latrobe Specialty Steel Company, Latrobe Plant, located in Latrobe, **Westmoreland County**:

Less than less than 0.03 tpy for each criteria and hazardous pollutant resulting from the installation and operation of one Cummins Emergency Diesel Engine, rated at 145 bhp.

The list of previously authorized de minimis increases at the facility is as follows:

| | |
|----------------|---------------------------|
| February 2005: | Grinding Operation. |
| October 2003: | TIV Power Source Upgrade. |
| March 2009: | Slag Handling Operation. |
| March 2009: | Torch Cutting Operation. |

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

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

56030107 and NPDES No. PA0249521. Future Industries, Inc., P. O. Box 57, Meyersdale, PA 15552, permit renewal for the continued operation and restoration of a bituminous surface mine in Brothersvalley Township, **Somerset County**, affecting 182.1 acres. Receiving streams: UNTs to/and Buffalo Creek; UNTs to/and Millers Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received February 25, 2009. Permit issued May 18, 2009.

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

65030101 and NPDES Permit No. PA0250368. Amerikohl Mining, Inc. (1384 SR 711, Stahlstown, PA 15687). Permit renewal issued for continued reclamation only of a bituminous surface mining site located in Ligonier Township, **Westmoreland County**, affecting 239.6 acres. Receiving streams: UNTs to Loyalhanna Creek. Application received March 6, 2009. Reclamation-only renewal issued May 18, 2009.

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

24980106 and NPDES Permit No. PA0227919. Fairview Coal Company (P. O. Box R, Ridgway, PA 15853) Renewal of an existing bituminous strip, auger and coal ash placement operation in Horton Township, **Elk County** affecting 228.8 acres. Receiving streams: UNTs to Johnson Run, UNTs to Brandy Camp Creek. This renewal is issued for reclamation only. Application received April 3, 2009. Permit issued May 19, 2009.

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

17980121 and NPDES No. PA0238147. R. J. Coal Company (P. O. Box 277, LaJose, PA 15753), revision of an existing bituminous surface mine for an Incidental Boundary Correction in Bloom Township, **Clearfield County**, affecting 92.5 acres. Receiving streams: Bulgers Run to Anderson Creek to West Branch Susquehanna, classified for the following uses: CWF, CWF, WWF. There

are no potable water supply intakes within 10 miles downstream. Application received November 21, 2008. Permit issued May 14, 2009.

17803094 and NPDES No. PA0127086. RES Coal, LLC (224 Grange Hall Road, P. O. Box 228, Armagh, PA 15920), transfer of an existing bituminous surface mine with an Insignificant Permit Boundary Correction from Sky Haven Coal, Inc. (5510 State Park Road, Penfield, PA 15849), located in Goshen Township, **Clearfield County**, affecting 307.9 acres. Receiving streams: Little Trout Run to Trout Run to West Branch Susquehanna River, classified for the following uses: CWF, CWF, WWF. There are no potable water supply intakes within 10 miles downstream. Application received August 15, 2008. Permit issued May 14, 2009.

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

54921301R3 and NPDES Permit No. PA0595811. M & H Coal Company, (51 Middle Road, Hegins, PA 17938), renewal of an existing anthracite underground mine operation for reclamation activities only in Frailey Township, **Schuylkill County** affecting 12.46 acres, receiving stream: Middle Creek. Application received April 17, 2009. Renewal issued May 13, 2009.

40030202R. McClure Enterprises, Inc., (P. O. Box 3775, Scranton, PA 18505), renewal of an existing anthracite coal refuse reprocessing operation in Duryea and Hughestown Boroughs, **Luzerne County** affecting 159.0 acres, receiving stream: none. Application received May 30, 2008. Renewal issued May 14, 2009.

54020201R. Stoudt's Ferry Preparation Co., Inc., (P. O. Box 279, St. Clair, PA 17970), renewal of an existing anthracite coal refuse reprocessing and prep plant operation in Mahanoy Township, **Schuylkill County** affecting 66.0 acres, receiving stream: none. Application received November 27, 2007. Renewal issued May 21, 2009.

Noncoal Permits Actions

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

33091003. Russell Standard Corporation (285 Kappa Drive, Suite 300, Pittsburgh, PA 15238) Authorization to extract shale in Union Township, **Jefferson County** to supply fill material for the Howe Bridge construction project. Receiving streams: Mill Creek. Application received May 8, 2009. Permit issued May 19, 2009.

10091002. Gregori Construction & Engineering, Inc. (736 Ekastown Road, Sarver, PA 16055) Authorization to extract shale in Summit Township, **Butler County** to supply fill material for the Monroe Street Bridge construction project. Receiving streams Bonnie Brook. Application received April 16, 2009. Permit issued May 21, 2009.

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

7974SM2A2C10 and NPDES Permit No. PA0611999. Hanson Aggregates BMC, Inc., (7600 Imperial Way, Allentown, PA 18195), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Nockamixon Township, **Bucks County**, receiving stream: Rapp Creek. Application received April 3, 2009. Renewal issued May 18, 2009.

5273SM2C14 and NPDES Permit No. PA0594130. Hanson Aggregates PA, Inc., (7600 Imperial Way, Allentown, PA 18195), renewal of NPDES Permit for

discharge of treated mine drainage from a quarry operation in Thornbury and Middletown Townships, **Delaware County**, receiving streams: Chester Creek and UNT to Chester Creek. Application received April 3, 2009. Renewal issued May 18, 2009.

8173SM1C11 and NPDES Permit No. PA0594148. Hanson Aggregates PA, Inc., (7600 Imperial Way, Allentown, PA 18195), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in East Caln Township, **Chester County**, receiving stream: East Branch Brandywine Creek. Application received April 3, 2009. Renewal issued May 18, 2009.

52080801. McKean & Son, Inc., (R. R. 1, Box 628, Hawley, PA 18428), commencement, operation and restoration of a quarry operation in Lackawaxen Township, **Pike County** affecting 5.0 acres, receiving stream: none. Application received January 24, 2008. Permit issued May 19, 2009.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

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

Blasting Permits Actions

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

27094004. Appalachian Geophysical Services, LLC (2659 SR 60, P. O. Box 426, Killbuck, OH 44637-0426). Blasting Activity Permit for well exploration in Howe Township, **Forest County**. This blasting activity permit will expire on December 31, 2009. Application received May 7, 2009. Permit issued May 18, 2009.

42094002. Appalachian Geophysical Services, LLC (2659 SR 60, P. O. Box 426, Killbuck, OH 44637-0426). Blasting Activity Permit for well exploration in Liberty and Norwich Townships, **McKean County**. This blasting activity permit will expire on December 31, 2009. Application received May 7, 2009. Permit issued May 18, 2009.

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

08094003. Meshoppen Blasting, Inc. (P. O. Box 127, Moshoppen, PA 18630), blasting for the Strom 1H Well Site located in Monroe Township, **Bradford County**. Permit's expiration date is extended from May 12, 2009, to May 30, 2009.

14094003. Douglas Explosives, Inc. (P. O. Box 77, Philipsburg, PA 16866), rock excavation blasting for Joel Gray truck garage located in Potter Township, **Centre County**. Permit issued May 5, 2009. Permit expires July 30, 2009.

53094001. Appalachian Geophysical Services, LLC (2659 SR 60, P. O. Box 426, Killbuck, OH 44637-0426), seismic data acquisition by blasting—LN#-PGE-37105-183-09, LN#-PGE-37105-184-09 located in Sylvania and Wharton Townships, **Potter County**. Permit issued May 13, 2009. Permit expires October 31, 2009.

53094002. Appalachian Geophysical Services, LLC (2659 SR 60, P. O. Box 426, Killbuck, OH 44637-0426), seismic data acquisition by blasting—LN#-PGE-37105-

181-09 located in Pleasant Valley Township, **Potter County**. Permit issued May 13, 2009. Permit expires October 31, 2009.

53094003. Penna. General Energy, (120 Market Street, Warren, PA 16365), blasting for Well No. 2145 frac pit located in Keating Township, **Potter County**. Permit issued May 13, 2009. Permit expires May 13, 2010.

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

36094124. Newville Construction Services, Inc., (408 Mohawk Road, Newville, PA 17241), construction blasting for PP & L pole hole in Penn Township, **Lancaster County** with an expiration date of May 14, 2010. Permit issued May 20, 2009.

36094125. Warren's Excavating & Drilling, Inc., (P. O. Box 214, Myerstown, PA 17067), construction blasting for Cedar Chase in West Hempfield Township and Mountville Borough, **Lancaster County** with an expiration date of April 18, 2010. Permit issued May 20, 2009.

36094126. Warren's Excavating & Drilling, Inc., (P. O. Box 214, Myerstown, PA 17067), construction blasting for Lap Ridge in East Lampeter Township, **Lancaster County** with an expiration date of April 18, 2010. Permit issued May 20, 2009.

36094127. Warren's Excavating & Drilling, Inc., (P. O. Box 214, Myerstown, PA 17067), construction blasting for Manheim Public Library in Manheim Township, **Lancaster County** with an expiration date of April 19, 2010. Permit issued May 20, 2009.

38094109. Keystone Blasting Service, (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting for Swiss Premium Dairy in North Cornwall Township, **Lebanon County** with an expiration date of July 30, 2009. Permit issued May 20, 2009.

38094110. Warren's Excavating & Drilling, Inc., (P. O. Box 214, Myerstown, PA 17067), construction blasting for Fox Ridge Subdivision in South Lebanon Township, **Lebanon County** with an expiration date of April 14, 2010. Permit issued May 20, 2009.

45094116. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Skytop Lodge in Barrett Township, **Monroe County** with an expiration date of May 31, 2010. Permit issued May 20, 2009.

52094106. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Pocono Ranchlands in Lehman Township, **Pike County** with an expiration date of May 31, 2010. Permit issued May 20, 2009.

66094001. Geokinetics, (P. O. Box 158, Wysox, PA 18854), construction blasting for the Bradford 3D Site in North Branch, Forkston, Windham, Braintrim Townships and Laceyville Borough, **Wyoming County** with an expiration date of May 31, 2010. Permit issued May 21, 2009.

45094118. Hayduk Enterprises, Inc., (257 Riverside Drive, Factoryville, PA 18419), construction blasting for Jonah's Estates in Penn Forest and Polk Townships, **Monroe County** with an expiration date of June 30, 2010. Permit issued May 21, 2009.

45094119. Hayduk Enterprises, Inc., (257 Riverside Drive, Factoryville, PA 18419), construction blasting for Country Club of the Poconos in Middle Smithfield Township, **Monroe County** with an expiration date of June 30, 2010. Permit issued May 21, 2009.

52094107. Hayduk Enterprises, Inc., (257 Riverside Drive, Factoryville, PA 18419), construction blasting for Falling Creek Estates in Middle Smithfield and Lehman Townships, **Monroe and Pike Counties** with an expiration date of June 30, 2010. Permit issued May 21, 2009.

64094101. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Paupackan Lake Estates in Paupack and Lake Townships, **Wayne County** with an expiration date of May 31, 2010. Permit issued May 21, 2009.

64094102. Hayduk Enterprises, Inc., (257 Riverside Drive, Factoryville, PA 18419), construction blasting for Wallenpaupack Estates in Paupack Township, **Wayne County** with an expiration date of June 30, 2010. Permit issued May 21, 2009.

67094113. Warren's Excavating & Drilling, Inc., (P. O. Box 214, Myerstown, PA 17067), construction blasting for a medical center in the City of York, **York County** with an expiration date of May 21, 2009. Permit issued May 21, 2010.

45094117. Hayduk Enterprises, Inc., (257 Riverside Drive, Factoryville, PA 18419), construction blasting for Great Bear Estates in Middle Smithfield Township, **Monroe County** with an expiration date of June 30, 2010. Permit issued May 22, 2009.

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 free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

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

Permits, Environmental Assessments and 401 Water Quality Certifications Issued

WATER OBSTRUCTIONS AND ENCROACHMENTS

Northeast Regional Office: Watershed Management Program, 2 Public Square, Wilkes-Barre, PA 18711-0790

E58-271. Elk Mountain Ski Resort, Inc., R.R. 2, Box 3328, Union Dale, PA 18470-9528, Herrick Township, **Susquehanna County**, United States Army Corps of Engineers, Baltimore District.

To authorize the following water obstructions and encroachments associated with the construction of a pond that will be used to store water for snowmaking purposes:

1. To construct and maintain a pump house with an at-grade access road and parking area in the floodway of East Branch Tunkhannock Creek. (HQ-CWF)
2. To construct and maintain an intake structure consisting of a 1.5-foot high concrete monitoring weir across East Branch Tunkhannock Creek (HQ-CWF), a concrete inlet box with a gate valve and an 18-inch diameter pipe leading to the pump house.
3. To construct and maintain two 10-inch diameter raw water lines through approximately 40 feet of PEM wetlands.
4. To construct and maintain a 10-inch diameter and 3-inch diameter water utility lines through approximately 190 feet of PEM wetlands.
5. To remove remnants of an existing bridge and to construct and maintain a 30-foot wide open-bottom concrete box culvert having a 10-foot span and 6-foot underclearance across East Branch Tunkhannock Creek. (HQ-CWF)
6. To place and maintain 20 linear feet of R-6 bank stabilization immediately upstream and downstream of the proposed concrete box culvert.

The project will have 0.13 acre of temporary wetland impacts associated with the excavation of swales and the installation of raw water lines. The project is located on the northwest side of the intersection of SR 0374 and Township Road T470 (Clifford, PA Quadrangle Latitude: 41° 43' 45"; Longitude: 75° 33' 5").

E58-279. New Milford Borough, P. O. Box 630, New Milford, PA 18834. New Milford Borough, **Susquehanna County**, United States Army Corps of Engineers, Baltimore District.

To restore the historical alignment to pre-2006 flood conditions and to stabilize and maintain 400 linear feet of Salt Lick Creek (HQ-CFW). The project will include the construction of a low flow channel having an average width of 10 feet and minimum depth of 3 feet and the placement of R-7 rip rap along the western channel bank. The project is located approximately 0.5 mile northeast of the intersection of Church Street and SR 492 (Harford,

PA Quadrangle Latitude: 41° 52' 26"; Longitude: 75° 43' 23") in New Milford Borough, Susquehanna County.

E64-273. Central Wayne Regional Authority, 100 Fourth Street, Suite 8, Honesdale, PA 18431. Honesdale Borough, **Wayne County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain an expansion of a wastewater treatment plant in the floodplain of the Lackawaxen River (HQ-TSF, MF) with work consisting of the modification of existing treatment facilities and the construction of new treatment facilities, buildings and various site amenities. Work also includes the construction of an outfall structure, consisting of a 24-inch diameter pipe, concrete endwall and riprap in the floodway of the Lackawaxen River. The project is located on the northeast side of Buck Cove Road (T-468) approximately 0.1 mile east of Erie Street (White Mills, PA Quadrangle Latitude: 40° 33' 16"; Longitude: 75° 14' 37").

E54-332. Game Commission, 448 Snyder Road, Reading, PA 19605-0254. South Manheim Township, **Schuylkill County**, United States Army Corps of Engineers, Baltimore District.

To remove the existing ford structure and to construct and maintain a steel I-beam bridge across Stony Creek (CWF) having a 40-foot span and a 3-foot underclearance. The project is located on SGL 110 along Pine Road, approximately 500 feet upstream of the confluence with the Schuylkill River (Auburn, PA Quadrangle Latitude: 40° 34' 51"; Longitude: 76° 3' 47").

E64-276. Mark Yeager, 108 Cardinal Lane, Lake Ariel, PA 18436. Lake Township, **Wayne County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain a 22-foot by 24-foot boat-house in Lake Ariel. The project is located on the northeast side of Cardinal Lane, approximately 1.0 mile from the intersection of SR 0191 and SR 3012 (Advent Road) (Lake Ariel, PA Quadrangle Latitude: 41° 26' 08"; Longitude: 75° 22' 47").

E52-212. Steve Woodman, HCR1, Box 302, Paupack, PA 18451. Palmyra Township, **Pike County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain a 7-foot wide by approximately 88-foot long stone walkway that is raised approximately 12-inches within the basin of Lake Wallenpaupack for dock access; to modify and maintain an existing floating dock with work consisting of adding an additional 24-foot long by 4-foot wide section of floating dock onto the existing dock; and to maintain an existing stone retaining wall along the shoreline of Lake Wallenpaupack. The project is located at Whispering Pines Development, Calico Court location No. 112 (Hawley, PA Quadrangle Latitude: 41° 24' 56"; Longitude: 75° 13' 30") in Palmyra Township, Pike County.

E45-531. Department of Transportation, Engineering District 5-0, 1002 Hamilton Street, Allentown, PA 18103-1013. Coolbaugh Township, **Monroe County**, United States Army Corps of Engineers, Philadelphia District.

To place fill in 0.4 acre of EV wetland; to remove the existing structure and to construct and maintain a single-span prestressed concrete spread box beam bridge, having a normal clear span of 90.3 feet and an underclearance of 7.4 feet across Tobyhanna Creek (HQ-CWF), approxi-

mately 66 feet upstream of the existing roadway alignment. The permittee is required to provide 1.2 acres of replacement wetlands. The project is located at SR 423, Segment 0110, Offset 0000, approximately 1.7 miles southwest of the SR 423/I-380 interchange (Tobyhanna, PA Quadrangle Latitude: 41° 9' 43"; Longitude: 75° 27' 21").

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

E05-349: Patrick Dumpert, 750 Cumberland Road, Bedford, PA 15522, Dumpert Farm Bridge, Bedford Township, **Bedford County**, United States Army Corps of Engineers, Baltimore District.

To construct and maintain an 8-foot wide, 43.6-foot long flat bed steel road trailer bridge with an average underclearance of 3.1 feet, across Cumberland Valley Run (WWF) for the purpose of connecting two pastures located approximately 0.5 mile upstream of U.S. 30 bridge (Bedford, PA Quadrangle N: 2.48 inches; W: 2.24 inches, Latitude: 40° 00' 48"; Longitude: 78° 30' 57") in Bedford Township, Bedford County.

E31-220: Department of Transportation Engineering District 9-0, 1620 North Juniata Street, Hollidaysburg, PA 16648, Spruce Creek Township, **Blair County**, United States Army Corps of Engineers, Baltimore District.

To: (1) raze the existing Trout Run Lane steel I-beam bridge having a width of 15.5 feet, a total clear span of 41.0 feet, a skew of 90.0° and an underclearance of 6.1 feet over Spruce Creek (HQ-CWF) (Spruce Creek, PA Quadrangle N: 20.8 inches; W: 1.0 inch, Latitude: 40° 36' 52.8"; Longitude: 78° 07' 57.0"); (2) construct and maintain a spread box beam bridge approximately 40 feet downstream of the existing bridge, having a width of 27.3 feet, a total clear span of 41.0 feet, a skew of 90.0° and a minimum underclearance of 6.8 feet over Trout Run (HQ-CWF) (Spruce Creek, PA Quadrangle N: 20.8 inches; W: 1.0 inch, Latitude: 40° 36' 52.7"; Longitude: 78° 07' 56.6"); (3) construct and maintain an 18-inch outfall structure on the upstream left side of the proposed bridge discharging to Trout Run (HQ-CWF) (Spruce Creek, PA Quadrangle N: 20.8 inches; W: 1.0 inch, Latitude: 40° 36' 52.7"; Longitude: 78° 07' 56.6"); and (4) construct and maintain an 18-inch outfall structure on the downstream left side of the proposed bridge discharging to Trout Run (HQ-CWF) (Spruce Creek, PA Quadrangle N: 20.8 inches; W: 1.0 inch, Latitude: 40° 36' 52.7"; Longitude: 78° 07' 56.6"). The project will temporarily impact approximately 80 linear feet of perennial stream channel and permanently impact approximately 60 linear feet of perennial stream channel. The project involves the use of temporary cofferdams and is located in Spruce Creek Township, Blair County.

STORAGE TANKS

SITE-SPECIFIC INSTALLATION PERMITS

The following Storage Tank Site-Specific Installation Permits, under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 6021.504, 6021.1101 and 6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C, have been issued by the Bureau of Waste Management, Director, P. O. Box 8763, Harrisburg, PA 17105-8763.

| <i>SSIP Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Tank Type</i> | <i>Tank Capacity</i> |
|------------------------|--------------------------------------------------------------------------------------------------|---------------|---------------------|-----------------------------------|-----------------------|
| 09-48-005 | Trader Joe's East, Inc. 117 Kendrick Street Needham, MA 02494 Attn: Bob Denio | Northampton | East Allen Township | 3 ASTs storing diesel fuel | 36,000 gallons total |
| 09-13-001 | Asphalt Paving Systems, Inc. 595 Mill Road Lehighton, PA 18235 Attn: Richard Nunemacher | Carbon | Mahoning Township | 6 ASTs storing emulsified asphalt | 120,000 gallons total |

SPECIAL NOTICES

Request for Proposals for Municipal Solid Waste Capacity

In accordance with Act 101 and section 272 of the Solid Waste Rules and Regulations (as amended), the County of Carbon is seeking waste disposal capacity for municipal waste (MSW) for a minimum of 5 years, with an option to extend said capacity for an additional 5 years, for a total of 10 years. Carbon County is hereby soliciting responses to qualify facilities that could provide all, or some of the processing/disposal capacity for the County-generated MSW, beginning on or after January 1, 2010.

Copies of the Carbon County's Facility Qualification Request (FQR) may be obtained from the Carbon County Department of Solid Waste, P. O. Box 219, Bowmanstown, PA 18030, (610) 852-5111. (Electronic forms are available from crcycl@ptd.net. A \$25 reproduction fee will be charged for all hard copies.) All responses must be made on the Submittal Form and in accordance with the Instructions to Respondents provided in the FQR. The respondent must submit the original and three copies to the address listed previously, Attention Duane Dellecker, by 3 p.m. EST on June 30, 2009. Qualified facilities will receive formal notification of their selection after review and evaluation of responses by the Carbon County SWAC at its regularly scheduled meeting on August 19, 2009.

Carbon County reserves the right to reject any or all responses and to waive any informality in the solicitation process.

Notice of Proposed Interim Response Under the Hazardous Sites Cleanup Act

Herceg Landfill Site

Bushkill and Upper Nazareth Townships, Northampton County

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. §§ 6020.101—6020.1305), is proposing an interim response action at the Herceg Landfill Site (Site). This response will be undertaken under sections 505(b) and (c) of HSCA, 35 P. S. § 6020.505(b) and (c). The Site is located along Levis and Gower Roads in Bushkill and Upper Nazareth Townships, Northampton County.

From the 1950s to March 1981, the Site operated as an unpermitted, unlined municipal waste landfill. The landfill covers approximately 16 acres of a property of about 27 acres in a rural area straddling the borders of Bushkill and Upper Nazareth Townships. From October 1997 through July 2008, the Department has conducted private well sampling surrounding the Site at 13 locations over the years. Trace to low levels of VOCs have been detected in these residential wells except for one well location

which has had benzene detected near or slightly above the MCL of 5.0 ppb. A water treatment unit (carbon filtration) has been installed at this location since February 2005. A site investigation was conducted by the Department between 2005 and 2008. This site investigation included an aerial photograph review, surface water and sediment sampling, the installation of monitoring wells (18), geophysical investigation, groundwater sampling, soil gas sampling, aquifer testing, fate and transport analysis and remedial alternative feasibility testing. The Department has determined that the landfill is the source of the VOC contamination in groundwater and residential wells. Other compounds detected in onsite monitoring wells and offsite private wells include the following: ethylbenzene, toluene, xylene, methylene chloride, 1,2,4 trimethylbenzene, 1,3,5 trimethylbenzene, 1,1 dichloroethane, chlorobenzene, chloroethane, 1,1,1 trichloroethane, trichloroethene and naphthalene. There is no public water supply servicing the area of the Site and residents rely on private water supply wells. The closet public water supply lines are located approximately 1/4 to 1/2 mile east and southwest from the Site. However, the locations of several residences are located over 100' upslope from any potential waterline extension and hook-up to this service would be difficult to install because of the distance, topography and the presence of shallow bedrock. The Site has an NPDES permit, PA-0070394, for discharge of landfill leachate and groundwater to a UNT of the East Branch of the Monacacy Creek. This wastewater is collected into two connected ponds or lagoons at the northern toe of the landfill. The discharge has been consistently above the discharge limit for ammonia, but levels have been reduced significantly with the addition of two aerators in the upper pond in July 2008. The Department is operating and maintaining the aerators and is monitoring the discharge levels for ammonia.

The objective of this proposed interim response is to: 1) prevent exposure to benzene and the other site-related contaminants of concern through ingestion and dermal contact; and 2) reduce the ammonia concentrations being discharged to the tributary. The Department evaluated several alternatives for this proposed interim response which include:

- 1) No Action.
- 2) Monitored Natural Attenuation.
- 3) Environmental Covenant/Institutional Controls/Access Restrictions.
- 4) Soil/Waste Excavation.
- 5) Surface Barrier/Landfill Cap.
- 6) Point-of-Entry Treatment (POET) System Installation.

- 7) Groundwater extraction and treatment.
- 8) Leachate Lagoon Monitoring and Maintenance.

Based upon an evaluation of the Alternatives using criteria including protection of human health and the environment, compliance with applicable and relevant and appropriate requirements, feasibility, permanence and cost-effectiveness, the Department has selected a combination of Alternatives 2, 3, 6 and 8 as the proposed interim response for the Site. This action will involve the continued monitoring of private wells potentially impacted by the landfill and the installation of POET systems on existing potable water supply wells found to be above the Residential Statewide Health Standards and the safe drinking water standards. In addition, onsite monitoring wells will be sampled for monitored natural attenuation to determine if natural processes such as bioremediation, dilution and dispersion, sorption and volatilization are treating the groundwater. The Department would implement institutional controls by placing property restrictions (that is, fence and gates, deed restrictions) that prevent the use of onsite groundwater for drinking water purposes without proper pretreatment and prevent site disturbance. Finally, the Department would monitor and maintain the wastewater lagoon area.

This notice is being provided under section 506(b) of HSCA. The administrative record, which contains the information that forms the basis and documents the selection of the response action, is available for public review and comment. The administrative record is located at the Bushkill Township Municipal Building, 1114 Bushkill Center Road, Nazareth, PA 18064 and is available for review Monday through Friday from 8 a.m. to 4 p.m.

The administrative record will be open for comment from June 6, 2009, to September 4, 2009. Persons may submit written comments into the record during this time only by sending them to Ronald Schock, Project Officer, at the Department's Bethlehem District Office at 4530 Bath Pike, Bethlehem, PA 18017, or by delivering them to that office in person.

In addition, persons may present oral comments, for inclusion in the administrative record, at a public hearing. The Department has scheduled the hearing for July 15, 2009, at 10:30 a.m. at the Bushkill Township Municipal Building. The testimony at the public hearing will be limited to the proposed interim response, which involves the protection from onsite groundwater contamination and treatment of landfill leachate. An informal public meeting will be held after the public hearing is concluded. Persons wishing to present testimony at the July 15, 2009, hearing regarding this interim response regarding the contaminated groundwater should register with Ronald Schock before July 10, 2009, at (610) 861-2070 or in writing to Ronald Schock at the Department's Bethlehem District Office. If no person registers to present oral comments by the date specified previously, the hearing will not be held.

Persons with a disability who wish to attend the July 15, 2009, hearing and require auxiliary aid, service or other accommodations to participate in the proceedings, should contact Ronald Schock or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

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

Request For Comment and Notice of Public Meeting for the Proposed Total Maximum Daily Loads (TMDLs) for the Watershed of Ross Run in Indiana County

The Department of Environmental Protection (Department) will accept comments on the proposed TMDL developed for the Watershed of Ross Run in Indiana County. The TMDL was established in accordance with the requirements of section 303(d) of The Clean Water Act. Streams within this watershed are listed in Pennsylvania's Integrated Water Quality Monitoring and Assessment Report as being impaired due to siltation resulting from agricultural activities.

Impairments were addressed by establishing a TMDL of sediment. There currently are no State or Federal in-stream numerical water quality criteria for sediment. Therefore, the Department utilized a reference watershed approach to implement the applicable narrative criteria. The proposed TMDL sets allowable loadings of sediment in the Watershed of Ross Run. Sediment loadings were allocated among all land use categories (nonpoint sources) present in the watershed. Data used in establishing this TMDL were generated using a water quality analysis model (AVGWLF) designed by the Pennsylvania State University.

The data and all supporting documentation used to develop the proposed TMDL are available from the Department. The proposed TMDL and information on the TMDL program can be viewed on the Department's web site at www.dep.state.pa.us (PA Keyword: TMDL). To request a copy of this TMDL, contact: Joe Boylan at joboylan@state.pa.us or 400 Waterfront Drive, Pittsburgh, PA 15222.

The Department will consider all comments when developing the final TMDL, which will be submitted to EPA for approval. Written comments will be accepted at the previous address and must be received by July 12, 2009. A public meeting to discuss the technical merits of the TMDL will be held on Thursday, June 11, 2009, at 6 p.m. at the Marion Center Community Park Building, 22823 Route 403 Highway North, Marion Center, PA 15759.

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

Department Received NPDES No. PAI-2318-08-001

Game Commission
15 South Route 44 Highway
P. O. Box 5038
Jersey Shore, PA 17740

For earth disturbance during reclamation of an abandoned bituminous surface mine in West Keating Township, Clinton County, affecting 111.0 acres. Receiving streams: Little Birch Island Run and Sugar Camp Run, tributaries to West Branch Susquehanna River; classified for the following use: HQ-CWF. Application received February 19, 2008. Permit issued May 20, 2009.

[Pa.B. Doc. No. 09-1029. Filed for public inspection June 5, 2009, 9:00 a.m.]

Bid Opportunity

PBF 56841306.4, Abandoned Mine Drainage Abatement Project, Lion Mining Company, Mining Permit No. 56841306, Jenner Township, Somerset County. The principal items of work and approximate quantities include 8.0 acres of Permanent Seeding, Pollution Control, 30 ton of AASHTO#1 Outlet Pipe Rockfill, 140 ton of ASSHTO#1 Shallow Cell A Level Spreader, Topsoiling, 650 linear feet of Roadway Ditch Extension, 212 linear feet of 18-inch Corrugated Plastic Pipe, 252 linear feet of 12-inch Solid PVC Pipe, 1,620 linear feet of 8-inch Solid PVC Pressure Pipe, Existing 8-inch PVC Pipe Disconnection and Fence, 110 linear feet of 12-inch Steel Roadway Boring, 300 ton of R-4 Rock Splash Pads, 1,605 linear feet of Floating Baffles, Landscaping and installing one Pavilion. This project issues on June 5, 2009, and bids will be opened on July 16, 2009, at 2 p.m. Bid documents cost \$15 per set and will not be mailed until payment has been received. A mandatory prebid conference is scheduled for June 24, 2009. Use the contact information contained in this advertisement to find out more about the prebid. Note that failure to attend the mandatory prebid will be cause for rejection of your bid. Contact the Construction Contracts Section at (717) 787-7820 or joelmiller@state.pa.us for more information on this bid.

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 09-1030. Filed for public inspection June 5, 2009, 9:00 a.m.]

State Board for Certification of Water and Wastewater Systems Operators; Change of Meeting and Meeting Room

The State Board for Certification of Water and Wastewater Systems Operators has changed the June 19, 2009, meeting to a conference call Board Meeting in the 8th Floor Conference Room of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105. The June 19, 2009, meeting was originally scheduled to be a regular Board meeting in the 10th Floor Conference Room in the Rachel Carson State Office Building.

Questions concerning the meeting may be directed to Cheri Sansoni at (717) 772-5158, csansoni@state.pa.us.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Cheri Sansoni at (717) 772-5158 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users), to discuss how the Department of Environmental Protection may accommodate their needs.

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 09-1031. Filed for public inspection June 5, 2009, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

Uniform Construction Code Review and Advisory Council; Schedule of Meetings

June 18, 2009
10 a.m.—5 p.m.
Department of Labor and Industry
651 Boas Street, Room E-100
Harrisburg, PA 17121

Additional information concerning the meeting may be found on the Department of Labor and Industry web site at www.dli.state.pa.us/codes, scroll down and click on the link for Uniform Construction Code Review and Advisory Council.

Questions concerning this may be directed to Edward Leister at (717) 783-6304.

SANDI VITO,
Secretary

[Pa.B. Doc. No. 09-1032. Filed for public inspection June 5, 2009, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

Additional Class of Payments to Qualifying Acute Care General Hospitals for Obstetrical and Neonatal Intensive Care Services

Purpose

This notice announces that the Department of Public Welfare (Department) is providing final notice of the allocation of funding for Fiscal Year (FY) 2008-2009 for an additional class of disproportionate share hospital (DSH) payments for certain qualifying hospitals based on obstetrical and neonatal intensive care cases. The Department amended the payment methodology applicable to rural hospitals for these DSH payments. There is no change to the qualifying criteria for determining eligibility for these payments or the payment methodology for nonrural hospitals.

The Department published notice of its intent to allocate funding and amend the payment methodology applicable to rural hospitals for an additional class of DSH payment for certain qualifying hospitals based on obstetrical and neonatal intensive care cases at 39 Pa.B. 1362 (March 14, 2009). The Department received no public comments during the 30-day public comment period.

The payment methodology for rural hospitals that meet the qualifying criteria is:

(a) 15% of the total amount available will be paid to qualified rural hospitals as follows:

(i) Of the amount available for distribution to rural hospitals, 75% will be distributed to qualified rural hospitals with obstetrical cases for Pennsylvania (PA) Medical Assistance (MA) recipients using the following formula:

(A) For each hospital, determine the ratio of the hospital's obstetrical cases for PA MA recipients to all obstetrical cases for the hospital.

(B) For each hospital, multiply the ratio under clause (A) by the number of the hospital's obstetrical cases for PA MA recipients.

(C) Add the products under clause (B) for all hospitals.

(D) Divide the amount available for distribution to rural hospitals by the sum under clause (C).

(E) Multiply the quotient under clause (D) by the product under clause (B).

(F) For rural hospitals located in counties whose ratio of MA eligible persons to total county population exceeds one standard deviation above the mean for all rural counties but less than 1.3 standard deviations above the mean for all rural counties, multiply the product in clause (E) by 1.50. For rural hospitals located in counties whose ratio of MA eligible persons to total county population is equal to or greater than 1.3 standard deviations above the mean for all rural counties but less than 1.6 standard deviations above the mean for all rural counties, multiply the product in clause (E) by 1.75. For rural hospitals located in counties whose ratio of MA eligible persons to total county population is equal to or greater than 1.6 standard deviations above the mean for all rural counties, multiply the product in clause (E) by 2.0.

(ii) Of the amount available for distribution to rural hospitals, 10% will be distributed to qualified rural hospitals with neonatal intensive-care cases for PA MA recipients using the following formula:

(A) For each hospital, determine the ratio of the hospital's neonatal intensive care cases for PA MA recipients to all neonatal intensive care cases for the hospital.

(B) For each hospital, multiply the ratio under clause (A) by the number of the hospital's neonatal intensive care cases for PA MA recipients.

(C) Add the products under clause (B) for all hospitals.

(D) Divide the amount available for distribution to rural hospitals by the sum under clause (C).

(E) Multiply the quotient under clause (D) by the product under clause (B).

(F) For rural hospitals located in counties whose ratio of MA eligible persons to total county population exceeds one standard deviation above the mean for all rural counties but less than 1.3 standard deviations above the mean for all rural counties, multiply the product in clause (E) by 1.50. For rural hospitals located in counties whose ratio of MA eligible persons to total county population is equal to or greater than 1.3 standard deviations above the mean for all rural counties but less than 1.6 standard deviations above the mean for all rural counties, multiply the product in clause (E) by 1.75. For rural hospitals located in counties whose ratio of MA eligible persons to total county population is equal to or greater than 1.6 standard deviations above the mean for all rural hospitals, multiply the product in clause (E) by 2.0.

(iii) 15% of the funds available for rural hospitals will be distributed equally among qualified rural hospitals with obstetrical cases for PA MA recipients.

(iv) To ensure that payments do not exceed available funds, the Department may adjust payments to each hospital to receive its proportionate share of the available funds.

In making these payments, the Department ensures that no acute care general hospital receives any DSH payment that is in excess of its hospital specific DSH upper payment limit and the Commonwealth will not exceed its aggregate annual DSH allotment.

Fiscal Impact

The FY 2008-2009 fiscal impact related to these payments is \$14.389 million (\$6.544 million in State funds). This will be treated as a one-time only payment.

ESTELLE B. RICHMAN,
Secretary

Fiscal Note: 14-NOT-602. (1) General Fund; (2) Implementing Year 2008-09 is \$6,544,000; (3) 1st Succeeding Year 2009-10 is \$0; 2nd Succeeding Year 2010-11 is \$0; 3rd Succeeding Year 2011-12 is \$0; 4th Succeeding Year 2012-13 is \$0; 5th Succeeding Year 2013-14 is \$0; (4) 2007-08 Program—\$5,000,000; 2006-07 Program—\$0; 2005-06 Program—\$0; (7) MA—Obstetric and Neonatal Services; (8) recommends adoption. Funds have been included in the budget to cover this increase.

[Pa.B. Doc. No. 09-1033. Filed for public inspection June 5, 2009, 9:00 a.m.]

Medical Assistance Program Fee Schedule Revisions

The Department of Public Welfare (Department) announces that it will revise the fees, or a component of the fee, on the Medical Assistance (MA) Program Fee Schedule for select medical, surgical, laboratory, durable medical equipment and radiological services effective June 15, 2009.

Fee Schedule Revisions

The Pennsylvania Medicaid State Plan (State Plan) specifies that maximum fees for services covered under the MA Program are to be determined on the basis of the following: fees may not exceed the Medicare upper limit when applicable; fees must be consistent with efficiency, economy and quality of care; and fees must be sufficient to assure the availability of services to recipients. The regulations at 55 Pa. Code § 1150.62(a) (relating to payment levels and notice of rate setting changes) also specify that the MA fees may not exceed the Medicare upper limit.

The Department has determined that MA fees for approximately 670 medical, surgical, laboratory, durable medical equipment and radiological procedure codes or combinations of procedure codes and modifiers, are above the Medicare upper limit for the same procedure codes. The Department is adjusting the fees on the MA Program Fee Schedule for

these combinations of procedure codes and modifiers to equal the Medicare upper limit. Revision of these fees is necessary to comply with the regulation and State Plan, and to avoid a Federal disallowance. When adjusting the assistant surgeon fee (modifier 80), the Department followed the Medicare guidelines of paying 16% of the maximum allowable payment to a primary surgeon, as MA fees may not exceed the Medicare upper limit.

The Department has also determined that for the following services, the sum of the professional and technical component fees did not equal the total component fees. The Department has made adjustments to the professional, technical and total component fees as follows:

| <i>Procedure Code</i> | <i>Procedure Code Description</i> | <i>Current Fees</i> | <i>Revised Fees as of June 15, 2009</i> |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------|---------------------------------------------------------------------------------|
| 70350 | Cephalogram | \$19.28 (Total Comp Fee) \$8.38 (26—Prof Comp) No Change (TC—Tech Comp) | \$19.41 (Total Comp Fee) \$8.16 (26—Prof Comp) No Change (TC—Tech Comp) |
| 70355 | Orthopantogram | \$27.00 (Total Comp Fee) \$9.52 (26—Prof Comp) \$17.48 (TC—Tech Comp) | \$25.00 (Total Comp Fee) \$9.65 (26—Prof Comp) \$15.35 (TC—Tech Comp) |
| 70549 | Magnetic resonance angiography, neck; without contrast material(s), followed by contrast material(s) and further sequences | \$556.65 (Total Comp Fee) \$90.83 (26—Prof Comp) No Change (TC—Tech Comp) | \$557.97 (Total Comp Fee) \$84.65 (26—Prof Comp) No Change (TC—Tech Comp) |
| 73020 | Radiologic examination, shoulder; 1 view | \$22.96 (Total Comp Fee) \$6.94 (26—Prof Comp) \$16.02 (TC—Tech Comp) | \$22.73 (Total Comp Fee) \$7.05 (26—Prof Comp) \$15.68 (TC—Tech Comp) |
| 74485 | Dilation of nephrostomy, ureters or urethra, radiological supervision and interpretation | \$128.39 (Total Comp Fee) \$25.30 (26—Prof Comp) \$103.90 (TC—Tech Comp) | \$122.90 (Total Comp Fee) \$25.97 (26—Prof Comp) \$96.93 (TC—Tech Comp) |
| 76098 | Radiological examination, surgical specimen | \$20.94 (Total Comp Fee) \$7.32 (26—Prof Comp) \$13.62 (TC—Tech Comp) | \$19.98 (Total Comp Fee) \$7.43 (26—Prof Comp) \$12.55 (TC—Tech Comp) |
| 76820 | Doppler velocimetry, fetal; umbilical artery | \$68.82 (Total Comp Fee) \$21.17 (26—Prof Comp) \$47.65 (TC—Tech Comp) | \$63.19 (Total Comp Fee) \$23.74 (26—Prof Comp) \$39.45 (TC—Tech Comp) |
| 76977 | Ultrasound bone density measurement and interpretation, peripheral site(s) any method | \$25.93 (Total Comp Fee) \$2.50 (26—Prof Comp) \$23.43 (TC—Tech Comp) | \$20.38 (Total Comp Fee) \$2.58 (26—Prof Comp) \$17.80 (TC—Tech Comp) |
| 78461 | Myocardial perfusion imaging; multiple studies (planar), at rest and/or stress (exercise and/or pharmacologic), and redistribution and/or rest injection, with or without quantification | \$215.87 (Total Comp Fee) \$57.96 (26—Prof Comp) \$157.91 (TC—Tech Comp) | \$212.33 (Total Comp Fee) \$58.23 (26—Prof Comp) \$154.10 (TC—Tech Comp) |
| 78608 | Brain imaging, positron emission tomography (PET); metabolic evaluation | \$669.07 (Total Comp Fee) \$70.82 (26—Prof Comp) No Change (TC—Tech Comp) | \$683.09 (Total Comp Fee) \$69.82 (26—Prof Comp) No Change (TC—Tech Comp) |
| 88182 | Flow cytometry, cell cycle or DNA analysis | \$39.49 (Total Comp Fee) \$35.55 (26—Prof Comp) No Change (TC—Tech Comp) | \$41.34 (Total Comp Fee) \$34.98 (26—Prof Comp) No Change (TC—Tech Comp) |
| 93278 | Signal-averaged electrocardiography (SAECG), with or without ECG | \$49.26 (Total Comp Fee) \$12.06 (26—Prof Comp) \$36.49 (TC—Tech Comp) | \$45.04 (Total Comp Fee) \$12.22 (26—Prof Comp) \$32.82 (TC—Tech Comp) |
| 93321 | Doppler echocardiography, pulsed wave and/or continuous wave with spectral display (List separately in addition to codes for echocardiographic imaging.); follow-up or limited study (List separately in addition to codes for echocardiographic imaging.) | \$43.27 (Total Comp Fee) \$7.63 (26—Prof Comp) \$35.64 (TC—Tech Comp) | \$39.15 (Total Comp Fee) \$7.75 (26—Prof Comp) \$31.40 (TC—Tech Comp) |
| 93555 | Imaging supervision, interpretation and report for injection procedure(s) during cardiac catheterization; ventricular and/or atrial angiography | \$257.90 (Total Comp Fee) \$40.56 (26—Prof Comp) \$220.60 (TC—Tech Comp) | \$165.23 (Total Comp Fee) \$40.99 (26—Prof Comp) \$124.24 (TC—Tech Comp) |

| <i>Procedure Code</i> | <i>Procedure Code Description</i> | <i>Current Fees</i> | <i>Revised Fees as of June 15, 2009</i> |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------|--------------------------------------------------------------------------------|
| 93556 | Imaging supervision, interpretation and report for injection procedure(s) during cardiac catheterization; pulmonary angiography, aortography, and/or selective coronary angiography including venous bypass grafts and arterial conduits (whether native or used in bypass) | \$389.77 (Total Comp Fee) \$41.66 (26—Prof Comp) \$348.11 (TC—Tech Comp) | \$240.30 (Total Comp Fee) \$42.10 (26—Prof Comp) \$198.20 (TC—Tech Comp) |
| 93724 | Electronic analysis of antitachycardia pacemaker system (includes electrocardiographic recording, programming of device, induction and termination of tachycardia via implanted pacemaker, and interpretation of recordings) | \$359.32 (Total Comp Fee) \$242.48 (26—Prof Comp) \$116.84 (TC—Tech Comp) | \$336.10 (Total Comp Fee) \$243.28 (26—Prof Comp) \$92.82 (TC—Tech Comp) |

As set forth as follows, the Department has revised the total fee (billed with no modifier) and, as applicable, the professional component fee (billed with modifier 26), the technical component fee (billed with modifier TC), the assistant surgeon fee (billed with modifier 80), and the fee when billing with pricing modifiers SU, TH, NU or U7 for the following procedure codes; “N/A” indicates that the modifier is not on the MA Program Fee Schedule for the procedure code, and “N/C” indicates that there is no change in the fee associated with the modifier:

| <i>Procedure Code/ Modifier SU, TH, NU or U7 where indicated</i> | <i>Procedure Code Description</i> | <i>Assistant Surgeon Fee Revision (Billing with Modifier 80)</i> | <i>Professional Component Fee Revision (Billing with Modifier 26)</i> | <i>Technical Component Fee Revision (Billing with Modifier TC)</i> | <i>Billing with No Modifier or Pricing Modifiers SU, TH, NU or U7</i> |
|--------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| 10021 | Fine needle aspiration; without imaging guidance | N/A | N/A | N/A | \$62.24 |
| 11000 | Debridement of extensive eczematous or infected skin; up to 10% of body surface | N/A | N/A | N/A | \$29.30 |
| 11001 | Debridement of extensive eczematous or infected skin; each additional 10% of the body surface, or part thereof (List separately in addition to code for primary procedure.) | N/A | N/A | N/A | \$14.81 |
| 11011 | Debridement including removal of foreign material associated with open fracture(s) and/or dislocation(s); skin, subcutaneous tissue, muscle fascia, and muscle | N/A | N/A | N/A | \$268.00 |
| 11012 | Debridement including removal of foreign material associated with open fracture(s) and/or dislocation(s); skin, subcutaneous tissue, muscle fascia, muscle, and bone | N/A | N/A | N/A | \$392.66 |
| 11041 | Debridement; skin, full thickness | N/A | N/A | N/A | \$32.81 |
| 11056 | Paring or cutting of benign hyperkeratotic lesion (e.g., corn or callus); 2 to 4 lesions | N/A | N/A | N/A | \$29.68 |
| 11057 | Paring or cutting of benign hyperkeratotic lesion (e.g., corn or callus); more than 4 lesions | N/A | N/A | N/A | \$38.94 |
| 11101 | Biopsy of skin, subcutaneous tissue and/or mucous membrane (including simple closure), unless otherwise listed; each separate/additional lesion (List separately in addition to code for primary procedure.) | N/A | N/A | N/A | \$21.04 |
| 11720 | Debridement of nail(s) by any method(s); 1 to 5 | N/A | N/A | N/A | \$15.57 |
| 11755 | Biopsy of nail unit (e.g., plate, bed, matrix, hyponychium, proximal and lateral nail folds) (separate procedure) | N/A | N/A | N/A | \$75.26 |

| <i>Procedure Code/ Modifier SU, TH, NU or U7 where indicated</i> | <i>Procedure Code Description</i> | <i>Assistant Surgeon Fee Revision (Billing with Modifier 80)</i> | <i>Professional Component Fee Revision (Billing with Modifier 26)</i> | <i>Technical Component Fee Revision (Billing with Modifier TC)</i> | <i>Billing with No Modifier or Pricing Modifiers SU, TH, NU or U7</i> |
|------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|-----------------------------------------------------------------------|--------------------------------------------------------------------|-----------------------------------------------------------------------|
| 11981 | Insertion, non-biodegradable drug delivery implant | N/A | N/A | N/A | \$75.73 |
| 11982 | Removal, non-biodegradable drug delivery implant | N/A | N/A | N/A | \$92.33 |
| 15101 | Split-thickness autograft, trunk, arms, legs; each additional 100 sq cm, or each additional 1% of body area of infants and children, or part thereof (List separately in addition to code for primary procedure.) | \$16.20 | N/A | N/A | \$101.25 |
| 15121 | Split-thickness autograft, face, scalp, eyelids, mouth, neck, ears, orbits, genitalia, hands, feet, and/or multiple digits; each additional 100 sq cm, or each additional 1% of body area of infants and children, or part thereof (List separately in addition to code for primary procedure.) | \$25.12 | N/A | N/A | \$157.02 |
| 15201 | Full thickness graft, free, including direct closure of donor site, trunk; each additional 20 sq cm, or part thereof (List separately in addition to code for primary procedure.) | N/A | N/A | N/A | \$69.77 |
| 15221 | Full thickness graft, free, including direct closure of donor site, scalp, arms, and/or legs; each additional 20 sq cm, or part thereof (List separately in addition to code for primary procedure.) | N/A | N/A | N/A | \$64.16 |
| 15241 | Full thickness graft, free, including direct closure of donor site, forehead, cheeks, chin, mouth, neck, axillae, genitalia, hands and/or feet; each additional 20 sq cm, or part thereof (List separately in addition to code for primary procedure.) | N/A | N/A | N/A | \$100.62 |
| 15261 | Full thickness graft, free, including direct closure of donor site, nose, ears, eyelids and/or lips; each additional 20 sq cm, or part thereof (List separately in addition to code for primary procedure.) | N/A | N/A | N/A | \$126.71 |
| 15570 | Formation of direct or tubed pedicle, with or without transfer; trunk | \$97.66 | N/A | N/A | \$610.39 |
| 15574 | Formation of direct or tubed pedicle, with or without transfer; forehead, cheeks, chin, mouth, neck, axillae, genitalia, hands or feet | \$104.62 | N/A | N/A | \$653.86 |
| 15576 | Formation of direct or tubed pedicle, with or without transfer; eyelids, nose, ears, lips or intraoral | N/A | N/A | N/A | \$574.35 |
| 15600 | Delay of flap or sectioning of flap (division and inset); at trunk | N/A | N/A | N/A | \$176.46 |
| 15610 | Delay of flap or sectioning of flap (division and inset); at scalp, arms or legs | N/A | N/A | N/A | \$207.94 |
| 15822 | Blepharoplasty, upper eyelid | N/A | N/A | N/A | \$313.77 |
| 15936 | Excision, sacral pressure ulcer, in preparation for muscle or myocutaneous flap or skin graft closure | \$123.63 | N/A | N/A | \$772.70 |

| <i>Procedure Code/ Modifier SU, TH, NU or U7 where indicated</i> | <i>Procedure Code Description</i> | <i>Assistant Surgeon Fee Revision (Billing with Modifier 80)</i> | <i>Professional Component Fee Revision (Billing with Modifier 26)</i> | <i>Technical Component Fee Revision (Billing with Modifier TC)</i> | <i>Billing with No Modifier or Pricing Modifiers SU, TH, NU or U7</i> |
|------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|-----------------------------------------------------------------------|--------------------------------------------------------------------|-----------------------------------------------------------------------|
| 15937 | Excision, sacral pressure ulcer, in preparation for muscle or myocutaneous flap or skin graft closure; with osteotomy | \$144.58 | N/A | N/A | \$903.61 |
| 16025 | Dressings and/or debridement of partial-thickness burns, initial or subsequent; medium (e.g., whole face or whole extremity, or 5% to 10% total body surface area) | N/A | N/A | N/A | \$100.55 |
| 16035 | Escharotomy; initial incision | N/A | N/A | N/A | \$190.48 |
| 17003 | Destruction (e.g., laser surgery, electrosurgery, cryosurgery, chemosurgery, surgical curettement), premalignant lesions (e.g., actinic keratoses); second through 14 lesions, each (List separately in addition to code for first lesion.) | N/A | N/A | N/A | \$4.38 |
| 17004 | Destruction (e.g., laser surgery, electrosurgery, cryosurgery, chemosurgery, surgical curettement), premalignant lesions (e.g., actinic keratoses), 15 or more lesions | N/A | N/A | N/A | \$116.39 |
| 19001 | Puncture aspiration of cyst of breast; each additional cyst (List separately in addition to code for primary procedure.) | N/A | N/A | N/A | \$20.39 |
| 19100 | Biopsy of breast; percutaneous, needle core, not using imaging guidance (separate procedure) | N/A | N/A | N/A | \$61.25 |
| 19126 | Excision of breast lesion identified by preoperative placement of radiological marker, open; each additional lesion separately identified by a preoperative radiological marker (List separately in addition to code for primary procedure.) | \$22.74 | N/A | N/A | \$142.13 |
| 19296 | Placement of radiotherapy afterloading expandable catheter (single or multichannel) into the breast for interstitial radioelement application following partial mastectomy, includes imaging guidance; on date separate from partial mastectomy | N/A | N/A | N/A | \$182.08 |
| 19298 | Placement of radiotherapy afterloading brachytherapy catheters (multiple tube and button type) into the breast for interstitial radioelement application following (at the time of or subsequent to) partial mastectomy, includes imaging guidance | N/A | N/A | N/A | \$295.14 |
| 20100 | Exploration of penetrating wound (separate procedure); neck | \$84.76 | N/A | N/A | \$529.76 |
| 20103 | Exploration of penetrating wound (separate procedure); extremity | \$50.02 | N/A | N/A | \$312.61 |
| 20615 | Aspiration and injection for treatment of bone cyst | N/A | N/A | N/A | \$141.20 |
| 20910 | Cartilage graft; costochondral | N/A | N/A | N/A | \$376.54 |
| 20912 | Cartilage graft; nasal septum | N/A | N/A | N/A | \$426.78 |

| <i>Procedure Code/ Modifier SU, TH, NU or U7 where indicated</i> | <i>Procedure Code Description</i> | <i>Assistant Surgeon Fee Revision (Billing with Modifier 80)</i> | <i>Professional Component Fee Revision (Billing with Modifier 26)</i> | <i>Technical Component Fee Revision (Billing with Modifier TC)</i> | <i>Billing with No Modifier or Pricing Modifiers SU, TH, NU or U7</i> |
|------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|-----------------------------------------------------------------------|--------------------------------------------------------------------|-----------------------------------------------------------------------|
| 20924 | Tendon graft, from a distance (e.g., palmaris, toe extensor, plantaris) | \$71.53 | N/A | N/A | \$447.09 |
| 20974 | Electrical stimulation to aid bone healing; noninvasive (nonoperative) | N/A | N/A | N/A | \$42.63 |
| 21120 | Genioplasty; augmentation (autograft, allograft, prosthetic material) | \$69.56 | N/A | N/A | N/C |
| 21123 | Genioplasty; sliding, augmentation with interpositional bone grafts (includes obtaining autografts) | \$117.89 | N/A | N/A | N/C |
| 21125 | Augmentation, mandibular body or angle; prosthetic material | \$102.90 | N/A | N/A | \$643.15 |
| 21127 | Augmentation, mandibular body or angle; with bone graft, onlay or interpositional (includes obtaining autograft) | \$121.61 | N/A | N/A | \$760.08 |
| 21138 | Reduction forehead; contouring and application of prosthetic material or bone graft (includes obtaining autograft) | \$126.55 | N/A | N/A | \$790.94 |
| 21139 | Reduction forehead; contouring and setback of anterior frontal sinus wall | \$136.99 | N/A | N/A | \$856.21 |
| 21199 | Osteotomy, mandible, segmental; with genioglossus advancement | \$143.67 | N/A | N/A | \$897.93 |
| 21206 | Osteotomy, maxilla, segmental (e.g., Wassmund or Schuchard) | \$155.61 | N/A | N/A | \$972.56 |
| 21208 | Osteoplasty, facial bones; augmentation (autograft, allograft, or prosthetic implant) | N/A | N/A | N/A | \$719.30 |
| 21209 | Osteoplasty, facial bones; reduction | \$88.85 | N/A | N/A | \$555.29 |
| 21210 | Graft, bone; nasal, maxillary or malar areas (includes obtaining graft) | \$115.96 | N/A | N/A | \$724.73 |
| 21215 | Graft, bone; mandible (includes obtaining graft) | \$121.08 | N/A | N/A | \$756.77 |
| 21242 | Arthroplasty, temporomandibular joint, with allograft | \$144.28 | N/A | N/A | \$901.74 |
| 21275 | Secondary revision of orbitocraniofacial reconstruction | \$112.56 | N/A | N/A | \$703.51 |
| 21295 | Reduction of masseter muscle and bone (e.g., for treatment of benign masseteric hypertrophy); extraoral approach | \$23.92 | N/A | N/A | \$149.51 |
| 21310 | Closed treatment of nasal bone fracture without manipulation | N/A | N/A | N/A | \$25.74 |
| 21320 | Closed treatment of nasal bone fracture; with stabilization | N/A | N/A | N/A | \$120.76 |
| 21386 | Open treatment of orbital floor blowout fracture; periorbital approach | \$92.73 | N/A | N/A | \$579.59 |
| 21387 | Open treatment of orbital floor blowout fracture; combined approach | N/A | N/A | N/A | \$659.93 |
| 21390 | Open treatment of orbital floor blowout fracture; periorbital approach, with alloplastic or other implant | \$105.83 | N/A | N/A | \$661.45 |
| 21401 | Closed treatment of fracture of orbit, except blowout; with manipulation | N/A | N/A | N/A | \$247.00 |
| 21406 | Open treatment of fracture of orbit, except blowout; without implant | N/A | N/A | N/A | \$469.44 |

| <i>Procedure Code/ Modifier SU, TH, NU or U7 where indicated</i> | <i>Procedure Code Description</i> | <i>Assistant Surgeon Fee Revision (Billing with Modifier 80)</i> | <i>Professional Component Fee Revision (Billing with Modifier 26)</i> | <i>Technical Component Fee Revision (Billing with Modifier TC)</i> | <i>Billing with No Modifier or Pricing Modifiers SU, TH, NU or U7</i> |
|--------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| 21407 | Open treatment of fracture of orbit, except blowout; with implant | \$88.80 | N/A | N/A | \$555.01 |
| 21423 | Open treatment of palatal or maxillary fracture (LeFort I type); complicated (comminuted or involving cranial nerve foramina), multiple approaches | \$111.34 | N/A | N/A | \$695.90 |
| 21454 | Open treatment of mandibular fracture with external fixation | N/A | N/A | N/A | \$478.49 |
| 21480 | Closed treatment of temporomandibular dislocation; initial or subsequent | N/A | N/A | N/A | \$28.98 |
| 21557 | Radical resection of tumor (e.g., malignant neoplasm), soft tissue of neck or thorax | \$81.53 | N/A | N/A | \$509.54 |
| 22103 | Partial excision of posterior vertebral component (e.g., spinous process, lamina or facet) for intrinsic bony lesion, single vertebral segment; each additional segment (List separately in addition to code for primary procedure.) | \$20.92 | N/A | N/A | \$130.73 |
| 22116 | Partial excision of vertebral body, for intrinsic bony lesion, without decompression of spinal cord or nerve root(s), single vertebral segment; each additional vertebral segment (List separately in addition to code for primary procedure.) | \$21.03 | N/A | N/A | \$131.42 |
| 22216 | Osteotomy of spine, posterior or posterolateral approach, 1 vertebral segment; each additional vertebral segment (List separately in addition to primary procedure.) | \$54.94 | N/A | N/A | \$343.36 |
| 22226 | Osteotomy of spine, including discectomy, anterior approach, single vertebral segment; each additional vertebral segment (List separately in addition to code for primary procedure.) | \$54.72 | N/A | N/A | \$341.97 |
| 22328 | Open treatment and/or reduction of vertebral fracture(s) and/or dislocation(s), posterior approach, 1 fractured vertebra or dislocated segment; each additional fractured vertebra or dislocated segment (List separately in addition to code for primary procedure.) | \$41.25 | N/A | N/A | \$257.81 |
| 22585 | Arthrodesis, anterior interbody technique, including minimal discectomy to prepare interspace (other than for decompression); each additional interspace (List separately in addition to code for primary procedure.) | \$50.30 | N/A | N/A | \$314.35 |
| 22614 | Arthrodesis, posterior or posterolateral technique, single level; each additional vertebral segment (List separately in addition to code for primary procedure.) | \$58.53 | N/A | N/A | \$365.83 |
| 22632 | Arthrodesis, posterior interbody technique, including laminectomy and/or discectomy to prepare interspace (other than for decompression), single interspace; each additional interspace (List separately in addition to code for primary procedure.) | \$47.64 | N/A | N/A | \$297.75 |

| <i>Procedure Code/ Modifier SU, TH, NU or U7 where indicated</i> | <i>Procedure Code Description</i> | <i>Assistant Surgeon Fee Revision (Billing with Modifier 80)</i> | <i>Professional Component Fee Revision (Billing with Modifier 26)</i> | <i>Technical Component Fee Revision (Billing with Modifier TC)</i> | <i>Billing with No Modifier or Pricing Modifiers SU, TH, NU or U7</i> |
|------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|-----------------------------------------------------------------------|--------------------------------------------------------------------|-----------------------------------------------------------------------|
| 22840 | Posterior nonsegmental instrumentation (e.g., Harrington rod technique, pedicle fixation across 1 interspace, atlantoaxial transarticular screw fixation, sublaminar wiring at C1, facet screw fixation) (List separately in addition to code for primary procedure.) | \$114.58 | N/A | N/A | \$716.11 |
| 22842 | Posterior segmental instrumentation (e.g., pedicle fixation, dual rods with multiple hooks and sublaminar wires); 3 to 6 vertebral segments (List separately in addition to code for primary procedure.) | \$114.59 | N/A | N/A | \$716.17 |
| 22843 | Posterior segmental instrumentation (e.g., pedicle fixation, dual rods with multiple hooks and sublaminar wires); 7 to 12 vertebral segments (List separately in addition to code for primary procedure.) | \$121.25 | N/A | N/A | \$757.82 |
| 22844 | Posterior segmental instrumentation (e.g., pedicle fixation, dual rods with multiple hooks and sublaminar wires); 13 or more vertebral segments (List separately in addition to code for primary procedure.) | \$148.57 | N/A | N/A | \$928.57 |
| 22845 | Anterior instrumentation; 2 to 3 vertebral segments (List separately in addition to code for primary procedure.) | \$109.80 | N/A | N/A | \$686.27 |
| 22847 | Anterior instrumentation; 8 or more vertebral segments (List separately in addition to code for primary procedure.) | \$125.10 | N/A | N/A | \$781.87 |
| 22848 | Pelvic fixation (attachment of caudal end of instrumentation to pelvic bony structures) other than sacrum (List separately in addition to code for primary procedure.) | \$54.06 | N/A | N/A | \$337.88 |
| 23105 | Arthrotomy; glenohumeral joint, with synovectomy, with or without biopsy | N/A | N/A | N/A | \$561.15 |
| 23106 | Arthrotomy; sternoclavicular joint, with synovectomy, with or without biopsy | N/A | N/A | N/A | \$419.99 |
| 23107 | Arthrotomy, glenohumeral joint, with joint exploration, with or without removal of loose or foreign body | \$93.54 | N/A | N/A | \$584.64 |
| 23210 | Radical resection for tumor; scapula | \$129.08 | N/A | N/A | \$806.72 |
| 24100 | Arthrotomy, elbow; with synovial biopsy only | N/A | N/A | N/A | \$347.61 |
| 24152 | Radical resection for tumor, radial head or neck | \$102.14 | N/A | N/A | \$638.36 |
| 24153 | Radical resection for tumor, radial head or neck; with autograft (includes obtaining graft) | N/A | N/A | N/A | \$601.59 |
| 24155 | Resection of elbow joint (arthrectomy) | \$119.32 | N/A | N/A | \$745.75 |
| 24361 | Arthroplasty, elbow; with distal humeral prosthetic replacement | \$142.98 | N/A | N/A | \$893.62 |
| 24365 | Arthroplasty, radial head | \$90.41 | N/A | N/A | \$565.05 |
| 24366 | Arthroplasty, radial head; with implant | \$96.95 | N/A | N/A | \$605.96 |

| <i>Procedure Code/ Modifier SU, TH, NU or U7 where indicated</i> | <i>Procedure Code Description</i> | <i>Assistant Surgeon Fee Revision (Billing with Modifier 80)</i> | <i>Professional Component Fee Revision (Billing with Modifier 26)</i> | <i>Technical Component Fee Revision (Billing with Modifier TC)</i> | <i>Billing with No Modifier or Pricing Modifiers SU, TH, NU or U7</i> |
|------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|-----------------------------------------------------------------------|--------------------------------------------------------------------|-----------------------------------------------------------------------|
| 24931 | Amputation, arm through humerus; with implant | \$112.42 | N/A | N/A | \$702.62 |
| 25335 | Centralization of wrist on ulna (e.g., radial club hand) | N/A | N/A | N/A | \$859.80 |
| 25820 | Arthrodesis, wrist; limited, without bone graft (e.g., intercarpal or radiocarpal) | \$87.03 | N/A | N/A | \$543.93 |
| 26030 | Drainage of palmar bursa; multiple bursa | N/A | N/A | N/A | \$425.89 |
| 26125 | Fasciectomy, partial palmar with release of single digit including proximal interphalangeal joint, with or without Z-plasty, other local tissue rearrangement, or skin grafting (includes obtaining graft); each additional digit (List separately in addition to code for primary procedure.) | \$40.71 | N/A | N/A | \$254.45 |
| 26510 | Cross intrinsic transfer, each tendon | \$86.81 | N/A | N/A | \$542.54 |
| 26531 | Arthroplasty, metacarpophalangeal joint; with prosthetic implant, each joint | \$86.63 | N/A | N/A | \$541.43 |
| 26591 | Repair, intrinsic muscles of hand, each muscle | N/A | N/A | N/A | \$403.69 |
| 26861 | Arthrodesis, interphalangeal joint, with or without internal fixation; each additional interphalangeal joint (List separately in addition to code for primary procedure.) | N/A | N/A | N/A | \$96.46 |
| 26863 | Arthrodesis, interphalangeal joint, with or without internal fixation; with autograft (includes obtaining graft), each additional joint (List separately in addition to code for primary procedure.) | N/A | N/A | N/A | \$215.05 |
| 27054 | Arthrotomy with synovectomy, hip joint | N/A | N/A | N/A | \$598.11 |
| 27071 | Partial excision (craterization, saucerization) (e.g., osteomyelitis or bone abscess); deep (subfascial or intramuscular) | \$128.64 | N/A | N/A | \$804.00 |
| 27096 | Injection procedure for sacroiliac joint, arthrography and/or anesthetic/steroid | N/A | N/A | N/A | \$61.19 |
| 27256 | Treatment of spontaneous hip dislocation (developmental, including congenital or pathological), by abduction, splint or traction; without anesthesia, without manipulation | N/A | N/A | N/A | \$219.80 |
| 27334 | Arthrotomy, with synovectomy, knee; anterior or posterior | N/A | N/A | N/A | \$599.16 |
| 27335 | Arthrotomy, with synovectomy, knee; anterior and posterior including popliteal area | N/A | N/A | N/A | \$677.42 |
| 27358 | Excision or curettage of bone cyst or benign tumor of femur; with internal fixation (List in addition to code for primary procedure.) | \$42.19 | N/A | N/A | \$263.66 |
| 27396 | Transplant or transfer (with muscle redirection or rerouting), thigh (e.g., extensor to flexor); single tendon | \$86.56 | N/A | N/A | \$541.02 |
| 27425 | Lateral retinacular release, open | \$62.00 | N/A | N/A | \$387.49 |

| <i>Procedure Code/ Modifier SU, TH, NU or U7 where indicated</i> | <i>Procedure Code Description</i> | <i>Assistant Surgeon Fee Revision (Billing with Modifier 80)</i> | <i>Professional Component Fee Revision (Billing with Modifier 26)</i> | <i>Technical Component Fee Revision (Billing with Modifier TC)</i> | <i>Billing with No Modifier or Pricing Modifiers SU, TH, NU or U7</i> |
|--------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| 27427 | Ligamentous reconstruction (augmentation), knee; extra-articular | \$101.62 | N/A | N/A | \$635.12 |
| 27438 | Arthroplasty, patella; with prosthesis | \$119.01 | N/A | N/A | \$743.79 |
| 27450 | Osteotomy, femur, shaft or supracondylar; with fixation | \$145.61 | N/A | N/A | \$910.06 |
| 27605 | Tenotomy, percutaneous, Achilles tendon (separate procedure); local anesthesia | N/A | N/A | N/A | \$182.06 |
| 27692 | Transfer or transplant of single tendon (with muscle redirection or rerouting); each additional tendon (List separately in addition to code for primary procedure.) | \$16.45 | N/A | N/A | \$102.82 |
| 27740 | Arrest, epiphyseal (epiphysiodesis), any method, combined, proximal and distal tibia and fibula | \$100.87 | N/A | N/A | \$630.41 |
| 27742 | Arrest, epiphyseal (epiphysiodesis), any method, combined, proximal and distal tibia and fibula; and distal femur | \$94.89 | N/A | N/A | \$593.07 |
| 27756 | Percutaneous skeletal fixation of tibial shaft fracture (with or without fibular fracture) (e.g., pins or screws) | \$80.03 | N/A | N/A | \$500.16 |
| 27871 | Arthrodesis, tibiofibular joint, proximal or distal | \$98.99 | N/A | N/A | \$618.70 |
| 28088 | | N/A | N/A | N/A | \$275.66 |
| 28160 | Hemiphalangectomy or interphalangeal joint excision, toe, proximal end of phalanx, each | N/A | N/A | N/A | \$253.68 |
| 28344 | Reconstruction, toe(s); polydactyly | \$44.34 | N/A | N/A | \$277.13 |
| 28345 | Reconstruction, toe(s); syndactyly, with or without skin graft(s), each web | N/A | N/A | N/A | \$376.55 |
| 28530 | Closed treatment of sesamoid fracture | N/A | N/A | N/A | \$89.57 |
| 28725 | Arthrodesis; subtalar | \$116.86 | N/A | N/A | \$730.37 |
| 29000 | Application of halo type body cast (see 20661—20663 for insertion) | N/A | N/A | N/A | \$148.89 |
| 29055 | Application, cast; shoulder spica | N/A | N/A | N/A | \$117.51 |
| 29131 | Application of finger splint; dynamic | N/A | N/A | N/A | \$27.71 |
| 29325 | Application of hip spica cast; 1 and 1/2 spica or both legs | N/A | N/A | N/A | \$153.60 |
| 29445 | Application of rigid total contact leg cast | N/A | N/A | N/A | \$101.47 |
| 29520 | Strapping; hip | N/A | N/A | N/A | \$33.97 |
| 29819 | Arthroscopy, shoulder, surgical; with removal of loose body or foreign body | \$83.33 | N/A | N/A | \$520.81 |
| 29820 | Arthroscopy, shoulder, surgical; synovectomy, partial | \$76.93 | N/A | N/A | \$480.82 |
| 29821 | Arthroscopy, shoulder, surgical; synovectomy, complete | \$84.05 | N/A | N/A | \$525.29 |
| 29822 | Arthroscopy, shoulder, surgical; debridement, limited | \$81.74 | N/A | N/A | \$510.85 |
| 29825 | Arthroscopy, shoulder, surgical; with lysis and resection of adhesions, with or without manipulation | \$83.27 | N/A | N/A | \$520.46 |

| <i>Procedure Code/ Modifier SU, TH, NU or U7 where indicated</i> | <i>Procedure Code Description</i> | <i>Assistant Surgeon Fee Revision (Billing with Modifier 80)</i> | <i>Professional Component Fee Revision (Billing with Modifier 26)</i> | <i>Technical Component Fee Revision (Billing with Modifier TC)</i> | <i>Billing with No Modifier or Pricing Modifiers SU, TH, NU or U7</i> |
|--------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| 29834 | Arthroscopy, elbow, surgical; with removal of loose body or foreign body | \$69.92 | N/A | N/A | \$436.97 |
| 29835 | Arthroscopy, elbow, surgical; synovectomy, partial | \$71.74 | N/A | N/A | \$448.40 |
| 29836 | Arthroscopy, elbow, surgical; synovectomy, complete | \$82.17 | N/A | N/A | \$513.56 |
| 29837 | Arthroscopy, elbow, surgical; debridement, limited | \$75.11 | N/A | N/A | \$469.41 |
| 29838 | Arthroscopy, elbow, surgical; debridement, extensive | \$84.09 | N/A | N/A | \$525.57 |
| 29843 | Arthroscopy, wrist, surgical; for infection, lavage and drainage | \$66.88 | N/A | N/A | \$417.97 |
| 29844 | Arthroscopy, wrist, surgical; synovectomy, partial | \$70.17 | N/A | N/A | \$438.59 |
| 29846 | Arthroscopy, wrist, surgical; excision and/or repair of triangular fibrocartilage and/or joint debridement | \$73.75 | N/A | N/A | \$460.96 |
| 29850 | Arthroscopically aided treatment of intercondylar spine(s) and/or tuberosity fracture(s) of the knee, with or without manipulation; without internal or external fixation (includes arthroscopy) | \$78.20 | N/A | N/A | \$488.76 |
| 29871 | Arthroscopy, knee, surgical; for infection, lavage and drainage | N/A | N/A | N/A | \$452.43 |
| 29873 | Arthroscopy, knee, surgical; with lateral release | N/A | N/A | N/A | \$453.30 |
| 29874 | Arthroscopy, knee, surgical; for removal of loose body or foreign body (e.g., osteochondritis dissecans fragmentation, chondral fragmentation) | \$75.51 | N/A | N/A | \$471.95 |
| 29875 | Arthroscopy, knee, surgical; synovectomy, limited (e.g., plica or shelf resection) (separate procedure) | \$70.27 | N/A | N/A | \$439.17 |
| 29877 | Arthroscopy, knee, surgical; debridement/shaving of articular cartilage (chondroplasty) | \$86.49 | N/A | N/A | \$540.59 |
| 29884 | Arthroscopy, knee, surgical; with lysis of adhesions, with or without manipulation (separate procedure) | \$86.15 | N/A | N/A | \$538.43 |
| 29894 | Arthroscopy, ankle (tibiotalar and fibulotalar joints), surgical; with removal of loose body or foreign body | \$73.92 | N/A | N/A | \$462.00 |
| 29895 | Arthroscopy, ankle (tibiotalar and fibulotalar joints), surgical; synovectomy, partial | \$71.98 | N/A | N/A | \$449.85 |
| 29897 | Arthroscopy, ankle (tibiotalar and fibulotalar joints), surgical; debridement, limited | \$75.30 | N/A | N/A | \$470.65 |
| 29898 | Arthroscopy, ankle (tibiotalar and fibulotalar joints), surgical; debridement, extensive | \$84.15 | N/A | N/A | \$525.93 |
| 30150 | Rhinectomy; partial | N/A | N/A | N/A | \$698.89 |
| 30160 | Rhinectomy; total | \$111.24 | N/A | N/A | \$695.25 |

| <i>Procedure Code/ Modifier SU, TH, NU or U7 where indicated</i> | <i>Procedure Code Description</i> | <i>Assistant Surgeon Fee Revision (Billing with Modifier 80)</i> | <i>Professional Component Fee Revision (Billing with Modifier 26)</i> | <i>Technical Component Fee Revision (Billing with Modifier TC)</i> | <i>Billing with No Modifier or Pricing Modifiers SU, TH, NU or U7</i> |
|--------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| 30580 | Repair fistula; oromaxillary (combine with 31030 if antrotomy is included) | N/A | N/A | N/A | \$440.83 |
| 31233 | Nasal/sinus endoscopy, diagnostic with maxillary sinusoscopy (via inferior meatus or canine fossa puncture) | \$20.08 | N/A | N/A | \$125.53 |
| 31235 | Nasal/sinus endoscopy, diagnostic with sphenoid sinusoscopy (via puncture of sphenoidal face or cannulation of ostium) | \$23.92 | N/A | N/A | \$149.52 |
| 31239 | Nasal/sinus endoscopy, surgical; with dacryocystorhinostomy | \$93.25 | N/A | N/A | \$582.79 |
| 31240 | Nasal/sinus endoscopy, surgical; with concha bullosa resection | \$23.74 | N/A | N/A | \$148.39 |
| 31255 | Nasal/sinus endoscopy, surgical; with ethmoidectomy, total (anterior and posterior) | \$60.40 | N/A | N/A | \$377.53 |
| 31256 | Nasal/sinus endoscopy, surgical, with maxillary antrostomy | \$29.58 | N/A | N/A | \$184.90 |
| 31276 | Nasal/sinus endoscopy, surgical with frontal sinus exploration, with or without removal of tissue from frontal sinus | \$76.12 | N/A | N/A | \$475.74 |
| 31287 | Nasal/sinus endoscopy, surgical, with sphenoidotomy | \$34.72 | N/A | N/A | \$217.01 |
| 31288 | Nasal/sinus endoscopy, surgical, with sphenoidotomy; with removal of tissue from the sphenoid sinus | \$40.27 | N/A | N/A | \$251.70 |
| 31292 | Nasal/sinus endoscopy, surgical; with medial or inferior orbital wall decompression | \$143.64 | N/A | N/A | \$897.78 |
| 31293 | Nasal/sinus endoscopy, surgical; with medial orbital wall and inferior orbital wall decompression | \$156.41 | N/A | N/A | \$977.59 |
| 31512 | Laryngoscopy, indirect; with removal of lesion | N/A | N/A | N/A | \$117.87 |
| 31513 | Laryngoscopy, indirect; with vocal cord injection | N/A | N/A | N/A | \$120.74 |
| 31520 | Laryngoscopy direct, with or without tracheoscopy; diagnostic, newborn | N/A | N/A | N/A | \$140.88 |
| 31528 | Laryngoscopy direct, with or without tracheoscopy; with dilation, initial | N/A | N/A | N/A | \$130.60 |
| 31529 | Laryngoscopy direct, with or without tracheoscopy; with dilation, subsequent | N/A | N/A | N/A | \$149.27 |
| 31535 | Laryngoscopy, direct, operative, with biopsy | N/A | N/A | N/A | \$175.05 |
| 31535-SU | Laryngoscopy, direct, operative, with biopsy | N/A | N/A | N/A | \$175.05 |
| 31536 | Laryngoscopy, direct, operative, with biopsy; with operating microscope or telescope | N/A | N/A | N/A | \$196.06 |
| 31540 | Laryngoscopy, direct, operative, with excision of tumor and/or stripping of vocal cords or epiglottis | N/A | N/A | N/A | \$224.89 |

| <i>Procedure Code/ Modifier SU, TH, NU or U7 where indicated</i> | <i>Procedure Code Description</i> | <i>Assistant Surgeon Fee Revision (Billing with Modifier 80)</i> | <i>Professional Component Fee Revision (Billing with Modifier 26)</i> | <i>Technical Component Fee Revision (Billing with Modifier TC)</i> | <i>Billing with No Modifier or Pricing Modifiers SU, TH, NU or U7</i> |
|--------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| 31541 | Laryngoscopy, direct, operative, with excision of tumor and/or stripping of vocal cords or epiglottis; with operating microscope or telescope | N/A | N/A | N/A | \$246.26 |
| 31560 | Laryngoscopy, direct, operative, with arytenoidectomy | N/A | N/A | N/A | \$290.43 |
| 31561 | Laryngoscopy, direct, operative, with arytenoidectomy; with operating microscope or telescope | N/A | N/A | N/A | \$317.44 |
| 31576 | Laryngoscopy, flexible fiberoptic; with biopsy | N/A | N/A | N/A | \$111.62 |
| 31577 | Laryngoscopy, flexible fiberoptic; with removal of foreign body | N/A | N/A | N/A | \$137.53 |
| 31601 | Tracheostomy, planned (separate procedure); younger than 2 years | \$37.64 | N/A | N/A | \$235.27 |
| 31603 | Tracheostomy, emergency procedure; transtracheal | N/A | N/A | N/A | \$205.21 |
| 31605 | Tracheostomy, emergency procedure; cricothyroid membrane | N/A | N/A | N/A | \$168.69 |
| 31615 | Tracheobronchoscopy through established tracheostomy incision | N/A | N/A | N/A | \$114.79 |
| 31620 | Endobronchial ultrasound (EBUS) during bronchoscopic diagnostic or therapeutic intervention(s) (List separately in addition to code for primary procedure[s].) | N/A | N/A | N/A | \$66.09 |
| 31622 | Bronchoscopy, rigid or flexible, with or without fluoroscopic guidance; diagnostic, with or without cell washing (separate procedure) | N/A | N/A | N/A | \$133.86 |
| 31623 | Bronchoscopy, rigid or flexible, with or without fluoroscopic guidance; with brushing or protected brushings | N/A | N/A | N/A | \$135.15 |
| 31624 | Bronchoscopy, rigid or flexible, with or without fluoroscopic guidance; with bronchial alveolar lavage | N/A | N/A | N/A | \$135.15 |
| 31625 | Bronchoscopy, rigid or flexible, with or without fluoroscopic guidance; with bronchial or endobronchial biopsy(s), single or multiple sites | N/A | N/A | N/A | \$157.81 |
| 31628 | Bronchoscopy, rigid or flexible, with or without fluoroscopic guidance; with transbronchial lung biopsy(s), single lobe | N/A | N/A | N/A | \$175.80 |
| 31629 | Bronchoscopy, rigid or flexible, with or without fluoroscopic guidance; with transbronchial needle aspiration biopsy(s), trachea, main stem and/or lobar bronchus(i) | N/A | N/A | N/A | \$187.39 |
| 31630 | Bronchoscopy, rigid or flexible, with or without fluoroscopic guidance; with tracheal/bronchial dilation or closed reduction of fracture | N/A | N/A | N/A | \$191.27 |

| <i>Procedure Code/ Modifier SU, TH, NU or U7 where indicated</i> | <i>Procedure Code Description</i> | <i>Assistant Surgeon Fee Revision (Billing with Modifier 80)</i> | <i>Professional Component Fee Revision (Billing with Modifier 26)</i> | <i>Technical Component Fee Revision (Billing with Modifier TC)</i> | <i>Billing with No Modifier or Pricing Modifiers SU, TH, NU or U7</i> |
|--------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| 31631 | Bronchoscopy, rigid or flexible, with or without fluoroscopic guidance; with placement of tracheal stent(s) (includes tracheal/bronchial dilation as required) | N/A | N/A | N/A | \$213.75 |
| 31632 | Bronchoscopy, rigid or flexible, with or without fluoroscopic guidance; with transbronchial lung biopsy(s), each additional lobe (List separately in addition to code for primary procedure.) | N/A | N/A | N/A | \$50.49 |
| 31633 | Bronchoscopy, rigid or flexible, with or without fluoroscopic guidance; with transbronchial needle aspiration biopsy(s), each additional lobe (List separately in addition to code for primary procedure.) | N/A | N/A | N/A | \$62.08 |
| 31635 | Bronchoscopy, rigid or flexible, with or without fluoroscopic guidance; with removal of foreign body | N/A | N/A | N/A | \$176.15 |
| 31643 | Bronchoscopy (rigid or flexible); with placement of catheter(s) for intracavitary radioelement application | N/A | N/A | N/A | \$163.41 |
| 31645 | Bronchoscopy (rigid or flexible); with therapeutic aspiration of tracheobronchial tree, initial (e.g., drainage of lung abscess) | N/A | N/A | N/A | \$147.80 |
| 31646 | Bronchoscopy (rigid or flexible); with therapeutic aspiration of tracheobronchial tree, subsequent | N/A | N/A | N/A | \$128.44 |
| 31656 | Bronchoscopy (rigid or flexible); with injection of contrast material for segmental bronchography (fiberscope only) | N/A | N/A | N/A | \$104.56 |
| 31730 | Transtracheal (percutaneous) introduction of needle wire dilator/stent or indwelling tube for oxygen therapy | N/A | N/A | N/A | \$133.39 |
| 31825 | Surgical closure tracheostomy or fistula; with plastic repair | N/A | N/A | N/A | \$424.79 |
| 32501 | Resection and repair of portion of bronchus (bronchoplasty) when performed at time of lobectomy or segmentectomy (List separately in addition to code for primary procedure.) | \$36.84 | N/A | N/A | \$230.27 |
| 32656 | Thoracoscopy, surgical; with parietal pleurectomy | \$120.32 | N/A | N/A | \$752.01 |
| 32657 | Thoracoscopy, surgical; with wedge resection of lung, single or multiple | \$118.46 | N/A | N/A | \$740.36 |
| 32658 | Thoracoscopy, surgical; with removal of clot or foreign body from pericardial sac | \$108.05 | N/A | N/A | \$675.34 |
| 32659 | Thoracoscopy, surgical; with creation of pericardial window or partial resection of pericardial sac for drainage | \$109.81 | N/A | N/A | \$686.30 |
| 32660 | Thoracoscopy, surgical; with total pericardiectomy | \$154.46 | N/A | N/A | \$965.35 |
| 32661 | Thoracoscopy, surgical; with excision of pericardial cyst, tumor or mass | \$120.81 | N/A | N/A | \$755.08 |
| 32662 | Thoracoscopy, surgical; with excision of mediastinal cyst, tumor or mass | \$135.59 | N/A | N/A | \$847.41 |

| <i>Procedure Code/ Modifier SU, TH, NU or U7 where indicated</i> | <i>Procedure Code Description</i> | <i>Assistant Surgeon Fee Revision (Billing with Modifier 80)</i> | <i>Professional Component Fee Revision (Billing with Modifier 26)</i> | <i>Technical Component Fee Revision (Billing with Modifier TC)</i> | <i>Billing with No Modifier or Pricing Modifiers SU, TH, NU or U7</i> |
|--------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| 32664 | Thoracoscopy, surgical; with thoracic sympathectomy | \$126.49 | N/A | N/A | \$790.54 |
| 33141 | Transmyocardial laser revascularization, by thoracotomy; performed at the time of other open cardiac procedure(s) (List separately in addition to code for primary procedure.) | \$24.17 | N/A | N/A | \$151.04 |
| 33207 | Insertion or replacement of permanent pacemaker with transvenous electrode(s); ventricular | N/A | N/A | N/A | \$461.18 |
| 33508 | Endoscopy, surgical, including video-assisted harvest of vein(s) for coronary artery bypass procedure (List separately in addition to code for primary procedure.) | \$2.43 | N/A | N/A | \$15.19 |
| 33924 | Ligation and takedown of a systemic-to-pulmonary artery shunt, performed in conjunction with a congenital heart procedure (List separately in addition to code for primary procedure.) | \$43.70 | N/A | N/A | \$273.13 |
| 33961 | Prolonged extracorporeal circulation for cardiopulmonary insufficiency; each additional 24 hours (List separately in addition to code for primary procedure.) | \$81.97 | N/A | N/A | \$512.33 |
| 33968 | Removal of intra-aortic balloon assist device, percutaneous | N/A | N/A | N/A | \$32.18 |
| 34101 | Embolectomy or thrombectomy, with or without catheter; axillary, brachial, innominate, subclavian artery, by arm incision | \$93.16 | N/A | N/A | \$582.24 |
| 34111 | Embolectomy or thrombectomy, with or without catheter; radial or ulnar artery, by arm incision | \$93.05 | N/A | N/A | \$581.54 |
| 35180 | Repair, congenital arteriovenous fistula; head and neck | \$123.04 | N/A | N/A | \$768.99 |
| 35188 | Repair, acquired or traumatic arteriovenous fistula; head and neck | \$131.86 | N/A | N/A | \$824.11 |
| 35190 | Repair, acquired or traumatic arteriovenous fistula; extremities | \$114.47 | N/A | N/A | \$715.44 |
| 35207 | Repair blood vessel, direct; hand, finger | \$105.65 | N/A | N/A | \$660.29 |
| 35390 | Reoperation, carotid, thromboendarterectomy, more than 1 month after original operation (List separately in addition to code for primary procedure.) | \$24.99 | N/A | N/A | \$156.18 |
| 35450 | Transluminal balloon angioplasty, open; renal or other visceral artery | \$79.29 | N/A | N/A | \$495.56 |
| 35454 | Transluminal balloon angioplasty, open; iliac | \$48.69 | N/A | N/A | \$304.34 |
| 35456 | Transluminal balloon angioplasty, open; femoral-popliteal | N/A | N/A | N/A | \$368.14 |
| 35458 | Transluminal balloon angioplasty, open; brachiocephalic trunk or branches, each vessel | \$75.58 | N/A | N/A | \$472.35 |

| <i>Procedure Code/ Modifier SU, TH, NU or U7 where indicated</i> | <i>Procedure Code Description</i> | <i>Assistant Surgeon Fee Revision (Billing with Modifier 80)</i> | <i>Professional Component Fee Revision (Billing with Modifier 26)</i> | <i>Technical Component Fee Revision (Billing with Modifier TC)</i> | <i>Billing with No Modifier or Pricing Modifiers SU, TH, NU or U7</i> |
|--------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| 35475 | Transluminal balloon angioplasty, percutaneous; brachiocephalic trunk or branches, each vessel | \$73.76 | N/A | N/A | \$460.97 |
| 35482 | Transluminal peripheral atherectomy, open; iliac | \$53.49 | N/A | N/A | \$334.32 |
| 35483 | Transluminal peripheral atherectomy, open; femoral-popliteal | \$65.50 | N/A | N/A | \$409.39 |
| 35484 | Transluminal peripheral atherectomy, open; brachiocephalic trunk or branches, each vessel | \$81.80 | N/A | N/A | \$511.28 |
| 35485 | Transluminal peripheral atherectomy, open; tibioperoneal trunk and branches | \$76.42 | N/A | N/A | \$477.65 |
| 35612 | Bypass graft, with other than vein; subclavian-subclavian | \$141.13 | N/A | N/A | \$882.09 |
| 35642 | Bypass graft, with other than vein; carotid-vertebral | \$155.69 | N/A | N/A | \$973.04 |
| 35681 | Bypass graft; composite, prosthetic and vein (List separately in addition to code for primary procedure.) | \$12.52 | N/A | N/A | \$78.28 |
| 35682 | Bypass graft; autogenous composite, 2 segments of veins from 2 locations (List separately in addition to code for primary procedure.) | \$55.82 | N/A | N/A | \$348.90 |
| 35683 | Bypass graft; autogenous composite, 3 or more segments of vein from 2 or more locations (List separately in addition to code for primary procedure.) | \$65.75 | N/A | N/A | \$410.96 |
| 35685 | Placement of vein patch or cuff at distal anastomosis of bypass graft, synthetic conduit (List separately in addition to code for primary procedure.) | \$31.41 | N/A | N/A | \$196.34 |
| 35686 | Creation of distal arteriovenous fistula during lower extremity bypass surgery (non-hemodialysis) (List separately in addition to code for primary procedure.) | \$26.12 | N/A | N/A | \$163.23 |
| 35691 | Transposition and/or reimplantation; vertebral to carotid artery | \$153.09 | N/A | N/A | \$956.82 |
| 35700 | Reoperation, femoral-popliteal or femoral (popliteal)-anterior tibial, posterior tibial, peroneal artery, or other distal vessels, more than 1 month after original operation (List separately in addition to code for primary procedure.) | \$23.99 | N/A | N/A | \$149.92 |
| 35875 | Thrombectomy of arterial or venous graft (other than hemodialysis graft or fistula) | \$91.56 | N/A | N/A | \$572.25 |
| 35901 | Excision of infected graft; neck | \$77.44 | N/A | N/A | \$484.03 |
| 36120 | Introduction of needle or intracatheter; retrograde brachial artery | N/A | N/A | N/A | \$94.00 |
| 36420 | Venipuncture, cutdown; younger than age 1 year | N/A | N/A | N/A | \$44.75 |
| 36455 | Exchange transfusion, blood; other than newborn | N/A | N/A | N/A | \$116.11 |
| 36460 | Transfusion, intrauterine, fetal | N/A | N/A | N/A | \$319.41 |

| <i>Procedure Code/ Modifier SU, TH, NU or U7 where indicated</i> | <i>Procedure Code Description</i> | <i>Assistant Surgeon Fee Revision (Billing with Modifier 80)</i> | <i>Professional Component Fee Revision (Billing with Modifier 26)</i> | <i>Technical Component Fee Revision (Billing with Modifier TC)</i> | <i>Billing with No Modifier or Pricing Modifiers SU, TH, NU or U7</i> |
|--------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| 36471 | Injection of sclerosing solution; multiple veins, same leg | N/A | N/A | N/A | \$91.12 |
| 36516 | Therapeutic apheresis; with extracorporeal selective adsorption or selective filtration and plasma reinfusion | N/A | N/A | N/A | \$58.58 |
| 36555 | Insertion of non-tunneled centrally inserted central venous catheter; younger than 5 years of age | N/A | N/A | N/A | \$117.84 |
| 36556 | Insertion of non-tunneled centrally inserted central venous catheter; age 5 years or older | N/A | N/A | N/A | \$113.21 |
| 36557 | Insertion of tunneled centrally inserted central venous catheter, without subcutaneous port or pump; younger than 5 years of age | N/A | N/A | N/A | \$277.74 |
| 36561 | Insertion of tunneled centrally inserted central venous access device, with subcutaneous port; age 5 years or older | \$51.09 | N/A | N/A | \$319.32 |
| 36563 | Insertion of tunneled centrally inserted central venous access device with subcutaneous pump | N/A | N/A | N/A | \$335.47 |
| 36565 | Insertion of tunneled centrally inserted central venous access device, requiring 2 catheters via 2 separate venous access sites; without subcutaneous port or pump (e.g., Tesio type catheter) | N/A | N/A | N/A | \$316.18 |
| 36566 | Insertion of tunneled centrally inserted central venous access device, requiring 2 catheters via 2 separate venous access sites; with subcutaneous port(s) | N/A | N/A | N/A | \$338.16 |
| 36570 | Insertion of peripherally inserted central venous access device, with subcutaneous port; younger than 5 years of age | N/A | N/A | N/A | \$282.89 |
| 36576 | Repair of central venous access device, with subcutaneous port or pump, central or peripheral insertion site | N/A | N/A | N/A | \$174.10 |
| 36578 | Replacement, catheter only, of central venous access device, with subcutaneous port or pump, central or peripheral insertion site | N/A | N/A | N/A | \$199.32 |
| 36582 | Replacement, complete, of a tunneled centrally inserted central venous access device, with subcutaneous port, through same venous access | N/A | N/A | N/A | \$274.21 |
| 36583 | Replacement, complete, of a tunneled centrally inserted central venous access device, with subcutaneous pump, through same venous access | N/A | N/A | N/A | \$276.43 |
| 36585 | Replacement, complete, of a peripherally inserted central venous access device, with subcutaneous port, through same venous access | N/A | N/A | N/A | \$258.09 |
| 36589 | Removal of tunneled central venous catheter, without subcutaneous port or pump | N/A | N/A | N/A | \$130.35 |

| <i>Procedure Code/ Modifier SU, TH, NU or U7 where indicated</i> | <i>Procedure Code Description</i> | <i>Assistant Surgeon Fee Revision (Billing with Modifier 80)</i> | <i>Professional Component Fee Revision (Billing with Modifier 26)</i> | <i>Technical Component Fee Revision (Billing with Modifier TC)</i> | <i>Billing with No Modifier or Pricing Modifiers SU, TH, NU or U7</i> |
|--------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| 36598 | Contrast injection(s) for radiologic evaluation of existing central venous access device, including fluoroscopy, image documentation and report | N/A | N/A | N/A | \$77.37 |
| 36620 | Arterial catheterization or cannulation for sampling, monitoring or transfusion (separate procedure); percutaneous | N/A | N/A | N/A | \$47.58 |
| 36800 | Insertion of cannula for hemodialysis, other purpose (separate procedure); vein to vein | N/A | N/A | N/A | \$148.57 |
| 36810 | Insertion of cannula for hemodialysis, other purpose (separate procedure); arteriovenous, external (Scribner type) | N/A | N/A | N/A | \$201.22 |
| 36815 | Insertion of cannula for hemodialysis, other purpose (separate procedure); arteriovenous, external revision, or closure | N/A | N/A | N/A | \$138.78 |
| 36821 | Arteriovenous anastomosis, open; direct, any site (e.g., Cimino type) (separate procedure) | N/A | N/A | N/A | \$500.61 |
| 36825 | Creation of arteriovenous fistula by other than direct arteriovenous anastomosis (separate procedure); autogenous graft | N/A | N/A | N/A | \$545.30 |
| 36830 | Creation of arteriovenous fistula by other than direct arteriovenous anastomosis (separate procedure); nonautogenous graft (e.g., biological collagen, thermoplastic graft) | \$99.97 | N/A | N/A | \$624.80 |
| 36832 | Revision, open, arteriovenous fistula; without thrombectomy, autogenous or nonautogenous dialysis graft (separate procedure) | \$88.16 | N/A | N/A | \$551.00 |
| 36834 | Plastic repair of arteriovenous aneurysm (separate procedure) | \$92.49 | N/A | N/A | \$578.09 |
| 36835 | Insertion of Thomas shunt (separate procedure) | \$67.90 | N/A | N/A | \$424.39 |
| 36860 | External cannula declotting (separate procedure); without balloon catheter | N/A | N/A | N/A | \$93.97 |
| 36861 | External cannula declotting (separate procedure); with balloon catheter | N/A | N/A | N/A | \$141.19 |
| 36870 | Thrombectomy, percutaneous, arteriovenous fistula, autogenous or nonautogenous graft (includes mechanical thrombus extraction and intra-graft thrombolysis) | \$45.87 | N/A | N/A | \$286.70 |
| 37207 | Transcatheter placement of an intravascular stent(s) (non-coronary vessel), open; initial vessel | N/A | N/A | N/A | \$415.50 |
| 37208 | Transcatheter placement of an intravascular stent(s) (non-coronary vessel), open; each additional vessel (List separately in addition to code for primary procedure.) | N/A | N/A | N/A | \$200.76 |
| 37700 | Ligation and division of long saphenous vein at saphenofemoral junction, or distal interruptions | \$37.63 | N/A | N/A | \$235.16 |

| <i>Procedure Code/ Modifier SU, TH, NU or U7 where indicated</i> | <i>Procedure Code Description</i> | <i>Assistant Surgeon Fee Revision (Billing with Modifier 80)</i> | <i>Professional Component Fee Revision (Billing with Modifier 26)</i> | <i>Technical Component Fee Revision (Billing with Modifier TC)</i> | <i>Billing with No Modifier or Pricing Modifiers SU, TH, NU or U7</i> |
|------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|-----------------------------------------------------------------------|--------------------------------------------------------------------|-----------------------------------------------------------------------|
| 38102 | Splenectomy; total, en bloc for extensive disease, in conjunction with other procedure (List in addition to code for primary procedure.) | \$37.28 | N/A | N/A | \$233.01 |
| 38205 | Blood-derived hematopoietic progenitor cell harvesting for transplantation, per collection; allogenic | N/A | N/A | N/A | \$73.66 |
| 38206 | Blood-derived hematopoietic progenitor cell harvesting for transplantation, per collection; autologous | N/A | N/A | N/A | \$74.01 |
| 38220 | Bone marrow; aspiration only | N/A | N/A | N/A | \$54.68 |
| 38221 | Bone marrow; biopsy, needle or trocar | N/A | N/A | N/A | \$69.82 |
| 38240 | Bone marrow or blood-derived peripheral stem cell transplantation; allogenic | N/A | N/A | N/A | \$113.08 |
| 38241 | Bone marrow or blood-derived peripheral stem cell transplantation; autologous | \$18.15 | N/A | N/A | \$113.42 |
| 38381 | Suture and/or ligation of thoracic duct; thoracic approach | N/C | N/A | N/A | \$738.43 |
| 38747 | Abdominal lymphadenectomy, regional, including celiac, gastric, portal, peripancreatic, with or without para-aortic and vena caval nodes (List separately in addition to code for primary procedure.) | \$38.05 | N/A | N/A | \$237.81 |
| 39501 | Repair, laceration of diaphragm, any approach | \$118.90 | N/A | N/A | \$743.14 |
| 39545 | Imbrication of diaphragm for eventration, transthoracic or transabdominal, paralytic or nonparalytic | \$129.09 | N/A | N/A | \$806.81 |
| 40510 | Excision of lip; transverse wedge excision with primary closure | N/A | N/A | N/A | \$309.31 |
| 40525 | Excision of lip; full thickness, reconstruction with local flap (e.g., Estlander or fan) | N/A | N/A | N/A | \$488.15 |
| 40527 | Excision of lip; full thickness, reconstruction with cross lip flap (Abbe-Estlander) | N/A | N/A | N/A | \$578.14 |
| 41114 | Excision of lesion of tongue with closure; with local tongue flap | N/A | N/A | N/A | \$556.76 |
| 41510 | Suture of tongue to lip for micrognathia (Douglas type procedure) | N/A | N/A | N/A | \$373.92 |
| 41825 | Excision of lesion or tumor (except listed above), dentoalveolar structures; without repair | N/A | N/A | N/A | \$115.43 |
| 42106 | Excision, lesion of palate, uvula; with simple primary closure | N/A | N/A | N/A | \$158.83 |
| 42280 | Maxillary impression for palatal prosthesis | N/A | N/A | N/A | \$93.43 |
| 42440 | Excision of submandibular (submaxillary) gland | \$65.33 | N/A | N/A | \$408.33 |
| 42509 | Parotid duct diversion, bilateral (Wilke type procedure); with excision of both submandibular glands | N/A | N/A | N/A | \$756.80 |

| <i>Procedure Code/ Modifier SU, TH, NU or U7 where indicated</i> | <i>Procedure Code Description</i> | <i>Assistant Surgeon Fee Revision (Billing with Modifier 80)</i> | <i>Professional Component Fee Revision (Billing with Modifier 26)</i> | <i>Technical Component Fee Revision (Billing with Modifier TC)</i> | <i>Billing with No Modifier or Pricing Modifiers SU, TH, NU or U7</i> |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| 42510 | Parotid duct diversion, bilateral (Wilke type procedure); with ligation of both submandibular (Wharton's) ducts | \$89.01 | N/A | N/A | \$556.34 |
| 42900 | Suture pharynx for wound or injury | N/A | N/A | N/A | \$309.43 |
| 43020 | Esophagotomy, cervical approach, with removal of foreign body | \$76.52 | N/A | N/A | \$478.22 |
| 43100 | Excision of lesion, esophagus, with primary repair; cervical approach | \$88.43 | N/A | N/A | \$552.66 |
| 43200 | Esophagoscopy, rigid or flexible; diagnostic, with or without collection of specimen(s) by brushing or washing (separate procedure) | N/A | N/A | N/A | \$93.47 |
| 43300 | Esophagoplasty (plastic repair or reconstruction), cervical approach; without repair of tracheoesophageal fistula | \$88.69 | N/A | N/A | \$554.29 |
| 43635 | Vagotomy when performed with partial distal gastrectomy (List separately in addition to code[s] for primary procedure.) | \$15.97 | N/A | N/A | \$99.82 |
| 44015 | Tube or needle catheter jejunostomy for enteral alimentation, intraoperative, any method (List separately in addition to primary procedure.) | N/A | N/A | N/A | \$127.64 |
| 44121 | Enterectomy, resection of small intestine; each additional resection and anastomosis (List separately in addition to code for primary procedure.) | \$34.49 | N/A | N/A | \$215.59 |
| 44139 | Mobilization (take-down) of splenic flexure performed in conjunction with partial colectomy (List separately in addition to primary procedure.) | \$17.22 | N/A | N/A | \$107.63 |
| 44701 | Intraoperative colonic lavage (List separately in addition to code for primary procedure.) | \$23.82 | N/A | N/A | \$148.87 |
| 44955 | Appendectomy; when done for indicated purpose at time of other major procedure (not as separate procedure) (List separately in addition to code for primary procedure.) | N/A | N/A | N/A | \$74.92 |
| 45309 | Proctosigmoidoscopy, rigid; with removal of single tumor, polyp, or other lesion by snare technique | N/A | N/A | N/A | \$84.24 |
| 46608 | Anoscopy; with removal of foreign body | N/A | N/A | N/A | \$70.37 |
| 46610 | Anoscopy; with removal of single tumor, polyp, or other lesion by hot biopsy forceps or bipolar cautery | N/A | N/A | N/A | \$69.28 |
| 46611 | Anoscopy; with removal of single tumor, polyp, or other lesion by snare technique | N/A | N/A | N/A | \$73.53 |
| 46614 | Anoscopy; with control of bleeding (e.g., injection, bipolar cautery, unipolar cautery, laser, heater probe, stapler, plasma coagulator) | N/A | N/A | N/A | \$64.33 |
| 46615 | Anoscopy; with ablation of tumor(s), polyp(s), or other lesion(s) not amenable to removal by hot biopsy forceps, bipolar cautery or snare technique | N/A | N/A | N/A | \$91.65 |

| <i>Procedure Code/ Modifier SU, TH, NU or U7 where indicated</i> | <i>Procedure Code Description</i> | <i>Assistant Surgeon Fee Revision (Billing with Modifier 80)</i> | <i>Professional Component Fee Revision (Billing with Modifier 26)</i> | <i>Technical Component Fee Revision (Billing with Modifier TC)</i> | <i>Billing with No Modifier or Pricing Modifiers SU, TH, NU or U7</i> |
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| 47001 | Biopsy of liver, needle; when done for indicated purpose at time of other major procedure (List separately in addition to code for primary procedure.) | N/A | N/A | N/A | \$92.38 |
| 47550 | Biliary endoscopy, intraoperative (choledochoscopy) (List separately in addition to code for primary procedure.) | N/A | N/A | N/A | \$146.93 |
| 47560 | Laparoscopy, surgical; with guided transhepatic cholangiography, without biopsy | \$38.00 | N/A | N/A | \$237.47 |
| 47561 | Laparoscopy, surgical; with guided transhepatic cholangiography with biopsy | \$41.25 | N/A | N/A | \$257.79 |
| 48400 | Injection procedure for intraoperative pancreatography (List separately in addition to code for primary procedure.) | N/A | N/A | N/A | \$93.50 |
| 49322 | Laparoscopy, surgical; with aspiration of cavity or cyst (e.g., ovarian cyst) (single or multiple) | \$51.70 | N/A | N/A | \$323.14 |
| 49568 | Implantation of mesh or other prosthesis for open incisional or ventral hernia repair or mesh for closure of debridement for necrotizing soft tissue infection (List separately in addition to code for the incisional or ventral hernia repair.) | \$37.94 | N/A | N/A | \$237.12 |
| 49905 | Omental flap, intra-abdominal (List separately in addition to code for primary procedure.) | \$50.47 | N/A | N/A | \$315.45 |
| 52327 | Cystourethroscopy (including ureteral catheterization); with subureteric injection of implant material | N/A | N/A | N/A | \$254.08 |
| 56605 | Biopsy of vulva or perineum (separate procedure); one lesion | N/A | N/A | N/A | \$55.51 |
| 56606 | Biopsy of vulva or perineum (separate procedure); each separate additional lesion (List separately in addition to code for primary procedure.) | N/A | N/A | N/A | \$27.40 |
| 56820 | Colposcopy of the vulva | N/A | N/A | N/A | \$77.24 |
| 56821 | Colposcopy of the vulva; with biopsy(s) | N/A | N/A | N/A | \$105.72 |
| 57065 | Destruction of vaginal lesion(s); extensive (e.g., laser surgery, electrosurgery, cryosurgery, chemosurgery) | N/A | N/A | N/A | \$154.44 |
| 57100 | Biopsy of vaginal mucosa; simple (separate procedure) | N/A | N/A | N/A | \$59.99 |
| 57150 | Irrigation of vagina and/or application of medicament for treatment of bacterial, parasitic, or fungoid disease | N/A | N/A | N/A | \$27.05 |
| 57420 | Colposcopy of the entire vagina, with cervix if present | N/A | N/A | N/A | \$81.73 |
| 57421 | Colposcopy of the entire vagina, with cervix if present; with biopsy(s) of vagina/cervix | N/A | N/A | N/A | \$112.78 |
| 57455 | Colposcopy of the cervix including upper/adjacent vagina; with biopsy(s) of the cervix | N/A | N/A | N/A | \$101.68 |

| <i>Procedure Code/ Modifier SU, TH, NU or U7 where indicated</i> | <i>Procedure Code Description</i> | <i>Assistant Surgeon Fee Revision (Billing with Modifier 80)</i> | <i>Professional Component Fee Revision (Billing with Modifier 26)</i> | <i>Technical Component Fee Revision (Billing with Modifier TC)</i> | <i>Billing with No Modifier or Pricing Modifiers SU, TH, NU or U7</i> |
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| 57456 | Colposcopy of the cervix including upper/adjacent vagina; with endocervical curettage | N/A | N/A | N/A | \$95.01 |
| 57460 | Colposcopy of the cervix including upper/adjacent vagina; with loop electrode biopsy(s) of the cervix | N/A | N/A | N/A | \$149.80 |
| 57461 | Colposcopy of the cervix including upper/adjacent vagina; with loop electrode conization of the cervix | N/A | N/A | N/A | \$173.53 |
| 57522 | Conization of cervix, with or without fulguration, with or without dilation and curettage, with or without repair; loop electrode excision | N/A | N/A | N/A | \$217.95 |
| 58356 | Endometrial cryoablation with ultrasonic guidance, including endometrial curettage, when performed | N/A | N/A | N/A | \$321.60 |
| 58555 | Hysteroscopy, diagnostic (separate procedure) | N/A | N/A | N/A | \$174.27 |
| 58605 | Ligation or transection of fallopian tube(s), abdominal or vaginal approach, postpartum, unilateral or bilateral, during same hospitalization (separate procedure) | \$47.73 | N/A | N/A | \$298.34 |
| 58605-U7 | Ligation or transection of fallopian tube(s), abdominal or vaginal approach, postpartum, unilateral or bilateral, during same hospitalization (separate procedure) | N/A | N/A | N/A | \$298.34 |
| 58611-TH | Ligation or transection of fallopian tube(s) when done at the time of cesarean delivery or intra-abdominal surgery (not a separate procedure) (List separately in addition to code for primary procedure.) | N/A | N/A | N/A | \$71.89 |
| 58611 | Ligation or transection of fallopian tube(s) when done at the time of cesarean delivery or intra-abdominal surgery (not a separate procedure) (List separately in addition to code for primary procedure.) | \$11.50 | N/A | N/A | \$71.89 |
| 58615 | Occlusion of fallopian tube(s) by device (e.g., band, clip, Falope ring) vaginal or suprapubic approach | N/A | N/A | N/A | \$230.31 |
| 58960 | Laparotomy, for staging or restaging of ovarian, tubal or primary peritoneal malignancy (second look), with or without omentectomy, peritoneal washing, biopsy of abdominal and pelvic peritoneum, diaphragmatic assessment with pelvic and limited para-aortic lymphadenectomy | \$132.32 | N/A | N/A | \$827.01 |
| 60271 | Thyroidectomy, including substernal thyroid; cervical approach | \$147.99 | N/A | N/A | \$924.93 |
| 60512 | Parathyroid autotransplantation (List separately in addition to code for primary procedure.) | \$34.71 | N/A | N/A | \$216.94 |
| 61001 | Subdural tap through fontanelle, or suture, infant, unilateral or bilateral; subsequent taps | N/A | N/A | N/A | \$92.86 |

| <i>Procedure Code/ Modifier SU, TH, NU or U7 where indicated</i> | <i>Procedure Code Description</i> | <i>Assistant Surgeon Fee Revision (Billing with Modifier 80)</i> | <i>Professional Component Fee Revision (Billing with Modifier 26)</i> | <i>Technical Component Fee Revision (Billing with Modifier TC)</i> | <i>Billing with No Modifier or Pricing Modifiers SU, TH, NU or U7</i> |
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| 61026 | Ventricular puncture through previous burr hole, fontanelle, suture or implanted ventricular catheter/reservoir; with injection of medication or other substance for diagnosis or treatment | N/A | N/A | N/A | \$115.19 |
| 61050 | Cisternal or lateral cervical (C1-C2) puncture; without injection (separate procedure) | N/A | N/A | N/A | \$96.71 |
| 61107 | Twist drill hole(s) for subdural, intracerebral, or ventricular puncture; for implanting ventricular catheter, pressure recording device, or other intracerebral monitoring device | N/A | N/A | N/A | \$289.18 |
| 61210 | Burr hole(s); for implanting ventricular catheter, reservoir, EEG electrode(s), pressure recording device, or other cerebral monitoring device (separate procedure) | N/A | N/A | N/A | \$337.05 |
| 61550 | Craniectomy for craniosynostosis; single cranial suture | \$123.51 | N/A | N/A | \$771.96 |
| 61720 | Creation of lesion by stereotactic method, including burr hole(s) and localizing and recording techniques, single or multiple stages; globus pallidus or thalamus | \$159.72 | N/A | N/A | \$998.22 |
| 62287 | Decompression procedure, percutaneous, of nucleus pulposus of intervertebral disc, any method, single or multiple levels, lumbar (e.g., manual or automated percutaneous discectomy, percutaneous laser discectomy) | \$78.43 | N/A | N/A | \$490.18 |
| 62290 | Injection procedure for discography, each level; lumbar | N/A | N/A | N/A | \$152.63 |
| 62310 | Injection, single (not via indwelling catheter), not including neurolytic substances, with or without contrast (for either localization or epidurography), of diagnostic or therapeutic substance(s) (including anesthetic, antispasmodic, opioid, steroid, other solution), epidural or subarachnoid; cervical or thoracic | N/A | N/A | N/A | \$89.16 |
| 62311 | Injection, single (not via indwelling catheter), not including neurolytic substances, with or without contrast (for either localization or epidurography), of diagnostic or therapeutic substance(s) (including anesthetic, antispasmodic, opioid, steroid, other solution), epidural or subarachnoid; lumbar, sacral (caudal) | N/A | N/A | N/A | \$74.51 |
| 62318 | Injection, including catheter placement, continuous infusion or intermittent bolus, not including neurolytic substances, with or without contrast (for either localization or epidurography), of diagnostic or therapeutic substance(s) (including anesthetic, antispasmodic, opioid, steroid, other solution), epidural or subarachnoid; cervical or thoracic | N/A | N/A | N/A | \$91.64 |

| <i>Procedure Code/ Modifier SU, TH, NU or U7 where indicated</i> | <i>Procedure Code Description</i> | <i>Assistant Surgeon Fee Revision (Billing with Modifier 80)</i> | <i>Professional Component Fee Revision (Billing with Modifier 26)</i> | <i>Technical Component Fee Revision (Billing with Modifier TC)</i> | <i>Billing with No Modifier or Pricing Modifiers SU, TH, NU or U7</i> |
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| 62319 | Injection, including catheter placement, continuous infusion or intermittent bolus, not including neurolytic substances, with or without contrast (for either localization or epidurography), of diagnostic or therapeutic substance(s) (including anesthetic, antispasmodic, opioid, steroid, other solution), epidural or subarachnoid; lumbar, sacral (caudal) | N/A | N/A | N/A | \$84.88 |
| 63035 | Laminotomy (hemilaminectomy), with decompression of nerve root(s), including partial facetectomy, foraminotomy and/or excision of herniated intervertebral disc, including open and endoscopically-assisted approaches; each additional interspace, cervical or lumbar (List separately in addition to code for primary procedure.) | \$29.14 | N/A | N/A | \$182.11 |
| 63057 | Transpedicular approach with decompression of spinal cord, equina and/or nerve root(s) (e.g., herniated intervertebral disc), single segment; each additional segment, thoracic or lumbar (List separately in addition to code for primary procedure.) | \$47.99 | N/A | N/A | \$299.96 |
| 63066 | Costovertebral approach with decompression of spinal cord or nerve root(s) (e.g., herniated intervertebral disc), thoracic; each additional segment (List separately in addition to code for primary procedure.) | \$29.40 | N/A | N/A | \$183.74 |
| 63076 | Discectomy, anterior, with decompression of spinal cord and/or nerve root(s), including osteophyctectomy; cervical, each additional interspace (List separately in addition to code for primary procedure.) | \$37.15 | N/A | N/A | \$232.20 |
| 63078 | Discectomy, anterior, with decompression of spinal cord and/or nerve root(s), including osteophyctectomy; thoracic, each additional interspace (List separately in addition to code for primary procedure.) | \$29.35 | N/A | N/A | \$183.43 |
| 63082 | Vertebral corpectomy (vertebral body resection), partial or complete, anterior approach with decompression of spinal cord and/or nerve root(s); cervical, each additional segment (List separately in addition to code for primary procedure.) | \$40.04 | N/A | N/A | \$250.23 |
| 63086 | Vertebral corpectomy (vertebral body resection), partial or complete, transthoracic approach with decompression of spinal cord and/or nerve root(s); thoracic, each additional segment (List separately in addition to code for primary procedure.) | \$28.18 | N/A | N/A | \$176.14 |

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| 63088 | Vertebral corpectomy (vertebral body resection), partial or complete, combined thoracolumbar approach with decompression of spinal cord, cauda equina or nerve root(s), lower thoracic or lumbar; each additional segment (List separately in addition to code for primary procedure.) | \$38.32 | N/A | N/A | \$239.47 |
| 63091 | Vertebral corpectomy (vertebral body resection), partial or complete, transperitoneal or retroperitoneal approach with decompression of spinal cord, cauda equina or nerve root(s), lower thoracic, lumbar, or sacral; each additional segment (List separately in addition to code for primary procedure.) | \$26.26 | N/A | N/A | \$164.10 |
| 63600 | Creation of lesion of spinal cord by stereotactic method, percutaneous, any modality (including stimulation and/or recording) | N/A | N/A | N/A | \$722.50 |
| 64470 | Injection, anesthetic agent and/or steroid, paravertebral facet joint or facet joint nerve; cervical or thoracic, single level | N/A | N/A | N/A | \$90.38 |
| 64472 | Injection, anesthetic agent and/or steroid, paravertebral facet joint or facet joint nerve; cervical or thoracic, each additional level (List separately in addition to code for primary procedure.) | N/A | N/A | N/A | \$57.77 |
| 64475 | Injection, anesthetic agent and/or steroid, paravertebral facet joint or facet joint nerve; lumbar or sacral, single level | N/A | N/A | N/A | \$71.69 |
| 64476 | Injection, anesthetic agent and/or steroid, paravertebral facet joint or facet joint nerve; lumbar or sacral, each additional level (List separately in addition to code for primary procedure.) | N/A | N/A | N/A | \$43.26 |
| 64479 | Injection, anesthetic agent and/or steroid, transforaminal epidural; cervical or thoracic, single level | N/A | N/A | N/A | \$107.77 |
| 64480 | Injection, anesthetic agent and/or steroid, transforaminal epidural; cervical or thoracic, each additional level (List separately in addition to code for primary procedure.) | N/A | N/A | N/A | \$70.34 |
| 64483 | Injection, anesthetic agent and/or steroid, transforaminal epidural; lumbar or sacral, single level | N/A | N/A | N/A | \$95.04 |
| 64484 | Injection, anesthetic agent and/or steroid, transforaminal epidural; lumbar or sacral, each additional level (List separately in addition to code for primary procedure.) | N/A | N/A | N/A | \$59.60 |
| 64517 | Injection, anesthetic agent; superior hypogastric plexus | N/A | N/A | N/A | \$104.97 |
| 64575 | Incision for implantation of neurostimulator electrodes; peripheral nerve (excludes sacral nerve) | N/A | N/A | N/A | \$250.93 |

| <i>Procedure Code/ Modifier SU, TH, NU or U7 where indicated</i> | <i>Procedure Code Description</i> | <i>Assistant Surgeon Fee Revision (Billing with Modifier 80)</i> | <i>Professional Component Fee Revision (Billing with Modifier 26)</i> | <i>Technical Component Fee Revision (Billing with Modifier TC)</i> | <i>Billing with No Modifier or Pricing Modifiers SU, TH, NU or U7</i> |
|--------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| 64623 | Destruction by neurolytic agent, paravertebral facet joint nerve; lumbar or sacral, each additional level (List separately in addition to code for primary procedure.) | N/A | N/A | N/A | \$42.94 |
| 64626 | Destruction by neurolytic agent, paravertebral facet joint nerve; cervical or thoracic, single level | N/A | N/A | N/A | \$201.96 |
| 64627 | Destruction by neurolytic agent, paravertebral facet joint nerve; cervical or thoracic, each additional level (List separately in addition to code for primary procedure.) | N/A | N/A | N/A | \$50.40 |
| 64681 | Destruction by neurolytic agent, with or without radiologic monitoring; superior hypogastric plexus | N/A | N/A | N/A | \$194.97 |
| 64708 | Neuroplasty, major peripheral nerve, arm or leg; other than specified | \$64.11 | N/A | N/A | \$400.71 |
| 64727 | Internal neurolysis, requiring use of operating microscope (List separately in addition to code for neuroplasty.) (Neuroplasty includes external neurolysis) | N/A | N/A | N/A | \$167.77 |
| 64742 | Transection or avulsion of; facial nerve, differential or complete | \$65.38 | N/A | N/A | \$408.62 |
| 64752 | Transection or avulsion of; vagus nerve (vagotomy), transthoracic | \$68.52 | N/A | N/A | \$428.28 |
| 64778 | Excision of neuroma; digital nerve, each additional digit (List separately in addition to code for primary procedure.) | N/A | N/A | N/A | \$167.79 |
| 64787 | Implantation of nerve end into bone or muscle (List separately in addition to neuroma excision.) | \$36.82 | N/A | N/A | \$230.14 |
| 64832 | Suture of digital nerve, hand or foot; each additional digital nerve (List separately in addition to code for primary procedure.) | N/A | N/A | N/A | \$311.25 |
| 64859 | Suture of each additional major peripheral nerve (List separately in addition to code for primary procedure.) | \$37.59 | N/A | N/A | \$234.96 |
| 64868 | Anastomosis; facial-hypoglossal | \$146.67 | N/A | N/A | \$916.71 |
| 64870 | Anastomosis; facial-phrenic | \$145.20 | N/A | N/A | \$907.50 |
| 64872 | Suture of nerve; requiring secondary or delayed suture (List separately in addition to code for primary neuroorrhaphy.) | \$17.50 | N/A | N/A | \$109.39 |
| 64874 | Suture of nerve; requiring extensive mobilization, or transposition of nerve (List separately in addition to code for nerve suture.) | \$26.11 | N/A | N/A | \$163.18 |
| 64901 | Nerve graft, each additional nerve; single strand (List separately in addition to code for primary procedure.) | \$87.34 | N/A | N/A | \$545.88 |
| 65125 | Modification of ocular implant with placement or replacement of pegs (e.g., drilling receptacle for prosthesis appendage) (separate procedure) | N/A | N/A | N/A | \$231.09 |

| <i>Procedure Code/ Modifier SU, TH, NU or U7 where indicated</i> | <i>Procedure Code Description</i> | <i>Assistant Surgeon Fee Revision (Billing with Modifier 80)</i> | <i>Professional Component Fee Revision (Billing with Modifier 26)</i> | <i>Technical Component Fee Revision (Billing with Modifier TC)</i> | <i>Billing with No Modifier or Pricing Modifiers SU, TH, NU or U7</i> |
|------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|-----------------------------------------------------------------------|--------------------------------------------------------------------|-----------------------------------------------------------------------|
| 65150 | Reinsertion of ocular implant; with or without conjunctival graft | N/A | N/A | N/A | \$471.43 |
| 65410 | Biopsy of cornea | N/A | N/A | N/A | \$83.31 |
| 65435 | Removal of corneal epithelium; with or without chemocauterization (abrasion, curettage) | N/A | N/A | N/A | \$55.95 |
| 65600 | Multiple punctures of anterior cornea (e.g., for corneal erosion, tattoo) | N/A | N/A | N/A | \$259.74 |
| 65710 | Keratoplasty (corneal transplant); anterior lamellar | N/A | N/A | N/A | \$865.89 |
| 65730 | Keratoplasty (corneal transplant); penetrating (except in aphakia or pseudophakia) | N/A | N/A | N/A | \$961.26 |
| 65750 | Keratoplasty (corneal transplant); penetrating (in aphakia) | N/A | N/A | N/A | \$976.29 |
| 65755 | Keratoplasty (corneal transplant); penetrating (in pseudophakia) | N/A | N/A | N/A | \$970.38 |
| 65805 | Paracentesis of anterior chamber of eye (separate procedure); with therapeutic release of aqueous | N/A | N/A | N/A | \$105.84 |
| 65855 | Trabeculoplasty by laser surgery, 1 or more sessions (defined treatment series) | N/A | N/A | N/A | \$236.99 |
| 65860 | Severing adhesions of anterior segment, laser technique (separate procedure) | \$32.86 | N/A | N/A | \$205.36 |
| 65900 | Removal of epithelial downgrowth, anterior chamber of eye | N/A | N/A | N/A | \$764.13 |
| 66130 | Excision of lesion, sclera | N/A | N/A | N/A | \$455.74 |
| 66225 | Repair of scleral staphyloma; with graft | N/A | N/A | N/A | \$728.26 |
| 66250 | Revision or repair of operative wound of anterior segment, any type, early or late, major or minor procedure | N/A | N/A | N/A | \$429.61 |
| 66625 | Iridectomy, with corneoscleral or corneal section; peripheral for glaucoma (separate procedure) | N/A | N/A | N/A | \$338.95 |
| 66700 | Ciliary body destruction; diathermy | N/A | N/A | N/A | \$309.33 |
| 66720 | Ciliary body destruction; cryotherapy | N/A | N/A | N/A | \$329.65 |
| 66740 | Ciliary body destruction; cyclodialysis | N/A | N/A | N/A | \$310.02 |
| 66770 | Destruction of cyst or lesion iris or ciliary body (nonexcisional procedure) | N/A | N/A | N/A | \$373.27 |
| 66820 | Discission of secondary membranous cataract (opacified posterior lens capsule and/or anterior hyaloid); stab incision technique (Ziegler or Wheeler knife) | N/A | N/A | N/A | \$320.29 |
| 66830 | Removal of secondary membranous cataract (opacified posterior lens capsule and/or anterior hyaloid) with corneo-scleral section, with or without iridectomy (iridocapsulotomy, iridocapsulectomy) | N/A | N/A | N/A | \$555.50 |
| 66850 | Removal of lens material; phacofragmentation technique (mechanical or ultrasonic) (e.g., phacoemulsification), with aspiration | N/A | N/A | N/A | \$618.15 |

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|--------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| 66920 | Removal of lens material; intracapsular | N/A | N/A | N/A | \$591.24 |
| 66940 | Removal of lens material; extracapsular (other than 66840, 66850, 66852) | N/A | N/A | N/A | \$609.60 |
| 66984 | Extracapsular cataract removal with insertion of intraocular lens prosthesis (1 stage procedure), manual or mechanical technique (e.g., irrigation and aspiration or phacoemulsification) | N/A | N/A | N/A | \$602.53 |
| 67005 | Removal of vitreous, anterior approach (open sky technique or limbal incision); partial removal | N/A | N/A | N/A | \$367.80 |
| 67010 | Removal of vitreous, anterior approach (open sky technique or limbal incision); subtotal removal with mechanical vitrectomy | N/A | N/A | N/A | \$426.23 |
| 67028 | Intravitreal injection of a pharmacologic agent (separate procedure) | N/A | N/A | N/A | \$135.84 |
| 67036 | Vitrectomy, mechanical, pars plana approach | \$121.42 | N/A | N/A | \$758.89 |
| 67107 | Repair of retinal detachment; scleral buckling (such as lamellar scleral dissection, imbrication or encircling procedure), with or without implant, with or without cryotherapy, photocoagulation, and drainage of subretinal fluid | \$152.25 | N/A | N/A | \$951.54 |
| 67221 | Destruction of localized lesion of choroid (e.g., choroidal neovascularization); photodynamic therapy (includes intravenous infusion) | N/A | N/A | N/A | \$178.28 |
| 67225 | Destruction of localized lesion of choroid (e.g., choroidal neovascularization); photodynamic therapy, second eye, at single session (List separately in addition to code for primary eye treatment.) | N/A | N/A | N/A | \$22.94 |
| 67227 | Destruction of extensive or progressive retinopathy (e.g., diabetic retinopathy), 1 or more sessions, cryotherapy, diathermy | N/A | N/A | N/A | \$445.25 |
| 67250 | Scleral reinforcement (separate procedure); without graft | N/A | N/A | N/A | \$627.17 |
| 67255 | Scleral reinforcement (separate procedure); with graft | N/A | N/A | N/A | \$669.00 |
| 67311 | Strabismus surgery, recession or resection procedure; 1 horizontal muscle | N/A | N/A | N/A | \$468.15 |
| 67335 | Placement of adjustable suture(s) during strabismus surgery, including postoperative adjustment(s) of suture(s) (List separately in addition to code for specific strabismus surgery.) | N/A | N/A | N/A | \$122.87 |
| 67345 | Chemodenervation of extraocular muscle | N/A | N/A | N/A | \$170.26 |
| 67415 | Fine needle aspiration of orbital contents | N/A | N/A | N/A | \$86.27 |
| 67715 | Canthotomy (separate procedure) | N/A | N/A | N/A | \$86.13 |
| 67825 | Correction of trichiasis; epilation by other than forceps (e.g., by electrosurgery, cryotherapy, laser surgery) | N/A | N/A | N/A | \$95.65 |

| <i>Procedure Code/ Modifier SU, TH, NU or U7 where indicated</i> | <i>Procedure Code Description</i> | <i>Assistant Surgeon Fee Revision (Billing with Modifier 80)</i> | <i>Professional Component Fee Revision (Billing with Modifier 26)</i> | <i>Technical Component Fee Revision (Billing with Modifier TC)</i> | <i>Billing with No Modifier or Pricing Modifiers SU, TH, NU or U7</i> |
|------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|-----------------------------------------------------------------------|--------------------------------------------------------------------|-----------------------------------------------------------------------|
| 67830 | Correction of trichiasis; incision of lid margin | N/A | N/A | N/A | \$109.45 |
| 67835 | Correction of trichiasis; incision of lid margin, with free mucous membrane graft | N/A | N/A | N/A | \$350.28 |
| 67875 | Temporary closure of eyelids by suture (e.g., Frost suture) | N/A | N/A | N/A | \$78.81 |
| 67882 | Construction of intermarginal adhesions, median tarsorrhaphy, or canthorrhaphy; with transposition of tarsal plate | N/A | N/A | N/A | \$367.02 |
| 67901 | Repair of blepharoptosis; frontalis muscle technique with suture or other material (e.g., banked fascia) | N/A | N/A | N/A | \$456.15 |
| 67903 | Repair of blepharoptosis; (tarso) levator resection or advancement, internal approach | N/A | N/A | N/A | \$403.60 |
| 67906 | Repair of blepharoptosis; superior rectus technique with fascial sling (includes obtaining fascia) | N/A | N/A | N/A | \$411.07 |
| 67908 | Repair of blepharoptosis; conjunctivo-tarso-Muller's muscle-levator resection (e.g., Fasanella-Servat type) | N/A | N/A | N/A | \$349.07 |
| 67912 | Correction of lagophthalmos, with implantation of upper eyelid lid load (e.g., gold weight) | N/A | N/A | N/A | \$398.03 |
| 67914 | Repair of ectropion; suture | N/A | N/A | N/A | \$230.51 |
| 67916 | Repair of ectropion; excision tarsal wedge | N/A | N/A | N/A | \$345.07 |
| 67921 | Repair of entropion; suture | N/A | N/A | N/A | \$215.75 |
| 67923 | Repair of entropion; excision tarsal wedge | N/A | N/A | N/A | \$371.79 |
| 67924 | Repair of entropion; extensive (e.g., tarsal strip or capsulopalpebral fascia repairs operation) | N/A | N/A | N/A | \$358.61 |
| 67935 | Suture of recent wound, eyelid, involving lid margin, tarsus, and/or palpebral conjunctiva direct closure; full thickness | N/A | N/A | N/A | \$363.42 |
| 67950 | Canthoplasty (reconstruction of canthus) | N/A | N/A | N/A | \$377.25 |
| 68200 | Subconjunctival injection | N/A | N/A | N/A | \$27.88 |
| 68320 | Conjunctivoplasty; with conjunctival graft or extensive rearrangement | N/A | N/A | N/A | \$414.28 |
| 68720 | Dacryocystorhinostomy (fistulization of lacrimal sac to nasal cavity) | \$96.03 | N/A | N/A | \$600.21 |
| 69100 | Biopsy external ear | N/A | N/A | N/A | \$41.69 |
| 69120 | Excision external ear; complete amputation | N/A | N/A | N/A | \$351.17 |
| 69990 | Microsurgical techniques, requiring use of operating microscope (List separately in addition to code for primary procedure.) | N/A | N/A | N/A | \$201.22 |
| 70130 | Radiologic examination, mastoids; complete, minimum of 3 views per side | N/A | \$15.97 | N/C | \$43.47 |
| 70134 | Radiologic examination, internal auditory meati, complete | N/A | \$15.97 | N/C | \$38.47 |

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|--------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| 70170 | Dacryocystography, nasolacrimal duct, radiological supervision and interpretation | N/A | \$13.74 | N/C | \$40.24 |
| 70190 | Radiologic examination; optic foramina | N/A | \$9.65 | N/C | \$30.65 |
| 70210 | Radiologic examination, sinuses, paranasal, less than 3 views | N/A | \$7.81 | N/C | \$24.31 |
| 70250 | Radiologic examination, skull; less than 4 views | N/A | \$10.79 | N/C | \$31.79 |
| 70260 | Radiologic examination, skull; complete, minimum of 4 views | N/A | \$15.97 | N/C | \$43.47 |
| 70320 | Radiologic examination, teeth; complete, full mouth | N/A | \$10.38 | N/C | \$34.37 |
| 71020 | Radiologic examination, chest, 2 views, frontal and lateral | N/A | \$10.03 | N/C | \$25.03 |
| 71022 | Radiologic examination, chest, 2 views, frontal and lateral; with oblique projections | N/A | \$14.12 | N/C | \$29.12 |
| 71030 | Radiologic examination, chest, complete, minimum of 4 views | N/A | \$14.12 | N/C | \$36.62 |
| 72050 | Radiologic examination, spine, cervical; minimum of 4 views | N/A | \$14.12 | N/C | \$40.62 |
| 72069 | Radiologic examination, spine, thoracolumbar, standing (scoliosis) | N/A | \$10.38 | N/C | \$27.74 |
| 72070 | Radiologic examination, spine; thoracic, 2 views | N/A | \$10.03 | N/C | \$31.03 |
| 72072 | Radiologic examination, spine; thoracic, 3 views | N/A | \$10.03 | N/C | \$31.53 |
| 72074 | Radiologic examination, spine; thoracic, minimum of 4 views | N/A | \$10.03 | N/C | \$31.53 |
| 72100 | Radiologic examination, spine, lumbosacral; 2 or 3 views | N/A | \$10.03 | N/C | \$32.53 |
| 72110 | Radiologic examination, spine, lumbosacral; minimum of 4 views | N/A | \$14.12 | N/C | \$36.62 |
| 72120 | Radiologic examination, spine, lumbosacral, bending views only, minimum of 4 views | N/A | \$10.03 | N/C | \$31.03 |
| 72190 | Radiologic examination, pelvis; complete, minimum of 3 views | N/A | \$9.65 | N/C | \$30.65 |
| 73510 | Radiologic examination, hip, unilateral; complete, minimum of 2 views | N/A | \$9.65 | N/C | \$26.15 |
| 73525 | Radiologic examination, hip, arthrography, radiological supervision and interpretation | N/A | \$25.62 | N/C | \$73.12 |
| 73542 | Radiological examination, sacroiliac joint arthrography, radiological supervision and interpretation | N/A | \$26.10 | N/C | \$82.04 |
| 73564 | Radiologic examination, knee; complete, 4 or more views | N/A | \$10.03 | N/C | \$32.45 |

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|------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|-----------------------------------------------------------------------|--------------------------------------------------------------------|-----------------------------------------------------------------------|
| 74301 | Cholangiography and/or pancreatography; additional set intraoperative, radiological supervision and interpretation (List separately in addition to code for primary procedure.) | N/A | \$9.65 | N/C | \$35.15 |
| 75809 | Shuntogram for investigation of previously placed indwelling nonvascular shunt (e.g., LeVeen shunt, ventriculoperitoneal shunt, indwelling infusion pump), radiological supervision and interpretation | N/A | \$21.55 | N/C | \$49.74 |
| 75900 | Exchange of a previously placed intravascular catheter during thrombolytic therapy with contrast monitoring, radiological supervision and interpretation | N/A | \$23.02 | N/C | \$670.71 |
| 75902 | Mechanical removal of intraluminal (intracatheter) obstructive material from central venous device through device lumen, radiologic supervision and interpretation | N/A | \$18.19 | N/C | \$65.61 |
| 75978 | Transluminal balloon angioplasty, venous (e.g., subclavian stenosis), radiological supervision and interpretation | N/A | \$25.26 | N/C | \$294.26 |
| 75993 | Transluminal atherectomy, each additional peripheral artery, radiological supervision and interpretation (List separately in addition to code for primary procedure.) | N/A | \$17.43 | N/C | \$299.93 |
| 75994 | Transluminal atherectomy, renal, radiological supervision and interpretation | N/A | \$63.71 | N/C | \$587.40 |
| 75995 | Transluminal atherectomy, visceral, radiological supervision and interpretation | N/A | \$61.95 | N/C | \$585.64 |
| 75996 | Transluminal atherectomy, each additional visceral artery, radiological supervision and interpretation (List separately in addition to code for primary procedure.) | N/A | \$17.08 | N/C | \$299.58 |
| 76120 | Cineradiography/videoradiography, except where specifically included | N/A | \$17.81 | N/C | \$52.81 |
| 76506 | Echoencephalography, real time with image documentation (gray scale) (for determination of ventricular size, delineation of cerebral contents, and detection of fluid masses or other intracranial abnormalities), including A-mode encephalography as secondary component where indicated | N/A | \$30.75 | N/C | \$78.25 |
| 76516 | Ophthalmic biometry by ultrasound echography, A-scan | N/A | \$25.95 | \$40.79 | \$66.74 |
| 76519 | Ophthalmic biometry by ultrasound echography, A-scan; with intraocular lens power calculation | N/A | \$26.30 | \$44.27 | \$70.57 |
| 76529 | Ophthalmic ultrasonic foreign body localization | N/A | \$27.42 | \$39.06 | \$66.48 |
| 76800 | Ultrasound, spinal canal and contents | N/A | \$50.66 | N/C | \$101.64 |

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|--------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| 76801 | Ultrasound, pregnant uterus, real time with image documentation, fetal and maternal evaluation, first trimester (aaa 14 weeks 0 days), transabdominal approach; single or first gestation | N/A | \$45.70 | N/C | \$84.09 |
| 76811 | Ultrasound, pregnant uterus, real time with image documentation, fetal and maternal evaluation plus detailed fetal anatomic examination, transabdominal approach; single or first gestation | N/A | \$88.40 | \$120.49 | \$208.89 |
| 76817 | Ultrasound, pregnant uterus, real time with image documentation, transvaginal | N/A | \$34.56 | N/C | \$87.59 |
| 76818 | Fetal biophysical profile; with non-stress testing | N/A | \$49.01 | N/C | \$107.10 |
| 76820 | Doppler velocimetry, fetal; umbilical artery | N/A | \$23.74 | \$39.45 | \$63.19 |
| 76827 | Doppler echocardiography, fetal, pulsed wave and/or continuous wave with spectral display; complete | N/A | \$26.75 | \$49.89 | \$76.64 |
| 76828 | Doppler echocardiography, fetal, pulsed wave and/or continuous wave with spectral display; follow-up or repeat study | N/A | \$26.35 | N/C | \$54.75 |
| 76941 | Ultrasonic guidance for intrauterine fetal transfusion or cordocentesis, imaging supervision and interpretation | N/A | \$62.41 | N/C | \$109.65 |
| 76945 | Ultrasonic guidance for chorionic villus sampling, imaging supervision and interpretation | N/A | \$30.85 | N/C | \$78.09 |
| 76946 | Ultrasonic guidance for amniocentesis, imaging supervision and interpretation | N/A | \$17.46 | \$35.95 | \$53.41 |
| 76970 | Ultrasound study follow-up (specify) | N/A | \$18.22 | N/C | \$55.95 |
| 77079 | Computed tomography, bone mineral density study, 1 or more sites; appendicular skeleton (peripheral) (e.g., radius, wrist, heel) | N/A | N/C | \$66.19 | \$74.41 |
| 77261 | Therapeutic radiology treatment planning; simple | N/A | N/A | N/A | \$66.02 |
| 77262 | Therapeutic radiology treatment planning; intermediate | N/A | N/A | N/A | \$99.84 |
| 77263 | Therapeutic radiology treatment planning; complex | N/A | N/A | N/A | \$148.47 |
| 77295 | Therapeutic radiology simulation-aided field setting; 3-dimensional | N/A | \$212.85 | \$642.93 | \$855.78 |
| 77301 | Intensity modulated radiotherapy plan, including dose-volume histograms for target and critical structure partial tolerance specifications | N/A | \$372.58 | N/C | \$1,080.41 |
| 77326 | Brachytherapy isodose plan; simple (calculation made from single plane, 1 to 4 sources/ribbon application, remote afterloading brachytherapy, 1 to 8 sources) | N/A | \$43.46 | N/C | \$115.96 |
| 77333 | Treatment devices, design and construction; intermediate (multiple blocks, stents, bite blocks, special bolus) | N/A | N/C | \$41.18 | \$70.18 |

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|------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|-----------------------------------------------------------------------|--------------------------------------------------------------------|-----------------------------------------------------------------------|
| 77432 | Stereotactic radiation treatment management of cranial lesion(s) (complete course of treatment consisting of 1 session) | N/A | N/A | N/A | \$375.85 |
| 77610 | Hyperthermia generated by interstitial probe(s); 5 or fewer interstitial applicators | N/A | \$70.01 | N/C | \$179.50 |
| 77615 | Hyperthermia generated by interstitial probe(s); more than 5 interstitial applicators | N/A | \$96.64 | N/C | \$242.49 |
| 77620 | Hyperthermia generated by intracavitary probe(s) | N/A | \$75.34 | N/C | \$184.83 |
| 77781 | Remote afterloading high intensity brachytherapy; 1—4 source positions or catheters | N/A | \$59.62 | N/C | \$179.62 |
| 77782 | Remote afterloading high intensity brachytherapy; 5—8 source positions or catheters | N/A | \$98.61 | N/C | \$278.61 |
| 77784 | Remote afterloading high intensity brachytherapy; over 12 source positions or catheters | N/A | \$243.85 | N/C | \$633.85 |
| 77789 | Surface application of radiation source | N/A | \$53.46 | N/C | \$66.81 |
| 78006 | Thyroid imaging, with uptake; single determination | N/A | \$22.66 | N/C | \$60.16 |
| 78111 | Plasma volume, radiopharmaceutical volume-dilution technique (separate procedure); multiple samplings | N/A | \$10.38 | N/C | \$34.38 |
| 78120 | Red cell volume determination (separate procedure); single sampling | N/A | \$10.76 | N/C | \$29.76 |
| 78121 | Red cell volume determination (separate procedure); multiple samplings | N/A | \$14.85 | N/C | \$42.35 |
| 78135 | Red cell survival study; differential organ/tissue kinetics (e.g., splenic and/or hepatic sequestration) | N/A | \$30.06 | N/C | \$195.06 |
| 78201 | Liver imaging; static only | N/A | \$20.44 | N/C | \$66.94 |
| 78220 | Liver function study with hepatobiliary agents, with serial images | N/A | \$22.66 | N/C | \$66.66 |
| 78271 | Vitamin B-12 absorption study (e.g., Schilling test); with intrinsic factor | N/A | \$9.30 | N/C | \$28.30 |
| 78456 | Acute venous thrombosis imaging, peptide | N/A | \$47.48 | N/C | \$154.14 |
| 78480 | Myocardial perfusion study with ejection fraction (List separately in addition to code for primary procedure.) | N/A | \$16.88 | N/C | \$56.48 |
| 78496 | Cardiac blood pool imaging, gated equilibrium, single study, at rest, with right ventricular ejection fraction by first pass technique (List separately in addition to code for primary procedure.) | N/A | \$24.44 | N/C | \$72.87 |
| 78586 | Pulmonary ventilation imaging, aerosol; single projection | N/A | \$18.57 | N/C | \$61.07 |
| 78593 | Pulmonary ventilation imaging, gaseous, with rebreathing and washout with or without single breath; single projection | N/A | \$22.66 | N/C | \$66.66 |
| 78606 | Brain imaging, minimum 4 static views; with vascular flow | N/A | \$29.71 | N/C | \$88.71 |

| <i>Procedure Code/ Modifier SU, TH, NU or U7 where indicated</i> | <i>Procedure Code Description</i> | <i>Assistant Surgeon Fee Revision (Billing with Modifier 80)</i> | <i>Professional Component Fee Revision (Billing with Modifier 26)</i> | <i>Technical Component Fee Revision (Billing with Modifier TC)</i> | <i>Billing with No Modifier or Pricing Modifiers SU, TH, NU or U7</i> |
|--------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| 78607 | Brain imaging, tomographic (SPECT) | N/A | \$57.54 | N/C | \$279.73 |
| 78660 | Radiopharmaceutical dacryocystography | N/A | \$24.88 | N/C | \$82.38 |
| 78725 | Kidney function study, non-imaging radioisotopic study | N/A | \$17.81 | N/C | \$82.36 |
| 78730 | Urinary bladder residual study (List separately in addition to code for primary procedure.) | N/A | \$8.80 | N/C | \$44.22 |
| 79005 | Radiopharmaceutical therapy, by oral administration | N/A | N/C | \$72.88 | \$146.07 |
| 79101 | Radiopharmaceutical therapy, by intravenous administration | N/A | N/C | \$75.67 | \$155.65 |
| 79200 | Radiopharmaceutical therapy, by intracavitary administration | N/A | N/C | \$78.11 | \$143.11 |
| 79300 | Radiopharmaceutical therapy, by interstitial radioactive colloid administration | N/A | \$77.49 | N/C | \$184.99 |
| 79403 | Radiopharmaceutical therapy, radiolabeled monoclonal antibody by intravenous infusion | N/A | N/C | \$117.09 | \$211.63 |
| 80410 | Calcitonin stimulation panel (e.g., calcium, pentagastrin) This panel must include the following: Calcitonin (82308 x 3) | N/A | N/A | N/A | \$62.79 |
| 81020 | Urinalysis; 2 or 3 glass test | N/A | N/A | N/A | \$4.30 |
| 82308 | Calcitonin | N/A | N/A | N/A | \$20.93 |
| 82330 | Calcium; ionized | N/A | N/A | N/A | \$8.85 |
| 82565 | Creatinine; blood | N/A | N/A | N/A | \$6.41 |
| 82672 | Estrogens; total | N/A | N/A | N/A | \$13.92 |
| 82710 | Fat or lipids, feces; quantitative | N/A | N/A | N/A | \$4.02 |
| 82977 | Glutamyltransferase, gamma (GGT) | N/A | N/A | N/A | \$9.36 |
| 84060 | Phosphatase, acid; total | N/A | N/A | N/A | \$8.06 |
| 84075 | Phosphatase, alkaline | N/A | N/A | N/A | \$6.37 |
| 84155 | Protein, total, except by refractometry; serum, plasma or whole blood | N/A | N/A | N/A | \$4.67 |
| 84295 | Sodium; serum, plasma or whole blood | N/A | N/A | N/A | \$6.50 |
| 85041 | Blood count; red blood cell (RBC), automated | N/A | N/A | N/A | \$4.02 |
| 85475 | Hemolysin, acid | N/A | N/A | N/A | \$10.91 |
| 86309 | Heterophile antibodies; titer | N/A | N/A | N/A | \$8.58 |
| 86631 | Antibody; Chlamydia | N/A | N/A | N/A | \$9.88 |
| 86729 | Antibody; lymphogranuloma venereum | N/A | N/A | N/A | \$9.88 |
| 87340 | Infectious agent antigen detection by enzyme immunoassay technique, qualitative or semiquantitative, multiple-step method; hepatitis B surface antigen (HBsAg) | N/A | N/A | N/A | \$14.17 |
| 87517 | Infectious agent detection by nucleic acid (DNA or RNA); hepatitis B virus, quantification | N/A | N/A | N/A | \$39.65 |
| 87522 | Infectious agent detection by nucleic acid (DNA or RNA); hepatitis C, quantification | N/A | N/A | N/A | \$39.65 |

| <i>Procedure Code/ Modifier SU, TH, NU or U7 where indicated</i> | <i>Procedure Code Description</i> | <i>Assistant Surgeon Fee Revision (Billing with Modifier 80)</i> | <i>Professional Component Fee Revision (Billing with Modifier 26)</i> | <i>Technical Component Fee Revision (Billing with Modifier TC)</i> | <i>Billing with No Modifier or Pricing Modifiers SU, TH, NU or U7</i> |
|------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|-----------------------------------------------------------------------|--------------------------------------------------------------------|-----------------------------------------------------------------------|
| 88302 | Level II—Surgical pathology, gross and microscopic examination Appendix, incidental Fallopian tube, sterilization Fingers/toes, amputation, traumatic Foreskin, newborn Hernia sac, any location Hydrocele sac Nerve Skin, plastic repair Sympathetic ganglion Testis, castration Vaginal mucosa, incidental Vas deferens, sterilization | N/A | \$6.29 | N/C | \$11.29 |
| 88304 | Level III—Surgical pathology, gross and microscopic examination Abortion, induced Abscess Aneurysm—arterial/ventricular Anus, tag Appendix, other than incidental Artery, atheromatous plaque Bartholin's gland cyst Bone fragment(s), other than pathologic fracture Bursa/synovial cyst Carpal tunnel tissue Cartilage, shavings Cholesteatoma Colon, colostomy stoma Conjunctiva—biopsy/pterygium Cornea Diverticulum—esophagus/small intestine Dupuytren's contracture tissue Femoral head, other than fracture Fissure/fistula Foreskin, other than newborn Gallbladder Ganglion cyst Hematoma Hemorrhoids Hydatid of Morgagni Intervertebral disc Joint, loose body Meniscus Mucocele, salivary Neuroma—Morton's/traumatic Pilonidal cyst/sinus Polyps, inflammatory—nasal/sinusoidal Skin—cyst/tag/debridement Soft tissue, debridement Soft tissue, lipoma Spermatocele Tendon/tendon sheath Testicular appendage Thrombus or embolus Tonsil and/or adenoids Varicocele Vas deferens, other than sterilization Vein, varicosity | N/A | \$10.03 | N/C | \$16.53 |
| 88311 | Decalcification procedure (List separately in addition to code for surgical pathology examination.) | N/A | N/A | N/A | \$16.72 |
| 88314 | Decalcification procedure (List separately in addition to code for surgical pathology examination.) | N/A | \$21.52 | N/C | \$30.11 |
| 88318 | Determinative histochemistry to identify chemical components (e.g., copper, zinc) | N/A | \$20.03 | N/C | \$23.57 |
| 88332 | Pathology consultation during surgery; each additional tissue block with frozen section(s) | N/A | \$28.18 | N/C | \$35.97 |
| 88349 | Electron microscopy; scanning | N/A | \$36.34 | N/C | \$60.94 |
| 88355 | Morphometric analysis; skeletal muscle | N/A | \$84.77 | N/C | \$116.27 |
| 88358 | Morphometric analysis; tumor (e.g., DNA ploidy) | N/A | \$45.31 | N/C | \$62.49 |
| 89230 | Sweat collection by iontophoresis | N/A | N/A | N/A | \$3.85 |
| 92270 | Electro-oculography with interpretation and report | N/A | \$37.86 | \$40.40 | \$78.26 |

| <i>Procedure Code/ Modifier SU, TH, NU or U7 where indicated</i> | <i>Procedure Code Description</i> | <i>Assistant Surgeon Fee Revision (Billing with Modifier 80)</i> | <i>Professional Component Fee Revision (Billing with Modifier 26)</i> | <i>Technical Component Fee Revision (Billing with Modifier TC)</i> | <i>Billing with No Modifier or Pricing Modifiers SU, TH, NU or U7</i> |
|------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|-----------------------------------------------------------------------|--------------------------------------------------------------------|-----------------------------------------------------------------------|
| 92283 | Color vision examination, extended, e.g., anomaloscope or equivalent | N/A | \$8.16 | N/C | \$11.70 |
| 92284 | Dark adaptation examination with interpretation and report | N/A | \$10.79 | N/C | \$52.79 |
| 92285 | External ocular photography with interpretation and report for documentation of medical progress (e.g., close-up photography, slit lamp photography, gonioscopy, stereo-photography) | N/A | \$10.00 | N/C | \$13.25 |
| 92516 | Facial nerve function studies (e.g., electroneurography) | N/A | N/A | N/A | \$21.10 |
| 92541 | Spontaneous nystagmus test, including gaze and fixation nystagmus, with recording | N/A | \$19.27 | N/C | \$27.21 |
| 92542 | Positional nystagmus test, minimum of 4 positions, with recording | N/A | \$15.93 | N/C | \$25.31 |
| 92543 | Caloric vestibular test, each irrigation (binaural, bithermal stimulation constitutes 4 tests), with recording | N/A | \$5.18 | N/C | \$20.11 |
| 92544 | Optokinetic nystagmus test, bidirectional, foveal or peripheral stimulation, with recording | N/A | \$12.60 | N/C | \$19.91 |
| 92545 | Oscillating tracking test, with recording | N/A | \$11.11 | N/C | \$18.42 |
| 92546 | Sinusoidal vertical axis rotational testing | N/A | \$13.74 | N/C | \$22.00 |
| 92565 | Stenger test, pure tone | N/A | N/A | N/A | \$12.92 |
| 92577 | Stenger test, speech | N/A | N/A | N/A | \$19.56 |
| 92586 | Auditory evoked potentials for evoked response audiometry and/or testing of the central nervous system; limited | N/A | \$24.84 | \$37.25 | \$62.09 |
| 92587 | Evoked otoacoustic emissions; limited (single stimulus level, either transient or distortion products) | N/A | \$6.29 | \$37.35 | \$43.64 |
| 92588 | Evoked otoacoustic emissions; comprehensive or diagnostic evaluation (comparison of transient and/or distortion product otoacoustic emissions at multiple levels and frequencies) | N/A | \$17.42 | N/C | \$64.25 |
| 92612 | Flexible fiberoptic endoscopic evaluation of swallowing by cine or video recording | N/A | N/A | N/A | \$62.88 |
| 92613 | Flexible fiberoptic endoscopic evaluation of swallowing by cine or video recording; physician interpretation and report only | N/A | N/A | N/A | \$36.57 |
| 92614 | Flexible fiberoptic endoscopic evaluation, laryngeal sensory testing by cine or video recording | N/A | N/A | N/A | \$62.88 |
| 92615 | Flexible fiberoptic endoscopic evaluation, laryngeal sensory testing by cine or video recording; physician interpretation and report only | N/A | N/A | N/A | \$32.48 |

| <i>Procedure Code/ Modifier SU, TH, NU or U7 where indicated</i> | <i>Procedure Code Description</i> | <i>Assistant Surgeon Fee Revision (Billing with Modifier 80)</i> | <i>Professional Component Fee Revision (Billing with Modifier 26)</i> | <i>Technical Component Fee Revision (Billing with Modifier TC)</i> | <i>Billing with No Modifier or Pricing Modifiers SU, TH, NU or U7</i> |
|------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|-----------------------------------------------------------------------|--------------------------------------------------------------------|-----------------------------------------------------------------------|
| 92616 | Flexible fiberoptic endoscopic evaluation of swallowing and laryngeal sensory testing by cine or video recording | N/A | N/A | N/A | \$93.22 |
| 92617 | Flexible fiberoptic endoscopic evaluation of swallowing and laryngeal sensory testing by cine or video recording; physician interpretation and report only | N/A | N/A | N/A | \$40.63 |
| 93000 | Electrocardiogram, routine ECG with at least 12 leads; with interpretation and report | N/A | N/A | N/A | \$21.41 |
| 93224 | Wearable electrocardiographic rhythm derived monitoring for 24 hours by continuous original waveform recording and storage, with visual superimposition scanning; includes recording, scanning analysis with report, physician review and interpretation | N/A | N/A | N/A | \$129.48 |
| 93270 | Wearable patient activated electrocardiographic rhythm derived event recording with presymptom memory loop, 24-hour attended monitoring, per 30 day period of time; recording (includes connection, recording, and disconnection) | N/A | N/A | N/A | \$29.31 |
| 93272 | Wearable patient activated electrocardiographic rhythm derived event recording with presymptom memory loop, 24-hour attended monitoring, per 30 day period of time; physician review and interpretation | N/A | N/A | N/A | \$25.20 |
| 93303 | Transthoracic echocardiography for congenital cardiac anomalies; complete | N/A | \$62.25 | N/C | \$157.25 |
| 93313 | Echocardiography, transesophageal, real-time with image documentation (2D) (with or without M-mode recording); placement of transesophageal probe only | N/A | N/A | N/A | \$40.05 |
| 93503 | Insertion and placement of flow directed catheter (e.g., Swan-Ganz) for monitoring purposes | N/A | N/A | N/A | \$104.65 |
| 93875 | Noninvasive physiologic studies of extracranial arteries, complete bilateral study (e.g., periorbital flow direction with arterial compression, ocular pneumoplethysmography, Doppler ultrasound spectral analysis) | N/A | \$10.03 | N/C | \$46.03 |
| 93886 | Transcranial Doppler study of the intracranial arteries; complete study | N/A | \$44.90 | N/C | \$164.24 |
| 93888 | Transcranial Doppler study of the intracranial arteries; limited study | N/A | \$30.04 | N/C | \$82.84 |
| 93890 | Transcranial Doppler study of the intracranial arteries; vasoreactivity study | N/A | N/C | \$87.88 | \$130.78 |
| 93892 | Transcranial Doppler study of the intracranial arteries; emboli detection without intravenous microbubble injection | N/A | N/C | \$87.87 | \$136.97 |

| <i>Procedure Code/ Modifier SU, TH, NU or U7 where indicated</i> | <i>Procedure Code Description</i> | <i>Assistant Surgeon Fee Revision (Billing with Modifier 80)</i> | <i>Professional Component Fee Revision (Billing with Modifier 26)</i> | <i>Technical Component Fee Revision (Billing with Modifier TC)</i> | <i>Billing with No Modifier or Pricing Modifiers SU, TH, NU or U7</i> |
|------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|-----------------------------------------------------------------------|--------------------------------------------------------------------|-----------------------------------------------------------------------|
| 93893 | Transcranial Doppler study of the intracranial arteries; emboli detection with intravenous microbubble injection | N/A | N/C | \$87.87 | \$136.97 |
| 93925 | Duplex scan of lower extremity arteries or arterial bypass grafts; complete bilateral study | N/A | \$27.47 | N/C | \$146.81 |
| 93926 | Duplex scan of lower extremity arteries or arterial bypass grafts; unilateral or limited study | N/A | \$18.56 | N/C | \$97.16 |
| 93931 | Duplex scan of upper extremity arteries or arterial bypass grafts; unilateral or limited study | N/A | \$14.84 | N/C | \$93.44 |
| 93965 | Noninvasive physiologic studies of extremity veins, complete bilateral study (e.g., Doppler waveform analysis with responses to compression and other maneuvers, phleborheography, impedance plethysmography) | N/A | \$16.35 | N/C | \$52.35 |
| 93979 | Duplex scan of aorta, inferior vena cava, iliac vasculature, or bypass grafts; unilateral or limited study | N/A | \$21.15 | N/C | \$99.75 |
| 93981 | Duplex scan of arterial inflow and venous outflow of penile vessels; follow-up or limited study | N/A | \$20.79 | N/C | \$77.79 |
| 94240 | Functional residual capacity or residual volume: helium method, nitrogen open circuit method, or other method | N/A | \$11.55 | N/C | \$29.55 |
| 94260 | Thoracic gas volume | N/A | \$5.59 | N/C | \$19.99 |
| 94375 | Respiratory flow volume loop | N/A | \$13.43 | N/C | \$31.47 |
| 94400 | Breathing response to CO ₂ (CO ₂ response curve) | N/A | \$18.23 | N/C | \$30.65 |
| 94450 | Breathing response to hypoxia (hypoxia response curve) | N/A | \$17.53 | N/C | \$43.09 |
| 94660 | Continuous positive airway pressure ventilation (CPAP), initiation and management | N/A | N/A | N/A | \$34.26 |
| 94662 | Continuous negative pressure ventilation (CNP), initiation and management | N/A | N/A | N/A | \$33.90 |
| 94681 | Oxygen uptake, expired gas analysis; including CO ₂ output, percentage oxygen extracted | N/A | \$8.95 | N/C | \$31.45 |
| 95027 | Intracutaneous (intra-dermal) tests, sequential and incremental, with allergenic extracts for airborne allergens, immediate type reaction, including test interpretation and report by a physician, specify number of tests | N/A | N/A | N/A | \$4.92 |
| 95075 | Ingestion challenge test (sequential and incremental ingestion of test items, e.g., food, drug or other substance such as metabisulfite) | N/A | N/A | N/A | \$44.20 |
| 95812 | Electroencephalogram (EEG) extended monitoring; 41–60 minutes | N/A | \$51.55 | N/C | \$90.48 |

| <i>Procedure Code/ Modifier SU, TH, NU or U7 where indicated</i> | <i>Procedure Code Description</i> | <i>Assistant Surgeon Fee Revision (Billing with Modifier 80)</i> | <i>Professional Component Fee Revision (Billing with Modifier 26)</i> | <i>Technical Component Fee Revision (Billing with Modifier TC)</i> | <i>Billing with No Modifier or Pricing Modifiers SU, TH, NU or U7</i> |
|------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|-----------------------------------------------------------------------|--------------------------------------------------------------------|-----------------------------------------------------------------------|
| 95830 | Insertion by physician of sphenoidal electrodes for electroencephalographic (EEG) recording | N/A | N/A | N/A | \$80.90 |
| 95831 | Muscle testing, manual (separate procedure) with report; extremity (excluding hand) or trunk | N/A | N/A | N/A | \$13.71 |
| 95832 | Muscle testing, manual (separate procedure) with report; hand, with or without comparison with normal side | N/A | N/A | N/A | \$14.45 |
| 95833 | Muscle testing, manual (separate procedure) with report; total evaluation of body, excluding hands | N/A | N/A | N/A | \$22.60 |
| 95834 | Muscle testing, manual (separate procedure) with report; total evaluation of body, including hands | N/A | N/A | N/A | \$29.26 |
| 95851 | Range of motion measurements and report (separate procedure); each extremity (excluding hand) or each trunk section (spine) | N/A | N/A | N/A | \$7.78 |
| 95852 | Range of motion measurements and report (separate procedure); hand, with or without comparison with normal side | N/A | N/A | N/A | \$5.56 |
| 95903 | Nerve conduction, amplitude and latency/velocity study, each nerve; motor, with F-wave study | N/A | \$28.92 | N/C | \$37.90 |
| 95926 | Short-latency somatosensory evoked potential study, stimulation of any/all peripheral nerves or skin sites, recording from the central nervous system; in lower limbs | N/A | \$25.97 | N/C | \$58.43 |
| 95927 | Short-latency somatosensory evoked potential study, stimulation of any/all peripheral nerves or skin sites, recording from the central nervous system; in the trunk or head | N/A | \$27.02 | N/C | \$59.48 |
| 95955 | Electroencephalogram (EEG) during nonintracranial surgery (e.g., carotid surgery) | N/A | \$46.82 | N/C | \$119.35 |
| 95991 | Refilling and maintenance of implantable pump or reservoir for drug delivery, spinal (intrathecal, epidural) or brain (intraventricular); administered by physician | N/A | N/A | N/A | \$33.96 |
| 96153 | Health and behavior intervention, each 15 minutes, face-to-face; group (2 or more patients) | N/A | N/A | N/A | \$4.48 |
| 96920 | Laser treatment for inflammatory skin disease (psoriasis); total area less than 250 sq cm | N/A | N/A | N/A | \$58.68 |
| 96921 | Laser treatment for inflammatory skin disease (psoriasis); 250 sq cm to 500 sq cm | N/A | N/A | N/A | \$59.10 |

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|--------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| 97597 | Removal of devitalized tissue from wound(s), selective debridement, without anesthesia (e.g., high pressure waterjet with/without suction, sharp selective debridement with scissors, scalpel and forceps), with or without topical application(s), wound assessment, and instruction(s) for ongoing care, may include use of a whirlpool, per session; total wound(s) surface area less than or equal to 20 square centimeters | N/A | N/A | N/A | \$34.79 |
| 97598 | Removal of devitalized tissue from wound(s), selective debridement, without anesthesia (e.g., high pressure waterjet with/without suction, sharp selective debridement with scissors, scalpel and forceps), with or without topical application(s), wound assessment, and instruction(s) for ongoing care, may include use of a whirlpool, per session; total wound(s) surface area greater than 20 square centimeters | N/A | N/A | N/A | \$45.16 |
| 97605 | Negative pressure wound therapy (e.g., vacuum assisted drainage collection), including topical application(s), wound assessment, and instruction(s) for ongoing care, per session; total wound(s) surface area less than or equal to 50 square centimeters | N/A | N/A | N/A | \$24.91 |
| 99183 | Physician attendance and supervision of hyperbaric oxygen therapy, per session | N/A | N/A | N/A | \$106.80 |
| A4615 | Cannula, nasal | N/A | N/A | N/A | \$0.83 |
| A4620 | Variable concentration mask | N/A | N/A | N/A | \$0.69 |
| E2373-NU | Power wheelchair accessory, hand or chin control interface, compact remote joystick, proportional, including fixed mounting hardware | N/A | N/A | N/A | \$675.92 |
| G0108 | Diabetes outpatient self-management training services, individual, per 30 minutes | N/A | N/A | N/A | \$25.07 |
| G0109 | Diabetes outpatient self-management training services, group session (2 or more), per 30 minutes | N/A | N/A | N/A | \$14.28 |
| L3764 | Elbow-wrist-hand orthotic (EWHO), includes one or more nontorsion joints, elastic bands, turnbuckles, may include soft interface, straps, custom fabricated, includes fitting and adjustment | N/A | N/A | N/A | \$701.82 |
| Q0035 | Cardiokymography | N/A | \$7.81 | \$11.85 | \$19.67 |

Fiscal Impact

It is anticipated that these revisions will result in savings of \$0.485 million (\$0.190 million in State funds) in the MA Outpatient Program in Fiscal Year (FY) 2009-2010 and annualized savings of \$0.529 million (\$0.233 million in State funds) in FY 2010-2011. These State fund estimates are based on the increased Federal Medical Assistance Percentages as determined under the American Recovery and Reinvestment Act of 2009.

Public Comment

Interested persons are invited to submit written comments regarding this notice to the Department of Public Welfare, Office of Medical Assistance Programs, c/o Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120. Comments received within 30 days will be reviewed and considered for any subsequent revisions of the MA Program Fee Schedule.

Persons with a disability who require auxiliary aid or service may submit comments using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ESTELLE B. RICHMAN,
Secretary

Fiscal Note: 14-NOT-601. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 09-1034. Filed for public inspection June 5, 2009, 9:00 a.m.]

Payment for Nursing Facility Services Provided by County Nursing Facilities; Change in Methods and Standards of Setting Payment Rates

Purpose

This announcement is to provide advance notice that the Department of Public Welfare (Department) intends to make changes in its methods and standards for payment of Medical Assistance (MA) nursing facility services for qualified county nursing facilities for Fiscal Years (FY) 2009-2010, 2010-2011 and 2011-2012.

For FY 2006-2007 through 2008-2009 the Department provided pay for performance incentive payments to qualified county nursing facilities. The qualifying criteria and formula used to determine those payments is set forth in the Commonwealth's approved State Plan.

The Department intends to continue the pay for performance incentive payments to qualifying county nursing facilities for FYs 2009-2010, 2010-2011 and 2011-2012. To qualify for these payments a county nursing facility must be a county nursing facility at the time of payment and its MA case mix index (CMI) for the picture date within the pay for performance payment period must be higher than its facility MA CMI for the previous picture date. To determine the payments, the Department will ascertain the total quarterly funds available for the performance incentive payments and divide that amount by the total MA days for all county nursing facilities meeting the qualifying criteria. The MA days used for each county nursing facility will be the paid MA days identified on the most recent PROMISE data file used to determine eligibility for disproportionate share payments.

To authorize the continuation of the payments for FYs 2009-2010, 2010-2011 and 2011-2012, the Department will submit a State Plan Amendment (SPA) to the Federal Centers for Medicare and Medicaid Services (CMS).

Contingent upon the approval by CMS of the SPA, the Department will continue pay for performance incentive payments to qualified county nursing facilities for FYs 2009-2010, 2010-2011 and 2011-2012. The first payment for 2009-2010 will not be made prior to the second quarter of FY 2009-2010. The payments will be made quarterly to qualified county nursing facilities according to the criteria and formula set forth in the Commonwealth's approved State Plan.

Fiscal Impact

The change in payment rates is estimated to cost the Department \$6.500 million (\$2.245 million in State funds) in FY 2009-2010, \$6.500 million (\$2.578 million in State funds) in FY 2010-2011.

Public Comment

Interested persons are invited to submit written comments to the Department of Public Welfare, Office of Long-Term Living, Attention: Gail Weidman, 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).

ESTELLE B. RICHMAN,
Secretary

Fiscal Note: 14-NOT-599. (1) General Fund; (2) Implementing Year 2009-10 is \$2,245,000; (3) 1st Succeeding Year 2010-11 is \$2,578,000; 2nd Succeeding Year 2011-12 is \$2,578,000; 3rd Succeeding Year 2012-13 is NA; 4th Succeeding Year 2013-14 is NA; 5th Succeeding Year 2014-15 is NA; (4) 2007-08 Program—\$692,585,000; 2006-07 Program—\$695,279,000; 2005-06 Program—\$817,890,000; (7) Long-Term Care; (8) recommends adoption. Funds have been included in the budget to cover this increase.

[Pa.B. Doc. No. 09-1035. Filed for public inspection June 5, 2009, 9:00 a.m.]

Payment for Nursing Facility Services Provided by Nonpublic and County Nursing Facilities; Change in Methods and Standards of Setting Payment Rates

Purpose

This notice is to announce that the Department of Public Welfare (Department) is proposing to make changes in its methods and standards for payment of Medical Assistance (MA) nursing facility services provided by nonpublic and county nursing facilities beginning Fiscal Year (FY) 2009-2010.

Background

Act 52 of 2007 (Act 52) was enacted in Pennsylvania on July 20, 2007. Act 52, among other things, requires all Pennsylvania nursing facilities to electronically report health care-associated infection (HAI) data to the Department of Health (DOH) and the Patient Safety Authority (Authority). Act 52 also requires that, commencing July 1, 2008, each nursing facility shall pay the DOH an annual HAI surcharge on its licensing fee to provide sufficient revenues for the Authority to perform its responsibilities related to the Act. Act 52 specifies that the HAI surcharge fees for FY 2008-2009 shall not, in the aggregate, exceed \$1,000,000 and that the total HAI surcharge amount in each succeeding FY will be increased according to the Consumer Price Index.

Act 52 directs the Department to recognize the MA portion of the annual HAI surcharge paid by a nursing facility as an allowable cost under the MA Program. Contingent upon Federal approval the Department is directed to pay each nursing facility a separate pass-through payment in an amount equal to the HAI surcharge fee paid by a facility multiplied by the facility's MA occupancy rate as reported on its annual cost report.

Beginning FY 2008-2009, the DOH assessed and collected the HAI surcharge from all nursing facilities. MA nursing facilities shall report the HAI surcharge on the cost report on line 33 of Schedule C for cost report periods beginning on or after January 1, 2008.

The Department will submit a State Plan Amendment (SPA) to the Centers for Medicare and Medicaid Services (CMS) to seek Federal approval to make a HAI pass-through payment to MA nursing facilities to recognize the MA portion of the HAI surcharge. The HAI pass-through payment will be based on the nursing facility's MA occupancy rate as reported on the cost report in which the HAI surcharge is reported multiplied by the surcharge paid minus any penalties assessed by the DOH.

The HAI pass-through payments will be made annually within 120 days after the submission of an acceptable cost report provided that payment will not be made before 210 days of the close of the nursing facility FY and DOH has received the HAI surcharge fee.

Fiscal Impact

This change will result in an estimated cost of \$0.717 million in total funds (\$0.248 million in State funds) in FY 2009-2010.

Public Comment

Interested persons are invited to submit written comments regarding this notice to the Department of Public Welfare, Office of Long-Term Living, Attention Gail Weidman, P. O. Box 2675, Harrisburg, PA 17105. Comments received within 33 days of publication of this notice in the *Pennsylvania Bulletin* 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).

ESTELLE B. RICHMAN,
Secretary

Fiscal Note: 14-NOT-600. (1) General Fund; (2) Implementing Year 2009-10 is \$248,000; (3) 1st Succeeding Year 2010-11 is \$286,000; 2nd Succeeding Year 2011-12 is \$327,000; 3rd Succeeding Year 2012-13 is \$327,000; 4th Succeeding Year 2013-14 is \$327,000; 5th Succeeding Year

2014-15 is \$327,000; (4) 2007-08 Program—\$692,585,000; 2006-07 Program—\$695,279,000; 2005-06 Program—\$817,890,000; (7) MA—Long-Term Care; (8) recommends adoption. Funds have been included in the budget to cover this increase.

[Pa.B. Doc. No. 09-1036. Filed for public inspection June 5, 2009, 9:00 a.m.]

Public Hearing for the Child Care Development Fund State Plan

Purpose

This notice is to announce that on June 19, 2009, the Office of Child Development and Early Learning will hold a hearing to provide the public an opportunity to comment on Pennsylvania's draft State Plan required by the Federal Child Care Development Fund.

Interested persons are invited to attend the public hearing scheduled to commence at 1 p.m. on June 19, 2009, at 6340 Flank Drive, Harrisburg, PA 17112. Directions and additional information can be found at: <http://www.pattan.k12.pa.us/about/Harrisburg.aspx>.

A draft version of the State Plan will be available online at least 1 week prior to the public hearing. To view or print a copy of the plan visit <http://www.dpw.state.pa.us/About/OCDEL/>.

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).

ESTELLE B. RICHMAN,
Secretary

[Pa.B. Doc. No. 09-1037. Filed for public inspection June 5, 2009, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Finding Fayette County

Under section 2002(b) of The Administration Code of 1929 (71 P. S. § 575(b)), the Director of the Bureau of Design makes the following written finding:

The Federal Highway Administration (FHWA) and the Department of Transportation are planning to widen SR 0021 to install a westbound left-turn lane and to widen the Easy Street approach to provide separate left and right-turn lanes on Easy Street. In addition, a traffic signal is proposed at the intersection. The project is located in Fayette County.

The project will require shifting the alignment of the driveway to the Hillcrest/O.M. Boughner House property, which is eligible for the National Register of Historic Places, and therefore, qualifies as a section 4(f)/section 2002 resource. The existing driveway access to SR 0021 is partially on the adjacent property with stone walls along the driveway that extend into the SR 0021 right-of-way. The driveway alignment shift will move the driveway

entirely onto the historic property. The stone walls will be relocated along the new driveway alignment and outside the SR 0021 right-of-way.

The Historical and Museum Commission concurred that the project will have no adverse effect on the Hillcrest/O.M. Boughner House property. The FHWA has determined that this project will have a *Deminimis Use* of the Hillcrest/O.M. Boughner House property.

Therefore, a "Determination of Section 4(f) *Deminimis Use*/Section 2002 No Adverse Use, Historic Properties" Programmatic section 4(f)/section 2002 Evaluation has been prepared and approved to evaluate the potential environmental impacts caused by the project.

Based upon studies, there is no feasible and prudent alternative to the proposed action. Mitigation measures will be taken to minimize harm as stipulated in the Categorical Exclusion Evaluation and the Programmatic section 4(f)/section 2002 Evaluation. The mitigation measures include replacement of the existing stone walls in-kind.

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. 09-1038. Filed for public inspection June 5, 2009, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Action Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10:30 a.m., Thursday, May 21, 2009, and announced the following:

Action Taken—Regulations Approved:

Pennsylvania Gaming Control Board #125-86: Slot Machine Licensing (amends 58 Pa. Code § 441a.7)

Pennsylvania Gaming Control Board #125-93: Rules of Practice and Procedures (amends 58 Pa. Code Chapters 401a, 403a, 405a, 491a, 493a, 494a, 495a, 497a, 499a and 511a)

Approval Order

Public Meeting held
May 21, 2009

Commissioners Voting: Arthur Coccodrilli, Chairperson; George D. Bedwick, Vice Chairperson; Nancy Sabol Frantz, Esq., by Phone; John F. Mizner, Esq.

Pennsylvania Gaming Control Board— Slot Machine Licensing; Regulation No. 125-86 (#2695)

On May 1, 2008, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Gaming Control Board (Board). This rulemaking amends 58 Pa. Code § 441a.7. The proposed regulation was published in the May 17, 2008 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on February 11, 2009. At its March 19, 2009 public meeting, the Commission voted to disapprove the final-form regulation. On April 22, 2009, the Board submitted its report containing the revised final-form regulation to the Commission.

This final-form regulation expands the provisions related to licensing hearings for potential slot machine licensees.

We have determined this regulation is consistent with the statutory authority of the Board (4 Pa.C.S. §§ 1202(b)(30), 1205 and 1206) 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.

Approval Order

Public Meeting held
May 21, 2009

Commissioners Voting: Arthur Coccodrilli, Chairperson; George D. Bedwick, Vice Chairperson; Nancy Sabol Frantz, Esq., by Phone; John F. Mizner, Esq.

Pennsylvania Gaming Control Board— Rules of Practice and Procedures; Regulation No. 125-93 (#2723)

On September 24, 2008, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Gaming Control Board (Board). This rulemaking amends 58 Pa. Code Chapters 401a, 403a, 405a, 491a, 493a, 494a, 495a, 497a, 499a and 511a. The proposed regulation was published in the October 4, 2008 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on April 22, 2009. At its March 19, 2009 public meeting, the Commission voted to disapprove the final-form regulation. On April 22, 2009, the Board submitted to the Commission its report containing the revised final-form regulation.

This revised final-form regulation amends existing practice and procedure regulations to improve clarity, conform to current practice and simplify some existing requirements.

We have determined this regulation is consistent with the statutory authority of the Board (4 Pa.C.S. §§ 1202(b)(30) and 1205) 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. 09-1039. Filed for public inspection June 5, 2009, 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> |
|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|-------------------------------------|
| 57-265 | Pennsylvania Public Utility Commission Standards and Billing Practices for Residential Utility Services 39 Pa.B. 925 (February 14, 2009) | 4/20/09 | 5/20/09 |

**Pennsylvania Public Utility Commission
Regulation #57-265 (IRRC #2743)**

**Standards and Billing Practices for
Residential Utility Services**

May 20, 2009

We submit for your consideration the following comments on the proposed rulemaking published in the February 14, 2009 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (RRA) (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Pennsylvania Public Utility Commission (Commission) to respond to all comments received from us or any other source.

1. Whether the regulation is consistent with the intent of the General Assembly.

Act 201 of 2004 (Act) was signed into law on November 30, 2004, and became effective on December 14, 2004. This Act amends Title 66 of Pennsylvania's Consolidated Statutes by adding Chapter 14 (66 Pa.C.S. §§ 1401—1418), titled *Responsible Utility Consumer Protection* (Chapter 14). As noted by the Commission, the purpose of this rulemaking is to promulgate regulations to imple-

ment Chapter 14. In particular, Section 6 of the Act requires the Commission to amend "the provisions of 52 Pa. Code Chapter 56 to comply with the provisions of 66 Pa.C.S. Ch. 14."

The policy behind Chapter 14 is articulated in Section 1402. It states:

The General Assembly finds and declares as follows:

(1) Formal service rules were first adopted by the Pennsylvania Public Utility Commission in 1978 with the stated goal of enforcing uniform, fair and equitable residential utility service standards governing eligibility criteria, credit and deposit practices, account billing, termination and restoration of service procedures and customer complaint procedures. These rules have not successfully managed the issue of bill payment. Increasing amounts of unpaid bills now threaten paying customers with higher rates due to other customers' delinquencies.

(2) The General Assembly believes that it is now time to revisit these rules and provide protections against rate increases for timely paying customers resulting from other customers' delinquencies. The General Assembly seeks to achieve greater equity by eliminating opportunities for customers capable of paying to avoid the timely payment of public utility bills.

(3) Through this chapter, the General Assembly seeks to provide public utilities with an equitable means to reduce their uncollectible accounts by modifying the procedures for delinquent account collections and by increasing timely collections. At the same time, the General Assembly seeks to ensure service remains available to all customers on reasonable terms and conditions.

(4) The General Assembly believes that it is appropriate to provide additional collection tools to city natural gas distribution operations to recognize the financial circumstances of the operations and protect their ability to provide natural gas for the benefit of city residents. 66 Pa.C.S. § 1402.

Developing a set of rules that eliminates opportunities for customers capable of paying to avoid timely payment of their bills with the equally important goal of ensuring utility service remains available to all other customers on reasonable terms and conditions is not an easy task. We acknowledge the amount of time and effort the Commission has dedicated to this endeavor.

However, some commentators are concerned that, in general, the proposed rulemaking does not accurately reflect the intent of Chapter 14 as expressed in Subsections (3) and (4) of Section 1402. They believe that the proposed rulemaking does not provide public utilities with a means to reduce their uncollectible accounts and that the rulemaking does not provide any *additional* collection tools to city natural gas distribution operations. We ask the Commission to explain, in the Preamble to the final-form regulation, how the proposed regulation allows utilities to reduce their uncollectible accounts and to identify what *additional* tools have been provided to city natural gas distribution operations.

Commentators also believe that certain sections of the proposed rulemaking conflict with specific sections of Chapter 14. Of particular concern are the 25 sections of 52 Pa. Code Chapter 56 (Chapter 56) identified in the Historical and Statutory Notes to Chapter 14 (66 Pa.C.S. § 1401), which are superseded to the extent the requirements imposed by those sections are inconsistent with Chapter 14. The Commission has amended 24 of those sections to some degree and reserved one of those sec-

tions. We ask the Commission to explain, in the Preamble to the final-form regulation, the amendments being made and how those amendments make the section consistent with Chapter 14. The specific sections of Chapter 56 are:

| | | | | |
|---------|---------|----------|----------|----------|
| § 56.32 | § 56.53 | § 56.93 | § 56.101 | § 56.115 |
| § 56.33 | § 56.81 | § 56.94 | § 56.111 | § 56.116 |
| § 56.35 | § 56.82 | § 56.95 | § 56.112 | § 56.117 |
| § 56.41 | § 56.83 | § 56.96 | § 56.113 | § 56.181 |
| § 56.51 | § 56.91 | § 56.100 | § 56.114 | § 56.191 |

2. Determining whether the regulation is in the public interest.

Section 5.2 of the RRA (71 P. S. § 745.5b) directs the Independent Regulatory Review Commission (IRRC) to determine whether a regulation is in the public interest. When making this determination, IRRC considers criteria such as economic or fiscal impact and reasonableness. To make that determination, the Commission must analyze the text of the Preamble and proposed regulation and the reasons for the new or amended language. The Commission also considers the information a promulgating agency is required to provide under § 745.5(a) in the regulatory analysis form (RAF).

The explanation of the regulation in the Preamble and the information contained in the RAF are not sufficient to allow IRRC to determine if the regulation is in the public interest. In the Preamble and RAF submitted with the final-form rulemaking, the Commission should provide more detailed information required under § 745.5(a) of the RRA, including a description of the amendments proposed for each section of the regulation and why the amendments are required.

3. Economic or fiscal impact of the regulation.

A commentator has estimated that this rulemaking will cost the utility industry approximately \$50 million annually. This additional cost would have to be absorbed by the ratepayers of the utilities. If the proposed regulation substantially increases costs to the utility industry, such a result would conflict with Section 1402(2) of Chapter 14 and the General Assembly's desire to "provide protections against rate increases for timely paying customers resulting from other customers' delinquencies." Creating a regulatory framework that increases the costs of utilities attempting to reduce their uncollectible accounts is contrary to Chapter 14 and also conflicts with the Commission's contention that the rulemaking will not have a fiscal impact on the regulated community.

As noted above in our comments pertaining to "determining whether the regulation is in the public interest," there is insufficient information in the RAF and Preamble to enable us to determine what fiscal impact, if any, the rulemaking will have on the regulated utilities and their customers. In the final-form regulation, the Commission needs to provide a more detailed cost-benefit and fiscal impact analysis of the regulation.

4. Reasonableness; Need.

Sections 56.21(5), 56.35 (b)(3), 56.36(a) and 56.191(e) of the proposed rulemaking would require public utilities to include various information in their tariffs. Examples of additions include: fee information for utilizing a payment option, procedures and standards for determining liability for outstanding payment balances, credit and application procedures, and credit scoring and methodology standards.

Both public utilities and consumer advocacy groups questioned whether some of these additions are appropriate. Concerns related to whether their implementation

would have a micromanaging effect on the utility management's discretion to conduct business, and whether implementation would place undue burdens on the public utilities themselves, including costs. Commentators questioned whether these additions would result in the disclosure of proprietary information of third-parties and other confidential information. A commentator also stated that the Commission should not require utilities to file tariff changes on "collection-related initiatives" that do not impact the basic credit and application procedures in the tariff. The commentator further states that this requirement could result in a "chilling" effect on collection efforts, due to possible consequences imposed on the utility such as the filing of a tariff supplement and litigation before the Commission.

In the final-form regulation, the Commission should explain the need for requiring this information in the tariff.

5. Advanced Notice of Final Rulemaking.

This proposed rulemaking has received extensive public comment. As noted above, the utility industry is concerned that the rulemaking does not follow the legislative intent of Chapter 14. In addition, the lack of information provided in the Preamble and the RAF makes it difficult for us to analyze the rulemaking in comparison to the criteria set forth in the RRA (71 P. S. § 745.5b). For these reasons, we suggest that the Commission issue an Advanced Notice of Final Rulemaking. This would allow interested parties and the Commission the opportunity to resolve as many concerns as possible prior to the submittal of the final-form regulation.

Subchapter A. PRELIMINARY PROVISIONS FOR UTILITIES AND CUSTOMERS SUBJECT TO CHAPTER 14 OF THE PUBLIC UTILITY CODE

6. Section 56.2. Definitions.—Statutory authority; Reasonableness; Need; Implementation procedures; Clarity.

Terms that Need Definitions

There are several terms that are used in the proposed regulation but are not defined.

The final-form regulation should include definitions for the following terms: "change in income;" "complainant;" "Federal poverty level;" "significant change in circumstance" and "third-party guarantor." Both "change in income" and "significant change in circumstance" are defined in 66 Pa.C.S. § 1403 and a cross-reference is appropriate for definitions of these terms.

Applicant

Like Chapter 14, this definition not only refers to a "natural person" but it also refers to an "adult occupant." Based on the use of "natural person," can someone under 18 be considered an applicant? The definitions for "customer" and "occupant" should also include the same clarification.

Basic service

The definition refers to the delivery of residential service, however it does not mention default supply. Has the Commission considered the inclusion of default supply in the definition of basic service? If the Commission includes default supply in the definition of basic service, it should also separately define "default supply" in the final-form regulation. The definition for "nonbasic service" should also be consistent with the language in the definition for "basic service."

Customer

The definition for “customer” mirrors the definition of the same term in 66 Pa.C.S. § 1403, except the regulation includes the following additional sentence: “[a] natural person remains a customer after discontinuance or termination until the final bill for service is past due.” What is the Commission’s statutory authority for expanding the scope of a definition provided by the General Assembly? If the Commission believes it has the authority, then it should explain the need for this change to the definition.

Electronic billing

It is our understanding that electronic billing and electronic payment are separate and distinct from each other. However, this definition includes both billing and payment. To improve clarity, the final-form regulation should include separate definitions for the terms “electronic billing” and “electronic payment.”

Household income

Section 1403 of Chapter 14 defines “household income” as “[t]he combined gross income of all adults in a residential household who benefit from the public utility service.” Subsection (ii) of the regulatory definition excludes income intended for the use of a minor from the household income, and includes examples of what would constitute a minor’s income. Commentators are concerned that these examples exceed not only the scope of the statute, but also are inconsistent with how the term is used in various programs, such as LIHEAP. What is the Commission’s statutory authority for including these changes in the regulation? If the Commission can demonstrate it has the authority, then it should explain the need for these provisions.

Informal complaint

The proposed definition states that an informal complaint is “a complaint *filed* . . . by a *customer* . . .” (Emphasis added.) The word “filed” is vague because informal complaints can be made telephonically. It is our understanding that an informal complaint can be made not only by a customer, but also by an applicant or an occupant. The final-form regulation should clarify who can make an informal complaint, and the available methods of filing.

Informal dispute settlement agreements

The first sentence is vague, as it refers to a “mutually agreeable statement,” but then it only mentions a “customer or applicant” as entering into one. The final-form regulation should clarify who the parties are in the “mutual agreement.”

In addition, commentators suggest this definition will result in confusion and increased formal complaint proceedings at the Commission. What is the need for including this definition in the regulation?

Finally, the definition specifically provides what must be included in an informal dispute settlement agreement. Section 1.7 of the *Pennsylvania Code and Bulletin Style Manual* states: “substantive (that is, regulatory) provisions may not be contained in a definition section.” Therefore, the Commission should remove the second, third and fourth sentences of the definition and move them to a provision establishing the parameters of and requirements for informal dispute settlement agreements.

Occupant

The proposed definition is vague for two reasons. First, while other related terms like “customer” or “applicant”

use the descriptor “natural person,” this definition uses “person.” To improve consistency, “person” should be replaced with “natural person.” Second, when does a natural person officially become an occupant and when does the natural person cease being one?

User without contract

This definition includes “unauthorized use” as an exception to what would be considered a “user without contract.” Given that the existing regulation already includes a definition for “unauthorized use,” has the Commission considered simply amending this definition to include the substance of this proposed definition for “user without contract”?

Subchapter B. BILLING AND PAYMENT STANDARDS

BILLING

7. Section 56.11. Billing frequency.—Implementation procedures; Clarity.

This section permits a public utility to use electronic billing instead of mailed paper billing. We raise three issues.

First, Subsection (b)(1) states that a customer must provide the public utility with one month notice to revert to paper billing. Commentators for both public utilities and consumer groups question whether a one month notice is an appropriate amount of time. Why is one month adequate, given that a commentator representing consumers believes that one month notice may not always be possible, while utility commentators would like more time to process the request? The Commission should consider adding language suggested by a commentator that the request for paper billing be processed “one billing cycle after the request is made.”

Second, Subsection (b)(5) requires an electronic bill to: “include the option for the customer to contribute to the utility’s hardship fund.” Does this requirement also apply to paper billing? If not, why is it being added to electronic billing requirements?

Finally, Subsection (b)(8) requires the public utility to maintain a “sufficient system security.” How will the Commission determine what is “sufficient”? The final-form regulation should further explain the requirements for a “sufficient system security.” We raise the same issue with Paragraph (5) in Section 56.25.

8. Section 56.12. Meter reading; estimated billing; customer readings.—Reasonableness; Need; Clarity.

This section describes bills based on meter readings, and Paragraph (7) specifically addresses the budget billing process. We have three concerns with this paragraph.

First, the proposed paragraph changes the billing mechanism from “equal monthly” to “budget billing,” yet the Commission does not explain the reason for the change. As a result, many commentators expressed concerns that changing the method was inappropriate. What was the Commission’s intent in making this change?

Second, Paragraph (7) allows a public utility, as part of budget billing, to amortize over a 3 to 12-month period any amount exceeding \$25 resulting from reconciliation. How did the Commission determine that both the amount triggering amortization and the time periods were reasonable?

Finally, the last sentence of Paragraph (7) states that: “[p]ayment agreements for heating customers shall be

based upon equal monthly billing.” What is the need for this sentence and why is it being included in this section of the regulation?

9. Section 56.13. Billings for merchandise, appliances and nonrecurring and recurring services.—Reasonableness; Clarity.

Rather than have a separate billing, the proposed regulation would now include miscellaneous merchandise as part of the bill for basic service. A commentator suggests there is no justification for this change, and that it could unfairly result in termination of service if termination is based on overdue miscellaneous merchandise charges. What was the Commission’s intent in making this change? Will a utility be able to terminate a customer’s basic service as a result of unpaid miscellaneous merchandise charges? If not, then the Commission should clarify in the final-form regulation that basic service cannot be terminated as a result of unpaid miscellaneous merchandise charges.

10. Section 56.14. Previously unbilled public utility service.—Possible conflict with the statute; Reasonableness; Clarity.

This section allows for a utility to render a make-up bill for previously unbilled public utility service which accrued within the last four years. However, 66 Pa.C.S. § 1303 appears to require utilities to charge the approved (tariff) rates for services provided. How is the four-year accrual time period consistent with this statutory provision? Does the customer have up to four years to pay the bill?

11. Section 56.16. Transfer of accounts.—Possible conflict with the statute; Clarity.

This section describes billing procedures for account transfers. Subsection (d) addresses transfers from terminated residential customers to third-party guarantors. However, this subsection states that the transfer may be “any portion of the unpaid balance which is equivalent to the cash deposit requirements of the customer.” A commentator suggested that this language is inconsistent not only with 66 Pa.C.S. § 1404(b), but also with the proposed language in Section 56.33(2)(ii) of the regulation, which both require the guarantor to be responsible for *all* missed payments. Subsection (d) should be consistent with the statute and Section 56.33(2)(ii), and not limit payment transfers simply to cash deposit amounts.

While Section 56.16 (d) refers to “unpaid balance,” Section 56.33 (2)(ii) refers to “missed payments.” For purposes of consistency not only with the statute but also within the regulation itself, “unpaid balances” should be replaced with “missed payments.”

PAYMENTS

12. Section 56.21. Payment.—Reasonableness; Need; Clarity.

This section relates to transmitting payments. The first paragraph states that the due date of a bill may be no less than 20 days from the date of transmittal. The paragraph seems to define “date of transmittal” occurring on either the date of mailing or delivery. How can the transmittal date be one or the other when, in all likelihood, the payments will be received on different dates in each circumstance? The Commission should explain how this section will be implemented for the transmittal of paper bills and electronic bills.

Also, the proposed regulation removes the word “physical,” whereas other sections of the regulation continue to use the phrase “physical delivery.” What is the reason for this deletion?

13. Section 56.22. Accrual of late payment charges.—Statutory authority.

Subsection (e) prevents additional late payment charges once an account is no longer actively billed. A commentator argues that there is no justification in Chapter 14 to support this change. What is the Commission’s statutory authority for this revision?

14. Section 56.25. Electronic bill payment.—Need; Implementation procedures; Clarity.

This section describes the procedures for electronic bill payments. We raise three issues.

First, Paragraph (2) refers to electronic bill payments via automatic withdrawals from a customer’s checking account. A commentator notes that automatic electronic payments can be made from types of accounts other than checking accounts and suggests using the term “financial account.” We agree and recommend that the Commission incorporate this change in the final-form regulation.

Second, Paragraph (4) requires the public utility to provide an electronic or paper receipt to the customer upon payment through the electronic method. What is the need for a receipt in these circumstances? Has the Commission considered requiring a paper receipt for notice of an unsuccessful electronic payment?

Finally, Paragraph (5) requires the public utility to maintain a “sufficient system security.” How will the Commission determine what is “sufficient”? The final-form regulation should further explain the requirements for a “sufficient system security.”

**Subchapter C. CREDIT AND DEPOSITS
STANDARDS POLICY**

PROCEDURES FOR NEW APPLICANTS

15. Section 56.35. Payment of outstanding balance.—Reasonableness; Need; Clarity.

Subsection (b)(3) requires public utilities to include in the tariff procedures and standards for determining an applicant’s liability for any outstanding balance. Several commentators have objected to this requirement, noting that including the procedures and standards in the tariff would hinder a public utility’s flexibility to revise its business practices and that the standards for determining liability are already set forth in Chapter 14 and the Commission’s regulations. What is the need for including standards and procedures in the tariff?

Subsection (b)(3) also states that “any outstanding residential account with the public utility may be amortized *in accordance with § 56.191* . . .” (Emphasis added.), which establishes processes for restoration of service after termination. However, this rulemaking deletes existing language in Subsection (b)(3) that prohibits a condition of restoration of service being payment of an outstanding balance of an account in the name of a person other than the applicant. Without this language, a commentator is concerned how to apply § 56.191 to applicants under § 56.35. The final-form regulation should clarify the provision regarding restoration of service.

16. Section 56.36. Written procedures.—Reasonableness; Need; Clarity.

This section requires public utilities to establish written credit and application procedures. We raise two issues.

First, Subsection (b)(1) states that if credit is denied, the public utility shall inform the customer orally and in writing. What is the need for oral notification?

Second, commentators have stated that the Fair Credit Reporting Act (15 U.S.C. § 1681 et. seq.) (FCRA) prohibits a utility from providing a customer or applicant with a specific credit score. The final-form regulation should explain whether the FCRA prohibits disclosure of a consumer's credit score to the consumer, and why providing this information is necessary.

17. Section 56.37. General rule.—Reasonableness; Clarity.

This section allows a utility to provide service to an approved applicant within three days. How did the Commission determine this was a reasonable time frame?

In addition, approval is contingent on the applicant meeting "all requirements," yet the regulation does not explain what these are. The final-form regulation should clarify this phrase.

18. Section 56.38. Payment period for deposits by applicants.—Statutory authority; Clarity.

The proposed language adds a sentence permitting applicants to pay the security deposit in installments. However, Chapter 14 specifically prohibits the Commission from prohibiting a utility from requiring a cash deposit "prior to or as a condition of providing utility service." The final-form regulation should explain how this provision is consistent with 66 Pa.C.S. §§ 1404(a) and (e). Also, Chapter 14 does not make a distinction between security deposits paid by applicants and new applicants. Therefore, to whom does this requirement apply?

19. Section 56.41. General rule.—Clarity.

Subsection (1)(ii) refers to "equal monthly billing plans." In order to be consistent with Section 56.12, the final-form regulation should replace this term with "budget billing."

CASH DEPOSITS

20. Section 56.54. Application of deposit to bills.—Possible conflict with existing regulations.

The existing language in this section allows a customer to seek a refund of a deposit; however, a commentator is concerned that this language conflicts with proposed language in Subsections 56.53 (c), (d) and (e) which allows only partial refunds, based on various circumstances. How is the process for refund consistent with each of these subsections?

Subchapter E. TERMINATION OF SERVICE

NOTICE PROCEDURES PRIOR TO TERMINATION

21. Section 56.91. General notice provisions and contents of termination notices.—Implementation procedures; Clarity.

Subsection (b) identifies the information that must be provided in termination notices. We have four concerns.

First, under Subsection(b)(3), a commentator has noted that including a specific reconnection fee in the termination notice is not feasible, because the amount of the fee is not known at the time the termination notice is delivered. The commentator suggests removing the word "specific" and including a range of fees or maximum fee in the notice. The Commission should consider including this option in the final-form regulation.

Second, under Subsection (b)(7), has the Commission considered allowing informal complaints to be filed by electronic mail?

Third, Subsection (b)(17) lacks clarity because it requires a utility to include certain information in a termination notice "when census data indicates a *significant population* using that language resides in the public utility's service territory." (Emphasis added.) We recommend that the language be amended to clarify what constitutes a "significant population."

Fourth, could the contact information required under Subsection (b)(18) be the customer service telephone number for the utility?

22. Section 56.94. Procedures immediately prior to termination.—Clarity.

Under Paragraph (1), would termination be prohibited if evidence is presented that the customer is participating in a customer assistance program? If so, we recommend that this be added to Paragraph (1).

23. Section 56.96. Notice.—Clarity.

The inclusion of the word "substantially" in this section is problematic because that term is vague and does not provide a specific standard that must be met. It should be deleted or replaced with more precise language.

24. Section 56.97. Procedures upon customer or occupant contact prior to termination.—Statutory authority; Clarity.

Subsection (a)(2)(iii) requires public utilities to tell customers they may avoid termination by "[p]aying what is past-due on the most recent previous company negotiated or Commission payment agreement." A commentator is concerned that this subsection exceeds the scope of Chapter 14, which specifically allows a public utility to terminate service for failure to comply with a payment agreement. See 66 Pa.C.S. §§ 1405(f) and 1406(a). We agree with the commentator and ask the Commission to explain how this provision, when applied to customers with existing payment agreements, is consistent with Chapter 14.

As recommended by a commentator, we suggest the language found in Subsection (a)(2)(iv) be consistent with the language found in Section 56.91(b)(4)(iv), which pertains to universal service programs.

25. Section 56.100. Winter termination procedures.—Legislative intent; Implementation procedures; Fiscal impact; Need; Protection of the public health, safety and welfare.

Subsection (b) Electric distribution and natural gas distribution utilities.

Commentators have questioned the inclusion of the qualifying term "heat related," as it pertains to termination of service during the winter. We also question the inclusion of this term and note that 66 Pa.C.S. § 1406 (e) does not make any distinction between "service" and "heat related service."

Subsection (e) Identification of accounts protected during the winter.

This subsection requires utilities to use household income and size information that they have on file to identify accounts that cannot be terminated in the winter. It also requires utilities to solicit household size and income information from customers who contact the utility in response to notices of termination "to determine eligibility for termination." Commentators have raised issues related to verification of household income and contact with the customer during the termination process. What is the procedure for verifying household income? Additionally, why does this subsection require the utility

to gather household income and size information after the termination notice has been issued to determine eligibility for termination, rather than prior to issuance? These issues should be addressed in the final-form regulation.

Subsection (i) Reporting of survey results.

The need for and the cost associated with producing additional winter surveys required by this subsection have been questioned by several commentators. They note that similar information is required under the reporting requirements found in Section 56.231, pertaining to reporting requirement of public utilities. What is the need for the additional reporting requirement in this subsection?

Subsection (j) Reporting of deaths at locations where public utility service was previously terminated.

This subsection has generated interest from both the utility industry and the consumer advocacy community. The utility industry questions the need for reporting deaths, and the consumer advocacy community has suggested that the provision be amended to require the reporting of deaths *and* injuries. The Commission should explain the need for the reports, why this provision presents an appropriate level of reporting and how the information will be used.

EMERGENCY PROVISIONS

26. Section 56.111. General provisions and Section 56.113. Medical certifications.—Statutory authority; Implementation procedures; Clarity.

These sections of the rulemaking implement 66 Pa.C.S. § 1406(f), pertaining to medical certification. They prevent a utility from terminating service when a licensed physician or nurse practitioner certifies that the customer or member of the customer's household is ill or has a condition that will be aggravated by cessation of service. The sections also require a customer to obtain a letter from a physician verifying the condition. We have three concerns. First, § 1406(f) only refers to customers, and not applicants. Why have applicants been included in this section of the regulation? Second, § 1406(f) refers to authorized termination of service, not the refusal to restore of service. What is the Commission's authority to include service restoration in Section 56.111? Third, while § 1406(f) requires a letter from a licensed physician verifying the condition of the customer, why does the regulation also allow nurse practitioners to provide verification letters?

27. Section 56.114. Length of postponement; renewals.—Protection of the public health, safety and welfare; Reasonableness.

Medical certificates are valid for 30 days under this section. Has the Commission considered providing procedures that would allow customers to request longer periods of time for instances involving chronic illness or other extenuating circumstances?

Subchapter F. DISPUTES; TERMINATION DISPUTES; INFORMAL AND FORMAL COMPLAINTS

INFORMAL COMPLAINT PROCEDURES

28. Section 56.166. Informal complaints.—Implementation procedures; Clarity.

The first sentence of this section provides Bureau of Consumer Services (BCS) with primary authority over "customer, applicant and occupant complaints arising

under this chapter." To improve clarity, we recommend that the word "informal" be included before "complaints" in this section.

This section also provides that BCS will "establish appropriate internal procedures to implement this chapter." However, we note that 66 Pa.C.S. § 308(d)(1) requires the Commission to "adopt, publish and generally make available rules by which a consumer may make informal complaints." The Commission should explain how this regulatory provision is consistent with the statute.

Subchapter G. RESORATION OF SERVICE

29. Section 56.191. General rule.—Statutory authority.

Most of the language found in this section is the exact same language found in 66 Pa.C.S. § 1407, pertaining to reconnection of service. However, certain subsections contain different or additional language. For example, Subsection (b)(2) of the statute references three days and Subsection (b)(2) of the regulation references three calendar days. We ask the Commission to explain why the different or additional language is needed and how the language is consistent with the intent of the General Assembly.

30. Miscellaneous clarity.

The formatting for Section 56.163 (2), as published in the *Pennsylvania Bulletin*, is unclear because the reader cannot tell what language is being deleted and what language is being added. Will any parties have to sign the settlement agreement?

Subchapters L through V

31. Determining whether the agency has the statutory authority to promulgate the regulation.

Pursuant to 66 Pa.C.S. § 1401, "[t]his Chapter relates to protecting responsible customers of public utilities." A public utility is defined as: "[a]ny electric distribution utility, natural gas distribution utility or water distribution utility in this Commonwealth that is within the jurisdiction of the Pennsylvania Public Utility Commission." 66 Pa.C.S. § 1403. It is clear that the General Assembly intended Chapter 14 to apply to specific types of public utility.

This rulemaking adds 11 new subchapters to Chapter 56. The new subchapters apply to wastewater, steam heat and small natural gas distribution utilities and victims of domestic violence with a protection from abuse order. While we do not question the policy behind adding these new subchapters, we ask the Commission to further explain its statutory authority for promulgating the new subchapters.

32. Incorporation of comments.

The language in these subchapters is similar, and at times verbatim, to the corresponding sections of Subchapters A through K. To the extent this occurs, we incorporate our comments from Subchapters A through K. The Commission should respond to our comments on both sets of subchapters and amend the final-form rulemaking in a consistent manner.

33. Section 56.453. Inconsistent tariff provisions.—Statutory authority; Need; Implementation procedures.

Subchapter U is titled "General Provisions," and contains chapters that discuss the availability of pursuing other Commission procedures not described in the Chap-

ter, as well as permitted applications for modifications or temporary exemptions based on hardship.

However, Section 56.453 states that: “[a] tariff provision inconsistent with this chapter is deemed nonoperative and superseded by this chapter.” What is the Commission’s statutory authority for this section? Also, what is the need for this section, and how will the Commission implement it since the section says the inconsistent tariff provisions are simply “deemed” nonoperative?

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 09-1040. Filed for public inspection June 5, 2009, 9:00 a.m.]

Notice of Filing of Final Rulemaking

The Independent Regulatory Review Commission (Commission) received the following regulation. It is scheduled to be considered on the date noted. The Commission’s public meetings are held at 333 Market Street, 14th Floor, in Harrisburg, PA at 10:30 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 an individual can obtain a copy from our web site, www.irrc.state.pa.us.

Final-Form

| <i>Reg. No.</i> | <i>Agency/Title</i> | <i>Received</i> | <i>Public Meeting</i> |
|-----------------|-------------------------------------|-----------------|-----------------------|
| 16A-5318 | State Board of Osteopathic Medicine | 5/22/09 | 6/11/09 |

Prescriptive Privileges for
Physician Assistants

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 09-1041. Filed for public inspection June 5, 2009, 9:00 a.m.]

INSURANCE DEPARTMENT

Main Line Nursing and Rehabilitation Center; Prehearing

Appeal of Main Line Nursing and Rehabilitation Center under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM09-05-008

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 31 Pa. Code Chapter 56 (relating to special rules of administrative practice and procedure).

On or before June 8, 2009, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE’s March 25, 2009, determination. The statement may be in narrative

form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for July 7, 2009, at 10 a.m. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before July 2, 2009. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before June 22, 2009, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any shall be filed on or before July 6, 2009.

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) 705-3873.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-1042. Filed for public inspection June 5, 2009, 9:00 a.m.]

Narinder Malhotra, M. D.; Prehearing

Appeal of Narinder Malhotra, M. D. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM09-05-011

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 31 Pa. Code Chapter 56 (relating to special rules of administrative practice and procedure).

On or before June 8, 2009, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE’s March 24, 2009, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for July 7, 2009, at 9:30 a.m. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before July 2, 2009. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before June 22, 2009, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any shall be filed on or before July 6, 2009.

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) 705-3873.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-1043. Filed for public inspection June 5, 2009, 9:00 a.m.]

PMSLIC; Prehearing

**Appeal of PMSLIC under the Medical Care
Availability and Reduction of Error (MCARE) Act
(40 P. S. §§ 1303.101—1303.910);
Doc. No. MM09-05-014**

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 31 Pa. Code Chapter 56 (relating to special rules of administrative practice and procedure).

On or before June 8, 2009, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's April 21, 2009, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for July 8, 2009, at 9:30 a.m. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before July 6, 2009. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before June 23, 2009, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any shall be filed on or before July 7, 2009.

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) 705-3873.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-1044. Filed for public inspection June 5, 2009, 9:00 a.m.]

Review Procedure Hearings under the Unfair Insurance Practices Act

The following insured has requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with their companies' termination of the insureds' policies. The administrative hearing will be held in the Insurance Department's regional office in Pittsburgh, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Pittsburgh Regional Office, Room 304, State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222.

Appeal of Jonathan R. and Bambi Elich Spavelko; file no. 09-302-69694; Motorists Mutual Insurance Company; Doc. No. PI09-05-019; August 27, 2009, 11 a.m.

Parties may appear with or without counsel and offer relevant testimony and/or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

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) 705-3873.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-1045. Filed for public inspection June 5, 2009, 9:00 a.m.]

Claire Robinson, M. D.; Prehearing

**Appeal of Claire Robinson, M. D. under the Medical
Care Availability and Reduction of Error (MCARE)
Act (40 P. S. §§ 1303.101—1303.910);
Doc. No. MM09-05-002**

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 31 Pa. Code Chapter 56 (relating to special rules of administrative practice and procedure).

On or before June 8, 2009, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's April 13, 2009, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for July 8, 2009, at 10 a.m. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before July 6, 2009. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any,

must be filed on or before June 23, 2009, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any shall be filed on or before July 7, 2009.

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) 705-3873.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-1046. Filed for public inspection June 5, 2009, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD

Smoking in Licensed Facilities; Withdrawal of Regulation #125-92

On March 19, 2009, the Independent Regulatory Review Commission (IRRC) disapproved the final-form Regulation #125-92 (IRRC #2731). Under § 7 of the Regulatory Review Act, the Board had the option of proceeding with the adoption of the final-form regulation without revisions, revising or modifying the final-form regulation to respond to the objections raised by IRRC, or withdrawing the final-form regulation.

Because all of the operating licensed facilities have reached the maximum level for the designated smoking areas permitted under the Clean Indoor Air Act of 2008 (35 P. S. §§ 637.3 and 637.4) which eliminated the need for the regulation and because of the objections raised in IRRC's March 19, 2009 disapproval order, the Board voted on April 22, 2009, to withdraw this final-form rulemaking.

FRANK DONAGHUE,
Acting Executive Director

[Pa.B. Doc. No. 09-1047. Filed for public inspection June 5, 2009, 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 June 22, 2009. 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-2009-2106848. Mapemawa, Inc. (122A Ericson Avenue, Essington, Delaware County, PA 19025), a corporation of the Commonwealth—persons, in limousine service from points in the Counties of Bucks, Chester, Delaware and Montgomery to points in Pennsylvania, and return, excluding services that are under the jurisdiction of the Philadelphia Parking Authority to points in Pennsylvania, and return. *Attorney:* David P. Temple, Esquire, Gallagher, Malloy & Georges, Suite 1100, 1760 Market Street, Philadelphia, PA 19103-4104.

A-2009-2106858. Imtiaz Shaikh-Ahmad (549 Highland Avenue, Wayne, Chester County, PA 19087), persons, upon call or demand service, in the Counties of Chester, Delaware and Montgomery.

A-2009-2109403. Juan Genet Enterprises, LLC t/a Safe Destinations (3311 Hartel Avenue, Philadelphia, Philadelphia County, PA 19136)—persons, in paratransit service, from points in the City and County of Philadelphia, to points in Pennsylvania, and return.

Application of the following for approval of the *beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of household goods by transfer of rights as described under the application.*

A-2009-2106757. Shlomo Sudai, t/a Capital Van Lines (3505 West Moreland Road, F423, Willow Grove, Montgomery County, PA 19090), household goods is use, between points in the Townships of Lower Makefield, Newtown, Bensalem, Falls, Bristol, Buckingham and Middletown, and the Boroughs of Yardley, Morrisville, Tulleytown, Langhorne and New Hope, all located in Bucks County, from points in said territory to points in Pennsylvania, and vice versa, which is to be a transfer of all the rights authorized under the Certificate issued at A-00116323 to Roger Sharma, t/d/b/a Phoenix Movers.

Applications of the following for the approval of the *right and privilege to discontinue/abandon operating as common carriers by motor vehicle and for cancellation of the certificate of public convenience as described under each application.*

A-00121501, Fs. 1 and 2. Dan Reitz, Inc., t/a Silver Bullet Cab (911 South Brady Street, P. O. Box 502, Dubois, Clearfield County, PA 15801)—discontinuance of service—(1) persons, upon call or demand, in the City of Dubois, Clearfield County and points located within an airline distance of 10 statute miles of the limits of said City; and (2) persons, in paratransit service, from points in the City of Dubois, Clearfield County, and points located within an airline distance of 10 statute miles of the limits of said city, to points in Pennsylvania, and return.

A-2009-2102231. Thomas R. Hagberg (646 Hatch Run Road, Warren, Warren County, PA 16365), for the discontinuance of service and cancellation of his certificate, as a common carrier, by motor vehicle at A-00123320, authorizing the transportation of persons, upon call or demand, in the Borough of Warren, Warren County; which was a transfer of all the right authorized

under the Certificate issued at A-00097613 to Homer F. Phillips, t/d/b/a Warren Taxi Service, subject to the same limitations and conditions.

A-00108457. Munksgard Limousine, Inc., t/d/b/a Munksgard Limousine Service (911 Fourth Avenue, Warren, Warren County, PA 16365)—discontinuance of service-persons, in limousine service between points in Pennsylvania, excluding the right to transport between points in Allegheny County.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-1048. Filed for public inspection June 5, 2009, 9:00 a.m.]

Tentative Order

Public Meeting held
May 14, 2009

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

*PPL Electric Utilities Corporation Retail Markets;
Doc. No. M-2009-2104271*

Tentative Order

By the Commission:

Two years ago we approved PPL Electric Utilities Corporation's (PPL's) revised Competitive Bridge Plan which allows the company to begin purchasing generation supplies for default electric generation service after the expiration of a current generation rate cap. *Petition of PPL Electric Utilities Corporation for Approval of a Competitive Bridge Plan*, Docket No. P-00062227, Order entered May 17, 2007. That plan was designed, *inter alia*, to provide a transition from the existing capped rates to market-based prices for default electric generation service for PPL consumers.

At this time, PPL consumers are paying capped generation rates pursuant to the Electricity Generation Customer Choice and Competition Act (Competition Act), 66 Pa.C.S. §§ 2801—2812 and the PPL Restructuring Settlement.¹ The Competition Act also requires electric utilities to provide open and non-discriminatory access to their transmission and distribution systems so that competitive electric generation suppliers (EGSs) can sell electricity directly to consumers. 66 Pa.C.S. § 2802(14). As part of the transition to a competitive retail market, the legislature directed that transmission, distribution and generation rates be capped for a period of time. 66 Pa.C.S. § 2804(4). PPL's final remaining rates caps—those on electric generation rates—will expire December 31, 2009.

The Competition Act requires electric distribution companies (EDCs) such as PPL, or a Commission-approved alternative supplier, to provide default electric generation service to customers who have not selected an alternative generation supplier. After the rate caps expire, the default service prices for electric generation service will be based on the results of competitive procurement processes. 66 Pa.C.S. § 2807(e)(3.1). Thus, the price of electricity charged to default service customers will be determined largely by market forces, as opposed to cost-based regulation. However, this in and of itself will not guarantee that retail customers will have competitively priced alterna-

tives to the default service still offered by incumbent EDCs. Rather, it is essential that alternative suppliers of retail generation service have the non-discriminatory access to customer data and utility facilities necessary to fulfill the legislative goal of a competitive retail market for generation in Pennsylvania.

In the years following the enactment of Chapter 28, the actual market-based costs of obtaining wholesale electricity have escalated above the level of capped generation rates under the various restructuring settlements approved by the Commission. Due to this escalation in wholesale costs, many alternative providers of retail generation service have been unable to offer service to consumers in Pennsylvania at rates that allow those firms to be profitable and, accordingly, these firms have left the market. In the PPL service territory, for example, the percent of customers obtaining generation service from alternative suppliers is virtually zero. See Office of Consumer Advocate statistics as of April 1, 2009 at <http://www.oca.state.pa.us/Industry/Electric/elecstats/Stats0409.pdf>. While the expiration of rate caps will bring about default service rates that approximate current market-based costs for wholesale electricity, that fact alone will not ensure the success of retail competition. Rather, the operating rules for EGS firms that seek to enter Pennsylvania's market and offer retail generation service must be non-discriminatory and must not unduly favor the incumbent EDC. Otherwise, the efficiencies, innovations and potential costs savings of a fully competitive retail market will not be realized.

Therefore, in order to promote the goals of Chapter 28 and to assure an orderly transition to a market which is truly competitive, we find it necessary and in the public interest to consider and direct actions that are necessary to achieve these goals in the PPL service territory, given the scheduled expiration of PPL's rate caps later this year.

Over the past several years the Commission has presided over the end of capped generation rates for several small and mid-sized electric distribution companies. Based upon our experience with those companies, we believe there are certain standards, rules and operational protocols which will make the retail market viable for those EGSs which wish to offer retail generation service to PPL customers. Insofar as PPL is one of the largest EDCs in the Commonwealth, it is important that its market contain competitive alternatives for its customers, that its customers are aware of these competitive alternatives and that there are no barriers to entry from the incumbent EDC.

We have identified eight areas in which we believe PPL, and later other EDCs, can improve the conditions for retail competition in its service territory in accordance with the policy goals and statutory provisions of Chapter 28. We expressly recognize and appreciate that PPL has taken many important steps, beginning with the PPL Restructuring Settlement, to allow retail competition for generation in its service territory. Nevertheless, we are concerned that some additional impediments remain which may act as barriers to entry to EGS firms seeking to offer retail generation service.

The Legislature has given us broad authority to ensure that customers will have the ability to make meaningful choices among competing suppliers of electricity:

[T]he commission shall allow customers to choose among electric generation suppliers in a competitive generation market through direct access. Customers should be able to choose among alternatives such as firm and interruptible service, flexible pricing and alternate generation sources, including reasonable and fair opportunities to self-generate and interconnect. These alternatives may be provided by different electric generation suppliers.

66 Pa.C.S. § 2804(2). Moreover, the Competition Act defines “direct access” as:

The **right** of electric generation suppliers and end-use customers to utilize and interconnect with the electric transmission and distribution system on a nondiscriminatory basis at rates, terms and conditions of service comparable to the transmission and distribution companies’ own use of the system to transport electricity from any generator of electricity to any end-use customer.

66 Pa.C.S. § 2803, emphasis supplied. Thus, this grant of authority is accompanied by the responsibility to ensure that it is more than an empty promise of an open market for retail electric power. We are instructed to make competition not just possible, but also a reality.

Moreover, we are taking this action at this time because PPL is not only the first of a group of large and mid-sized EDCs which will come out from under the rate caps beginning at the end of this year, but because we also believe it is well suited to assist the Commission in developing and implementing the measures necessary to improve competition and remove barriers to market entry by competitive suppliers. This opportunity gives the Commission the ability to apply the knowledge gained from prior EDCs to develop a competitive market in the second largest EDC in PA, and develop the final details necessary for competition statewide about 18 months from now. We believe that PPL possesses the technical know-how to address difficult problems, and will rise to the challenge and make retail competition work in its service territory.

Therefore, pursuant to our authority under Sections 501(a), 2801—2809, and 2811, we are directing that PPL take certain actions to reduce barriers to entry for competitive retail suppliers of generation. Those actions, and the reasons for them, are discussed below. Also, in order that the company not be financially harmed by the implementation costs that may be associated with some of these actions, we are also offering it the opportunity to recover its incremental costs of implementing these measures through a trued-up surcharge on all customers, which is also discussed below.

1. Customer Information Database (Customer List)

Communication remains the cornerstone of an effective competitive market place. If buyers and sellers cannot reach each other to make offers and acceptances, and speak in the same “language,” commerce will be impeded and, even if it can take place, additional and unnecessary costs are incurred. Therefore, it is of utmost importance that the distribution utility and the EGSs seeking to sell electricity to end-users exchange information in an accurate and consistent manner. In order to do this, EGSs must first have the information they need on the customer base they wish to serve. Therefore, they must be able to have up-to-date and precise information on the utility’s customers.

PPL should review its customer list for accuracy and refresh it, if it has not done so recently. If PPL has not refreshed the list at least quarterly, it should be refreshed

now. Going forward, the database should be updated monthly, on a pre-set date, and on the same day of the month each month. This will allow customers to set a narrow access window if they only want to remove the restriction on access for a few suppliers for a limited time. Moreover, customers that have restricted access should be able to authorize the release of their information using a web-based form or by providing the EGS or EDC with a letter of authorization. Customers should be able to do this with respect to multiple accounts at a time. This is important particularly with respect to customers who take service at more than one location and have multiple utility accounts.

With regard to the necessary standard data set itself, we have provided a template which is appended to this tentative order as Attachment A. The recommended data elements are included. Interval data would be included, but should be accessible separately. Interval energy data is a detailed record of energy consumption, with readings made at regular intervals throughout the day, every day.

The process by which customers may opt out of providing their information to EGSs should be repeated prior to the removal of the generation cap and annually thereafter. PPL’s continuing education efforts should inform customers that if they wish to receive and consider competitive offers they should not opt out. Customers cannot take advantage of better offers for service, if they are unaware that they exist. We recognize that we cannot require PPL to provide phone numbers of residential and small business customers without their permission, but it should provide EGSs with the numbers for commercial and industrial accounts. Those customers should be able to restrict that information through an opt-out option, if they choose.

2. Data Access

By order entered June 19, 1998, this Commission mandated that all EDCs and EGSs operating in Pennsylvania shall use Electronic Data Interchange (EDI) to implement Electric Choice. EDI is a standard industry format that facilitates automated communication of customer data through the use of ASC X12 standard open architecture that can be administered in-house or by a third party. The most recent Commission approved EDI standards and business practices are found in the Revised Plan Version 2.6.²

(a) EDI and Validation, Estimation and Editing

One area that EDI does not address is validation, estimation and editing (VEE) of customer data. VEE is basically the process of converting raw meter data to billing quality usage data. For implementing smart metering, this becomes a big issue for EGSs and Conservation Service Providers (CSPs). If there are any gaps in interval data, the EDC has to estimate customer usage. If raw, unedited interval data has significant data gaps, then the company has to validate and edit this information. PPL and other EDCs are doing VEE today or they have set up an intermediary to perform this task. EGSs want and need post-VEE interval data, especially for larger currently interval-metered commercial and industrial accounts, and later for potentially all customer accounts once the smart metering provisions of Act 129 are fully implemented. We, therefore, direct PPL to provide EGSs automated electronic access to customer post VEE interval data at no incremental fee.

² *Standards for Electronic Data Transfer and Exchange Between Electric Distribution Companies And Electric Generation Suppliers*, Docket No. M-00960890F0015, Tentative Order entered December 8, 2008.

(b) EDI 867 and EDI 814**(b)(1) Background**

The EDI 867 standard addresses energy sales information.³ In Pennsylvania, the EDI 867 standard has been adapted to provide customer usage information needed for billing for all customers regardless of the billing scenario (as defined below at (3) Bill Ready vs. Rate Ready Options). The EDI 867 Monthly Usage (MU) transaction is used to transmit current month usage information as captured from the meter for non-interval metered customers, and we use the EDI 867 Interval Usage (IU) to transmit interval monthly usage information as captured from the advanced meter for interval metered customers. EDI 867 is also used to transmit un-metered usage for non-metered accounts. An EDI 867 Historical Usage (HU) transaction transmits the previous 12 months of customer data regardless of the way the customer is metered. Currently, there is no requirement for the EDC to provide Historical Interval Data through an EDI transaction.

The EDI 814 standard addresses general request, response or confirmation information.⁴ The EDI 814 standard has been adapted for use in Pennsylvania to communicate enrollment information and the customer/EGS relationship information between the EDC and the EGS. EDI 814 standards address the following scenarios: (a) the 814 Enrollment (E) is used to enroll the customer's selection of an EGS; (b) the 814 (E) is used for customer account maintenance and is used to request customer historical usage; and (c) the 814 ND is used to provide an advanced notice of potential customer drops, where required by Commission order.

All EDI 867 and 814 definitions and scenarios are defined in the Revised Plan Version 2.6.

(b)(2) Historical Usage

The Pennsylvania electric industry implemented the 867 Historical Usage (HU) for communicating 12 months of historical monthly data for "eligible" customers. Eligible customers are those who authorized PPL to release this information to EGSs because they are interested in receiving offers. To successfully market their competitive services, EGSs prefer the opportunity to obtain historical usage information on behalf of a customer on the eligible customer list, without the necessity of a written customer authorization. If a customer is not included on the eligible customer list, PPL should allow the EGS to obtain their prospective customer's permission and upon the EGS's request, send the 867 HU. The manual sending of the customer's authorization by the EGS to PPL is not required, but the EGS may be audited by PPL or the Commission for compliance with customer authorization documentation after the fact.

The Commission's Electric Choice implementation technology stakeholder group, the Electronic Data Exchange Working Group (EDEWG), recently approved an EDC's request to update the EDI 814 Enrollment (E) transaction to allow requests for historical interval data, and to create an EDI 867 Historical Interval Usage (HIU) transaction for providing interval detail data at the lowest level recorded by the EDC. *See EDEWG Change Request*

³The ASC X12 definition for the 867 "Product Transfer and Resale Report" transaction is: "The transaction set can be used to: (1) report information about product that has been transferred from one location to another; (2) report sales of product from one or more locations to an end customer; or (3) report sales of a product from one or more locations to an end customer, and demand beyond actual sales (lost orders). Report may be issued by either buyer or seller."

⁴The ACS X12 definition for the 814 "General Request, Response or Confirmation" transaction is: "This standard can be used to request actions to be performed, to respond to a request for actions to be performed or to confirm information related to actions performed."

#050 and 09/04/2008 EDEWG Meeting Minutes at ww.w.puc.state.pa.us "Electricity" "Issues" EDEWG Files for Downloading. As approved, these EDI changes are optional in Pennsylvania. Although PPL currently provides monthly metered interval data, this data is handled manually and is very time consuming for PPL and EGSs. EGSs have complained of the cost to acquire this data and that there are still gaps of missing information in PPL's response to their requests for interval data.

Therefore, to best serve the billing needs of customers who have advanced interval meters or who purchase smart meters, PPL needs to be able to provide complete and accurate post-VEE metered interval data upon request by EGSs. To meet these requirements, we direct PPL to implement the recent EDI 814 E updates and the newly created EDI 867 HIU transaction as approved by the EDEWG no later than 60 days of the entered date of a final order in this proceeding.

Another issue related to the EDI 814 is that EGSs are not receiving timely notice of PPL's permanent termination of their customer's service. A customer that is in arrears for payment of distribution service can be terminated by PPL, but the EGS is informed of this fact when PPL sends an EDI 814 Drop transaction that notifies the EGS that a final bill will be issued for the customer. If the EGS were to receive from PPL an EDI 814 Advance Notice of Intent to Drop (ND), which currently is applicable only in Duquesne Light's service area, the EGS could manage the customer's account more effectively and provide assistance in getting the account current. We, therefore, require PPL to initiate an EDI change request with the EDEWG and to implement the EDI 814 ND within 90 days of the final entered date of a final order in this proceeding.

(b)(3) Interval Usage

Similar to the 867 MU that provides actual monthly billing cycle usage data, the electricity industry communicates actual monthly billing cycle interval metered data through the EDI 867 Interval Usage (IU) transaction. To meet the ongoing, monthly billing needs of customers who have advanced interval meters or who purchase smart meters, we require PPL to implement the EDI 867 IU transaction. Additionally, we require PPL to initiate an EDI change request with the EDEWG as may be necessary to update cross reference EDI transactions related to the 867 IU. It should be noted that the most recently approved EDI 867 IU transaction states "as of September 1999, the PUC has not determined if the date and timestamp will be required with every interval, or only with the first interval with the subsequent intervals being marked with a sequence number." *See page 9, Implementation Guideline for Electronic Data Interchange 867 Interval Usage Ver/Rel 004010 IG867IUv4-0.* To resolve this outstanding issue, we direct PPL to initiate discussion with the EDEWG and recommend to the Commission no later than 60 days of the entered date of this order, a date/time stamp resolution that best serves the data needs of competitive providers and the smart metering requirements of Act 129.

(b)(4) Transmission and Capacity PLCs

In August 2008, PPL implemented a change request related to the EDI 867 HU transaction, to be used by all PJM EDCs for communicating capacity and transmission contribution factors to their respective partner EGSs. EGSs have raised an issue that the Peak Load Contribution (PLC) is not being communicated by PPL and that there is a significant difference in the pricing of services without the PLC data.

Therefore, to address this concern, we direct PPL to implement the EDI 867 HU changes if it is not already doing so, and to determine whether we should require PPL to initiate changes to the EDI 867 HU, we solicit comments from suppliers to explain why the PLC is needed.

(b)(5) Meter Read Cycle Information

Meter read cycle information is defined by the EDC to identify the number of days that comprises a customer's billing period for previous usage and to designate the date that the customer's meter is read for determining that period of usage. For example, a residential customer's bill dated May 15, could be based on thirty days' of usage commencing April 1 through April 30 with the last meter reading having been taken on April 30. EGSs need to have an idea of the customer's meter read cycle if they are to successfully enroll a customer within PPL's designated billing window. If unsuccessful, the customer continues to pay the "old" price for energy from PPL or the customer's former EGS. PPL should provide the EGS with a customer's meter read cycle information in the EDI 814 response transaction or in the EDI 867 HU transaction; it does not need to be communicated in both. We direct PPL to select which EDI transaction it will utilize to provide this information to EGSs. We also direct PPL to initiate an EDI change request as necessary with the EDEWG no later than 60 days of the entered date of the final order.

(c) Multiple Accounts

EGSs have experienced a delay in PPL's response to their data requests for multiple accounts. Every customer represents a single account and multiple accounts refer to multiple customer accounts. Pennsylvania has no approved guidelines for the handling of multiple account information; each EDI transaction is used to handle a single customer. To ensure that customer data is secure and accurate and handled in a timely manner, specific timelines for requests and responses to all EDI transmissions have been approved on an individual account basis. This timeline is found on page 17 of the Revised Plan Version 2.6. If PPL is not already following the maximum allowable time standards established for an EDC to send or respond to an EGS request for a customer's account, we direct PPL to comply with these standards within 30 days of the entered date of the final order.

(d) Sync List

Some EGSs have asked for an updated "sync list," which is a monthly list of customer usage and account information, specific to the customers who are already enrolled by an individual EGS. This list is different from an eligible customer list or any customer information database. It would be unique to the EGS and would contain confidential, customer account information that would allow the EGS to audit its system to ensure congruity with PPL's data. Such account information would include service start/end date, bill method, PLC values, etc. PPL is already providing customer usage information through the EDI 867 transactions that many EGSs find useful for updating their data base. Nonetheless, to satisfy the data needs of those EGSs who request it, we direct that PPL consider developing a sync list that would be accessed through an FTP (file transfer protocol) site that the requestor may navigate to download the text or comma separated value file. PPL may use the services of a third party to provide this sync list in a format that is suitable to the respective needs of the requestor.

Therefore, to address this concern, we require PPL to provide a monthly, updated sync list on an FTP site for

any EGS that requests it. PPL may use the services of a third party to provide this sync list in a format that is suitable to the respective needs of the requestor.

3. Bill Ready and Rate Ready Options

An EDI 810 Billing transaction is used by the billing party to transmit monthly usage and billing components to generate a customer invoice. By order entered August 13, 1998, we recognized that the settlement agreement process resulted in two different options for EDC consolidated billing—"Bill-Ready" and "Rate-Ready."

"Bill-Ready" means the company doing the billing receives calculated results from the other party for the other party's charges and prints them on a consolidated bill. "Rate-Ready" means the company doing the billing knows the rates of the other party, calculates the other party's charges, and prints them on a consolidated bill.

In the August 13, 1998 Order, we emphasized that over time we expect to have a uniform approach among the EDCs. Since its last major rate case, PPL has supported the "Bill-Ready" option exclusively. To accommodate PPL market penetration by all EGSs licensed to operate within the Commonwealth, we propose requiring PPL to support Bill-Ready and Rate-Ready consolidated billing options as set forth in the Revised Plan Version 2.6.

Additionally, to facilitate customer participation in Act 129 smart metering deployment and Time-of-Use rates, we also direct PPL to initiate a Change Request for the EDI 810 Billing transaction and other EDI transactions as may be appropriate, to manage a minimum of 50 separate and discrete rates per customer across rate classes. This minimum number of rates may vary upon order by the Commission.

4. Timely EDI Testing—2 Month Maximum

Since the adoption of EDI, PPL has actively participated in the EDEWG and contributed to the development of an Internet EDI Plan and Test Plan for Electronic Data Exchange for Electric Generation Deregulation. Both documents can be found on the Commission's web site at www.puc.pa.us. See *Electricity, Issues, EDEWG Files for Downloading*, Revised Plan Version 2.6 which contains changes to compliance testing for the re-certification process for EGSs that have been inactive in the EDC's service area. Inactivity is defined as a minimum of 12 months since the last EDI 867 Monthly Usage transaction had been sent, regardless of billing scenario of the EDC.

With the expiration of PPL's capped generation rates, we anticipate that an increasing number of EGSs will want to serve PPL customers. To accommodate market participation in a timely manner, we direct PPL to schedule testing and complete the certification and recertification testing process no later than 60 days from the date an initial request is received by a licensed EGS to the date that PPL issues a notification of certification.

5. Purchase of Receivables

In the Commission's judgment, the use of purchase of receivables (POR) programs can reduce barriers to market entry. We explained this with respect to the natural gas industry, but it is just as applicable to the electric industry:

In a "Purchase of Receivables" (POR) program, the NGDC purchases a NGS's accounts receivable, most often at a discount. The discount may be attributable to uncollectible expense, *i.e.*, bad debt of the NGS's customers, and the NGDC's administrative costs for billing and collection. Purchase of receivables was

also discussed as a means to satisfy security requirements for suppliers operating on certain NGDC systems. *SEARCH Report*, pp. 18, 20. Decreasing the security requirement for suppliers would remove a barrier to market entry for some suppliers and, thus, would increase supplier participation in the market.⁵

This can also translate into reduced costs to consumers. Some Pennsylvania EDCs have POR programs now.⁶ Recently we proposed regulations for voluntary POR programs for the natural gas industry as a means of increasing supplier participation in the retail natural gas supply market. *Natural Gas Distribution Companies and the Promotion of Competitive Retail Markets*, Docket No. L-2008-2069114, Proposed Rulemaking Order entered on March 27, 2009 (Natural Gas Rulemaking Order), 52 Pa. Code § 62.224.

Because the availability of POR programs will likely enhance the viability of retail generation competition in the PPL service territory, we will direct PPL to use proposed section 62.224 as a template for its POR plan, but with the following differences. There should be little or no discount in the purchase of receivables. The purpose of the POR program is to facilitate the growth of the competitive market. It should not become a mechanism by which PPL makes or loses money.

Insofar as PPL is taking possession of the receivable from the EGS, the EGS should be kept whole and, therefore, there is no need to revert to separate billing when the arrearage exceeds 90 days. The EGS will recover its full bill. PPL will still retain the ability to terminate customers for no payment subject, of course, to Chapter 14 of the Public Utility Code and the consumer protection provisions of Chapter 56 of our regulations. PPL can also still offer its customers payment plans.

Additionally, PPL is not to require an EGS to sell it all accounts receivable or none at all. If an EGS wishes to sell only a portion of its accounts receivable, it may do so. There should not be any "all-in/all-out" provisions.

Finally, an EGS can bill only for basic supply service via POR. However, there are no limitations on the provision of other billing options if the EGS is participating in the POR program. EGSs have unique programs, such as green power for example, which require billing needs the utility cannot supply. Thus, EGSs may still need to separately bill for complex supply pricing options or environmental/renewable products.

Because PPL's rate caps come off on December 31, 2009, we ask PPL to implement a POR program to commence on January 1, 2010.

6. Customer Awareness Education Program

Consumer education remains a critical pillar of a vibrant competitive retail market for electricity in Pennsylvania and PPL's service territory in particular. The market with the greatest number of shopping choices is of no use if no one knows that it is there. Therefore, it is necessary that PPL undertake a program of customer education to make sure that its consumers know not only that the rate caps are coming off, but that there are choices that they now have as users of electric power.

The program is intended to educate the consumer and not market any brand of electric power. It should begin no later than the first billing cycles 30 days after this order

⁵ *Investigation into the Natural Gas Supply Market: Report on Stakeholders' Working Group (SEARCH): Action Plan for Increasing Effective Competition in Pennsylvania's Retail Natural Gas Supply Services Market*, Docket No. I-00040103F0002, Final Order and Action Plan entered September 11, 2008 at 10 (Action Plan).

⁶ PECO Energy Company and Duquesne Light Company.

becomes final and last at least six months after the rate cap has terminated. The intent is to make consumers aware of their choices for electric power and educate them as to how to contact those EGSs. PPL may use bill inserts, media advertising and the Internet and any other medium it normally uses to reach its customers. The costs of this program may be recoverable through the surcharge for competition related activities discussed below, subject to the limitation established under Docket M-2008-2032279.

7. Commit To A Process For Development Of A Uniform Supplier Tariff

As we stated in our Policy Statement on default service:

The public interest would be served by the adoption of supplier tariffs that are uniform as to both form and content. Uniform supplier tariffs may facilitate the participation of EGSs in the retail market of this Commonwealth and reduce the potential for mistake or misunderstandings between EGSs and EDCs.

Default Service and Retail Electric Markets: Final Policy Statement, Docket No. M-00072009, Order entered May 10, 2007 (Policy Statement). It would be in the interest of all parties to standardize supplier tariffs for EGSs operating in PPL's service territory as well as those in the Commonwealth as a whole. Such standardization is absent in Pennsylvania at this time. While we acknowledge that the PPL Restructuring Settlement included a supplier tariff, there are variation in terms and operational rules among different EDCs. This results in inefficiencies across the retail market for electricity.

Therefore, we direct PPL to convene a working group with other interested parties including licensed EGSs and other Pennsylvania EDCs to develop a uniform supplier tariff for use in its retail market. The working group should commence not later than 60 days after this order becomes final and propose a uniform tariff for adoption not later than six months thereafter.

8. Ombudsman For Supplier Issues

No system, no matter how well designed and no matter how finely tuned, is free from flaws. It is important that, when problems arise, EGSs are able to quickly contact the appropriate person at PPL to address the difficulty. We have considered requiring each EDC to appoint an ombudsman to fulfill this function as part of our Policy Statement. See 52 Pa. Code § 69.1817. The ombudsman should be responsible for promptly responding to questions from EGSs, monitoring competitive market complaints and facilitating informal dispute resolution between EGSs as well as default service providers.

Therefore, we will direct PPL to appoint such an ombudsman. Furthermore, we must stress that person should be familiar with the EDC/EGS interface and with the inner workings of the EDC, but must also be fully independent from the EDC sales function so that he or she may act impartially.

So as to assist the industry with respect to the final phase of the transition into a retail market without rate caps, we will expand the mission of our Office of Competitive Market Oversight, which was established for the natural gas industry, to include oversight of the electric markets as well. When needed, EGSs may turn to it as the office of the Commission ombudsman.

9. PPL Costs of Competition Related Activities

The Commission recognizes that some of these actions to reduce barriers to market entry by EGS firms may

require PPL to incur incremental costs, not presently included in customer rates, and which should be recoverable on a timely basis. We are guided here by our recent action with respect to natural gas utilities making the transition to fully competitive markets.

In our *Action Plan* for natural gas distribution companies (NGDCs), we concluded that the NGDCs “should be able to recover *reasonable* costs that are *prudently* incurred in connection with the implementation of any changes designed to promote the development of effective competition in the retail market.” *Action Plan* at 21. At that time, we noted that these costs also include expenses associated with increasing customer participation in the market such as modifications to NGDC billing systems or increased consumer education activities. *Id.* Therefore, in a recent rulemaking proceeding, we determined to allow NGDCs to recover these costs through a surcharge with an automatic adjustment mechanism. *Natural Gas Rule-making Order* at 7.

Consequently, we will allow PPL to implement a surcharge mechanism under 66 Pa.C.S. § 1307(a) whereby it recovers its incremental implementation costs. It is of no difference that here we are addressing the electric utility to the extent it helps promote retail competition, the surcharge for implementing these competition related activities will benefit all customers. As such, it should be paid by all customers. Therefore, PPL may implement a rate surcharge mechanism similar to that which we proposed in our rulemaking order for codification at 52 Pa. Code § 62.226.

Conclusion

In sum, the above measures are intended to create standard rules and operating protocols that will remove barriers to entry and promote retail competition in the PPL service territory, in accordance with the policy and statutory directives in Chapter 28. With the expiration of rate caps in the PPL service territory presently scheduled for December 31, 2009, and the end of rate caps in the remaining EDCs 1 year later, the Commission is obligated to insure that, when those caps are lifted, customers have real choices from alternative suppliers for their generation service needs, choices that can bring those customers lower prices, innovative services and options, and the alternatives to default service offered by the incumbent EDC.

However, before we make a final decision as to each of the specific measures to be implemented, the Commission is inviting comments from PPL and interested persons on

whether these measures or others are reasonable, lawful and appropriate to further the legislative goal of a competitive retail market for generation in each EDC’s service territory. To the extent any of these measures require the amendment, waiver or modification of any existing Commission orders or regulations, we are providing, by this order and by publication in the *Pennsylvania Bulletin*, notice to all interested persons of the potential for amendment of such orders and regulations, as well as an opportunity to provide comments before our decision becomes final.

Accordingly, under our authority under sections 501, 2801—2809 and 2811 of the Public Utility Code, 66 Pa.C.S. §§ 501, 2801—2809 and 2811, we shall direct PPL to take the actions described previously so that its customers may have meaningful alternatives from which to choose when purchasing electric power; *Therefore,*

It Is Ordered That:

1. The Secretary serve a copy of this Tentative Order upon PPL Electric Utilities Corporation, all electric generation suppliers licensed to do business in its service territory, the Office of Consumer Advocate, the Office of Small Business Advocate, and the Office of Trial Staff.
2. The Secretary shall certify this Tentative Order and Attachment A, and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.
3. An original and 15 copies of any comments referencing the docket number of the Tentative Order be submitted within 30 days of publication in the *Pennsylvania Bulletin* to the Pennsylvania Public Utility Commission, Attn: Secretary, P. O. Box 3265, Harrisburg, PA 17105-3265.
4. The contact person for this rulemaking is Assistant Counsel Lawrence F. Barth, Law Bureau (717) 772-8579, lbarth@state.pa.us.
5. Absent the filing of adverse public comment within 30 days after the publication of this Tentative Order, it shall become final without further action by the Commission.
6. Unless specified otherwise herein, that within 30 days of this Order becoming final PPL Electric Utilities Corporation shall file tariffs necessary to implement the directives discussed within this Tentative Order.

By the Commission

JAMES J. MCNULTY,
Secretary

Attachment A

Customer Database Data Elements

| <i>PPL</i> | <i>Additional Items Requested</i> |
|------------------------------------------------------------|-----------------------------------|
| Customer Account # | X |
| Meter # | X |
| Name | X |
| Service Address, including Zip +4 | X |
| Billing Address, including Zip +4 | X |
| Budget Indicator (is customer on a budget billing program) | X |
| Meter Read Cycle date | X |
| Meter Type | X |

| <i>Customer Database Data Elements</i> | |
|--------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>PPL</i> | <i>Additional Items Requested</i> |
| Interval Meter Flag | X |
| Load Profile Group Indicator | X |
| Rate Code Indicator | X |
| Loss Factor (in some EDCs, this doesn't map directly to the rate code, so it is necessary) | X |
| 12 Individual Months Consumption (kWh) | X This should be expanded to cover 24 months of consumption (kWh) and should be provided by billing period, i.e. for individual months. Total kWh, and On/off peak values should be provided if applicable |
| 12 Individual Months Demand (kW) | X This should be expanded to cover 24 months of billing demand (kW) and should be provided by billing period |
| | Monthly peak demand by billing month (note that this is different from billing demand) |
| | End of billing period date for each billing month |
| | # days in billing period for each billing month |
| | |
| | 2 years of interval data should be available but should be accessible separately from monthly summary data, so EGSs that only want summary data can access it without downloading data intensive interval data |
| | Effective dates for current and pending rate class and procurement group classifications. |
| | POLR indicator (is the customer a POLR customer as of the date of the list update) |
| | Minimum stay date, if applicable. For PPL this would be an indicator if the customer is subject to the GRA and the date the GRA liability expires. |
| | Business contact name (this may be different than the customer name) |
| | Business contact phone number |
| | Business contact address |
| | Email address |
| | Customer service start date |
| | Municipal Tax Code (if there is a city/county tax that applies to electricity) |
| | Sales tax percentage or sales tax exemption percentage |
| | PLC Value (capacity obligation) and effective date of this value |
| | Transmission obligation and effective date of this value |
| | Date the list was last updated |
| | Identifier for whether a customer is enrolled in rate mitigation pre-payment plan |
| | Identifier for whether customer is enrolled in rate mitigation deferral/phase-in plan |
| | Price to compare (most recent known price to compare for the customer) |

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accessed by contacting the SCC's Odor Management Program office in Tunkhannock at (570) 836-2181. The SCC will not take an action on a submitted OMP until it has been noticed on this list for a minimum of 21 days.

All SCC actions on submitted OMPs will be published in the *Pennsylvania Bulletin*.

Persons wishing to view or obtain a copy of submitted OMPs are directed to submit a formal Right-To-Know request to the Department of Agriculture to arrange access to the plans currently under review.

Persons wishing to comment on an OMP under review by the SCC are invited to submit a written statement outlining their comments on the plan to the SCC's Odor Management Program within 21 days from the plan notice date provided on the SCC's listing of plans under review. Persons with a question relating to the submission of comments on a plan under review may contact the SCC Odor Management Program office by phone to discuss the process for the submission of comments. Comments should include the name, address and tele-

phone 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.

Persons with a disability who wish to provide comments 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.

The address for the SCC's Odor Management Program office is the Pennsylvania Agriculture Building, Route 92 South, P. O. Box C, Tunkhannock, PA 18657-0318. The phone number for the SCC's Odor Management Program Coordinator, Karl Dymond is (570) 836-2181.

JOHN HANGER,
Secretary

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