

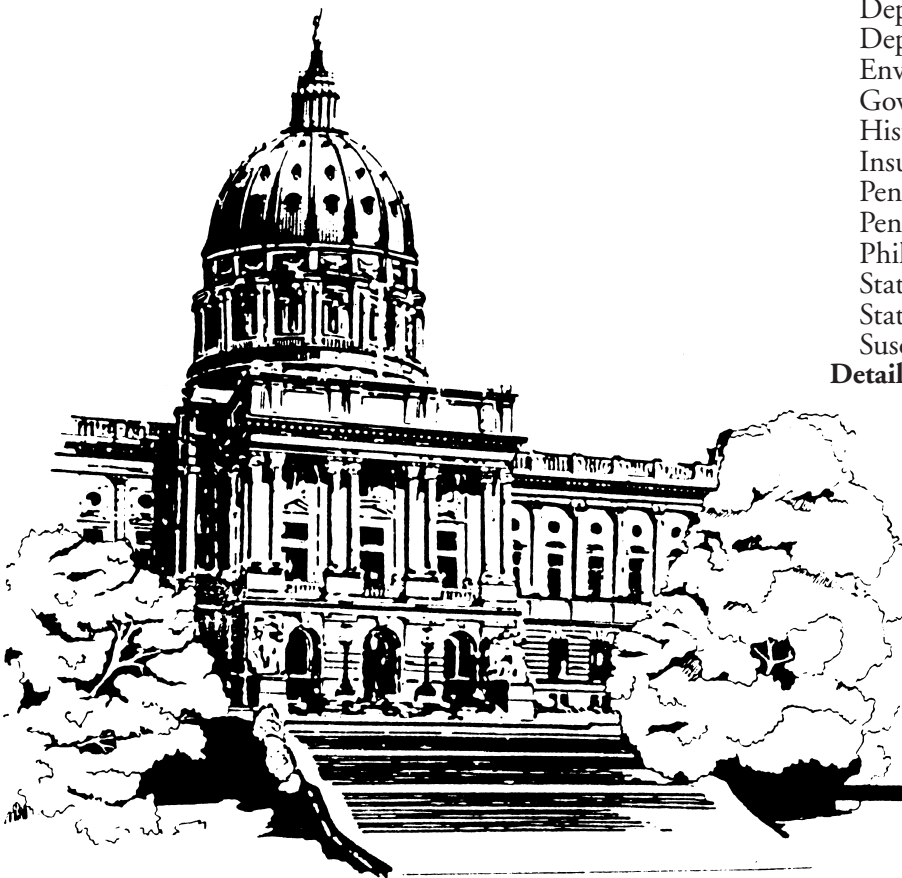
PENNSYLVANIA BULLETIN

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Department of Banking and Securities
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No. 459, February 2013

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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 Pennsylvania 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 when the agency may omit the proposal step; it 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, it must repropose.

Citation to the *Pennsylvania Bulletin*

Cite material in the *Pennsylvania Bulletin* by volume number, a page number and date. Example: Volume 1, *Pennsylvania Bulletin*, page 801, January 9, 1971 (short form: 1 Pa.B. 801 (January 9, 1971)).

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* is available at www.pacode.com.

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*.

A chronological table of the history of *Pennsylvania Code* sections may be found at www.legis.state.pa.us.

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. The *Pennsylvania Bulletin* is available at www.pabulletin.com.

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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 2013.

4 Pa. Code (Administration)		101 Pa. Code (General Assembly)	
Statements of Policy		Statements of Policy	
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7 Pa. Code (Agriculture)		204 Pa. Code (Judicial System General Provisions)	
Adopted Rules		Proposed Rules	
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25 Pa. Code (Environmental Protection)		Adopted Rules	
Adopted Rules		63	514
78	526	65	298
Proposed Rules		225 Pa. Code (Rules of Evidence)	
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61 Pa. Code (Revenue)		200	8
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7	532	249 Pa. Code (Philadelphia Rules)	
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901	532		

THE COURTS

Title 225—RULES OF EVIDENCE

[225 PA. CODE ARTS. I—X]

Order Rescinding and Replacing the Rules of Evidence; No. 586 Supreme Court Rules Doc.

Order

Per Curiam

And Now, this 17th day of January, 2013, upon the recommendation of the Committee on Rules of Evidence; the proposal having been published for public comment at 41 Pa.B. 2795 (May 28, 2011):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the Pennsylvania Rules of Evidence are rescinded and replaced in the following form.

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

Annex A

TITLE 225. RULES OF EVIDENCE

Art.

I. GENERAL PROVISIONS

II. JUDICIAL NOTICE

III. PRESUMPTIONS

IV. RELEVANCE AND ITS LIMITS

V. PRIVILEGES

VI. WITNESSES

VII. OPINIONS AND EXPERT TESTIMONY

VIII. HEARSAY

IX. AUTHENTICATION AND IDENTIFICATION

X. CONTENTS OF WRITINGS, RECORDINGS, AND PHOTOGRAPHS

ARTICLE I. GENERAL PROVISIONS

Rule

- | | |
|------|---|
| 101. | Scope; Adoption and Citation. |
| 102. | Purpose. |
| 103. | Rulings on Evidence. |
| 104. | Preliminary Questions. |
| 105. | Limiting Evidence That is Not Admissible Against Other Parties or for Other Purposes. |
| 106. | Remainder of or Related Writings or Recorded Statements. |

Rule 101. Scope; Adoption and Citation.

(a) *Scope.* These rules of evidence govern proceedings in all courts of the Commonwealth of Pennsylvania's unified judicial system, except as otherwise provided by law.

(b) *Adoption and Citation.* These rules of evidence are adopted by the Supreme Court of Pennsylvania under the authority of Article V § 10(c) of the Constitution of Pennsylvania, adopted April 23, 1968. They shall be known as the Pennsylvania Rules of Evidence and shall be cited as "Pa.R.E."

Comment

Preface to Comments

The original Comments to the Pennsylvania Rules of Evidence were prepared by the Ad Hoc Committee on Evidence. The Comments accompanied the Pennsylvania Rules of Evidence that were adopted by the Pennsylvania Supreme Court on May 8, 1998. The Pennsylvania Rules

of Evidence closely followed the format, language, and style of the Federal Rules of Evidence, but the guiding principle was to preserve the Pennsylvania law of evidence. The original Comments reflected this approach by identifying the Pennsylvania sources of the law. The original Comments also compared the Pennsylvania Rules to the Federal Rules for the convenience of the Bench and Bar.

The Federal Rules of Evidence were amended effective December 1, 2011. The goal of the Federal amendments was to make the rules more easily understood and to make the format and terminology more consistent, but to leave the substantive content unchanged. The Pennsylvania Rules of Evidence were rescinded and replaced on January 17, 2013, and become effective on March 18, 2013. They closely follow the format, language, and style of the amended Federal Rules of Evidence. The goal of the Pennsylvania Supreme Court's rescission and replacement of the Pennsylvania Rules of Evidence was likewise to make its rules more easily understood and to make the format and terminology more consistent, but to leave the substantive content unchanged. Once again, the guiding principle is to preserve the Pennsylvania law of evidence.

These Comments are prepared by the Pennsylvania Supreme Court's Committee on Rules of Evidence for the convenience of the Bench and Bar. The Comments have not been adopted by the Supreme Court and it is not intended that they have precedential significance.

Comment to Rule 101

A principal goal of these rules is to construct a comprehensive code of evidence governing court proceedings in the Commonwealth of Pennsylvania. However, these rules cannot be all-inclusive. Some of our law of evidence is governed by the Constitutions of the United States and of Pennsylvania. Some is governed by statute. Some evidentiary rules are contained in the Rules of Civil and Criminal Procedure and the rules governing proceedings before courts of limited jurisdiction. Traditionally, our courts have not applied the law of evidence in its full rigor in proceedings such as preliminary hearings, bail hearings, grand jury proceedings, sentencing hearings, parole and probation hearings, extradition or rendition hearings, and others. Traditional rules of evidence have also been relaxed to some extent in custody matters, see, e.g., Pa.R.C.P. No. 1915.11(b) (court interrogation of a child), and other domestic relations matters, see, e.g., Pa.R.C.P. No. 1930.3 (testimony by electronic means).

Decisional law is applicable to some evidentiary issues not covered by these rules. This would include for example, the *corpus delicti* rule, see *Commonwealth v. Fears*, 575 Pa. 281, 836 A.2d 52 (2003); the collateral source rule, see *Boudwin v. Yellow Cab Co.*, 410 Pa. 31, 188 A.2d 259 (1963); and the parol evidence rule, see *Yocca v. Pittsburgh Steelers Sports, Inc.*, 578 Pa. 479, 854 A.2d 425 (2004). The Pennsylvania Rules of Evidence are not intended to supersede these other provisions of law unless they do so expressly or by necessary implication.

These rules are applicable in the courts of the Commonwealth of Pennsylvania's unified judicial system. In some respects, these rules are applicable in administrative proceedings. See, e.g., *Gibson v. W.C.A.B.*, 580 Pa. 470, 861 A.2d 938 (2004) (evidentiary rules 602, 701 and 702 applicable in agency proceedings in general, including Workers' Compensation proceedings). These rules are also applicable in compulsory arbitration hearings, with spe-

cific exceptions relating to the admissibility of certain written evidence and official documents. *See* Pa.R.C.P. No. 1305.

Official Note: Adopted May 8, 1998, effective October 1, 1998; Comment revised December 30, 2005, effective February 1, 2006; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the December 30, 2005 revision of the Comment published with the Court's Order at 36 Pa.B. 384 (January 28, 2006).

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 102. Purpose.

These rules should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of ascertaining the truth and securing a just determination.

Comment

This rule is identical to F.R.E. 102.

Official Note: Adopted May 8, 1998, effective October 1, 1998; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 103. Rulings on Evidence.

(a) *Preserving a Claim of Error.* A party may claim error in a ruling to admit or exclude evidence only:

- (1) if the ruling admits evidence, a party, on the record:
 - (A) makes a timely objection, motion to strike, or motion *in limine*; and
 - (B) states the specific ground, unless it was apparent from the context; or

(2) if the ruling excludes evidence, a party informs the court of its substance by an offer of proof, unless the substance was apparent from the context.

(b) *Not Needing to Renew an Objection or Offer of Proof.* Once the court rules definitively on the record—either before or at trial—a party need not renew an objection or offer of proof to preserve a claim of error for appeal.

(c) *Court's Statement About the Ruling; Directing an Offer of Proof.* The court may make any statement about the character or form of the evidence, the objection made, and the ruling. The court may direct that an offer of proof be made in question-and-answer form.

(d) *Preventing the Jury from Hearing Inadmissible Evidence.* To the extent practicable, the court must conduct a jury trial so that inadmissible evidence is not suggested to the jury by any means.

Comment

Pa.R.E. 103(a) differs from F.R.E. 103(a). The Federal Rule says, "A party may claim error in a ruling to admit or exclude evidence only if the error affects a substantial right of the party. . . ." In Pennsylvania criminal cases, the accused is entitled to relief from an erroneous ruling unless the court finds beyond a reasonable doubt that the

error is harmless. *See Commonwealth v. Story*, 476 Pa. 391, 383 A.2d 155 (1978). Civil cases are governed by Pa.R.C.P. No. 126 which permits the court to disregard an erroneous ruling "which does not affect the substantial rights of the parties." Pa.R.E. 103(a) is consistent with Pennsylvania law.

Pa.R.E. 103(a)(1) specifically refers to motions *in limine*. These motions are not mentioned in the Federal rule. Motions *in limine* permit the trial court to make rulings on evidence prior to trial or at trial but before the evidence is offered. Such motions can expedite the trial and assist in producing just determinations.

Pa.R.E. 103(b), (c) and (d) are identical to F.R.E. 103(b), (c) and (d).

F.R.E. 103(e) permits a court to "take notice of a plain error affecting a substantial right, even if the claim of error was not properly preserved." This paragraph has not been adopted because it is inconsistent with Pa.R.E. 103(a) and Pennsylvania law. *See Commonwealth v. Clair*, 458 Pa. 418, 326 A.2d 272 (1974); *Dilliaine v. Lehigh Valley Trust Co.*, 457 Pa. 255, 322 A.2d 114 (1974).

Official Note: Adopted May 8, 1998, effective October 1, 1998; amended November 2, 2001, effective January 1, 2002; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the November 2, 2001 amendments to paragraph (a) published with the Court's Order at 31 Pa.B. 6384 (November 24, 2001).

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 104. Preliminary Questions.

(a) *In General.* The court must decide any preliminary question about whether a witness is qualified, a privilege exists, or evidence is admissible. In so deciding, the court is not bound by evidence rules, except those on privilege.

(b) *Relevance That Depends on a Fact.* When the relevance of evidence depends on whether a fact exists, proof must be introduced sufficient to support a finding that the fact does exist. The court may admit the proposed evidence on the condition that the proof be introduced later.

(c) *Conducting a Hearing So That the Jury Cannot Hear it.* The court must conduct any hearing on a preliminary question so that the jury cannot hear it if:

- (1) the hearing involves evidence alleged to have been obtained in violation of the defendant's rights;
- (2) a defendant in a criminal case is a witness and so requests; or
- (3) justice so requires.

(d) *Cross-Examining a Defendant in a Criminal Case.* By testifying on a preliminary question, a defendant in a criminal case does not become subject to cross-examination on other issues in the case.

(e) *Weight and Credibility.* Even though the court rules that evidence is admissible, this does not preclude a party from offering other evidence relevant to the weight or credibility of that evidence.

Comment

Pa.R.E. 104(a) is identical to F.R.E. 104(a).

The second sentence of Pa.R.E. 104(a) is based on the premise that, by and large, the law of evidence is a “child of the jury system” and that the rules of evidence need not be applied when the judge is the fact finder. The theory is that the judge should be empowered to hear any relevant evidence to resolve questions of admissibility. This approach is consistent with Pennsylvania law. See *Commonwealth v. Raab*, 594 Pa. 18, 934 A.2d 695 (2007).

Pa.R.E. 104(a) does not resolve whether the allegedly inadmissible evidence alone is sufficient to establish its own admissibility. Some other rules specifically address this issue. For example, Pa.R.E. 902 provides that some evidence is self-authenticating. But under Pa.R.E. 803(25), the allegedly inadmissible evidence alone is not sufficient to establish some of the preliminary facts necessary for admissibility. In other cases the question must be resolved by the trial court on a case-by-case basis.

Pa.R.E. 104(b) is identical to F.R.E. 104(b).

Pa.R.E. 104(c)(1) differs from F.R.E. 104(c)(1) in that the Federal Rule says “the hearing involves the admissibility of a confession,” Pa.R.E. 104(c)(1) is consistent with Pa.R.Crim.P. 581(F), which requires hearings outside the presence of the jury in all cases in which it is alleged that the evidence was obtained in violation of the defendant’s rights.

Pa.R.E. 104(c)(2) and (3) are identical to F.R.E. 104(c)(2) and (3). Paragraph (c)(3) is consistent with *Commonwealth v. Washington*, 554 Pa. 559, 722 A.2d 643 (1998), a case involving child witnesses, in which the Supreme Court created a *per se* rule requiring competency hearings to be conducted outside the presence of the jury. In *Commonwealth v. Delbridge*, 578 Pa. 641, 855 A.2d 27 (2003), the Supreme Court held that a competency hearing is the appropriate way to explore an allegation that the memory of a child has been so corrupted or “tainted” by unduly suggestive or coercive interview techniques as to render the child incompetent to testify.

Pa.R.E. 104(d) is identical to F.R.E. 104(d). In general, when a party offers himself or herself as a witness, the party may be questioned on all relevant matters in the case. See *Agate v. Dunleavy*, 398 Pa. 26, 156 A.2d 530 (1959). Under Pa.R.E. 104(d), however, when the accused in a criminal case testifies with regard to a preliminary question only, he or she may not be cross-examined as to other matters. This is consistent with Pa.R.E. 104(c)(2) in that it is designed to preserve the defendant’s right not to testify in the case in chief.

Pa.R.E. 104(e) differs from F.R.E. 104(e) to clarify the meaning of this paragraph.

Official Note: Adopted May 8, 1998, effective October 1, 1998; Comment revised March 29, 2001, effective April 1, 2001; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the March 29, 2001 revision of the Comment published with the Court’s Order at 31 Pa.B. 1995 (April 14, 2001).

Final Report explaining the January 17, 2013 rescission and replacement published with the Court’s Order at 43 Pa.B. 651 (February 2, 2013).

Rule 105. Limiting Evidence That is Not Admissible Against Other Parties or for Other Purposes.

If the court admits evidence that is admissible against a party or for a purpose—but not against another party or for another purpose—the court, on timely request, must restrict the evidence to its proper scope and instruct the jury accordingly. The court may also do so on its own initiative.

Comment

The first sentence of Pa.R.E. 105 is identical to F.R.E. 105. The second sentence was added to conform to Pennsylvania practice. There are other ways to deal with evidence that is admissible against one party but not another, or for one purpose but not another. For example, the evidence may be redacted. See *Commonwealth v. Johnson*, 474 Pa. 410, 378 A.2d 859 (1977). In some cases, severance may be appropriate. See *Commonwealth v. Young*, 263 Pa. Super. 333, 397 A.2d 1234 (1979). Where the danger of unfair prejudice outweighs probative value the evidence may be excluded. See Pa.R.E. 403.

Official Note: Adopted May 8, 1998, effective October 1, 1998; Comment revised March 10, 2000, effective immediately; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the March 10, 2000 revision of the Comment deleting “as amended” from the second sentence published with the Court’s Order at 30 Pa.B. 1641 (March 25, 2000).

Final Report explaining the January 17, 2013 rescission and replacement published with the Court’s Order at 43 Pa.B. 651 (February 2, 2013).

Rule 106. Remainder of or Related Writings or Recorded Statements.

If a party introduces all or part of a writing or recorded statement, an adverse party may require the introduction, at that time, of any other part—or any other writing or recorded statement—that in fairness ought to be considered at the same time.

Comment

This rule is identical to F.R.E. 106. A similar principle is expressed in Pa.R.C.P. No. 4020(a)(4), which states: “If only part of a deposition is offered in evidence by a party, any other party may require the offering party to introduce all of it which is relevant to the part introduced, and any party may introduce any other parts.”

The purpose of Pa.R.E. 106 is to give the adverse party an opportunity to correct a misleading impression that may be created by the use of a part of a writing or recorded statement that may be taken out of context. This rule gives the adverse party the opportunity to correct the misleading impression at the time that the evidence is introduced. The trial court has discretion to decide whether other parts, or other writings or recorded statements, ought in fairness to be considered contemporaneously with the proffered part.

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ARTICLE II. JUDICIAL NOTICE

Rule
201. Judicial Notice of Adjudicative Facts.

Rule 201. Judicial Notice of Adjudicative Facts.

(a) *Scope.* This rule governs judicial notice of an adjudicative fact only, not a legislative fact.

(b) *Kinds of Facts That May Be Judicially Noticed.* The court may judicially notice a fact that is not subject to reasonable dispute because it:

(1) is generally known within the trial court's territorial jurisdiction; or

(2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.

(c) *Taking Notice.* The court:

(1) may take judicial notice on its own; or

(2) must take judicial notice if a party requests it and the court is supplied with the necessary information.

(d) *Timing.* The court may take judicial notice at any stage of the proceeding.

(e) *Opportunity to Be Heard.* On timely request, a party is entitled to be heard on the propriety of taking judicial notice and the nature of the fact to be noticed. If the court takes judicial notice before notifying a party, the party, on request, is still entitled to be heard.

(f) *Instructing the Jury.* The court must instruct the jury that it may, but is not required to, accept as conclusive any fact judicially noticed.

Comment

This rule is identical to F.R.E. 201, except for paragraph (f).

Pa.R.E. 201(a) limits the application of this rule to adjudicative facts. This rule is not applicable to judicial notice of law. Adjudicative facts are facts about the events, persons and places relevant to the matter before the court. *See* 2 McCormick, *Evidence* § 328 (6th ed. 2006).

In determining the law applicable to a matter, the judge is sometimes said to take judicial notice of law. In Pennsylvania, judicial notice of law has been regulated by decisional law and statute. *See In re Annual Controller's Reports for Years 1932, 1933, 1934, 1935 and 1936*, 333 Pa. 489, 5 A.2d 201 (1939) (judicial notice of public laws); 42 Pa.C.S. § 6107 (judicial notice of municipal ordinances); 42 Pa.C.S. § 5327 (judicial notice of laws of any jurisdiction outside the Commonwealth); 45 Pa.C.S. § 506 (judicial notice of the contents of the *Pennsylvania Code* and the *Pennsylvania Bulletin*). These rules are not intended to change existing provisions of law.

Pa.R.E. 201(f) differs from F.R.E. 201(f). Under the Federal Rule the court is required to instruct the jury to accept as conclusive any fact judicially noticed in a civil case. In a criminal case, the judicially noticed fact is not treated as conclusive. Under Pennsylvania law, the judicially noticed fact has not been treated as conclusive in either civil or criminal cases, and the opposing party may submit evidence to the jury to disprove the noticed fact. *See Appeal of Albert*, 372 Pa. 13, 92 A.2d 663 (1952); *Commonwealth v. Brown*, 428 Pa. Super. 587, 631 A.2d 1014 (1993).

Official Note: Adopted May 8, 1998, effective October 1, 1998; rescinded and replaced January 17, 2013, effective March 18, 2013.

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ARTICLE III. PRESUMPTIONS

Rule
301. Presumptions.

Rule 301. Presumptions.

Presumptions as they now exist or may be modified by law shall be unaffected by the adoption of these rules.

Comment

Pa.R.E. 301 is similar to F.R.E. 301 in that it does not modify existing law. Pa.R.E. 301 differs from F.R.E. 301 in that this rule does not establish the effect of a presumption on the burden of proof.

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ARTICLE IV. RELEVANCE AND ITS LIMITS

Rule
401. Test for Relevant Evidence.
402. General Admissibility of Relevant Evidence.
403. Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons.
404. Character Evidence; Crimes or Other Acts.
405. Methods of Proving Character.
406. Habit; Routine Practice.
407. Subsequent Remedial Measures.
408. Compromise Offers and Negotiations.
409. Offers to Pay Medical and Similar Expenses.
410. Pleas, Plea Discussions, and Related Statements.
411. Liability Insurance.
412. Sex Offense Cases: The Victim's Sexual Behavior or Predisposition (Not Adopted).

Rule 401. Test for Relevant Evidence.

Evidence is relevant if:

(a) it has any tendency to make a fact more or less probable than it would be without the evidence; and

(b) the fact is of consequence in determining the action.

Comment

This rule is identical to F.R.E. 401.

Whether evidence has a tendency to make a given fact more or less probable is to be determined by the court in the light of reason, experience, scientific principles and the other testimony offered in the case.

The relevance of proposed evidence may be dependent on evidence not yet of record. Under Pa.R.E. 104(b), the court may admit the proposed evidence on the condition that the evidence supporting its relevance be introduced later.

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Rule 402. General Admissibility of Relevant Evidence.

All relevant evidence is admissible, except as otherwise provided by law. Evidence that is not relevant is not admissible.

Comment

Pa.R.E. 402 differs from F.R.E. 402. The Federal Rule specifically enumerates the various sources of federal rule-making power. Pa.R.E. 402 substitutes the phrase "by law".

Pa.R.E. 402 states a fundamental concept of the law of evidence. Relevant evidence is admissible; evidence that is not relevant is not admissible. This concept is modified by the exceptions clause of the rule, which states another fundamental principle of evidentiary law—relevant evidence may be excluded by operation of constitutional law, by statute, by these rules, by other rules promulgated by the Supreme Court or by rules of evidence created by case law.

Examples of decisionally created rules of exclusion that are not abrogated by the adoption of these rules include: the *corpus delicti* rule, *Commonwealth v. Ware*, 459 Pa. 334, 329 A.2d 258 (1974); the collateral source rule, see *Boudwin v. Yellow Cab Co.*, 410 Pa. 31, 188 A.2d 259 (1963); the parol evidence rule, see *Yocca v. Pittsburgh Steelers Sports, Inc.*, 578 Pa. 479, 854 A.2d 425 (2004); and the rule excluding certain evidence to rebut the presumption of legitimacy, see *John M. v. Paula T.*, 524 Pa. 306, 571 A.2d 1380 (1990).

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Rule 403. Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons.

The court may exclude relevant evidence if its probative value is outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.

Comment

Pa.R.E. 403 differs from F.R.E. 403. The Federal Rule provides that relevant evidence may be excluded if its probative value is "substantially outweighed." Pa.R.E. 403 eliminates the word "substantially" to conform the text of the rule more closely to Pennsylvania law. See *Commonwealth v. Boyle*, 498 Pa. 486, 447 A.2d 250 (1982).

"Unfair prejudice" means a tendency to suggest decision on an improper basis or to divert the jury's attention away from its duty of weighing the evidence impartially.

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Committee Explanatory Reports:

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Rule 404. Character Evidence; Crimes or Other Acts.**(a) Character Evidence.**

(1) *Prohibited Uses.* Evidence of a person's character or character trait is not admissible to prove that on a particular occasion the person acted in accordance with the character or trait.

(2) *Exceptions for a Defendant or Victim in a Criminal Case.* The following exceptions apply in a criminal case:

(A) a defendant may offer evidence of the defendant's pertinent trait, and if the evidence is admitted, the prosecutor may offer evidence to rebut it;

(B) subject to limitations imposed by statute a defendant may offer evidence of an alleged victim's pertinent trait, and if the evidence is admitted the prosecutor may:

(i) offer evidence to rebut it; and

(ii) offer evidence of the defendant's same trait; and

(C) in a homicide case, the prosecutor may offer evidence of the alleged victim's trait of peacefulness to rebut evidence that the victim was the first aggressor.

(3) *Exceptions for a Witness.* Evidence of a witness's character may be admitted under Rules 607, 608, and 609.

(4) *Exception in a Civil Action for Assault and Battery.* In a civil action for assault and battery, evidence of the plaintiff's character trait for violence may be admitted when offered by the defendant to rebut evidence that the defendant was the first aggressor.

(b) Crimes, Wrongs or Other Acts.

(1) *Prohibited Uses.* Evidence of a crime, wrong, or other act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character.

(2) *Permitted Uses.* This evidence may be admissible for another purpose, such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident. In a criminal case this evidence is admissible only if the probative value of the evidence outweighs its potential for unfair prejudice.

(3) *Notice in a Criminal Case.* In a criminal case the prosecutor must provide reasonable notice in advance of trial, or during trial if the court excuses pretrial notice on good cause shown, of the general nature of any such evidence the prosecutor intends to introduce at trial.

Comment

Pa.R.E. 404(a) differs from F.R.E. 404(a). There are two differences. First, F.R.E. 404(a)(2)(B) gives the defendant the right to introduce evidence of a pertinent trait of character of the alleged victim of the crime subject to the limitations in F.R.E. 412. The Pennsylvania Rule differs in that Pennsylvania has not adopted Rule 412. Instead, Pennsylvania recognizes statutory limitations on this right. In particular, 18 Pa.C.S. § 3104 (the Rape Shield Law) often prohibits the defendant from introducing evidence of the alleged victim's past sexual conduct, including reputation evidence. See Comment to Pa.R.E. 412 (Not Adopted), *infra*. Second, Pa.R.E. 404(a)(4), which applies only to a civil action for assault and battery, is not part of the federal rule. It is based on *Bell v. Philadelphia*, 341 Pa. Super. 534, 491 A.2d 1386 (1985).

Pa.R.E. 404(a)(1) prohibits the use of evidence of a person's character or trait of character to prove conduct in conformity therewith on a particular occasion. The ratio-

nale is that the relevance of such evidence is usually outweighed by its tendency to create unfair prejudice, particularly with a jury. This does not prohibit the introduction of evidence of a person's character, or trait of character, to prove something other than conduct in conformity therewith. For example, a party must sometimes prove a person's character or trait of character because it is an element of the party's claim or defense. See Pa.R.E. 405(b) and its Comment.

A person's trait of character is not the same as a person's habit. The distinction is discussed in the Comment to Rule 406, *infra*. If a person's trait of character leads to habitual behavior, evidence of the latter is admissible to prove conduct in conformity therewith on a particular occasion, pursuant to Rule 406.

Pa.R.E. 404(a)(2)(A) which deals with the character of a defendant in a criminal case, is identical to F.R.E. 404(a)(2)(A). It allows the defendant to "put his character in issue," usually by calling character witnesses to testify to his good reputation for a law-abiding disposition, or other pertinent trait of character. If the defendant does so, the Commonwealth may (1) cross-examine such witnesses, subject to the limitations imposed by Rule 405(a), and (2) offer rebuttal evidence.

If a defendant in a criminal case chooses to offer evidence of a pertinent trait of character of an alleged victim under subsection (a)(2)(B), then subsection (a)(2)(B)(ii) allows the Commonwealth to offer evidence that the defendant has the same trait of character. For example, in an assault and battery case, if the defendant introduces evidence that the alleged victim was a violent and belligerent person, the Commonwealth may counter by offering evidence that the defendant was also a violent and belligerent person. Thus, the jury will receive a balanced picture of the two participants to help it decide who was the first aggressor.

Pa.R.E. 404(b)(1) is identical to F.R.E. 404(b)(1). It prohibits the use of evidence of other crimes wrongs or acts to prove a person's character.

Pa.R.E. 404(b)(2), like F.R.E. 404(b)(2), contains a non-exhaustive list of purposes, other than proving character, for which a person's other crimes wrongs or acts may be admissible. But it differs in several aspects. First, Pa.R.E. 404(b)(2) requires that the probative value of the evidence must outweigh its potential for prejudice. When weighing the potential for prejudice of evidence of other crimes, wrongs, or acts, the trial court may consider whether and how much such potential for prejudice can be reduced by cautionary instructions. See *Commonwealth v. LaCava*, 542 Pa. 160, 666 A.2d 221 (1995). When evidence is admitted for this purpose, the party against whom it is offered is entitled, upon request, to a limiting instruction. See *Commonwealth v. Hutchinson*, 571 Pa. 45, 811 A.2d 556 (2002). Second, the federal rule requires the defendant in a criminal case to make a request for notice of the prosecutor's intent to offer evidence of other crimes, wrongs or acts. This issue is covered in Pa.R.E. 404(b)(3) which is consistent with prior Pennsylvania practice in that the requirement that the prosecutor give notice is not dependent upon a request by the defendant.

Official Note: Adopted May 8, 1998, effective October 1, 1998; Comment revised November 2, 2001; effective January 1, 2002; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the November 2, 2001 revision of Subsection (a) of the Comment published with the Court's Order at 31 Pa.B. 6384 (November 24, 2001).

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 405. Methods of Proving Character.

(a) *By Reputation.* When evidence of a person's character or character trait is admissible, it may be proved by testimony about the person's reputation. Testimony about the witness's opinion as to the character or character trait of the person is not admissible.

(1) On cross-examination of the character witness, the court may allow an inquiry into relevant specific instances of the person's conduct probative of the character trait in question.

(2) In a criminal case, on cross-examination of a character witness, inquiry into allegations of other criminal conduct by the defendant, not resulting in conviction, is not permissible.

(b) *By Specific Instances of Conduct.* Specific instances of conduct are not admissible to prove character or a trait of character, except:

(1) In a civil case, when a person's character or a character trait is an essential element of a claim or defense, character may be proved by specific instances of conduct.

(2) In a criminal case, when character or a character trait of an alleged victim is admissible under Pa.R.E. 404(a)(2)(B) the defendant may prove the character or character trait by specific instances of conduct.

Comment

Pa.R.E. 405(a) differs from F.R.E. 405(a). The first sentence of Pa.R.E. 405(a) permits proof of character or a character trait by reputation testimony, as does F.R.E. 405(a). But the second sentence specifically prohibits opinion testimony about character or a trait of character. This prohibition is consistent with prior Pennsylvania law. See *Commonwealth v. Lopinson*, 427 Pa. 284, 234 A.2d 552 (1967), *vacated on other grounds*, 392 U.S. 647 (1968).

Pa.R.E. 405(a) also differs from F.R.E. 405(a) in that there are two subparagraphs, Pa.R.E. 405(a)(1) and Pa.R.E. 405(a)(2), dealing with cross-examination of a character witness. Pa.R.E. 405(a)(2) prohibits cross-examination of a criminal defendant's character witnesses regarding criminal conduct of the defendant not resulting in conviction. This is consistent with prior Pennsylvania law. See *Commonwealth v. Morgan*, 559 Pa. 248, 739 A.2d 1033 (1999). When a reputation witness is cross-examined regarding specific instances of conduct, the court should take care that the cross-examiner has a reasonable basis for the questions asked. See *Commonwealth v. Adams*, 426 Pa. Super. 332, 626 A.2d 1231 (1993).

Pa.R.E. 405(b) differs from F.R.E. 405(b). Unlike F.R.E. 405(b), Pa.R.E. 405(b) distinguishes between civil and criminal cases in permitting the use of specific instances of conduct to prove character.

With regard to civil cases, Pa.R.E. 405(b)(1) is similar to the Federal Rule in permitting proof of character by specific instances of conduct where character is an essential element of the claim or defense. This is consistent with prior Pennsylvania law. See *Matusak v. Kulczewski*,

295 Pa. 208, 145 A. 94 (1928); *Dempsey v. Walso Bureau, Inc.*, 431 Pa. 562, 246 A.2d 418 (1968). With regard to criminal cases, under Pa.R.E. 404(a)(2)(B), the accused may offer evidence of a pertinent trait of character of the alleged crime victim. Under Pa.R.E. 405(b)(2) the trait may be proven by specific instances of conduct without regard to whether the trait is an essential element of the charge, or defense. This is consistent with prior Pennsylvania law. See *Commonwealth v. Dillon*, 528 Pa. 417, 598 A.2d 963 (1991).

Official Note: Adopted May 8, 1998, effective October 1, 1998; amended July 20, 2000; effective October 1, 2000; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the July 20, 2000 amendment of paragraph (a) concerning allegations of other criminal misconduct published with the Court's Order at 30 Pa.B. 3920 (August 5, 2000).

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 406. Habit; Routine Practice.

Evidence of a person's habit or an organization's routine practice may be admitted to prove that on a particular occasion the person or organization acted in accordance with the habit or routine practice. The court may admit this evidence regardless of whether it is corroborated or there was an eyewitness.

Comment

This rule is identical to F.R.E. 406. The concepts of "habit" and "routine practice" denote conduct that occurs with fixed regularity in repeated specific situations. Like the Federal Rule, Pa.R.E. 406 does not set forth the ways in which habit or routine practice may be proven, but leaves this for case-by-case determination. See, e.g., *Commonwealth v. Rivers*, 537 Pa. 394, 644 A.2d 710 (1994) (allowing testimony based on familiarity with another's conduct); *Baldrige v. Matthews*, 378 Pa. 566, 570, 106 A.2d 809, 811 (1954) (testimony of uniform practice apparently permitted without examples of specific instances).

Evidence of habit must be distinguished from evidence of character. Character applies to a generalized propensity to act in a certain way without reference to specific conduct, and frequently contains a normative, or value-laden, component (e.g., a character for truthfulness). Habit connotes one's conduct in a precise factual context, and frequently involves mundane matters (e.g., recording the purpose for checks drawn).

Official Note: Adopted May 8, 1998, effective October 1, 1998; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 407. Subsequent Remedial Measures.

When measures are taken by a party that would have made an earlier injury or harm less likely to occur, evidence of the subsequent measures is not admissible against that party to prove:

- negligence;
- culpable conduct;
- a defect in a product or its design; or
- a need for a warning or instruction.

But the court may admit this evidence for another purpose such as impeachment or—if disputed—proving ownership, control, or the feasibility of precautionary measures.

Comment

Pa.R.E. 407 differs from F.R.E. 407. The rule has been modified to clarify that the rule only protects the party that took the measures. Though F.R.E. 407 is silent on the point, the courts have generally held that the federal rule does not apply when one other than the alleged tortfeasor takes the action because the reason for the rule (to encourage remedial measures) is not then implicated. See, e.g., *TLT-Babcock, Inc. v. Emerson Electric Co.*, 33 F.3d 397, 400 (4th Cir. 1994) (collecting cases).

Official Note: Adopted May 8, 1998, effective October 1, 1998; amended June 12, 2003, effective July 1, 2003; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the June 12, 2003 amendments published with the Court's Order at 33 Pa.B. 2973 (June 28, 2003).

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 408. Compromise Offers and Negotiations.

(a) *Prohibited Uses.* Evidence of the following is not admissible—on behalf of any party—either to prove or disprove the validity or amount of a disputed claim or to impeach by a prior inconsistent statement or a contradiction:

- (1) furnishing, promising, or offering—or accepting, promising to accept, or offering to accept—a valuable consideration in compromising or attempting to compromise the claim; and
- (2) conduct or a statement made during compromise negotiations about the claim.

(b) *Exceptions.* The court may admit this evidence for another purpose, such as proving a witness's bias or prejudice, negating a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.

Comment

Pa.R.E. 408(a) differs from F.R.E. 408(a) in that the federal rule in paragraph (a)(2) contains language that seems to permit the use in criminal cases of statements made to government investigators, regulators, or enforcement authority in negotiations in civil cases. That language has not been adopted because the use of such statements might conflict with the policies underlying Pa.R.Crim.P. 586 (relating to dismissal of criminal charges not committed by force or violence upon payment of restitution) or Pa.R.Crim.P. 546 (relating to dismissal upon satisfaction or agreement).

This rule does not require the exclusion of any evidence otherwise discoverable merely because it is presented in the course of compromise negotiations.

Pa.R.E. 408(b) is identical to F.R.E. 408(b).

Admissibility of conduct and statements in mediations pursuant to the Mediation Act of 1996, 42 Pa.C.S. § 5949, is governed by that statute.

Pa.R.E. 408 is consistent with 42 Pa.C.S. § 6141 which provides, in pertinent part, as follows:

§ 6141. *Effect of certain settlements*

(a) *Personal Injuries.* Settlement with or any payment made to an injured person or to others on behalf of such injured person with the permission of such injured person or to anyone entitled to recover damages on account of injury or death of such person shall not constitute an admission of liability by the person making the payment or on whose behalf the payment was made, unless the parties to such settlement or payment agree to the contrary.

(b) *Damages to Property.* Settlement with or any payment made to a person or on his behalf to others for damages to or destruction of property shall not constitute an admission of liability by the person making the payment or on whose behalf the payment was made, unless the parties to such settlement or payment agree to the contrary.

(c) *Admissibility in Evidence.* Except in an action in which final settlement and release has been pleaded as a complete defense, any settlement or payment referred to in subsections (a) and (b) shall not be admissible in evidence on the trial of any matter.

Official Note: Adopted May 8, 1998, effective October 1, 1998; amended March 10, 2000; effective July 1, 2000; Comment revised March 29, 2001, effective April 1, 2001; amended September 18, 2008, effective October 30, 2008; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the March 10, 2000 amendments concerning the inadmissibility of evidence of conduct or statements made in compromise negotiations published at 30 Pa.B. 1643 (March 25, 2000).

Final Report explaining the March 29, 2001 revision of the Comment published with the Court's Order at 31 Pa.B. 1995 (April 14, 2001).

Final Report explaining the September 18, 2008 amendments published with the Court's Order at 38 Pa.B. 5423 (October 4, 2008).

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 409. Offers to Pay Medical and Similar Expenses.

Evidence of furnishing, promising to pay, or offering to pay medical, hospital, or similar expenses resulting from an injury is not admissible to prove liability for the injury.

Comment

This rule is identical to F.R.E. 409.

Official Note: Adopted May 8, 1998, effective October 1, 1998; Comment revised December 30, 2005, effective February 1, 2006; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the December 30, 2005 revision of the Comment published with the Court's Order at 36 Pa.B. 384 (January 28, 2006).

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 410. Pleas, Plea Discussions, and Related Statements.

(a) *Prohibited Uses.* In a civil or criminal case, evidence of the following is not admissible against the defendant who made the plea or participated in the plea discussions:

(1) a guilty plea that was later withdrawn;

(2) a *nolo contendere* plea;

(3) a statement made in the course of any proceedings under Rules 311, 313, 409, 414, 424, 550 or 590 of the Pennsylvania Rules of Criminal Procedure, Rule 11 of the Federal Rules of Criminal Procedure, or a comparable rule or procedure of another state; or

(4) a statement made during plea discussions with an attorney for the prosecuting authority if the discussions did not result in a guilty plea or they resulted in a later withdrawn guilty plea.

(b) *Exceptions.* The court may admit a statement described in Rule 410(a)(3) or (4):

(1) in any proceeding in which another statement made during the same plea or plea discussions has been introduced, if in fairness the statements ought to be considered together; or

(2) in a criminal proceeding for perjury, false swearing or unsworn falsification to authorities, if the defendant made the statement under oath, on the record, and with counsel present.

Comment

Pa.R.E. 410(a)(3) differs from F.R.E. 410(a)(3) in that it refers to the Pennsylvania proceedings to which the paragraph applies rather than the federal proceedings.

Pa.R.E. 410 does not prohibit the use of a conviction that results from a plea of *nolo contendere*, as distinct from the plea itself, to impeach in a later proceeding (subject to Pa.R.E. 609) or to establish an element of a charge in a later administrative proceeding. See *Commonwealth v. Snyder*, 408 Pa. 253, 182 A.2d 495 (1962) (conviction based on *nolo contendere* plea could be used to impeach witness in later criminal proceeding); *Eisenberg v. Commonwealth, Dep't. of Public Welfare*, 512 Pa. 181, 516 A.2d 333 (Pa. 1986) (conviction based on *nolo contendere* plea permitted to establish element of charge in administrative proceeding).

There is also a statute governing the admissibility of guilty pleas and pleas of *nolo contendere* in cases charging summary motor vehicle violations when offered in civil cases arising out of the same facts. See 42 Pa.C.S. § 6142 which provides:

(a) *General Rule.* A plea of guilty or *nolo contendere*, or a payment of the fine and costs prescribed after any such plea, in any summary proceeding made by any person charged with a violation of Title 75 (relating to vehicles) shall not be admissible as evidence in any civil matter arising out of the same violation or under the same facts or circumstances.

(b) *Exception.* The provisions of subsection (a) shall not be applicable to administrative or judicial pro-

ceedings involving the suspension of a motor vehicle or tractor operating privilege, learner's permit, or right to apply for a motor vehicle or tractor operating privilege, or the suspension of a certificate of appointment as an official inspection station, or the suspension of a motor vehicle, tractor, or trailer registration.

Pa.R.E. 410(b)(1) is identical to F.R.E. 410(b)(1).

Pa.R.E. 410(b)(2) differs from F.R.E. 410(b)(2) in that "false statement" has been omitted and replaced with "false swearing" and "unsworn falsification to authorities" to correlate with acts defined in the Pennsylvania Crime Code. See 18 Pa.C.S. §§ 4903, 4904.

Official Note: Adopted May 8, 1998, effective October 1, 1998; Comment revised March 23, 1999, effective immediately; amended March 10, 2000, effective immediately; amended March 29, 2001, effective April 1, 2001; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the March 23, 1999 technical revisions of the Comment published with the Court's Order at 29 Pa.B. 1714 (April 3, 1999).

Final Report explaining the March 10, 2000 technical amendments updating the rule published with the Court's Order at 30 Pa.B. 1641 (March 25, 2000).

Final Report explaining the March 29, 2001 amendments published with the Court's Order at 31 Pa.B. 1995 (April 14, 2001).

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 411. Liability Insurance.

Evidence that a person was or was not insured against liability is not admissible to prove whether the person acted negligently or otherwise wrongfully. But the court may admit this evidence for another purpose, such as proving a witness's bias or prejudice or proving agency, ownership, or control.

Comment

This rule is identical to F.R.E. 411.

Official Note: Adopted May 8, 1998, effective October 1, 1998; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 412. Sex Offense Cases: The Victim's Sexual Behavior or Predisposition (Not Adopted).

Comment

Pennsylvania has not adopted a Rule of Evidence comparable to F.R.E. 412. In Pennsylvania this subject is governed by 18 Pa.C.S. § 3104 (the "Rape Shield Law").

18 Pa.C.S. § 3104 provides:

§ 3104. Evidence of victim's sexual conduct

(a) *General rule.*—Evidence of specific instances of the alleged victim's past sexual conduct, opinion evidence of the alleged victim's past sexual conduct, and reputation evidence of the alleged victim's past sexual conduct shall not be admissible in prosecutions under this chapter except evidence of the

alleged victim's past sexual conduct with the defendant where consent of the alleged victim is at issue and such evidence is otherwise admissible pursuant to the rules of evidence.

(b) *Evidentiary proceedings.*—A defendant who proposes to offer evidence of the alleged victim's past sexual conduct pursuant to subsection (a) shall file a written motion and offer of proof at the time of trial. If, at the time of trial, the court determines that the motion and offer of proof are sufficient on their faces, the court shall order an in camera hearing and shall make findings on the record as to the relevance and admissibility of the proposed evidence pursuant to the standards set forth in subsection (a).

Official Note: Comment rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

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ARTICLE V. PRIVILEGES

Rule 501.	Privileges.
502.	Attorney-Client Privilege and Work Product; Limitations on Waiver (Not Adopted).

Rule 501. Privileges.

Privileges as they now exist or may be modified by law shall be unaffected by the adoption of these rules.

Comment

Pa.R.E. 501 is similar to F.R.E. 501 in that this rule does not modify existing law.

Official Note: Adopted May 8, 1998, effective October 1, 1998; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 502. Attorney-Client Privilege and Work Product; Limitations on Waiver (Not Adopted).

ARTICLE VI. WITNESSES

Rule 601.	Competency.
602.	Need for Personal Knowledge.
603.	Oath or Affirmation to Testify Truthfully.
604.	Interpreter.
605.	Judge's Competency as a Witness.
606.	Juror's Competency as a Witness.
607.	Who May Impeach a Witness, Evidence to Impeach a Witness.
608.	A Witness's Character for Truthfulness or Untruthfulness.
609.	Impeachment by Evidence of a Criminal Conviction.
610.	Religious Beliefs or Opinions.
611.	Mode and Order of Examining Witnesses and Presenting Evidence.
612.	Writing or Other Item Used to Refresh a Witness's Memory.
613.	Witness's Prior Inconsistent Statement to Impeach; Witness's Prior Consistent Statement to Rehabilitate.
614.	Court's Calling or Examining a Witness.
615.	Sequestering Witnesses.

Rule 601. Competency.

(a) *General Rule.* Every person is competent to be a witness except as otherwise provided by statute or in these rules.

(b) *Disqualification for Specific Defects.* A person is incompetent to testify if the court finds that because of a mental condition or immaturity the person:

(1) is, or was, at any relevant time, incapable of perceiving accurately;

(2) is unable to express himself or herself so as to be understood either directly or through an interpreter;

(3) has an impaired memory; or

(4) does not sufficiently understand the duty to tell the truth.

Comment

Pa.R.E. 601(a) differs from F.R.E. 601(a). It is consistent, instead, with Pennsylvania statutory law. 42 Pa.C.S. §§ 5911 and 5921 provide that all witnesses are competent except as otherwise provided. Pennsylvania statutory law provides several instances in which witnesses are incompetent. *See, e.g.*, 42 Pa.C.S. § 5922 (persons convicted in a Pennsylvania court of perjury incompetent in civil cases); 42 Pa.C.S. § 5924 (spouses incompetent to testify against each other in civil cases with certain exceptions set out in 42 Pa.C.S. §§ 5925, 5926, and 5927); 42 Pa.C.S. §§ 5930—5933 and 20 Pa.C.S. § 2209 (“Dead Man’s statutes”).

Pa.R.E. 601(b) has no counterpart in the Federal Rules. It is consistent with Pennsylvania law concerning the factors for determining competency of a person to testify, including persons with a mental defect and children of tender years. *See Commonwealth v. Baker*, 466 Pa. 479, 353 A.2d 454 (1976) (standards for determining competency generally); *Commonwealth v. Goldblum*, 498 Pa. 455, 447 A.2d 234 (1982) (mental capacity); *Rosche v. McCoy*, 397 Pa. 615, 156 A.2d 307 (1959) (immaturity).

Pennsylvania case law recognizes two other grounds for incompetency, a child’s “tainted” testimony, and hypnotically refreshed testimony. In *Commonwealth v. Delbridge*, 578 Pa. 641, 855 A.2d 27 (2003), the Supreme Court reiterated concern for the susceptibility of children to suggestion and fantasy and held that a child witness can be rendered incompetent to testify where unduly suggestive or coercive interview techniques corrupt or “taint” the child’s memory and ability to testify truthfully about that memory. *See also Commonwealth v. Judd*, 897 A.2d 1224 (Pa. Super. 2006).

In *Commonwealth v. Nazarovitch*, 496 Pa. 97, 436 A.2d 170 (1981), the Supreme Court rejected hypnotically refreshed testimony, where the witness had no prior independent recollection. Applying the test of *Frye v. United States*, 293 F. 1013 (D.C. Cir. 1923) for scientific testimony, the Court was not convinced that the process of hypnosis as a means of restoring forgotten or repressed memory had gained sufficient acceptance in its field. *Commonwealth v. Nazarovitch, supra; see also Commonwealth v. Romanelli*, 522 Pa. 222, 560 A.2d 1384 (1989) (when witness has been hypnotized, he or she may testify concerning matters recollected prior to hypnosis, but not about matters recalled only during or after hypnosis); *Commonwealth v. Smoyer*, 505 Pa. 83, 476 A.2d 1304 (1984) (same). Pa.R.E. 601(b) is not intended to change these results. For the constitutional implications when a defendant in a criminal case, whose memory has been hypnotically refreshed, seeks to testify, see *Rock v. Arkansas*, 483 U.S. 44 (1987).

The application of the standards in Pa.R.E. 601(b) is a factual question to be resolved by the court as a preliminary question under Rule 104. The party challenging competency bears the burden of proving grounds of incompetency by clear and convincing evidence. *Commonwealth v. Delbridge*, 578 Pa. at 664, 855 A.2d at 40. In *Commonwealth v. Washington*, 554 Pa. 559, 722 A.2d 643

(1998), a case involving child witnesses, the Supreme Court announced a *per se* rule requiring trial courts to conduct competency hearings outside the presence of the jury. Expert testimony has been used when competency under these standards has been an issue. *See e.g., Commonwealth v. Baker*, 466 Pa. 479, 353 A.2d 454 (1976); *Commonwealth v. Gaerttner*, 335 Pa. Super. 203, 484 A.2d 92 (1984).

Official Note: Adopted May 8, 1998, effective October 1, 1998; amended November 2, 2007, effective December 14, 2007; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the January 17, 2013 rescission and replacement published with the Court’s Order at 43 Pa.B. 651 (February 2, 2013).

Rule 602. Need for Personal Knowledge.

A witness may testify to a matter only if evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may consist of the witness’s own testimony. This rule does not apply to a witness’s expert testimony under Rule 703.

Comment

This rule is identical to F.R.E. 602.

Personal or firsthand knowledge is a universal requirement of the law of evidence. *See Johnson v. Peoples Cab Co.*, 386 Pa. 513, 514—15, 126 A.2d 720, 721 (1956) (“The primary object of a trial in our American courts is to bring to the tribunal, which is passing on the dispute involved, those persons who know of their own knowledge the facts to which they testify.”). Pa.R.E. 602 refers to Pa.R.E. 703 to make clear that there is no conflict with Rule 703, which permits an expert to base an opinion on facts not within the expert’s personal knowledge.

It is implicit in Pa.R.E. 602 that the party calling the witness has the burden of proving personal knowledge. This is consistent with Pennsylvania law. *Carney v. Pennsylvania R.R. Co.*, 428 Pa. 489, 240 A.2d 71 (1968).

Generally speaking, the personal knowledge requirement of Rule 602 is applicable to the declarant of a hearsay statement. *See, e.g., Commonwealth v. Pronkoskie*, 477 Pa. 132, 383 A.2d 858 (1978) and *Carney v. Pennsylvania R.R. Co.*, 428 Pa. 489, 240 A.2d 71 (1968). However, personal knowledge is not required for an opposing party’s statement under Pa.R.E. 803(25). *See Salvitti v. Throppe*, 343 Pa. 642, 23 A.2d 445 (1942); *Carswell v. SEPTA*, 259 Pa. Super. 167, 393 A.2d 770 (1978). In addition, Pa.R.E. 804(b)(4) explicitly dispenses with the need for personal knowledge for statements of personal or family history, and Pa.R.E. 803(19), (20) and (21) impliedly do away with the personal knowledge requirement by permitting testimony as to reputation to prove personal or family history, boundaries or general history, and a person’s character.

Official Note: Adopted May 8, 1998, effective October 1, 1998; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

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Rule 603. Oath or Affirmation to Testify Truthfully.

Before testifying, a witness must give an oath or affirmation to testify truthfully. It must be in a form designed to impress that duty on the witness's conscience.

Comment

This rule is identical to F.R.E. 603.

Official Note: Adopted May 8, 1998, effective October 1, 1998; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

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Rule 604. Interpreter.

An interpreter must be qualified and must give an oath or affirmation to make a true translation.

Comment

In 2006, legislation was enacted pertaining to the certification, appointment, and use of interpreters in judicial and administrative proceedings for persons having limited proficiency with the English language and persons who are deaf. See 42 Pa.C.S. §§ 4401—4438; 2 Pa.C.S. §§ 561—588. Pursuant to this legislation, the Administrative Office of the Pennsylvania Courts ("AOPC") has implemented an interpreter program for judicial proceedings. See 204 Pa. Code §§ 221.101—407. Information on the court interpreter program and a roster of court interpreters may be obtained from the AOPC web site at www.pacourts.us/t/aopc/courtinterpreterprog.

Official Note: Adopted May 8, 1998, effective October 1, 1998; Comment revised March 29, 2001, effective April 1, 2001; amended and Comment revised March 21, 2012, effective in 30 days; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the March 29, 2001 revision of the Comment published with the Court's Order at 31 Pa.B. 1995 (April 14, 2001).

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 605. Judge's Competency as a Witness.

The presiding judge may not testify as a witness at the trial or other proceeding.

Comment

This rule differs from the first sentence of F.R.E. 605 with the inclusion of "or other proceeding." Pa.R.E. 605 makes a judge absolutely incompetent to be a witness on any matter in any proceeding at which the judge presides. Cf. *Municipal Publications, Inc. v. Court of Common Pleas*, 507 Pa. 194, 489 A.2d 1286 (1985) (applying Canon 3C of the Pennsylvania Code of Judicial Conduct, and holding that at a hearing on a motion to recuse a judge, the judge himself could not testify on the issues raised in the motion and continue to preside at the hearing).

The second sentence of F.R.E. 605 which provides, "A party need not object to preserve the issue," is not adopted. This is consistent with Pa.R.E. 103(a) which provides that error may not be predicated on a ruling admitting evidence in the absence of a timely objection, motion to strike, or motion in limine. Of course, the court

should permit the making of the objection out of the presence of the jury. See Pa.R.E. 103(d).

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Committee Explanatory Reports:

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Rule 606. Juror's Competency as a Witness.

(a) *At the Trial.* A juror may not testify as a witness before the other jurors at the trial. If a juror is called to testify, the court must give a party an opportunity to object outside the jury's presence.

(b) *During an Inquiry into the Validity of a Verdict*

(1) *Prohibited Testimony or Other Evidence.* During an inquiry into the validity of a verdict, a juror may not testify about any statement made or incident that occurred during the jury's deliberations; the effect of anything on that juror's or another juror's vote; or any juror's mental processes concerning the verdict. The court may not receive a juror's affidavit or evidence of a juror's statement on these matters.

(2) *Exceptions.* A juror may testify about whether:

(A) prejudicial information not of record and beyond common knowledge and experience was improperly brought to the jury's attention; or

(B) an outside influence was improperly brought to bear on any juror.

Comment

Pa.R.E. 606(a) is identical to F.R.E. 606(a). Note that this paragraph bars a juror from testifying "before the other jurors at the trial." That phrase indicates that a juror may testify outside the presence of the rest of the jury on matters occurring during the course of the trial. See, e.g., *Commonwealth v. Santiago*, 456 Pa. 265, 318 A.2d 737 (1974) (jurors permitted to testify at hearing in chambers during trial on question of whether they received improper prejudicial information).

Pa.R.E. 606(b) differs from F.R.E. 606(b). First, the words, "extraneous prejudicial information" in F.R.E. 606(b)(2)(A) have been replaced by the phrase "prejudicial information not of record and beyond common knowledge and experience." This makes clear that the exception is directed at evidence brought before the jury which was not presented during the trial, and which was not tested by the processes of the adversary system and subjected to judicial screening for a determination of admissibility. The qualification of "common knowledge and experience" is a recognition that all jurors bring with them some common facts of life.

Second, the word "indictment" has been omitted because challenges to indicting grand juries and jurors are the subject of Pa.R.Crim.P. 556.4.

Third, Pa.R.E. 606(b)(2) does not contain the third exception to juror incompetency that appears in F.R.E. 606(b)(2)(C)—permitting juror testimony about whether there was a mistake in entering the verdict onto the verdict form. Pennsylvania law deals with possible mistakes in the verdict form by permitting the polling of the jury prior to the recording of the verdict. If there is no concurrence, the jury is directed to retire for further deliberations. See Pa.R.Crim.P. 648(G); *City of Pittsburgh*

v. Dinardo, 410 Pa. 376, 189 A.2d 886 (1963); *Barefoot v. Penn Central Transportation Co.*, 226 Pa. Super. 558, 323 A.2d 271 (1974).

Pa.R.E. 606(b) does not purport to set forth the substantive grounds for setting aside verdicts because of an irregularity.

Official Note: Adopted May 8, 1998, effective October 1, 1998; Comment revised September 17, 2007, October 17, 2007; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the September 17, 2007 revision of the Comment published with the Court's Order at 37 Pa.B. 5247 (September 29, 2007).

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 607. Who May Impeach a Witness, Evidence to Impeach a Witness.

(a) *Who May Impeach a Witness.* Any party, including the party that called the witness, may attack the witness's credibility.

(b) *Evidence to Impeach a Witness.* The credibility of a witness may be impeached by any evidence relevant to that issue, except as otherwise provided by statute or these rules.

Comment

Pa.R.E. 607(a) is identical to F.R.E. 607. It abolishes the common law rule that prohibited a party from impeaching a witness called by that party.

The Federal Rules have no provision similar to Pa.R.E. 607(b). Pa.R.E. 607(b) applies the test for relevant evidence of Pa.R.E. 401 to evidence offered to impeach the credibility of a witness. As is the case under Pa.R.E. 402, there are limits on the admissibility of evidence relevant to the credibility of a witness imposed by these rules. For example, Pa.R.E. 403 excludes relevant evidence if its probative value is outweighed by danger of unfair prejudice, etc., and there are specific limitations on impeachment imposed by Rules 608, 609 and 610. There are statutory limitations such as 18 Pa.C.S. § 3104 (Rape Shield Law).

Pa.R.E. 607(b), however, is not curtailed by 42 Pa.C.S. § 5918, which prohibits, with certain exceptions, the questioning of a defendant who testifies in a criminal case for the purpose of showing that the defendant has committed, been convicted of or charged with another offense or that the defendant has a bad character or reputation. In *Commonwealth v. Bigham*, 452 Pa. 554, 307 A.2d 255 (1973), this statute was interpreted to apply only to cross-examination. Hence, it affects only the timing and method of impeachment of a defendant; it does not bar the impeachment entirely.

Official Note: Adopted May 8, 1998, effective October 1, 1998; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 608. A Witness's Character for Truthfulness or Untruthfulness.

(a) *Reputation Evidence.* A witness's credibility may be attacked or supported by testimony about the witness's

reputation for having a character for truthfulness or untruthfulness. But evidence of truthful character is admissible only after the witness's character for truthfulness has been attacked. Opinion testimony about the witness's character for truthfulness or untruthfulness is not admissible.

(b) *Specific Instances of Conduct.* Except as provided in Rule 609 (relating to evidence of conviction of crime),

(1) the character of a witness for truthfulness may not be attacked or supported by cross-examination or extrinsic evidence concerning specific instances of the witness's conduct; however,

(2) in the discretion of the court, the credibility of a witness who testifies as to the reputation of another witness for truthfulness or untruthfulness may be attacked by cross-examination concerning specific instances of conduct (not including arrests) of the other witness, if they are probative of truthfulness or untruthfulness; but extrinsic evidence thereof is not admissible.

Comment

Pa.R.E. 608(a) differs from F.R.E. 608(a) in that the Federal Rule permits character for truthfulness or untruthfulness to be attacked or supported by testimony about the witness's reputation or by opinion testimony. Under Pa.R.E. 608(a), opinion testimony is not admissible. This approach is consistent with Pennsylvania law. See *Commonwealth v. Lopinson*, 427 Pa. 284, 234 A.2d 552 (1967), *vacated on other grounds*, 392 U.S. 647 (1968). Compare Pa.R.E. 405(a).

Pa.R.E. 608(b)(1) differs from F.R.E. 608(b). Pa.R.E. 608(b)(1) prohibits the use of evidence of specific instances of conduct to support or attack credibility. This is consistent with Pennsylvania law. See *Commonwealth v. Cragle*, 281 Pa. Super. 434, 422 A.2d 547 (1980). F.R.E. 608(b)(1) prohibits the use of extrinsic evidence for this purpose, but permits cross-examination of a witness about specific instances of conduct reflecting on the witness's credibility within the court's discretion. Both the Pennsylvania and the Federal Rule refer the issue of attacking a witness's credibility with evidence of prior convictions to Rule 609.

Pa.R.E. 608(b)(2) is similar to F.R.E. 608(b); it permits a witness who has testified to another witness's character for truthfulness to be cross-examined, about specific instances of conduct of the principal witness, in the discretion of the court. Pa.R.E. 608(b)(2) makes it clear that although the cross-examination concerns the specific acts of the principal witness, that evidence affects the credibility of the character witness only. This is in accord with Pennsylvania law. See *Commonwealth v. Peterkin*, 511 Pa. 299, 513 A.2d 373 (1986); *Commonwealth v. Adams*, 426 Pa. Super. 332, 626 A.2d 1231 (1993). In addition, Pa.R.E. 608(b)(2) excludes the use of arrests; this, too, is consistent with Pennsylvania law. See *Commonwealth v. Scott*, 496 Pa. 188, 436 A.2d 607 (1981). Because cross-examination concerning specific instances of conduct is subject to abuse, the cross-examination is not automatic; rather, its use is specifically placed in the discretion of the court, and like all other relevant evidence, it is subject to the balancing test of Pa.R.E. 403. Moreover, the court should take care that the cross-examiner has a reasonable basis for the questions asked. See *Adams*, *supra*.

Finally, the last paragraph of F.R.E. 608(b), which provides that the giving of testimony by an accused or any other witness is not a waiver of the privilege against

self-incrimination when the examination concerns matters relating only to credibility, is not adopted.

Official Note: Adopted May 8, 1998, effective October 1, 1998; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 609. Impeachment by Evidence of a Criminal Conviction.

(a) *In General.* For the purpose of attacking the credibility of any witness, evidence that the witness has been convicted of a crime, whether by verdict or by plea of guilty or *nolo contendere*, must be admitted if it involved dishonesty or false statement.

(b) *Limit on Using the Evidence After 10 Years.* This subdivision (b) applies if more than 10 years have passed since the witness's conviction or release from confinement for it, whichever is later. Evidence of the conviction is admissible only if:

(1) its probative value substantially outweighs its prejudicial effect; and

(2) the proponent gives an adverse party reasonable written notice of the intent to use it so that the party has a fair opportunity to contest its use.

(c) *Effect of Pardon or Other Equivalent Procedure.* Evidence of a conviction is not admissible under this rule if the conviction has been the subject of one of the following:

(1) a pardon or other equivalent procedure based on a specific finding of innocence; or

(2) a pardon or other equivalent procedure based on a specific finding of rehabilitation of the person convicted, and that person has not been convicted of any subsequent crime.

(d) *Juvenile Adjudications.* In a criminal case only, evidence of the adjudication of delinquency for an offense under the Juvenile Act, 42 Pa.C.S. §§ 6301 *et seq.*, may be used to impeach the credibility of a witness if conviction of the offense would be admissible to attack the credibility of an adult.

(e) *Pendency of an Appeal.* A conviction that satisfies this rule is admissible even if an appeal is pending. Evidence of the pendency is also admissible.

Comment

Pa.R.E. 609(a) differs from F.R.E. 609(a). It is designed to be consistent with Pennsylvania case law. See *Commonwealth v. Randall*, 515 Pa. 410, 528 A.2d 1326 (1987); *Commonwealth v. Bigham*, 452 Pa. 554, 307 A.2d 255 (1973). In addition, Pa.R.E. 609(a), unlike F.R.E. 609(a)(2), specifically provides that a conviction based upon a plea of *nolo contendere* may be used to attack the credibility of a witness; this, too, is consistent with prior Pennsylvania case law. See *Commonwealth v. Snyder*, 408 Pa. 253, 182 A.2d 495 (1962).

As a general rule, evidence of a jury verdict of guilty or a plea of guilty or *nolo contendere* may not be used to attack the credibility of a witness before the court has pronounced sentence. See *Commonwealth v. Zapata*, 455 Pa. 205, 314 A.2d 299 (1974). In addition, evidence of admission to an Accelerated Rehabilitative Disposition

program under Pa.R.Crim.P. 310—320 may not be used to attack credibility. See *Commonwealth v. Krall*, 290 Pa. Super. 1, 434 A.2d 99 (1981).

42 Pa.C.S. § 5918 provides (with certain exceptions) that when a defendant in a criminal case has been called to testify in his or her own behalf he or she cannot be cross-examined about prior convictions. However, evidence of a prior conviction or convictions of a crime or crimes admissible under paragraph (a) may be introduced in rebuttal after the defendant has testified. See *Commonwealth v. Bigham*, 452 Pa. 554, 307 A.2d 255 (1973).

Pa.R.E. 609(b) differs slightly from F.R.E. 609(b) in that the phrase "supported by specific facts and circumstances," used in F.R.E. 609(b)(1) with respect to the balancing of probative value and prejudicial effect, has been eliminated. Pa.R.E. 609(b) basically tracks what was said in *Commonwealth v. Randall*, 515 Pa. 410, 528 A.2d 1326 (1987). Where the date of conviction or last date of confinement is within ten years of the trial, evidence of the conviction of a *crimen falsi* is *per se* admissible. If more than ten years have elapsed, the evidence may be used only after written notice and the trial judge's determination that its probative value substantially outweighs its prejudicial effect. The relevant factors for making this determination are set forth in *Bigham*, *supra*, and *Commonwealth v. Roots*, 482 Pa. 33, 393 A.2d 364 (1978). For the computation of the ten-year period, where there has been a reincarceration because of a parole violation, see *Commonwealth v. Jackson*, 526 Pa. 294, 585 A.2d 1001 (1991).

Pa.R.E. 609(c) differs from F.R.E. 609(c) because the Federal Rule includes procedures that are not provided by Pennsylvania law.

Pa.R.E. 609(d) differs from F.R.E. 609(d). Under the latter, evidence of juvenile adjudications is generally inadmissible to impeach credibility, except in criminal cases against a witness other than the accused where the court finds that the evidence is necessary for a fair determination of guilt or innocence. Pa.R.E. 609(d), to be consistent with 42 Pa.C.S. § 6354(b)(4), permits a broader use; a juvenile adjudication of an offense may be used to impeach in a criminal case if conviction of the offense would be admissible if committed by an adult. Juvenile adjudications may also be admissible for other purposes. See 42 Pa.C.S. § 6354(b)(1), (2), and (3).

Pa.R.E. 609(e) is identical to F.R.E. 609(e).

Official Note: Adopted May 8, 1998, effective October 1, 1998; Comment revised March 29, 2001, effective April 1, 2001; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

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Rule 610. Religious Beliefs or Opinions.

Evidence of a witness's religious beliefs or opinions is not admissible to attack or support the witness's credibility.

Comment

This rule is identical to F.R.E. 610. It is consistent with 42 Pa.C.S. § 5902, which provides that religious beliefs and opinions shall not affect a person's "capacity" to

testify, that no witness shall be questioned about those beliefs or opinions, and that no evidence shall be heard on those subjects for the purpose of affecting “competency or credibility.”

Pa.R.E. 610 bars evidence of a witness’s religious beliefs or opinions only when offered to show that the beliefs or opinions affect the witness’s truthfulness. Pa.R.E. 610 does not bar such evidence introduced for other purposes. See *McKim v. Philadelphia Transp. Co.*, 364 Pa. 237, 72 A.2d 122 (1950); *Commonwealth v. Riggins*, 374 Pa. Super. 243, 542 A.2d 1004 (1988).

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Rule 611. Mode and Order of Examining Witnesses and Presenting Evidence.

(a) *Control by the Court; Purposes.* The court should exercise reasonable control over the mode and order of examining witnesses and presenting evidence so as to:

- (1) make those procedures effective for determining the truth;
- (2) avoid wasting time; and
- (3) protect witnesses from harassment or undue embarrassment.

(b) *Scope of Cross-Examination.* Cross-examination of a witness other than a party in a civil case should be limited to the subject matter of the direct examination and matters affecting credibility, however, the court may, in the exercise of discretion, permit inquiry into additional matters as if on direct examination. A party witness in a civil case may be cross-examined by an adverse party on any matter relevant to any issue in the case, including credibility, unless the court, in the interests of justice, limits the cross-examination with respect to matters not testified to on direct examination.

(c) *Leading Questions.* Leading questions should not be used on direct or redirect examination except as necessary to develop the witness’s testimony. Ordinarily, the court should allow leading questions:

- (1) on cross-examination; and
- (2) when a party calls a hostile witness, an adverse party, or a witness identified with an adverse party.

Comment

Pa.R.E. 611(a) is identical to F.R.E. 611(a).

Pa.R.E. 611(b) differs from F.R.E. 611(b). F.R.E. 611(b) limits the scope of cross-examination of all witnesses to matters testified to on direct and matters bearing on credibility, unless the court in its discretion allows inquiry into additional matters as if on direct examination. This has been the traditional view in the Federal courts and many State courts. The cross-examiner does not lose the opportunity to develop the evidence because, unless the witness is the accused in a criminal case, the cross-examiner may call the witness as his or her own. Therefore, the introduction of the evidence is merely deferred.

Pa.R.E. 611(b), which is based on Pennsylvania law, applies the traditional view in both civil and criminal cases to all witnesses except a party in a civil case. Under

Pa.R.E. 611(b), a party in a civil case may be cross-examined on all relevant issues and matters affecting credibility. See *Agate v. Dunleavy*, 398 Pa. 26, 156 A.2d 530 (1959); *Greenfield v. Philadelphia*, 282 Pa. 344, 127 A. 768 (1925). However, in both of those cases, the Court stated that the broadened scope of cross-examination of a party in a civil case does not permit a defendant to put in a defense through cross-examination of the plaintiff. The qualifying clause in the last sentence of Pa.R.E. 611(b) is intended to give the trial judge discretion to follow this longstanding rule.

When the accused in a criminal case is the witness, there is an interplay between the limited scope of cross-examination and the accused’s privilege against self-incrimination. When the accused testifies generally as to facts tending to negate or raise doubts about the prosecution’s evidence, he or she has waived the privilege and may not use it to prevent the prosecution from bringing out on cross-examination every circumstance related to those facts. See *Commonwealth v. Green*, 525 Pa. 424, 581 A.2d 544 (1990). However, when the accused’s testimony is limited to a narrow topic, there is some authority that the scope of cross-examination may be limited as well. See *Commonwealth v. Camm*, 443 Pa. 253, 277 A.2d 325 (1971); *Commonwealth v. Ulen*, 414 Pa. Super. 502, 607 A.2d 779 (1992), *rev’d on other grounds*, 539 Pa. 51, 650 A.2d 416 (1994).

Pa.R.E. 611(c) differs from F.R.E. 611(c) in that the word “redirect” has been added to the first sentence. This is consistent with Pennsylvania law. See *Commonwealth v. Reidenbaugh*, 282 Pa. Super. 300, 422 A.2d 1126 (1980).

Official Note: Adopted May 8, 1998, effective October 1, 1998; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the January 17, 2013 rescission and replacement published with the Court’s Order at 43 Pa.B. 651 (February 2, 2013).

Rule 612. Writing or Other Item Used to Refresh a Witness’s Memory.

(a) *Right to Refresh Memory.* A witness may use a writing or other item to refresh memory for the purpose of testifying while testifying, or before testifying.

(b) *Rights of Adverse Party.*

(1) If a witness uses a writing or other item to refresh memory while testifying, an adverse party is entitled to have it produced at the hearing, trial or deposition, to inspect it, to cross-examine the witness about it, and to introduce in evidence any portion that relates to the witness’s testimony.

(2) If a witness uses a writing or other item to refresh memory before testifying, and the court in its discretion determines it is necessary in the interests of justice, an adverse party is entitled to have it produced at the hearing, trial or deposition, to inspect it, to cross-examine the witness about it, and to introduce in evidence any portion that relates to the witness’s testimony.

(c) *Rights of Producing Party.* If the producing party claims that the writing or other item includes unrelated matter, the court must examine it in camera, delete any unrelated portion, and order that the rest be delivered to the adverse party. Any portion deleted over objection must be preserved for the record.

(d) *Failure to Produce or Deliver.* If the writing or other item is not produced or is not delivered as ordered, the

court may issue any appropriate order. But if the prosecution does not comply in a criminal case, the court must strike the witness's testimony or—if justice so requires—declare a mistrial, or the court may use contempt procedures.

Comment

Pa.R.E. 612 differs from F.R.E. in several ways:

Pa.R.E. 612 applies to writings and other items. This would include such things as photographs, videos, and recordings. F.R.E. 612 applies only to writings. The Pennsylvania rule is consistent with prior law. See *Commonwealth v. Proctor*, 253 Pa. Super. 369, 385 A.2d 383 (1978).

Pa.R.E. 612(a) states that a witness or a party has a right to refresh recollection. This is not expressly provided by F.R.E. 612.

Pa.R.E. 612(b) reorganizes the material that appears in F.R.E. 612(a) and the first sentence of F.R.E. 612(b) for clarity, includes the word "deposition" to clarify that the rule is applicable both at hearings and depositions, and deletes reference to 18 U.S.C. § 3500.

Paragraph (c) differs from the second sentence of F.R.E. 612(b) in that it refers to other items as well as writings.

Paragraph (d) differs from F.R.E. 612(c) in that it adds the phrase "or the court may use contempt procedures".

Official Note: Adopted May 8, 1998, effective October 1, 1998; amended March 23, 1999, effective immediately; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the March 23, 1999 technical amendments to paragraph (a) published with the Court's Order at 29 Pa.B. 1714 (April 3, 1999).

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 613. Witness's Prior Inconsistent Statement to Impeach; Witness's Prior Consistent Statement to Rehabilitate.

(a) *Witness's Prior Inconsistent Statement to Impeach.* A witness may be examined concerning a prior inconsistent statement made by the witness to impeach the witness's credibility. The statement need not be shown or its contents disclosed to the witness at that time, but on request the statement or contents must be shown or disclosed to an adverse party's attorney.

(b) *Extrinsic Evidence of a Witness's Prior Inconsistent Statement.* Unless the interests of justice otherwise require, extrinsic evidence of a witness's prior inconsistent statement is admissible only if, during the examination of the witness,

- (1) the statement, if written, is shown to, or if not written, its contents are disclosed to, the witness;
- (2) the witness is given an opportunity to explain or deny the making of the statement; and
- (3) an adverse party is given an opportunity to question the witness.

This paragraph does not apply to an opposing party's statement as defined in Rule 803(25).

(c) *Witness's Prior Consistent Statement to Rehabilitate.* Evidence of a witness's prior consistent statement is admissible to rehabilitate the witness's credibility if the

opposing party is given an opportunity to cross-examine the witness about the statement and the statement is offered to rebut an express or implied charge of:

(1) fabrication, bias, improper influence or motive, or faulty memory and the statement was made before that which has been charged existed or arose; or

(2) having made a prior inconsistent statement, which the witness has denied or explained, and the consistent statement supports the witness's denial or explanation.

Comment

Pa.R.E. 613 differs from F.R.E. 613 to clarify its meaning and to conform to Pennsylvania law.

Pa.R.E. 613(a) and (b) are similar to F.R.E. 613(a) and (b), but the headings and the substance make it clear that the paragraphs are dealing with the use of an inconsistent statement to impeach. The disclosure requirement in paragraph (a) is intended to deter sham allegations of the existence of an inconsistent statement.

Pa.R.E. 613(b) differs from F.R.E. 613(b) in that extrinsic evidence of a prior inconsistent statement is not admissible unless the statement is shown or disclosed to the witness during the witness's examination. Paragraph (b) is intended to give the witness and the party a fair opportunity to explain or deny the allegation.

F.R.E. 613 does not contain a paragraph (c); it does not deal with rehabilitation of a witness with a prior consistent statement. Pa.R.E. 613(c) gives a party an opportunity to rehabilitate the witness with a prior consistent statement where there has been an attempt to impeach the witness. In most cases, a witness's prior statement is hearsay, but F.R.E. 801(d)(1)(B) treats some prior consistent statements offered to rebut impeachment as not hearsay. Pa.R.E. 613(c) is consistent with Pennsylvania law in that the prior consistent statement is admissible, but only to rehabilitate the witness. See *Commonwealth v. Hutchinson*, 521 Pa. 482, 556 A.2d 370 (1989) (to rebut charge of recent fabrication); *Commonwealth v. Smith*, 518 Pa. 15, 540 A.2d 246 (1988) (to counter alleged corrupt motive); *Commonwealth v. Swinson*, 426 Pa. Super. 167, 626 A.2d 627 (1993) (to negate charge of faulty memory); *Commonwealth v. McEachin*, 371 Pa. Super. 188, 537 A.2d 883 (1988) (to offset implication of improper influence).

Pa.R.E. 613(c)(2) is arguably an extension of Pennsylvania law, but is based on the premise that when an attempt has been made to impeach a witness with an alleged prior inconsistent statement, a statement consistent with the witness's testimony should be admissible to rehabilitate the witness if it supports the witness's denial or explanation of the alleged inconsistent statement.

Official Note: Adopted May 8, 1998, effective October 1, 1998; amended March 23, 1999, effective immediately; amended March 10, 2000, effective July 1, 2000; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the March 23, 1999 technical amendments to paragraph (b)(3) published with the Court's Order at 29 Pa.B. 1714 (April 3, 1999).

Final Report explaining the March 10, 2000 amendments adding "inconsistent" to section (a) published with the Court's Order at 30 Pa.B. 1645 (March 25, 2000).

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 614. Court's Calling or Examining a Witness.

(a) *Calling.* Consistent with its function as an impartial arbiter, the court, with notice to the parties, may call a witness on its own or at a party's request. Each party is entitled to cross-examine the witness.

(b) *Examining.* Where the interest of justice so requires, the court may examine a witness regardless of who calls the witness.

(c) *Objections.* A party may object to the court's calling or examining a witness when given notice that the witness will be called or when the witness is examined. When requested to do so, the court must give the objecting party an opportunity to make objections out of the presence of the jury.

Comment

Pa.R.E. 614(a) and (b) differ from F.R.E. 614(a) and (b) in several respects. The phrase relating to the court's "function as an impartial arbiter" has been added to Pa.R.E. 614(a), and the clause regarding "interest of justice" has been added in Pa.R.E. 614(b). These additions are consistent with Pennsylvania law. *See Commonwealth v. Crews*, 429 Pa. 16, 239 A.2d 350 (1968); *Commonwealth v. DiPasquale*, 424 Pa. 500, 230 A.2d 449 (1967); *Commonwealth v. Myma*, 278 Pa. 505, 123 A. 486 (1924).

Pa.R.E. 614(a) also differs from F.R.E. 614(a) in that the Pennsylvania Rule requires the court to give notice of its intent to call a witness.

Pa.R.E. 614(c), unlike F.R.E. 614(c), does not permit an objection to the court's calling or questioning a witness "at the next available opportunity when the jury is not present." Pa.R.E. 614(c) is consistent with Pa.R.E. 103(a)(1)(A), which requires a "timely objection." The requirement that the objecting party be given an opportunity make its objection out of the presence of the jury is consistent with Pa.R.E. 103(d).

Official Note: Adopted May 8, 1998, effective October 1, 1998; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 615. Sequestering Witnesses.

At a party's request the court may order witnesses sequestered so that they cannot learn of other witnesses' testimony. Or the court may do so on its own. But this rule does not authorize sequestering:

- (a) a party who is a natural person;
- (b) an officer or employee of a party that is not a natural person (including the Commonwealth) after being designated as the party's representative by its attorney;
- (c) a person whose presence a party shows to be essential to presenting the party's claim or defense; or
- (d) a person authorized by statute or rule to be present.

Comment

Pa.R.E. 615 differs from F.R.E. 615 in that the word "sequestering" is used instead of the word "excluding", and the rule is discretionary not mandatory. Both of these are consistent with prior Pennsylvania law. *See Commonwealth v. Albrecht*, 510 Pa. 603, 511 A.2d 764 (1986). Pa.R.E. 615 uses the term "learn of" rather than the word "hear." This indicates that the court's order may prohibit

witnesses from using other means of learning of the testimony of other witnesses.

Pa.R.E. 615(b) adds the parenthetical "(including the Commonwealth)."

Pa.R.E. 615(d) differs from the Federal Rule in that it adds the words "or rule." This includes persons such as the guardian of a minor, see Pa.R.C.P. No. 2027, and the guardian of an incapacitated person, see Pa.R.C.P. No. 2053.

The trial court has discretion in choosing a remedy for violation of a sequestration order. *See Commonwealth v. Smith*, 464 Pa. 314, 346 A.2d 757 (1975). Remedies include ordering a mistrial, forbidding the testimony of the offending witness, or an instruction to the jury. *Commonwealth v. Scott*, 496 Pa. 78, 436 A.2d 161 (1981).

Official Note: Adopted May 8, 1998, effective October 1, 1998; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

ARTICLE VII. OPINIONS AND EXPERT TESTIMONY

Rule	
701.	Opinion Testimony by Lay Witnesses.
702.	Testimony by Expert Witnesses.
703.	Bases of an Expert's Opinion Testimony.
704.	Opinion on an Ultimate Issue.
705.	Disclosing the Facts or Data Underlying an Expert's Opinion.
706.	Court-Appointed Expert Witnesses.

Rule 701. Opinion Testimony by Lay Witnesses.

If a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is:

- (a) rationally based on the witness's perception;
- (b) helpful to clearly understanding the witness's testimony or to determining a fact in issue; and
- (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702.

Comment

This rule is identical to F.R.E. 701.

On January 17, 2013, the Rules of Evidence were rescinded and replaced. *See* Pa.R.E. 101, Comment. Within Article VII, the term "inference" has been eliminated when used in conjunction with "opinion." The term "inference" is subsumed by the broader term "opinion" and Pennsylvania case law has not made a substantive decision on the basis of any distinction between an opinion and an inference. No change in the current practice was intended with the elimination of this term.

Official Note: Adopted May 8, 1998, effective October 1, 1998; amended November 2, 2001, effective January 2, 2002; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the November 2, 2001, amendments published with the Court's Order at 31 Pa.B. 6384 (November 24, 2001).

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 702. Testimony by Expert Witnesses.

A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if:

(a) the expert's scientific, technical, or other specialized knowledge is beyond that possessed by the average layperson;

(b) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue; and

(c) the expert's methodology is generally accepted in the relevant field.

Comment

Pa.R.E. 702(a) and (b) differ from F.R.E. 702 in that Pa.R.E. 702(a) and (b) impose the requirement that the expert's scientific, technical, or other specialized knowledge is admissible only if it is beyond that possessed by the average layperson. This is consistent with prior Pennsylvania law. See *Commonwealth v. O'Searo*, 466 Pa. 224, 229, 352 A.2d 30, 32 (1976).

Pa.R.E. 702(c) differs from F.R.E. 702 in that it reflects Pennsylvania's adoption of the standard in *Frye v. United States*, 293 F. 1013 (D.C. Cir. 1923). The rule applies the "general acceptance" test for the admissibility of scientific, technical, or other specialized knowledge testimony. This is consistent with prior Pennsylvania law. See *Grady v. Frito-Lay, Inc.*, 576 Pa. 546, 839 A.2d 1038 (2003). The rule rejects the federal test derived from *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993).

Pa.R.E. 702 does not change the Pennsylvania rule for qualifying a witness to testify as an expert. In *Miller v. Brass Rail Tavern, Inc.*, 541 Pa. 474, 480-81, 664 A.2d 525, 528 (1995), the Supreme Court stated:

The test to be applied when qualifying a witness to testify as an expert witness is whether the witness has any reasonable pretension to specialized knowledge on the subject under investigation. If he does, he may testify and the weight to be given to such testimony is for the trier of fact to determine.

Pa.R.E. 702 does not change the requirement that an expert's opinion must be expressed with reasonable certainty. See *McMahon v. Young*, 442 Pa. 484, 276 A.2d 534 (1971).

Pa.R.E. 702 states that an expert may testify in the form of an "opinion or otherwise." Much of the literature assumes that experts testify only in the form of an opinion. The language "or otherwise" reflects the fact that experts frequently are called upon to educate the trier of fact about the scientific or technical principles relevant to the case.

Official Note: Adopted May 8, 1998, effective October 1, 1998; Comment revised April 1, 2004, effective May 10, 2004; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 703. Bases of an Expert's Opinion Testimony.

An expert may base an opinion on facts or data in the case that the expert has been made aware of or personally observed. If experts in the particular field would

reasonably rely on those kinds of facts or data in forming an opinion on the subject, they need not be admissible for the opinion to be admitted.

Comment

This rule is identical to the first two sentences of F.R.E. 703. It does not include the third sentence of the Federal Rule that provides that the facts and data that are the bases for the expert's opinion are not admissible unless their probative value substantially outweighs their prejudicial effect. This is inconsistent with Pennsylvania law which requires that facts and data that are the bases for the expert's opinion must be disclosed to the trier of fact. See Pa.R.E. 705.

Pa.R.E. 703 requires that the facts or data upon which an expert witness bases an opinion be "of a type reasonably relied upon by experts in the particular field. . . ." Whether the facts or data satisfy this requirement is a preliminary question to be determined by the trial court under Pa.R.E. 104(a). If an expert witness relies on novel scientific evidence, Pa.R.C.P. No. 207.1 sets forth the procedure for objecting, by pretrial motion, on the ground that the testimony is inadmissible under Pa.R.E. 702, or Pa.R.E. 703, or both.

When an expert testifies about the underlying facts and data that support the expert's opinion and the evidence would be otherwise inadmissible, the trial judge upon request must, or on the judge's own initiative may, instruct the jury to consider the facts and data only to explain the basis for the expert's opinion, and not as substantive evidence.

An expert witness cannot be a mere conduit for the opinion of another. An expert witness may not relate the opinion of a non-testifying expert unless the witness has reasonably relied upon it in forming the witness's own opinion. See, e.g., *Foster v. McKeesport Hospital*, 260 Pa. Super. 485, 394 A.2d 1031 (1978); *Allen v. Kaplan*, 439 Pa. Super. 263, 653 A.2d 1249 (1995).

Official Note: Adopted May 8, 1998, effective October 1, 1998; Comment revised September 11, 2003, effective September 30, 2003; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the September 11, 2003 revision of the Comment published with the Court's Order at 33 Pa.B. 4784 (September 27, 2003).

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 704. Opinion on an Ultimate Issue.

An opinion is not objectionable just because it embraces an ultimate issue.

Comment

Pa.R.E. 704 is identical to F.R.E. 704(a).

F.R.E. 704(b) is not adopted. The Federal Rule prohibits an expert witness in a criminal case from stating an opinion about whether the defendant did or did not have a mental state or condition that constitutes an element of the crime charged or a defense. This is inconsistent with Pennsylvania law. *Commonwealth v. Walzack*, 468 Pa. 210, 360 A.2d 914 (1976).

Official Note: Adopted May 8, 1998, effective October 1, 1998; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 705. Disclosing the Facts or Data Underlying an Expert's Opinion.

If an expert states an opinion the expert must state the facts or data on which the opinion is based.

Comment

The text and substance of Pa.R.E. 705 differ significantly from F.R.E. 705. The Federal Rule generally does not require an expert witness to disclose the facts upon which an opinion is based prior to expressing the opinion. Instead, the cross-examiner bears the burden of probing the basis of the opinion. Pennsylvania does not follow the Federal Rule. *See Kozak v. Struth*, 515 Pa. 554, 560, 531 A.2d 420, 423 (1987) (declining to adopt F.R.E. 705, the Court reasoned that "requiring the proponent of an expert opinion to clarify for the jury the assumptions upon which the opinion is based avoids planting in the juror's mind a general statement likely to remain with him in the jury room when the disputed details are lost.") Relying on cross-examination to illuminate the underlying assumption, as F.R.E. 705 does, may further confuse jurors already struggling to follow complex testimony. *Id.*

Accordingly, *Kozak* requires disclosure of the facts used by the expert in forming an opinion. The disclosure can be accomplished in several ways. One way is to ask the expert to assume the truth of testimony the expert has heard or read. *Kroeger Co. v. W.C.A.B.*, 101 Pa. Cmwlth. 629, 516 A.2d 1335 (1986); *Tobash v. Jones*, 419 Pa. 205, 213 A.2d 588 (1965). Another option is to pose a hypothetical question to the expert. *Dietrich v. J.I. Case Co.*, 390 Pa. Super. 475, 568 A.2d 1272 (1990); *Hussey v. May Department Stores, Inc.*, 238 Pa. Super. 431, 357 A.2d 635 (1976).

When an expert testifies about the underlying facts and data that support the expert's opinion and the evidence would be otherwise inadmissible, the trial judge upon request must, or on the judge's own initiative may, instruct the jury to consider the facts and data only to explain the basis for the expert's opinion, and not as substantive evidence.

Official Note: Adopted May 8, 1998, effective October 1, 1998; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 706. Court-Appointed Expert Witnesses.

Where the court has appointed an expert witness, the witness appointed must advise the parties of the witness's findings, if any. The witness may be called to testify by the court or any party. The witness shall be subject to cross-examination by any party, including a party calling the witness. In civil cases, the witness's deposition may be taken by any party.

Comment

Pa.R.E. 706 differs from F.R.E. 706. Unlike the Federal Rule, Pa.R.E. 706 does not affect the scope of the trial court's power to appoint experts. Pa.R.E. 706 provides only the procedures for obtaining the testimony of experts after the court has appointed them.

In *Commonwealth v. Correa*, 437 Pa. Super. 1, 648 A.2d 1199 (1994), abrogated on other grounds by *Commonwealth v. Weston*, 561 Pa. 199, 749 A.2d 458 (2000), the Superior Court held that the trial court had inherent power to appoint an expert. 23 Pa.C.S. § 5104 provides for the appointment of experts to conduct blood tests in paternity proceedings.

See also Pa.R.E. 614 (Court's Calling or Examining a Witness).

Official Note: Adopted May 8, 1998, effective October 1, 1998; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

ARTICLE VIII. HEARSAY

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|------------|---|
| Rule | Definitions That Apply to This Article. |
| 801. | The Rule Against Hearsay. |
| 802. | Exceptions to the Rule Against Hearsay—Regardless of Whether the Declarant Is Available as a Witness. |
| 803. | Excited Utterance. |
| 803(2). | Then-Existing Mental, Emotional, or Physical Condition. |
| 803(3). | Statement Made for Medical Diagnosis or Treatment. |
| 803(4). | Recorded Recollection (Not Adopted). |
| 803(5). | Records of a Regularly Conducted Activity. |
| 803(6). | Absence of a Record of a Regularly Conducted Activity (Not Adopted). |
| 803(7). | Public Records (Not Adopted). |
| 803(8). | Public Records of Vital Statistics (Not Adopted). |
| 803(9). | Absence of a Public Record (Not Adopted). |
| 803(10). | Records of Religious Organizations Concerning Personal or Family History. |
| 803(11). | Certificates of Marriage, Baptism, and Similar Ceremonies. |
| 803(12). | Family Records. |
| 803(13). | Records of Documents That Affect an Interest in Property. |
| 803(14). | Statements in Documents That Affect an Interest in Property. |
| 803(15). | Statements in Ancient Documents. |
| 803(16). | Market Reports and Similar Commercial Publications. |
| 803(17). | Statements in Learned Treatises, Periodicals, or Pamphlets (Not Adopted). |
| 803(18). | Reputation Concerning Personal or Family History. |
| 803(19). | Reputation Concerning Boundaries or General History. |
| 803(20). | Reputation Concerning Character. |
| 803(21). | Judgment of a Previous Conviction (Not Adopted). |
| 803(22). | Judgments Involving Personal, Family, or General History or a Boundary (Not Adopted). |
| 803(23). | Other Exceptions (Not Adopted). |
| 803(24). | An Opposing Party's Statement. |
| 803(25). | Exceptions to the Rule Against Hearsay—Testimony of Declarant Necessary. |
| 803.1. | Prior Statement of Identification. |
| 803.1(2). | Recorded Recollection. |
| 803.1(3). | Exceptions to the Rule Against Hearsay—When the Declarant is Unavailable as a Witness. |
| 804. | The Exceptions. |
| 804(b). | Statement Under Belief of Imminent Death. |
| 804(b)(2). | Statement Against Interest. |
| 804(b)(3). | Statement of Personal or Family History. |
| 804(b)(4). | Other exceptions (Not Adopted). |
| 804(b)(5). | Statement Offered Against a Party That Wrongfully Caused the Declarant's Unavailability. |
| 804(b)(6). | Hearsay Within Hearsay. |
| 805. | Attacking and Supporting the Declarant's Credibility. |
| 806. | Residual Exception (Not Adopted). |
| 807. | |

Rule 801. Definitions That Apply to This Article.

(a) *Statement.* "Statement" means a person's oral assertion, written assertion, or nonverbal conduct, if the person intended it as an assertion.

(b) *Declarant.* "Declarant" means the person who made the statement.

(c) *Hearsay.* "Hearsay" means a statement that

(1) the declarant does not make while testifying at the current trial or hearing; and

(2) a party offers in evidence to prove the truth of the matter asserted in the statement.

Comment

Pa.R.E. 801(a), (b) and (c) are identical to F.R.E. 801(a), (b) and (c). The matters set out in F.R.E. 801(d)(1) (A Declarant-Witness's Prior Statement) are covered in Pa.R.E. 803.1(1) and (2) and Pa.R.E. 613(c). The matters set out in F.R.E. 801(d)(2) (An Opposing Party's Statement) are covered in Pa.R.E. 803(25).

Communications that are not assertions are not hearsay. These would include questions, greetings, expressions of gratitude, exclamations, offers, instructions, warnings, etc.

Pa.R.E. 801(c), which defines hearsay, is consistent with Pennsylvania law, although the Pennsylvania cases have usually defined hearsay as an "out-of-court statement offered to prove the truth of the matter asserted" instead of the definition used Pa.R.E. 801(c). See *Heddings v. Steele*, 514 Pa. 569, 526 A.2d 349 (1987). The adoption of the language of the Federal Rule is not intended to change existing law.

A statement is hearsay only if it is offered to prove the truth of the matter asserted in the statement. There are many situations in which evidence of a statement is offered for a purpose other than to prove the truth of the matter asserted.

Sometimes a statement has direct legal significance, whether or not it is true. For example, one or more statements may constitute an offer, an acceptance, a promise, a guarantee, a notice, a representation, a misrepresentation, defamation, perjury, compliance with a contractual or statutory obligation, etc.

More often, a statement, whether or not it is true, constitutes circumstantial evidence from which the trier of fact may infer, alone or in combination with other evidence, the existence or non-existence of a fact in issue. For example, a declarant's statement may imply his or her particular state of mind, or it may imply that a particular state of mind ensued in the recipient. Evidence of a statement, particularly if it is proven untrue by other evidence, may imply the existence of a conspiracy, or fraud. Evidence of a statement made by a witness, if inconsistent with the witness's testimony, may imply that the witness is an unreliable historian. Conversely, evidence of a statement made by a witness that is consistent with the witness's testimony may imply the opposite. See Pa.R.E. 613(c).

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Rule 802. The Rule Against Hearsay.

Hearsay is not admissible except as provided by these rules, by other rules prescribed by the Pennsylvania Supreme Court, or by statute.

Comment

Pa.R.E. 802 differs from F.R.E. 802 in that it refers to other rules prescribed by the Pennsylvania Supreme Court, and to statutes in general, rather than federal statutes.

Often, hearsay will be admissible under an exception provided by these rules. The organization of the Pennsylvania Rules of Evidence generally follows the organization of the Federal Rules of Evidence, but the Pennsylvania Rules' organization of the exceptions to the hearsay rule is somewhat different than the federal organization. There are three rules which contain the exceptions: Pa.R.E. 803 Exceptions to the Rule Against Hearsay—Regardless of Whether the Declarant is Available as a Witness, Pa.R.E. 803.1 Exceptions to the Rule Against Hearsay—Testimony of Declarant Necessary, and Pa.R.E. 804 Exceptions to the Rule Against Hearsay—When the Declarant is Unavailable as a Witness.

On occasion, hearsay may be admitted pursuant to another rule promulgated by the Pennsylvania Supreme Court. For example, in civil cases, all or part of a deposition may be admitted pursuant to Pa.R.C.P. No. 4020, or a video deposition of an expert witness may be admitted pursuant to Pa.R.C.P. No. 4017.1(g). In preliminary hearings in criminal cases, the court may consider hearsay evidence pursuant to Pa.R.Crim.P. 542(E) and 1003(E).

Also, hearsay may be admitted pursuant to a state statute. Examples include:

1. A public record may be admitted pursuant to 42 Pa.C.S. § 6104. See Comment to Pa.R.E. 803(8) (Not Adopted).

2. A record of vital statistics may be admitted pursuant to 35 P.S. § 450.810. See Comment to Pa.R.E. 803(9) (Not Adopted).

3. In a civil case, a deposition of a licensed physician may be admitted pursuant to 42 Pa.C.S. § 5936.

4. In a criminal case, a deposition of a witness may be admitted pursuant to 42 Pa.C.S. § 5919.

5. In a criminal or civil case, an out-of-court statement of a witness 12 years of age or younger, describing certain kinds of sexual abuse, may be admitted pursuant to 42 Pa.C.S. § 5985.1.

6. In a dependency hearing, an out-of-court statement of a witness under 16 years of age, describing certain types of sexual abuse, may be admitted pursuant to 42 Pa.C.S. § 5986.

7. In a prosecution for speeding under the Pennsylvania Vehicle Code, a certificate of accuracy of an electronic speed timing device (radar) from a calibration and testing station appointed by the Pennsylvania Department of Motor Vehicles may be admitted pursuant to 75 Pa.C.S. § 3368(d).

On rare occasion, hearsay may be admitted pursuant to a federal statute. For example, when a person brings a civil action, in either federal or state court, against a common carrier to enforce an order of the Interstate Commerce Commission requiring the payment of damages, the findings and order of the Commission may be introduced as evidence of the facts stated in them. 49 U.S.C. § 11704(d)(1).

Hearsay Exceptions and the Right of Confrontation of a Defendant in a Criminal Case

The exceptions to the hearsay rule in Rules 803, 803.1, and 804 and the exceptions provided by other rules or by

statute are applicable both in civil and criminal cases. In a criminal case, however, hearsay that is offered against a defendant under an exception from the hearsay rule provided by these rules or by another rule or statute may sometimes be excluded because its admission would violate the defendant's right "to be confronted with the witnesses against him" under the Sixth Amendment of the United States Constitution, or "to be confronted with the witnesses against him" under Article I, § 9 of the Pennsylvania Constitution.

The relationship between the hearsay rule and the Confrontation Clause in the Sixth Amendment was explained by the United States Supreme Court in *California v. Green*, 399 U.S. 149, 155-56 (1970):

While it may readily be conceded that hearsay rules and the Confrontation Clause are generally designed to protect similar values, it is quite a different thing to suggest that the overlap is complete and that the Confrontation Clause is nothing more or less than a codification of the rules of hearsay and their exceptions as they existed historically at common law. Our decisions have never established such a congruence; indeed, we have more than once found a violation of confrontation values even though the statements in issue were admitted under an arguably recognized hearsay exception. . . .

Given the similarity of the values protected, however, the modification of a State's hearsay rules to create new exceptions for the admission of evidence against a defendant, will often raise questions of compatibility with the defendant's constitutional right to confrontation.

In *Crawford v. Washington*, 541 U.S. 36 (2004), the Supreme Court, overruling its prior opinion in *Ohio v. Roberts*, 448 U.S. 56 (1980), interpreted the Confrontation Clause to prohibit the introduction of "testimonial" hearsay from an unavailable witness against a defendant in a criminal case unless the defendant had an opportunity to confront and cross-examine the declarant, regardless of its exception from the hearsay rule, except, perhaps, if the hearsay qualifies as a dying declaration (Pa.R.E. 804(b)(2)).

In short, when hearsay is offered against a defendant in a criminal case, the defendant may interpose three separate objections: (1) admission of the evidence would violate the hearsay rule, (2) admission of the evidence would violate defendant's right to confront the witnesses against him under the Sixth Amendment of the United States Constitution, and (3) admission of the evidence would violate defendant's right "to be confronted with the witnesses against him" under Article I, § 9 of the Pennsylvania Constitution.

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Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 803. Exceptions to the Rule Against Hearsay—Regardless of Whether the Declarant Is Available as a Witness.

The following are not excluded by the rule against hearsay, regardless of whether the declarant is available as a witness:

(1) *Present Sense Impression.* A statement describing or explaining an event or condition, made while or immediately after the declarant perceived it.

Comment

This rule is identical to F.R.E. 803(1).

For this exception to apply, declarant need not be excited or otherwise emotionally affected by the event or condition perceived. The trustworthiness of the statement arises from its timing. The requirement of contemporaneity, or near contemporaneity, reduces the chance of premeditated prevarication or loss of memory.

Rule 803(2). Excited Utterance.

(2) *Excited Utterance.* A statement relating to a startling event or condition, made while the declarant was under the stress of excitement that it caused.

Comment

This rule is identical to F.R.E. 803(2).

This exception has a more narrow base than the exception for a present sense impression, because it requires an event or condition that is *startling*. However, it is broader in scope because an excited utterance (1) need not describe or explain the startling event or condition; it need only *relate* to it, and (2) need not be made contemporaneously with, or immediately after, the startling event. It is sufficient if the stress of excitement created by the startling event or condition persists as a substantial factor in provoking the utterance.

There is no set time interval following a startling event or condition after which an utterance relating to it will be ineligible for exception to the hearsay rule as an excited utterance. In *Commonwealth v. Gore*, 262 Pa. Super. 540, 547, 396 A.2d 1302, 1305 (1978), the court explained:

The declaration need not be strictly contemporaneous with the existing cause, nor is there a definite and fixed time limit. . . . Rather, each case must be judged on its own facts, and a lapse of time of several hours has not negated the characterization of a statement as an "excited utterance." . . . The crucial question, regardless of the time lapse, is whether, at the time the statement is made, the nervous excitement continues to dominate while the reflective processes remain in abeyance.

Rule 803(3). Then-Existing Mental, Emotional, or Physical Condition.

(3) *Then-Existing Mental, Emotional, or Physical Condition.* A statement of the declarant's then-existing state of mind (such as motive, intent or plan) or emotional, sensory, or physical condition (such as mental feeling, pain, or bodily health), but not including a statement of

memory or belief to prove the fact remembered or believed unless it relates to the validity or terms of the declarant's will.

Comment

This rule is identical to F.R.E. 803(3).

Rule 803(4). Statement Made for Medical Diagnosis or Treatment.

(4) *Statement Made for Medical Diagnosis or Treatment.* A statement that:

(A) is made for—and is reasonably pertinent to—medical treatment or diagnosis in contemplation of treatment; and

(B) describes medical history, past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof, insofar as reasonably pertinent to treatment, or diagnosis in contemplation of treatment.

Comment

Pa.R.E. 803(4) differs from F.R.E. 803(4) in that it permits admission of statements made for purposes of medical diagnosis only if they are made in contemplation of treatment. Statements made to persons retained solely for the purpose of litigation are not admissible under this rule. The rationale for admitting statements for purposes of treatment is that the declarant has a very strong motivation to speak truthfully. This rationale is not applicable to statements made for purposes of litigation. Pa.R.E. 803(4) is consistent with Pennsylvania law. *See Commonwealth v. Smith*, 545 Pa. 487, 681 A.2d 1288 (1996).

An expert medical witness may base an opinion on the declarant's statements of the kind discussed in this rule, even though the statements were not made for purposes of treatment, if the statements comply with Pa.R.E. 703. Such statements may be disclosed as provided in Pa.R.E. 705, but are not substantive evidence.

This rule is not limited to statements made to physicians. Statements to a nurse have been held to be admissible. *See Smith, supra*. Statements as to causation may be admissible, but statements as to fault or identification of the person inflicting harm have been held to be inadmissible. *See Smith, supra*.

Rule 803(5). Recorded Recollection (Not Adopted).

(5) *Recorded Recollection (Not Adopted)*

Comment

Recorded recollection is dealt with in Pa.R.E. 803.1(3). It is an exception to the hearsay rule in which the testimony of the declarant is necessary.

Rule 803(6). Records of a Regularly Conducted Activity.

(6) *Records of a Regularly Conducted Activity.* A record (which includes a memorandum, report, or data compilation in any form) of an act, event or condition if,

(A) the record was made at or near the time by—or from information transmitted by—someone with knowledge;

(B) the record was kept in the course of a regularly conducted activity of a "business", which term includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit;

(C) making the record was a regular practice of that activity;

(D) all these conditions are shown by the testimony of the custodian or another qualified witness, or by a certification that complies with Rule 902(11) or (12) or with a statute permitting certification; and

(E) neither the source of information nor other circumstances indicate a lack of trustworthiness.

Comment

Pa.R.E. 803(6) differs from F.R.E. 803(6). One difference is that Pa.R.E. 803(6) defines the term "record." In the Federal Rules this definition appears at F.R.E. 101(b). Another difference is that Pa.R.E. 803(6) applies to records of an act, event or condition, but does not include opinions and diagnoses. This is consistent with prior Pennsylvania case law. *See Williams v. McClain*, 513 Pa. 300, 520 A.2d 1374 (1987); *Commonwealth v. DiGiacomo*, 463 Pa. 449, 345 A.2d 605 (1975). A third difference is that Pa.R.E. 803(6) allows the court to exclude business records that would otherwise qualify for exception to the hearsay rule if neither the "source of information nor other circumstances indicate lack of trustworthiness." The Federal Rule allows the court to do so only if neither "the source of information nor the method or circumstances of preparation indicate a lack of trustworthiness."

If offered against a defendant in a criminal case, an entry in a record may be excluded if its admission would violate the defendant's constitutional right to confront the witnesses against him or her. *See Melendez-Diaz v. Massachusetts*, 557 U.S. 305 (2009).

Rule 803(7). Absence of a Record of a Regularly Conducted Activity (Not Adopted).

(7) *Absence of a Record of a Regularly Conducted Activity (Not Adopted)*

Comment

Pennsylvania has not adopted F.R.E. 803(7) which provides:

Evidence that a matter is not included in a record described in paragraph (6) if:

(A) the evidence is admitted to prove that the matter did not occur or exist; and

(B) a record was regularly kept for a matter of that kind; and

(C) neither the possible source of the information nor other circumstances indicate a lack of trustworthiness.

Principles of logic and internal consistency have led Pennsylvania to reject this rule. The absence of an entry in a record is not hearsay, as defined in Pa.R.E. 801(c). Hence, it appears irrational to except it to the hearsay rule.

On analysis, absence of an entry in a business record is circumstantial evidence—it tends to prove something by implication, not assertion. Its admissibility is governed by principles of relevance, not hearsay. *See Pa.R.E. 401, et seq.*

Pennsylvania law is in accord with the object of F.R.E. 803(7), *i.e.*, to allow evidence of the absence of a record of an act, event, or condition to be introduced to prove the nonoccurrence or nonexistence thereof, if the matter was one which would ordinarily be recorded. *See Klein v. F.W. Woolworth Co.*, 309 Pa. 320, 163 A. 532 (1932) (absence of person's name in personnel records admissible to prove

that he was not an employee). *See also Stack v. Wapner*, 244 Pa. Super. 278, 368 A.2d 292 (1976).

Rule 803(8). Public Records (Not Adopted).

(8) *Public Records (Not Adopted)*

Comment

Pennsylvania has not adopted F.R.E. 803(8). An exception to the hearsay rule for public records is provided by 42 Pa.C.S. § 6104 which provides:

(a) *General rule.*—A copy of a record of governmental action or inaction authenticated as provided in section 6103 (relating to proof of official records) shall be admissible as evidence that the governmental action or inaction disclosed therein was in fact taken or omitted.

(b) *Existence of facts.*—A copy of a record authenticated as provided in section 6103 disclosing the existence or nonexistence of facts which have been recorded pursuant to official duty or would have been so recorded had the facts existed shall be admissible as evidence of the existence or nonexistence of such facts, unless the sources of information or other circumstances indicate lack of trustworthiness.

Subsection (b) of the statute is limited to “facts.” It does not include opinions or diagnoses. This is consistent with Pa.R.E. 803(6), and Pennsylvania case law. *See* Comment to Pa.R.E. 803(6).

Rule 803(9). Public Records of Vital Statistics (Not Adopted).

(9) *Public Records of Vital Statistics (Not Adopted)*

Comment

Pennsylvania has not adopted F.R.E. 803(9). Records of vital statistics are also records of a regularly conducted activity and may be excepted to the hearsay rule by Pa.R.E. 803(6). Records of vital statistics are public records and they may be excepted to the hearsay rule by 42 Pa.C.S. § 6104 (text quoted in Comment to Pa.R.E. 803(8)).

The Vital Statistics Law of 1953, 35 P.S. § 450.101 *et seq.*, provides for registration of births, deaths, fetal deaths, and marriages, with the State Department of Health. The records of the Department, and duly certified copies thereof, are excepted to the hearsay rule by 35 P.S. § 450.810 which provides:

Any record or duly certified copy of a record or part thereof which is (1) filed with the department in accordance with the provisions of this act and the regulations of the Advisory Health Board and which (2) is not a “delayed” record filed under section seven hundred two of this act or a record “corrected” under section seven hundred three of this act shall constitute *prima facie* evidence of its contents, except that in any proceeding in which paternity is controverted and which affects the interests of an alleged father or his successors in interest no record or part thereof shall constitute *prima facie* evidence of paternity unless the alleged father is the husband of the mother of the child.

Rule 803(10). Absence of a Public Record (Not Adopted).

(10) *Absence of a Public Record (Not Adopted)*

Comment

Pennsylvania has not adopted F.R.E. 803(10) for the same reasons that it did not adopt F.R.E. 803(7). *See* Comment to Pa.R.E. 803(7).

42 Pa.C.S. § 6104(b), provides for admissibility of evidence of the absence of an entry in a public record to prove the nonexistence of a fact:

(b) *Existence of facts.*—A copy of a record authenticated as provided in section 6103 disclosing the . . . nonexistence of facts which . . . would have been . . . recorded had the facts existed shall be admissible as evidence of the . . . nonexistence of such facts, unless the sources of information or other circumstances indicate lack of trustworthiness.

Pennsylvania also has a complementary statute, 42 Pa.C.S. § 5328, entitled “Proof of Official Records,” which provides, in pertinent part:

(d) *Lack of record.*—A written statement that after diligent search no record or entry of a specified tenor is found to exist in the records designated by the statement, authenticated as provided in this section in the case of a domestic record, or complying with the requirements of this section for a summary in the case of a record in a foreign country, is admissible as evidence that the records contain no such record or entry.

Rule 803(11). Records of Religious Organizations Concerning Personal or Family History.

(11) *Records of Religious Organizations Concerning Personal or Family History.* A statement of birth, legitimacy, ancestry, marriage, divorce, death, relationship by blood or marriage, or similar facts of personal or family history, contained in a regularly kept record of a religious organization.

Comment

This rule is identical to F.R.E. 803(11).

Rule 803(12). Certificates of Marriage, Baptism, and Similar Ceremonies.

(12) *Certificates of Marriage, Baptism, and Similar Ceremonies.* A statement of fact contained in a certificate:

(A) made by a person who is authorized by a religious organization or by law to perform the act certified;

(B) attesting that the person performed a marriage or similar ceremony or administered a sacrament; and

(C) purporting to have been issued at the time of the act or within a reasonable time after it.

Comment

This rule is identical to F.R.E. 803(12).

Rule 803(13). Family Records.

(13) *Family Records.* A statement of fact about personal or family history contained in a family record, such as a Bible, genealogy, chart, engraving on a ring, inscription on a portrait, or engraving on an urn or burial marker.

Comment

This rule is identical to F.R.E. 803(13).

Rule 803(14). Records of Documents That Affect an Interest in Property.

(14) *Records of Documents That Affect an Interest in Property.* The record of a document that purports to establish or affect an interest in property if:

(A) the record is admitted to prove the content of the original recorded document, along with its signing and its delivery by each person who purports to have signed it;

(B) the record is kept in a public office; and

(C) a statute authorizes recording documents of that kind in that office.

Comment

This rule is identical to F.R.E. 803(14).

Rule 803(15). Statements in Documents That Affect an Interest in Property.

(15) *Statements in Documents That Affect an Interest in Property.* A statement contained in a document, other than a will, that purports to establish or affect an interest in property if the matter stated was relevant to the document's purpose—unless later dealings with the property are inconsistent with the truth of the statement or the purport of the document.

Comment

Pa.R.E. 803(15) differs from F.R.E. 803(15) in that Pennsylvania does not include a statement made in a will.

Pennsylvania's variation from the federal rule with respect to wills is consistent with case law. *See In Re Estate of Kostik*, 514 Pa. 591, 526 A.2d 746 (1987).

Rule 803(16). Statements in Ancient Documents.

(16) *Statements in Ancient Documents.* A statement in a document that is at least 30 years old and whose authenticity is established.

Comment

Pa.R.E. 803(16) differs from F.R.E. 803(16) in that Pennsylvania adheres to the common law view that a document must be at least 30 years old to qualify as an ancient document. The Federal Rule reduces the age to 20 years.

Pa.R.E. 803(16) is consistent with Pennsylvania law. *See Loudon v. Apollo Gas Co.*, 273 Pa. Super. 549, 417 A.2d 1185 (1980); *Commonwealth ex rel. Ferguson v. Ball*, 277 Pa. 301, 121 A.191 (1923).

Rule 803(17). Market Reports and Similar Commercial Publications.

(17) *Market Reports and Similar Commercial Publications.* Market quotations, lists, directories, or other compilations that are generally relied on by the public or by persons in particular occupations.

Comment

This rule is identical to F.R.E. 803(17).

Rule 803(18). Statements in Learned Treatises, Periodicals, or Pamphlets (Not Adopted).

(18) *Statements in Learned Treatises, Periodicals, or Pamphlets (Not Adopted)*

Comment

Pennsylvania has not adopted F.R.E. 803(18). Pennsylvania does not recognize an exception to the hearsay rule for learned treatises. *See Majdic v. Cincinnati Machine Co.*, 370 Pa. Super. 611, 537 A.2d 334 (1988).

Regarding the permissible uses of learned treatises under Pennsylvania law, see *Aldridge v. Edmunds*, 561 Pa. 323, 750 A.2d 292 (Pa. 2000).

Rule 803(19). Reputation Concerning Personal or Family History.

(19) *Reputation Concerning Personal or Family History.* A reputation among a person's family by blood, adoption, or marriage—or among a person's associates or in the community—concerning the person's birth, adoption, le-

gitimacy, ancestry, marriage, divorce, death, relationship by blood, adoption, or marriage, or similar facts of personal or family history.

Comment

This rule is identical to F.R.E. 803(19). It changed prior Pennsylvania case law by expanding the sources from which the reputation may be drawn to include (1) a person's associates; and (2) the community. Prior Pennsylvania case law, none of which is recent, limited the source to the person's family. *See Picken's Estate*, 163 Pa. 14, 29 A. 875 (1894); *American Life Ins. and Trust Co. v. Rosenagle*, 77 Pa. 507 (1875).

Rule 803(20). Reputation Concerning Boundaries or General History.

(20) *Reputation Concerning Boundaries or General History.* A reputation in a community—arising before the controversy—concerning boundaries of land in the community or customs that affect the land, or concerning general historical events important to that community, state or nation.

Comment

This rule is identical to F.R.E. 803(20).

Rule 803(21). Reputation Concerning Character.

(21) *Reputation Concerning Character.* A reputation among a person's associates or in the community concerning the person's character.

Comment

This rule is identical to F.R.E. 803(21).

Rule 803(22). Judgment of a Previous Conviction (Not Adopted).

(22) *Judgment of a Previous Conviction (Not Adopted)*

Comment

Pennsylvania has not adopted F.R.E. 803(22).

With respect to facts essential to sustain a judgment of criminal conviction, there are four basic approaches that a court can take:

1. The judgment of conviction is conclusive, *i.e.*, estops the party convicted from contesting any fact essential to sustain the conviction.

2. The judgment of conviction is admissible as evidence of any fact essential to sustain the conviction, only if offered against the party convicted.

3. The judgment of conviction is admissible as evidence of any fact essential to sustain the conviction when offered against any party (this is the federal rule for felonies, except that the Government cannot offer someone else's conviction against the defendant in a criminal case, other than for purposes of impeachment).

4. The judgment of conviction is neither conclusive nor admissible as evidence to prove a fact essential to sustain the conviction (common law rule).

For felonies and other major crimes, Pennsylvania takes approach number one. In subsequent litigation, the convicted party is estopped from denying or contesting any fact essential to sustain the conviction. Once a party is estopped from contesting a fact, no evidence need be introduced by an adverse party to prove it. *See Hurtt v. Stirone*, 416 Pa. 493, 206 A.2d 624 (1965); *In re Estate of Bartolovich*, 420 Pa. Super. 419, 616 A.2d 1043 (1992) (judgment of conviction conclusive under Slayer's Act, 20 Pa.C.S. §§ 8801—8815).

For minor offenses, Pennsylvania takes approach number four; it applies the common law rule. Evidence of a conviction is inadmissible to prove a fact necessary to sustain the conviction. *See Loughner v. Schmelzer*, 421 Pa. 283, 218 A.2d 768 (1966).

A plea of guilty to a crime is excepted to the hearsay rule as an admission of all facts essential to sustain a conviction, but only when offered against the pleader by a party-opponent. *See* Pa.R.E. 803(25); *see also* Pa.R.E. 410. A plea of guilty may also qualify as an exception to the hearsay rule as a statement against interest, if the declarant is unavailable to testify at trial. *See* Pa.R.E. 804(b)(3).

Rule 803(23). Judgments Involving Personal, Family, or General History or a Boundary (Not Adopted).

(23) *Judgments Involving Personal, Family, or General History or a Boundary (Not Adopted)*

Comment

Pennsylvania has not adopted F.R.E. 803(23).

Rule 803(24). Other Exceptions (Not Adopted).

(24) *Other Exceptions (Not Adopted)*

Comment

Pennsylvania has not adopted F.R.E. 803(24) (now F.R.E. 807).

Rule 803(25). An Opposing Party's Statement.

(25) *An Opposing Party's Statement.* The statement is offered against an opposing party and:

(A) was made by the party in an individual or representative capacity;

(B) is one the party manifested that it adopted or believed to be true;

(C) was made by a person whom the party authorized to make a statement on the subject;

(D) was made by the party's agent or employee on a matter within the scope of that relationship and while it existed; or

(E) was made by the party's coconspirator during and in furtherance of the conspiracy.

The statement may be considered but does not by itself establish the declarant's authority under (C); the existence or scope of the relationship under (D); or the existence of the conspiracy or participation in it under (E).

Comment

Pa.R.E. 803(25) differs from F.R.E. 801(d)(2), in that the word "must" in the last paragraph has been replaced with the word "may."

The Federal Rules treat these statements as "not hearsay" and places them in F.R.E. 801(d)(2). The traditional view was that these statements were hearsay, but admissible as exceptions to the hearsay rule. The Pennsylvania Rules of Evidence follow the traditional view and place these statements in Pa.R.E. 803(25), as exceptions to the hearsay rule—regardless of the availability of the declarant. This differing placement is not intended to have substantive effect.

The statements in this exception were traditionally, and in prior versions of both the Federal Rules of Evidence and the Pennsylvania Rules of Evidence, called admissions, although in many cases the statements were not

admissions as that term is employed in common usage. The new phrase used in the federal rules—an opposing party's statement—more accurately describes these statements and is adopted here.

The personal knowledge rule (Pa.R.E. 602) is not applicable to an opposing party's statement. *See Salvitti v. Throppe*, 343 Pa. 642, 23 A.2d 445 (1942).

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Final Report explaining the May 16, 2001 revision of the Comment for paragraph 18 published with the Court's Order at 31 Pa.B. 2789 (June 2, 2001).

Final Report explaining the November 2, 2001, amendments to paragraph 6 published with the Court's Order at 31 Pa.B. 6384 (November 24, 2001).

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 803.1. Exceptions to the Rule Against Hearsay—Testimony of Declarant Necessary.

The following statements are not excluded by the rule against hearsay if the declarant testifies and is subject to cross-examination about the prior statement:

(1) *Prior Inconsistent Statement of Declarant-Witness.* A prior statement by a declarant-witness that is inconsistent with the declarant-witness's testimony and:

(A) was given under oath subject to the penalty of perjury at a trial, hearing, or other proceeding, or in a deposition;

(B) is a writing signed and adopted by the declarant; or

(C) is a verbatim contemporaneous electronic, audio-taped, or videotaped recording of an oral statement.

Comment

The Federal Rules treat statements corresponding to Pa.R.E. 803.1(1) and (2) as "not hearsay" and places them in F.R.E. 801(d)(1)(A) and (C). Pennsylvania follows the traditional approach that treats these statements as exceptions to the hearsay rule if the declarant testifies at the trial.

Pa.R.E. 803.1(1) is consistent with prior Pennsylvania case law. *See Commonwealth v. Brady*, 510 Pa. 123, 507 A.2d 66 (1986) (seminal case that overruled close to two centuries of decisional law in Pennsylvania and held that the recorded statement of a witness to a murder, inconsistent with her testimony at trial, was properly admitted as substantive evidence, excepted to the hearsay rule); *Commonwealth v. Lively*, 530 Pa. 464, 610 A.2d 7 (1992). In *Commonwealth v. Wilson*, 550 Pa. 518, 707 A.2d 1114 (1998), the Supreme Court held that to be admissible

under this rule an oral statement must be a verbatim contemporaneous recording in electronic, audiotaped, or videotaped form.

An inconsistent statement of a witness that does not qualify as an exception to the hearsay rule may still be introduced to impeach the credibility of the witness. *See* Pa.R.E. 613.

Rule 803.1(2). Prior Statement of Identification.

(2) *Prior Statement of Identification by Declarant-Witness.* A prior statement by a declarant-witness identifying a person or thing, made after perceiving the person or thing, provided that the declarant-witness testifies to the making of the prior statement.

Comment

Pennsylvania treats a statement meeting the requirements of Pa.R.E. 803.1(2) as an exception to the hearsay rule. F.R.E. 801(d)(1)(C) provides that such a statement is not hearsay. This differing organization is consistent with Pennsylvania law.

Pa.R.E. 803.1(2) differs from F.R.E. 801(d)(1)(C) in several respects. It requires the witness to testify to making the identification. This is consistent with Pennsylvania law. *See Commonwealth v. Ly*, 528 Pa. 523, 599 A.2d 613 (1991). The Pennsylvania rule includes identification of a thing, in addition to a person.

Rule 803.1(3). Recorded Recollection.

(3) *Recorded Recollection of Declarant-Witness.* A memorandum or record made or adopted by a declarant-witness that:

(A) is on a matter the declarant-witness once knew about but now cannot recall well enough to testify fully and accurately;

(B) was made or adopted by the declarant-witness when the matter was fresh in his or her memory; and

(C) the declarant-witness testifies accurately reflects his or her knowledge at the time when made.

If admitted, the memorandum or record may be read into evidence and received as an exhibit, but may be shown to the jury only in exceptional circumstances or when offered by an adverse party.

Comment

Pa.R.E. 803.1(3) is similar to F.R.E. 803(5), but differs in the following ways:

1. Pennsylvania treats a statement meeting the requirements of Pa.R.E. 803.1(3) as an exception to the hearsay rule in which the testimony of the declarant is necessary. F.R.E. 803(5) treats this as an exception regardless of the availability of the declarant. This differing organization is consistent with Pennsylvania law.

2. Pa.R.E. 803.1(3)(C) makes clear that, to qualify a recorded recollection as an exception to the hearsay rule, the witness must testify that the memorandum or record correctly reflects the knowledge that the witness once had. In other words, the witness must vouch for the reliability of the record. The Federal Rule is ambiguous on this point and the applicable federal cases are conflicting.

3. Pa.R.E. 803.1(3) allows the memorandum or record to be received as an exhibit, and grants the trial judge discretion to show it to the jury in exceptional circumstances, even when not offered by an adverse party.

Pa.R.E. 803.1(3) is consistent with Pennsylvania law. *See Commonwealth v. Cargo*, 498 Pa. 5, 444 A.2d 639 (1982).

Official Note: Adopted May 8, 1998, effective October 1, 1998; amended March 10, 2000, effective July 1, 2000; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the amendment to subsection (1) and the updates to the Comment to subsection (1) published with the Court's Order at 30 Pa.B. 1646 (March 25, 2000).

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 804. Exceptions to the Rule Against Hearsay—When the Declarant is Unavailable as a Witness.

(a) *Criteria for Being Unavailable.* A declarant is considered to be unavailable as a witness if the declarant:

(1) is exempted from testifying about the subject matter of the declarant's statement because the court rules that a privilege applies;

(2) refuses to testify about the subject matter despite a court order to do so;

(3) testifies to not remembering the subject matter;

(4) cannot be present or testify at the trial or hearing because of death or a then-existing infirmity, physical illness, or mental illness; or

(5) is absent from the trial or hearing and the statement's proponent has not been able, by process or other reasonable means, to procure:

(A) the declarant's attendance, in the case of a hearsay exception under Rule 804(b)(1) or (6); or

(B) the declarant's attendance or testimony, in the case of a hearsay exception under Rule 804(b)(2), (3), or (4).

But this subdivision (a) does not apply if the statement's proponent procured or wrongfully caused the declarant's unavailability as a witness in order to prevent the declarant from attending or testifying.

Comment

This rule is identical to F.R.E. 804(a).

Rule 804(b). The Exceptions.

(b) *The Exceptions.* The following are not excluded by the rule against hearsay if the declarant is unavailable as a witness:

(1) *Former Testimony.* Testimony that:

(A) was given as a witness at a trial, hearing, or lawful deposition, whether given during the current proceeding or a different one; and

(B) is now offered against a party who had—or, in a civil case, whose predecessor in interest had—an opportunity and similar motive to develop it by direct, cross-, or redirect examination.

Comment

Pa.R.E. 804(b)(1) is identical to F.R.E. 804(b)(1).

In criminal cases the Supreme Court has held that former testimony is admissible against the defendant only if the defendant had a "full and fair" opportunity to examine the witness. *See Commonwealth v. Bazemore*, 531 Pa. 582, 614 A.2d 684 (1992).

Depositions

Depositions are the most common form of former testimony that is introduced at a modern trial. Their use is provided for not only by Pa.R.E. 804(b)(1), but also by statute and rules of procedure promulgated by the Pennsylvania Supreme Court.

The Judicial Code provides for the use of depositions in criminal cases. 42 Pa.C.S. § 5919 provides:

Depositions in criminal matters. The testimony of witnesses taken in accordance with section 5325 (relating to when and how a deposition may be taken outside this Commonwealth) may be read in evidence upon the trial of any criminal matter unless it shall appear at the trial that the witness whose deposition has been taken is in attendance, or has been or can be served with a subpoena to testify, or his attendance otherwise procured, in which case the deposition shall not be admissible.

42 Pa.C.S. § 5325 sets forth the procedure for taking depositions, by either prosecution or defendant, outside Pennsylvania.

In civil cases, the introduction of depositions, or parts thereof, at trial is provided for by Pa.R.C.P. No. 4020(a)(3) and (5).

A video deposition of a medical witness, or any expert witness, other than a party to the case, may be introduced in evidence at trial, regardless of the witness's availability, pursuant to Pa.R.C.P. No. 4017.1(g).

42 Pa.C.S. § 5936 provides that the testimony of a licensed physician taken by deposition in accordance with the Pennsylvania Rules of Civil Procedure is admissible in a civil case. There is no requirement that the physician testify as an expert witness.

Rule 804(b)(2). Statement Under Belief of Imminent Death.

(2) *Statement Under Belief of Imminent Death.* A statement that the declarant, while believing the declarant's death to be imminent, made about its cause or circumstances.

Comment

Pa.R.E. 804(b)(2) differs from F.R.E. 804(b)(2) in that the Federal Rule is applicable in criminal cases only if the defendant is charged with homicide. The Pennsylvania Rule is applicable in all civil and criminal cases, subject to the defendant's right to confrontation in criminal cases.

In *Crawford v. Washington*, 541 U.S. 36 (2004), the Supreme Court interpreted the Confrontation Clause in the Sixth Amendment of the United States Constitution to prohibit the introduction of "testimonial" hearsay from an unavailable witness against a defendant in a criminal case unless the defendant had an opportunity to confront and cross-examine the declarant, regardless of its exception from the hearsay rule. However, in footnote 6, the Supreme Court said that there may be an exception, *sui generis*, for those dying declarations that are testimonial.

Rule 804(b)(3). Statement Against Interest.

(3) *Statement Against Interest.* A statement that:

(A) a reasonable person in the declarant's position would have made only if the person believed it to be true because, when made, it was so contrary to the declarant's proprietary or pecuniary interest or had so great a

tendency to invalidate the declarant's claim against someone else or to expose the declarant to civil or criminal liability; and

(B) is supported by corroborating circumstances that clearly indicate its trustworthiness, if it is offered in a criminal case as one that tends to expose the declarant to criminal liability.

Comment

This rule is identical to F.R.E. 804(b)(3).

Rule 804(b)(4). Statement of Personal or Family History.

(4) *Statement of Personal or Family History.* A statement made before the controversy arose about:

(A) the declarant's own birth, adoption, legitimacy, ancestry, marriage, divorce, relationship by blood, adoption or marriage, or similar facts of personal or family history, even though the declarant had no way of acquiring personal knowledge about that fact; or

(B) another person concerning any of these facts, as well as death, if the declarant was related to the person by blood, adoption, or marriage or was so intimately associated with the person's family that the declarant's information is likely to be accurate.

Comment

Pa.R.E. 804(b)(4) differs from F.R.E. 804(b)(4) by requiring that the statement be made before the controversy arose. See *In re McClain's Estate*, 481 Pa. 435, 392 A.2d 1371 (1978). This requirement is not imposed by the Federal Rule.

Rule 804(b)(5). Other exceptions (Not Adopted).

(5) *Other exceptions (Not Adopted)*

Comment

Pennsylvania has not adopted F.R.E. 804(b)(5) (now F.R.E. 807).

Rule 804(b)(6). Statement Offered Against a Party That Wrongfully Caused the Declarant's Unavailability.

(6) *Statement Offered Against a Party That Wrongfully Caused the Declarant's Unavailability.* A statement offered against a party that wrongfully caused—or acquiesced in wrongfully causing—the declarant's unavailability as a witness, and did so intending that result.

Comment

This rule is identical to F.R.E. 804(b)(6).

Official Note: Adopted May 8, 1998, effective October 1, 1998; Comment revised March 10, 2000, effective immediately; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the March 10, 2000 revision of the Comment to paragraph (b)(4) published with the Court's Order at 30 Pa.B. 1641 (March 25, 2000).

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 805. Hearsay Within Hearsay.

Hearsay within hearsay is not excluded by the rule against hearsay if each part of the combined statements conforms with an exception to the rule.

Comment

This rule is identical to F.R.E. 805.

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Rule 806. Attacking and Supporting the Declarant's Credibility.

When a hearsay statement has been admitted in evidence, the declarant's credibility may be attacked, and then supported, by any evidence that would be admissible for those purposes if the declarant had testified as a witness. The court may admit evidence of the declarant's inconsistent statement or conduct, regardless of when it occurred or whether the declarant had an opportunity to explain or deny it. If the party against whom the statement was admitted calls the declarant as a witness, the party may examine the declarant on the statement as if on cross-examination.

Comment

Pa.R.E. 806 differs from F.R.E. 806 in that Pa.R.E. 806 makes no reference to Rule 801(d)(2). The subject matter of F.R.E. 801(d)(2) (an opposing party's statement) is covered by Pa.R.E. 803(25). The change is not substantive. Pa.R.E. 806 is consistent with Pennsylvania law. See *Commonwealth v. Davis*, 363 Pa. Super. 562, 526 A.2d 1205 (1987).

The requirement that a witness be given an opportunity to explain or deny the making of an inconsistent statement provided by Pa.R.E. 613(b)(2) is not applicable when the prior inconsistent statement is offered to impeach a statement admitted under an exception to the hearsay rule. In most cases, the declarant will not be on the stand at the time when the hearsay statement is offered and for that reason the requirement of Pa.R.E. 613(b)(2) is not appropriate.

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Rule 807. Residual Exception (Not Adopted).**Comment**

Pennsylvania has not adopted F.R.E. 807.

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ARTICLE IX. AUTHENTICATION AND IDENTIFICATION

Rule 901.	Authenticating or Identifying Evidence.
902.	Evidence That is Self-Authenticating.
903.	Subscribing Witness's Testimony.

Rule 901. Authenticating or Identifying Evidence.

(a) *In General.* To satisfy the requirement of authenticating or identifying an item of evidence, the proponent must produce evidence sufficient to support a finding that the item is what the proponent claims it is.

(b) *Examples.* The following are examples only—not a complete list—of evidence that satisfies the requirement:

(1) *Testimony of a Witness with Knowledge.* Testimony that an item is what it is claimed to be.

(2) *Nonexpert Opinion about Handwriting.* A nonexpert's opinion that handwriting is genuine, based on a familiarity with it that was not acquired for the current litigation.

(3) *Comparison by an Expert Witness or the Trier of Fact.* A comparison with an authenticated specimen by an expert witness or the trier of fact.

(4) *Distinctive Characteristics and the Like.* The appearance, contents, substance, internal patterns, or other distinctive characteristics of the item, taken together with all the circumstances.

(5) *Opinion About a Voice.* An opinion identifying a person's voice—whether heard firsthand or through mechanical or electronic transmission or recording—based on hearing the voice at any time under circumstances that connect it with the alleged speaker.

(6) *Evidence About a Telephone Conversation.* For a telephone conversation, evidence that a call was made to the number assigned at the time to:

(A) a particular person, if circumstances, including self-identification, show that the person answering was the one called; or

(B) a particular business, if the call was made to a business and the call related to business reasonably transacted over the telephone.

(7) *Evidence About Public Records.* Evidence that:

(A) a document was recorded or filed in a public office as authorized by law; or

(B) a purported public record or statement is from the office where items of this kind are kept.

(8) *Evidence About Ancient Documents or Data Compilations.* For a document or data compilation, evidence that it:

(A) is in a condition that creates no suspicion about its authenticity;

(B) was in a place where, if authentic, it would likely be; and

(C) is at least 30 years old when offered.

(9) *Evidence About a Process or System.* Evidence describing a process or system and showing that it produces an accurate result.

(10) *Methods Provided by a Statute or a Rule.* Any method of authentication or identification allowed by a statute or a rule prescribed by the Supreme Court.

Comment

Pa.R.E. 901(a) is identical to F.R.E. 901(a) and consistent with Pennsylvania law. The authentication or identification requirement may be expressed as follows: When a party offers evidence contending either expressly or impliedly that the evidence is connected with a person, place, thing, or event, the party must provide evidence sufficient to support a finding of the contended connec-

tion. See *Commonwealth v. Hudson*, 489 Pa. 620, 414 A.2d 1381 (1980); *Commonwealth v. Pollock*, 414 Pa. Super. 66, 606 A.2d 500 (1992).

In some cases, real evidence may not be relevant unless its condition at the time of trial is similar to its condition at the time of the incident in question. In such cases, the party offering the evidence must also introduce evidence sufficient to support a finding that the condition is similar. Pennsylvania law treats this requirement as an aspect of authentication. See *Commonwealth v. Hudson*, 489 Pa. 620, 414 A.2d 1381 (1980).

Demonstrative evidence such as photographs, motion pictures, diagrams and models must be authenticated by evidence sufficient to support a finding that the demonstrative evidence fairly and accurately represents that which it purports to depict. See *Nyce v. Muffley*, 384 Pa. 107, 119 A.2d 530 (1956).

Pa.R.E. 901(b) is identical to F.R.E. 901(b).

Pa.R.E. 901(b)(1) is identical to F.R.E. 901(b)(1). It is consistent with Pennsylvania law in that the testimony of a witness with personal knowledge may be sufficient to authenticate or identify the evidence. See *Commonwealth v. Hudson*, 489 Pa. 620, 414 A.2d 1381 (1980).

Pa.R.E. 901(b)(2) is identical to F.R.E. 901(b)(2). It is consistent with 42 Pa.C.S. § 6111, which also deals with the admissibility of handwriting.

Pa.R.E. 901(b)(3) is identical to F.R.E. 901(b)(3). It is consistent with Pennsylvania law. When there is a question as to the authenticity of an exhibit, the trier of fact will have to resolve the issue. This may be done by comparing the exhibit to authenticated specimens. See *Commonwealth v. Gipe*, 169 Pa. Super. 623, 84 A.2d 366 (1951) (comparison of typewritten document with authenticated specimen). Under this rule, the court must decide whether the specimen used for comparison to the exhibit is authentic. If the court determines that there is sufficient evidence to support a finding that the specimen is authentic, the trier of fact is then permitted to compare the exhibit to the authenticated specimen. Under Pennsylvania law, lay or expert testimony is admissible to assist the jury in resolving the question. See, e.g., 42 Pa.C.S. § 6111.

Pa.R.E. 901(b)(4) is identical to F.R.E. 901(b)(4). Pennsylvania law has permitted evidence to be authenticated by circumstantial evidence similar to that discussed in this illustration. The evidence may take a variety of forms including: evidence establishing chain of custody, see *Commonwealth v. Melendez*, 326 Pa. Super. 531, 474 A.2d 617 (1984); evidence that a letter is in reply to an earlier communication, see *Roe v. Dwelling House Ins. Co. of Boston*, 149 Pa. 94, 23 A. 718 (1892); testimony that an item of evidence was found in a place connected to a party, see *Commonwealth v. Bassi*, 284 Pa. 81, 130 A. 311 (1925); a phone call authenticated by evidence of party's conduct after the call, see *Commonwealth v. Gold*, 123 Pa. Super. 128, 186 A. 208 (1936); and the identity of a speaker established by the content and circumstances of a conversation, see *Bonavitacola v. Cluver*, 422 Pa. Super. 556, 619 A.2d 1363 (1993).

Pa.R.E. 901(b)(5) is identical to F.R.E. 901(b)(5). Pennsylvania law has permitted the identification of a voice to be made by a person familiar with the alleged speaker's voice. See *Commonwealth v. Carpenter*, 472 Pa. 510, 372 A.2d 806 (1977).

Pa.R.E. 901(b)(6) is identical to F.R.E. 901(b)(6). This paragraph appears to be consistent with Pennsylvania

law. See *Smithers v. Light*, 305 Pa. 141, 157 A. 489 (1931); *Wahl v. State Workmen's Ins. Fund*, 139 Pa. Super. 53, 11 A.2d 496 (1940).

Pa.R.E. 901(b)(7) is identical to F.R.E. 901(b)(7). This paragraph illustrates that public records and reports may be authenticated in the same manner as other writings. In addition, public records and reports may be self-authenticating as provided in Pa.R.E. 902. Public records and reports may also be authenticated as otherwise provided by statute. See Pa.R.E. 901(b)(10) and its Comment.

Pa.R.E. 901(b)(8) differs from F.R.E. 901(b)(8), in that the Pennsylvania Rule requires thirty years, while the Federal Rule requires twenty years. This change makes the rule consistent with Pennsylvania law. See *Commonwealth ex rel. Ferguson v. Ball*, 277 Pa. 301, 121 A. 191 (1923).

Pa.R.E. 901(b)(9) is identical to F.R.E. 901(b)(9). There is very little authority in Pennsylvania discussing authentication of evidence as provided in this illustration. The paragraph is consistent with the authority that exists. For example, in *Commonwealth v. Visconto*, 301 Pa. Super. 543, 448 A.2d 41 (1982), a computer print-out was held to be admissible. In *Appeal of Chartiers Valley School District*, 67 Pa. Cmwlth. 121, 447 A.2d 317 (1982), computer studies were not admitted as business records, in part, because it was not established that the mode of preparing the evidence was reliable. The court used a similar approach in *Commonwealth v. Westwood*, 324 Pa. 289, 188 A. 304 (1936) (test for gun powder residue) and in other cases to admit various kinds of scientific evidence. See *Commonwealth v. Middleton*, 379 Pa. Super. 502, 550 A.2d 561 (1988) (electrophoretic analysis of dried blood); *Commonwealth v. Rodgers*, 413 Pa. Super. 498, 605 A.2d 1228 (1992) (results of DNA/RFLP testing).

Pa.R.E. 901(b)(10) differs from F.R.E. 901(b)(10) to eliminate the reference to Federal law and to make the paragraph conform to Pennsylvania law.

There are a number of statutes that provide for authentication or identification of various types of evidence. See, e.g., 42 Pa.C.S. § 6103 (official records within the Commonwealth); 42 Pa.C.S. § 5328 (domestic records outside the Commonwealth and foreign records); 35 P. S. § 450.810 (vital statistics); 42 Pa.C.S. § 6106 (documents filed in a public office); 42 Pa.C.S. § 6110 (certain registers of marriages, births and burials records); 75 Pa.C.S. § 1547(c) (chemical tests for alcohol and controlled substances); 75 Pa.C.S. § 3368 (speed timing devices); 75 Pa.C.S. § 1106(c) (certificates of title); 42 Pa.C.S. § 6151 (certified copies of medical records); 23 Pa.C.S. § 5104 (blood tests to determine paternity); 23 Pa.C.S. § 4343 (genetic tests to determine paternity).

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Rule 902. Evidence That is Self-Authenticating.

The following items of evidence are self-authenticating; they require no extrinsic evidence of authenticity in order to be admitted:

(1) *Domestic Public Documents That Are Sealed and Signed.* A document that bears:

(A) a seal purporting to be that of the United States; any state, district, commonwealth, territory, or insular possession of the United States; the former Panama Canal Zone; the Trust Territory of the Pacific Islands; a political subdivision of any of these entities; or a department, agency, or officer of any entity named above; and

(B) a signature purporting to be an execution or attestation.

(2) *Domestic Public Documents That Are Not Sealed But Are Signed and Certified.* A document that bears no seal if:

(A) it bears the signature of an officer or employee of an entity named in Rule 902(1)(A); and

(B) another public officer who has a seal and official duties within that same entity certifies under seal—or its equivalent—that the signer has the official capacity and that the signature is genuine.

(3) *Foreign Public Documents.* A document that purports to be signed or attested by a person who is authorized by a foreign country's law to do so. The document must be accompanied by a final certification that certifies the genuineness of the signature and official position of the signer or attester—or of any foreign official whose certificate of genuineness relates to the signature or attestation or is in a chain of certificates of genuineness relating to the signature or attestation. The certification may be made by a secretary of a United States embassy or legation; by a consul general, vice consul, or consular agent of the United States; or by a diplomatic or consular official of the foreign country assigned or accredited to the United States. If all parties have been given a reasonable opportunity to investigate the document's authenticity and accuracy, the court may for good cause, either:

(A) order that it be treated as presumptively authentic without final certification; or

(B) allow it to be evidenced by an attested summary with or without final certification.

(4) *Certified Copies of Public Records.* A copy of an official record—or a copy of a document that was recorded or filed in a public office as authorized by law—if the copy is certified as correct by:

(A) the custodian or another person authorized to make the certification; or

(B) a certificate that complies with Rule 902(1), (2), or (3), a statute or a rule prescribed by the Supreme Court.

(5) *Official Publications.* A book, pamphlet, or other publication purporting to be issued by a public authority.

(6) *Newspapers and Periodicals.* Printed material purporting to be a newspaper or periodical.

(7) *Trade Inscriptions and the Like.* An inscription, sign, tag, or label purporting to have been affixed in the course of business and indicating origin, ownership, or control.

(8) *Acknowledged Documents.* A document accompanied by a certificate of acknowledgment that is lawfully executed by a notary public or another officer who is authorized to take acknowledgments.

(9) *Commercial Paper and Related Documents.* Commercial paper, a signature on it, and related documents, to the extent allowed by general commercial law.

(10) *Presumptions Authorized by Statute.* A signature, document, or anything else that a statute declares to be presumptively or *prima facie* genuine or authentic.

(11) *Certified Domestic Records of a Regularly Conducted Activity.* The original or a copy of a domestic record that meets the requirements of Rule 803(6)(A)—(C), as shown by a certification of the custodian or another qualified person that complies with Pa.R.C.P. No. 76. Before the trial or hearing, the proponent must give an adverse party reasonable written notice of the intent to offer the record—and must make the record and certification available for inspection—so that the party has a fair opportunity to challenge them.

(12) *Certified Foreign Records of a Regularly Conducted Activity.* In a civil case, the original or a copy of a foreign record that meets the requirements of Rule 902(11), modified as follows: the certification rather than complying with a statute or Supreme Court rule, must be signed in a manner that, if falsely made, would subject the maker to a criminal penalty in the country where the certification is signed. The proponent must also meet the notice requirements of Rule 902(11).

Comment

This rule permits some evidence to be authenticated without extrinsic evidence of authentication or identification. In other words, the requirement that a proponent must present authentication or identification evidence as a condition precedent to admissibility, as provided by Pa.R.E. 901(a), is inapplicable to the evidence discussed in Pa.R.E. 902. The rationale for the rule is that, for the types of evidence covered by Pa.R.E. 902, the risk of forgery or deception is so small, and the likelihood of discovery of forgery or deception is so great, that the cost of presenting extrinsic evidence and the waste of court time is not justified. Of course, this rule does not preclude the opposing party from contesting the authenticity of the evidence. In that situation, authenticity is to be resolved by the finder of fact.

Pa.R.E. 902(1), (2), (3) and (4) deal with self-authentication of various kinds of public documents and records. They are identical to F.R.E. 902(1), (2), (3) and (4), except that Pa.R.E. 901(4) eliminates the reference to Federal law. These paragraphs are consistent with Pennsylvania statutory law. *See, e.g.* 42 Pa.C.S. § 6103 (official records within the Commonwealth); 42 Pa.C.S. § 5328 (domestic records outside the Commonwealth and foreign records); 35 P.S. § 450.810 (vital statistics); 42 Pa.C.S. § 6106 (documents filed in a public office).

Pa.R.E. 902(5), (6) and (7) are identical to F.R.E. 902(5), (6) and (7). There are no corresponding statutory provisions in Pennsylvania; however, 45 Pa.C.S. § 506 (judicial notice of the contents of the *Pennsylvania Code* and the *Pennsylvania Bulletin*) is similar to Pa.R.E. 902(5).

Pa.R.E. 902(8) is identical to F.R.E. 902(8). It is consistent with Pennsylvania law. *See Sheaffer v. Baeringer*, 346 Pa. 32, 29 A.2d 697 (1943); *Williamson v. Barrett*, 147 Pa. Super. 460, 24 A.2d 546 (1942); 21 P.S. §§ 291.1-291.13 (Uniform Acknowledgement Act); 57 P.S. §§ 147-169 (Notary Public Law). An acknowledged document is a type of official record and the treatment of acknowledged documents is consistent with Pa.R.E. 902(1), (2), (3), and (4).

Pa.R.E. 902(9) is identical to F.R.E. 902(9). Pennsylvania law treats various kinds of commercial paper and documents as self-authenticating. *See, e.g.*, 13 Pa.C.S. § 3505 (evidence of dishonor of negotiable instruments).

Pa.R.E. 902(10) differs from F.R.E. 902(10) to eliminate the reference to Federal law and to make the paragraph conform to Pennsylvania law. In some Pennsylvania statutes, the self-authenticating nature of a document is expressed by language creating a “presumption” of authenticity. *See, e.g.*, 13 Pa.C.S. § 3505.

Pa.R.E. 902(11) and (12) permit the authentication of domestic and foreign records of regularly conducted activity by verification or certification. Pa.R.E. 902(11) is similar to F.R.E. 902(11). The language of Pa.R.E. 902(11) differs from F.R.E. 902(11) in that it refers to Pa.R.C.P. No. 76 rather than to Federal law. Pa.R.E. 902(12) differs from F.R.E. 902(12) in that it requires compliance with a Pennsylvania statute rather than a Federal statute.

Official Note: Adopted May 8, 1998, effective October 1, 1998; amended November 2, 2001, effective January 1, 2002; amended February 23, 2004, effective May 1, 2004; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the November 2, 2001 amendments adding paragraphs (11) and (12) published with Court’s Order at 31 Pa.B. 6384 (November 24, 2001).

Final Report explaining the February 23, 2004 amendment of paragraph (12) published with Court’s Order at 34 Pa.B. 1429 (March 13, 2004).

Final Report explaining the January 17, 2013 rescission and replacement published with the Court’s Order at 43 Pa.B. 651 (February 2, 2013).

Rule 903. Subscribing Witness’s Testimony.

A subscribing witness’s testimony is necessary to authenticate a writing only if required by the law of the jurisdiction that governs its validity.

Comment

This rule is identical to F.R.E. 903. There are no laws in Pennsylvania requiring the testimony of a subscribing witness to authenticate a writing.

Official Note: Adopted May 8, 1998, effective October 1, 1998; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the January 17, 2013 rescission and replacement published with the Court’s Order at 43 Pa.B. 651 (February 2, 2013).

ARTICLE X. CONTENTS OF WRITINGS, RECORDINGS, AND PHOTOGRAPHS

Rule 1001.	Definitions That Apply to This Article.
1002.	Requirement of the Original.
1003.	Admissibility of Duplicates.
1004.	Admissibility of Other Evidence of Content.
1005.	Copies of Public Records to Prove Content.
1006.	Summaries to Prove Content.
1007.	Testimony or Statement of a Party to Prove Content.
1008.	Functions of the Court and Jury.

Rule 1001. Definitions That Apply to This Article.

In this article:

(a) A “writing” consists of letters, words, numbers, or their equivalent set down in any form.

(b) A “recording” consists of letters, words, numbers, or their equivalent recorded in any manner.

(c) A “photograph” means a photographic image or its equivalent stored in any form.

(d) An “original” of a writing or recording means the writing or recording itself or any counterpart intended to have the same effect by the person who executed or issued it. For electronically stored information, “original” means any printout—or other output readable by sight—if it accurately reflects the information. An “original” of a photograph includes the negative or a print from it.

(e) A “duplicate” means a copy produced by a mechanical, photographic, chemical, electronic, or other equivalent process or technique that accurately reproduces the original.

Comment

This rule is identical to F.R.E. 1001, except that the word “copy” in Pa.R.E. 1001(e) replaces the word “counterpart” used in F.R.E. 1001(e).

Paragraph 1001(e) defines the term duplicate. This term is important because of the admissibility of duplicates under Pa.R.E. 1003. This rule differs from the Federal Rule in that the word “counterpart” has been replaced by the word “copy.” The word “counterpart” is used in paragraph 1001(d) to refer to a copy intended to have the same effect as the writing or recording itself. The word “copy” is used in paragraph 1003(e) to mean a copy that was not intended to have the same effect as the original.

Pennsylvania law has permitted the use of duplicates produced by the same impression as the original, as is the case with carbon copies. *See Brenner v. Leshner*, 332 Pa. 522, 2 A.2d 731 (1938); *Commonwealth v. Johnson*, 373 Pa. Super. 312, 541 A.2d 332 (1988); *Pennsylvania Liquor Control Bd. v. Evolo*, 204 Pa. Super. 225, 203 A.2d 332 (1964). Pennsylvania has not treated other duplicates as admissible unless the original was shown to be unavailable through no fault of the proponent. For this reason, the definition of duplicates, other than those produced by the same impression as the original, is new to Pennsylvania law. The justification for adopting the new definition is discussed in the Comment to Pa.R.E. 1003.

Official Note: Adopted May 8, 1998, effective October 1, 1998; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the January 17, 2013 rescission and replacement published with the Court’s Order at 43 Pa.B. 651 (February 2, 2013).

Rule 1002. Requirement of the Original.

An original writing, recording, or photograph is required in order to prove its content unless these rules, other rules prescribed by the Supreme Court, or a statute provides otherwise.

Comment

Pa.R.E. 1002 differs from F.R.E. 1002 to eliminate the reference to Federal law.

This rule corresponds to the common law “best evidence rule.” *See Hera v. McCormick*, 425 Pa. Super. 432, 625 A.2d 682 (1993). The rationale for the rule was not expressed in Pennsylvania cases, but commentators have mentioned four reasons justifying the rule.

(1) The exact words of many documents, especially operative or dispositive documents, such as deeds, wills or contracts, are so important in determining a party’s rights accruing under those documents.

(2) Secondary evidence of the contents of documents, whether copies or testimony, is susceptible to inaccuracy.

(3) The rule inhibits fraud because it allows the parties to examine the original documents to detect alterations and erroneous testimony about the contents of the document.

(4) The appearance of the original may furnish information as to its authenticity.

5 Weinstein & Berger, *Weinstein's Evidence* § 1002(2) (Sandra D. Katz rev. 1994).

The common law formulation of the rule provided that the rule was applicable when the terms of the document were "material." The materiality requirement has not been eliminated, but is now dealt with in Pa.R.E. 1004(d). That rule provides that the original is not required when the writing, recording or photograph is not closely related to a controlling issue.

The case law has not been entirely clear as to when a party is trying "to prove the content of a writing, recording, or photograph." However, writings that are viewed as operative or dispositive have usually been considered to be subject to the operation of the rule. On the other hand, writings are not usually treated as subject to the rule if they are only evidence of the transaction, thing or event. See *Hamill-Quinlan, Inc. v. Fisher*, 404 Pa. Super. 482, 591 A.2d 309 (1991); *Noble C. Quandel Co. v. Slough Flooring, Inc.*, 384 Pa. Super. 236, 558 A.2d 99 (1989). Thus, testimony as to a person's age may be offered; it is not necessary to produce a birth certificate. See *Commonwealth ex rel. Park v. Joyce*, 316 Pa. 434, 175 A. 422 (1934). Or, a party's earnings may be proven by testimony; it is not necessary to offer business records. See *Noble C. Quandel Co., supra*.

Traditionally, the best evidence rule applied only to writings, but Pa.R.E. 1002 may be applicable to recordings or photographs. However, recordings and photographs are usually only evidence of the transaction, thing or event. It is rare that a recording or photograph would be operative or dispositive, but in cases involving matters such as infringement of copyright, defamation, pornography and invasion of privacy, the requirement for the production of the original should be applicable. There is support for this approach in Pennsylvania law. See *Commonwealth v. Lewis*, 424 Pa. Super. 531, 623 A.2d 355 (1993) (video tape); *Anderson v. Commonwealth*, 121 Pa. Cmwlth. 521, 550 A.2d 1049 (1988) (film).

Official Note: Adopted May 8, 1998, effective October 1, 1998; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 1003. Admissibility of Duplicates.

A duplicate is admissible to the same extent as the original unless a genuine question is raised about the original's authenticity or the circumstances make it unfair to admit the duplicate.

Comment

This rule is identical to F.R.E. 1003.

Under the traditional best evidence rule, copies of documents were not routinely admissible. This view dated back to the time when copies were made by hand copying and were therefore subject to inaccuracy. On the other

hand, Pennsylvania courts have admitted copies made by techniques that are more likely to produce accurate copies. For example, when a writing is produced in duplicate or multiplicate each of the copies is treated as admissible for purposes of the best evidence rule. See *Brenner v. Leshner*, 332 Pa. 522, 2 A.2d 731 (1938); *Pennsylvania Liquor Control Bd. v. Evolo*, 204 Pa. Super. 225, 203 A.2d 332 (1964).

In addition, various Pennsylvania statutes have treated some accurate copies as admissible. See 42 Pa.C.S. § 6104 (governmental records in the Commonwealth); 42 Pa.C.S. § 5328 (domestic records outside the Commonwealth and foreign records); 42 Pa.C.S. § 6106 (documents recorded or filed in a public office); 42 Pa.C.S. § 6109 (photographic copies of business and public records); 42 Pa.C.S. §§ 6151—59 (certified copies of medical records).

The extension of similar treatment to all accurate copies seems justified in light of modern practice. Pleading and discovery rules such as Pa.R.C.P. No. 4009.1 (requiring production of originals of documents and photographs etc.) and Pa.R.Crim.P. 573(B)(1)(f) and (g) (requiring disclosure of originals of documents, photographs and recordings of electronic surveillance) will usually provide an adequate opportunity to discover fraudulent copies. As a result, Pa.R.E. 1003 should tend to eliminate purely technical objections and unnecessary delay. In those cases where the opposing party raises a genuine question as to authenticity or the fairness of using a duplicate, the trial court may require the production of the original under this rule.

Official Note: Adopted May 8, 1998, effective October 1, 1998; Comment revised March 29, 2001, effective April 1, 2001; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the March 29, 2001 revision of the Comment published with the Court's Order at 31 Pa.B. 1995 (April 14, 2001).

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 1004. Admissibility of Other Evidence of Content.

An original is not required and other evidence of the content of a writing, recording, or photograph is admissible if:

- (a) all the originals are lost or destroyed, and not by the proponent acting in bad faith;
- (b) an original cannot be obtained by any available judicial process;
- (c) the party against whom the original would be offered had control of the original; was at that time put on notice, by pleadings or otherwise, that the original would be a subject of proof at the trial or hearing; and fails to produce it at the trial or hearing; or
- (d) the writing, recording, or photograph is not closely related to a controlling issue.

Comment

This rule is identical to F.R.E. 1004.

When the proponent of the evidence alleges that it is lost, there should be evidence that a sufficient search was made. See *Hera v. McCormick*, 425 Pa. Super. 432, 625 A.2d 682 (1993).

Under Pa.R.E. 1004, when production of the original is not required, the proffering party need not offer a duplicate even if that is available; the proffering party may present any evidence including oral testimony. The normal motivation of a party to produce the most convincing evidence together with the availability of discovery to uncover fraud seems adequate to control abuse.

Official Note: Adopted May 8, 1998, effective October 1, 1998; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 1005. Copies of Public Records to Prove Content.

The proponent may use a copy to prove the content of an official record—or of a document that was recorded or filed in a public office as authorized by law—if these conditions are met: the record or document is otherwise admissible; and the copy is certified as correct in accordance with Rule 902(4) or is testified to be correct by a witness who has compared it with the original. If no such copy can be obtained by reasonable diligence, then the proponent may use other evidence to prove the content.

Comment

This rule is identical to F.R.E. 1005.

Official Note: Adopted May 8, 1998, effective October 1, 1998; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 1006. Summaries to Prove Content.

The proponent may use a summary, chart, or calculation to prove the content of voluminous writings, recordings, or photographs that cannot be conveniently examined in court. The proponent must make the originals or duplicates available for examination or copying, or both, by other parties at a reasonable time and place. And the court may order the proponent to produce them in court.

Comment

This rule is identical to F.R.E. 1006.

Official Note: Adopted May 8, 1998, effective October 1, 1998; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 1007. Testimony or Statement of a Party to Prove Content.

The proponent may prove the content of a writing, recording, or photograph by the testimony, deposition, or written statement of the party against whom the evidence is offered. The proponent need not account for the original.

Comment

This rule is identical to F.R.E. 1007. There is no precise equivalent to Pa.R.E. 1007 under Pennsylvania law, but

the rule is consistent with Pennsylvania practice. For example, Pa.R.C.P. No. 1019(h) requires a party to attach a copy of a writing to a pleading if any claim or defense is based on the writing. A responsive pleading admitting the accuracy of the writing would preclude an objection based on Rule 1002.

Similarly, Pa.R.C.P. No. 4014(a) permits a party to serve any other party with a request for admission as to the genuineness, authenticity, correctness, execution, signing, delivery, mailing or receipt of any document described in the request. Pa.R.C.P. No. 4014(d) provides that any matter admitted is conclusively established.

Official Note: Adopted May 8, 1998, effective October 1, 1998; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Rule 1008. Functions of the Court and Jury.

Ordinarily, the court determines whether the proponent has fulfilled the factual conditions for admitting other evidence of the content of a writing, recording, or photograph under Rule 1004 or 1005. But in a jury trial, the jury determines—in accordance with Rule 104(b)—any issue about whether:

(a) an asserted writing, recording, or photograph ever existed;

(b) another one produced at the trial or hearing is the original; or

(c) other evidence of content accurately reflects the content.

Comment

This rule is identical to F.R.E. 1008.

Official Note: Adopted May 8, 1998, effective October 1, 1998; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

FINAL REPORT¹

Restyled Rules of Evidence

On January 17, 2013, effective March 18, 2013, upon the recommendation of the Committee on Rules of Evidence, the Court rescinded the Pennsylvania Rules of Evidence, together with Comments, and adopted restyled Pennsylvania Rules of Evidence, together with relevant Comments.

Background

In 1995, the Supreme Court of Pennsylvania authorized the Ad Hoc Committee on Evidence to draft Rules of Evidence for the Court's consideration. The proposed Rules were drafted to codify Pennsylvania's common law of evidence and closely followed the format and numbering of the Federal Rules of Evidence. The Comments to the Rules were designed to identify the common law sources of Pennsylvania's Rules of Evidence, compare them to the Federal Rules of Evidence, and to explain any

¹ The Committee's Final Report should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the Committee's explanatory Final Reports.

differences between the two bodies of rules. Additionally, some Comments were augmented with information thought to be helpful to the bench and bar in the application of the Rules. On May 8, 1998, the Court adopted the proposed Rules, effective October 1, 1998.

On September 8, 1998, the Court established the Committee on Rules of Evidence to, *inter alia*, “assist and advise the Supreme Court of Pennsylvania in the preparation, adoption, promulgation and revision of the rules of evidence governing proceedings in the courts of the Commonwealth.”

Restyled Federal Rules of Evidence

In 2007, the Advisory Committee on the Federal Rules of Evidence voted to begin a project to restyle the Federal Rules of Evidence. The style revisions were intended to make the Rules clearer and easier to read, without altering substantive meaning. This project would be similar to prior restyling projects for the Federal Rules of Appellate Procedure, Federal Rules of Criminal Procedure, and the Federal Rules of Civil Procedure.

On April 26, 2011, the Supreme Court of the United States transmitted the restyled Federal Rules of Evidence to Congress for consideration pursuant to the Rules Enabling Act, 28 U.S.C. § 2074(a), which, absent Congressional action, became effective on December 1, 2011.

Restyled Pennsylvania Rules of Evidence

The Committee monitored the progression of the Federal Rules’ project and reviewed the proposed changes given that the Pennsylvania Rules of Evidence so closely mirrored significant portions of the Federal Rules of Evidence. The Committee concurred with the conclusion that the restyled Federal Rules were clearer and easier to read. The Committee also believed that maintaining consistency with the language and format of the Federal Rules, where such consistency exists, benefits the bench and bar.

Additionally, dissimilarities between the wordings of the restyled Federal Rules and the current Pennsylvania Rules may have led to confusion with the more than 60 references throughout certain Comments to the Pennsylvania Rules as being “identical” to the Federal Rule, when in fact the language would no longer be identical with the restyled Federal Rules. Further, the value of purely historical references to Pennsylvania common law of evidence in the Comments has significantly diminished since the adoption of the Rules.

Accordingly, the Committee recommended rescission of the current Pennsylvania Rules and replacement with the restyled Pennsylvania Rules to incorporate stylistic changes from the Federal Rules and to eliminate surplusage in the Comments. The Committee wishes to offer the following observations concerning the recommendation:

- None of the stylistic changes to the Rules was intended to change the substantive meaning of the Rules.
- Many prior Comments contained discussion and citation of Pennsylvania’s common law of evidence. The Committee recognized the value of such references when the Pennsylvania Rules of Evidence were adopted in 1998, especially where the Federal Rules and Pennsylvania Rules differ. However, the Rules have been in existence now for more than fourteen years and have been incorporated into judicial proceedings and practice. Consequently, many references contained in the prior Comments became historical. Accordingly, the Committee proposed deletion of discussion and citation of Pennsylvania’s common law of evidence in the Comments where the

common law of evidence was consistent to the Pennsylvania Rule. Where a Pennsylvania Rule and the Federal Rule remained dissimilar, the Committee recommended that references to Pennsylvania’s common law of evidence be retained in the Comment.

- The reader is reminded that the Comments are prepared by the Committee for the convenience of the bench and bar. The Comments were not adopted by the Court and have no precedential import.

- The “Official Notes” and citations to the “Committee Explanatory Reports” have been updated, corrected, and/or added to the Comments for all Rules.

- Additional, non-substantive changes were made to the Comments to correct errors in grammar, citations, spacing, and alignment.

[Pa.B. Doc. No. 13-171. Filed for public inspection February 1, 2013, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CHS. 1 AND 2]

Order Approving the Revisions to the Comments to Rules 100 and 231 of the Rules of Criminal Procedure; No. 423 Criminal Procedural Rules Doc.

Order

Per Curiam

And Now, this 18th day of January, 2013, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been submitted without publication in the interests of justice and efficient administration pursuant to Pa.R.J.A. No. 103(a)(3), and a Final Report to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the revisions to the Comments to Pennsylvania Rules of Criminal Procedure 100 and 231 are approved in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective May 1, 2013.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE CHAPTER 1. SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES

Rule 100. Scope of Rules.

(A) These rules shall govern criminal proceedings in all courts including courts not of record. Unless otherwise specifically provided, these rules shall not apply to juvenile or domestic relations proceedings.

(B) Each of the courts exercising criminal jurisdiction may adopt local rules of procedure in accordance with Rule 105.

Comment

Under the 1974 amendment, the Pennsylvania Rules of Criminal Procedure, formerly inapplicable to summary cases in Philadelphia, now apply to such cases as specified in Chapter 10.

These rules apply to proceedings involving juveniles only to the extent that the Juvenile Act does not vest jurisdiction in the Juvenile Court, and as provided in the Rules of Juvenile Court Procedure. *See, e.g.*, Juvenile Act, 42 Pa.C.S. §§ 6302—6303, 6355; Vehicle Code, 75 Pa.C.S. § 6303, and Rules of Juvenile Court Procedure 105 (Search Warrants), 395 (Procedure to Initiate Criminal Information), and 396 (Bail). **These rules also apply to cases in which an individual under the age of 18 allegedly commits a crime but the charges are not filed until the individual is 21 and therefore outside the Juvenile Act's definition of child. See 42 Pa.C.S. § 6302. See also Commonwealth v. Monaco, 869 A.2d 1026 (Pa. Super. 2005).**

Official Note: Prior rule suspended effective May 1, 1970. Present Rule 1 adopted January 31, 1970, effective May 1, 1970; amended April 26, 1972, effective immediately; amended June 28, 1974, effective July 1, 1974; amended January 28, 1983, effective July 1, 1983; Comment revised July 12, 1985, effective January 1, 1986; effective date extended to July 1, 1986; renumbered Rule 100 and amended March 1, 2000, effective April 1, 2001; Comment revised April 1, 2005, effective October 1, 2005; **Comment revised January 18, 2013, effective May 1, 2013.**

Committee Explanatory Reports:

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

Final Report explaining the April 1, 2005 Comment revision concerning Rules of Juvenile Court Procedure published with the Court's Order at 35 Pa.B. 2213 (April 16, 2005).

Final Report explaining the January 18, 2013 Comment revision concerning application of Criminal Rules to cases involving individuals under the age of 18 at time of offense and over 21 at time charges filed published with the Court's Order at 43 Pa.B. 653 (February 2, 2013).

CHAPTER 2. INVESTIGATIONS

PART B(1). Investigating Grand Juries

Rule 231. Who May be Present During Session of an Investigating Grand Jury.

* * * * *

Comment

As used in this rule, the term "witness" includes both juveniles and adults.

The 1987 amendment provides that either the attorney for the Commonwealth, or a majority of the grand jury, through their foreperson, may request that certain, specified individuals, in addition to those referred to in paragraph (A), be present in the grand jury room while the grand jury is in session. As provided in paragraph (B), the additional people would be limited to an interpreter or interpreters the supervising judge determines are needed to assist the grand jury in understanding the testimony of a witness; a security officer [of] or security officers the supervising judge determines are needed to escort witnesses who are in custody or to protect the members of the grand jury and the other people present during a session of the grand jury; and any individuals the supervising judge determines are required to assist the grand jurors with the presentation of evidence. This would include such people as the case agent (lead investigator), who would assist the attorney for the Common-

wealth with questions for witnesses; experts, who would assist the grand jury with interpreting difficult, complex technical evidence; or technicians to run such equipment as tape recorders, videomachines, etc.

It is intended in paragraph (B) that when the supervising judge authorizes a certain individual to be present during a session of the investigating grand jury, the person may remain in the grand jury room only as long as is necessary for that person to assist the grand jurors.

Paragraph (C), added in 1987, generally prohibits the disclosure of any information related to testimony before the grand jury. There are, however, some exceptions to this prohibition enumerated in Section 4549 of the Judicial Code, 42 Pa.C.S. § 4549.

Official Note: Rule 264 adopted June 26, 1978, effective January 9, 1979; amended June 5, 1987, effective July 1, 1987; renumbered Rule 231 and amended March 1, 2000, effective April 1, 2001; **Comment revised January 18, 2013, effective May 1, 2013.**

Committee Explanatory Reports:

Report explaining the June 5, 1987 amendments adding paragraphs (B)—(D) published at 17 Pa.B. 167 (January 10, 1987).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. [1477] 1478 (March 18, 2000).

Final Report explaining the January 18, 2013 Comment revision concerning definition of witness as used in this rule published at 43 Pa.B. 653 (February 2, 2013).

FINAL REPORT¹

Revisions of the Comments to Pa.Rs.Crim.P. 100 and 231

On January 18, 2013, effective May 1, 2013, upon the recommendation of the Criminal Procedural Rules Committee, the Court approved the revision of the Comments to Pa.R.Crim.P. 100 (Scope of Rules), and Pa.R.Crim.P. 231 (Who May Be Present During Session of an Investigating Grand Jury) to clarify (1) when an individual is under 18 at the time of an alleged offense but the case is instituted after the individual is 21 that the case is to proceed pursuant to the Criminal Rules; and (2) that "witness" as used in the investigating grand jury rules includes juveniles and adults.

Both of the above changes were developed by the Criminal Procedural Rules Committee in response to communications from the Juvenile Court Procedural Rules Committee.

Rule 100

In a 2012 meeting, the Juvenile Court Procedural Rules Committee requested the Criminal Procedural Rules Committee to consider clarifying in the Criminal Procedural Rules in cases in which an individual is under the age of 18 at the time of an alleged offense but the case is not instituted until after the individual reaches the age of 21 that the case is to proceed pursuant to the Criminal Procedural Rules. It was reported that, although the case law is clear, there continues to be confusion about how procedurally to proceed in these cases among members of the bench and bar.

¹ The Committee's Final Reports should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the Committee's explanatory Final Reports.

The Committee noted that the Rule 100 Comment already includes provisions clarifying the application of the Criminal Procedural Rules when the defendant is a juvenile. The members concluded that the addition of clarifying language to the Rule 100 Comment as suggested by the Juvenile Court Procedural Rules Committee would be helpful to the bench and bar. The clarifying language contains a cross-reference to *Commonwealth v. Monaco*, 869 A.2d 1026 (Pa.Super. 2005), a case in which this principle was applied in a child sexual assault case in which the victim did not come forward and the defendant was not charged until after the defendant had turned 22, and a cross-reference to 42 Pa.C.S. § 6302.

Rule 231

The Criminal Procedural Rules Committee also considered a suggestion from the Juvenile Court Procedural Rules Committee that the rules should provide that, when a juvenile is the target of or a witness for an investigating grand jury, the juvenile must be advised of the right to counsel during any stage of the investigation, and counsel must be permitted into the investigating grand jury room when the juvenile testifies.

In considering the Juvenile Court Procedural Rules Committee's suggestions, the Committee observed:

- Under the provisions of 42 Pa.C.S. § 4549(c), a witness, which would include a juvenile when called to testify, must have the assistance of counsel including when before the grand jury.

- Rule of Criminal Procedure 231(A) provides that "counsel for the witness may be present as provided by law."

- The "law" in Section 4549(c)(3) is that counsel may be present during the questioning of the witness, may advise the witness, but may not make objections or arguments, *etc.*, and the supervising judge may remove counsel in the same manner as the judge would have in any court proceeding.

- The right to counsel in grand jury investigations does not attach unless an individual is called as a witness; there is no right to counsel for adults or juveniles at any phase of an investigation by a grand jury, even if that individual is a target of the investigation.

- At this stage of the proceeding, it would be inappropriate for a procedural rule to require that an individual be advised about a grand jury investigation or that the individual be advised about counsel; such a procedure potentially would constitute an expansion of the right to counsel before grand juries.

The Committee advised the Juvenile Court Procedural Rules Committee of these points and declined to recommend such changes. However, noting that Rule of Criminal Procedure 231 could be interpreted as applying only to adult witnesses' right to counsel in the investigating grand jury context, an interpretation the Committee believes is incorrect, the Committee agreed that the Rule 231 Comment should be revised to clarify that "witness" as used in the rule includes adults and juveniles.

[Pa.B. Doc. No. 13-172. Filed for public inspection February 1, 2013, 9:00 a.m.]

[234 PA. CODE CH. 4]

Order Approving the Revision of the Comments to Rules 430, 455 and 456 of the Rules of Criminal Procedure; No. 420 Criminal Procedural Rules Doc.

Order

Per Curiam

And Now, this 17th day of January, 2013, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been published before adoption at 39 Pa.B. 2318 (May 9, 2009), and in the *Atlantic Reporter* (Second Series Advance Sheets, Vol. 967), and a Final Report to be published with this Order.

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the revisions to the Comments to Pennsylvania Rules of Criminal Procedure 430, 455, and 456 are approved in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective May 1, 2013.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE CHAPTER 4. PROCEDURES IN SUMMARY CASES PART D. Arrest Procedures in Summary Cases

PART D(1). Arrests With a Warrant

Rule 430. Issuance of Warrant.

* * * * *

Comment

Personal service of a citation under paragraph (B)(1) is intended to include the issuing of a citation to a defendant as provided in Rule 400(A) and the rules of Chapter 4, Part B(1).

When the defendant is under 18 years of age, and the defendant has failed to respond to the citation, the issuing authority must issue a summons as provided in Rule 403(B)(4)(a). If the [juvenile] defendant fails to respond to the summons, the issuing authority should issue a warrant as provided in either paragraph (A)(1) or (B)(1). **See also the Public School Code of 1949, 24 P. S. § 13-1333(b)(2) that permits the issuing authority to allege the defendant dependent.**

* * * * *

[If] Except in cases brought pursuant to the Public School Code of 1949, 24 P. S. § 1-102 et seq., in which the defendant is at least 13 years of age but not yet 17, if the defendant is under 18 years of age and has not paid the fine and costs, the issuing authority must issue the notice required by paragraph (B)(4) to the defendant and the defendant's parents, guardian, or other custodian informing the defendant and defendant's parents, guardian, or other custodian that, if payment is not received or the defendant does not appear within the 10-day time period, the issuing authority will certify notice of the failure to pay to the court of common pleas as required by the Juvenile Act, 42 Pa.C.S. § 6302, definition of "delinquent act," paragraph (2)(iv). Thereafter, the case will proceed pursuant to the Rules of Juvenile Court Procedure and the Juvenile Act instead of these rules.

If the defendant is charged with a violation of the compulsory attendance requirements of the Public School Code of 1949, 24 P. S. § 1-102, et seq.; has

attained the age of 13 but is not yet 17; and has failed to pay the fine, the issuing authority must issue the notice required by paragraph (B)(4) to the defendant and the defendant's parents, guardian, or other custodian informing the defendant and defendant's parents, guardian, or other custodian that, if payment is not received or the defendant does not appear within the 10-day time period, the issuing authority may allege the defendant dependent under 42 Pa.C.S. § 6303(a)(1). Pursuant to 24 P. S. § 13-1333(b)(2), the defendant's failure to pay is not a delinquent act and the issuing authority would not certify notice of the failure to pay to the common pleas court.

If the defendant is 18 years of age or older when the default in payment occurs, the issuing authority must proceed under these rules.

When contempt proceedings are also involved, see Chapter 1 Part D for the issuance of arrest warrants.

See Rule 431 for the procedures when a warrant of arrest is executed.

Official Note: Rule 75 adopted July 12, 1985, effective January 1, 1986; effective date extended to July 1, 1986; amended January 31, 1991, effective July 1, 1991; amended April 18, 1997, effective July 1, 1997; amended October 1, 1997, effective October 1, 1998; amended July 2, 1999, effective August 1, 1999; renumbered Rule 430 and amended March 1, 2000, effective April 1, 2001; amended February 28, 2003, effective July 1, 2003; Comment revised August 7, 2003, effective July 1, 2004; Comment revised April 1, 2005, effective October 1, 2005; amended June 30, 2005, effective August 1, 2006; amended January 26, 2007, effective February 1, 2008; Comment revised September 18, 2008, effective February 1, 2009; **Comment revised January 17, 2013, effective May 1, 2013.**

Committee Explanatory Reports:

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Final Report explaining the September 18, 2008 revision of the Comment concerning the United States Postal Service's return receipt electronic option published with the Court's Order at 38 Pa.B. 5428 (October 4, 2008).

Final Report explaining the January 17, 2013 revision of the Comment concerning the Public School Code of 1949 published with the Court's Order at 43 Pa.B. 656 (February 2, 2013).

PART E. General Procedures in Summary Cases

Rule 455. Trial in Defendant's Absence.

* * * * *

Comment

In those cases in which the issuing authority determines that there is a likelihood that the sentence will be imprisonment or that there is other good cause not to conduct the trial in the defendant's absence, the issuing authority may issue a warrant for the arrest of the defendant in order to have the defendant brought before the issuing authority for the summary trial. See Rule 430(B). The trial would then be conducted with the defendant present as provided in these rules. See Rule 454.

When the defendant was under 18 years of age at the time of the offense, if a mandatory sentence of imprisonment is prescribed by statute, the issuing authority may not conduct the trial, but must [**forward**] forward

the case to the court of common pleas for disposition. See the Juvenile Act, 42 Pa.C.S. §§ 6302 and 6303.

Paragraph (D) provides notice to the defendant of conviction and sentence after trial *in absentia* to alert the defendant that the time for filing an appeal has begun to run. See Rule 413(B)(3).

[**If**] **Except in cases under the Public School Code of 1949, 24 P. S. § 1-102, et seq., in which the defendant is at least 13 years of age but not yet 17, if the defendant is under 18 years of age, the notice in paragraph (D) must inform the defendant and defendant's parents, guardian, or other custodian that, if payment is not received or the defendant does not appear within the 10-day time period, the issuing authority will certify notice of the failure to pay to the court of common pleas as required by the Juvenile Act, 42 Pa.C.S. § 6302, definition of "delinquent act," paragraph (2)(iv), and the case will proceed pursuant to the Rules of Juvenile Court Procedure and the Juvenile Act instead of these rules.**

If the defendant is charged with a violation of the compulsory attendance requirements of the Public School Code of 1949, 24 P. S. § 1-102, et seq.; has attained the age of 13 but is not yet 17; and has failed to pay the fine, the issuing authority must issue the notice required by paragraph (B)(4) to the defendant and the defendant's parents, guardian, or other custodian informing the defendant and defendant's parents, guardian, or other custodian that, if payment is not received or the defendant does not appear within the 10-day time period, the issuing authority may allege the defendant dependent under 42 Pa.C.S. § 6303(a)(1). Pursuant to 24 P. S. § 13-1333(b)(2), the defendant's failure to pay is not a delinquent act and the issuing authority would not certify notice of the failure to pay to the common pleas court.

If the defendant is 18 years of age or older and fails to pay or appear as required in paragraph (D), the issuing authority must proceed under these rules.

For the defendant's right to counsel, see Rule 122.

For arrest warrant procedures in summary cases, see Rules 430 and 431.

Official Note: Rule 84 adopted July 12, 1985, effective January 1, 1986; January 1, 1986 effective date extended to July 1, 1986; amended February 1, 1989, effective July 1, 1989; amended April 18, 1997, effective July 1, 1997; amended October 1, 1997, effective October 1, 1998; renumbered Rule 455 and Comment revised March 1, 2000, effective April 1, 2001; Comment revised August 7, 2003, effective July 1, 2004; Comment revised April 1, 2005, effective October 1, 2005; amended August 15, 2005, effective February 1, 2006; **Comment revised January 17, 2013, effective May 1, 2013.**

Committee Explanatory Reports:

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Final Report explaining the August 15, 2005 amendments to paragraph (D) concerning notice of right to appeal published with the Court's Order at 35 Pa.B. 4918 (September 3, 2005).

Final Report explaining the January 17, 2013 revisions of the Comment concerning the Public School Code of 1949 published with the Court's Order at 43 Pa.B. 656 (February 2, 2013).

Rule 456. Default Procedures: Restitution, Fines, and Costs.

* * * * *

Comment

* * * * *

[If] Except in cases under the Public School Code of 1949, 24 P. S. § 1-102, et seq., in which the defendant is at least 13 years of age but not yet 17, if the defendant is under 18 years of age, the notice in paragraph (B) must inform the defendant and defendant's parents, guardian, or other custodian that, if payment is not received or the defendant does not appear within the 10-day time period, the issuing authority will certify notice of the failure to pay to the court of common pleas as required by the Juvenile Act, 42 Pa.C.S. § 6302, definition of "delinquent act," paragraph (2)(iv), and the case will proceed pursuant to the Rules of Juvenile Court Procedure and the Juvenile Act instead of these rules.

If the defendant is charged with a violation of the compulsory attendance requirements of the Public School Act of 1949, 24 P. S. § 1-102, et seq.; has attained the age of 13 but is not yet 17; and has failed to pay the fine, the issuing authority must issue the notice required by paragraph (B)(4) to the defendant and the defendant's parents, guardian, or other custodian informing the defendant and defendant's parents, guardian, or other custodian that, if payment is not received or the defendant does not appear within the 10-day time period, the issuing authority may allege the defendant dependent under 42 Pa.C.S. § 6303(a)(1). Pursuant to 24 P. S. § 13-1333(b)(2), the defendant's failure to pay is not a delinquent act and the issuing authority would not certify notice of the failure to pay to the common pleas court.

If the defendant is 18 years or older when the default in payment occurs, the issuing authority must proceed under these rules.

* * * * *

Official Note: Adopted July 12, 1985, effective January 1, 1986; amended September 23, 1985, effective January 1, 1986; January 1, 1986 effective dates extended to July 1, 1986; Comment revised February 1, 1989, effective July 1, 1989; rescinded October 1, 1997, effective October 1, 1998. New Rule 85 adopted October 1, 1997, effective October 1, 1998; amended July 2, 1999, effective August 1, 1999; renumbered Rule 456 and amended March 1, 2000, effective April 1, 2001; Comment revised August 7, 2003, effective July 1, 2004; amended March 3, 2004, effective July 1, 2004; Comment revised April 1, 2005, effective October 1, 2005; Comment revised September 21, 2012, effective November 1, 2012; **Comment revised January 17, 2013, effective May 1, 2013.**

Committee Explanatory Reports:

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Final Report explaining the September 21, 2012 Comment revision correcting the typographical error in the fourth paragraph published with the Court's Order at 42 Pa.B. 6251 (October 6, 2012).

Final Report explaining the January 17, 2013 revisions of the Comment concerning the Public School Code of 1949 published with the Court's Order at 43 Pa.B. 656 (February 2, 2013).

FINAL REPORT¹

Revisions of the Comments to Pa.Rs.Crim.P. 430, 455, and 456

Summary Case Rules and Truancy under Public School Code of 1949

On January 17, 2013, effective May 1, 2013, upon the recommendation of the Criminal Procedural Rules Committee, the Court approved the revisions to the Comments to Pa.R.Crim.P. 430 (Issuance of Warrant), Pa.R.Crim.P. 455 (Trial in Defendant's Absence), and Pa.R.Crim.P. 456 (Default Procedures: Restitution, Fines, and Costs) to clarify the treatment under the Criminal Procedural Rules of cases involving a child, as defined in the Public School Code of 1949, 24 P. S. § 1-102 et seq., who has failed to pay fines and costs following a summary conviction for truancy.

I. Introduction

As part of the recent re-design of the Magisterial District Judges System (MDJS), a question arose concerning how to proceed under the Criminal Rules with cases in which a defendant fails to pay fines following a summary conviction for truancy. The confusion centers on the differences in the statutory provisions in the Juvenile Act, 42 Pa.C.S. § 6301 et seq., and the Public School Code of 1949, 24 P. S. § 1-102 et seq. for summary offenses committed by defendants between the ages of 13 and 17. Section 6302 of the Juvenile Act defines "delinquent act," and paragraph (iv) of the definition specifically excludes "summary offenses unless the child fails to comply with a lawful sentence imposed thereunder." "Child" is defined, *inter alia*, as "an individual who is under the age of 18 years" or "is under the age of 21 years who committed an act of delinquency before reaching the age of 18 years." 42 Pa.C.S. § 6302. Section 13-1333 of the Public School Code of 1949, provides, *inter alia*, that a child, who has attained the age of 13 years but is not yet 17, who fails to comply with the provisions of the Public School Code commits a summary offense and, upon conviction, will be sentenced to pay a fine. The Code further provides that the failure to pay the fine is not a delinquent act, but the magisterial district judge may allege the child to be dependent under the Juvenile Act.

The Criminal Rules currently only provide procedures for defendants who fall within the scope of the Juvenile Act. Pursuant to these procedures, if a defendant under the age of 18 does not pay the fines and costs, the magisterial district judge must send out a notice to the defendant that, if payment is not made or the defendant does not appear within 10 days, the case will be certified to the court of common pleas. If the juvenile is 18 or older at the time of the default in payment, and the defendant fails to respond to the 10-day notice, a bench warrant is issued.

The Committee reviewed the statutes and the rules. The members agreed that, because the Public School Code creates what can be perceived as an exception to the Juvenile Act by carving out a special procedure for summary case defendants between the ages of 13 and 17 who have been found to be in violation of the Public School Code, the differences should be recognized in the rules. The Committee agreed that the Comments to the rules dealing with summary case failures to pay should be revised to clarify the differences in the treatment of a defendant who has failed to pay fines and costs and

¹ The Committee's Final Reports should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the Committee's explanatory Final Reports.

would be subject to the Juvenile Act and a defendant who has failed to pay the fine and would be subject to the Public School Code of 1949. Specifically, the revisions make it clear that the issuing authority would not certify the Public School Code cases to Juvenile Court because the failure to pay under the School Code is not a delinquent act, and that the issuing authority may allege the child dependent.

II. Discussion of Rule Changes

Rules 430 (Issuance of Warrant), 455 (Trial in Defendant's Absence), and 456 (Default Procedures: Restitution, Fines, and Costs) require a 10-day notice before a bench warrant may be issued when a defendant defaults in the payment of fines and costs. The Comments to all three rules include an explanation about the variation in procedure when the defendant is under the age of 18 years. A revision has been added to the beginning of each of these Comment provisions to state that "Except in cases under the Public School Code of 1949, 24 P.S. 1-102, *et seq.*, in which the defendant is at least 13 years of age but not yet 17," to make it clear that Public School Code summary cases are not treated in the same manner.

In addition, to further assist the bench and bar in understanding the procedures for Public School Code summary cases when the defendant is 13 but not yet 17 years of age, the following paragraph has been added to the Comments to Rules 430, 455, and 456.

If the defendant is charged with a violation of the compulsory attendance requirements of the Public School Code of 1949, 24 P.S. § 1-102, *et seq.*; has attained the age of 13 but is not yet 17; and has failed to pay the fine, the issuing authority must issue the notice required by paragraph (B)(4) to the defendant and the defendant's parents, guardian, or other custodian informing the defendant and defendant's parents, guardian, or other custodian that, if payment is not received or the defendant does not appear within the 10-day time period, the issuing authority may allege the defendant dependent under 42 Pa.C.S. § 6303(a)(1). Pursuant to 24 P.S. § 13-1333(b)(2), the defendant's failure to pay is not a delinquent act and the issuing authority would not certify notice of the failure to pay to the common pleas court.

Rule 403(B)(4) requires the issuing authority to issue a summons rather than an arrest warrant when the defendant under the age of 18 years fails to respond to a citation. The second paragraph of Rule 430 Comment elaborates on this summons procedure. The Committee concluded that this summons procedure also would apply to Public School Code summary cases, and therefore no changes were necessary in this regard. However, in recognition of the alternative course of action the Code gives to magisterial district judges of alleging the defendant dependent, this Comment paragraph is revised to include a citation to Section 13-333 of the Public School Code of 1949 explaining this option.

A final consideration of the Committee was that the application of the Public School Code penalties section, 24 P.S. § 13-333, is limited to defendants who have attained the age of 13 but are not yet 17, while the Juvenile Act application terminates when a defendant reaches the age of 18 in general. The Committee discussed how the case would proceed when a defendant convicted of a summary offense under the Public School Code turns 17 years of age, and, therefore, no longer is subject to the Public School Code. The Committee observed that, if the defen-

dant had an outstanding installment payment plan, the obligation to pay would remain. If that defendant then fails to pay on an installment payment plan, he or she would be subject to the Juvenile Act. If, on the other hand, the failure to pay occurs after the defendant turns 18 years of age, the case would proceed under the rules. The Committee concluded this process is clear and no changes to the rules are necessary.

[Pa.B. Doc. No. 13-173. Filed for public inspection February 1, 2013, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Compensation for Conflict Capital Case Representation; Administrative Order No. 01 of 2013

Order

And now, this 14th day of January, 2013, by decision of the Administrative Governing Board of the First Judicial District of Pennsylvania, compensation of conflict counsel in capital cases is hereby modified as follows:

(1) counsel appointed in capital cases on and after February 22, 2012 shall be paid a flat fee of \$10,000 (lead counsel) and \$7,500 (penalty phase counsel), irrespective of whether the case is tried to verdict or otherwise disposed and resolved; and

(2) lead counsel and penalty phase counsel shall receive a per diem payment of \$400 for each day of their phase representation in excess of one week (five full days), in addition to the above flat fees and regardless of the date of counsel's appointment.

This Administrative Order is issued in accordance with the March 26, 1996 order of the Supreme Court of Pennsylvania, Eastern District, No. 164 Judicial Administration, Docket No. 1, as amended, and shall become effective immediately. This Order and attachments shall be filed with the Prothonotary in a docket maintained for Orders issued by the Administrative Governing Board of the First Judicial District of Pennsylvania. One certified copy of this Order and attachments shall be submitted to the Administrative Office of Pennsylvania Courts, two certified copies and one copy on a computer diskette shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, and the Order and attachments shall also be published in *The Legal Intelligencer*. Copies of the Order and attachments shall also be posted on the First Judicial District's website at <http://courts.phila.gov>, and submitted to American Lawyer Media, Jenkins Memorial Law Library, and the Law Library for the First Judicial District.

By the Court

HONORABLE JOHN W. HERRON,
Chair, Administrative Governing Board of the
First Judicial District of Pennsylvania
Administrative Judge, Trial Division
Court of Common Pleas, Philadelphia County

[Pa.B. Doc. No. 13-174. Filed for public inspection February 1, 2013, 9:00 a.m.]

PHILADELPHIA COUNTY

Compensation for Conflict Capital Case Representation; Administrative Order No. 01 of 2013**Order**

And now, this 17th day of January, 2013, the January 14, 2013 Order is amended to read as follows:

By decision of the Administrative Governing Board of the First Judicial District of Pennsylvania, compensation of conflict counsel in capital cases is hereby modified as follows:

(1) counsel appointed in capital cases on and after February 22, 2012 shall be paid a flat fee of \$10,000 (lead counsel) and \$7,500 (penalty phase counsel), irrespective of whether the case is tried to verdict or otherwise disposed and resolved; and

(2) lead counsel and penalty phase counsel shall receive a per diem payment of \$400 for each day of their trial representation in excess of one week (five full days), in addition to the above flat fees and regardless of the date of counsel's appointment.

This Administrative Order is issued in accordance with the March 26, 1996 order of the Supreme Court of Pennsylvania, Eastern District, No. 164 Judicial Administration, Docket No. 1, as amended, and shall become effective immediately. This Order and attachments shall be filed with the Prothonotary in a docket maintained for Orders issued by the Administrative Governing Board of the First Judicial District of Pennsylvania. One certified copy of this Order and attachments shall be submitted to the Administrative Office of Pennsylvania Courts, two certified copies and one copy on a computer diskette shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, and the Order and attachments shall also be published in *The Legal Intelligencer*. Copies of the Order and attachments shall also be posted on the First Judicial District's website at <http://courts.phila.gov>, and submitted to American Lawyer Media, Jenkins Memorial Law Library, and the Law Library for the First Judicial District.

By the Court

HONORABLE JOHN W. HERRON,
Chair, Administrative Governing Board of the
First Judicial District of Pennsylvania
Administrative Judge, Trial Division
Court of Common Pleas, Philadelphia County

[Pa.B. Doc. No. 13-175. Filed for public inspection February 1, 2013, 9:00 a.m.]

Title 255—LOCAL COURT RULES

LAWRENCE COUNTY

Central Booking Fee; No. 90006 of 2013, A.D.**Order of Court**

And Now, this 11th day of January, 2013, pursuant to the adoption and approval of a countywide booking center plan as required by 42 Pa.C.S.A. § 1725.5, it is hereby *Ordered* and *Decreed*, that effective thirty (30) days after publication in the *Pennsylvania Bulletin*, every adult

person shall be assessed a central booking fee of one hundred dollars (\$100.00) as follows:

1. Any person who is placed on probation without verdict pursuant to Section 17 of the Act of April 14, 1972 (P. L. 233, No. 64) known as The Controlled Substance, Drug, Device and Cosmetic Act.

2. Any person who receives Accelerated Rehabilitative Disposition for, pleads guilty to or nolo contendere to or is convicted of a crime under 18 Pa.C.S.A. § 106(a) (relating to classes of offenses), 75 Pa.C.S.A. § 3735 (relating to homicide by vehicle while driving under influence), 75 Pa.C.S.A. § 3802 (relating to driving under influence of alcohol or controlled substance), and a violation of the Controlled Substance, Drug, Device and Cosmetic Act.

3. The Central Booking Fee provided for herein shall be paid to the County of Lawrence and deposited into a special central booking center fund established and maintained by Lawrence County. Moneys in the special fund shall be used solely for the implementation of the countywide booking center plan adopted pursuant to 42 Pa.C.S.A. § 1725.5 and the start-up, operation or maintenance of a booking center.

The Lawrence County District Court Administrator is *Ordered* and *Directed* to:

1. File one (1) certified copy of this Administrative Order with the Administrative Office of Pennsylvania Courts.

2. File two (2) certified copies and one (1) computer diskette with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. Forward one (1) copy for publication in the *Lawrence County Law Journal*.

4. Forward one (1) copy to the Lawrence County Law Library.

5. Keep continuously available for public inspection copies of the Administrative Order in the Office of the Lawrence County Clerk of Courts.

By the Court

DOMINICK MOTTO,
President Judge

[Pa.B. Doc. No. 13-176. Filed for public inspection February 1, 2013, 9:00 a.m.]

SUPREME COURT

Reestablishment of the Magisterial Districts within the 47th Judicial District; No. 300 Magisterial Rules Doc.

Order

Per Curiam

And Now, this 18th day of January, 2013, upon consideration of the Petition to Reestablish the Magisterial Districts of the 47th Judicial District (Cambria County) of the Commonwealth of Pennsylvania, it is hereby *Ordered* and *Decreed* that the Petition, which provides for the elimination of Magisterial Districts 47-2-01 and 47-3-04, within Cambria County, to be effective January 1, 2014, is granted; and that the Petition, which provides for the realignment of Magisterial Districts 47-1-02, 47-1-03, 47-3-01, 47-3-03, 47-3-05 and 47-3-06, within Cambria

County, to be effective January 2, 2014, is granted; and that the Petition, which also provides for the reestablishment of Magisterial Districts 47-1-01 and 47-3-07, within Cambria County, to be effective immediately, is granted. The judgeships for Magisterial Districts 47-2-01 and 47-3-04 shall not appear on the ballot for the 2013 municipal election.

Said Magisterial Districts shall be as follows:

- Magisterial District 47-1-01 City of Cambria
- Magisterial District Judge Michael J. Musulin City of Johnstown (Wards 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, and 21)
- Conemaugh Township
- Magisterial District 47-1-02 Ferndale Borough
- Magisterial District Judge John W. Barron Geistown Borough
- Scalp Level Borough
- Southmont Borough
- Westmont Borough
- Richland Township (Wards 1, 2, 4, 5, 6, 9, 10, and 11)
- Stonycreek Township
- Upper Yoder Township
- Magisterial District 47-1-03 City of Johnstown (Wards 5, 6, 7, 8, and 17)
- Magisterial District Judge Leonard J. Grecek Daisytown Borough
- Dale Borough
- Lorain Borough
- Magisterial District 47-3-01 Brownstown Borough
- Magisterial District Judge Mary Ann Zanghi East Conemaugh Borough
- Franklin Borough
- Nanty Glo Borough
- Vintondale Borough
- East Taylor Township
- Jackson Township
- Lower Yoder Township
- Middle Taylor Township
- West Taylor Township
- Magisterial District 47-3-03 Ashville Borough
- Magisterial District Judge Galen F. Decort Cassandra Borough
- Chest Springs Borough
- Cresson Borough
- Gallitzin Borough
- Lilly Borough
- Loretto Borough
- Portage Borough
- Sankertown Borough
- Tunnelhill Borough
- Allegheny Township
- Cresson Township
- Gallitzin Township
- Munster Township
- Portage Township
- Washington Township

- Magisterial District 47-3-05 Hastings Borough
- Magisterial District Judge Michael Zungali North Cambria Borough
- Patton Borough
- Barr Township
- Chest Township
- Clearfield Township
- Dean Township
- Elder Township
- Reade Township
- Susquehanna Township
- West Carroll Township
- White Township
- Magisterial District 47-3-06 Ehrenfeld Borough
- Magisterial District Judge Rick W. Varner South Fork Borough
- Summerhill Borough
- Wilmore Borough
- Adams Township
- Conemaugh Township
- Croyle Township
- Richland Township (Wards 3, 7, and 8)
- Summerhill Township
- Magisterial District 47-3-07 Carrolltown Borough
- Magisterial District Judge Frederick S. Creany Ebensburg Borough
- Blacklick Township
- Cambria Township
- East Carroll Township

[Pa.B. Doc. No. 13-177. Filed for public inspection February 1, 2013, 9:00 a.m.]

RULES AND REGULATIONS

Title 58—RECREATION

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CHS. 401a, 403a, 405a, 407a,
461a, 471a, 491a, 493a, 494a, 495a, 497a,
499a, 501a AND 511a]

Practice and Procedure; Server Supported Slot Systems; Compulsive and Problem Gambling

The Pennsylvania Gaming Control Board (Board), under the general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) and the specific authority in 4 Pa.C.S. § 1207(2) and (9) (relating to regulatory authority of board), amends Chapters 401a, 403a, 405a, 407a, 461a, 471a, 491a, 493a, 494a, 495a, 497a, 499a, 501a and 511a to read as set forth in Annex A.

Purpose of the Final-Form Rulemaking

This final-form rulemaking amends the Board's practices and procedures to improve the clarity and effectiveness of the Board's regulations. This final-form rulemaking also updates the requirements for server supported slot systems, a gaming technology new to this Commonwealth.

Explanation of Amendments and Additional Revisions

Throughout this final-form rulemaking, "resolution" was changed as the Board issues orders and adjudications and issues resolutions only in limited and specific instances. Also, several of the references to the Board were changed as the functions described are functions of Board staff.

In § 401a.3 (relating to definitions), the definition of "nongaming employee" was updated to reflect that both registered and certified gaming service providers may have nongaming employees. Additionally, the Board's web site, which was recently changed, was added to the definitions that are applicable to all regulations in Part VII (relating to Gaming Control Board).

Section 403a.7(a) (relating to temporary emergency orders) was amended to allow the Executive Director and the Executive Director's designee (typically a hearing examiner) to issue a temporary emergency order. The remainder of subsection (a) was deleted as redundant with subsection (f).

In subsection (b), language was added to allow the issuance of an emergency order to temporarily exclude a person from a licensed facility pending Board action on an underlying petition for exclusion. This provision was added as individuals have been discovered cheating at other facilities while awaiting Board action on a petition for exclusion. This provision will not be utilized except in instances when an individual meets the criteria established in § 403a.7(c) and § 511a.4(c) (relating to duties of the Bureau and the Office of Enforcement Counsel).

Subsection (c) was amended for clarity and to specify the criteria necessary for emergency suspension or exclusion. Subsection (c)(2) regarding tax obligations was deleted. If a licensee fails to pay a required assessment or tax obligation, the Office of Enforcement Counsel files an enforcement action, which would be heard by the Board or a hearing officer, not a request for a temporary

emergency order. A cross reference to the exclusion or ejection criteria was added in its place.

Subsection (d) was updated to specify what type of action the Board is referring to in this section and more accurately reflect the information that the Office of Enforcement Counsel is required to include in the request.

Subsections (e) and (g) were reworded for clarity. In subsection (f), the 72-hour requirement for an informal hearing found was changed to 3 business days. A 72-hour requirement is impractical as it does not account for holidays or weekends.

In subsection (h), a cross reference to hearing locations was added.

Language was added in subsection (i) specifying what action the Executive Director or a designee will take at the conclusion of the informal hearing. After re-evaluating the informal nature of an emergency hearing, the language regarding subpoenas in subsection (i) and the procedure specified in subsection (j) were deleted. These provisions are applicable to formal hearings held before the Board or presiding officer, but are not applicable to an informal hearing before the Executive Director.

Subsections (j) and (k) were rewritten providing that unless the Executive Director dissolves an emergency order, the matter will be referred to the Board for a formal hearing or, in most instances, directly to the Office of Hearings and Appeals to prepare a report and recommendation for the Board's consideration. Amending subsections (j) and (k) deletes an unnecessary step in the process. Temporary emergency orders were first directed to the Board then, in most instances, is referred to the Office of Hearings and Appeals to have a hearing, then referred back to the Board for a final determination. Taking it first to the Board for subsequent referral can take several additional weeks, depending on when the next Board meeting is scheduled to take place. This additional time could be detrimental to an individual employed by a licensee who is not otherwise able to work while his license, permit or registration is temporarily suspended. Shortening the process by deleting an unnecessary step could potentially result in an individual returning to work more quickly when suspension is ultimately deemed unnecessary.

New subsection (k) provides that the Executive Director will retain jurisdiction to modify or dissolve a temporary emergency order until the Office of Hearings and Appeals issues a report and recommendation or the Board takes action on the suspension.

Subsection (m) was amended for clarity. Subsection (n) was deleted as redundant as the provisions are covered by the general language under subsection (m)(1), which specifies that the Board may ratify or modify an order of suspension.

It is unnecessary to include that final orders of the Board are appealable as previously stated in subsection (o). Appeal rights are governed by the Pennsylvania Rules of Appellate Procedure which dictate that an appeal may be taken, as of right, from a final order of an administrative agency.

Language specifying forms of service in new subsection (o) was also deleted as redundant since the forms of service are addressed in § 491a.5 (relating to service).

Subsection (p)(1) was deleted since hearing procedures are already covered in Chapter 494a (relating to hearing procedure). The time period to have the hearing in paragraph (1) was extended from 10 to 15 business days to allow for sufficient notice to the person who is the subject of the temporary order. Lastly, the types of service were deleted from paragraph (2) since service is covered in § 491a.5. Since the process for temporary emergency orders was amended, paragraph (3) was added in the final-form rulemaking.

Section 405a.6 (relating to enforcement action) was amended allowing a person 30 days instead of 20 days to file an answer to an enforcement action. A response to an enforcement action is considered an answer. Answers to petitions are covered in § 493a.5(c) (relating to answers to complaints, petitions, motions and other filings requiring a response) and may include a notice of defense. The reference to notice of defense was deleted in subsection (c). In subsection (c)(1), the Office of Hearings and Appeals was added as both the Board and the Office of Hearings and Appeals may conduct an administrative hearing.

In subsections (d) and (e), if a person fails to file an answer, the allegations in the enforcement action are deemed admitted. The Office of Enforcement Counsel then files a Notice of Default Judgment with the Board's Clerk which is served on the person in accordance with Board's procedures on service in § 491a.5.

Section 407a.1 (relating to case files) was amended to reflect that the Clerk maintains a single file for formal records which contains both confidential and nonconfidential information within that file. Nonconfidential information will still be available for inspection during normal business hours in accordance with subsection (b)(1).

The provisions regarding written requests for records, which were addressed in subsection (b)(2) and (3), were deleted as inconsistent with the current interpretation of the Right-to-Know Law (65 P.S. §§ 67.101—67.3104). Under a recent Commonwealth Court decision, a request for information is a Right-to-Know Law request even if the request did not mention the Right-to-Know Law, it was not addressed to a Right-to-Know officer or submitted on an agency designated form. See *Pennsylvania Gaming Control Bd. v. Office of Open Records*, 48 A.3d 503 (Pa.Cmwlt, 2012). To avoid a situation in which the Board is subject to Right-to-Know Law remedies, including the possible ordered disclosure of confidential information, for failing to respond within 5 business days to a request the Board did not believe was a Right-to-Know Law request in the first instance, the Board has to now handle a request in accordance with the Right-to-Know Law. The procedure in subsection (d) was deleted because once a request for information is filed, the Right-to-Know Law dictates the procedure for completing the request and the appeal rights if the request is denied as not a public record based on confidentiality.

The procedure for the marking of documents as confidential is addressed in § 493a.10a (relating to motions to protect confidential information) and was deleted from subsection (c).

Chapter 461a (relating to slot machine and table game device testing and control) was amended to add information on server supported slot systems, which is a gaming technology new to this Commonwealth. In summary, a server supported slot machine is connected to a computer which can download different games or features directly

to the slot machine. The definitions applicable to server supported slot systems were added in § 461a.1 (relating to definitions) and were deleted from § 461a.20(a) (relating to server supported slot systems). The provisions in § 461a.20(b)—(e) were deleted and replaced. The new provisions in § 461a.20(a)—(p) address the requirements for server supported slot systems, administrator access to that system and the requirements for downloading new games or features from the server to the slot machine.

In § 461a.20(d), the requirements for administrator access were amended to allow two different departments to have access instead of two individuals who may not always be onsite.

The cross reference to the procedure for notifying technical field representatives prior to installing software was added in § 461a.20(e). Lastly, not all systems are configured to allow individuals to input their Board issued credential numbers when logging into the system. Section 461a.20(1)(2) was expanded to allow for inputting an employee specific username instead of the board issued credential number.

Section 471a.1(a) (relating to fees generally) was updated to reflect that the Board previously eliminated fees for the filing of pleadings.

The general rules of practice in Chapter 491a (relating to general rules of practice) have been amended for clarity and to more accurately reflect Board practice. The Board address was updated in § 491a.3(b) (relating to Office of the Clerk) to reflect that the Office of Hearings and Appeals has relocated.

In § 491a.7(f) (relating to presiding officers), a procedure for appealing a ruling of a presiding officer, while a matter is still pending before the presiding officer (interlocutory appeals), has been deleted. The Board does not believe that interlocutory appeals are necessary as an individual who objects to a ruling of a presiding officer can file an exception to a report or report and recommendation of the presiding officer in accordance with § 494a.7 (relating to exceptions), which will be considered by the Board. If the Board believes that the ruling of the hearing officer was incorrect, the Board can address the matter directly or may refer it back to hearings and appeals.

Section 491a.8(d) (relating to hearings generally) was amended to reiterate the prohibition on engaging in ex parte communications and is consistent with 4 Pa.C.S. Part II (relating to gaming) and amendments made in the Board's rulemaking 125-141 published at 41 Pa.B. 5368 (October 8, 2011). An additional amendment was made in the final-form rulemaking to eliminate the notice and an opportunity to participate. If notice and an opportunity to participate are given, by definition, the communication is not an ex parte communication.

Throughout Chapter 493a (relating to pleadings), language was added requiring a petitioner to include the Board issued credential number, if applicable, of the person that is the subject of the filing. In § 493a.2 (relating to complaints), language was added specifying that the Office of Enforcement Counsel alone, acting as the prosecutor in noncriminal enforcement actions initiated by the Bureau of Investigations and Enforcement, has standing to file formal complaints. Section 493a.4(a) (relating to petitions generally) was amended to reflect that the Office of Enforcement Counsel, acting as counsel to Bureau of Investigations and Enforcement, files petitions.

Language was added in § 493a.8 (relating to motions generally) which provides guidelines regarding when and how motions for procedural relief are to be made after the initiation of a proceeding. Interlocutory appeals were eliminated as described in § 491a.7.

Section 493a.10(c) was amended to reflect that affidavits and admissions were removed from the provisions regarding discovery in § 493a.11(c) (relating to discovery).

In § 493a.10a, petitioners that submit a filing that contains confidential information will be required to submit a motion to protect the confidential information, which contains the specific legal grounds to justify why the information should be deemed confidential, as well as a redacted version of the filing which will be available for immediate public release. This will ensure that confidential information is not inadvertently disclosed and will provide transparency in all filings with the agency.

The provisions on discovery in § 493a.11 were amended to clarify, streamline and more accurately define expectations regarding discovery consistent with administrative practices throughout the Commonwealth.

Section 494a.3 was rescinded as documentary hearings are covered under hearings generally. In § 494a.7, the process was amended. Exceptions (or objections) to a hearing officer's report or report and recommendation that are filed by a party will not be addressed again by the hearing officer. Instead, the record, including the report or report and recommendation and exceptions, will be forwarded to the Board for its consideration.

Section 494a.10 was also rescinded. Board staff verify that Board orders are carried out. A licensee, permittee, registrant or certificate holder that does not comply with a Board order will be subject to an enforcement action filed by the Office of Enforcement Counsel. The Board, acting on an enforcement action, may then revoke, suspend or levy fines against any licensee, permittee, registrant or certificate holder.

To conserve resources, § 495a.6(b) (relating to number of copies) was added to allow for the electronic filing of pleadings and documents. If filed electronically, a paper submission is not required.

Section 501a.4 (relating to reports) previously required a slot machine licensee to submit a summary of its compulsive and problem gambling program with the licensee's annual renewal application. When 4 Pa.C.S. Part II was amended, the renewal period was changed to once every 3 years. The amended language requires the slot machine licensee to submit a summary of its compulsive and problem gambling program by the last business day of July. Subsection (b) was added detailing the information that must be contained in the annual summary.

Chapter 511a (relating to persons required to be excluded) was amended for consistency with amendments made to 4 Pa.C.S. Part II by the act of January 7, 2010 (P.L. 1, No. 1). In § 511a.3 (relating to criteria for exclusion or ejection), a provision was added allowing persons to be added to the exclusion list if the person poses a threat to the safety of people who are on the property of the licensed facility, such as persons in the licensee's parking lot.

Language was added to § 511a.4 allowing the Office of Enforcement to file a request for a temporary emergency order to temporarily place someone on the exclusion list until the Board act upon an underlying petition for exclusion. As discussed regarding § 403a.7(b), this provi-

sion was added because while awaiting Board action on an underlying petition for exclusion, individuals have been found cheating at other facilities. This provision will not be utilized except in instances when there is insufficient time to provide notice and a hearing prior to exclusion, emergency exclusion is necessary to preserve the public health, welfare or safety, or the integrity of gaming in this Commonwealth and the individual meets the criteria in § 511a.3.

In § 511a.5 (relating to placement on the exclusion list), the instances in which a person could be placed on the exclusion list were clarified. A person can be placed on the list upon entry of an order by the Board, receipt of an order from a court or temporarily upon the issuance of a temporary emergency order.

Section 511a.6(a) (relating to demand for hearing on the placement of a person on the exclusion list) was updated to reflect that the Office of Enforcement Counsel files a petition to be placed on the exclusion list, which is served on the individual. Proposed subsections (c) and (e) were deleted as individuals are not immediately placed on the exclusion list unless the procedure for the issuance of a temporary emergency order is followed. Service of a request and issued temporary emergency order is addressed in § 403a.7(g).

Specificity was added in § 511a.7 (relating to Board review) providing that after a hearing or if a hearing is not requested and the facts alleged in the complaint are deemed admitted, the Board may: issue an order approving a petition for exclusion and place the person's name on the excluded list; remove the person's name from the list; deny placement if emergency placement was not issued; or refer the matter back to the Office of Hearings and Appeals to develop the evidentiary record.

Comment and Response Summary

Notice of proposed rulemaking was published at 41 Pa.B 5373 (October 8, 2011). The Board did not receive comments during the public comment period. On December 11, 2011, the Board received comments from the Independent Regulatory Review Commission (IRRC).

Proposed § 403a.7(h) stated that the location for an informal hearing would be determined by the Executive Director or a designee. IRRC asked how the notice of the location would be conveyed. In the final-form rulemaking, this subsection was amended to add a cross reference to § 491a.8 which addresses hearings and notice thereof.

Section 403a.7(l) was deleted. In the preamble to the proposed rulemaking, the Board explained that subsection (l) was deleted because it was duplicative of the hearing procedures in Chapter 494a. IRRC requested that the Board explain how the role of the Office of Enforcement Counsel is adequately addressed in Chapter 494a.

Under 4 Pa.C.S. § 1517 (relating to investigations and enforcement), the Office of Enforcement Counsel acts as the prosecutor in noncriminal enforcement actions. As the prosecutor, the Office of Enforcement Counsel: initiates, in its sole discretion, proceedings for violations of 4 Pa.C.S. Part II; files recommendations and objections relating to the issuance of licenses, permits and registrations; and may petition the Board for the appointment of a trustee. Because the duties of the Office of Enforcement Counsel are specified by statute, the Board does not believe it is necessary to reiterate those requirements in the regulations.

Section 403a.7(o) was deleted. IRRC asked that the Board explain why the provision regarding the appeal

rights was deleted. This provision was deleted as unnecessary because appeal rights are governed by the Pennsylvania Rules of Appellate Procedure which dictate that an appeal may be taken as of right from any final order of an administrative agency. See Rule of Appellate Procedure 341 (relating to final orders; generally). Additionally, since the Board does not issue resolutions related to this section, the provision was inapplicable.

The proposed rulemaking contained a provision in § 437a.2 (relating to gaming service provider registration applications) regarding reimbursing the Board for costs incurred in the investigation of a gaming service provider. The section is not included in the final-form rulemaking and will be addressed in a comprehensive amendment package on Subpart B (relating to licensing, permitting, certification and registration).

In § 461a.1, the Board reviewed and amended the definitions associated with server supported slot systems.

In several subsections in § 461a.20, IRRC recommended that the Board add a cross reference to the approval process associated with server supported slot systems and associated software. When a regulation references an obligation of the licensee, the Board added a cross reference to testing and software installation in § 461a.26 (relating to testing and software installation on the live gaming floor).

In subsection (a), IRRC commented that the requirement in the proposed rulemaking that server supported slot systems must comply with the general requirements of the chapter was too vague. The Board added specificity regarding which specific sections are applicable.

In subsection (b)(2), IRRC commented that requiring server supported slot systems to verify authenticity as directed by the Board was not clear and could supersede the requirement listed. This language was intended to supersede the 24-hour verification requirement in instances when the authenticity of a copy of the component program is at issue. The Board, however, believes there are other mechanisms in place to verify copies of component programs and deleted the language from subsection (b)(2).

In § 491a.2 (relating to definitions), the definition of "consent agreement" was amended to remove unnecessary language.

In §§ 493a.9(f) and 494a.4(e) (relating to preliminary motions; and report or report and recommendation of the presiding officer) and § 493a.10(e), the Board amended the language stating that the regulations supersede instead of supplement provisions of 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure). IRRC inquired why the Board was making these amendments. The Board's regulations should have superseded provisions in 1 Pa. Code Part II from the time the regulations were initially drafted. If the Board regulations merely supplemented 1 Pa. Code Part II, in some areas the regulations would conflict with 1 Pa. Code Part II and lead to confusion. For instance, a provision in 1 Pa. Code Part II requires that answers or objections to motions be filed within 10 days while the Board requirement is 30 days. Additionally, Board regulations address specific types of motions and the process to address those motions while sections in 1 Pa. Code Part II address motions generally. It is unclear what part of 1 Pa. Code Part II the regulations are meant to supplement. The Board believed it necessary to amend the provision stating that the regulations will supersede the provisions of 1 Pa. Code Part II listed.

Regarding § 494a.7, IRRC inquired about the timing of a response to an exception filed by an opposing party. In the final-form rulemaking, the Board amended the section on exceptions. New subsection (d) requires responses to exceptions be filed within 15 days of the date of service of the exceptions. Upon the expiration of 15 days, the Office of Hearings and Appeals will refer the record, including exceptions and responses thereto, to the Board. The Board, not the hearing officer who completed the report or report and recommendation, will consider the matters addressed in exceptions and responses.

Section 495a.2(a) (relating to form of documents) was amended stating that the Board may establish paper, printing and binding requirements for pleadings. IRRC was concerned that the Board would amend the requirements without notice to the regulated community. The Board does not currently have paper, printing or binding requirements for submissions. The Board does not feel the need, based on the Board's experience to date, to be prescriptive by requiring individuals to comply with 1 Pa. Code § 33.2 (relating to form). During the licensing process in particular, applicants submit proposed floor plans, design schematics and application materials in all types of formats. The Board prefers that parties have the flexibility to submit information in formats other than those stated in 1 Pa. Code § 33.2. If the Board determines it is necessary in the future to be prescriptive and establish paper, printing and binding requirements, the requirements will be printed in the *Pennsylvania Bulletin* and posted on the Board's web site.

The Board added a provision in § 495a.6(b) stating that pleadings filed electronically will be considered originals. IRRC commented that more specificity was needed regarding the type of electronic filings that would be accepted. The e-mail address of the Board Clerk was added to this subsection and § 497a.1(a)(4) (relating to date of filing).

IRRC commented that the requirement in § 501a.4(b)(4)(v) to include additional information as requested by the Director of the Office of Compulsive and Problem Gambling was too vague. The Board removed this provision from the final-form rulemaking.

In § 511a.3(a)(4)(iv), the proposed rulemaking added language stating that a person could be placed on the exclusion list if the person posed a threat to persons in close proximity to the licensed facility. IRRC commented that the added language was too vague. This provision was therefore amended in the final-form rulemaking to include on the exclusion list those persons who pose a threat to persons on the property of the licensee, which would include a licensee's parking lot.

Affected Parties

This final-form rulemaking will affect licensees, permittees, registrants and certificate holders as well as individuals who may be placed on the Board's exclusion list.

Fiscal Impact

Commonwealth. This final-form rulemaking will streamline Board practice and procedure but should not have a fiscal impact on the Board or other Commonwealth agencies.

Political subdivisions. This final-form rulemaking will not have direct fiscal impact on political subdivisions of this Commonwealth.

Private sector. Because this final-form rulemaking deals primarily with internal Board practice and procedure, it is not anticipated that this final-form rulemaking will have a fiscal impact on the private sector. However, those that submit information with the Clerk may now do so electronically, which should provide minor cost savings.

General public. This final-form rulemaking will not have fiscal impact on the general public except those individuals who may be placed on the Board’s exclusion list.

Paperwork Requirements

This final-form rulemaking will eliminate the need for paper submissions of filings with the Board. Filings submitted electronically will be deemed originals. This final-form rulemaking also requires petitioners that submit information of a confidential nature to provide redacted versions of submissions.

Effective Date

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 15, 2011, the Board submitted a copy of the notice of proposed rulemaking, published at 41 Pa.B. 5373, to IRRC and the Chairpersons of the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on November 30, 2012, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on December 13, 2012, and approved the final-form rulemaking.

Findings

The Board finds that:

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

(2) The final-form rulemaking is necessary and appropriate for the administration and enforcement of 4 Pa.C.S. Part II.

Order

The Board, acting under 4 Pa.C.S. Part II, orders that:

(a) The regulations of the Board, 58 Pa. Code Chapters 401a, 403a, 405a, 407a, 461a, 471a, 491a, 493a, 494a, 495a, 497a, 499a, 501a and 511a, are amended by deleting §§ 494a.3 and 494a.10 and amending §§ 401a.3, 403a.7, 405a.6, 407a.1, 461a.1, 461a.20, 471a.1, 491a.1—491a.5, 491a.7, 491a.8, 493a.1, 493a.2, 493a.4, 493a.5, 493a.7—493a.10, 493a.10a, 493a.11, 493a.12, 494a.1, 494a.4, 494a.6—494a.9, 495a.1, 495a.2, 495a.6, 497a.1,

499a.1, 499a.2, 501a.4 and 511a.1—511a.9 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(Editor’s Note: Sections 491a.3, 497a.1, 511a.4 and 511a.8 were not included in the proposed rulemaking published at 41 Pa.B. 5373. Amendments to §§ 437a.2 and 437a.3 included in the proposed rulemaking have been withdrawn by the Board. The proposed rescission of § 511a.7 has been withdrawn by the Board and this section is amended in this final-form rulemaking.)

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

(c) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

WILLIAM H. RYAN, Jr.,
Chairperson

(Editor’s Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 42 Pa.B. 7877 (December 29, 2012).)

Fiscal Note: Fiscal Note 125-156 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart A. GENERAL PROVISIONS

CHAPTER 401a. PRELIMINARY PROVISIONS

§ 401a.3. Definitions.

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

* * * * *

Board—The Pennsylvania Gaming Control Board.

Board web site—www.gamingcontrolboard.pa.gov.

Central control computer—A central site computer controlled by the Department and accessible by the Board to which all slot machines communicate for the purpose of auditing capacity, real-time information retrieval of the details of a financial event that occurs in the operation of a slot machine, including, coin in, coin out, ticket in, ticket out, jackpots, machine door openings and power failure, and remote machine activation and disabling of slot machines.

* * * * *

Nongaming employee—An employee of a slot machine licensee or a certified or registered gaming service provider who is not included within the definition of “principal,” “key employee” or “gaming employee,” and:

(i) Whose job duties require the employee to be:

(A) On the gaming floor but do not require the employee to touch or have contact with slot machines or associated equipment other than exterior cleaning.

(B) In a restricted area and the employee:

(I) Is under the constant supervision of an employee of the slot machine licensee who is licensed or permitted and has appropriate access clearance to be in the restricted area.

(II) Is not required to touch or have contact with slot machines or associated equipment other than exterior cleaning.

(ii) Who the Board determines, after a review of the work being performed, requires registration for the protection of the integrity of gaming.

* * * * *

CHAPTER 403a. BOARD OPERATIONS AND ORGANIZATION

§ 403a.7. Temporary emergency orders.

(a) Upon request of the Office of Enforcement Counsel in accordance with subsection (d), a temporary emergency order may be issued by the Executive Director of the Board or the Executive Director's designee. A temporary emergency order may be issued without a hearing and without advanced notice in accordance with this section.

(b) A temporary emergency order may be issued to do one of the following:

(1) Suspend a license, certification, permit or registration.

(2) Temporarily exclude a person from a licensed facility pending Board action on an underlying petition for exclusion.

(3) Direct that a person cease and desist engaging in specific conduct.

(c) A temporary emergency order may be issued if there is insufficient time to provide notice and hearing prior to suspension or exclusion; emergency suspension or exclusion is necessary to preserve the public health, welfare or safety, or the integrity of gaming in this Commonwealth; and the Executive Director has determined that one of the following has occurred:

(1) A person holding a license, certification, permit or registration issued by the Board has been charged with or convicted of a felony, a criminal gaming offense, or crime of dishonesty or false statement or other offense that would make the person ineligible or unsuitable to hold a license, permit, certification or registration.

(2) A person meets one or more of the criteria for exclusion or ejection under § 511a.3 (relating to criteria for exclusion or ejection).

(3) The action is necessary to prevent or cure a violation of any provision of the act, this part or other Federal or State laws or regulations.

(d) If the Office of Enforcement Counsel determines that circumstances exist which require that immediate action be taken against a person's license, certification, permit or registration, or to place a person on the exclusion list, the Office of Enforcement Counsel may submit a request for a temporary emergency order. The request will include:

(1) The circumstances upon which the request for a temporary emergency order was made.

(2) The legal grounds upon which the temporary emergency order is being requested.

(3) The specific relief sought.

(e) By the close of the next business day following its issuance, a temporary emergency order, together with the request required under subsection (d), will be filed with the Clerk.

(f) A temporary emergency order will specify that the person subject to the temporary emergency order may request an informal hearing before the Executive Director or a designee which will occur within 3 business days of filing the request for a hearing with the Clerk.

(g) The Bureau will serve the request and the issued order upon the person named in the temporary emergency order. Service required by this subsection will be made as expeditiously as possible following the issuance of the order and the request. Service will be made in the manner prescribed by § 491a.5 (relating to service).

(h) If a person files a request for an informal hearing, the hearing will be held before the Executive Director or a designee within 3 business days at a location determined in accordance with § 491a.8(e) (relating to hearings generally).

(i) At the conclusion of the informal hearing, the Executive Director or a designee will render a decision within 3 business days as to whether the temporary emergency order will continue, be modified or dissolved. Service of the decision will be made in accordance with § 491a.5.

(j) Unless the Executive Director or a designee dissolves the temporary emergency order, the Executive Director, in consultation with the Office of Chief Counsel, will refer the matter for a formal hearing before either:

(1) The Board to determine the validity of the suspension in accordance with subsection (m).

(2) The Office of Hearings and Appeals which will thereafter prepare a report and recommendation for the Board's consideration in accordance with subsection (p).

(k) If the person named in the temporary emergency order does not file a request for an informal hearing within 10 business days of the issuance of the temporary emergency order, the matter will be referred in accordance with subsection (j).

(l) Until the temporary emergency order is presented to the Board for consideration or the Office of Hearings and Appeals has issued its report and recommendation, the Executive Director or a designee may dissolve or modify a temporary emergency order previously issued.

(m) If the hearing is conducted by the Board, the Board may take one of the following actions upon conclusion of oral arguments and evidentiary presentations:

(1) If the Board finds that the facts and circumstances presented are sufficient to support the issuance of the emergency order, and that dissolution of the emergency order would pose a threat to the public health, safety or welfare, or the public's interest in the effective regulation of gaming demands the action, it may issue an order ratifying or modifying the order of suspension. The Board order may thereafter be appealed under § 494a.11 (relating to appeals).

(2) If the Board finds that there is insufficient cause to continue the emergency order, it may issue an order dissolving the emergency order and the privileges of the person named in the order will be reinstated.

(3) If the Board finds that further hearing is necessary, it may schedule a hearing or refer the matter to the Office of Hearings and Appeals for additional presentation of evidence and testimony of witnesses. In either case, the order of suspension will remain in effect, with or without modification as the Board deems appropriate.

(n) Board orders ratifying or dissolving temporary emergency orders will not have effect upon the power and duty of the Office of Enforcement Counsel to initiate, in its sole discretion, proceedings for violations of the act or this part or upon the outcome of any proceeding so initiated.

(o) Copies of the Board's final order will be served on the person named in the order in accordance with § 491a.5.

(p) If at any point the Board or Executive Director refers the matter to the Office of Hearings and Appeals, the formal hearing will be subject to the following requirements:

(1) The hearing before a presiding officer will occur no more than 15 business days after the Board or Executive Director refers the matter to the Office of Hearings and Appeals, unless a delay is requested by the person named in the temporary emergency order.

(2) Within 10 business days following the conclusion of the hearing, the presiding officer will forward a report and recommendation for action on the temporary emergency order to the Board. A copy of the report and recommendation will be served on the person named in the temporary emergency order in accordance with § 491a.5.

(3) Upon receipt of a report and recommendation from the Office of Hearings and Appeals, the matter will be placed on an upcoming Board meeting agenda for final consideration.

CHAPTER 405a. BUREAU OF INVESTIGATIONS AND ENFORCEMENT

§ 405a.6. Enforcement action.

(a) Upon a determination by the Office of Enforcement Counsel that sufficient facts exist to support enforcement action against a person holding a license, permit, certification or registration issued by the Board, the Office of Enforcement Counsel will initiate a complaint in accordance with § 493a.2 (relating to complaints), including a proposed order for an enforcement action and serve the complaint in accordance with § 491a.5 (relating to service).

(b) The complaint for an enforcement action will include a statement of the facts, the statute, regulation or statement of conditions that the person is being charged with violating and the remedy sought. The proposed order will be accompanied by a certificate of service demonstrating the date of service.

(c) Within 30 days from the date of service of complaint for an enforcement action, the person may file an answer in accordance with § 493a.5 (relating to answers to complaints, petitions, motions and other filings requiring a response) and serve a copy of the answer to the Office of Enforcement Counsel. Failure to file an answer within 30 days will be deemed:

(1) A waiver by the person of any right to an administrative hearing before the Board or the Office of Hearings and Appeals.

(2) An admission by the person of all matters and facts alleged in the proposed order for enforcement action.

(3) Consent by the person to the entry of a final order by the Board disposing of the enforcement matter.

(d) Upon the person's failure to file an answer within the prescribed 30 days, the Office of Enforcement Counsel will file with the Clerk a Request for Default Judgment and present the proposed enforcement order to the Board. The Board may, by order, adopt the proposed enforcement order.

(e) The Clerk will serve a copy of the Board's final order upon the person in accordance with § 491a.5.

CHAPTER 407a. PUBLIC ACCESS TO BOARD FILES

§ 407a.1. Case files.

(a) The Clerk will maintain a file for all formal records.

(b) Access to formal records will be governed by the following:

(1) Nonconfidential information in formal records will be available for inspection during normal Board business hours.

(2) A request for access to information will be addressed in accordance with the Right-to-Know Law (65 P. S. §§ 67.101—67.3104).

(c) The Board or its designee may issue protective orders sua sponte or by request of a party or may establish standards governing the protection of proprietary or confidential information for a given proceeding. All parties to a proceeding shall mark documents in accordance with the directives of the Board or its designee and in accordance with § 493a.10a (relating to motions to protect confidential information).

Subpart E. SLOT MACHINES AND ASSOCIATED EQUIPMENT

CHAPTER 461a. SLOT MACHINE AND TABLE GAME DEVICE TESTING AND CONTROL

§ 461a.1. Definitions.

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

* * * * *

Reset amount—The award value that a progressive award will revert to after the progressive award is paid out.

Server supported slot system—One or more slot machines connected to a slot machine server and an associated computer network.

Skill—The application of intelligence and specific knowledge to achieve the best result when a slot machine offers a choice of options during game play.

Slot machine bill validator—A component, made up of software and hardware that accepts and reads instruments such as bills, vouchers and coupons, into gaming devices such as slot machines and automated gaming voucher and coupon redemption machines.

Slot machine server—A computer configured to receive, store, authenticate and download to slot machines, Board-approved slot machine game themes and other approved software.

Slot monitoring system—The collective hardware, software, communications technology and other ancillary equipment used to collect, monitor, interpret, analyze, authorize, report and audit data with regard to activity at slot machines, inclusive of slot machine meter readings, error conditions, slot machine security, accounting, player tracking and productivity analysis.

* * * * *

§ 461a.20. Server supported slot systems.

(a) A slot machine licensee may utilize a server supported slot system that complies with the minimum design standards and the submission, testing and approval requirements of §§ 461a.2—461a.7 and 461a.26.

- (b) A server supported slot system must:
 - (1) Be capable of verifying that all component programs on the slot machine server are authentic copies of Bureau of Gaming Laboratory Operations approved component programs.
 - (2) Automatically verify the authenticity of the copies every 24 hours. A program used to verify the authenticity must reside on the slot machine server and be securely loaded from nonalterable media.
 - (3) Provide a visual notification identifying the invalid program if an error is detected.
 - (c) The slot machine licensee shall generate, and make available to Board staff, a report detailing the outcome of each automated verification including notifications identifying any invalid programs.
 - (d) Administrator access to server supported slot systems require the presence and participation of at least two departments. Dual access may be achieved using split passwords, dual keys or other suitable method. The slot machine licensee shall specify in its internal controls under § 465a.2 (relating to internal control systems and audit protocols) the two departments that have administrator access to the system and the method by which access will be achieved.
 - (e) A technical field representative shall be notified of the installation and loading of software on an approved slot machine server in accordance with § 461a.26 (relating to testing and software installation on the live gaming floor).
 - (f) Downloads of slot machine programs or computer files on a server supported slot system and activations, deactivations or changes thereto shall be controlled and implemented using scheduling software approved by the Bureau of Gaming Laboratory Operations. Except as otherwise authorized by the Board, written notice of downloads, schedules and changes shall be provided to the Bureau of Gaming Laboratory Operations, the Bureau of Casino Compliance Representatives and the Department at least 72 hours prior to implementation in accordance with § 461a.26.
 - (g) Access to slot machine programs or computer files on a server supported slot system may be provided at terminals in secure, restricted locations within the licensed facility as approved by the Bureau of Gaming Laboratory Operations. The slot machine licensee shall provide read-only access to the Bureau of Gaming Laboratory Operations and the Bureau of Casino Compliance.
 - (h) Prior to implementing a change to a feature or reconfiguring the server supported slot machine, the slot machine must be in idle mode for at least 2 minutes without errors or tilt conditions and with no play or credits on the machine.
 - (i) During the implementation of a change to a feature or the reconfiguration of the server supported slot machine, the slot machine must be disabled and rendered unplayable for at least 1 minute. During that time, a conspicuous message stating that a game configuration is being changed must be continuously displayed either on the slot machine's video screen or in another manner as approved by the Bureau of Gaming Laboratory Operations.
 - (j) A slot machine server shall, at a minimum, comply with § 461a.19 (relating to remote system access) and the technical standards of § 461b.5 (relating to remote computer access).

- (k) A slot machine server:
 - (1) Shall be maintained in the slot machine server room in a locked computer rack or other secure area approved by the Bureau of Gaming Laboratory Operations.
 - (2) Must be dual key controlled with one key controlled by the slot operations department and the other key controlled by the information technology department.
 - (3) May not be accessed unless an employee from the slot operations department, the information technology department and a Board representative are present.
 - (l) All changes made to the slot machine server shall be stored in an unalterable log which must include, at a minimum:
 - (1) Time and date of access.
 - (2) Name and Board issued credential number or other secure username identifier of the person logging in.
 - (3) Identification numbers of the games added, deleted or changed.
 - (4) The history of changes to programs on each player terminal.
 - (5) Changes to the configuration of player terminal settings.
 - (m) Prior to adding or removing software from a server supported slot machine, changing any configuration or activating or deactivating a slot machine game on a server supported slot machine, a complete set of meter information for the slot machine shall be accurately communicated to a slot machine server, a slot monitoring system or other Board approved slot accounting system.
 - (n) Communication between the server, slot machine and any interface elements must utilize a protocol that includes proper error detection and recovery mechanisms designed to prevent unauthorized access or tampering, employing Data Encryption Standards or equivalent encryption with secure seeds or algorithms as approved by the Bureau of Gaming Laboratory Operations.
 - (o) With prior Board approval, a slot machine server may be connected to:
 - (1) Other slot operating systems of the licensee, including a slot monitoring system, accounting system or gaming voucher system, located in a secure location within the licensed facility where the slot machine server is located.
 - (2) A computer or other equipment operated by the Board or the Department to monitor and approve activity.
 - (p) Any approved connection utilized under subsection (o) must include, at a minimum:
 - (1) A secure, hard-wired, dedicated, exclusive network.
 - (2) A hardware firewall located between the slot machine server and the slot operating systems utilized by the licensee.

Subpart F. FEES

CHAPTER 471a. FILING FEES

§ 471a.1. Fees generally.

- (a) A document for which a fee is required will be received, but will not be deemed filed, until the filing fee, bond, letter of credit or other cost has been paid.
- (b) The fees collected by the Board will be deposited into the State Gaming Fund as established in section

1403 of the act (relating to establishment of State Gaming Fund and net slot machine revenue distribution).

(c) Fees shall be paid by money order or check made payable to the "Commonwealth of Pennsylvania." Cash will not be accepted by the Board.

(d) To recover the initial cost of the investigation and processing of applications, each application for a license, permit, certification or registration must be accompanied by a nonrefundable fee.

(e) An applicant may be subject to additional fees based on the actual expenses incurred by the Board in conducting the background investigation.

Subpart H. PRACTICE AND PROCEDURE

CHAPTER 491a. GENERAL RULES OF PRACTICE

§ 491a.1. Generally.

This subpart governs practice and procedure before the Board and the OHA, and is intended to supplement 2 Pa.C.S. (relating to administrative law and procedure) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

§ 491a.2. Definitions.

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

* * * * *

Consent agreement—A voluntary agreement or proposal to act based on specific terms which are entered into by all parties to a proceeding to resolve a disputed matter.

* * * * *

Exception—A formal objection to a report or recommendation of a presiding officer.

Intervener—A person who petitioned to intervene in a proceeding and who was admitted by the Board as a participant to the proceeding.

* * * * *

Respondent—A person to whom an order or notice is issued by the Board or the Bureau instituting a proceeding or investigation.

* * * * *

§ 491a.3. Office of the Clerk.

(a) The Board's Office of the Clerk (Clerk) will have the following duties:

(1) Provide information as to practice and procedure before the Board, under this subpart.

(2) Receive and docket pleadings and other documents required by the Board to be filed with the Clerk.

(b) Filings and requests for practice and procedure information should be directed to the Clerk by any of the following means:

(1) *United States Postal Service:*

Office of the Clerk
Pennsylvania Gaming Control Board
P. O. Box 69060
Harrisburg, Pennsylvania 17106-9060

(2) *E-mail:* boardclerk@pa.gov

(3) *In person:*

Hearings and Appeals Office
303 Walnut Street
2nd Floor, Strawberry Square
Harrisburg, Pennsylvania 17101

(c) The Clerk will maintain a docket of proceedings. Each proceeding as initiated will be assigned a docket number. The docket will be available for inspection and copying by the public during the Board's office hours.

§ 491a.4. Filing generally.

(a) Pleadings and other documents filed with the Clerk must clearly designate the docket number, if one has been assigned, and a short title identifying the pleading or other document. The identity of the individual making the submission, including name, mailing address, status (for example, party or attorney for a party) and Board issued credential number, if applicable, must appear on the document.

(b) Pleadings, including documents filed under this chapter, must also comply with Chapter 495a (relating to documentary filings).

(c) If a pleading tendered for filing does not comply with this subpart, does not sufficiently set forth required material or is otherwise insufficient, the Clerk may decline to accept it for filing and may return it without filing, or the Clerk may accept it for filing and advise the person tendering it of the deficiency and require that the deficiency be corrected.

(d) The Clerk may require redundant, immaterial, obscene or otherwise inappropriate comments stricken from documents filed.

§ 491a.5. Service.

(a) *Applicability.* This section applies to service of an order, notice or other document from the OHA or the Office of Enforcement Counsel.

(b) *Service of a document initiating a proceeding.*

(1) *Registered or certified mail.* Service may be made by both first class and registered or certified mail, return receipt requested.

(2) *Personal.* Service may be made personally by delivering a copy:

(i) Directly to the person named in the notice, pleading or order.

(ii) At the residence of the person named in the notice, pleading or order, to an adult member of the family with whom the person named resides. If no adult member of the family is found, then to an adult person in charge of the residence.

(iii) At the residence of the person named in the notice, pleading or order, to the clerk or manager of the hotel, inn, apartment house, boarding house or other place of lodging at which the person named resides.

(iv) At any office or usual place of business of the person named in the notice, pleading or order, to his agent or to the person who for the time being is in charge thereof. For purposes of this subsection, the phrase "any office or usual place of business of the person named in the notice, pleading or order" will include the following locations:

(A) The licensed facility at which the person named is employed, licensed in connection therewith, or routinely performs his duties of employment.

(B) The office of the agent identified by the person named to receive service of process.

(c) *Proof of service.* Proof of service shall be evidenced by a return of service filed with the Clerk.

(d) *Subsequent service.* Service of any document made subsequent to the initial filing in a proceeding may be made by first class mail at the last known address of record of the person named in the notice, pleading or order.

(e) *Change of address.* It is the duty of a party to apprise the Clerk of changes to the party's current address.

(f) *Supersession.* Subsections (a)—(c) supersede 1 Pa. Code § 33.31 (relating to service by the agency).

§ 491a.7. Presiding officers.

* * * * *

(f) Rulings of presiding officers may not be appealed to the Board while the matter is pending before the presiding officer.

(g) This section supersedes 1 Pa. Code §§ 35.185—35.190 (relating to presiding officers).

§ 491a.8. Hearings generally.

(a) Unless the Board hears the matter directly, all matters, except for hearings under § 441a.7 (relating to licensing hearings for slot machine licenses), will be assigned to the OHA. The Board may designate a member of the Board or other qualified person to serve as presiding officer in a particular matter.

(b) Hearings will be public unless a party invokes protection afforded to the party under section 1206 of the act (relating to Board minutes and records) or § 407a.3(a) (relating to confidential information).

(c) Hearings may provide for:

- (1) Receipt of sworn testimony.
- (2) Receipt of all relevant oral or documentary evidence.
- (3) Opportunity for parties to be heard.
- (4) A complete evidentiary record.
- (5) Submission by the presiding officer of a report or report and recommendation to the Board.

(d) Unless required by this part or authorized by law, a party may not engage in an ex parte communication with the Board or presiding officer.

(e) Unless otherwise specified in the written notice, hearings will be conducted in Harrisburg, Pennsylvania, and may be conducted by video conference or by telephone as directed by the Board, Executive Director or presiding officer.

(f) Written notice of hearings will be provided to all parties, and served by the Clerk by first class mail.

(g) Motions shall be filed with the Clerk, served upon the parties and will be docketed and referred to the Board, Executive Director or presiding officer for disposition.

(h) Hearings will be scheduled by the OHA, except for hearings under § 441a.7 which will be scheduled as directed by the Board.

(i) A party may waive the right to a hearing before the Board, Executive Director or presiding officer by filing with the Clerk a Notice of Waiver of Hearing. The matter will then be forwarded to the appropriate bureau for

action or to the Board for disposition. This section supersedes 1 Pa. Code § 35.101 (relating to waiver of hearing).

(j) Hearing transcripts will be available for public inspection. If the Board receives a request for a transcript of a hearing for which a transcript has not been prepared, the Board will prepare a transcript and make it available for inspection within 30 days.

(k) This section supplements 1 Pa. Code Chapter 35, Subchapter B (relating to hearings and conferences).

CHAPTER 493a. PLEADINGS

§ 493a.1. Generally.

(a) Pleadings permitted are as follows:

- (1) Complaints.
- (2) Petitions.
- (3) Motions.
- (4) Answers to pleadings.
- (5) Exceptions.

(6) Appeals of staff decisions under 1 Pa. Code § 35.20 (relating to appeals from actions of the staff). Appeals under § 491a.7(f) (relating to presiding officers) are not included.

(7) Notices.

(b) Fees for copies and other administrative requests will be in accordance with a fee schedule published by the Board in the *Pennsylvania Bulletin*, available on the Board's web site and in the Office of the Clerk.

(c) Pleadings shall be filed with the Clerk and contain a docket number and Board issued credential number of the person subject to the pleading, if applicable. The Clerk will assign a docket number if one has not been assigned.

(d) This section supplements 1 Pa. Code §§ 35.1 and 35.2 and 35.9—35.11 (relating to applications; and formal complaints).

§ 493a.2. Complaints.

(a) A proceeding against a licensee, permittee, persons registered or certified by the Board or an employee of a licensee or persons registered or certified by the Board shall be initiated by written complaint filed by the complainant, which must include a statement, in ordinary and concise language, setting forth the matter complained of and the facts supporting the complaint.

(b) Complaints may be filed by the Office of Enforcement Counsel.

(c) Complaints will be served in accordance with § 491a.5 (relating to service).

(d) This section supplements 1 Pa. Code §§ 35.9—35.11 and 35.14 (relating to formal complaints; and orders to show cause).

§ 493a.4. Petitions generally.

(a) Petitions may be filed by the Office of Enforcement Counsel, parties, applicants, licensees, permittees, persons registered or certified by the Board, and other persons authorized by the Board.

(b) Petitions must be in writing, state clearly and concisely the grounds for the petition, the interest of the petitioner in the subject matter, the facts relied upon and the relief sought.

(c) Petitions must conform to § 491a.4 (relating to filing generally) and Chapters 495a and 497a (relating to documentary filings; and time), and be served on all persons directly affected.

(d) This section supplements 1 Pa. Code §§ 35.17 and 35.18 (relating to petitions generally; and petitions for issuance, amendment, waiver or deletion of regulations).

§ 493a.5. Answers to complaints, petitions, motions and other filings requiring a response.

(a) Answers to complaints, petitions, motions, appeals of staff decisions and other filings requiring a response shall be filed with the Clerk and served on all other parties within 30 days after the date of service of the complaint, petition, motion or other pleading, unless a different time is prescribed by the Board, presiding officer or elsewhere in the Board's regulations.

(b) Failure to file a timely answer to a complaint or petition will constitute an admission of all matters and facts contained in the filing and may result in the waiver of the right to a hearing.

(c) Answers may contain the following:

- (1) Admissions of the matter complained of and the alleged facts, in whole or in part.
- (2) New matter or explanation by way of defense.
- (3) Legal objections.
- (4) Affirmative defenses.
- (5) A request for a hearing.

(d) Answers shall be in writing and shall specifically and in detail admit or deny each allegation in the pleading.

(e) This section supersedes 1 Pa. Code §§ 35.35—35.40 (relating to answers).

§ 493a.7. Amendments and withdrawal of pleadings.

(a) Amendments and withdrawal of pleadings shall be in accordance with 1 Pa. Code §§ 35.48—35.51 (relating to amendment and withdrawal of pleadings).

(b) Answers to amended pleadings, if required, shall be filed within 30 days after the date of service of the amended pleadings. This section supersedes 1 Pa. Code § 35.40 (relating to answers to amendments of pleadings).

§ 493a.8. Motions generally.

(a) A motion may be made at any time after the initiation of a proceeding for procedural relief including a request for an extension of time, a continuance of a hearing or other scheduled proceeding, or a request for a prehearing conference.

(b) Motions may be made in writing or orally on the record. A presiding officer may require that a motion made orally also be made in writing.

(c) Answers or objections to written motions shall be made within 30 days after the date of service of the motion unless otherwise directed by the Board or presiding officer.

(d) Written motions and answers or objections to written motions shall be served upon all parties in accordance with § 491a.5 (relating to service).

(e) Motions to the Board seeking interlocutory determinations on rulings of a presiding officer are not permitted.

(f) The presiding officer may rule upon any motion filed prior to the submission of a report or report and recommendation to the Board. When a ruling on a motion would constitute a final determination of the proceedings, the ruling on the motion shall be made part of the report or report and recommendation to the Board.

(g) This section supersedes 1 Pa. Code §§ 35.177—35.180 (relating to motions).

§ 493a.9. Preliminary motions.

* * * * *

(f) This section supersedes 1 Pa. Code §§ 35.177—35.180 (relating to motions).

§ 493a.10. Motions for summary judgment and judgment on the pleadings.

(a) *Motion for judgment on the pleadings.* After the pleadings are closed, but within a time so that the hearing is not delayed, a party may move for judgment on the pleadings.

(b) *Motion for summary judgment.* After the pleadings are closed, but within a time so that the hearing is not delayed, a party may move for summary judgment based on the pleadings and depositions, answers to interrogatories, admissions and supporting affidavits.

(c) *Answers to motions.* An answer to a motion for summary judgment or a motion for judgment on the pleadings, including an opposing affidavit to a motion for summary judgment, may be filed with the Clerk and served on all other parties within 30 days of the date of service of the motion. An answer to a motion for summary judgment may be supplemented by pleadings, depositions and answers to interrogatories.

(d) *Decisions on motions.* If a motion is granted in whole or in part by a presiding officer, it will be in the form of a report or report and recommendation. The Board will make a final ruling on a motion for judgment on the pleadings or a motion for summary judgment.

(e) *Supersession.* This section supersedes 1 Pa. Code Chapter 35, Subchapter D (relating to motions).

§ 493a.10a. Motions to protect confidential information.

(a) A party or individual may designate information as confidential under § 407a.3 (relating to confidential information) in any papers filed with the Clerk by filing a Motion to Protect Confidential Information.

(b) A Motion to Protect Confidential Information must:

(1) Set forth the specific legal grounds to justify why the information should be deemed confidential and therefore protected.

(2) Include a redacted version of the entire filing which will be available for immediate release to the public.

(c) Upon the filing of the Motion to Protect Confidential Information, the Director of Hearings and Appeals will review the motion and accompanying filings and, upon determining that a substantial basis exists, shall issue an interim order to protect the information, whether in the motion or the accompanying filings, from disclosure until the Board considers the matter in accordance with 65 Pa.C.S. §§ 701—716 (relating to open meetings). At all times during the pendency of the motion, the information in the motion and the accompanying filings shall be treated as confidential except the redacted version filed in accordance with subsection (b)(2).

§ 493a.11. Discovery.

(a) The ability to obtain discovery in an administrative proceeding before the Board or presiding officer is committed to the discretion of the Board or presiding officer and will generally be limited to the information, documents and list of witnesses that any party will present during a hearing.

(b) The presiding officer may grant a request for discovery if the request will serve to facilitate an efficient and expeditious hearing process, will not unduly prejudice and burden the responding party and as may be required in the interests of justice.

(c) At the discretion of the presiding officer, discovery may be granted and limited to the following:

- (1) Written interrogatories.
- (2) Depositions.
- (3) Production of documents or things.

(d) Each party to a proceeding shall be entitled to the name and address of any witness who may be called to testify on behalf of the opposing party and all documents or other material in the possession or control of the opposing party which the opposing party reasonably expects will be introduced into evidence. The opposing party shall be under a continuing duty to update its response to this request.

(e) The presiding officer may, upon request of a party, permit the testimony of a witness or the introduction of other evidence not disclosed pursuant to a request made under subsection (d), if following a proffer by the party seeking to present the evidence, the presiding officer determines that justice so requires.

(f) Confidential information furnished to or obtained by the Board or the Bureau from any source will not be discoverable under this subsection. If a request for discovery involves confidential information, a party may file a motion for a protective order and the presiding officer will make a determination as to what is deemed confidential.

(g) If a party fails to respond to a discovery request, which was granted by the presiding officer, the opposing party may file a motion to compel discovery with the Clerk. The presiding officer may grant or deny the motion in accordance with § 493a.8(e) (relating to motions generally).

(h) Depositions will be conducted in accordance with 1 Pa. Code §§ 35.145—35.152 (relating to depositions).

§ 493a.12. Intervention.

* * * * *

(h) Notwithstanding the provisions of this section, petitions to intervene in licensing hearings for slot machine licenses shall be governed by § 441a.7(z) (relating to licensing hearings for slot machine licenses).

(i) This section supersedes 1 Pa. Code §§ 35.27—35.32 and 35.36 (relating to intervention; and answers to petitions to intervene).

CHAPTER 494a. HEARING PROCEDURE

§ 494a.1. Generally.

(a) A hearing calendar of all matters set for hearing will be maintained by the Clerk and will be in order of assignment as far as practicable. All matters will be conducted from Harrisburg, in person, by means of video conference or by telephone, unless a different site is designated by the Board, Executive Director or the pre-

siding officer. The Board, Executive Director or the presiding officer, in its discretion with or without motion, may at any time with due notice to the parties advance or postpone any proceeding on the hearing calendar.

(b) Hearings will be held before the Board or presiding officer, and all appearances, including staff counsel participating, will be entered upon the record, with a notation on whose behalf each appearance is made. A notation will be made in the record of the names of the members of the staff of the Board participating, including accountants, and other experts who are assisting in the investigation of the matter. This section supersedes 1 Pa. Code §§ 35.123 and 35.124 (relating to conduct of hearings; and appearances).

(c) In hearings, neither the Board nor the presiding officer will be bound by technical rules of evidence, and all relevant evidence of reasonably probative value may be received. Reasonable examination and cross-examination will be permitted at all oral hearings. If a party does not testify on his own behalf, the party may be called and examined as if under cross-examination.

(d) Subsection (a) supersedes 1 Pa. Code § 35.102 (relating to hearing calendar).

§ 494a.3. (Reserved).

§ 494a.4. Report or report and recommendation of the presiding officer.

(a) Following a hearing, a report or report and recommendation of the presiding officer may be required by the Board, except that recommendations will not be made in proceedings involving the issuance, approval, renewal, revocation, suspension or conditioning of a license.

(b) The presiding officer will, through the Clerk, certify to the Board a verbatim record of any oral hearing, all documents submitted for consideration, and a report or report and recommendation, when required, as soon as practicable after the conclusion of the hearing and expiration of the time for filing of briefs.

(c) The presiding officer's report or report and recommendation will include a statement of:

(1) Findings and conclusions, as well as the reasons or basis therefore, for all the material issues of fact, law or discretion presented on the record.

(2) The appropriate statutory provision, regulation, order, sanction, relief or denial thereof.

(3) Facts officially noticed under 1 Pa. Code § 35.173 (relating to official notice of facts), relied upon in the decision.

(d) The report or report and recommendation will be in writing, provided to all parties, and will be part of the public record, except for matters and materials designated as confidential. Service will be in accordance with § 491a.5(d) (relating to service).

(e) This section supersedes 1 Pa. Code §§ 35.201—35.206 (relating to proposed reports generally).

§ 494a.6. Reopening of record.

(a) After the conclusion of the hearing, a party in a proceeding may file with the Clerk, prior to the issuance of an order of the Board or a report or report and recommendation, a motion to reopen the record for the purpose of taking additional evidence. The motion must set forth clearly the facts claimed to constitute grounds requiring reopening of the record, including material changes of fact or law alleged to have occurred since the record was concluded.

(b) After the issuance of a report or report and recommendation by a presiding officer and before the Board issues its final order, a party in a proceeding may file with the Clerk, a motion to reopen the record for the purpose of taking additional evidence. The motion must set forth clearly the facts claimed to constitute grounds requiring reopening of the record, including material changes of fact or law alleged to have occurred since the issuance of a report or report and recommendation.

(c) Answers may be filed within 10 days of service of the motion. If no answers are filed, objections to the granting of the motion are waived.

(d) After the filing of the motion and answer, the Board or presiding officer will grant or deny the motion.

(e) Prior to filing a report or report and recommendation, the presiding officer, after notice to the parties, may reopen the record for the receipt of further evidence on his own motion, if the presiding officer has reason to believe that the facts or law have changed as to require, or that the public interest requires, the reopening of the record.

(f) Prior to the issuance of a final order, the Board, after notice to the parties, may reopen the record for the receipt of further evidence, if the Board has reason to believe that the facts or law have changed as to require, or that the public interest requires, the reopening of the record.

(g) This section supersedes 1 Pa. Code §§ 35.231—35.233 (relating to reopening of record).

§ 494a.7. Exceptions.

(a) A party may file exceptions to the report or report and recommendation of the presiding officer within 15 days of the date of the report or report and recommendation, unless the time is extended upon good cause shown.

(b) Exceptions must be in writing, filed with the Clerk, and state with particularity the matter objected to, including the portion of the record where the basis of the objection may be found, and any supporting legal argument.

(c) A response to exceptions shall be filed within 15 days of the date of service of the exceptions.

(d) The record, including exceptions and responses thereto, will be forwarded to the Board for its consideration.

(e) This section supersedes 1 Pa. Code §§ 35.211—35.214 (relating to exceptions to proposed reports).

§ 494a.8. Rehearing or reconsideration.

(a) A party to a proceeding may file an application for rehearing or reconsideration by filing a motion within 15 days after the final order of the Board.

(b) Filing a motion for rehearing or reconsideration does not toll or stay the 30-day appeal period.

(c) The motion must state concisely the alleged errors in the adjudication or other order of the Board. If a final order or other order of the Board is sought to be vacated, reversed or modified by reason of matters that have arisen since the hearing and decision or order, or by reason of a consequence that would result from compliance therewith, the matters relied upon by the petitioner must be set forth in the motion.

(d) Answers to motions for rehearing or reconsideration will not be entertained by the Board. If the Board grants the rehearing or reconsideration, an answer may be filed

by a participant within 15 days after the issuance of the order granting rehearing or reconsideration. The response will be confined to the issues upon which rehearing or reconsideration has been granted.

(e) If the Board does not act upon the motion for rehearing or reconsideration within 30 days after it is filed, the motion will be deemed to have been denied.

(f) This section does not apply to proceedings resulting in any final order, determination or decision of the Board involving the approval, issuance, denial or conditioning of licensed entity applications which are subject to the appellate requirements of 4 Pa.C.S. § 1204 (relating to licensed gaming entity application appeals from board).

(g) This section supersedes 1 Pa. Code § 35.241 (relating to application for rehearing or reconsideration).

§ 494a.9. Briefs and oral argument.

(a) All parties shall be afforded an opportunity to submit briefs prior to the issuance of a report or report and recommendation in accordance with a briefing schedule established by the OHA. Briefs shall be filed with the Clerk and served on the parties.

(b) Oral argument may be heard at the discretion of the Board or presiding officer.

§ 494a.10. (Reserved).

CHAPTER 495a. DOCUMENTARY FILINGS

§ 495a.1. Form of documentary filings generally.

(a) Pleadings or other documents must be divided into numbered paragraphs.

(b) Copies of contracts, agreements, permits or other writings referred to in pleadings or other documents may be attached as exhibits. Copies of writings or orders already of record with the Board in the proceeding need not be attached.

(c) Pleadings or other documents filed with the Clerk in a proceeding must clearly designate the docket number if one has been assigned, and a short title identifying the pleading or document. The identity of the individual making the submission, including name, mailing address, status (for example, party or attorney for a party) and Board issued credential number of the person subject to the pleading, if applicable, must appear on the document.

(d) Pleadings or other documents must include an address, fax number or e-mail address where papers may be served in connection with the proceedings.

(e) Notation of counsel's current Supreme Court identification number issued by the Court Administrator of Pennsylvania constitutes proof of the right to practice in this Commonwealth.

(f) Subsections (a)—(c) supersede 1 Pa. Code §§ 31.5 and 33.3 (relating to communications and filings generally; and incorporation by reference).

§ 495a.2. Form of documents.

(a) The Board may establish the paper, printing and binding requirements for pleadings filed with the Clerk. If the Board establishes paper, printing and binding requirements, the requirements will be printed in the *Pennsylvania Bulletin* and posted on the Board's web site.

(b) Subsection (a) supersedes 1 Pa. Code § 33.2 (relating to form).

§ 495a.6. Number of copies.

(a) An original copy of pleadings or documents other than correspondence shall be furnished to the Clerk at

the time of filing, except as may be otherwise ordered or requested by the Board or the presiding officer.

(b) Pleadings and documents filed electronically, in accordance with § 497a.1(a)(4) (relating to date of filing), will be considered the original for purposes of this section. If filed electronically with the Clerk at boardclerk@pa.gov, a paper submission is not required.

(c) Subsection (a) supersedes 1 Pa. Code § 33.15 (relating to number of copies).

CHAPTER 497a. TIME

§ 497a.1. Date of filing.

(a) Whenever a pleading or other document is required or permitted to be filed under this part or by statute, it will be deemed to be filed on one of the following dates:

(1) On the date actually received in the Office of the Clerk.

(2) On the date deposited with an overnight express package delivery service as shown on the express delivery receipt attached to or included within the envelope containing the document.

(3) On the date deposited in the United States mail as shown by the United States Postal Service stamp on the envelope or on a United States Postal Service Form 3817 certificate of mailing. A mailing envelope stamped by an in-house postage meter does not constitute proof of the date of mailing.

(4) On the date that the pleading or other document is received by electronic transmission, sent to boardclerk@pa.gov, in the Office of the Clerk.

(b) Failure to include a legible delivery receipt with the document may result in an untimely filing.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 31.11 (relating to timely filing required).

CHAPTER 499a. REPRESENTATION BEFORE THE BOARD

§ 499a.1. Appearance in person.

(a) An individual who is a party in a proceeding before the Board may represent himself before the Board.

(b) A party, other than an individual appearing on his own behalf, in an adversarial proceeding before the Board shall be represented by an attorney authorized to appear before the Board in accordance with § 499a.2 (relating to appearance by attorney).

(c) This section supersedes 1 Pa. Code § 31.21 (relating to appearance in person).

§ 499a.2. Appearance by attorney.

(a) A party in a proceeding before the Board who elects to be represented by an attorney in the proceeding, or who is required under § 499a.1 (relating to appearance in person) to be represented by an attorney in the proceeding, shall be represented by:

(1) An attorney at law admitted to practice before the Pennsylvania Supreme Court.

(2) An attorney admitted to practice before the highest court of a jurisdiction other than this Commonwealth which permits attorneys licensed in this Commonwealth to practice before its courts and agencies without benefit of licensure in that state.

(3) An attorney authorized in accordance with subsection (b) to appear in connection with the proceeding.

(b) An attorney admitted to practice before the highest court of a jurisdiction other than this Commonwealth which does not permit attorneys licensed in this Commonwealth to appear before its courts and agencies may, at the discretion of the Board, be authorized to appear in connection with a particular proceeding. The Board will determine whether to grant the authorization upon the filing of a motion with the Clerk by an attorney admitted to practice law before the Pennsylvania Supreme Court and in good standing therewith, which contains the information required to satisfy the written notice provision of Pa.B.A.R. 301 (relating to admission pro hac vice), and provided that the attorney filing the motion shall be and remain the attorney of record in the proceeding and further provided that both the attorney of record and the attorney admitted under this subsection shall both sign all documents submitted or filed in connection with the proceeding.

(c) Subsection (a) supersedes 1 Pa. Code § 31.22 (relating to appearance by attorney).

Subpart I. COMPULSIVE AND PROBLEM GAMBLING

CHAPTER 501a. COMPULSIVE AND PROBLEM GAMBLING REQUIREMENTS

§ 501a.4. Reports.

(a) A slot machine licensee shall submit to the Director of the OCPG an annual summary of its compulsive and problem gambling program by the last business day of July.

(b) The annual summary must contain, at a minimum, detailed information regarding:

(1) Employee training, including:

(i) The dates of live new hire and annual reinforcement compulsive gambling training.

(ii) The individual or group who conducted the training.

(iii) The number of employees who completed the new hire compulsive gambling training.

(iv) The number of employees who completed the annual reinforcement compulsive gambling training.

(v) The dates of responsible alcohol training.

(vi) The individual or group who conducted the responsible alcohol training.

(vii) The number of employees who completed the responsible alcohol training.

(2) An estimated amount of printed materials provided to patrons regarding:

(i) Compulsive and problem gambling.

(ii) The self-exclusion program.

(iii) Responsible gaming.

(iv) Available treatment services.

(3) The amount spent on the Compulsive and Problem Gambling Plan for:

(i) Employee training.

(ii) Printed materials.

(iii) Outreach including community training and sponsorships.

(4) Additional information including:

(i) The number of underage individuals who were denied access to the gaming floor.

(ii) The number of self-excluded individuals who were discovered on the gaming floor at the licensed facility.

(iii) The number of signs within the licensed facility that contain the approved problem gambling statement and helpline number.

(iv) A summary of any community outreach conducted by the licensee.

Subpart J. EXCLUSION OF PERSONS

CHAPTER 511a. PERSONS REQUIRED TO BE EXCLUDED

§ 511a.1. Definitions.

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

Career or professional offender—A person, who for the purpose of economic gain, engages in activities that are deemed criminal violations under 18 Pa.C.S. (relating to crimes and offenses) or equivalent criminal violations in other jurisdictions, or engages in unlawful activities in 4 Pa.C.S. § 1518(a) (relating to prohibited acts; penalties).

Cheat—

(i) To defraud or steal from any player or slot machine licensee of the Commonwealth while operating or playing a slot machine or table game, including causing, aiding, abetting or conspiring with another person to do so.

(ii) To alter or causing, aiding, abetting or conspiring with another person, without authorization, to alter the elements of chance, method of selection or criteria which determine:

- (A) The result of a slot machine game or table game.
- (B) The amount or frequency of payment in a slot machine game or table game.
- (C) The value of a wagering instrument.
- (D) The value of a wagering credit.

(iii) The term does not include altering a slot machine, table game, table game device or associated equipment for required maintenance and repair.

(iv) The term includes an act in any jurisdiction that would constitute an offense under 4 Pa.C.S. § 1518(a)(6), (7), (7.1) and (17).

Excluded person—A person who has been placed upon the exclusion list and who is required to be excluded or ejected from a licensed facility.

Exclusion list—A list of names of persons who are required to be excluded or ejected from a licensed facility.

OCPG—The Office of Compulsive and Problem Gambling.

§ 511a.2. Maintenance and distribution of the exclusion list.

(a) The Board will maintain a list of persons to be excluded or ejected from a licensed facility.

(b) The exclusion list will be open to public inspection at the Board's central office during normal business hours, posted on the Board's web site and will be distributed to every slot machine licensee within this Commonwealth, who shall acknowledge receipt thereof in writing or electronically.

(c) The following information will be provided to the slot machine licensees for each person on the exclusion list:

(1) The full name and all aliases the person is believed to have used.

(2) A description of the person's physical appearance, including height, weight, type of build, color of hair and eyes and other physical characteristics which may assist in the identification of the person.

(3) The person's date of birth.

(4) The date the person was added to the list.

(5) A recent photograph, if available.

(6) The last known address of record.

(7) Other identifying information available to the Board.

(8) The reason for placement on the excluded persons list.

(d) The following information will be made available to the public for each excluded person on the exclusion list:

(1) The full name and all aliases the person is believed to have used.

(2) A description of the person's physical appearance, including height, weight, type of build, color of hair and eyes and any other physical characteristics which may assist in the identification of the person.

(3) A recent photograph, if available.

(4) Birth year.

§ 511a.3. Criteria for exclusion or ejection.

(a) The exclusion list may include a person who meets one or more of the following criteria:

(1) A career or professional offender whose presence in a licensed facility would, in the opinion of the Board, be inimical to the interest of the Commonwealth or of licensed gaming therein, or both.

(2) An individual with a known relationship or connection with a career or professional offender whose presence in a licensed facility would be inimical to the interest of the Commonwealth or of licensed gaming therein, or both.

(3) A person who has been convicted of a criminal offense under the laws of any state, or of the United States, which is punishable by more than 1 year in prison, or who has been convicted of any crime or offense involving moral turpitude, and whose presence in a licensed facility would be inimical to the interest of the Commonwealth or of licensed gaming therein, or both.

(4) A person whose presence in a licensed facility would be inimical to the interest of the Commonwealth or of licensed gaming therein, or both, including:

(i) Cheats.

(ii) Persons whose gaming privileges have been suspended by the Board.

(iii) Persons whose Board permits, licenses, registrations, certifications or other approvals have been revoked.

(iv) Persons who pose a threat to the safety of the patrons, employees or persons on the property of a slot machine licensee.

(v) Persons with a history of conduct involving the disruption of the gaming operations within a licensed facility.

(vi) Persons subject to an order of a court of competent jurisdiction in this Commonwealth excluding those persons from licensed facilities.

(vii) Persons with pending charges or indictments for a gambling crime or a crime related to the integrity of gaming operations in this Commonwealth or another jurisdiction.

(viii) Persons who have been convicted of a gambling crime or crime related to the integrity of gaming operations in this Commonwealth or another jurisdiction.

(ix) Persons who have performed an act or have a notorious or unsavory reputation that would adversely affect public confidence and trust in gaming, including, being identified with criminal activities in published reports of various Federal and State legislative and executive bodies that have inquired into criminal or organized criminal activities.

(b) For purposes of subsection (a), a person's presence may be considered "inimical to the interest of the Commonwealth or of licensed gaming therein, or both" if known attributes of the person's character and background meet one or more of the following criteria:

(1) Are incompatible with the maintenance of public confidence and trust in the credibility, integrity and stability of the operation of a licensed facility.

(2) May reasonably be expected to impair the public perception of, and confidence in, the strict regulatory process created by the act.

(3) Create or enhance a risk of the fact or appearance of unsuitable, unfair or illegal practices, methods or activities in the conduct of gaming or in the business or financial arrangements incidental thereto.

(c) A finding of inimicality may be based upon the following:

(1) The nature and notoriety of the character or background of the person.

(2) The history and nature of the involvement of the person with licensed gaming in this Commonwealth or another jurisdiction, or with a particular slot machine licensee or licensees or an affiliate, intermediary, subsidiary or holding company thereof.

(3) The nature and frequency of contacts or associations of the person with a slot machine licensee or licensees, or with employees or agents thereof.

(4) Other factors reasonably related to the maintenance of public confidence in the efficacy of the regulatory process and the integrity of gaming operations, the gaming industry and its employees.

(d) A person's race, color, creed, national origin or ancestry, or sex will not be a reason for placing the name of a person upon the exclusion list.

§ 511a.4. Duties of the Bureau and the Office of Enforcement Counsel.

(a) The Bureau will, on its own initiative, or upon referral by a law enforcement agency or a slot machine licensee investigate a person to determine whether the person meets the criteria for exclusion provided in 4 Pa.C.S. § 1514 (relating to regulation requiring exclusion or ejection of certain persons) and § 511a.3 (relating to criteria for exclusion or ejection).

(b) If, upon completion of an investigation, the Bureau determines that an individual should be placed on the exclusion list, the Office of Enforcement Counsel will file

a petition for exclusion with the Clerk, identifying the candidate and setting forth a factual basis for the petition. The petition must include information demonstrating that the individual satisfies the criteria for exclusion or ejection under section 1514 of the act or this chapter.

(c) In addition to filing the petition for exclusion, if exigent circumstances exist, the Office of Enforcement Counsel may file a request for a temporary emergency order in accordance with § 403a.7 (relating to temporary emergency orders) provided that:

(1) The procedures in § 403a.7(a)—(i) are applicable to requests for temporary emergency orders filed in conjunction with petitions for exclusion.

(2) If the request for a temporary emergency order is granted, the person named in the emergency order will be temporarily placed on the exclusion list until the Board acts upon the underlying petition.

(3) If the person named in the emergency order files a request for an informal hearing under § 403a.7(h), the request for an informal hearing does not toll or stay the time period to request a formal hearing in accordance with § 511a.6 (relating to demand for hearing on the placement of a person on the exclusion list).

§ 511a.5. Placement on the exclusion list.

(a) A person may be placed on the exclusion list upon any of the following:

(1) Entry of an order of the Board.

(2) Receipt of an order from a court of competent jurisdiction within this Commonwealth, excluding or ejecting the person from licensed facilities in this Commonwealth.

(3) Issuance of a temporary emergency order by the Executive Director in accordance with § 403a.7 (relating to temporary emergency orders).

(b) The placement of a person on the exclusion list shall have the effect of requiring the exclusion or ejection of the excluded person from licensed facilities.

(c) An excluded person may not collect in any manner or in any proceeding any winnings or recover any losses arising as a result of any gaming activity for the entire period of time that the person is on the Board's exclusion list.

(d) Winnings incurred by an excluded person shall be remitted to the Board to support compulsive and problem gambling programs of the Board.

(e) For the purposes of this section, any winnings issued to, found on or about, or redeemed by an excluded person shall be presumed to constitute winnings subject to remittance to the Board.

§ 511a.6. Demand for hearing on the placement of a person on the exclusion list.

(a) Upon the filing of a petition for exclusion, the Office of Enforcement Counsel will serve the petition upon the person by personal service or certified mail at the last known address of the person. The notice must inform the person of the right to a hearing under 4 Pa.C.S. § 1514(g) (relating to regulation requiring exclusion or ejection of certain persons) and include a copy of the petition.

(b) Upon service of the petition, the person subject to the petition shall have 30 days to demand a hearing before the Board or presiding officer. Failure to demand a hearing within 30 days after service will be deemed an admission of all matters and facts alleged in the Office of

Enforcement Counsel's petition for exclusion and preclude the person from having an administrative hearing.

(c) If a formal hearing is demanded by the person named in the petition for exclusion, a hearing will be scheduled as provided in § 491a.8 (relating to hearings generally). At the hearing, the Office of Enforcement Counsel will have the affirmative obligation to demonstrate that the person named in the petition for exclusion satisfies the criteria for exclusion in 4 Pa.C.S. § 1514 or § 511a.3 (relating to criteria for exclusion or ejection). Unless the matter is heard directly by the Board, the presiding officer will prepare a report and recommendation as provided in § 494a.4 (relating to report or report and recommendation of the presiding officer) for consideration by the Board.

§ 511a.7. Board review.

After a hearing, or if a hearing was not requested and the facts in the petition are deemed admitted, the Board may:

- (1) Issue an order placing the person's name on the exclusion list.
- (2) Issue an order removing or denying the placement of the person's name on the exclusion list.
- (3) Refer the matter to a presiding officer for further hearing.

§ 511a.8. Duties of slot machine licensees.

(a) Slot machine licensees shall establish procedures to prevent violations of this chapter and submit a copy of the procedures to the Director of OCPG 30 days prior to initiation of gaming activities at the licensed facility. A slot machine licensee will be notified in writing of any deficiencies in the plan and may submit revisions to the plan to the Director of OCPG. The slot machine licensee may not commence operations until the Director of OCPG approves its procedures. Amendments to these procedures shall be submitted to and approved by the Director of OCPG prior to implementation.

(b) A slot machine licensee shall distribute copies of the exclusion list to the appropriate employees. Additions, deletions or other updates to the list shall be distributed by a slot machine licensee to its employees within 2 business days of the slot machine licensee's receipt of the updates from the Board.

(c) A slot machine licensee shall exclude or eject the following persons from its licensed facility:

- (1) An excluded person.
- (2) A person known to the slot machine licensee to satisfy the criteria for exclusion in section 1514 of the act (relating to regulation requiring exclusion or ejection of certain persons) and § 511a.3 (relating to criteria for exclusion or ejection).

(d) If an excluded person enters, attempts to enter, or is in a licensed facility and is recognized by employees of the slot machine licensee, the slot machine licensee shall:

- (1) Immediately notify the casino compliance representatives at the licensed facility.
- (2) Notify the Director of OCPG in writing within 24 hours.

(e) It shall be the continuing duty of a slot machine licensee to inform the Bureau, in writing, of the names of persons the slot machine licensee believes are appropriate for placement on the exclusion list or a person who has been excluded or ejected under subsection (c)(2) and the reason for placement on the exclusion list.

§ 511a.9. Petition to remove name from the exclusion list.

(a) An excluded person may file a petition with the Clerk to request a hearing for removal of his name from the exclusion list at any time after 5 years from the placement of his name on the exclusion list.

(b) The petition must be signed by the excluded person, contain supporting affidavits, and state the specific grounds believed by the petitioner to constitute good cause for removal from the exclusion list. Upon receipt of the petition, the Office of Enforcement Counsel may file an answer in accordance with § 493a.5 (relating to answers to complaints, petitions, motions and other filings requiring a response).

(c) An excluded person who is barred from requesting a hearing concerning his removal from the exclusion list by the 5-year period of exclusion in subsection (a) may petition the Board for early consideration at any time. However, an excluded person may not, within the 5-year period of exclusion, file more than one petition for early consideration.

(d) A petition for early consideration must contain the information required under subsection (b). Upon receipt of the petition, the Office of Enforcement Counsel may file an answer in accordance with § 493a.5.

(e) The Board will consider the following criteria when making its decision on a petition for early consideration:

- (1) Whether there are extraordinary facts and circumstances warranting early consideration of the excluded person's request for removal from the exclusion list.
- (2) If exclusion was ordered under § 511a.5(a)(2) (relating to placement on the exclusion list), whether the excluded person has completed the period of probation or otherwise satisfied the terms of the court-ordered exclusion.

[Pa.B. Doc. No. 13-178. Filed for public inspection February 1, 2013, 9:00 a.m.]

PROPOSED RULEMAKINGS

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 127]

Air Quality Title V Fee Amendment

The Environmental Quality Board (Board) proposes to amend Chapter 127, Subchapter I (relating to plan approval and operating permit fees) to read as set forth in Annex A. This proposed rulemaking satisfies Federal and State obligations to establish a Title V annual emission fee sufficient to cover the reasonable direct and indirect costs of administering the operating permit program and other related requirements mandated under Title V of the Clean Air Act (CAA) (42 U.S.C.A. §§ 7661—7661f).

This proposed rulemaking was adopted by the Board at its meeting of November 20, 2012.

A. *Effective Date*

This proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*.

The proposed rulemaking will be submitted to the United States Environmental Protection Agency (EPA) upon final-form publication for approval as a revision to the Commonwealth's State Implementation Plan or as an amendment to the Title V Program Approval codified in 40 CFR Part 70, Appendix A (relating to approval status of state and local operating permits programs), as appropriate.

B. *Contact Persons*

For further information, contact Dean Van Orden, Assistant Director, Bureau of Air Quality, P. O. Box 8468, Rachel Carson State Office Building, Harrisburg, PA 17105-8468, (717) 787-9702; or Robert "Bo" Reiley, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding submitting comments on this proposed rulemaking appears in Section J of this preamble. Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposed rulemaking is available electronically on the Department of Environmental Protection's (Department) web site at www.dep.state.pa.us (DEP Search/Keyword: Public Participation).

C. *Statutory Authority*

This proposed rulemaking is authorized under section 6.3 of the Air Pollution Control Act (act) (35 P.S. § 4006.3), which grants to the Board the authority to adopt regulations to establish fees to cover the indirect and direct costs of administering the air pollution control program, operating permit program required under Title V of the CAA, other requirements of the CAA (42 U.S.C.A. §§ 7401—7671q) and the indirect and direct costs of administering the Small Business Stationary Source Technical and Environmental Compliance Assistance Program, the Small Business Compliance Advisory Committee and the Office of Small Business Ombudsman.

D. *Background and Purpose*

Title V annual emission fees are payable by the owners and operators of facilities in this Commonwealth that are classified as major sources of air pollution under section

501 of the CAA (42 U.S.C.A. § 7661) and are subject to the permitting provisions of Title V of the CAA. Section 502(b) of the CAA (42 U.S.C.A. § 7661a(b)) required the EPA to adopt rules establishing the minimum elements of Title V operating permit programs including a requirement that the owner or operator of all sources subject to the requirements obtain a permit under Title V of the CAA and pay an annual emission fee to state and local agencies sufficient to cover all reasonable (direct and indirect) costs required to develop and administer the permit program requirements of Title V of the CAA.

On July 30, 1996, the EPA granted full approval of the Commonwealth's Title V Operating Permits Program in accordance with Title V of the CAA and implementing regulations in 40 CFR Part 70 (relating to state operating permit programs). See 61 FR 39597 (July 30, 1996). Under 40 CFR 70.9(a) and (b) (relating to fee determination and certification), the state program must "require that the owners or operators of part 70 sources pay annual fees, or the equivalent over some other period, that are sufficient to cover the permit program costs and shall ensure that any fee required by this section will be used solely for permit program costs." The fee schedule must result in the collection and retention of revenues sufficient to cover the permit program costs.

In addition to authorizing the establishment of fees sufficient to cover the permitting program required under Title V of the CAA, section 6.3(a) of the act also authorizes the Board to adopt regulations to establish fees to support the air pollution control program authorized by the act and not covered by fees required under section 502(b) of the CAA. The emission fees currently apply to emissions of up to 4,000 tons of any regulated pollutant. For Title V annual emission fee purposes, "regulated pollutant," as defined in section 502 of the CAA and § 127.705(d) (relating to emission fees), means a volatile organic compound, each pollutant regulated under sections 111 and 112 of the CAA (42 U.S.C.A. §§ 7411 and 7412) and each pollutant for which a National Ambient Air Quality Standard (NAAQS) has been promulgated, except that carbon monoxide shall be excluded from this reference.

The proposed rulemaking would amend the base Title V annual emission fee requirements in § 127.705. An adequate fee must result in the collection and retention of revenue sufficient to cover the costs of administering the air permit program as required under section 6.3 of the act. The Department has established a uniform Title V annual emission fee across this Commonwealth. The local air pollution control agencies in Allegheny and Philadelphia Counties collect the Title V annual emission fee revenue for sources under their jurisdictions. Minor clarifying amendments are proposed for § 127.701 (relating to general provisions).

The proposed amendment to the existing base Title V annual emission fee is designed to cover all reasonable costs required to develop and administer the Title V permit requirements. These reasonable costs include the cost for certain activities related to major facility operations, including the review and processing of plan approvals and operating permits; emissions and ambient air monitoring; preparing applicable regulations and guidance; modeling, analyses and demonstrations; and preparing emission inventories and tracking emissions. Direct and indirect program costs include personnel costs, oper-

ating expenses such as telecommunications, electricity, travel, auto supplies and fuel, and the purchase of fixed assets such as air samplers and monitoring equipment, vehicles and trailers.

To meet these obligations, the proposed rulemaking would increase the base Title V annual emission fee paid by the owner or operator of a Title V facility to \$85 per ton of "regulated pollutant" for up to 4,000 tons of each regulated pollutant beginning with emission fees payable by September 1, 2014, for emissions occurring in calendar year 2013. The initial base Title V annual emission fee, established at 24 Pa.B. 5899 (November 26, 1994), was \$37 per ton of regulated pollutant up to 4,000 tons of each regulated pollutant per Title V facility. As provided in § 127.705(e), the emission fee imposed under § 127.705(a) has been increased in each year after November 26, 1994, by the percentage, if any, by which the Consumer Price Index for the most recent calendar year exceeds the Consumer Price Index for the previous calendar year. Under the existing regulatory framework, the base Title V annual emission fee has not been revised since 1994. The current Title V annual emission fee due September 1, 2013, for emissions occurring in calendar year 2012 is \$57.50 per ton of regulated pollutant for up to 4,000 tons of each regulated pollutant. To collect fees sufficient to cover Title V program costs, the proposed increase to the base Title V annual emission fee would be an increase of \$27.50 per ton of each regulated pollutant from 2013 levels.

The proposed rulemaking does not establish a fee structure for carbon dioxide and other greenhouse gases (GHG) including hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons and sulfur hexafluoride. On June 3, 2010, the EPA finalized the Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule (Tailoring Rule). See 75 FR 31514 (June 3, 2010). As the Tailoring Rule relates to the applicability of Title V annual emission fees for a "regulated pollutant" as defined in section 502 of the CAA, the EPA did not mandate revisions to state and local Title V programs to account for these emissions. See 75 FR 31514, 31585. The EPA reasoned that it would be difficult to apply this fee to GHGs, based on the large amount of GHG emissions relative to other pollutants and the need for better data to establish a GHG-specific fee amount. See 75 FR 31514, 31585. However, the EPA did commit to addressing this issue in a future rulemaking and to work with states to develop a workable fee approach. See 75 FR 31514, 31586. The EPA has not yet proposed a fee schedule under the CAA for GHG emissions. Consequently, the Board is not proposing, at this time, to impose Title V emission fees for GHG emissions from stationary sources in this Commonwealth.

Title V annual emission fee revenues collected are no longer sufficient to cover program costs. Installation of control technology over the past two decades on major stationary sources, the retirement or curtailment of operations by major sources including certain refineries and coal-fired power plants and the conversion at many major facilities from burning coal or oil to burning natural gas has resulted in the decreased emission of regulated pollutants that are subject to the annual emission fee, and revenues collected have been decreasing as a result. The proposed increase to the base Title V annual emission fee considers the impact on collected Title V annual emission fee revenues from the retirement of certain sources and the announced retirement of sources, including certain electric generating units. The decline in interest rates paid on savings account balances has also

affected the funds as the investments earn less interest in the current economy compared to the early years of the program.

Failure to adjust the emission fee structure to adequately cover program costs may cause significant reductions in the Title V staffing complement and technical services. Reduced staffing would cause delays in processing and issuing plan approvals for Title V facilities and Title V operating permits, potentially resulting in delays for industry to implement new or improved processes and loss of revenue to industry, loss of jobs for the community and loss of tax revenue for the Commonwealth. New or modified sources of air pollution at Title V facilities cannot be constructed without a plan approval. The installation of air pollution control equipment requires Department approval of a plan approval application prior to the installation. In addition, fewer staff to conduct inspections, respond to complaints and pursue enforcement actions would result in less oversight of industry compliance or noncompliance and in reduced protection of the environment and public health and welfare of the citizens of this Commonwealth.

Decreased revenues would also impact the Commonwealth's air monitoring network, which provides the data to substantiate the Commonwealth's progress in attaining and maintaining the NAAQS instituted by the EPA under the CAA. Decreased revenues could also impact the Small Business Stationary Source Technical and Environmental Compliance Assistance Program by reducing the amounts of grants and number of services available to small businesses. This could potentially lead to fewer viable small businesses and slow the economic recovery of this Commonwealth by reducing the numbers of available jobs. Further, a failure to attain and maintain the NAAQS and to satisfy the Commonwealth's obligations under the CAA could precipitate punitive actions by the EPA.

In accordance with 40 CFR 70.10(b) and (c) (relating to Federal oversight and sanctions), the EPA may withdraw approval of a Title V Permit Program, in whole or in part, if the EPA finds that a state or local agency has not taken "significant action to assure adequate administration and enforcement of the program" within 90 days after the issuance of a notice of deficiency (NOD). The EPA is authorized to, among other things, withdraw approval of the program and promulgate a Federal Title V Permit Program in this Commonwealth that would be administered and enforced by the EPA. In these instances, all Title V emission fees would be paid to the EPA instead of the Department. Additionally, mandatory sanctions would be imposed under section 179 of the CAA (42 U.S.C.A. § 7509) if the program deficiency is not corrected within 18 months after the EPA issues the deficiency notice. These mandatory sanctions include 2-to-1 emission offsets for the construction of major sources and loss of Federal highway funds (\$1.06 billion in 2012 if not obligated for projects approved by the Federal Highway Administration). The increase in the base Title V annual emission fee avoids the issuance of a Federal Title V Permit Program NOD; Federal oversight and mandatory CAA sanctions would also be avoided. The EPA may also impose discretionary sanctions which would adversely impact Federal grants awarded under sections 103 and 105 of the CAA (42 U.S.C.A. §§ 7403 and 7405).

The Department consulted with the Air Quality Technical Advisory Committee (AQTAC) in the development of this proposed rulemaking. At its September 12, 2012, meeting, the AQTAC concurred with the Department's

recommendation to advance the proposal to the Board for consideration as proposed rulemaking.

The Department also conferred with the Citizens Advisory Council Air Committee concerning the proposed rulemaking on October 3, 2012, and with the Small Business Compliance Advisory Committee on October 24, 2012.

E. *Summary of Regulatory Requirements*

The proposed rulemaking would amend § 127.701 to clarify that fees paid to the Department are deposited into the Pennsylvania Clean Air Fund. The proposed rulemaking would also make additional editorial changes to this section.

The proposed rulemaking would amend § 127.705 to establish a base Title V annual emission fee of \$85 per ton for up to 4,000 tons of regulated pollutant beginning with the fees due by September 1, 2014, for emissions from Title V facilities in the 2013 calendar year.

F. *Benefits, Costs and Compliance*

Benefits

The increased Title V annual emission fee revenue would be used to adequately fund the Commonwealth's air quality Title V permit programs as authorized by the act. Without an increase in the annual emission fee, Title V annual emission fee deficits of \$6.15 million, \$17.295 million and \$28.840 million are projected for the Department's Title V program for Fiscal Years (FY) 2015-2016, 2016-2017 and 2017-2018, respectively. Revenue to the Department from the fee increase would be used solely to address the projected deficits in the Title V Major Facilities Account in the Clean Air Fund.

The proposed base Title V annual emission fee of \$85 per ton for up to 4,000 tons of each regulated pollutant would result in projected increased revenue to the Department of \$5.3 million in the Title V Account for FYs 2014-2015 and 2015-2016, and \$4.6 million for FYs 2016-2017 and 2017-2018, if the fee is imposed beginning with emissions occurring in calendar year 2013 and payable by September 1, 2014. An increase in the base Title V annual emission fee would provide projected increased emission fee revenue of approximately \$581,000 and \$176,000 for the Title V programs in Allegheny County and Philadelphia County, respectively.

The proposed increase to the base Title V annual emission fee would assure the regulated industry that its plan approval applications and permits would be reviewed in a timely manner, sustaining its businesses and maintaining jobs. Adoption of the proposed base Title V emission fee would ensure that the Commonwealth's Title V air pollution control permit programs are adequately funded for several years. The anticipated increased revenue would allow the Department and county agencies to continue providing adequate oversight of the air pollution sources in this Commonwealth and take action, when necessary, to further reduce emissions of regulated pollutants to achieve healthful air quality and ensure continued protection of the environment and the public health and welfare of the citizens of this Commonwealth.

Compliance Costs

The owners and operators of approximately 560 Title V facilities in this Commonwealth, including facilities in Allegheny and Philadelphia Counties, would be required to comply with the proposed revised base Title V annual emission fee on emissions of up to 4,000 tons of each regulated pollutant. The financial impact on the owners

and operators of Title V facilities regulated by the Department, collectively, would be additional annual emission fee costs of approximately \$5.3 million per year for FYs 2014-2015 and 2015-2016; costs in FYs 2016-2017 and 2017-2018 for these owners and operators are expected to be about \$4.6 million per year due to decreasing amounts of emissions of regulated pollutants as major sources install additional controls, convert to burning natural gas (a cleaner energy source) instead of coal or oil, or shut down certain facilities. Costs to the owners and operators of Title V facilities regulated by the county agencies are expected to be about \$581,000 and \$176,000 in FY 2014-2015 in Allegheny County and Philadelphia County, respectively.

New legal, accounting or consulting procedures would not be required.

Compliance Assistance Plan

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

Paperwork Requirements

Additional paperwork requirements are not associated with this proposed rulemaking.

G. *Pollution Prevention*

The Pollution Prevention Act of 1990 (42 U.S.C.A. §§ 13101—13109) established a National policy that promotes pollution prevention as the preferred means for achieving state environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally friendly materials, more efficient use of raw materials and the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance. The anticipated increased revenues would allow the Department and county agencies to continue providing adequate oversight of the air pollution sources in this Commonwealth, sustain the gains made in healthful air quality and ensure continued protection of the environment and the public health and welfare of the citizens of this Commonwealth.

H. *Sunset Review*

This regulation will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulation effectively fulfills the goals for which it was intended.

I. *Regulatory Review*

In accordance with section 5(a) and (f) of the Regulatory Review Act (71 P.S. §§ 745.5(a) and (f)), on January 22, 2013, the Department submitted a copy of this proposed rulemaking to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* and to the Independent Regulatory Review Commission (IRRC). In accordance with section 5(f) of the Regulatory Review Act, the Department will submit the proposed regulations and the required material to the Chairpersons of the House Environmental Resources and Energy Committee and the Senate Environmental Resources and Energy Committee no later than the second Monday after the date by which both Committee designations have been published in the *Pennsylvania Bulletin*. In addition to submitting the

proposed rulemaking, the Department has provided IRRC and will provide the House and Senate Committees with a copy of a detailed Regulatory Analysis Form. A copy of this material is available to the public upon request.

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

J. Public Comments

Written comments—Interested persons are invited to submit comments, suggestions or objections regarding the proposed rulemaking to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by April 8, 2013. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by April 8, 2013. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final regulation will be considered.

Electronic comments—Comments may be submitted electronically to the Board at RegComments@pa.gov and must also be received by the Board by April 8, 2013. A subject heading of the proposed rulemaking and a return name and address must be included in each transmission. If the sender does not receive an acknowledgement of electronic comments within 2 working days, the comments should be retransmitted to ensure receipt.

K. Public Hearings

The Board will hold three public hearings for the purpose of accepting comments on this proposed rulemaking. The hearings will be held at 1 p.m. on the following dates:

- | | |
|-------------------------|--|
| March 5, 2013
1 p.m. | Department of Environmental Protection
Southwest Regional Office
Waterfront A Conference Room
400 Waterfront Drive
Pittsburgh, PA 15222-4745 |
| March 6, 2013
1 p.m. | Department of Environmental Protection
Southeast Regional Office
Delaware River Conference Room
2 East Main Street
Norristown, PA 19401 |
| March 7, 2013
1 p.m. | Department of Environmental Protection
Rachel Carson State Office Building
Conference Room 105
400 Market Street
Harrisburg, PA 17105 |

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

limited to designating one witness to present testimony on their behalf at each hearing.

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

MICHAEL L. KRANCER,
Chairperson

Fiscal Note: 7-478. No fiscal impact; (8) recommends adoption.

Annex A

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

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE III. AIR RESOURCES

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

Subchapter I. PLAN APPROVAL AND OPERATING PERMIT FEES

§ 127.701. General provisions.

* * * * *

(b) The fees collected **under this subchapter** shall be **made payable to the Pennsylvania Clean Air Fund** and deposited into the Clean Air Fund established under section 9.2 of the act (35 P. S. § 4009.2).

(c) Fees collected **under this subchapter** to implement the requirements of Title V of the Clean Air Act and the Small Business Stationary Source Technical and Environmental Compliance Assistance, Compliance Advisory Committee and the Office of Small Business Ombudsman shall be **made payable to the Pennsylvania Clean Air Fund** and deposited into a restricted revenue account within the Clean Air Fund.

§ 127.705. Emission fees.

(a) The owner or operator of a Title V facility including a Title V [**facilities**] **facility** located in [**Allegheny County and**] Philadelphia County or **Allegheny County**, except a facility identified in subparagraph (iv) of the definition of a Title V facility in § 121.1 (relating to definitions), shall pay an annual Title V emission fee of [**\$37**] **\$85** per ton for each ton of a regulated pollutant actually emitted from the facility. The owner or operator will not be required to pay an emission fee for emissions of more than 4,000 tons of each regulated pollutant from the facility. [**Sources**] **The owner or operator of a Title V facility** located in Philadelphia County [**and**] or Allegheny County shall pay the emission fee to the county Title V program [**if the county Title V program has received approval**] **approved by the Department** under section 12 of the act (35 P. S. § 4012) and § 127.706 (relating to Philadelphia County and Allegheny County financial assistance).

(b) [**From November 26, 1994, through 1999, the owner or operator of a phase I affected unit or an active substitution unit as defined by Title IV of the Clean Air Act (42 U.S.C.A. §§ 7641 and 7642) shall**

pay an annual emission fee of \$14 per ton for each ton of a regulated pollutant actually emitted from the unit. The owner or operator will not be required to pay an emission fee for emissions of more than 4,000 tons of each regulated pollutant from the facility. Sources located in Philadelphia County and Allegheny County shall pay the emission fee to the county program if the county Title V program has received approval under section 12 of the act (35 P. S. § 4012), and § 127.706. Beginning in the year 2000, sources covered by this subsection shall pay the fees established in subsection (a). The other provisions of this subsection notwithstanding, the owner or operator of a phase I affected unit or an active substitution unit as defined by Title IV of the Clean Air Act will not be required to pay more than \$148,000 plus the increase established by subsection (e) for each regulated pollutant emitted from a Title V facility. Substitution units identified as conditional substitution units by the owner or operator shall pay the emission fee established by subsection (a).

(c) The emissions fees required by this section shall be due on or before September 1 of each year for emissions from the previous calendar year. The fees required by this section shall be paid for emissions occurring in calendar year [1994] 2013 and for each calendar year thereafter.

(d) (c) As used in this section, the term "regulated pollutant" means a VOC, each pollutant regulated under sections 111 and 112 of the Clean Air Act (42 U.S.C.A. §§ 7411 and 7412) and each pollutant for which a National ambient air quality standard has been promulgated, except that carbon monoxide shall be excluded from this reference.

(e) (d) The emission fee imposed under subsection (a) shall be increased in each calendar year after [November 26, 1994] _____ (Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.), by the percentage, if any, by

which the Consumer Price Index for the most recent calendar year exceeds the Consumer Price Index for the previous calendar year. For purposes of this subsection:

* * * * *

[Pa.B. Doc. No. 13-179. Filed for public inspection February 1, 2013, 9:00 a.m.]

SUSQUEHANNA RIVER BASIN COMMISSION

Proposed Rulemaking Action; Public Hearing

The Susquehanna River Basin Commission (SRBC) will hold a public hearing on a proposed rulemaking action on February 14, 2013, at the Pennsylvania State Capitol, Room 8E-B, East Wing, Commonwealth Avenue, Harrisburg, PA 17101, at 3 p.m. The proposed rules would amend the project review regulations of the SRBC (18 CFR Part 806 (relating to review and approval of projects)) to include special requirements for withdrawals from surface water and groundwater sources which, from the point of taking or point of impact respectively, have a drainage area of equal to or less than 10 square miles (headwater area); and to modify provisions relating to the issuance of emergency certificates by the Executive Director.

More details on the hearing and the proposed rules will appear in the February 9, 2013, issue of the *Pennsylvania Bulletin*. Meanwhile, for more information, contact Richard A. Cairo, General Counsel, (717) 238-0423, Ext. 306, fax (717) 238-2436, rcairo@srbc.net, or visit the SRBC web site at www.srbc.net.

PAUL O. SWARTZ,
Executive Director

[Pa.B. Doc. No. 13-180. Filed for public inspection February 1, 2013, 9:00 a.m.]

NOTICES

DEPARTMENT OF AGRICULTURE

Rescission of Quarantine Orders and Programs Relating to Plum Pox Virus

Recitals

A. The Plant Pest Act (act) (3 P. S. §§ 258.1—258.27) empowers the Department of Agriculture (Department) to take various measures to detect, contain and eradicate plant pests in this Commonwealth.

B. The powers granted to the Department under section 21 of the act (3 P. S. § 258.21) include the power to establish quarantines to prevent the dissemination of plant pests within this Commonwealth.

C. Plum Pox Virus (PPV) is a serious plant pest, indigenous to Europe. It injures and damages stone fruits such as peaches, nectarines, plums and apricots by drastically reducing the fruit yields from these stone fruit trees and by disfiguring the fruit to the point that it is unmarketable.

D. PPV has the potential to cause serious damage to the stone fruit production industry within this Commonwealth. It is transmitted from infected trees by aphids and by budding or grafting and can be spread into new areas by movement of infected nursery stock. The movement of PPV-infected fruit trees poses a danger to stone fruit trees in noninfected areas. There is no known control for PPV other than destruction of infected trees.

E. Since 1999, the Department has issued a series of orders addressing the presence of PPV in several townships and boroughs. The orders established quarantines and programs relating to the detection, containment and eradication of PPV. The Department's efforts have been successful, and PPV has not been detected in this Commonwealth for over 6 years.

F. The Department is satisfied it is appropriate to rescind the remaining Orders of Quarantine. These remaining orders apply to portions of Franklin Township and Menallen Township, Adams County, and a portion of South Middleton Township, Cumberland County.

G. The Department is satisfied it is appropriate to rescind the remaining programs relating to the detection, containment and eradication of PPV. These include the Plum Pox Virus Commercial Orchard Fruit Tree Indemnity Program, the Plum Pox Virus Commercial Nursery Fruit Tree Indemnity Program, the Plum Pox Virus Noncommercial Prunus Tree and Landscape Nursery Prunus Tree Indemnity Program and the Plum Pox Virus

Untended Stone Fruit Orchard Indemnity Program. Each of these programs has served its purpose and is no longer needed.

Order

Under authority of section 21 of the act, and with the foregoing recitals incorporated herein, the Department hereby orders the following:

1. The quarantine of part of Franklin Township, in Adams County, which was established by order published at 36 Pa.B. 6108 (October 7, 2006), and any subsequent orders amending the terms of that quarantine, are hereby rescinded.

2. The quarantine of part of Menallen Township, in Adams County, which was confirmed by order published at 35 Pa.B. 6543 (December 3, 2005), and any subsequent orders amending the terms of that quarantine, are hereby rescinded.

3. The quarantine of part of South Middleton Township, in Cumberland County, which was confirmed by order published at 37 Pa.B. 5902 (November 3, 2007), and any subsequent orders amending the terms of that quarantine, are hereby rescinded.

4. The order establishing the Plum Pox Virus Commercial Orchard Fruit Tree Indemnity Program, which was published at 30 Pa.B. 4014 (August 5, 2000), and subsequent orders amending that program, are hereby rescinded.

5. The order establishing the Plum Pox Virus Commercial Nursery Fruit Tree Indemnity Program, which was published at 30 Pa.B. 4737 (September 9, 2000), and subsequent orders amending that program, are hereby rescinded.

6. The order establishing the Plum Pox Virus Noncommercial Prunus Tree and Landscape Nursery Prunus Tree Indemnity Program, which was published at 31 Pa.B. 2936 (June 9, 2001), and subsequent orders amending that program, are hereby rescinded.

7. The order establishing the Plum Pox Virus Untended Stone Fruit Orchard Indemnity Program, which was published at 34 Pa.B. 4928 (September 4, 2004), and subsequent orders amending that program, are hereby rescinded.

8. With the issuance of this order, all of the pre-existing PPV-related quarantines and programs described above are rescinded.

9. This order is effective as of January 21, 2013.

GEORGE D. GRIEG,
Secretary

[Pa.B. Doc. No. 13-181. Filed for public inspection February 1, 2013, 9:00 a.m.]

DEPARTMENT OF BANKING AND SECURITIES

Actions on Applications

The Department of Banking and Securities (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 and Securities Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending January 15, 2013.

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

BANKING INSTITUTIONS

Conversions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
12-28-2012	<p><i>From:</i> Franklin Security Bank Wilkes-Barre Luzerne County</p> <p><i>To:</i> Franklin Security Bank Wilkes-Barre Luzerne County</p> <p>Conversion from a Federal savings bank to a Pennsylvania State-chartered savings bank. Franklin Security Bank is a wholly-owned subsidiary of Franklin Security Bancorp, Inc. (5028548), Wilkes-Barre, an existing bank holding company.</p> <p>Branch offices operated by Franklin Security Bank: 139 Wyoming Avenue Scranton Lackawanna County</p>	Effective

Consolidations, Mergers, and Absorptions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
11-16-2012	<p>The Bryn Mawr Trust Company Bryn Mawr Montgomery County</p> <p>Application for approval to purchase assets and assume liabilities of one branch of First Bank of Delaware, Wilmington, Delaware, located at: 1000 Rocky Run Parkway Wilmington New Castle County Delaware</p>	Effective

Branch Applications

De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
1-2-2013	Somerset Trust Company Somerset Somerset County	802 Atkinson Way Somerset Somerset County	Opened
1-8-2013	Huntingdon Valley Bank Huntingdon Valley Montgomery County	900 Pine Valley Boulevard Philadelphia Philadelphia County	Opened
1-11-2013	Penn Security Bank and Trust Company Scranton Lackawanna County	435 Wyoming Avenue Kingston Luzerne County	Approved

Branch Discontinuances

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
1-14-2013	S&T Bank Indiana Indiana County	35 West Scribner Avenue DuBois Clearfield County	Approved
1-14-2013	S&T Bank Indiana Indiana County	200 Patchway Road Duncansville Blair County	Approved

NOTICES

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

No activity.

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

GLENN E. MOYER,
Secretary

[Pa.B. Doc. No. 13-182. Filed for public inspection February 1, 2013, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

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

This notice provides information about persons who have applied for a new, amended or renewed NPDES or WQM permit, a permit waiver for certain stormwater discharges or submitted a Notice of Intent (NOI) for coverage under a General Permit. The applications concern, but are not limited to, discharges regarding industrial, animal or sewage waste, discharges to groundwater, discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities or concentrated animal feeding operations (CAFO). This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92a and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act (33 U.S.C.A. §§ 1251—1376).

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or Amendment
Section III	WQM	Industrial, Sewage or Animal Waste; Discharge into Groundwater
Section IV	NPDES	MS4 Individual Permit
Section V	NPDES	MS4 Permit Waiver
Section VI	NPDES	Individual Permit Stormwater Construction
Section VII	NPDES	NOI for Coverage under NPDES General Permits

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

For applications for new NPDES permits and renewal applications with major changes in Section II, as well as applications for MS4 Individual Permits and Individual Stormwater Construction Permits in Sections IV and VI, the Department, based upon preliminary reviews, has made tentative determinations of proposed effluent limitations and other terms and conditions for the permit applications. In accordance with 25 Pa. Code § 92a.32(d), the proposed discharge of stormwater associated with construction activities will be managed in accordance with the requirements of 25 Pa. Code Chapter 102. These determinations are published as proposed actions for comments prior to taking final actions.

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

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

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

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

I. NPDES Renewal Applications

Northeast Region: Clean Water Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915. Phone: 570-826-2511.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0030996 (Sewage)	Bangor Area School District STP 123 Five Points Richmond Road Bangor, PA 18013	Northampton County Upper Mount Bethel Township	Unnamed Tributary of Jacoby Creek (1-F)	Y

Southcentral Region: Clean Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone: 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>
PA0087891 (Storm Water)	Growmark FS, LLC 3150 Stoney Point Road East Berlin, PA 17316	Adams County Latimore Township	Unnamed Tributary to Mud Run (7-F)	Y

Northcentral Region: Clean Water 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 No.)</i>	<i>EPA Waived Y/N?</i>
PAS604802 (Storm Water)	Gray's Vehicle Clinic 1314 Axemann Road Bellefonte, PA 16823	Centre County Spring Township	Logan Branch (9-C)	Y
PA0229253 (Sewage)	Karthus-Burnside Joint Sewer Authority WWTP PO Box 97 Karthus, PA 16845	Clearfield County Karthus Township	West Branch Susquehanna River (8-D)	Y
PA0027359 (IW)	Danville Municipal Water Authority 12 West Market Street Danville, PA 17821	Montour County Danville Borough	Susquehanna River (5-E)	Y
PA0027359 (IW)	Danville Municipal Water Authority 12 West Market Street Danville, PA 17821	Montour County Danville Borough	Susquehanna River (5-E)	Y
PA0229105	Amos Newswanger (Garreau Farm) 158 Miller Road, Lewisburg, PA 17837-7851	Union County, Buffalo Township	Muddy Run, (10-C)	N
PAS804801 (Storm Water)	University Park Airport 2535 Fox Hill Road State College, PA 16803	Centre County Benner Township	Unnamed Tributary of Buffalo Run, Unnamed Tributary of Spring Creek and Big Hollow (9-C)	Y
PA0209511 (Sewage)	Sullivan Township STP P O Box 84 Mainesburg, PA 16932	Tioga County Sullivan Township	Corey Creek (4-A)	N

Northwest Region: Clean Water 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>
PA0240087 (Sewerage)	Paul V Wittenbrink SFTF Wolf Run Road Bradford, PA 16701	McKean County Corydon Township	Chander Run (16-B)	Y
PA0221872 (Industrial Waste)	Universal Stainless & Alloy Products 121 Caldwell Street Titusville, PA 16354-2055	Crawford County City of Titusville	Church Run and Oil Creek (16-E)	Y

<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>
PA0037974 (Sewage)	Washington Township Sewer Authority Kline Rd STP Kline Road Edinboro, PA 16412	Erie County Washington Township	Unnamed Tributary to Darrows Creek (16-A)	Y
PA0264024 (Sewage)	Hickory Township STP PO Box 44, Endeavor, PA 16353	Forest County Hickory Township	East Hickory Creek (16-F)	Y
PA0240001 (Sewage)	Clear Creek State Park Box 82 Main Park Road Sigel, PA 15860-9502	Jefferson County Heath Township	Clarion River (17-B)	Y
PA0221996 (sewerage)	North Brook Subdivision 103 McDonnell Lane Butler, PA 16001	Butler County Middlesex Township	Unnamed Tributary to Glade Run (20-C)	Y
PA0101923 (Sewage)	Saegertown Area STP Park Avenue Ext Saegertown, PA 16433	Crawford County Saegertown Borough	French Creek (16-A)	Y

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

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

PA0013021, SIC Code 2819, **PQ Corporation**, 1201 W Front Street, Chester, PA 19013-3436. Facility Name: PQ Corporation Chester Plant. This existing facility is located in Chester City, **Delaware County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of stormwater and industrial wastewater.

The receiving stream(s), Delaware River, is located in State Water Plan watershed 3-G and is classified for Warm Water Fishes and Migratory Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on an average stormwater flow.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH (S.U.)	XXX	XXX	XXX	Report	XXX
CBOD ₅	XXX	XXX	XXX	Report	XXX
Chemical Oxygen Demand	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	Report	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	Report	XXX
Total Phosphorus	XXX	XXX	XXX	Report	XXX
Dissolved Iron	XXX	XXX	XXX	Report	XXX
PCBs (Wet Weather) (pg/L)	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Outfall 004 are based on an average stormwater flow.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH (S.U.)	XXX	XXX	XXX	Report	XXX
CBOD ₅	XXX	XXX	XXX	Report	XXX
Chemical Oxygen Demand	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	Report	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	Report	XXX
Total Phosphorus	XXX	XXX	XXX	Report	XXX
Dissolved Iron	XXX	XXX	XXX	Report	XXX
PCBs (Wet Weather) (pg/L)	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Outfall 005 are based on an average stormwater flow.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
PCBs (Wet Weather) (pg/L)	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Outfall 007 are based on an average stormwater flow.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH (S.U.)	XXX	XXX	XXX	XXX	Report	XXX
CBOD ₅	XXX	XXX	XXX	XXX	Report	XXX
Chemical Oxygen Demand	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	XXX	Report	XXX
Total Phosphorus	XXX	XXX	XXX	XXX	Report	XXX
Dissolved Iron	XXX	XXX	XXX	XXX	Report	XXX
PCBs (Wet Weather) (pg/L)	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Monitoring Point 301 are based on a design flow of 0.075 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Suspended Solids	XXX	XXX	XXX	30	60	75
Total Dissolved Solids	XXX	XXX	XXX	1,000	1,750	2500
Oil and Grease	XXX	XXX	XXX	15	XXX	30
Temperature (°F)	XXX	XXX	XXX	XXX	XXX	110
PCBs (Dry Weather) (pg/L)	XXX	XXX	XXX	XXX	Report	XXX

In addition, the permit contains the following major special conditions:

- A. Acquire Necessary Property Rights
- B. Proper Sludge Disposal
- C. WQM Permit Condition
- D. BAT/ELG Reopener
- E. Stormwater Condition
- F. PCB/PMP Condition

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 484-250-5910.

The EPA Waiver is in effect.

PA0050202, Storm Water, SIC Code 4011, **National RR Passenger Corp**, 30th Street Station, Philadelphia, PA 19104. Facility Name: Amtrak—Race St/ Penn Coach Yard Facility. This existing facility is located in City of Philadelphia, **Philadelphia County**.

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

The receiving stream(s), Schuylkill River, is located in State Water Plan watershed 3-F and is classified for Warm Water Fishes and Migratory Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

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

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH (S.U.)	XXX	XXX	XXX	XXX	Report	XXX
Chemical Oxygen Demand	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	XXX	Report	XXX
Total Phosphorus	XXX	XXX	XXX	XXX	Report	XXX
Dissolved Iron	XXX	XXX	XXX	XXX	Report	XXX
PCBs Wet Weather Analysis	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Outfall 101 are based on a stormwater flow.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Flow (GPD)	Report	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Suspended Solids	XXX	XXX	XXX	30	60	75
Oil and Grease	XXX	XXX	XXX	15	XXX	30
TRPH	XXX	XXX	XXX	XXX	XXX	Report
Dissolved Iron	XXX	XXX	XXX	XXX	XXX	7.0
Total Phenolics	XXX	XXX	XXX	5.9	11.8	14.8

In addition, the permit contains the following major special conditions:

I.

- A. Remedial Measures
- B. BAT/ELG Reopener
- C. Change of Ownership
- D. Sludge disposal
- E. TMDL/WLA Analysis
- F. IMAX
- G. Laboratory Certification
- H. PCB Requirement

II. Stormwater Requirements

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 484-250-5910.

The EPA Waiver is not in effect.

PA0053929, Sewage, SIC Code 4952, **Barryway Enterprises Inc.**, 1485 Route 309, Quakertown, PA 18951. Facility Name: Bubba's Potbelly Stove Restaurant STP. This existing facility is located in Springfield Township, **Bucks County**.

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

The receiving stream(s), Unnamed Tributary to Tohickon Creek, is located in State Water Plan watershed 2-D and is classified for Trout Stocking and Migratory Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

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

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Flow (GPD)	Report	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	4.0	XXX	XXX	XXX
Total Residual Chlorine	XXX	XXX	XXX	0.15	XXX	0.4
CBOD ₅	XXX	XXX	XXX	25	XXX	50
Total Suspended Solids	XXX	XXX	XXX	30	XXX	60
Oil and Grease	XXX	XXX	XXX	15	XXX	30
Fecal Coliform (CFU/100 ml)	XXX	XXX	XXX	200	XXX	1,000
Total Nitrogen	XXX	XXX	XXX	Geo Mean Report	XXX	Report
Ammonia-Nitrogen						
May 1 - Oct 31	XXX	XXX	XXX	2.0	XXX	4.0
Nov 1 - Apr 30	XXX	XXX	XXX	6.0	XXX	12.0
Total Phosphorus	0.031	XXX	XXX	0.5	XXX	1.0

In addition, the permit contains the following major special conditions:

- Designation of Responsible Operator
- Abandon STP when public sewers available.
- Remedial Measures
- No Storm water
- Necessary Property Rights
- Change in Ownership
- TRC Minimization

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 484-250-5910.

The EPA Waiver is in effect.

PA0058505, SIC Code 4952, **Kilcar, House Inc.**, 199 Union Road, Quakertown, PA 18951. Facility Name: Casey's Tavern STP. This existing facility is located in Richland Township, **Bucks County**.

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

The receiving stream(s), Tohickon Creek, is located in State Water Plan watershed 2-D and is classified for Trout Stocking and Migratory Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0014 MGD.

Parameters	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Instant. Minimum	Average Monthly	Geo Mean	Instant. Maximum
Flow (GPD)	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	9.0
Dissolved Oxygen	XXX	XXX	2.0	XXX	XXX
Total Residual Chlorine	XXX	XXX	0.5	XXX	1.2
CBOD ₅	XXX	XXX	25	XXX	50
Total Suspended Solids	XXX	XXX	30	XXX	60
Fecal Coliform (CFU/100 ml)	XXX	XXX	200	XXX	1,000
Ammonia-Nitrogen	XXX	XXX	20	XXX	40
Total Phosphorus	0.0058	XXX	0.5	XXX	1.0

In addition, the permit contains the following major special conditions:

- Remedial Measures
- Abandon STP when municipal sewers available
- No Stormwater
- Change in ownership
- Sludge Disposal
- TRC Minimization

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 484-250-5910.

The EPA Waiver is in effect.

Northeast Region: Clean Water Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915. Phone: 570-826-2511.

PA0060135 A-2, Sewage, SIC Code 4952, **Shickshinny Borough Sewer Authority Luzerne County**, PO Box 62, Shickshinny, PA 18655-0062. Facility Name: Shickshinny Sanitary Authority TP Dp Cs. This existing facility is located in Shickshinny Borough, **Luzerne County**.

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

The proposed amendment is solely for the purpose of revising the compliance schedule in Part C of the permit to reflect that the permittee has elected to purchase nutrient credits instead of constructing biological nutrient upgrades.

The receiving stream(s), Susquehanna River, is located in State Water Plan watershed 5-B and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

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

The EPA Waiver is not in effect.

PA0012963, SIC Code 2631, **Rock-Tenn Converting Company**, PO Box 770, 1 Paper Mill Road, Delaware Water Gap, PA 18327. Facility Name: Rock-Tenn Converting Company Stroudsburg Mill. This existing facility is located in Smithfield Township, **Monroe County**.

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

The receiving stream, Brodhead Creek, is located in State Water Plan watershed 1-E and is classified for Cold Water Fishes and Migratory Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.627 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Geometric Mean</i>	<i>Daily Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Fecal Coliform (CFU/100 ml)						
(Interim)	XXX	XXX	XXX	Report	XXX	Report
May 1 - Sep 30 (Final)	XXX	XXX	XXX	200	XXX	1,000
Oct 1 - Apr 30 (Final)	XXX	XXX	XXX	2,000	XXX	10,000

The proposed effluent limits for stormwater Outfalls 003, 004, 006 and 007 are:

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	
CBOD ₅	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	XXX	Report	XXX
Total Iron	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Outfall 101 are based on a design flow of 0.1415 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	Report	XXX	XXX	XXX
CBOD ₅						
(Interim)	311	622	XXX	Report	Report	XXX
(Final)	220	440	XXX	Report	Report	XXX
Total Suspended Solids	220	440	XXX	Report	Report	XXX
Total Dissolved Solids	XXX	XXX	XXX	5,000	XXX	10,000
Ammonia-Nitrogen	Report	XXX	XXX	Report	XXX	XXX
Nitrate as N	Report	XXX	XXX	Report	XXX	XXX
Total Phosphorus	Report	XXX	XXX	Report	XXX	XXX

In addition, the permit contains the following major special conditions:

- Chemical Additives
- Requirements Applicable to Stormwater Outfalls.

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

The EPA Waiver is not in effect.

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

PA0261882, SIC Code 4911, **Berks Hollow Energy Assoc, LLC**, 400 Chesterfield Center Suite 110, Chesterfield, MO 63017. Facility Name: Berks Hollow Energy Station. This proposed facility is located in Ontelaunee Township, **Berks County**.

Description of Proposed Activity: The application is for a new NPDES permit for a new discharge of treated industrial wastewater.

The receiving stream(s), Schuylkill River (Option A) OR Maiden Creek (Option B) for industrial wastewater discharges (Outfall 001 below) is located in State Water Plan watershed 3-B and is classified for Warm Water Fishes, Migratory Fishes, aquatic life, water supply and recreation. Willow Creek for stormwater discharges (Outfall 002 below) is located in State Water Plan watershed 3-B and has an existing use of High Quality, Cold Water Fishes and Migratory Fishes, aquatic life, water supply and recreation; and it is classified as a trout stream. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001, Option A to the Schuylkill River, are based on a design flow of 1.44 MGD:

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Residual Chlorine	XXX	XXX	XXX	0.2	XXX	0.5
Temperature (°F)	XXX	XXX	XXX	Report	110	XXX
Total Suspended Solids	Report	Report	XXX	30	60	75
Total Dissolved Solids	Report	Report	XXX	Report	Report	2000
Oil and Grease	XXX	XXX	XXX	15	20	30
Ammonia	XXX	XXX	XXX	Report	Report	XXX
Total Chromium	Report	Report	XXX	XXX	0.2	XXX
Total Zinc	Report	Report	XXX	0.9	1.0	XXX
Total Priority Pollutants other than Zinc & Chromium	XXX	XXX	XXX	XXX	Non-Detect	XXX
PCBs (Dry Weather) (ng/L)	XXX	XXX	XXX	XXX	Report	XXX
PCBs (Wet Weather) (ng/L)	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Outfall 001, Option B to the Maiden Creek, are based on a design flow of 1.44 MGD:

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Residual Chlorine	XXX	XXX	XXX	0.2	XXX	0.5
Temperature (°F)*	XXX	XXX	XXX	Report*	110*	XXX
Total Suspended Solids	Report	Report	XXX	30	60	75
Total Dissolved Solids **	Report	Report	XXX	1000**	2000**	2500**
Oil and Grease	XXX	XXX	XXX	15	20	30
Ammonia	XXX	XXX	XXX	Report	Report	XXX
Total Chromium	Report	Report	XXX	XXX	0.2	XXX
Total Zinc	Report	Report	XXX	0.3	0.5	XXX
Total Priority Pollutants other than Zinc & Chromium	XXX	XXX	XXX	XXX	Non-Detect	XXX

* If Option B applies, monitoring upstream and downstream for Temperature is also required to ascertain that the temperature in the receiving water is not altered by 2°F or more in a one-hour period during a discharge of cooling tower blowdown.

** Or as allowed by the Delaware River Basin Commission in their TDS Determination for a Variance Request.

The proposed effluent limits for Outfall 002 are based on a design flow of 0.000000 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	30
Total Phosphorus	XXX	XXX	XXX	XXX	Report	XXX
Total Copper	XXX	XXX	XXX	XXX	Report	XXX
Total Iron	XXX	XXX	XXX	XXX	Report	XXX
Total Nickel	XXX	XXX	XXX	XXX	Report	XXX
Total Zinc	XXX	XXX	XXX	XXX	Report	XXX

In addition, the permit contains the following major special conditions:

- Chlorine or other approved biocides may not be discharged at outfall 001 from any single generating unit for more than two hours per day nor from more than one unit in any plant unless the utility can demonstrate the need for such.
- Except within an assigned heat dissipation area, the discharge at outfall 001 shall not increase the ambient temperature of the receiving water by more than 5°F, nor shall such discharge result in the stream temperature exceeding 87°F, nor shall such discharge cause a change in stream temperature of more than 2°F during any one-hour period.
- Chemical additives used at the facility must be approved by the Department.
- Discharges to the Schuylkill River are subject to the Schuylkill River Polychlorinated Biphenyl (PCB) Total Maximum Daily Load (TMDL) established in 2007 by the U.S. EPA.
- There shall be no discharge of PCB compounds such as those commonly used for transformer fluid at any time.

- A Preparedness, Prevention and Contingency (PPC) Plan and Best Management Practices (BMPs) are required for the stormwater outfall 002.

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

The EPA Waiver is not in effect.

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

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

WQM Permit No. WQM 5993403-T3, Sewerage, **ESK LLC**, 4755 Route 6, Wellsboro, PA.

This proposed facility is located in Shippen Township, **Tioga County**.

Description of Proposed Action/Activity: Transfer of Water Quality Management permit for the Coach Stop Inn.

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

WQM Permit No. WQG02421301, Sewerage, **Foster Township**, 1185 East Main Street, Bradford, PA 16701.

This proposed facility is located in Foster Township, **McKean County**.

Description of Proposed Action/Activity: Sewer extension to Harrisburg Run Road.

WQM Permit No. 1013401, Sewerage, **Larry Chambers**, 2320 William Flynn Highway, Butler, PA 16001.

This existing facility is located in Center Township, **Butler County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

WQM Permit No. 2513401, Sewerage, **Lawrence D. Scanlon**, 110 Shadow Land, Coraopolis, PA 15108.

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

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

WQM Permit No. 1002401, Sewerage, **Amendment No. 1, Breakneck Creek Regional Authority**, P. O. Box 1180, Mars, PA 16046-1180.

This existing facility is located in Adams Township, **Butler County**.

Description of Proposed Action/Activity: Rehabilitation of miscellaneous concrete areas, valve replacement, construction of a new flow splitter box and associated piping, replacement of existing raw sewage pumps and controls, replacement of existing doors and incidental and miscellaneous work.

IV. NPDES Applications for Stormwater Discharges from MS4

V. Applications for NPDES Waiver Stormwater Discharges from MS4

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI011513001	Gilbert P. Thompson 450 S. Whitehorse Road Phoenixville, PA 19460	Chester	Charlestown and Schuylkill Townships	Pickering Creek HQ-TSF-MF

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Lehigh County Conservation District: Lehigh Ag. Ctr., Ste. 102, 4184 Dorney Park Rd., 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>
PAI023907026R	Coca-Cola Refreshments Timothy Fischbach 7551 Schantz Rd. Allentown, PA 18106	Lehigh	Upper Macungie Twp.	Unnamed Tributary to the Iron Run, HQ-CWF, MF

Northampton County Conservation District: 14 Gracedale Ave., Greystone Building, Nazareth, PA 18064, 610-746-1971.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024807004R	Riverbend Bethlehem Holdings I, LLC Michael Gamzon 204 West Newberry Rd. Bloomfield, CT 06002	Northampton	Lower Nazareth Twp. and Bethlehem Twp.	Monocacy Creek, HQ-CWF, MF
PAI024812020	Mark Danial 4901 Kesslersville Rd. Easton, PA 18040 Sam Leh 2082 Thompson Rd. Coopersburg, PA 18036	Northampton	Forks Twp.	Unnamed Tributary to Bushkill Creek, HQ-CWF, MF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024506028R	DEPG Stroud Associates, L.P. 521 Plymouth Rd. Suite 118 Plymouth Meeting, PA 19462	Monroe	Stroud Twp.	Pocono Creek, HQ-CWF, MF

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

PAG-12 CAFOs

CAFO Notices of Intent Received

Southcentral Region: Clean Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110

PAG123667, CAFO, **Gary Miller Farm** 2146 Powells Valley Road, Halifax, PA 17032.

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

Description of Size and Scope of Proposed Operation/Activity: Seeking permit approval for a 566 AEU poultry-layer operation.

The receiving stream, Powells Creek, is in watershed 6C and classified for: TSF.

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 non-discharge 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.

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

PAG124831, CAFO [SIC 0213], **Pete Drost, Montour Farms, Inc.**, Beamsville, ON LOR 1B7.

This existing facility is located at 30 Greenleaf Drive, Bloomsburg, PA 17815 in Derry Township, **Montour County**.

Description of Size and Scope of Proposed Operation/Activity: The facility is comprised of approximately 369 AEUs of poultry and 1 horse.

The receiving stream, Mud Creek, is in watershed 10D and classified for: Warm Water Fishes and Migratory Fishes.

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 non-discharge 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.

PAG124806, CAFO (SIC 0213), **Jerrel Brubaker dba Buffalo Valley Farms**, 269 Meeting House Lane, Lewisburg, PA 17837.

This proposed facility is located in Buffalo Township, **Union County**.

Description of Size and Scope of Proposed Operation/Activity: This is a 4,100 head swine finishing operation. The total acres of cropland are 242.8. This operation utilizes two under barn manure storage. Each storage structure maintains at least 6" of freeboard and has a capacity of 505,600 gallons. There is a total of 1,000,000 gallons of manure generated yearly by 546 AEUs.

The receiving stream, an unnamed tributary to Buffalo Creek, is in watershed 10C and classified for CWF.

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 non-discharge 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

PROPOSED NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR NPDES PERMITS FOR CAFOs

This notice provides information about agricultural operations that have submitted nutrient management plans (NMPs) for approval under 3 Pa.C.S. Chapter 5 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 92a. This notice is provided in accordance with 25 Pa. Code Chapter 92a and 40 CFR Part 122, implementing The Clean Streams Law and the Federal Clean Water Act.

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 <http://www.nacdnet.org/about/districts/directory/pa.phtml> 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. Comments should be sent to the SCC, Agriculture Building, Room 310, 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

<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>
Esbenshade, Inc. 220 Eby Chiques Road Mount Joy, PA 17552	Lancaster	411.3	10,412.63	Layers	None	R
Scott Brinton 323 Riverview Road Peach Bottom, PA 17563	Lancaster	428.8	468.25	Swine/Beef	HQ	N

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995 PREAMBLE 1

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

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) (35 P. S. §§ 6026.302—6026.305) require the Department to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. A person intending to use the background standard, Statewide health standard, the site-specific standard or intend to remediate a site as a special industrial area shall file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the

intended future use of the site. A person who demonstrates attainment of one or a combination of cleanup standards or receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

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

involved and comments should be directed to the remediator of the site.

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

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

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

Herbert Hewlett Property, Bloomsburg, **Columbia County**. Pennsylvania Tectonics, Inc., 723 Main Street, Archbald, PA 18403 on behalf of Herbert Hewlett, 921 Ext. East 8th Street, Bloomsburg, Pa 17815 has submitted a Notice of Intent to Remediate soil contaminated with #2 fuel oil (heating oil). The applicant proposes to remediate the site to meet the Statewide Health Standard.

SJ Holdings, LLC., Montoursville Borough **Lycoming County**. Groundwater & Environmental Services, Inc., 440 Creamery Way, Suite 500, Exton, Pa 19341 on behalf of SJ Holdings, LLC., 300 Streibeigh Lane, Montoursville, Pa 17754 has submitted a Notice of Intent to Remediate soils contaminated with PCB-1260 and bis(2-ethylhexyl)phthalate. The applicant proposes to remediate the site to meet the Statewide Health Standard.

The Retreat at State College, State College Borough, **Centre County**. Converse Consultants, 2738 West College Avenue, State College, Pa 16801 on behalf of The Retreat at State College, 455 EPPs Bridge PKWY, Suite 201, Athens, GA 30606 has submitted a Notice of Intent to remediate soil contaminated with diesel fuel. The applicant proposes to remediate the site to meet the Statewide Health Standard.

Williams Oil Company, Inc., Release Site, Liberty Township, **Tioga County**. Pennsylvania Tectonics, Inc., 723 Main Street, Archbald, PA 18403 on behalf of PennDot, 6 Bowart Street, Wellsboro, PA 16901 has submitted a Notice of Intent to Remediate soil contaminated with diesel fuel. The applicant proposes to remediate the site to meet the Statewide Health Standard.

DETERMINATION FOR APPLICABILITY FOR INFECTIOUS AND CHEMOTHERAPEUTIC WASTE GENERAL PERMITS

Application for Determination of Applicability for General Permit Received Under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Infectious and Chemotherapeutic Waste Regulations for a General Permit to Operate Infectious and Chemotherapeutic Waste Processing Facilities.

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

General Permit Application No. WMGI005D. Merck Sharp & Dohme Corp., 140 Wissahickon Avenue, 502 and 503 Louise Lane, North Wales PA 19454. This application is for permittee's name change from Merck & Co., Inc., to Merck Sharp & Dohme Corp.,

regarding the existing determination of applicability general permit WMGI0005D for Merck Sharp & Dohme Corp.—North Wales Facility located in Upper Gwynedd Township, **Montgomery County**. The application for determination of applicability was accepted by the Southeast Regional Office on August 6, 2012.

DETERMINATION FOR APPLICABILITY FOR RESIDUAL WASTE GENERAL PERMITS

Application(s) deemed administratively complete for Determination of Applicability under the Solid Waste Management Act; the Municipal Waste Planning, Recycling and Waste Reduction Act; and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and/or the Beneficial Use of Residual Waste Other Than Coal Ash.

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

General Permit No. WMGR081D029. Evolution E-Cycling, LLC, 704 Parkway View Drive, Pittsburgh, PA 15205-1414. Site address: Evolution E-Cycling, LLC, 2235 Mary Street, Pittsburgh, PA 15203-2222. A residual waste general permit for the processing and beneficial use of source separated computer, telecommunication, radio, television, and electro-acoustic equipment and associated peripherals to include the salvaging of clean and uncontaminated metals, plastics, glass and paper for use as raw materials for an industrial process; salvaging of precious metals via separation and shipment to a precious metals recycler; salvaging of uncontaminated electronic or mechanical components for re-use in their original function; and the salvaging of any potentially leachable materials/components (including the Cathode Ray Tubes (CRTs)) that are sent to specialty recycling facilities for additional recycling or other beneficial use per separate Department approval. This facility will be located in the City of Pittsburgh, **Allegheny County**. The application was deemed administratively complete in the Regional Office on January 18, 2013.

Persons interested in reviewing the general permit or the application may contact the Department of Environmental Protection, Regional Files, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, 412-442-4000. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS NEW SOURCES AND MODIFICATIONS

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

The Department received applications for Plan Approvals or Operating Permits from the following facilities.

Copies of these applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the regional office listed

before the applications. Persons interested in reviewing the application files should contact the appropriate regional office to schedule appointments.

Persons wishing to receive a copy of a proposed Plan Approval or Operating Permit shall indicate interests to the Department regional office within 30 days of the date of this notice and shall file protests or comments on a proposed Plan Approval or Operating Permit within 30 days of the Department providing a copy of the proposed documents to persons or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that hearings be held concerning a proposed Plan Approval or Operating Permit. A comment or protest filed with the Department regional office shall include a concise statement of the objections to the issuance of the Plan Approval or Operating Permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

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

Final Plan Approvals and Operating Permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121–143, the Federal Clean Air Act (42 U.S.C.A. §§ 7401–7671q) and regulations adopted under the Federal Clean Air Act.

PLAN APPROVALS

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

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701

Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648

59-00008C: Tennessee Gas Pipeline Co., LLC (1001 Louisiana Street, Houston, TX 77002) for the proposal to construct and operate a Solar Mars turbine compressor at the company's Station 315 facility in Charleston Township, **Tioga County**.

08-00001A: Tennessee Gas Pipeline Company, LLC (1001 Louisiana Street, Houston, TX 77002) for the proposal to construct and operate a Solar Mars turbine compressor and emergency engine generator at the company's Station 315 facility in Charleston Township, **Tioga County**. The project also includes decommissioning of the existing turbines and emergency engine.

14-00003F: The Pennsylvania State University (Office of Physical Plant Building, Room 101P, University Park, PA 16802) for the proposal to construct and operate two new natural gas-fired boilers at the West Campus Steam Plant (WCSP) on the University Park campus in College Township, **Centre County**. The project will also include demolition of three (3) existing boilers at the WCSP as well as modifying the remaining two of existing boilers to fire only natural gas.

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

Contact: Edward Orris, New Source Review Chief—Telephone: 814-332-6636

25-1038A: Lord Corp. (2455 Robinson Road, Erie, PA 16509) for the proposed relocate and combination of its Erie operations in Summit Township, **Erie County**. Operations from the West 12th Street manufacturing plant and the Grandview Avenue corporate offices will relocate to the new facility. This is a State Only facility.

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

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

Contact: Thomas J. Hanlon, Facility Permitting Chief—Telephone: 717-705-4862 or William Weaver, Program Manager—Telephone: 717-705-4702.

06-05069T: East Penn Manufacturing Co., Inc. (P. O. Box 147, Lyon Station, PA 19536) for exhausting the air pickup from a COS machine to atmosphere after the air is filtered by a baghouse and a HEPA filter. This source is located at their Lyon Station Plant in Richmond Township, **Berks County**.

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

Control C416A presently vents inside. Plan Approval 06-05069T is for venting Control C416A to atmosphere. For the COS machine, the company shall be subject to and comply with 40 CFR 60 Subpart KK and BAT. 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. The potential air emissions from the proposed project are 4.5 tons per year of PM and 0.45 ton per year of lead.

Copies of the application, DEP's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110.

A person may oppose the proposed plan approval, or may provide the Department with additional information to consider in its review, by filing a written protest with the Department at the address listed above. Each written comment must contain the name, address and telephone number of the person submitting the comments, identification of the proposed permit by the permit number listed above and a concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A 30-day comment period, from the date of publication of this notice in the *Pennsylvania Bulletin*, will exist for the submission of comments or protests, or for requests for a public hearing. A public hearing may be held, if the

Department of Environmental Protection, in its discretion, decides that such a hearing is warranted based on the comments received.

Thomas J. Hanlon, P.E., Facility Permitting Chief, may be contacted at 717-705-4862, or at PA DEP Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, for additional information or for the submission of comments, protests, or requests for a public hearing.

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

OPERATING PERMITS

Intent to Issue Title V Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790

Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507

48-00027: IESI Bethlehem Landfill (2335 Applebutter Road, Bethlehem, PA 18015-6004) for operation of a Landfill in Lower Saucon Township, **Northampton County**. This is a renewal of the Title V Operating Permit. As a major source, the facility is subject to the Title V permitting requirements of the Clean Air Act Amendments as adopted by the Commonwealth under 25 Pa. Code Chapter 127, Subchapter G.

The main sources and control devices at this facility are the landfill operations, leachate storage, landfill gas collection flare, portable crushing operations, and water sprays. The proposed Title V Operating Permit shall include emission restrictions, work practice standards and testing, monitoring, recordkeeping, and reporting requirements to ensure compliance with all applicable Federal and State air quality regulations.

Intent to Issue Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428

Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920

23-00110: Bryn Hill Industries (407 Industrial Park Drive, Lincoln Yeadon, PA 19050) for a non-Title V, State-Only, Synthetic Minor Operating Permit in Yeadon Borough, **Delaware County**. This action is a renewal of the State Only Operating Permit. The permit was issued on 5-22-2008 and will expire on 6-30-2013. The facility consists of a Foam Product Line, consisting of three (3) Process Ovens, a mold release spray process and three (3) oven heaters to cure the foam as the primary emission sources. The permit will include monitoring, recordkeeping, reporting, and work practice standards designed to keep the facility operating within all applicable air quality requirements.

46-00181: Technetics Group Hatfield (1600 Industry Rd, Hatfield, PA 19440) for a PTFE etching facility in Hatfield Township, **Montgomery County**. The permit is for a non-Title V (State only) facility. No changes in sources or applicable regulations have taken place since the permit was last issued in February 2008. The facility

underwent a change of ownership that was effective January 1, 2012. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790

Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507

39-00097: ASGCO Manufacturing, Inc. (301 Gordan Street, Allentown, PA 18102) for operation of a conveyor and conveying equipment manufacturer in the City of Allentown, **Lehigh County**. The source consists of a plasma cutting table and a cartridge dust collector. This is an initial State-Only operating permit. The State-Only operating permit includes emissions, work practice standards and testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

35-00027: Quadrant EPP (900 North South Road, Scranton, PA 18504) for operation of an unsupported film and sheet plastic manufacturing facility in the City of Scranton, **Lackawanna County**. The primary sources at the facility include 3 presses and 3 natural gas fired boilers. This is a renewal State-Only Natural Minor operating permit. The proposed State-only Operating Permit contains other applicable requirements for emissions limitations, monitoring, recordkeeping, reporting and work practice standards used to verify facility compliance with Federal and State air pollution regulations.

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

Contact: Thomas J. Hanlon, Facility Permitting Chief—Telephone: 717-705-4862 or William Weaver, Program Manager—Telephone: 717-705-4702.

06-03141: UGI LNG, Inc. (1 Meridian Boulevard, Suite 2C01, Wyomissing, PA 19610) for operation of a natural gas liquefaction facility in Ontelaunee Township, **Berks County**.

In accordance with 25 Pa. Code §§ 127.424 and 127.425 the Department of Environmental Protection (DEP) has received an application and intends to issue an Air Quality Operating Permit for the abovementioned facility.

The vaporizer is subject to the New Source Performance Standards prescribed in 40 CFR Part 60, Subpart Dc. Overall potential NO_x and CO emissions from the operation are 10.03 and 2.53 tons per 12-month rolling total. Emissions of all other criteria pollutants are considered minor.

Copies of the application, DEP's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at the PA DEP Southcentral Regional Office, at 909 Elmerton Avenue, Harrisburg, PA 17110.

A person may oppose the proposed operating permit, or may provide the Department with additional information to consider in its review, or may request a public hearing, by filing a written protest with the Department at the address listed above. Each written comment must contain the name, address and telephone number of the person submitting the comments, identification of the proposed permit by the permit number listed above and a concise statement regarding the relevancy of the information or objections to the issuance of the permit identification of the proposed permit by the permit number listed above.

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

Thomas J. Hanlon, P.E., Facility Permitting Chief, may be contacted at (717) 705-4862, or at PA DEP Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, for additional information or for the submission of comments or protests.

38-03025: TE Connectivity (3155 State Route 72, Jonestown, PA 17038) for their electrical connector manufacturing facility in Union Township, **Lebanon County**.

In accordance with 25 Pa. Code §§ 127.424 and 127.425 the Department of Environmental Protection (DEP) has received an application and intends to issue an Air Quality Operating Permit for the abovementioned facility.

The subject facility has potential emissions of 7.7 tpy of CO, 9.2 tpy of NO_x, 9.9 tpy of VOC and 0.2 tpy of HAPs. The Operating Permit will include emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations. Among other items, the conditions include provisions derived from 40 CFR Part 63, Subpart WWW—National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations and 40 CFR Part 63, Subpart ZZZZ—National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.

Copies of the application, DEP's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at the PA DEP Southcentral Regional Office, at 909 Elmerton Avenue, Harrisburg, PA 17110.

A person may oppose the proposed plan approval, or may provide the Department with additional information to consider in its review, or may request a public hearing, by filing a written protest with the Department at the address listed above. Each written comment must contain the name, address and telephone number of the person submitting the comments, identification of the proposed permit by the permit number listed above and a concise statement regarding the relevancy of the information or objections to the issuance of the permit.

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

Mr. Thomas Hanlon, Facility Permitting Chief, may be contacted at 717-705-4862, or at PA DEP Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, for additional information or for the submission of comments or protests.

36-03172: Trinity Alloys, Inc. (950 Square Street, Mount Joy, PA 17552) for the scrap aluminum melting facility in Mount Joy Borough, **Lancaster County**.

In accordance with 25 Pa. Code §§ 127.424 and 127.425 the Department of Environmental Protection (DEP) has received an application and intends to issue an Air Quality Operating Permit for the abovementioned facility.

The subject facility has potential emissions of 1.3 tpy of PM, 2.2 tpy of NO_x and 1.8 tpy of CO. The Operating Permit will include emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations. Among other items,

the conditions include provisions derived from 40 CFR 63, Subpart RRR—National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production.

Copies of the application, DEP's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at the PA DEP Southcentral Regional Office, at 909 Elmerton Avenue, Harrisburg, PA 17110.

A person may oppose the proposed plan approval, or may provide the Department with additional information to consider in its review, or may request a public hearing, by filing a written protest with the Department at the address listed above. Each written comment must contain the name, address and telephone number of the person submitting the comments, identification of the proposed permit by the permit number listed above and a concise statement regarding the relevancy of the information or objections to the issuance of the permit.

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

Mr. Thomas Hanlon, Facility Permitting Chief, may be contacted at 717-705-4862, or at PA DEP Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, for additional information or for the submission of comments or protests.

28-05041: JLG Industries, Inc. (15276 Molly Pitcher Highway, Greencastle, PA 17255) for operation of coating booths in Antrim Township, **Franklin County**. This is a renewal of their State-Only Operating Permit issued in 2007.

In accordance with 25 Pa. Code §§ 127.424 and 127.425 the Department of Environmental Protection (DEP) has received an application and intends to issue an Air Quality Operating Permit for the abovementioned facility.

VOC emissions from the facility are limited to less than 50 tpy, with actual VOC emissions of less than 5 tpy, and less than 1 tpy combined HAPs emissions. The Operating Permit will include emission limits and work practice standards, along with monitoring and recordkeeping requirements to ensure the facility complies with the applicable air quality regulations.

Copies of the application, DEP's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at the PA DEP Southcentral Regional Office, at 909 Elmerton Avenue, Harrisburg, PA 17110.

A person may oppose the proposed operating permit, or may provide the Department with additional information to consider in its review, or may request a public hearing, by filing a written protest with the Department at the address listed above. Each written comment must contain the name, address and telephone number of the person submitting the comments, identification of the proposed permit by the permit number listed above and a concise statement regarding the relevancy of the information or objections to the issuance of the permit.

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

William Weaver, Program Manager, may be contacted at 717-705-4702, or at PA DEP Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, for additional information or for the submission of comments or protests.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701

Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648

08-00028: Wyalusing Area School District (115 Main Street, Wyalusing, PA 18853) for a State Only Operating Permit for their school located in Wyalusing Township, **Bradford County**. The facility's main sources include one (1) 12 MMBTU/hr. biomass fired boiler; and one (1) back-up 12 MMBTU/hr #2 fuel oil fired boiler to provide steam for the school buildings. The potential emissions from all sources at the facility are 5.04 tons per year of carbon monoxide, 8.27 tons per year of nitrogen oxides, 2.12 tons per year of sulfur oxides, 6.53 tons per year of particulate matter with an aerodynamic diameter of less than 10 microns, 0.36 ton per year of volatile organic compounds, 0.10 ton per year of total hazardous air pollutants (HAPs), and 7,226 tons per year of carbon dioxide equivalents (greenhouse gases). All applicable requirements from the existing plan approval (PA# 08-00028A) for the boilers including all applicable monitoring, recordkeeping and reporting requirements were included in the proposed permit. The plan approval expired on May 15, 2012. Based on the stack test results of the biomass boiler, the Department is in agreement with the company that the NO_x emission rate 0.182 specified in the expired plan approval will be increased to establish 0.25 lb/MMBTU emission limit. The permittee has also requested to reduce the hours of operation of the biomass boiler to 4,728 hours in any 12 consecutive month period so as not to increase the annual NO_x emissions. The NO_x emission limit of 0.25 lb/MMBTU and hours of operation limitation satisfies BAT requirements.

The Department is requiring total particulate matter, carbon monoxide and nitrogen oxide source testing for the biomass boiler within three years of issuance of the operating permit to verify emissions from the boiler. The emission restrictions, testing, monitoring, recordkeeping, reporting and work practice conditions of the operating permit have been derived from the applicable requirements of 40 CFR Parts 60 and 63, and 25 Pa. Code Chapters 121—145. The proposed State Only operating permit contains all applicable regulatory requirements including monitoring, recordkeeping, and reporting conditions to ensure compliance with applicable Federal and State air quality regulations. All pertinent documents used in the evaluation of the application are available for public review during normal business hours at the Department's Northcentral Regional office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review must be made by calling 570-327-3693.

Any person(s) wishing to provide the Department with additional information, which they believe should be considered prior to the issuance of this permit, may submit the information to the Department of Environmental Protection at the address shown in the preceding paragraph. A 30-day comment period from the date of this publication will exist for the submission of comments. Each written comment must contain the name, address and telephone number of the person submitting the comments, identification of the proposed permit (specify Permit No. 08-00028) and concise statements regarding the relevancy of the information or objections to issuance of the permit.

A public hearing may be held, if the Department of Environmental Protection, in its discretion, decides that such a hearing is warranted based on the information

received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or by the *Pennsylvania Bulletin*, or by telephone, where the Department of Environmental Protection determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Environmental Program Manager, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport PA 17701, 570-327-3648.

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

Contact: Edward Orris, New Source Review Chief—Telephone: 814-332-6131

20-00281: Channellock, Inc. (1306 South Main Street, Meadville, PA 16335-3035) for a renewal of the natural minor operating permit to operate a hand tool products manufacturing facility in the City of Meadville, **Crawford County**. The facility's major emission sources include miscellaneous natural gas usage, metal polishing, miscellaneous natural gas process use and two non-emergency generators. The natural gas engines (4 stroke lean burn) for the generators are subject to 40 CFR Part 63 Subpart ZZZZ. The emissions of pollutants from the facility are less than Title V threshold limits. Thus, the facility is considered a natural minor. The emissions from the facility are less than the following: NO_x: 17.2 Tons per year (TPY), CO: 0.4 TPY and PM-10: 1 TPY.

25-00197: Erie Bronze & Aluminum (6300 Ridge Road, Erie, PA 16506) to issue the renewal of the State Only Operating Permit for the foundry facility operating to aluminum and bronze castings; in Fairview Township, **Erie County**. The primary sources at the facility include 8 induction furnaces, 2 crucible Aluminum furnaces, 2 ovens, sand handling, foundry operations, saws and grinders, and a parts washer. Particulate matter emissions from the sand handling are controlled by a venturi scrubber. Particulate matter emissions from the induction furnaces, the saws and grinders, and the foundry operations are controlled by dust collectors. The facility is a Natural Minor. Potential emissions are as follows: PM 35.7 tpy; NO_x less than 1 tpy; SO_x less than 1 tpy; CO 3.5 tpy; VOC less than 1 tpy. The facility is subject to 40 CFR Part 63 Subpart ZZZZZZ, National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries. The applicable requirements are added to this renewal. The renewal permit contains emission restrictions, recordkeeping, work practice, and additional requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act.

42-00323: Advanced Fiberglass Services, Incorporated (80 Canal Street, Sharpsville, PA 16150-2201) to issue a renewal of the State Only Operating Permit for the custom fiberglass fabrication facility. The facility is a Natural Minor. The facility is located in Sharpsville Borough, **Mercer County**. The primary sources are custom fabrication operations using a manual layup process and Binks spray booth for a non-atomized chopper gun and a gel coat gun. The facility is restricted to less than 9.9 TPY of styrene emissions based on a 12-month rolling sum. The permit was also administratively amended to incorporate the name change from Chautauqua Fiberglass to Advanced Fiberglass. The renewal permit contains emission restrictions, recordkeep-

ing, work practice, and additional requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act.

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 Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.20a). Mining activity permits issued in response to 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. A copy of the application is available for inspection at the district mining office indicated before each application. Notices of requests for 401 Water Quality Certifications are included in individual application notices, as noted.

Written comments or objections, or requests for an informal conference, or a public hearing, as applicable, on a mining permit application and request for Section 401 water quality certification 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 before each application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Written comments or objections regarding a mining permit application should contain the name, address and telephone number of 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.

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

When an NPDES number is listed, the mining activity permit application was accompanied by an application for an individual NPDES permit. A separate notice will be provided after the draft NPDES permit is prepared.

Coal Applications Received

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

63831302 and NPDES No. PA0213608. Eighty Four Mining Company, (P. O. Box J, 1525 Pleasant Grove Road, Claysville, PA 15323). To renew the permit for Mine No. 84 in Somerset, South Strabane, Amwell, North Bethlehem, and West Bethlehem Townships, **Washington County** and related NPDES permit. No additional dis-

charges. The application was considered administratively complete on January 15, 2013. Application received: April 5, 2012.

56841612 and NPDES No. PA0588491. Wilson Creek Energy, LLC, (609 Georgian Place, Somerset, PA 15501). To revise the permit for the Wilson Creek Coal Preparation Plant in Black Township, **Somerset County** and related NPDES permit to expand plant operations and modify the water handling plan. A revision to the Air Quality General Permit BAQ-GPA/GP12 will be included. Surface Acres Proposed 26.7. Receiving stream: Coxes Creek, classified for the following use: WWF. The application was considered administratively complete on January 16, 2013. Application received: June 28, 2012.

03861301 and NPDES No. PA0215449. McVile Mining Company, (301 Market Street, Kittanning, PA 16201). To renew the permit for the McVile Coal Preparation Plant in South Buffalo Township, **Armstrong County** and related NPDES permit. No additional discharges. The application was considered administratively complete on January 16, 2013. Application received: September 10, 2012.

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

56950106 and NPDES No. PA0213161. PBS Coals, Inc., P. O. Box 260, 1576 Stoystown Road, Friedens, PA 15541, revision of an existing bituminous surface mine to delete permit area and corresponding bond reduction in Stonycreek Township, **Somerset County**, affecting 138.0 acres. Receiving stream(s): unnamed tributaries to/and Schrock Run classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: January 9, 2013.

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

26070105 and NPDES Permit No. PA0251232. Amerikohl Mining, Inc. (1384 State Route 711, Stahlstown, PA 15687). Renewal application for reclamation only to an existing bituminous surface mine, located in Saltlick Township, **Fayette County**, affecting 71.64 acres. Receiving streams: unnamed tributaries to Little Champion Creek, classified for the following use: CWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received: January 7, 2013.

26080102 and NPDES Permit No. PA0251321. Patterson Coal Company (20 Elizabeth Drive, Smithfield, PA 15478). Renewal application for reclamation only to an existing bituminous surface mine, located in German Township, **Fayette County**, affecting 50.3 acres. Receiving streams: unnamed tributaries to N. Branch Browns Run, classified for the following use: WWF. The potable water supply intake within 10 miles downstream from the point of discharge: Carmichaels Municipal Authority. Renewal application received: January 7, 2013.

03020112 and NPDES Permit No. PA0250325. Rosebud Mining Company (301 Market Street, Kittanning, PA 16201). Renewal application for reclamation only to an existing bituminous surface mine, located in South Bend Township, **Armstrong County**, affecting 49.5 acres. Receiving streams: Craig Run and Crooked 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: January 9, 2013.

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

17050104 and NPDES No. PA0256200. RES Coal LLC (8912 Clearfield-Curwensville Highway, Clearfield, PA 16830). Transfer of an existing bituminous surface and auger mine from Hepburnia Coal Company (P. O. Box 1, Grampian, PA 16838) located in Chest Township, **Clearfield County** affecting 295.9 acres. Receiving streams: Unnamed Tributaries to North Camp Run and North Camp Run classified for Cold Water Fishes. There are no potable water supply intakes within 10 miles downstream. Application received: January 4, 2013.

17080101 and NPDES No. PA 0256692. RES Coal LLC (8912 Clearfield-Curwensville Highway, Clearfield, PA 16830). Transfer of an existing bituminous surface mine from Hepburnia Coal Company (P. O. Box 1, Grampian, PA 16838) located in Beccaria Township, **Clearfield County** affecting 217.1 acres. Receiving streams: Unnamed Tributary to Dewitt Run, Dewitt Run classified for Cold Water Fishes and Unnamed Tributaries to Clearfield Creek and Clearfield Creek classified as Warm Water Fishes. There are no potable water supply intakes within 10 miles downstream. Application received: January 4, 2013.

17900104 and NPDES No. PA0116939. RES Coal LLC (8912 Clearfield-Curwensville Highway, Clearfield, PA 16830). Transfer of an existing bituminous surface mine from Hepburnia Coal Company (P. O. Box 1, Grampian, PA 16838) located in Brady and Bell Townships, **Clearfield County** affecting 537.6 acres. Receiving streams: Buck Run and Beech Run and Unnamed Tributaries to Beech Run classified for High Quality Waters—Cold Water Fishes. There are no potable water supply intakes within 10 miles downstream. Application received: January 4, 2013.

17070112 and NPDES No. PA0256617. RES Coal LLC (8912 Clearfield-Curwensville Highway, Clearfield, PA 16830). Transfer of an existing bituminous surface mine from Hepburnia Coal Company (P. O. Box 1, Grampian, PA 16838) located in Bell and Gaskill Townships, **Clearfield and Jefferson Counties** affecting 295.0 acres. Receiving streams: Unnamed Tributaries to Bear Run and Whiskey Run classified for Cold Water Fishes. There are no potable water supply intakes within 10 miles downstream. Application received: January 4, 2013.

17970112 and NPDES No. PA0220680. Hilltop Coal Company (12 Dutchtown Road, Houtzdale, PA 16651), permit renewal for the continued operation and restoration of a bituminous surface and auger mine in Bigler Township, **Clearfield County**, affecting 212.4 acres. Receiving stream: Unnamed Tributary to Muddy Run, clas-

sified for the following use: Cold Water Fishes. There are no potable water supply intakes within 10 miles downstream. Application received: January 14, 2013.

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

54060102C2 and NPDES Permit No. PA0224529. Kuperavage Enterprises, Inc., (P. O. Box 99, Middleport, PA 17953), correction to an existing anthracite surface mine operation for two stream variances in Blythe Township, **Schuylkill County** affecting 66.0 acres, receiving stream: Schuylkill River, classified for the following use: cold water fishes. Application received: December 14, 2012.

54930101R4. J & M Coal Co., LLC, (1026 Pine Street, Pottsville, PA 17901), renewal of an existing anthracite surface mine operation in Branch Township, **Schuylkill County** affecting 102.8 acres, receiving stream: Schaefer Creek, classified for the following use: cold water fishes. Application received: December 18, 2012.

Noncoal Applications Received

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

5276SM5C11 and NPDES Permit No. PA0595217. Eureka Stone Quarry, Inc., (P. O. Box 249, Chalfont, PA 18914), renewal of an existing quarry operation in Dingman Township, **Pike County** affecting 202.3 acres, receiving stream: unnamed tributary to Sawkill Creek, classified for the following use: EV-migratory fishes. Application received: December 19, 2012.

MINING ACTIVITY NPDES DRAFT PERMITS

This notice provides information about applications for a new, amended or renewed NPDES permits associated with mining activity (coal or noncoal) permits. The applications concern industrial waste (mining) discharges to surface water and discharges of stormwater associated with mining activities. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92a and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and The Federal Clean Water Act (33 U.S.C.A. §§ 1251—1376).

The Department of Environmental Protection (Department) has prepared a draft NPDES permit and made a tentative determination to issue the NPDES permit in conjunction with the associated mining activity permit.

Effluent Limits for Coal Mining Activities

For coal mining activities, NPDES permits, when issued, will contain effluent limits that are the more stringent of technology-based (BAT) effluent limitations or Water Quality Based Effluent Limits (WQBEL).

The BAT limits for coal mining activities, as provided in 40 CFR Part 434 and 25 Pa. Code Chapters 87—90 are as follows:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (Total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
Manganese (Total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0; less than 9.0	

*The parameter is applicable at all times.

In addition, the Department imposes a technology-based aluminum limit of 2.0 mg/l (30 day average) to protect stream uses.

A settleable solids instantaneous maximum limit of 0.5 ml/l applies 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; mined areas backfilled and revegetated; and all other discharges and drainage (resulting from a precipitation event of greater than 1-year 24-hour to less than or equal to a 10-year 24-hour event) from coal refuse disposal piles. Similarly, modified BAT

limits apply to iron, manganese and suspended solids in surface runoff, discharges and drainage resulting from these precipitation events and those of greater magnitude in accordance with 25 Pa. Code §§ 87.102, 88.92, 88.187, 88.292, 89.52 and 90.102.

Exceptions to BAT effluent limits may be applicable in accordance with 25 Pa. Code §§ 87.102, 88.92, 88.187, 88.292, 89.52 and 90.102.

Effluent Limits for Noncoal Mining Activities

The BAT limits for noncoal mining activities as provided in 40 CFR Part 436 and 25 Pa. Code Chapter 77 are as follows:

<i>Parameter</i>	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Suspended solids	35 mg/l	70 mg/l	90 mg/l
Alkalinity exceeding acidity* pH*		greater than 6.0; less than 9.0	

* The parameter is applicable at all times.

Discharges from noncoal mines located in some geologic settings (for example, in the coal fields) may require additional water quality based effluent limits. If additional effluent limits are needed for an NPDES permit associated with a noncoal mining permit, then the permit description specifies the parameters.

In addition to BAT or WQBEL limits, coal and noncoal NPDES permits establish effluent limitations in the form of implemented Best Management Practices (BMPs) identified in the associated Erosion and Sedimentation Plan, the Reclamation Plan and the NPDES permit application. These BMPs restrict the rates and quantities of associated pollutants from being discharged into surface waters in this Commonwealth.

More restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining that may occur are 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 (MOU) Concerning Water Quality Management, NPDES Program Implementation, and Related Matters. Other specific factors to be considered include public comments and Total Maximum Daily Load(s). Additional discharge limitations may apply in the event that unexpected discharges occur.

Discharge rates for surface mining activities are precipitation driven. Discharge rates for proposed discharges associated with underground mining are noted in the permit description.

Persons wishing to comment on an NPDES draft permit should submit a written statement to the Department at the address of the district mining office indicated before each draft permit 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 § 92a.82(d). The request or petition for a public hearing shall be filed within 30 days of this public notice and contain the name, address, telephone number and the interest of the party filing the request, and state the reasons why a hearing is warranted. A public hearing may be held if the Department considers the public interest significant. If a hearing is scheduled, a notice of the hearing on the NPDES permit application will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. When a public hearing is held, the Department will consider comments from the public hearing in the final determination on the NPDES permit application.

Coal NPDES Draft Permits

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

NPDES No. PA0215180 (Mining Permit No. 32981301), RoxCOAL, Inc., (PO Box 149 Friedens, PA 15541). A renewal to the NPDES and mining activity permit for North Branch Mine in Green and Grant Townships, **Indiana County**. Surface Acres Affected 56.0, Underground Acres Affected 2,670.0. Receiving stream: Unnamed Tributary of North Branch to Two Lick Creek, classified for the following use(s): CWF. Kiskiminetas—Conemaugh River Watersheds TMDL. The application was considered administratively complete on March 5, 2009. Application received January 13, 2009.

Unless otherwise noted for a specific outfall, the proposed effluent limits for all outfalls in this permit are the BAT limits described above for coal mining activities.

Outfall 001 discharges to: Unnamed Tributary of North Branch to Two Lick Creek

The proposed effluent limits for *Outfall 001* (Lat: 40° 43' 15" Long: 78° 57' 58") are:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Flow (mgd)		-	0.43	-
Iron (mg/l)		1.5	3.0	3.8
Manganese (mg/l)		1.0	2.0	2.5
Aluminum (mg/l)		0.38	0.75	0.94
Total Suspended Solids (mg/l)		35	70	90
Sulfates (mg/l)		-	-	REPORT
Osmotic Pressure (mOs/kg)		-	-	REPORT
Chlorides (mg/l)		-	-	REPORT

Outfall 002 discharges to: Unnamed Tributary of North Branch to Two Lick Creek

The proposed effluent limits for *Outfall 002* (Lat: 40° 43' 23" Long: 78° 58' 04") are:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Flow (mgd)		-	0.43	-
Iron (mg/l)		1.5	3.0	3.8
Manganese (mg/l)		1.0	2.0	2.5
Aluminum (mg/l)		0.38	0.75	0.94
Total Suspended Solids (mg/l)		35	70	90
Sulfates (mg/l)		-	-	REPORT
Osmotic Pressure (mOs/kg)		-	-	REPORT
Chlorides (mg/l)		-	-	REPORT

Outfall 003 discharges to: Unnamed Tributary of North Branch to Two Lick Creek

The proposed effluent limits for *Outfall 003* (Lat: 40° 43' 30" Long: 78° 58' 04") are:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Flow (mgd)		-	0.43	-
Iron (mg/l)		1.5	3.0	3.8
Manganese (mg/l)		1.0	2.0	2.5
Aluminum (mg/l)		0.38	0.75	0.94
Total Suspended Solids (mg/l)		35	70	90
Sulfates (mg/l)		-	-	REPORT
Osmotic Pressure (mOs/kg)		-	-	REPORT
Chlorides (mg/l)		-	-	REPORT

Outfall 004 discharges to: Unnamed Tributary of North Branch to Two Lick Creek

The proposed effluent limits for *Outfall 004* (Lat: 40° 43' 34" Long: 78° 58' 04") are:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Flow (mgd)		-	2.0	-
Iron (mg/l)		1.5	3.0	3.8
Manganese (mg/l)		1.0	2.0	2.5
Aluminum (mg/l)		0.38	0.75	0.94
Osmotic Pressure (mOs/kg)		50	100	125
Total Suspended Solids (mg/l)		35	70	90
Sulfates (mg/l)		-	-	REPORT
Total Dissolved Solids (mg/l)		-	-	REPORT
Chlorides (mg/l)		-	-	REPORT

Outfall 005 discharges to: Unnamed Tributary of North Branch to Two Lick Creek

The proposed effluent limits for *Outfall 005* (Lat: 40° 43' 20" Long: 78° 57' 49") are:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Flow (mgd)		-	0.25	-
Iron (mg/l)		1.5	3.0	3.8
Manganese (mg/l)		1.0	2.0	2.5
Aluminum (mg/l)		0.38	0.75	0.94
Osmotic Pressure (mOs/kg)		50	100	125
Total Suspended Solids (mg/l)		35	70	90
Sulfates (mg/l)		-	-	REPORT
Total Dissolved Solids (mg/l)		-	-	REPORT
Chlorides (mg/l)		-	-	REPORT

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

NPDES No. PA0269069 (Mining permit no. 56120110), Berwind Coal Sales Company, 509 15th Street, Windber, PA 15963, new NPDES permit for a bituminous surface mine in Shade Township, Somerset County, affecting 229 acres. Receiving stream(s): Unnamed Tributary to Millers Run, classified for the following use(s): cold water fishery. This receiving stream is included in the Kiski-Conemaugh TMDL. Application received: May 21, 2012.

Unless otherwise noted for a specific outfall, the proposed effluent limits for all outfalls in this permit are the BAT limits described above for coal mining activities.

The treated wastewater outfall(s) listed below discharge to Unnamed Tributary to Millers Run.

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>
001	Y
002	Y
003	Y
004	Y
005	Y

The proposed effluent limits for the above listed outfall(s) are as follows:

<i>Outfalls: 001, 002, 003, 004, 005</i>	<i>30-Day</i>	<i>Daily</i>	<i>Instant.</i>
<i>Parameter</i>	<i>Average</i>	<i>Maximum</i>	<i>Maximum</i>
Iron (mg/l)	1.5	3.0	3.5
Manganese (mg/l)	1.0	2.0	2.5
Aluminum (mg/l)	0.75	1.5	1.9
Total Suspended Solids (mg/l)	35.0	70.0	90.0
pH (S.U.): Must be between 6.0 and 9.0 standard units at all times			
Alkalinity must exceed acidity at all times			

The stormwater outfall(s) listed below discharge to Unnamed Tributary to Millers Run.

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>
006	Y
007	Y
008	Y
009	Y
010	Y
011	Y

The proposed effluent limits for the above listed outfall(s) are as follows:

<i>Outfalls: 006, 007, 008, 009, 010, 011</i>	<i>30-Day</i>	<i>Daily</i>	<i>Instant.</i>
<i>Parameter</i>	<i>Average</i>	<i>Maximum</i>	<i>Maximum</i>
Iron (mg/l)	1.5	3.0	3.5
Manganese (mg/l)	1.0	2.0	2.5
Aluminum (mg/l)	0.75	1.5	1.9
Total Suspended Solids (mg/l)	35.0	70.0	90.0
pH (S.U.): Must be between 6.0 and 9.0 standard units at all times			
Alkalinity must exceed acidity at all times			

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department. Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the Commonwealth to certify that the involved projects will not violate the sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA, the issuance of a Dam Permit or Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment shall submit comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the office noted before an application. Comments should contain the name, address and telephone number of the person

commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

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

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

Applications Received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and Requests for Certification under section 401(a) of the FWPCA.

WATER OBSTRUCTIONS AND ENCROACHMENTS

Northeast Region: Waterways and Wetlands Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915, Telephone 570-826-2511.

E54-355. Pennsylvania Department of Transportation, Engineering District 5-0, 1002 Hamilton Street, Allentown, PA 18103-1013, in West Brunswick Township, Schuylkill County, U.S. Army Corps of Engineers, Philadelphia District.

To construct and maintain a stormwater outfall structure in the floodway of the Little Schuylkill River (CWF, MF) consisting of an 18-inch diameter pipe. The project is located along SR 61 at Segment 0040, Offset 2658 (Auburn, PA Quadrangle, Latitude: 40°36'5"; Longitude: 76°1'44").

Southwest Region: Wetlands & Waterways Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E02-584-A18 Hanson Aggregates PMA, Inc., 2200 Springfield Pike, Connellsville, Pa. 15425, in Hopewell Township, The City of Aliquippa, and Ambridge Borough, Beaver County, Pittsburgh ACOE District.

Applicant proposes to amend Permit E02-584, which authorizes commercial sand and gravel dredging in select areas of the Allegheny River (WWF) and Ohio River (WWF), subject to review of fish surveys, mussel surveys, and prescribed setbacks in Allegheny, Armstrong, Beaver and Westmoreland Counties to include Ohio River Mile Points 15.9 to 16.4 (Upstream beginning point: Ambridge, PA Quadrangle N: 14.3 inches, W: 15 inches; Latitude: 40°34'47", Longitude: 80°13'59". Downstream end point: Ambridge, PA Quadrangle N: 16.5 inches, W: 15.7 inches; Latitude: 40°35'28", Longitude: 80°14'11".), left and right descending banks in Hopewell Township, The City of Aliquippa, and Ambridge Borough, Beaver County.

E02-1684 Pennsylvania Department of Transportation—District 11-0, 45 Thoms Run Road, Bridgeville, PA 15017, Harmar Township and Oakmont Borough, Allegheny County; ACOE: Pittsburgh

Applicant proposes to remove the existing SR 2082, two lane, 28.3 ft total width, five span, steel through truss bridge with a 70 degree skew and having a total length of 1,544 ft, and having a navigational channel normal pool elevation clearance of approximately 50 ft; and to construct and maintain adjacent to and upstream and to the north of the existing bridge a five span, steel girder, four lane, 69 ft width replacement bridge with a 80 degree

skew and having a total length of 1,633 ft, and having a navigational channel normal pool elevation clearance of approximately 47 ft over the Allegheny River (WWF) with a drainage area of 11,682 square miles. In addition the project includes temporary encroachments for construction and demolition, and encroachments associated with modification or replacement of stormwater facilities from the road alignment adjustment and new bridge. The PennDOT improvement and relocation project extends between Oakmont Borough to the east and Harmar Township to the west (New Kensington West Quadrangle, Latitude 40° 31' 37" and Longitude -79° 50' 46") in Allegheny County.

E02-919-A18 Tri-State River Products, Inc., Box 218, 334 Insurance Street, Beaver PA 15009, in Hopewell Township, The City of Aliquippa, and Ambridge Borough, Beaver County, Pittsburgh ACOE District.

Applicant proposes to amend Permit E02-919, which authorizes commercial sand and gravel dredging in select areas of the Allegheny River (WWF) and Ohio River (WWF), subject to review of fish surveys, mussel surveys, and prescribed setbacks in Allegheny, Armstrong, Beaver and Westmoreland Counties to include Ohio River Mile Points 15.9 to 16.4 (Upstream beginning point: Ambridge, PA Quadrangle N: 14.3 inches, W: 15 inches; Latitude: 40°34'47", Longitude: 80°13'59". Downstream end point: Ambridge, PA Quadrangle N: 16.5 inches, W: 15.7 inches; Latitude: 40°35'28", Longitude: 80°14'11".), left and right descending banks in Hopewell Township, The City of Aliquippa, and Ambridge Borough, Beaver County.

Northwest Region: Oil and Gas Program Manager, 230 Chestnut Street, Meadville, PA 16335 814-332-6860

E10-08-001, SWEPI LP, 190 Thorn Hill Road, Warrendale, PA 15086, Slippery Rock and Mercer Townships, Butler County, ACOE Pittsburgh District.

The applicant proposes to construct and maintain approximately 4.5 miles of oil/natural gathering lines, a fiber optic cable, and associated access roadways, in Slippery Rock and Mercer Townships, Butler County. The project will result in 553 linear feet of temporary stream impacts and 2.055 acres of wetland impacts. Wetland impacts consist of 1.43 acres of temporary impacts to PEM and PSS wetlands, and 0.625 acre of impacts to PFO wetlands. To compensate for impacts to forested wetlands, wetland enhancements of tree and shrub plantings are proposed to 1.25 acres of existing wetland, along with 0.625 acre of tree planting upon completion of pipeline construction within impacted forested wetlands. The aforementioned forested wetlands shall not be maintained by the operator of the proposed pipeline.

The water obstructions and encroachments for the purposes of installing the gathering lines, fiber optic cable, and associated access roadways are described below:

<i>Impact No.</i>	<i>Description of Impact</i>	<i>Latitude / Longitude</i>
1	a temporary road crossing using a 20 foot long, 18 inch diameter corrugated metal pipe, two (2) 8 inch diameter oil/natural gas gathering lines, a 4 inch diameter oil/natural gas gathering line, and a fiber optic cable crossing an unnamed tributary (UNT) to Wolf Creek (CWF, MF) impacting 52 linear feet (Slippery Rock, PA Quadrangle)	41°05'22.70"N -80°02'03.79"W

NOTICES

<i>Impact No.</i>	<i>Description of Impact</i>	<i>Latitude / Longitude</i>
2	a temporary road crossing using a 20 foot long, 36 inch diameter corrugated metal pipes, two (2) 8 inch diameter oil/natural gas gathering lines, a 4 inch diameter oil/natural gas gathering line, and a fiber optic cable crossing an unnamed tributary (UNT) to Wolf Creek (CWF, MF) impacting 117 linear feet (Slippery Rock, PA Quadrangle)	41°05'23.16"N -80°02'35.10"W
3	a temporary road crossing using a 20 foot long, 24 inch diameter corrugated metal pipes, two (2) 8 inch diameter oil/natural gas gathering lines, a 4 inch diameter oil/natural gas gathering line, and a fiber optic cable crossing an unnamed tributary (UNT) to Wolf Creek (CWF, MF) impacting 28 linear feet (Slippery Rock, PA Quadrangle)	41°06'10.57"N -80°02'02.55"W
4	a temporary road crossing using a 20 foot long, 15 inch diameter corrugated metal pipes, two (2) 8 inch diameter oil/natural gas gathering lines, a 4 inch diameter oil/natural gas gathering line, and a fiber optic cable crossing an unnamed tributary (UNT) to Wolf Creek (CWF, MF) impacting 107 linear feet (Slippery Rock, PA Quadrangle)	41°06'13.10"N -80°02'02.63"W
5	a temporary road crossing using a 20 foot long, 18 inch diameter corrugated metal pipe, two (2) 8 inch diameter oil/natural gas gathering lines, a 4 inch diameter oil/natural gas gathering line, and a fiber optic cable crossing an unnamed tributary (UNT) to Wolf Creek (CWF, MF) impacting 51 linear feet (Slippery Rock, PA Quadrangle)	41°06'14.08"N -80°02'02.45"W
6	a temporary road crossing using a 20 foot long, 30 inch diameter corrugated metal pipes, two (2) 8 inch diameter oil/natural gas gathering lines, a 4 inch diameter oil/natural gas gathering line, and a fiber optic cable crossing an unnamed tributary (UNT) to Wolf Creek (CWF, MF) impacting 130 linear feet (Slippery Rock, PA Quadrangle)	41°06'23.35"N -80°02'16.55"W
7	a temporary road crossing using a 20 foot long, 30 inch diameter corrugated metal pipes, two (2) 8 inch diameter oil/natural gas gathering lines, a 4 inch diameter oil/natural gas gathering line, and a fiber optic cable crossing an unnamed tributary (UNT) to Wolf Creek (CWF, MF) impacting 68 linear feet (Slippery Rock, PA Quadrangle)	41°06'22.67"N -80°02'16.90"W
8	three (3) temporary road crossings using wood mat bridges, two (2) 8 inch diameter oil/natural gas gathering lines, a 4 inch diameter oil/natural gas gathering line, and a fiber optic cable crossing an exceptional value palustrine emergent/palustrine scrub-shrub/palustrine forested (EV-PEM/PSS/PFO) wetland impacting 17,301 square feet (Slippery Rock, PA Quadrangle)	41°05'58.38"N -80°02'34.82"W
9	a temporary road crossing using a wood mat bridge, two (2) 8 inch diameter oil/natural gas gathering lines, a 4 inch diameter oil/natural gas gathering line, and a fiber optic cable crossing a palustrine emergent/palustrine forested (PEM/PFO) wetland impacting 4,708 square feet (Slippery Rock, PA Quadrangle)	41°05'57.18"N -80°02'04.78"W
10	two (2) 8 inch diameter oil/natural gas gathering lines, a 4 inch diameter oil/natural gas gathering line, and a fiber optic cable crossing a palustrine forested (PFO) wetland impacting 348 square feet (Slippery Rock, PA Quadrangle)	41°06'00.88"N -80°01'57.24"W
11	a temporary road crossing using a wood mat bridge, two (2) 8 inch diameter oil/natural gas gathering lines, a 4 inch diameter oil/natural gas gathering line, and a fiber optic cable crossing a palustrine forested (PFO) wetland impacting 339 square feet (Slippery Rock, PA Quadrangle)	41°06'03.10"N -80°01'57.20"W

<i>Impact No.</i>	<i>Description of Impact</i>	<i>Latitude / Longitude</i>
12	two (2) 8 inch diameter oil/natural gas gathering lines, a 4 inch diameter oil/natural gas gathering line, and a fiber optic cable crossing a palustrine emergent (PEM) wetland impacting 371 square feet (Slippery Rock, PA Quadrangle)	41°06'03.53"N -80°01'49.71"W
13	a temporary road crossing using a wood mat bridge, two (2) 8 inch diameter oil/natural gas gathering lines, a 4 inch diameter oil/natural gas gathering line, and a fiber optic cable crossing a palustrine emergent (PEM) wetland impacting 969 square feet (Slippery Rock, PA Quadrangle)	41°05'19.88"N -80°01'51.15"W
14	two (2) 8 inch diameter oil/natural gas gathering lines, a 4 inch diameter oil/natural gas gathering line, and a fiber optic cable crossing a palustrine emergent (PEM) wetland impacting 61 square feet (Slippery Rock, PA Quadrangle)	41°05'20.33"N -80°01'52.37"W
15	a temporary road crossing using a wood mat bridge, two (2) 8 inch diameter oil/natural gas gathering lines, a 4 inch diameter oil/natural gas gathering line, and a fiber optic cable crossing a palustrine emergent/palustrine forested (PEM/PFO) wetland impacting 2,408 square feet (Slippery Rock, PA Quadrangle)	41°05'20.55"N -80°01'58.80"W
16	a temporary road crossing using a wood mat bridge, two (2) 8 inch diameter oil/natural gas gathering lines, a 4 inch diameter oil/natural gas gathering line, and a fiber optic cable crossing a palustrine forested (PFO) wetland impacting 1,351 square feet (Slippery Rock, PA Quadrangle)	41°05'22.48"N -80°02'04.26"W
17	two (2) 8 inch diameter oil/natural gas gathering lines, a 4 inch diameter oil/natural gas gathering line, and a fiber optic cable crossing a palustrine forested (PFO) wetland impacting 250 square feet (Slippery Rock, PA Quadrangle)	41°05'22.69"N -80°02'04.39"W
18	two (2) temporary road crossings using wood mat bridges, two (2) 8 inch diameter oil/natural gas gathering lines, a 4 inch diameter oil/natural gas gathering line, and a fiber optic cable crossing a palustrine emergent/palustrine forested (PEM/PFO) wetland impacting 8,103 square feet (Slippery Rock, PA Quadrangle)	41°05'23.03"N -80°02'32.18"W
19	two (2) 8 inch diameter oil/natural gas gathering lines, a 4 inch diameter oil/natural gas gathering line, and a fiber optic cable crossing a palustrine emergent (PEM) wetland impacting 5 square feet (Slippery Rock, PA Quadrangle)	41°05'24.65"N -80°02'33.29"W
20	two (2) temporary road crossings using wood mat bridges, two (2) 8 inch diameter oil/natural gas gathering lines, a 4 inch diameter oil/natural gas gathering line, and a fiber optic cable crossing a palustrine emergent (PEM) wetland impacting 2,874 square feet (Slippery Rock, PA Quadrangle)	41°05'22.55"N -80°02'36.30"W
21	two (2) temporary road crossings using wood mat bridges, two (2) 8 inch diameter oil/natural gas gathering lines, a 4 inch diameter oil/natural gas gathering line, and a fiber optic cable crossing a palustrine forested (PFO) wetland impacting 3,992 square feet (Slippery Rock, PA Quadrangle)	41°06'07.51"N -80°02'00.97"W
22	two (2) 8 inch diameter oil/natural gas gathering lines, a 4 inch diameter oil/natural gas gathering line, and a fiber optic cable crossing a palustrine forested (PFO) wetland impacting 338 square feet (Slippery Rock, PA Quadrangle)	41°06'10.98"N -80°02'03.25"W
23	two (2) temporary road crossings using wood mat bridges, two (2) 8 inch diameter oil/natural gas gathering lines, a 4 inch diameter oil/natural gas gathering line, and a fiber optic cable crossing a palustrine emergent/palustrine scrub-shrub/palustrine forested (PEM/PSS/PFO) wetland impacting 34,244 square feet (Slippery Rock, PA Quadrangle)	41°06'24.07"N -80°02'04.21"W

<i>Impact No.</i>	<i>Description of Impact</i>	<i>Latitude / Longitude</i>
24	a temporary road crossing using a wood mat bridge crossing a palustrine emergent/ palustrine scrub-shrub (PEM/PSS) wetland impacting 672 square feet (Slippery Rock, PA Quadrangle)	41°06'21.16"N -80°02'15.06"W
25	two (2) temporary road crossings using wood mat bridges, two (2) 8 inch diameter oil/natural gas gathering lines, a 4 inch diameter oil/natural gas gathering line, and a fiber optic cable crossing a palustrine emergent/palustrine scrub-shrub/palustrine forested (PEM/PSS/PFO) wetland impacting 6,041 square feet (Slippery Rock, PA Quadrangle)	41°06'24.45"N -80°02'17.48"W
26	a temporary road crossing using a wood mat bridge crossing a palustrine emergent (PEM) wetland impacting 5,104 square feet (Slippery Rock, PA Quadrangle)	41°06'31.85"N -80°02'53.60"W

District Oil and Gas Operations: Eastern Oil & Gas District, 208 West Third Street, Suite 101, Williamsport, PA 17701

E5729-052: Appalachia Midstream Services, LLC, 100 IST Center, Horseheads, NY, 14845, Forks Township, **Sullivan County**, ACOE Baltimore District.

To construct, operate and maintain the Burkhart Well Line, which consists of one 6-inch diameter natural gas pipeline, with the following impacts:

1. 2,888 square feet of Exceptional Value (EV) Palustrine Forested (PFO) Wetlands via open cut trenching and a temporary timber mat access road crossing (Overton, PA Quadrangle, Latitude: N41°32'12.76", Longitude: W76°30'47.47");

2. 122.0 linear feet of a UNT to Yellow Run (EV) and 107 square feet of Exceptional Value (EV) Palustrine Forested (PFO) Wetlands via open cut trenching and a temporary timber mat access road crossing (Overton, PA Quadrangle, Latitude: N41°32'11.08", Longitude: W76°30'45.61"); and

3. 193.0 linear feet of a UNT to Yellow Run (EV) and 1,992 square feet of Exceptional Value (EV) Palustrine Forested (PFO) Wetlands via open cut trenching and a temporary timber mat access road crossing (Overton, PA Quadrangle, Latitude: N41°32'09.15", Longitude: W76°30'45.08").

The project will result in 315.0 linear feet of temporary EV stream impacts and 4,987 square feet (0.11 acre) of permanent EV PFO wetland impacts, all for the purpose of installing a natural gas pipeline and associated access roadways for Marcellus shale development.

E4129-066: EXCO Resources (PA), LLC, 3000 Ericsson Drive, Suite 200, Warrendale, PA 15086, Cogan House Township, **Lycoming County**, ACOE Baltimore District.

To construct, operate, and maintain:

(1) one 24-inch culvert impacting 20 linear feet of an unnamed tributary to Roaring Run (EV, MF) (Salladasburg Quadrangle 41°22'18"N 77°09'54"W);

(2) one 24-inch culvert impacting 45 linear feet of an unnamed tributary to Roaring Run (EV, MF) (Salladasburg Quadrangle 41°22'19"N 77°10'00"W);

(3) one 71-inch x 47-inch arch culvert, two 12-inch water lines, and a timber mat bridge impacting 125 linear feet of an unnamed tributary to Roaring Run (EV, MF) (Salladasburg Quadrangle 41°22'18"N 77°10'25"W);

(4) one 123.5-inch x 89.25-inch arch culvert, two 12-inch water lines, and a timber mat bridge impacting 105 linear feet of Roaring Run (EV, MF) (Salladasburg Quadrangle 41°22'18"N 77°10'30"W);

(5) one 71-inch x 47-inch arch culvert, two 12-inch water lines, and a timber mat bridge impacting 130 linear feet of an unnamed tributary to Roaring Run (EV, MF) (Salladasburg Quadrangle 41°22'17"N 77°10'38"W).

The project will result in 425 linear feet of stream impacts all for the purpose of installing a permanent access road to natural gas well pads, water line, and temporary access roadways for Marcellus well development.

E4129-034: Anadarko Marcellus Midstream, L.L.C., 33 West Third Street, Suite 200, Williamsport, PA 17701, Cascade Township, **Lycoming County**, ACOE Baltimore District.

To construct, operate, and maintain:

1) a temporary road crossing using a timber mat bridge, two 6-inch flex steel gas lines, two 6-inch flex steel waterlines, one 12-inch steel gas line, one 12-inch HDPE waterline, one 24-inch steel gas line, and one electric/fiber optic line impacting 11,516 square feet of a palustrine emergent (PEM) wetland (Bodines, PA Quadrangle 41°27'15"N 76°54'43"W);

2) a temporary road crossing using a timber mat bridge, two 6-inch flex steel gas lines, two 6-inch flex steel waterlines, one 12-inch steel gas line, one 12-inch HDPE waterline, one 24-inch steel gas line, and one electric/fiber optic line impacting 66 linear feet of an unnamed tributary (UNT) to Slacks Run (HQ-CWF, MF) and 21,199 square feet of adjacent palustrine forested (PFO) wetland (Bodines, PA Quadrangle 41°27'16"N 76°54'30"W);

3) a temporary road crossing using a timber mat bridge, two 6-inch flex steel gas lines, two 6-inch flex steel waterlines, one 12-inch steel gas line, one 12-inch HDPE waterline, one 24-inch steel gas line, and one electric/fiber optic line impacting 280 linear feet of an unnamed tributary (UNT) to Slacks Run (HQ-CWF, MF) and 2,814 square feet of adjacent palustrine scrub-shrub (PSS) wetland (Bodines, PA Quadrangle 41°27'17"N 76°54'25"W);

4) two 6-inch flex steel gas lines, two 6-inch flex steel waterlines, one 12-inch steel gas line, one 12-inch HDPE waterline, one 24-inch steel gas line, and one electric/fiber optic line bored beneath 4,408 square feet of a palustrine emergent (PEM) wetland (Bodines, PA Quadrangle 41°27'18"N 76°53'59"W);

5) two 6-inch flex steel gas lines, two 6-inch flex steel waterlines, one 12-inch steel gas line, one 12-inch HDPE waterline, one 24-inch steel gas line, and one electric/fiber optic line bored beneath 7,316 square feet of a palustrine forested (PFO) wetland (Bodines, PA Quadrangle 41°27'18"N 76°53'56"W);

6) two 6-inch flex steel gas lines, two 6-inch flex steel waterlines, one 12-inch steel gas line, one 12-inch HDPE waterline, one 24-inch steel gas line, and one electric/fiber optic line bored beneath 100 linear feet of an unnamed tributary (UNT) to Salt Run (EV, MF) (Bodines, PA Quadrangle 41°27'18"N 76°53'51"W);

7) two 6-inch flex steel gas lines, two 6-inch flex steel waterlines, one 12-inch steel gas line, one 12-inch HDPE waterline, one 24-inch steel gas line, and one electric/fiber optic line bored beneath 4,846 square feet of a palustrine forested (PFO) wetland (Bodines, PA Quadrangle 41°27'19"N 76°53'42"W);

8) two 6-inch flex steel gas lines, two 6-inch flex steel waterlines, one 12-inch steel gas line, one 12-inch HDPE waterline, one 24-inch steel gas line, and one electric/fiber optic line bored beneath 254 linear feet of an unnamed tributary (UNT) to Salt Run (EV, MF) (Bodines, PA Quadrangle 41°27'19"N 76°53'41"W);

9) two 6-inch flex steel gas lines, two 6-inch flex steel waterlines, one 12-inch steel gas line, one 12-inch HDPE waterline, one 24-inch steel gas line, and one electric/fiber optic line bored beneath 289 linear feet of an unnamed tributary (UNT) to Salt Run (EV, MF) (Bodines, PA Quadrangle 41°27'19"N 76°53'38"W);

10) two 6-inch flex steel gas lines, two 6-inch flex steel waterlines, one 12-inch steel gas line, one 12-inch HDPE waterline, one 24-inch steel gas line, and one electric/fiber optic line bored beneath 94 linear feet of an unnamed tributary (UNT) to Salt Run (EV, MF) and 26,025 square feet of adjacent palustrine forested (PFO) wetland (Bodines, PA Quadrangle 41°27'19"N 76°53'19"W);

11) a timber mat bridge impacting 35 linear feet of an unnamed tributary to Salt Run (EV, MF) and 1,254 square feet of adjacent palustrine emergent (PEM) wetland (Bodines, PA Quadrangle 41°27'14"N 76°53'16"W);

12) a temporary road crossing using a timber mat bridge, two 6-inch flex steel gas lines, two 6-inch flex steel waterlines, one 12-inch steel gas line, one 12-inch HDPE waterline, one 24-inch steel gas line, and one electric/fiber optic line impacting 130 linear feet of an unnamed tributary (UNT) to Salt Run (EV, MF) and 42,826 square feet of adjacent palustrine emergent (PEM) wetland (Bodines, PA Quadrangle 41°27'16"N 76°53'07"W);

13) a temporary road crossing using a timber mat bridge, two 6-inch flex steel gas lines, two 6-inch flex

steel waterlines, one 12-inch steel gas line, one 12-inch HDPE waterline, one 24-inch steel gas line, and one electric/fiber optic line impacting 239 linear feet of an unnamed tributary (UNT) to Salt Run (EV, MF) and 14,326 square feet of adjacent palustrine forested (PFO) wetland (Bodines, PA Quadrangle 41°27'12"N 76°52'59"W);

14) a temporary road crossing using a timber mat bridge, two 6-inch flex steel gas lines, two 6-inch flex steel waterlines, one 12-inch steel gas line, one 12-inch HDPE waterline, one 24-inch steel gas line, and one electric/fiber optic line impacting 13,198 square feet of a palustrine forested (PFO) wetland (Bodines, PA Quadrangle 41°27'06"N 76°52'35"W);

15) a temporary road crossing using a timber mat bridge, two 6-inch flex steel gas lines, two 6-inch flex steel waterlines, one 12-inch steel gas line, one 12-inch HDPE waterline, one 24-inch steel gas line, and one electric/fiber optic line impacting 1,835 square feet of a palustrine forested (PFO) wetland (Bodines, PA Quadrangle 41°27'06"N 76°52'29"W);

16) a temporary road crossing using a timber mat bridge, two 6-inch flex steel gas lines, two 6-inch flex steel waterlines, one 12-inch steel gas line, one 12-inch HDPE waterline, one 24-inch steel gas line, and one electric/fiber optic line impacting 48 linear feet of an unnamed tributary (UNT) to West Branch Wallis Run (EV, MF) and 3,351 square feet of adjacent palustrine forested (PFO) wetland (Barbours, PA Quadrangle 41°27'06"N 76°52'26"W);

17) a temporary road crossing using a timber mat bridge, two 6-inch flex steel gas lines, two 6-inch flex steel waterlines, one 12-inch steel gas line, one 12-inch HDPE waterline, one 24-inch steel gas line, and one electric/fiber optic line impacting 42 linear feet of West Branch Wallis Run (EV, MF) (Barbours, PA Quadrangle 41°27'06"N 76°52'24"W).

The project will result in 1,577 linear feet of temporary stream impacts and 3.56 acres of temporary wetland impacts all for the purpose of installing natural gas and freshwater pipelines with associated roadways for Marcellus well development.

DAM SAFETY

Central Office: Bureau of Waterways Engineering and Wetlands, Rachel Carson State Office Building, Floor 3, 400 Market Street, P. O. Box 8460, Harrisburg, PA 17105-8460

D52-209. Gold Key Country Club (111 Gold Key Road, Milford, PA 18337). To operate, and maintain Gold Key Lake Dam across Dwarfs Kill Creek (HQ-CWF, MF), for the purpose of complying with the Commonwealth's regulations (Edgemere, PA Quadrangle LAT: 41.3105°; LONG: -74.9519°) in Milford Township, **Pike County**.

STORAGE TANKS SITE-SPECIFIC INSTALLATION PERMITS

The following Storage Tank Site-Specific Installation Permit application has been received by the Department of Environmental Protection (Department) and is currently under review. Persons wishing to comment on the proposed permit are invited to submit a statement to the Bureau of Environmental Cleanup and Brownfields, Division of Storage Tanks, PO Box 8762, Harrisburg, PA 17105-8762, within 30 days from the date of this publication. Comments received within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of the comment and the relevant facts upon which it based.

The following applications have been received for 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—6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C.

<i>SSIP Application No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
13001	Keystone Fence Supplies P. O. Box 249 Schaefferstown, PA 17088 Attn: Leroy Zimmerman	Lebanon	Heidelberg Township	3 ASTs storing Chromated Copper Arsenate	41,300 gallons total

ACTIONS

THE PENNSYLVANIA CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

FINAL ACTIONS TAKEN FOR NPDES PERMITS AND WQM PERMITS

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

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or Amendment
Section III	WQM	Industrial, Sewage or Animal Wastes; Discharges to Groundwater
Section IV	NPDES	MS4 Individual Permit
Section V	NPDES	MS4 Permit Waiver
Section VI	NPDES	Individual Permit Stormwater Construction
Section VII	NPDES	NOI for Coverage under NPDES General Permits

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

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

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

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

I. NPDES Renewal Permit Actions

Northeast Regional Office: Clean Water Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915. Phone: 570.826.2511.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0061182 (Sewage)	Big Boulder Ski Area Big Boulder Blakeslee, PA 18610-0707	Carbon County Kidder Township	Unnamed Tributary to Tunkhannock Creek (2-A)	Y

Northcentral Region: Clean Water 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 No.)</i>	<i>EPA Waived Y/N?</i>
PA0114561 (Sewage)	Herrick Township Wastewater Treatment Plant 979 Lent Road Wyalusing, PA 18853-8791	Bradford County Herrick Township	Cold Creek (4-D)	Y
PA0112488 (Sewage)	Bear Gap STP Fredricks Road Bear Gap, PA 17842	Northumberland County Ralpho Township	Millers Run (6-B)	Y
PA0229202 (CAFO)	Kucharski Farms 9351 SR 414 Liberty, PA 16930	Tioga County Liberty Borough	Unnamed Tributary to Blockhouse Creek (9-A)	N
PAS144813 (Storm Water)	Centre Concrete State College Plant 2280 E College Avenue State College, PA 16801	Centre County College Township	Spring Creek (9-C) Y	
PA0031453 (Sewage)	School District STP 800 Southern Drive Catawissa, PA 17820	Columbia County Locust Township	Roaring Creek (5-E)	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>
PA0046230 Sewage	Carmichaels Resources, LP 855 Kirby Road Waynesburg, PA 15370	Greene County Center Township	Maple Run	Y
PAS206111 Industrial Waste	United Industrial 163 Cramer Pike Johnstown, PA 15906-1157	Cambria County West Taylor Township	Laurel Run	N

Northwest Region: Clean Water 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>
PA0024856 (Sewage)	Taylor Township STP Route 168 Sewer Plant Road West Pittsburg, PA 16160-0489	Lawrence County Taylor Township	Beaver River (20-B)	Y
PA0239348 (Sewage)	Calfin's Place 7495 Route 6N Edinboro, PA 16412	Erie County Elk Creek Township	Unnamed Tributary to Cussewago Creek	Y
PA0102555 (Sewage)	Rocco A. Defranco SFTF, 1 1593 Silver Creek Road Johnsonburg, PA 15845	Elk County Jones Township	Silver Creek (17-A)	Y

II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions*Southeast Region: Clean Water Program Manager, 2 East Main Street, Norristown, PA 19401*

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Lower Makefield Township Bucks County	PA0027634	Pennsylvania American Water Company 800 West Hershey Park Drive Hershey, PA 17033	Brock Creek—2-E	DEP Southeast Regional Office Clean Water Program 2 E Main Street, Norristown, PA 19401 484.250.5970
Philadelphia City Philadelphia County	PA0056766	Philadelphia City Division Of Aviation Terminal E International Airport Philadelphia, PA 19153	Delaware River, Unnamed Tributary to Delaware River and Unnamed Tributary to Mingo Creek—3-F and 3-G	DEP Southeast Regional Office Clean Water Program 2 E Main Street, Norristown, PA 19401 484.250.5970

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Concord Township Delaware County	PA0050431	Cott Beverages Inc. 20 Aldan Avenue Concordville, PA 19331	West Branch Chester Creek—3-G	DEP Southeast Regional Office Clean Water Program 2 E Main Street, Norristown, PA 19401 484.250.5970
Philadelphia City Philadelphia County	PA0036447	Naval Surface Warfare Center 5001 South Broad Street Philadelphia, PA 19112-1403	Delaware River and Unnamed Tributary to Schuylkill River—3-F and 3-J	DEP Southeast Regional Office Clean Water Program 2 E Main Street, Norristown, PA 19401 484.250.5970

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

NPDES Permit No. PA0261912, Sewage, **David Bard**, Scooters Mountainside Tavern, 4587 Chambersburg Road, Biglerville, PA 17307.

This proposed facility is located in Franklin Township, **Adams County**.

Description of Proposed Action/Activity: Authorization to discharge to a dry swale to Marsh Creek in Watershed 13-D.
Northcentral Region: Clean Water Program Manager, 208 West Third Street, Williamsport, PA 17701

NPDES Permit No. PAS314803, Storm Water, SIC Code 1389, **Baker Hughes Oilfield Operations Inc.**, 17021 Aldine Westfield Road, Houston, TX 77073-5011.

This proposed facility is located in Lamar Township, **Clinton County**.

Description of Proposed Action/Activity: Issuance of an NPDES Permit for a new discharge of treated Storm Water.
Northwest Region: Clean Water Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481

NPDES Permit No. PA0264008, Sewage, SIC Code, **Land Acquisition, LLC**, P. O. Box 1530, Youngstown, OH 44501.

This proposed facility is located in West Salem Township, **Mercer County**.

Description of Proposed Action/Activity: Issuance of an NPDES Permit for a new discharge of treated kitchen waste and domestic sewage.

Effluent limitations for total nitrogen were removed in the final permit and replaced with monitoring and reporting. This is due to a change in the treatment process.

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

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

WQM Permit No. WQG02091208, Sewage, **Warrington Township**, 852 Easton Road, Warrington, PA 18976-2090.

This proposed facility is located in Warrington Township, **Bucks County**.

Description of Action/Activity: Construction and operation of a raw sewage pumping station and 6' diameter force main.

WQM Permit No. 2396405, Sewage, **Regal Cinemas, Inc.**, 7132 Regal Lane, Knoxville, TN 37918.

This proposed facility is located in Edgmont Township, **Delaware County**.

Description of Action/Activity: Construction and operation of a wastewater treatment plant with on-lot disposal.

Northeast Region: Clean Water Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915. Phone: 570-826-2511.

WQM Permit No. 4012404, Sewage, SIC Code 4952, **Greater Hazleton Joint Sewer Authority Luzerne County**, PO Box 651, Hazleton, PA 18201.

This proposed facility is located in West Hazleton Borough, **Luzerne County**.

Description of Proposed Action/Activity: re-rating the maximum monthly hydraulic design capacity and the organic design capacity of the Authority's wastewater treatment facility.

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

WQM Permit No. 0112402, Sewerage, **David Bard**, Scooters Mountainside Tavern, 4587 Chambersburg Road, Biglerville, PA 17307.

This proposed facility is located in Franklin Township, **Adams County**.

Description of Proposed Action/Activity: Permit approval for the construction of sewage facilities consisting of a 1,000 gallon grease trap and an Orenco Advnatex small flow treatment facility with UV disinfection.

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

WQM Permit No. 0212201, Industrial Waste, SIC Code 4911, **Genon Power Midwest, LP**, 121 Champion Way, Canonsburg, PA 15317.

This proposed facility is located in the City of Pittsburgh, **Allegheny County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a treatment plant.

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

WQM Permit No. 2095404 T1, Sewage, **Utica Partners of NW PA LLC**, 23378 Freyermuth Road, Meadville, PA.

Transfer of ownership on a single residence sewage treatment plant located in Beaver Township, **Crawford County**.

WQM Permit No. 4295201, Industrial Waste, **Transfer No. 1, American Refinery Group, Inc.**, 77 North Kendall Avenue, Bradford, PA 16701-1726.

This existing facility is located in Bradford City, **McKean County**.

This transfer/amendment approves the transfer and modification of industrial wastewater facilities consisting of: Surge tank and 2—250 gpm continuous upflow sand filters. ALAR vacuum filtration system will be decommissioned.

WQM Permit No. WQG018857, Sewage, **Land Acquisition, LLC**, P. O. Box 1530, Youngstown, OH 44501.

This proposed facility is located in West Salem Township, **Mercer County**.

Repair of a malfunctioning onlot system for a bar/restaurant with installation of a SFTF.

IV. NPDES Stormwater Discharges from MS4 Permit Actions

V. NPDES Waiver Stormwater Discharges from MS4 Actions

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 091203	Liberty Commercial Development Corporation 347 New Street, Suite 200 Quakertown, PA 18951	Bucks	Milford Township	Unami Creek—Perkiomen Creek (HQ-TSF)
PAI01 1505030-R	Longview Culbertson LP 1055 Westlakes Drive, Suite 170 Berwyn, PA 19312	Chester	West Brandywine Township	HQ, TSF, MF

Southcentral Region: Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Telephone 717.705.4802.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI032105012R	Scott Burkholder Trindle Springs, Inc. 1737 West Main Street Ephrata, PA 17522	Cumberland	Hampden Township	Trindle Spring Run (HQ-CWF, MF)
PAI032811001	Farhad Memarsadeghi The Greens at Greencastle, LP 5703 Industry Lane, Suite 101 Frederick, MD 21704	Franklin	Antrim Township	Muddy Run (HQ-CWF)
PAI035012001	Donald G. Samala PPL Electric Utilities Two North Ninth St. (GENN3) Allentown, PA 18101	Perry	Oliver Township	UNT to Buffalo Creek (HQ-CWF, MF)

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

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

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities
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 Non-Exceptional 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)
PAG-14	(To Be Announced)
PAG-15	General Permit for Discharges From the Application of Pesticides

General Permit Type—PAG-02

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>
New Britain Township Bucks County	PAG0200 0906148-R	Gilmore Minor Subdivision 9 Morgan Hill Drive Doylestown, PA 18901	UNT to Lake Galena	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Middletown Township	PAG0200 0912077	George School Athletics & Fitness Center 1690 Newtown-Langhorne Road Newtown, PA 18940	Neshaminy Creek	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
London Grove Township Chester County	PAG0200 1503054-R	Keystone Custom Homes Holdings, Inc. 227 Granite Run Drive, Suite 100 Lancaster, PA 17601	UNT to Media Branch of White Clay Creek TSF- MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
London Grove Township Chester County	PAG0200 1505086A-1R	SPE—Lisacal Construction Co, LLP 2109 Bellemead Avenue Havertown, PA 19083	UNT E Branch White Clay Creek CWF Indian Run TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
London Grove Township Chester County	PAG0200 1513003-R	Keystone Custom Homes Holdings, Inc. 227 Granite Run Drive Suite 100 Lancaster, PA 17601	Middle Branch White Clay Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Aston Township Delaware County	PAG0200 2307022R	Bodlay Road LLP PO Box 474 Newtown Square, PA 19013	Chester Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900

NOTICES

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Concord Township Delaware	PAG0200 2308054R	Spring Lake Shoppes 234 N. James Street Newport, DE 19804	West Branch Chester Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Chadds Ford Township Delaware County	PAG0200 2310006R	Ridge Road Investments, LP 234 N. James Street Newport, DE 19804	Beaver Creek -CWF-MF Harvey Run-WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Newtown Township Delaware County	PAG0200 2311018	BPG Properties, Ltd 3815 West Chester Pike Newtown Square, PA 19073	Darby Creek MF-CWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Middletown Township Delaware County	PAG0200 2312011	John Laskas 523 New Darlington Road Media, PA 19063	Chester Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Plymouth Township Montgomery County	PAG0200 4612071	1800 Plymouth Road—Brierdale Builders 8107 Ridge Avenue Philadelphia, PA 19128	Plymouth Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Upper Providence Township Montgomery County	PAG0200 4608107	Proposed Assisted Living Facility 525 Fellowship Road, Suite 360 Mount Laurel, NJ 08054	Perkiomen Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Walker Twp., Schuylkill County	PAG02005412006	Larry N. Bensinger, Jr. 602 Pine St. Tamaqua, PA 18252	Beaver Creek, CWF, MF	Schuylkill Co. Cons. Dist. 570-622-3742
Salem Twp., Luzerne County	PAG02004012020	Marr Rentals, LLC Nancy Marr 812-D Central Rd. Bloomsburg, PA 17815	Susquehanna River, WWF, MF	Luzerne Co. Cons. Dist. 570-674-7991
Plains Twp., Luzerne County	PAG02004010014R	Mericle 800 Baltimore, LLC Robert Mericle 100 Baltimore Dr. Wilkes-Barre, Pa 18702	UNT to Deep Creek, CWF, MF and UNT to Laurel Run, CWF, MF	Luzerne Co. Cons. Dist. 570-674-7991
Kline Twp., Schuylkill County	PAG02005410010R	Hazleton Area School District Anthony Ryba 1515 West 23rd St. Hazleton, Pa 18202	Honeybrook Reservoir, Catawissa Creek, CWF, MF	Schuylkill Co. Cons. Dist. 570-622-3742

Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, 717.705.4802

*Facility Location:
Municipality &
County*

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Lower Paxton Township Dauphin County	PAG02002212037	Fishing Creek Valley Associates 4712 Smith Street Harrisburg, PA 17109	Beaver Creek/WWF	Dauphin Co Conservation District 1451 Peters Mountain Rd Dauphin, PA 17018 717.921.8100
Harrisburg City Dauphin County	PAG02002212048	Harrisburg Housing Authority 351 Chestnut Street Harrisburg, PA 17101	Paxton Creek/WWF	Dauphin Co Conservation District 1451 Peters Mountain Rd Dauphin, PA 17018 717.921.8100
Susquehanna Township Dauphin County	PAG02002208017R	Marc De Souza Crooked Hill, Ltd. 225 North Presidential Boulevard Bala Cynwyd, PA 19004	Paxton Creek/WWF	Dauphin Co Conservation District 1451 Peters Mountain Rd Dauphin, PA 17018 717.921.8100
Derry Township Dauphin County	PAG02002212044	Steve Balliet The Hershey Company 100 Crystal A Drive Hershey, PA 17033	Spring Creek East/WWF	Dauphin Co Conservation District 1451 Peters Mountain Rd Dauphin, PA 17018 717.921.8100
Susquehanna Township Dauphin County	PAG02002210041(1)R	Scott Rhoads PSECU One Credit Union Place Harrisburg, PA 17110	Paxton Creek/WWF	Dauphin Co Conservation District 1451 Peters Mountain Rd Dauphin, PA 17018 717.921.8100
Brecknock Township Lancaster County	PAG02003607031R	Talon Holdings, LLC 1737 West Main Street Ephrata, PA 17522	UNT Muddy Creek/WWF	Lancaster Co Conservation Dist. 1383 Arcadia Road, Room 200 Lancaster, PA 17601 717.299.5361, Ext. 5
Manheim Township Lancaster County	PAG02003608073R	JPM Keller, LLC PO Box 291 Lititz, PA 17543	Little Conestoga Creek/TSF	Lancaster Co Conservation Dist. 1383 Arcadia Road, Room 200 Lancaster, PA 17601 717.299.5361, Ext. 5
Manheim Township Lancaster County	PAG02003611024R	Lancaster Airport 500 Airport Road, Suite G Lititz, PA 17543	Bachman Run/Lititz Run/WWF; TSF	Lancaster Co Conservation Dist. 1383 Arcadia Road, Room 200 Lancaster, PA 17601 717.299.5361, Ext. 5

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Warwick Township Lancaster County	PAG02003612084	Daniel Cicala PO Box 386 Lititz, PA 17543	Bachman Run/TSF	Lancaster Co Conservation Dist. 1383 Arcadia Road, Room 200 Lancaster, PA 17601 717.299.5361, Ext. 5
East Lampeter Township Lancaster County	PAG02003612085	McNeil Consumer Pharmaceutical 7050 Camp Hill Road Fort Washington, PA 19034	Stauffer's Run/Conestoga River/WWF, MF	Lancaster Co Conservation Dist. 1383 Arcadia Road, Room 200 Lancaster, PA 17601 717.299.5361, Ext. 5
West Hempfield Township Lancaster County	PAG02003612096	Michael E. Sahn 2730 Burma Road Columbia, PA 17512	Shawnee Run/WWF	Lancaster Co Conservation Dist. 1383 Arcadia Road, Room 200 Lancaster, PA 17601 717.299.5361, Ext. 5
Carroll Township York County	PAG02006712045	Dillsburg Area Authority 98 W. Church Street, PO Box 370 Dillsburg, PA 17019	UNT to Yellow Breeches Creek/CWF	York Co. Conservation District 118 Pleasant Acres Rd York, PA 17402-8984 717.840.7430

*Northcentral Region: Waterways & Wetlands Program Manager, 208 W Third Street, Williamsport, Pa 17701
570.327.3636*

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Mifflin Township Columbia County	PAG02001912009	PA Dept of Transportation District 3-0 PO Box 218 Montoursville PA 17754	Trib to Nescopeck Creek CWF, MF	Columbia County Conservation District 702 Sawmill Rd Ste 204 Bloomsburg PA 17815 (570) 784-1310

Southwest Region: Regional Waterways & Wetlands Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office and Phone No.</i>
South Union Township Fayette County	PAG02002611001R	George Family, LP PO Box 458 Chalk Hill, PA 15421	Redstone Creek (WWF)	Fayette County CD 10 Nickman Plaza Lemont Furnace, PA 15456 (724) 438-4497
North Union Township Fayette County	PAG02002612022	Lemont Furnace DPP VII, LLC. 9010 Overlook Blvd Brentwood, TN 37027	Cove Run (WWF)	Fayette County CD 10 Nickman Plaza Lemont Furnace, PA 15456 (724) 438-4497

*Facility Location:
Municipality &
County**Permit No.**Applicant Name and
Address**Receiving
Water / Use**Contact Office and
Phone No.*

Fallowfield
Township
Washington County

PAG02006306030R

Middle Monongahela Industrial
Development Association, Inc.
PO Box 145
Charleroi, PA 15022

Pigeon Creek
(WWF)

Washington County
CD
2800 North Main
Street
Suite 105
Washington, PA
15301
(724) 705-7098

*General Permit Type—PAG-03**Facility Location:
Municipality &
County**Permit No.**Applicant Name &
Address**Receiving Water /
Use**Contact Office &
Phone No.*

New Garden
Township
Chester County

PAR140025
A-1

International Paper
1270 Old Baltimore Pike
Toughkenamon, PA 19374

Unnamed Tributary
of West Branch Red
Clay Creek—3I

Southeast Region
Clean Water
Program
484.250.5970

Philadelphia City
Philadelphia County

PAR120025 A-1

Mondelez Global LLC
12000 E Roosevelt Boulevard
Philadelphia, PA 19116

Unnamed Tributary
to Byberry Creek
and Unnamed
Tributary to Walton
Run—3-J

Southeast Region
Clean Water
Program
484.250.5970

Lawrence Township
Tioga County

PAR314844

Blue Dot Energy Service LLC
PO Box 784 Route 76 East
Bridgeport, WV 26330-0784

Tioga River—4-A

DEP Northcentral
Regional Office
Clean Water
Program
208 W Third Street
Suite 101,
Williamsport, PA
17701-6448
570.327.0530

Mahoning Township
Montour County

PAR804864

Leighow Oil Co. Inc.
118 Eyer Road
Danville, PA 17821

UNT to Mahoning
Creek—5-E

DEP Northcentral
Regional Office
Clean Water
Program
208 W Third Street
Suite 101,
Williamsport, PA
17701-6448
570.327.0530

Old Lycoming
Township
Lycoming County

PAR124812

Pepsi Beverages Co.
1450 Dewey Avenue
Williamsport, PA 17701-1503

Unnamed Tributary
to Lycoming
Creek—10-A

DEP Northcentral
Regional Office
Clean Water
Program
208 W Third Street
Suite 101,
Williamsport, PA
17701-6448
570.327.0530

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Rostraver Township Westmoreland County	PAR506110	Tervita, LLC 10613 West Sam Houston Parkway North Suite 300 Houston, TX 77064	UNT of Speers Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 412-442-4000

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

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Bradford Township McKean County	PAR328303	Werzalit of America Mfg. 40 Holley Avenue Bradford, PA 16701	Tunungwant Creek 16-C	DEP NWRO Clean Water Program 230 Chestnut Street Meadville, PA 16335-3481 814/332-6942
Paint Township Clarion County	PAR508306	Veolia ES Solid Waste of PA, Inc 6330 Route 219 Brockway, PA 15824	An Unnamed Tributary to the Clarion River 17-B	DEP NWRO Clean Water Program 230 Chestnut Street Meadville, PA 16335-3481 814/332-6942
Oil Creek Township Crawford County	PAR608346	Salvage Direct P. O. Box 306 Titusville, PA 16354	An Unnamed Tributary to Oil Creek 16-E	DEP NWRO Clean Water Program 230 Chestnut Street Meadville, PA 16335-3481 814/332-6942

General Permit Type—PAG-5

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
City of Washington Washington County	PAG056146	United Refining Company of PA 814 Lexington Avenue Warren, PA 16365-3224	Catfish Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh PA 15222-4745 (412) 442-4000

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Bullskin Township Fayette County	PAG056141	Graft Oil Company PO Box 899 Connellsville, PA 15425	Irish Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh PA 15222-4745 (412) 442-4000
White Township Indiana County	PAG056225	United Refining Company of PA 814 Lexington Avenue Warren, PA 16365-3224	Tom's Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh PA 15222-4745 (412) 442-4000
City of Jeannette Westmoreland County	PAG056162	Maloy's Amoco 331 Kemerer Drive Greensburg, PA 15601	Brush Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh PA 15222-4745 (412) 442-4000

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

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Snyder Township Jefferson County	PAG058304	Lukes Auto Service Center 3312 Route 219 Brockway, PA 15824	Unnamed tributary to Little Toby Creek	DEP NWRO Clean Water Program 230 Chestnut Street Meadville, PA 16335-3481 814/332-6942
Summit Township Erie County	PAG058306	MKP Enterprises, Inc. (Holiday Shell) P. O. Box 8326, Erie, PA 16505	An Unnamed Tributary of the Walnut Creek	DEP NWRO Clean Water Program 230 Chestnut Street Meadville, PA 16335-3481 814/332-6942

*General Permit Type—PAG-07**Facility Location:
Municipality &
County*

Valley Forge Sewer Authority
Wastewater Treatment Plant
Schuylkill Township
Chester County

Permit No.

PAG070005

*Applicant's Name &
Address*

Valley Forge Sewer Authority
333 Pawling Road
Phoenixville, PA 19460

*Contact Office &
Phone No.*

Southeast Region
Clean Water Program
484.250.5970

*General Permit Type—PAG-8 (SSN)**Facility Location:
Municipality &
County*

Lower Mount Bethel
Township, and
Washington
Township,
Northampton
County

Permit No.

PAG08-2203
PAG07-0003
PAG08-0008
PAG08-3501
PAG08-0002
PAG08-3535
PAG08-3551
PAG08-3517
PAG08-9903
PAG08-3596
PAG08-3510
PAG08-2211
PAG08-3506
PAG08-3522
PAG08-3515
PAG08-3502
PAG08-9904
PAG08-3547
PAG08-0006
PAG08-3540
PABIG-9903
PAG08-3600
PAG08-3565
PAG07-3508
PAG07-0005
PAG08-0003
PAG08-3825
PAG08-0004
PAG08-3518
PAG08-9905
PAG08-3556
PAG08-0018
PAG08-3573
PAG08-3597
WMGR-099
PAG08-0011
PAG08-3567
PAG08-2219
PAG08-3573
PAG08-0021
PAG08-3605
PAG08-0005

*Applicant Name &
Address*

Synagro
1605 Dooley Rd.
P. O. Box B
Whiteford, MD 21160

*Site Name &
Location*

Mcewan Farm
Delaware Drive and
Otts Drive,
Lower Mount
Bethel Township
and
Jackson Road,
Washington
Township

*Contact Office &
Phone No.*

PA DEP
NERO
2 Public Square
Wilkes-Barre, PA
18701-1915
570-826-2511

*Facility Location:
Municipality &
County*

Lower Mount Bethel
Township,
Northampton
County

Permit No.

PAG08-2203
PAG07-0003
PAG08-0008
PAG08-3501
PAG08-0002
PAG08-3535
PAG08-3551
PAG08-3517
PAG08-9903
PAG08-3596
PAG08-3510
PAG08-2211
PAG08-3506
PAG08-3522
PAG08-3515
PAG08-3502
PAG08-9904
PAG08-3547
PAG08-0006
PAG08-3540
PABIG-9903
PAG08-3600
PAG08-3565
PAG07-3508
PAG07-0005
PAG08-0003
PAG08-3825
PAG08-0004
PAG08-3518
PAG08-9905
PAG08-3556
PAG08-0018
PAG08-3573
PAG08-3597
WMGR-099
PAG08-0011
PAG08-3567
PAG08-2219
PAG08-3573
PAG08-0021
PAG08-3605
PAG08-0005

*Applicant Name &
Address*

Synagro
1605 Dooley Rd.
P. O. Box B
Whiteford, MD 21160

*Site Name &
Location*

Keifer Farm III
Gravel Hill Road
and Mill Creek
Road

*Contact Office &
Phone No.*

PA DEP
NERO
2 Public Square
Wilkes-Barre, PA
18701-1915
570-826-2511

General Permit Type—PAG-10

*Facility Location:
Municipality &
County*

Washington
Township
Wyoming County

Permit No.

PAG102271

*Applicant Name &
Address*

UGI Energy Services, Inc.
1 Meridian Boulevard,
Suite 2C01
Wyomissing, PA 19610

*Receiving Water /
Use*

Unnamed Tributary
to Susquehanna
River (CWF, MF)

*Contact Office &
Phone No.*

DEP Northeast
Regional Office
Clean Water
Program
2 Public Square,
Wilkes-Barre, PA
18701-1915
570.826.2511

General Permit Type—PAG-13

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

NPDES

Permit No.

PAG138320

*Applicant Name &
Address*

Pennsylvania State University
Penn State Shenango
147 Shenango Avenue
Sharon, PA 16146

County

Mercer

Municipality

City of Sharon

*Receiving
Water/Use*

Shenango River

*DEP Protocol
(Y/N)*

Y

PUBLIC WATER SUPPLY PERMITS

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

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

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

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

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act

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

Permit No. 5012510, Public Water Supply.

Applicant	United Water Pennsylvania
Municipality	Penn Township
County	Perry
Responsible Official	Authur C. Saunders, Operations Engineer 4211 East Park Circle Harrisburg, PA 17111
Type of Facility	Business Campus One— Installation of an arsenic treatment system.
Consulting Engineer	Philip Depoe, P.E. Buchart Horn, Inc. 445 West Philadelphia Street York, PA 17405-7040
Permit to Construct Issued:	1/17/2013

Permit No. 3612550 MA, Minor Amendment, Public Water Supply.

Applicant	Columbia Water Company
Municipality	Columbia Borough

County	Lancaster
Responsible Official	David T Lewis, General Manager 220 Locust Street Columbia, PA 17512
Type of Facility	Temporary sodium hypochlorite injection system for use during Walnut Street Plant upgrades
Consulting Engineer	David T Lewis, P.E. Columbia Water Company 220 Locust Street Columbia, PA 17512
Permit to Construct Issued:	1/11/2013

Operations Permit issued to: **Stonebridge Health & Rehab Center**, 7500035, Penn Township, **Perry County** on 1/11/2013 for the operation of facilities submitted under Application No. 5012506 MA.

Northwest Region: Safe Drinking Water Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481

Permit No. 2089503-MA1 Public Water Supply

Applicant	Gregory A. Kasemer d/b/a Fountain House Mobile Home Park
Township or Borough	Woodcock Township
County	Crawford
Type of Facility	Public Water Supply
Consulting Engineer	Chad W. Yuriscic, P.E. Deiss & Halmi Engineering, Inc. 105 Meadville Street Edinboro, PA 16412
Permit to Construct Issued	January 18, 2013

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted Under the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

Northcentral Region: Clean Water 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>
Union Township and Unionville Borough	Township: 125 Sycamore Lane, Julian, PA 16844 Borough: P. O. Box 81, Fleming, PA 16835	Centre

Plan Description: The approved plan provides for the Mid-Centre County Authority to extended public sewage service to five homes on the southern side of Bald Eagle Creek in Unionville Borough, the upgrading of pumps within Pump Station 3, in-situ repairs of main lines within Union Township and Unionville Borough, and the implementation of flow monitoring and inflow and infiltration identification and removal programs for those areas whose flows are tributary to Pump Station 3. The total project cost is estimated to be \$547,868. 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.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Bradford Township	Bradford Township Supervisors c/o Charles Read, Chairman 2289 Barrett Road, Suite B Woodland, PA 16881	Clearfield

Plan Description: The approved plan provides for construction of a gravity sewer extension, two pump stations, a grinder pump station and forcemain to serve the Route 970 corridor from the end of the existing sewage collection system which is approximately 1000 feet south of Owens Road, northward to the I-80 interchange. 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.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995 PREAMBLE 2

The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.907).

Provisions of Sections 301—308 of the Land Recycling and Environmental Remediation Standards Act (act) (35 P. S. §§ 6026.301—6026.308) require the Department to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, will also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a site-specific standard remediation. A remedial investigation report includes conclusions from the site investigation; concentration of regulated substances in environmental media; benefits of reuse of the property; and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the environmental cleanup program manager in the Department regional office under which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Northeast Region: Eric Supey, Environmental Cleanup and Brownfields Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Drugas Property, 324 Beech Ridge Drive, Tobyhanna Township, **Monroe County**, Richard Trimpi, Trimpi Associates, Inc., has submitted a Final Report (on behalf of his client, Ms. Jennifer Lewis, daughter to Ruth Drugas, owner, 187 19th Avenue, Brick, NJ 08724), concerning the remediation of soil and groundwater due to a release of kerosene as a result of vandalism to an aboveground storage tank. The report was submitted to document attainment of the Residential Statewide Health Standard for soil and groundwater. A public notice regarding the submission of the Final Report will be published in the surrounding area in the near future.

Horwith Trucking Backlot, 6 Horwith Drive, Northampton Borough, **Northampton County**, Elizabeth Schamberger, Moonstone Environmental, LLC, has submitted a Combined Remedial Investigation Report/Final Report on behalf of her client Regina Grim, MRS Land LLC., Route 329, Northampton, PA 18067, concerning the remediation of soil and groundwater from bunker oil due to an historical release. The applicant proposes to remediate the site to meet the Non-Residential Statewide Health Standards for soils and Site Specific Standards for groundwater. The intended future use of the property is commercial/industrial. A summary of the Combined Remedial Investigation Report/Final Report was published in *The Morning Call*, on December 20, 2012.

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

Tobias Machining and Welding, Inc., Piatt Township, **Lycoming County**. Northridge Group, Inc., on behalf of Tobias Machining and Welding Inc. has submitted a Final Report concerning remediation of site soils contaminated with Benzene, Toluene, Ethylbenzene, Cumene, Naphthalene, 1,3,5-Trimethylbenzene, 1,2,4-Trimethylbenzene, and Methyl Tertiary Butyl Ether. The site is located in the PennDot right-of-way along Route 220 Northbound. The report is intended to document remediation of the site to meet the Statewide Health Standard.

C. A. Shipton, Inc., Borough of Mifflinburg, **Union County**. BlackRock Environmental, LLC, PO Box 288 Nazareth, PA 18064 on behalf of C.A. Shipton, Inc., 39 East Chestnut Street, Mifflinburg, PA 17844 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with #2 heating oil. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Pennsylvania College of Technology Rose Street & West 3rd Street Act 2 Site, City of Williamsport, **Lycoming County**. TCI Environmental Services, Inc., 100 North Wilkes-Barre Boulevard, Wilkes-Barre, Pa 18702 on behalf of PA College of Technology, One College Avenue, Williamsport, Pa 17701-5799 has submitted a Final Report concerning remediation of site soils contaminated with Arsenic (Parcels 1 and 2), Lead (Parcels 1 and 2), Benzo(a)pyrene (Parcel 2), PCB 1248 (Parcel 2), Dieldrin (Parcel 2). The report is intended to document remediation of the site to meet the Site-Specific Standard.

Spencer Trucking, Inc., Point Township, **Northumberland County**. Northridge Group, Inc., 1172 Ridge Road, Northumberland, Pa 17857 on behalf of Spencer Trucking, State Route 147N, near Lahr's Road, Northumberland, Pa 17857 has submitted a Final Report concerning remediation of site soils contaminated with Benzene,

toluene, Ethylbenzene, Cumene, Naphthalene, 1,3,5-Trimethylbenzene, 1,2,4-Trimethylbenzene, Methyl tertiary Butyl Ether. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Tri-State Trucking, Valley Township, **Montour County**. Northridge Group, Inc., 1172 Ridge Road, Northumberland, PA 17857 on behalf of Tristate trucking Company, 16064 State Route 6, Mansfield, Pa 16933 has submitted a Final Report concerning remediation of site soils contaminated with Benzene, Toluene, Ethylbenzene, Cumene, Naphthalene, 1,3,5-Trimethylbenzene, 1,2,4-Trimethylbenzene, Methyl Tertiary Butyl Ether. The report is intended to document remediation of the site to meet the 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—6026.907).

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

For further information concerning the plans and reports, contact the environmental cleanup program manager in the Department regional office under which the notice of the plan or report appears. If information

concerning a final report is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Northeast Region: Eric Supey, Environmental Cleanup and Brownfields Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Keblish Residence, 2205 Lehigh Parkway, Salisbury Township, **Lehigh County**, Jeremy Bolyn, Environmental Maintenance, has submitted a Final Report (on behalf of this client, Ruth Keblish, 2205 Lehigh Parkway, Allentown, PA 18103), concerning the remediation of soil found to have been impacted by heating oil as a result of an overfill to an underground storage tank. The report documented attainment of the Residential Statewide Health Standard for soil and was approved on January 9, 2013. The report was originally submitted within 90 days of the release.

A&M Hibbard 2H/4H Tank Farm (Comtech), State Route 29, Dimock Township, **Susquehanna County**, Dawn Washo, Resource Environmental, 36 Taylor Lane, Montrose, PA 18801 has submitted a Final Report, (on behalf of her client, Cabot Oil & Gas Corporation, 5 Penn Center West, Suite 401, Pittsburgh, PA 15276), concerning the remediation of soil found to have been impacted by an estimated 20,000 gallons of produced water and flow back (collectively brine) released to the well pad surface. The report documented attainment of the Residential Statewide Health Standards for soil and Background Standard for soil and was approved on January 9, 2013. The report was originally submitted within 90 days of the release.

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

Former Nauman's Garage, 404 South Market Street, Elizabethtown, PA 17022, Elizabethtown Borough, **Lancaster County**. RETTEW Associates, Inc., 3020 Columbia Avenue, Lancaster, PA 17603 on behalf of Elizabethtown Borough, 600 South Hanover Street, Elizabethtown, PA 17022, submitted a Final Report concerning the remediation of site soils and groundwater contaminated with gasoline, waste oil and hydraulic oil. The Final Report demonstrated attainment of the Residential Statewide Health Standard, and was approved by the Department on January 11, 2013.

Rollin Hoskins Residence, 3A School Lane, Douglassville, PA 19518, Union Township, **Berks County**. Liberty Environmental, Inc., 50 North Fifth Street, 5th Floor, Reading, PA 19601, on behalf of Rollin Hoskins, 3A School Lane, Douglassville, PA 19518, submitted a Final Report concerning site soils contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Residential Statewide Health standard, and was approved by the Department on January 14, 2013.

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

Tobias Machining and Welding, Inc., Piatt Township, **Lycoming County**. Northridge Group, Inc., on behalf of Tobias Machining and Welding Inc. has submitted a Final Report concerning remediation of site soils contaminated with Benzene, Toluene, Ethylbenzene,

Cumene, Naphthalene, 1,3,5-Trimethylbenzene, 1,2,4-Trimethylbenzene, and Methyl Tertiary Butyl Ether. The site is located in the PennDot right-of-way along Route 220 Northbound. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on January 8, 2013.

Pennsylvania College of Technology Rose Street & West 3rd Street Act 2 Site, City of Williamsport, **Lycoming County**. TCI Environmental Services, Inc., 100 North Wilkes-Barre PA 18702 on behalf of PA College of Technology, One College Avenue, Williamsport, Pa 17701-5799 has submitted a Final Report concerning the remediation of site soils contaminated with Arsenic (Parcels 1 and 2), Lead (Parcels 1 and 2), Benzo(a)pyrene (Parcel 2), PCB 1248 (Parcel 2), Dieldrin (Parcel 2). The Final Report demonstrated attainment of the Site-Specific Standard and was approved by the Department on December 28, 2012.

C.A. Shipton, Inc., Borough of Mifflinburg, **Union County**. BlackRock Environmental, LLC, PO Box 288, Nazareth, PA 18064 on behalf of C.A. Shipton, Inc., 39 East Chestnut Street, Mifflinburg, PA 17844 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with #2 heating oil. The Final Report demonstrated attainment of the Site-Specific Standard and was approved by the Department on July 31, 2012.

Tri-State Trucking, Valley Township, **Montour County**. Northridge Group, Inc., 1172 Ridge Road, Northumberland, Pa 17857 on behalf of Tri-State Company, 16064 State Route 6, Mansfield, Pa 16933 has submitted a Final Report concerning the remediation of site soils contaminated with Benzene, Toluene, Ethylbenzene, Cumene, Naphthalene, 1,3,5-Trimethylbenzene, 1,2,4-Trimethylbenzene, Methyl Tertiary Butyl Ether. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on December 19, 2012.

RESIDUAL WASTE GENERAL PERMITS

Permits Revoked under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (35 P. S. §§ 4000.101—4000.1904); and Residual Waste Regulations for a General Permit To Operate Residual Waste Processing Facilities and the Beneficial Use of Residual Waste other than Coal Ash.

South Central Regional Office: Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200.

General Permit No. WMGR028D002C. York Materials Group LLC, 950 Smile Way, York, PA 17404

The general permit WMGR028D002C initially issued to Bituminous Paving Materials of York, Inc. that authorizes the beneficial use of baghouse fines and scrubber pond precipitates for use as an aggregate in roadway construction, a soil additive, a soil conditioner, or a component or ingredient in the manufacturing of construction products has been revoked. This general permit is for the site located at the York Plant, 1300 Zinn's Quarry Road, West Manchester Township, York, PA, 17404. The plant has been bought by York Materials Group LLC and they have requested the general permit be revoked as they will no longer be operating at this facility. The general permit was revoked by the South Central Regional Office on January 16, 2013.

Registration for General Permit issued under the Solid Waste Management Act; and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities (25 Pa. Code § 287.611 relating to authorization for general permit).

Southcentral Regional Office: Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17011.

General Permit Application No. WMGR028D002A and WMGR028D002B. York Materials Group LLC, 950 Smile Way, York, PA 17404

These general permits were originally issued to Bituminous Paving Materials of York, Inc. for the beneficial use of baghouse fines and scrubber pond precipitates for use as an aggregate in roadway construction, a soil additive, a soil conditioner, or a component or ingredient in the manufacturing of construction products, generated at the Hanover Plant, 100 Green Springs Road, Hanover, PA in Berwick Township, **Adams County** and at the Baker Plant, 321 North Baker Road, York, PA in West Manchester Township, **York County**.

On October 31, 2012, Bituminous Paving Materials of York, Inc. notified the Department of their intent to sell their assets to York Materials Group LLC, York Materials Group subsequently notified the Department of the sale on November 30, 2012, Based on the information provided in these notifications, the beneficial use activity performed by these facilities is now under the ownership and management of York Materials Group LLC.

Notice is hereby given of the re-issuance of the General Permits Numbered WMGR028D002A and WMGR028D002B granting York Materials Group LLC the beneficial use of baghouse fines and scrubber pond precipitates, generated at the Hanover Plant, 100 Green Springs Road, Hanover, PA in Berwick Township, Adams County and at the Baker Plant, 321 North Baker Road, York, PA in West Manchester Township, York County, as specified in the general permit. The Southcentral Regional Office approved the re-issuance of this general permit on January 16, 2013.

Persons interested in reviewing the general permit may contact John Oren, Facilities Manager, Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17011, (717) 705-4905. TDD users may contact the Department through the Pennsylvania Relay service, (800) 654-5984.

AIR QUALITY

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

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401

Contact: Sachin Shankar, New Source Review Chief—Telephone: 484-250-5920

46-0275: Titan International, Inc. (1533 West High Street, Pottstown, PA 19466) on January 14, 2013, to install two (2) batch reactor tanks and related metal recovery equipment, including a fume scrubber, at a new facility in West Pottsgrove Township, **Montgomery County**. The hydrochloric fume scrubber reduces Hazard-

ous Air Pollutant (HAP) emissions from the reactor tanks to less than 0.075 ton per year. Facility-wide potential to emit for all criteria pollutants is below major facility thresholds for the Philadelphia Consolidated Metropolitan Statistical Area. The plant is therefore a Natural Minor Facility. The plan approval will include monitoring, testing, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

46-0277: Lite-Tech, Inc. (975 Madison Avenue, Norristown, PA 19403) on January 18, 2013, for their manufacturing facility for lightweight x-ray protection aprons in Lower Providence Township, **Montgomery County**. The facility comprises weighing and blending, plastics compounding and sheet extrusion equipment and associated dust collectors. This is a minor facility. Emissions from the facility are estimated as 0.11 ton/year particulate matter (PM/PM₁₀/PM_{2.5}), 0.0012 ton/year lead and 0.025 ton/year hazardous air pollutants (HAP). The dust collectors will achieve less than 0.02 grain/dry stand cubic foot particulate (PM/PM₁₀/PM_{2.5}). This will be considered to meet Best Available Technology (BAT). The permittee shall monitor and keep records and meet work practice standards to minimize emissions and keep the facility operating within all applicable emission standards.

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

Contact: Thomas J. Hanlon, Facility Permitting Chief—Telephone: 717-705-4862 or William Weaver, Program Manager—Telephone: 717-705-4702.

GP3-36-03191B: Kinsley Construction, Inc. (PO Box 2886, York, PA 17405) on January 15, 2013, for portable nonmetallic mineral processing equipment under GP3 at their Lanchester Landfill in Caernarvon Township, **Lancaster County**.

GP9-36-03191B: Kinsley Construction, Inc. (PO Box 2886, York, PA 17405) on January 15, 2013, for seven (7) diesel-fired internal combustion engines under GP9, to power portable nonmetallic mineral processing equipment, at the Lanchester Landfill located in Caernarvon Township, **Lancaster County**.

GP3-06-03069F: Highway Materials, Inc. (1750 Walton Road, Blue Bell, PA 19422) on January 15, 2013, for portable nonmetallic mineral processing equipment under GP3 at their Temple Quarry in Alsace Township, **Berks County**.

GP9-06-03069F: Highway Materials, Inc. (1750 Walton Road, Blue Bell, PA 19422) on January 15, 2013, for two (2) diesel fuel-fired internal combustion engines under GP9 to power portable nonmetallic mineral processing equipment at the Temple Quarry in Alsace Township, **Berks County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701

Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648

GP14-17-397: Clearfield County SPCA (275 Twenty-First Street, Clearfield, PA 16830) on January 17, 2013, to construct and operate an Industrial Engineering Power-Pak Jr. 43-PPS animal crematory incinerator under the General Plan Approval and/or General Operating Permit for Human or Animal Crematories (BAQ-GPA/GP-14) at their site in Lawrence Township, **Clearfield County**.

GP5-41-651A: PVR Marcellus Gas Gathering, LLC (100 Penn Tower, 25 West Third Street, Williamsport, PA

17701) on January 17, 2013, to construct and operate three (3) additional 1,380 bhp Caterpillar model G3516B four-stroke ultra-lean-burn natural gas-fired compressor engines, one 65 MMscf/day Triethylene Glycol dehydration unit equipped with a 1.5 MMBtu/hr reboiler, and two (2) 10,000 gallon above-ground produced water tanks at their Bobst Mountain Compressor Station in Cogan House Township, **Lycoming County**.

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

Contact: Edward Orris, New Source Review Chief—Telephone: 814-332-6636

GP5-27-037B: Seneca Resources Corp.—Muzette B Station (SR 2007, Vonwinckel, PA 16260) on January 4, 2013, to operate one (1) rich burn, 4 stroke natural gas engine, Caterpillar Model G3306TALCR rated 195 bhp at 1,800 rpm, equipped with a DCL International NSCR (3-way) oxidation catalyst, model DC47-X and with an associated air fuel ratio controller in Kingsley Township, **Forest County**.

Plan Approvals Issued under the Air Pollution Control Act and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

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

Contact: Thomas J. Hanlon, Facility Permitting Chief—Telephone: 717-705-4862 or William Weaver, Program Manager—Telephone: 717-705-4702.

67-05004P: P. H. Glatfelter Co. (228 South Main Street, Spring Grove, PA 17362-1000) on January 15, 2013, for the retrospective review and approval of the No. 6 Turbine Generator project at the pulp and paper manufacturing facility in Spring Grove Borough, **York County**.

38-05003H: Carmeuse Lime, Inc. (3 Clear Spring Road, Annville, PA 17003) on January 14, 2013, for authorization to combust Engineered Fuel in the facility's No. 5 Kiln in North Londonderry Township, **Lebanon County**.

07-03061A: Altoona GTL LLC (10 Gilberton Road, Gilberton, PA 17934-0009) on January 16, 2013, to construct a facility that will utilize the Haldor Topsoe TIGAS (Topsoe Integrated Gasoline Synthesis) process to convert shale gas into gasoline and liquid propane gas (LPG) at their site in Allegheny and Blair Townships, **Blair County**. The NO_x emissions generated from the operation of the convection reformers will be controlled through the use of Selective Catalytic Reduction (SCR). VOC emissions from the gasoline loading rack activities will be controlled by a vapor recovery system. Also, several flares will be used at the site to control VOC emissions generated from emergency venting and catalyst regeneration.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701

Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648

18-00031A: Mountain Gathering, LLC (810 Houston Street, Fort Worth, TX 76102-6203) on December 12, 2012, to construct four (4) 1,775 horsepower, natural gas-fired compressor engines equipped with oxidation catalysts and a 1.50 million Btu per hour, natural

gas-fired line heater at their Dry Run Compressor Station located in Chapman Township, **Clinton County**.

19-00033A: Mountain Gathering, LLC (810 Houston Street, Fort Worth, TX 76102-6203) on January 11, 2013, to construct four (4) 1,775 horsepower, natural gas-fired compressor engines equipped with oxidation catalysts and a 1.50 million Btu per hour, natural gas-fired line heater at their Levan Compressor Station in Pine Township, **Columbia County**.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

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

Contact: Thomas J. Hanlon, Facility Permitting Chief—Telephone: 717-705-4862 or William Weaver, Program Manager—Telephone: 717-705-4702.

34-05001D: AC Products, Inc. (12393 William Penn Highway, Thompsettown, PA 17094) on January 16, 2013, to modify their wood cabinet surface coating operation in Delaware Township, **Juniata County**. The plan approval underwent a minor modification to reflect a change of ownership.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701

Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648

08-00030B: Angelina Gathering Co. (2350 North Sam Houston Parkway East, Houston, TX 77009) on January 18, 2013, to extend the authorization for to construct one natural-gas-fired compressor engine equipped with an oxidation catalyst at their Greenzweig Compressor Station in Herrick Township, **Bradford County** to July 22, 2013. The plan approval has been extended.

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

Contact: M. Gorog & B. Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226

30-00055A: Shannopin Materials, LLC (308 Dents Run Road, Morgantown, WV 26501) on January 17, 2013, for a plan approval extension application to extend the plan approval until construction of the final component of the facility is complete in Monongahela Township, **Greene County**. Extension of the plan approval has been approved until July 29, 2013. The plan approval has been extended.

04-00227B: IPSCO Koppel Tubulars LLC (PO Box 410, Ambridge, PA 15003) on January 17, 2013, to extend period of temporary operation of the Rotary Hearth Furnace at the Ambridge Plant in Harmony Township, **Beaver County** and modify the contact person. The new expiration date is July 24, 2013.

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

Contact: Edward Orris, New Source Review Chief—Telephone: 814-332-6636

25-979A: National Fuel Gas Supply Corp.—Carter Hill Station (1100 State Street, Erie, PA 16512) on January 15, 2013, effective February 28, 2013, to install a non-selective catalytic reduction (NSCR) catalyst on an existing natural gas compressor engine at their Carter

Hill Compressor Station facility in Wayne Township, **Erie County**. The plan approval has been extended.

42-004F: American Refining Group (77 North Kendall Avenue, Bradford, PA 16701) on January 31, 2013, for a plan approval to replace the refinery flare tip system associated with the Refinery Flare (FL #301) at their Bradford facility in Bradford City, **McKean County**. The plan approval has been extended. This is a Title V facility, Permit #42-0004.

62-176A: Allegheny Pellet Corp. (1055 Matthews Run Road, Youngsville, PA 16371) on January 31, 2013, to install a 22 MMBtu/hr wood-fired pellet drying operation at their facility in Brokenstraw Township, **Warren County**. The plan approval has been extended.

Title V Operating Permits Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401

Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920

23-00084: FPL Energy MH50, L.P. (100 Green Street, Marcus Hook, PA 19061-0426) on January 14, 2013, to renew the Title V Operating Permit in the Borough of Marcus Hook, **Delaware County**. The facility is primarily used for providing steam to processes at the Sunoco Refinery and electrical energy to the grid. As a result of potential emissions of nitrogen oxides, the facility is a major stationary source as defined in Title I, Part D of the Clean Air Act Amendments, and is therefore subject to the Title V permitting requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. The proposed Title V Operating Renewal does not adopt any new regulations and does not reflect any change in air emissions from the facility. The facility is not subject to Compliance Assurance Monitoring (CAM) pursuant to 40 CFR Part 64. The renewal contains all applicable requirements including monitoring, recordkeeping and reporting.

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

Contact: Thomas J. Hanlon, Facility Permitting Chief—Telephone: 717-705-4862 or William Weaver, Program Manager—Telephone: 717-705-4702.

ARP-01-05029: GenOn Wholesale Generation, LP (121 Champion Way, Suite 200, Canonsburg, PA 15317-5817) on January 15, 2013, to operate Hunterstown electric generating station in Straban Township, **Adams County**. The facility is subject to Title IV (Acid Rain). This action is a renewal of the facility's Acid Rain Permit.

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

Contact: Matthew Williams, Facilities Permitting Chief—Telephone: 814-332-6131

24-00123: Advanced Disposal Services Greentree LDFL LLC—Kersey (635 Toby Road, Kersey, PA 15846-1033) on January 10, 2013, issued an administrative amendment to their Title V Operating Permit to incorporate the change in ownership and the change of Responsible Official for the facility in Fox Township, **Elk County**.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428

Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920

46-00134: The Hill School (717 East High St, Pottstown, PA 19464) on January 14, 2013, for a renewal Non-Title V Facility, State-Only, Synthetic Minor Permit in Pottstown Township, **Montgomery County**. The Hill School has several combustion sources for heat, hot water and food preparation. The school has taken fuel throughput restrictions and a 24.9 tpy NO_x and VOC emission limit, calculated on a 12-month rolling sum. Monitoring, record keeping and reporting requirements have been added to the permit to address applicable limitations.

09-00047: Warminster Fiberglass Co. (725 County Line Road, Southampton, PA 18966) on January 18, 2013, for renewal of a State Only Operation Permit for a fiberglass products plant in Upper Southampton Township, **Bucks County**. This Synthetic Minor Operating Permit (SMOP) has emission limits for hazardous air pollutants (HAP). There have been no new sources constructed and no modifications of existing sources since the last issuance of this SMOP. This SMOP renewal includes emission restrictions, monitoring, and recordkeeping requirements designed to ensure this facility complies with all applicable air quality regulations.

46-00094: Highway Materials, Inc. (5100 Joshua Road, Plymouth Meeting, PA 19462) on January 18, 2013, for renewal of a State Only, Synthetic Minor Operating Permit in Whitmarsh Township, **Montgomery County**. The facility operates a Hot Mix Asphalt Plant at this site. The proposed renewal of the Operating Permit does not authorize any increase in air emissions, of regulated pollutants, above previously approved levels. The facility maintains a synthetic minor operating status by maintaining total NO_x emissions to less than 24 tons per year. The renewed permit includes testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable local, state, and federal air quality requirements.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790

Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507

45-00012: Royal Chemical Company (1755 Enterprise Parkway, Twinsburg, OH 44087) on January 22, 2013, for the operation of a soap and detergent manufacturing facility located in East Stroudsburg Borough, **Monroe County**. The source is considered a minor emission source of volatile organic compound emissions. This is a State-Only operating permit. The State-Only operating permit includes conditions designed to keep the facility operating within all applicable air quality requirements.

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

Contact: Thomas J. Hanlon, Facility Permitting Chief—Telephone: 717-705-4862 or William Weaver, Program Manager—Telephone: 717-705-4702.

06-03059: Charles Evans Cemetery Co. (1119 Centre Avenue, Reading, PA 19601-1409) on January 9, 2013, for the two human crematory units at the facility in Reading City, **Berks County**. The State-only permit was renewed.

06-03151: Luicana Industries, Inc. (230 E. Philadelphia Avenue, Boyertown, PA 19512-1187) on January 9, 2013, for the cast polymer manufacturing facility in Bally Borough, **Berks County**.

67-03025: Bickel's Snack Foods, Inc. (1000 W. College Avenue, York, PA 17404-3537) on January 16, 2013, for their snack food manufacturing facility in West Manchester Township, **York County**. The State-only permit was renewed.

06-03150: Craig Manufacturing Corp. (700 Henry Circle, Sinking Spring, PA 19608) on January 16, 2013, for the reinforced fiberglass plastics manufacturing facility in Spring Township, **Berks County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701

Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648

17-00053: Nydree Flooring, LLC (4608 Quehanna Highway, Karthaus, PA 16845) on November 27, 2012, to issue a State Only Operating Permit for their plant in Karthaus Township, **Clearfield County**. The facility's main sources include two (2) combustion units, three (3) finish lines, a surface coating operation, a hot glue operation and a woodworking operation. The State Only operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

17-00044: Metaltech, Inc. (3547 Watson Highway, DuBois, PA 15801) on January 3, 2013, to issue a State Only operating permit for their plant in Sandy Township, **Clearfield County**. The facility's main sources include three (3) sintering furnaces, two (2) endothermic generators, a sizing operation, a rust inhibitor dip operation and a two tank impregnator. The State Only operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401

Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920

15-00071: Gourmet Delight Mushroom Co. (704 Garden Station Road, Avondale, PA 19311) on January 14, 2013, for a Non-Title V Facility, State-Only, Synthetic Minor Permit in London Grove Township, **Chester County**. Gourmet Delights is a mushroom growing and manufacturing facility. The amendment clarified a conflict between two (2) conditions in Section D of the permit (Condition # 004(c) and # 005(a) on pages 23 and 28) in order to comply with the requirements of 40 C.F.R. 63 Subpart ZZZZ.

46-00037: Cabot Supermetals (P. O. Box 1608, County Line Road, Boyertown, PA 19512) on January 18, 2013, has been amended to incorporate raffinate solidification process and requirements from Plan Approval No. 46-0037Y into the Title V Operating Permit for a plant in Douglass Township and **Montgomery County**. The amended Title V Operating Permit contains all of the applicable regulatory requirements including monitoring, recordkeeping, reporting and emission limits.

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

Contact: Thomas J. Hanlon, Facility Permitting Chief—Telephone: 717-705-4862 or William Weaver, Program Manager—Telephone: 717-705-4702.

34-05001: AC Products, Inc. (12393 William Penn Highway, Thompsettown, PA 17094-8649) on January 16, 2013, for their wood cabinet manufacturing facility in Delaware Township, **Juniata County**. The Title V permit was administratively amended to reflect a change of ownership.

07-05008: Team Ten LLC (1600 Pennsylvania Avenue, PO Box 99, Tyrone, PA 16686) on January 16, 2013, for the Tyrone Paper Mill located in Tyrone Borough, **Blair County**. The Title V permit underwent a minor modification to do the following: revise a baghouse differential pressure CAM indicator range, update the annual compliance certification date and address the applicability of 40 CFR Part 63, Subpart DDDDD.

21-03055 Fry Communications, Inc. (101 Fry Drive, Mechanicsburg, PA 17050-2654) on January 15, 2013, for Building 4 lithographic printing facility in Silver Spring Township, **Cumberland County**. The State-only permit was administratively amended to incorporate the provisions of Plan Approval No. 67-03055B.

01-05026: York Materials, LLC (950 Smile Way, York, PA 17404) on January 15, 2013, for the batch asphalt

manufacturing facility in Berwick Township, **Adams County**. The State-only permit was administratively amended to reflect a change of ownership.

De Minimis Emissions Increases Authorized under 25 Pa. Code § 127.449.

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

Contact: Edward Orris, New Source Review Chief—Telephone: 814-332-6636

42-00004: American Refining Group—Bradford Plant (77 North Kendall Avenue, Bradford, PA 16701) for their facility in the City of Bradford, **Mercer County**. The de minimis emission increase is due to the installation of a groundwater remediation system. The remediation system will consist of a 500 gallon oil recovery tank, three (3) groundwater/stormwater equalization tanks, a lamella clarifier and an activated carbon absorption system. The Department has started a list of de minimis increases as prescribed in 25 PA Code 127.449(i).

Since the October 5, 2013 TV Permit issuance date, American Refining Group has notified the Department of the following de minimis emission increases at the Bradford Facility:

Date	Source	PM ₁₀ (tons)	SO _x (tons)	NO _x (tons)	VOC (tons)	CO (tons)
3-18-12	Installation of Tank #99, replacement of Tank #262				0.0005	
12-14-12	Installation of gw remediation equipment.				0.770	
Total Reported Increases					0.7705	
Allowable		0.6 ton/source 3 tons/facility	1.6 tons/source 8 tons/facility	1 ton/source 5 tons/facility	1 ton/source 5 tons/facility	4 tons/source 20 tons/facility

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law; the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.20a). The final action on each application also constitutes action on the NPDES permit application and, if noted, the request for a Section 401 Water Quality Certification. Mining activity permits issued in response to applications will also address the application permitting requirements of the following statutes: the Air Quality Pollution Act (35 P. S. §§ 4001—4014); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1002).

Coal Permits Actions

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

56060105 and NPDES No. PA024997. AMFIRE Mining Company, LLC, One Energy Place, Suite 2800, Latrobe, PA 15650, revision of an existing bituminous surface and auger mine to change the land use from unmanaged natural habitat to industrial/commercial use in Jenner Township, **Somerset County**, affecting 120.1 acres. Receiving stream(s): unnamed tributaries to/and Quemahoning Creek to the Stony Creek River to the Conemaugh River classified for the following use(s): cold water fishery. The first downstream potable water supply intake from the point of discharge is Cambria-Somerset Authority. Application received: October 25, 2012. Permit issued: January 14, 2013.

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

65-12-01 and NPDES Permit No. PA0252247. David L. Patterson, Jr. (12 Short Cut Road, Smithfield, PA 15478). Government Financed Construction Contract issued for an abandoned mine reclamation project, located in Loyalhanna Township, **Westmoreland County**, affecting 15.9 acres. Receiving streams: Getty Run and unnamed tributaries to Getty Run. Application received: September 6, 2012. Permit issued: January 17, 2013.

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

16120101 and NPDES Permit No. PA0259233. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001) Commencement, operation and restoration of a bituminous surface and clay removal mine in Limestone Township, **Clarion County** affecting 130.5 acres. Receiving streams: Unnamed tributaries to Sloan Run and Sloan Run, unnamed tributary to Piney Creek. Application received: February 27, 2012. Permit Issued: January 14, 2013.

33860107 and NPDES Permit No. PA0107123. Terry Coal Sales, Inc. (P. O. Box 58, Distant, PA 16223) Renewal of an existing bituminous surface mine in Perry & Oliver Townships, **Jefferson County** affecting 67.0 acres. Receiving streams: Big Run. This renewal is for reclamation only. Application received: October 26, 2012. Permit Issued: January 17, 2013.

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

17110108 and NPDES No. PA0257796. RES Coal LLC (8912 Clearfield-Curwensville Highway, Clearfield, PA 16830). Commencement, operation and restoration of a bituminous surface mine located in Gulich Township, **Clearfield County** affecting 141.0 acres. Receiving streams: Muddy Run classified for Cold Water Fishes and Little Muddy Run classified for High Quality Cold Water Fishes. There are no potable water supply intakes within 10 miles downstream. Application received: August 15, 2011. Permit issued: January 9, 2013

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

54030103C4 and NPDES Permit No. PA0224367. Jett Contracting Company, (P. O. Box 243, Brockton, PA 17925), correction to an existing anthracite surface mine operation for a stream variance for unnamed tributary to Morgan's Run in Blythe Township, **Schuylkill County** affecting 116.0 acres. Application received: April 6, 2012. Correction issued: January 15, 2013.

49970202R3. Susquehanna Coal Company, (P. O. Box 27, Nanticoke, PA 18634), renewal of an existing anthracite coal refuse reprocessing operation in Mt. Carmel Township, **Northumberland County** affecting 808.1 acres, receiving stream: North Branch Shamokin Creek. Application received: May 31, 2012. Renewal issued: January 15, 2013.

49970202GP104. Susquehanna Coal Company, (P. O. Box 27, Nanticoke, PA 18634), NPDES General Permit for stormwater discharges associated with mining activities on Surface Mining Permit No. 49970202 in Mt. Carmel Township, **Northumberland County**, receiving stream: North Branch Shamokin Creek. Application received: May 31, 2012. Permit issued: January 15, 2013.

54860110R5. Reading Anthracite Company, (P. O. Box 1200, Pottsville, PA 17901), renewal of an existing anthracite surface mine operation in Cass and Foster Townships, **Schuylkill County** affecting 99.0 acres, receiving stream: West Branch Schuylkill River. Application received: September 24, 2012. Renewal issued: January 16, 2013.

54860110GP104. Reading Anthracite Company, (P. O. Box 1200, Pottsville, PA 17901), NPDES General Permit for stormwater discharges associated with mining activities on Surface Mining Permit No. 54860110 in Cass & Foster Townships, **Schuylkill County**, receiving stream: West Branch Schuylkill River. Application received: November 21, 2012. Permit issued: January 16, 2013.

54900205C16. Wheelabrator Culm Services, Inc., (4 Liberty Lane West, Hampton, NH 03842), correction to an existing anthracite coal refuse reprocessing operation to increase the permitted acreage from 580.0 to 670.7 acres, in Mahanoy Township, **Schuylkill County**, receiving stream: Mill Creek Watershed. Application received: October 15, 2010. Correction issued: January 16, 2013.

54900205R4. Wheelabrator Culm Services, Inc., (4 Liberty Lane West, Hampton, NH 03842), renewal of an existing anthracite coal refuse reprocessing operation in Mahanoy Township, **Schuylkill County** affecting 670.7 acres, receiving stream: Mill Creek Watershed. Application received: April 15, 2011. Renewal issued: January 16, 2013.

54900205GP104. Wheelabrator Culm Services, Inc., (4 Liberty Lane West, Hampton, NH 03842), NPDES General Permit for stormwater discharges associated with mining activities on Surface Mining Permit No. 54900205 in Mahanoy Township, **Schuylkill County**, receiving stream: Mill Creek Watershed. Application received: April 23, 2012. Permit issued: January 16, 2013.

40840206GP104. Jeddo-Highland Coal Company, (46 Public Square, Suite 600, Wilkes-Barre, PA 18701), NPDES General Permit for stormwater discharges associated with mining activities on Surface Mining Permit No. 40840206 in Plains Township, **Luzerne County**, receiving stream: Mill Creek Watershed. Application received: November 21, 2012. Permit issued: January 17, 2013.

Noncoal Permits Actions

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

5074SM4 and NPDES Permit No. PA0595888, New Enterprise Stone & Lime Company, Inc., P. O. Box 77, New Enterprise, PA 16664, renewal of NPDES permit, in Fannett Township, **Franklin County**. Receiving stream(s): unnamed tributary to Dry Run classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: November 8, 2012. Permit issued: January 14, 2013.

28900301 and NPDES Permit No. PA0595861. David H. Martin Excavating, Inc., 4961 Cumberland Highway, Chambersburg, PA 17201, renewal of NPDES Permit, Green Township, **Franklin County**. Receiving stream(s): unnamed tributary to Rock Spring Branch of Back Creek classified for the following use(s): trout stocked fishery. There are no potable water supply intakes within 10 miles downstream. Application received: November 13, 2012. Permit issued: January 14, 2013.

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

65112801 and NPDES Permit No. PA0252115. Mon River Energy Corp. (P. O. Box 466, Brier Hill, PA 15415). Permit issued for commencement, operation and reclamation of a small noncoal surface mine, located in Mt. Pleasant Township, **Westmoreland County**, affecting 3.93 acres. Receiving streams: Sewickley Creek. Application received: January 20, 2011. Permit issued: January 14, 2013.

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

24589-43070303-E-2. Three Rivers Aggregates, LLC (225 North Shore Drive, Pittsburgh, PA 15212) Application for a stream encroachment to conduct mining activi-

ties within 100 feet of unnamed tributary No. 2 to Indian Run in Springfield & Wilmington Townships, **Mercer County**. Receiving streams: Unnamed tributaries to Indian Run and Indian Run. Application received: August 14, 2012. Permit Issued: January 9, 2013.

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

41022802. Glenn O. Hawbaker, Inc. (711 East College Avenue, Bellefonte, PA 16823). Final bond release for a small industrial minerals surface mine, located in Fairfield Township, **Lycoming County**. Restoration of 1.53 acres completed. Receiving stream: Bennetts Run. Application received on December 4, 2012. Final bond release approved: January 15, 2013.

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

58120803. Springville, LP, (8 Miller's Crossing, Tenafly, NJ 07670), commencement, operation and restoration of a quarry operation in Springville Township, **Susquehanna County** affecting 3.0 acres, receiving stream: White Creek. Application received: January 23, 2012. Permit issued: January 15, 2013.

58120803GP104. Springville, LP, (8 Miller's Crossing, Tenafly, NJ 07670), General NPDES Permit for stormwater discharges associated with mining activities on Surface Mining Permit No. 58120803 in Springville Township, **Susquehanna County**, receiving stream: White Creek. Application received: January 23, 2012. Permit issued: January 15, 2013.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Actions on applications under the Explosives Acts of 1937 and 1957 and 25 Pa. Code § 211.124. Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.

Blasting Permits Actions

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

08134101. Doug Wathen, LLC (16208 State Highway 13, Suite 100, Branson West, MO 65616). Blasting for gas pad and construction located in Franklin Township, **Bradford County**. Permit issued: January 14, 2013. Permit expires: January 19, 2014.

08134102. Maurer & Scott (122 Thomas Street, Coopersburg PA 18036-2100). Blasting for gas well pad and construction located in Wilmot Township, **Bradford County**. Permit issued: January 16, 2013. Permit expires: June 30, 2013.

57134101. Meshoppen Stone, Inc. (P. O. Box 127, Meshoppen, PA 18630). Blasting for well site and access road located in Davidson Township, **Sullivan County**. Permit issued: January 9, 2013. Permit expires: March 31, 2013.

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

58124023. Brainard Explosives LLC, (3978 SR 2073, Kingsley, PA 18226), construction blasting for Range Unit 64 in Jackson Township, **Susquehanna County** with an expiration date of April 30, 2013. Permit issued: January 15, 2013.

58124024. Brainard Explosives LLC, (3978 SR 2073, Kingsley, PA 18226), construction blasting for the Gary Kilmer Lot Improvement in Lenox Township, **Susquehanna County** with an expiration date of February 28, 2013. Permit issued: January 15, 2013.

58134001. Brainard Explosives LLC, (3978 SR 2073, Kingsley, PA 18226), construction blasting for Range Unit 54 in New Milford Township, **Susquehanna County** with an expiration date of June 30, 2013. Permit issued: January 15, 2013.

58134101. MD Drilling & Blasting, Inc., (88 Goldledge Avenue, Suite 2, Auburn, NH 03032), construction blasting for Orphan Pipeline Project in Harford Township, **Susquehanna County** with an expiration date of January 14, 2014. Permit issued: January 15, 2013.

35134103. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Summit Woods in Elmhurst and Roaring Brook Townships, **Lackawanna County** with an expiration date of January 15, 2014. Permit issued: January 16, 2013.

38134101. Keystone Blasting Service, (15 Hopeland Road, Lititz, PA 17543), construction blasting for utilities on Fairlane Park Avenue in Jackson Township, **Lebanon County** with an expiration date of March 31, 2013. Permit issued: January 16, 2013.

66134101. Meshoppen Blasting, Inc., (P. O. Box 127, Meshoppen, PA 18630), construction blasting for Kupetsky well site and access road in Nicholson Township, **Wyoming County** with an expiration date of July 31, 2013. Permit issued: January 16, 2013.

66134102. Meshoppen Blasting, Inc., (P. O. Box 127, Meshoppen, PA 18630), construction blasting for Nicholson Pad and access road in Nicholson Township, **Wyoming County** with an expiration date of July 30, 2013. Permit issued: January 16, 2013.

38134103. Abel Construction Co., Inc., (P. O. Box 476, Mountville, PA 17554), construction blasting for Stone Knoll in South Londonderry Township, **Lebanon County** with an expiration date of January 31, 2014. Permit issued: January 17, 2013.

39134101. Silver Valley Drilling & Blasting, Inc., (RR 4 Box 4196, Saylorburg, PA 18353), construction blasting for Weyhill Woods in Upper Saucon Township, **Lehigh County** with an expiration date of January 15, 2014. Permit issued: January 17, 2013.

46134101. Schlouch, Inc., (P. O. Box 69, Blandon, PA 19510), construction blasting for Hill School in Pottstown Borough, **Montgomery County** with an expiration date of January 14, 2014. Permit issued: January 17, 2013.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

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

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

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

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

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

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and The Clean Streams Law and Notice of Final Action for Certification under section 401 of the FWPCA.

Permits, Environmental Assessments and 401 Water Quality Certifications Issued:

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E46-1089. Wissahickon Valley Watershed Association, 12 Morris Road, Ambler, PA 19002-5407, Lower Gwynedd and Whitmarsh Townships, **Montgomery County**, ACOE Philadelphia District.

To construct and maintain two concrete stepping stone pedestrian crossings across Wissahickon Creek (Perennial TSF-MF) associated with Green Ribbon Trail project. Each stepping stones are 1.5 feet apart, 16-inches wide, 16-inches long, and about 8-inches above normal water level.

The first site is located at Plymouth Road at Penllyn Station (Lansdale, PA USGS Quadrangle N: 10.5 inches W: 0.75 inch) in Lower Gwynedd Township, and the second site is located at Joshua Road (Ambler, PA USGS Quadrangle N: 1.0 inch W: 13.5 inches).

E15-836. Rachel Wachs, 215 W. Church Road, King of Prussia, PA 19406, West Brandywine Township, **Chester County**, ACOE Philadelphia District.

To construct and maintain an outfall structure along an unnamed tributary to West Branch of the Brandywine Creek (HQ) associated with effluent discharge from the proposed dwellings. The site is located approximately 0.5 mile from the intersection of S.R. 0082 and S.R. 0030 (Wagontown, PA USGS Quadrangle N: 1.25 inches; W: 10.80 inches).

Southcentral Region: Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Telephone: 717.705.4802.

E05-366: Frederick and Cheryl Veith, PO Box 101, Buffalo Mills, Pennsylvania 15534, in Londonderry Township, **Bedford County**, ACOE Baltimore District

To: 1) construct and maintain a 24.0-foot long × 12.0-foot wide single span bridge with an underclearance of 2.0 feet across Mill Run Creek (HQ-CWF, MF); 2) place and maintain R-6 wing walls with average dimensions of 10.0 feet wide × 20.0 feet long × by 1.5 feet high along the banks of and in the floodway of Mill Run Creek (HQ-CWF, MF); and 3) place and maintain fill on both left and right floodways of Mill Run Creek (HQ-CWF, MF) with average dimensions of 20.0 feet wide × 25.0 feet long × by 1.5 feet high, directly affecting a total of 500.0 square feet of floodway for the purpose of providing access for emergency vehicles to the property. The project is located west of Midway Road (Hyndman, PA Quadrangle; Latitude: 39°52'7.5", Longitude: -78°40'59.8") in Londonderry Township, Bedford County.

E36-910: County of Lancaster, 150 North Queen Street, Suite 612, Lancaster, Pennsylvania 17603, in Manheim and Upper Leacock Townships, **Lancaster County**, ACOE Baltimore District

To remove, rehabilitate, and reset the existing historical wooden covered bridge over the Conestoga Creek (River). The abutments and approaches will be raised two feet at the existing location to place bridge above the 100-year flood elevation. The purpose of the project is to repair damage caused by flooding in 2011. The project is located on Bridge Road, near the intersection of Pinetown Road (Leola, PA Quadrangle; Latitude: 40°06'20.2"N, Longitude: -76°14'53.5"W) in Manheim and Upper Leacock Townships, Lancaster County.

E67-902: Mark Platts, Susquehanna Gateway Heritage Area, 1706 Long Level Road, Wrightsville, Pennsylvania 17368, in Lower Windsor Township, **York County**, ACOE Baltimore District

To construct and maintain: 1) 1,779.0 ft² of boardwalk/decking in PEM wetlands associated with and in the floodway of the Susquehanna River (WWF, MF); 2) a 38.0-foot long, stone retaining wall in the floodway of the Susquehanna River (WWF, MF); 3) a 192.0-ft² floating dock in the Susquehanna River (WWF, MF); 4) a 19.0-foot × 16.0-foot boat ramp in the Susquehanna River (WWF, MF); 5) a 73.0-foot long streambank restoration/stabilization wall along the Susquehanna River (WWF, MF); 6) a 12.0-inch pipe outfall with a riprap apron along and in wetlands associated with the Susquehanna River (WWF, MF); 7) a 614.0-ft² raised and cantilevered pavilion in PEM wetlands and along the Susquehanna River (WWF, MF); and 8) to place and maintain fill in the floodway of the Susquehanna River (WWF, MF), all for the purpose of expanding an existing historical/educational facility. The project is located on the east side of 1706 Long Level Road, approximately 4.0 miles south of PA Route 462 in Wrightsville (Safe Harbor, PA Quadrangle; Latitude: 39°58'38.8", Longitude: -76°29'47.1"), in Lower Windsor Township, York County. Wetland impacts are considered de minimus and wetland replacement is not required.

Northcentral Region: Waterways & Wetlands Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636

E41-638. Keystone Clearwater Solutions, LLC, PO Box 797, Hersey, PA 17033-0797. Lycoming Creek -2

Intake Modifications, in Lewis Township, **Lycoming County**, ACOE Baltimore District (Bodines, PA Quadrangle N: 41°26'14.4"; W: -76°59'41").

To place and maintain a second mobile water withdrawal station consisting of a 13.5-inch diameter by 36-inch intake strainer, 6-inch diameter pump suction line, pump station on a trailer and digital flow meter on the right side of Lycoming Creek in order to increase the existing surface water withdrawal rate and not increase the withdrawal velocity any higher than 0.5 feet per second at the site located 3,636 feet southwest of the intersection of SR 14 and Brannaka Drive. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

District Oil & Gas Operations: Eastern Oil & Gas District, 208 West Third Street, Suite 101, Williamsport, PA 17701

E5729-040: Chesapeake Appalachia, LLC, 101 North Main Street, Athens, PA 18810, Cherry Township, **Sullivan County**, ACOE Baltimore District.

To construct, operate, and maintain:

1) two 16 inch diameter fresh waterlines and a temporary access road using timber matting impacting 323 square feet of an exceptional value palustrine emergent/scrub shrub (EV-PEM/PSS) wetland and 21 linear feet of an unnamed tributary to Little Loyalsock Creek (EV) (Dushore, PA Quadrangle 41°31'55"N, 76°25'53"W);

2) two 16 inch diameter fresh waterlines and a temporary access road using timber matting impacting 26 linear feet of an unnamed tributary to Little Loyalsock Creek (EV) (Dushore, PA Quadrangle 41°31'23"N, 76°26'25"W);

3) two 16 inch diameter fresh waterlines and a temporary access road using timber matting impacting 53 linear feet of an unnamed tributary to Lick Creek (EV) (Dushore, PA Quadrangle 41°31'57"N, 76°26'20"W);

4) two 16 inch diameter fresh waterlines and a temporary access road using timber matting impacting 39 linear feet of an unnamed tributary to Lick Creek (EV) (Dushore, PA Quadrangle 41°31'56"N, 76°26'34"W);

5) two 16 inch diameter fresh waterlines impacting 3 linear feet of an unnamed tributary to Lick Creek (EV) (Dushore, PA Quadrangle 41°31'52"N, 76°26'48"W);

6) two 16 inch diameter fresh waterlines and a temporary access road using timber matting impacting 33 linear feet of Lick Creek (EV) (Dushore, PA Quadrangle 41°31'53"N, 76°26'50"W);

7) two 16 inch diameter fresh waterlines and a temporary access road using timber matting impacting 20 linear feet of an unnamed tributary to Lick Creek (EV) (Dushore, PA Quadrangle 41°31'52"N, 76°26'54"W);

8) two 16 inch diameter fresh waterlines and a temporary access road using timber matting impacting 22 linear feet of an unnamed tributary to Lick Creek (EV) (Dushore, PA Quadrangle 41°31'48"N, 76°26'57"W);

9) two 16 inch diameter fresh waterlines and a temporary access road using timber matting impacting 20 linear feet of Mill Creek (EV) (Dushore, PA Quadrangle 41°31'58"N, 76°27'54"W);

10) two 16 inch diameter fresh waterlines impacting 891 square feet of an exceptional value palustrine forested (EV-PFO) wetland (Dushore, PA Quadrangle 41°32'05"N, 76°28'15"W)

The project will result in 1,214 square feet (0.03 acre) of temporary wetland impacts and 237 linear feet of temporary stream impacts, all for the purpose of installing fresh waterlines for Marcellus well development in Cherry Township, Sullivan County.

E5929-035: SWEPI LP., 190 Thorn Hill Road, Warrendale, PA 15086, Union Township, **Tioga County**, ACOE Baltimore District.

To construct, operate, and maintain a permanent road crossing using a 65 foot long, 15 inch diameter high density polyethylene culvert pipe impacting 45 linear feet of an unnamed tributary to French Lick Creek (EV) and 180 square feet of an exceptional value palustrine emergent (EV-PEM) wetland (Ralston, PA Quadrangle 41°34'47"N 76°58'31"W).

The project will result in 45 linear feet of temporary stream impacts and 180 square feet (0.01 acre) of temporary wetland impacts, all for the purpose of installing a well site access road in Union Township, Tioga County.

E5729-044: Appalachia Midstream Services, LLC, 100 IST Center, Horseheads, NY 14845, Cherry Township, **Sullivan County**, ACOE Baltimore District.

To construct, operate, and maintain:

1) A temporary access road using timber mats and a 16 inch diameter gathering line impacting 1,756 square feet of an exceptional value palustrine forested (EV-PFO) wetland and 211 linear feet of an unnamed tributary to Black Creek (EV) (Dushore, PA Quadrangle 41°33'06"N, 76°28'38"W);

2) A temporary access road using timber mats and a 16 inch diameter gathering line impacting 1,139 square feet of an exceptional value palustrine emergent (EV-PEM) wetland (Dushore, PA Quadrangle 41°33'01"N, 76°28'15"W);

3) A temporary access road using a timber mat bridge and a 16 inch diameter gathering line impacting 198 linear feet of an unnamed tributary to Black Creek (EV) (Dushore, PA Quadrangle 41°32'54"N, 76°28'10"W);

4) A temporary access road using a timber mat bridge and a 16 inch diameter gathering line impacting 122 linear feet of an unnamed tributary to Mill Creek (EV) (Dushore, PA Quadrangle 41°32'15"N, 76°28'07"W);

5) A temporary access road using a timber mat bridge and a 16 inch diameter gathering line impacting 213 linear feet of Mill Creek (EV) (Dushore, PA Quadrangle 41°31'58"N, 76°27'54"W).

The project will result in 744 linear feet of temporary stream impacts, 1,139 square feet (0.03 acre) of temporary wetland impacts and 1,756 square feet (0.04 acre) of permanent wetland impacts, all for the purpose of installing a gathering line for Marcellus well development in Cherry Township, Sullivan County. The permittee will provide 0.27 acre of compensatory mitigation at impacts throughout the project and at the Wilmot Site (Colley, PA Quadrangle 41°36'44"N 76°17'27"W) in Wilmot Township, Bradford County.

E4129-054: Range Resources-Appalachia, LLC, 100 Throckmorton Street, Suite 1200, Fort Worth, TX 76102, Cogan House Township, **Lycoming County**, ACOE Baltimore District.

To construct, operate, and maintain one 48 inch culvert and two 12 inch temporary above ground waterlines impacting 105 linear feet of an unnamed tributary to Roaring Run (EV) (White Pine PA Quadrangle 41°22'46"N 77°10'51"W). The project will result in 105 linear feet of

stream impacts all for the purpose of installing an access road and temporary waterline to multiple Marcellus well sites.

E4129-057: Anadarko Marcellus Midstream, L.L.C., 33 West Third Street, Suite 200, Williamsport, PA 17701, Cogan House Township, **Lycoming County**, ACOE Baltimore District.

To construct, operate, and maintain:

1) two 6-inch natural gas pipelines, two 6-inch waterlines, one 12-inch waterline, one electric/fiber optic line, and a timber mat bridge impacting 6921 square feet of palustrine forested (PFO) wetland (White Pine PA Quadrangle 41°24'18"N, 77°09'41"W).

The project will result in a total of 0.16 acre of wetland impacts all for the purpose of installing a natural gas gathering line, water pipeline, and associated access roadways for Marcellus well development.

E4129-056: Anadarko Marcellus Midstream, L.L.C., 33 West Third Street, Suite 200, Williamsport, PA 17701, Pine Township, **Lycoming County**, ACOE Baltimore District.

To construct, operate, and maintain:

1) two 6-inch natural gas pipelines, two 6-inch waterlines, one 24-inch natural gas line, one 12-inch waterline, one electric/fiber optic line, and a timber mat bridge impacting 913 square feet of a palustrine forested (PFO) wetland (English Center PA Quadrangle 41°29'42"N, 77°16'44"W);

2) two 6-inch natural gas pipelines, two 6-inch waterlines, one 24-inch natural gas line, one 12-inch waterline, one electric/fiber optic line, and a timber mat bridge impacting 100 linear feet of Fourmile Run (EV, MF) and 30 linear feet of an unnamed tributary to Fourmile Run (EV, MF) (English Center PA Quadrangle 41°29'51"N, 77°16'44"W);

3) two 6-inch natural gas pipelines, two 6-inch waterlines, one 24-inch natural gas line, one 12-inch waterline, one electric/fiber optic line, and a timber mat bridge impacting 68 square feet of palustrine forested (PFO) wetland (English Center PA Quadrangle 41°29'52"N, 77°16'44"W);

4) two 6-inch natural gas pipelines, two 6-inch waterlines, one 24-inch natural gas line, one 12-inch waterline, one electric/fiber optic line, and a timber mat bridge impacting 2784 square feet of a palustrine forested (PFO) wetland (Morris PA Quadrangle 41°30'08"N, 77°16'41"W);

5) two 6-inch natural gas pipelines, two 6-inch waterlines, one 24-inch natural gas line, one 12-inch waterline, one electric/fiber optic line, and a timber mat bridge impacting 86 linear feet of Smith Run (EV, MF) (Morris PA Quadrangle 41°30'28"N, 77°16'28"W);

6) two 6-inch natural gas pipelines, two 6-inch waterlines, one 24-inch natural gas line, one 12-inch waterline, one electric/fiber optic line, and a timber mat bridge impacting 80 linear feet of an unnamed tributary to Smith Run (EV, MF) and 10190 square feet of adjacent palustrine emergent (PEM) wetland (Morris PA Quadrangle 41°30'46"N, 77°16'35"W);

7) two 6-inch natural gas pipelines, two 6-inch waterlines, one 24-inch natural gas line, one 12-inch waterline, one electric/fiber optic line, and a timber mat bridge impacting 87 linear feet of an unnamed tributary to Smith Run (EV, MF) (Morris PA Quadrangle 41°30'48"N, 77°16'35"W);

8) two 6-inch natural gas pipelines, two 6-inch waterlines, one 24-inch natural gas line, one 12-inch waterline, one electric/fiber optic line, and a timber mat bridge impacting 2238 square feet of palustrine forested (PFO) wetland (Morris PA Quadrangle 41°31'28"N, 77°16'27"W);

The project will result in 383 linear feet of stream impacts and a total of 0.37 acre of wetland impacts all for the purpose of installing a natural gas gathering line, water pipeline, and associated access roadways for Marcellus well development.

E5729-042: Appalachia Midstream Services, LLC, 100 IST Center, Horseheads, NY 14845, Cherry Township, **Sullivan County**, ACOE Baltimore District.

To construct, operate, and maintain a temporary access road using wood mats and a 16 inch diameter gathering line impacting 158 linear feet of an unnamed tributary to Little Loyalsock Creek (EV) and 5,244 square feet of an exceptional value palustrine emergent (EV-PEM) wetland (Colley, PA Quadrangle 41°31'34"N, 76°21'06"W).

The project will result in 158 linear feet of temporary stream impacts and 5,244 square feet of temporary wetland impacts for the purpose of installing a gathering line for Marcellus well development in Cherry Township, Sullivan County.

E5729-043: Appalachia Midstream Services, LLC, 100 IST Center, Horseheads, NY 14845, Elkland Township, **Sullivan County**, ACOE Baltimore District.

To construct, operate, and maintain:

1) A temporary access road using timber mats and a 16 inch diameter gathering line impacting 4,927 square feet of a palustrine emergent/scrub shrub (PEM/PSS) wetland (Shunk, PA Quadrangle 41°32'22"N, 76°39'19"W);

2) A temporary access road using a timber mat bridge and a 16 inch diameter gathering line impacting 203 linear feet of an unnamed tributary to Elk Creek (EV) (Shunk, PA Quadrangle 41°32'27"N, 76°39'14"W).

The project will result in 203 linear feet of temporary stream impacts and 4,927 square feet of temporary wetland impacts for the purpose of installing a gathering line for Marcellus well development in Elkland Township, Sullivan County.

E5829-033: Williams Field Services Company, LLC, 1605 Coraopolis Heights Road, Moon Township, PA 15108, Gibson and Harford Townships, **Susquehanna County**, ACOE Baltimore District.

To construct, operate, and maintain:

1. a 16 inch diameter natural gas gathering pipeline and timber mat crossing impacting 76 lineal feet of an unnamed tributary to Butler Creek (CWF-MF) (Harford, PA Quadrangle; Lat. 41° 45' 01", Long. -75° 39' 28");

2. a 16 inch diameter natural gas gathering pipeline and timber mat crossing impacting 80 lineal feet of an unnamed tributary to Tunkhannock Creek (CWF-MF) (Harford, PA Quadrangle; Lat. 41° 45' 09", Long. -75° 38' 31");

3. a 12 inch diameter natural gas gathering pipeline and timber mat crossing impacting 61 lineal feet of an unnamed tributary to Bell Creek (CWF-MF) (Harford, PA Quadrangle; Lat. 41° 45' 02", Long. -75° 37' 40");

4. a 12 inch diameter natural gas gathering pipeline and timber mat crossing impacting 78 lineal feet of an unnamed tributary to Bell Creek (CWF-MF) (Harford, PA Quadrangle; Lat. 41° 45' 03", Long. -75° 37' 34");

5. a 12 inch diameter natural gas gathering pipeline and timber mat crossing impacting 114 lineal feet of an unnamed tributary to Bell Creek (CWF-MF) (Harford, PA Quadrangle; Lat. 41° 44' 59", Long. -75° 37' 37");

6. a 12 inch diameter natural gas gathering pipeline and timber mat crossing impacting 2 lineal feet of an unnamed tributary to Bell Creek (CWF-MF) (Harford, PA Quadrangle; Lat. 41° 45' 01", Long. -75° 37' 31");

7. a 16 inch diameter natural gas gathering pipeline and timber mat crossing impacting 8,276 square feet (0.19 acre) of a PEM wetland (Lenoxville, PA Quadrangle; Lat. 41° 43' 41", Long. -75° 44' 30");

8. a timber mat crossing impacting 436 square feet (0.01 acre) of a PEM wetland (Harford, PA Quadrangle; Lat. 41° 45' 05", Long. -75° 39' 27");

9. a timber mat crossing impacting 436 square feet (0.01 acre) of a PEM wetland (Lenoxville, PA Quadrangle; Lat. 41° 44' 59", Long. -75° 39' 30");

10. a 16 inch diameter natural gas gathering pipeline and timber mat crossing impacting 8,712 square feet (0.20 acre) of a PEM wetland (Harford, PA Quadrangle; Lat. 41° 45' 10", Long. -75° 38' 37");

11. a 12 inch diameter natural gas gathering pipeline and timber mat crossing impacting 4,792 square feet (0.11 acre) of a PEM and 1,742 square feet (0.04 acre) of a PSS wetlands (Lenoxville, PA Quadrangle; Lat. 41° 43' 35", Long. -75° 44' 30");

12. a 12 inch diameter natural gas gathering pipeline crossing impacting 13,068 square feet (0.30 acre) of a PFO wetland (Lenoxville, PA Quadrangle; Lat. 41° 43' 40", Long. -75° 44' 09");

13. an 8 inch diameter natural gas gathering pipeline and timber mat crossing impacting 2,178 square feet (0.05 acre) of a PEM wetland (Lenoxville, PA Quadrangle; Lat. 41° 43' 35", Long. -75° 43' 51").

The Columbia gas gathering line project will convey natural gas to the Williams—MacDowall Pipeline located in Harford Township, Susquehanna County. The project will result in 411 linear feet (6,121 square feet) of temporary stream impacts, a total of 0.57 acre (24,829 square feet) of temporary wetland impacts, and 0.34 acre (14,810 square feet) of permanent wetland impacts all for the purpose of constructing, operating, and maintaining a natural gas gather

EROSION AND SEDIMENT CONTROL

The following Erosion and Sediment Control permits have been issued.

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

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

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

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

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

ESCGP-1 # ESX12-115-0219
Applicant Name Williams Field Services, LLC
Contact Person Sandra Lojek
Address 1605 Coraopolis Heights Road
City, State, Zip Moon Township, PA 15108
County Susquehanna County
Township(s) Brooklyn Township
Receiving Stream(s) and Classification(s) Tributaries
29004 and 29005 and UNTs to Tribs 29004 and 29005
(All CWF/MF)

ESCGP-1 # ESX12-015-0220
Applicant Name Angelina Gathering Company, LLC
Contact Person Danny Spaulding
Address 2350 N. Sam Houston Blvd., Suite 125
City, State, Zip Houston, TX 77032
County Bradford County
Township(s) Orwell Township
Receiving Stream(s) and Classification(s) UNT to South
Creek (CWF/MF)

ESCGP-1 # ESX12-015-0178 (01)
Applicant Name PVR NEPA Gas Gathering, LLC
Contact Person Nicholas Bryan
Address 101 W. Third Street
City, State, Zip Williamsport, PA 17701
County Bradford County
Township(s) Franklin Township
Receiving Stream(s) and Classification(s) UNT to
Towanda Creek, Towanda Creek, Preacher Brook (All
CWF/MF)

ESCGP-1 # ESX12-115-0214
Applicant Name Southwestern Energy Production
Company
Contact Person David Sweeley
Address 917 State Route 92 North
City, State, Zip Tunkhannock, PA 18657
County Susquehanna County
Township(s) Jackson and Oakland Townships
Receiving Stream(s) and Classification(s) Lewis Creek
(HQ/MF), Salt Lick Creek (HQ-CWF/MF)

ESCGP-1 # ESX10-117-0051 (01)
Applicant Name SWEPI LP
Contact Person H. James Sewell
Address 190 Thorn Hill Road
City, State, Zip Warrendale, PA 15086
County Tioga County
Township(s) Sullivan Township
Receiving Stream(s) and Classification(s) UNTs to Corey
Creek (CWF/MF);
Secondary: Upper Susquehanna River

ESCGP-1 # ESX12-015-0222
Applicant Name Chief Oil & Gas, LLC
Contact Person Jeffrey Deegan
Address 6051 Wallace Road, Ext., Suite 300
City, State, Zip Wexford, PA 15090

County Bradford County
 Township(s) Troy Township
 Receiving Stream(s) and Classification(s) Leonard Creek
 & Sugar Creek (TSF/MF)

ESCGP-1 # ESX12-115-0196
 Applicant Name Price Gregory International
 Contact Person Allen Collier
 Address 920 Memorial Way, Suite 600
 City, State, Zip Houston, TX 77024
 County Susquehanna County
 Township(s) Great Bend Township
 Receiving Stream(s) and Classification(s) UNT to Salt
 Lick Creek (HQ);
 Secondary: Susquehanna River

ESCGP-1 # ESX12-115-0218
 Applicant Name Southwestern Energy Production
 Company
 Contact Person David Sweeley
 Address 917 State Route 92 North
 City, State, Zip Tunkhannock, PA 18657
 County Susquehanna County
 Township(s) Franklin Township
 Receiving Stream(s) and Classification(s) UNT to Beaver
 Creek, UNT to Beaver Creek (Both HQ-CWF);
 Secondary: Beaver Creek (HQ-CWF)

ESCGP-1 # ESX12-035-0024
 Applicant Name XTO Energy Inc.
 Contact Person Stacey Vehovic
 Address 395 Airport Road
 City, State, Zip Indiana, PA 15701
 County Clinton County
 Township(s) Beech Creek Township
 Receiving Stream(s) and Classification(s) East Branch Big
 Run (EV), Swamp Branch (EV);
 Secondary: Big Run (CWF)

ESCGP-1 # ESX12-115-0221
 Applicant Name Williams Field Services Company, LLC
 Contact Person Sandra Lojek
 Address 1605 Coraopolis Heights Road
 City, State, Zip Coraopolis, PA 15108-4310
 County Susquehanna County
 Township(s) Lenox Township
 Receiving Stream(s) and Classification(s) Millard Creek,
 Tower Branch Creek, UNT to Tower Branch Creek,
 UNT to Millard Creek (All CWF/MF);
 Secondary: Tunkhannock Creek

ESCGP-1 # ESX12-015-0223
 Applicant Name EOG Resources, Inc.
 Contact Person Jon Jorgenson
 Address 2039 South Sixth Street
 City, State, Zip Indiana, PA 15701
 County Bradford County
 Township(s) Springfield Township
 Receiving Stream(s) and Classification(s) Leonard Creek
 Watershed (TSF);
 Secondary: Sugar Creek

ESCGP-1 # ESX12-015-0217
 Applicant Name Angelina Gathering Company, LLC
 Contact Person Danny Spaulding
 Address 2350 N. Sam Houston Pkwy. E., Suite 125
 City, State, Zip Houston, TX 77032
 County Bradford County
 Township(s) Stevens Township
 Receiving Stream(s) and Classification(s) UNT to Cold
 Creek (WWF/MF);
 Secondary: Wyalusing Creek

ESCGP-1 # ESX12-081-0168
 Applicant Name Seneca Resources Corporation
 Contact Person Mike Clinger
 Address 51 Zents Blvd
 City, State, Zip Brookville, PA 15825
 County Lycoming County
 Township(s) McIntyre Township
 Receiving Stream(s) and Classification(s) Splash Dam
 Run (HQ-CWF);
 Secondary: Grays Run (HQ-CWF)

ESCGP-1 # ESX13-015-0001
 Applicant Name Southwestern Energy Production
 Company
 Contact Person Dave Sweeley
 Address 917 State Route 92 North
 City, State, Zip Tunkhannock, PA 18657
 County Bradford County
 Township(s) Herrick Township
 Receiving Stream(s) and Classification(s) UNT to
 Rummerfield Creek (WWF/MF);
 Secondary: Rummerfield Creek (WWF/MF)

*Southwest Region: Waterways & Wetlands Program
 Manager, 400 Waterfront Drive, Pittsburgh, Pa 15222-
 4745.*

<i>ESCGP-1 No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
63128003-1	MarkWest Liberty Midstream & Resources, LLC 601 Technology Drive Suite 130 Canonsburg, PA 15317	Washington	Independence, Robinson, Smith, Mt. Pleasant, Chartiers Townships	UNT to Chartiers Run (WWF), UNT to Racoon Run (WWF), UNT to Chamberlain Run (WWF), UNT to Cherry Run (WWF)

*Northwest Region: Oil and Gas Program Manager, 230
 Chestnut St., Meadville, PA 16335*

ESCGP-1 #Snyder Brothers Lots 4 & 11—
 ESX11-083-0049
 Applicant Snyder Brothers Inc.
 Contact Thomas Defibaugh
 Address P. O. Box 1022
 City Kittanning State PA Zip Code 16201
 County McKean Township(s) Hamilton and Corydon(s)

Receiving Stream(s) and Classification(s) Coon Run,
 Hemlock Run, Morrison Run

ESCGP-1 #ESX12-019-0176—McKee EPS Central
 Processing Facility
 Applicant SWEPI LP
 Contact H. James Sewell
 Address 190 Thorn Hill Road
 City Warrendale State PA Zip Code 15086
 County Butler Township(s) Mercer(s)

Receiving Stream(s) and Classification(s) UNT to Wolf Creek—CWF, Wolf Creek—other

ESCGP-1 #ESX11-019-0105A—Stebbins Well Pad Major Modification

Applicant Rex Energy Operating Corporation

Contact Michael T. Endler

Address 310 Seven Fields Blvd

City Seven Fields State PA Zip Code 16046

County Butler Township(s) Penn and Forward(s)

Receiving Stream(s) and Classification(s) UNT Thorn Creek—CWF, UNT to Connoquenessing Creek—WWF, Connoquenessing Creek—WWF

OIL AND GAS MANAGEMENT

The following Well Permits have been issued with a waiver under 58 Pa.C.S. § 3215(b)(4) (relating to well location restrictions).

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

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

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

Northwest Region District Oil and Gas Operations, Program Manager, 230 Chestnut St., Meadville, PA 16335

Well Permit #: 115-21109-00-00

Well Farm Name Bolles South 47 3H

Applicant Name: WPX Energy Appalachia, LLC.

Contact Person: Dean Tinsley

Address: 6000 Town Center Boulevard, Suite 300, Canonsburg, PA 15317

County: Susquehanna

Municipality Franklin Township:

Name of Stream, Spring, Body of Water as identified on the most current 7 1/2 minute topographic quadrangle map of the United States Geologic Survey subject to the Section 3215(b)(4) waiver: Franklin Forks, Snake Creek Watershed

Well Permit #: 115-21110-00-00

Well Farm Name Bolles South 47 5H

Applicant Name: WPX Energy Appalachia, LLC.

Contact Person: Dean Tinsley

Address: 6000 Town Center Boulevard, Suite 300, Canonsburg, PA 15317

County: Susquehanna

Municipality Franklin Township:

Name of Stream, Spring, Body of Water as identified on the most current 7 1/2 minute topographic quadrangle map of the United States Geologic Survey subject to the Section 3215(b)(4) waiver: Franklin Forks, Snake Creek Watershed.

Well Permit #: 115-21111-00-00

Well Farm Name Bolles South 92 6H

Applicant Name: WPX Energy Appalachia, LLC.

Contact Person: Dean Tinsley

Address: 6000 Town Center Boulevard, Suite 300, Canonsburg, PA 15317

County: Susquehanna

Municipality Franklin Township:

Name of Stream, Spring, Body of Water as identified on the most current 7 1/2 minute topographic quadrangle map of the United States Geologic Survey subject to the Section 3215(b)(4) waiver: Franklin Forks, Snake Creek Watershed

Well Permit #: 115-21112-00-00

Well Farm Name Bolles South 92 7H

Applicant Name: WPX Energy Appalachia, LLC.

Contact Person: Dean Tinsley

Address: 6000 Town Center Boulevard, Suite 300, Canonsburg, PA 15317

County: Susquehanna

Municipality Franklin Township:

Name of Stream, Spring, Body of Water as identified on the most current 7 1/2 minute topographic quadrangle map of the United States Geologic Survey subject to the Section 3215(b)(4) waiver: Franklin Forks, Snake Creek Watershed.

Well Permit #: 115-21100-00-00

Well Farm Name Mordovancey 17 11H

Applicant Name: WPX Energy Appalachia, LLC.

Contact Person: Dean Tinsley

Address: 6000 Town Center Boulevard, Suite 300, Canonsburg, PA 15317

County: Susquehanna

Municipality Choconut Township:

Name of Stream, Spring, Body of Water as identified on the most current 7 1/2 minute topographic quadrangle map of the United States Geologic Survey subject to the Section 3215(b)(4) waiver: Friendsville, Choconut Creek Watershed.

Well Permit #: 115-21101-00-00

Well Farm Name Mordovancey 17 13H

Applicant Name: WPX Energy Appalachia, LLC.

Contact Person: Dean Tinsley

Address: 6000 Town Center Boulevard, Suite 300, Canonsburg, PA 15317

County: Susquehanna

Municipality Choconut Township:

Name of Stream, Spring, Body of Water as identified on the most current 7 1/2 minute topographic quadrangle map of the United States Geologic Survey subject to the Section 3215(b)(4) waiver: Friendsville, Choconut Creek Watershed.

Well Permit #: 115-21102-00-00

Well Farm Name Mordovancey 18 7H

Applicant Name: WPX Energy Appalachia, LLC.

Contact Person: Dean Tinsley

Address: 6000 Town Center Boulevard, Suite 300, Canonsburg, PA 15317

County: Susquehanna

Municipality Choconut Township:

Name of Stream, Spring, Body of Water as identified on the most current 7 1/2 minute topographic quadrangle

map of the United States Geologic Survey subject to the Section 3215(b)(4) waiver: Friendsville, Choconut Creek Watershed.

Well Permit #: 115-21103-00-00
 Well Farm Name Mordovancey 18 9H
 Applicant Name: WPX Energy Appalachia, LLC.
 Contact Person: Dean Tinsley
 Address: 6000 Town Center Boulevard, Suite 300, Canonsburg, PA 15317
 County: Susquehanna
 Municipality Choconut Township:
 Name of Stream, Spring, Body of Water as identified on the most current 7 1/2 minute topographic quadrangle map of the United States Geologic Survey subject to the Section 3215(b)(4) waiver: Friendsville, Choconut Creek Watershed.

Well Permit #: 115-21104-00-00
 Well Farm Name Mordovancey 19 10H
 Applicant Name: WPX Energy Appalachia, LLC.
 Contact Person: Dean Tinsley
 Address: 6000 Town Center Boulevard, Suite 300, Canonsburg, PA 15317
 County: Susquehanna
 Municipality Choconut Township:
 Name of Stream, Spring, Body of Water as identified on the most current 7 1/2 minute topographic quadrangle map of the United States Geologic Survey subject to the Section 3215(b)(4) waiver: Friendsville, Choconut Creek Watershed.

Well Permit #: 115-21105-00-00
 Well Farm Name Mordovancey 19 12H
 Applicant Name: WPX Energy Appalachia, LLC.
 Contact Person: Dean Tinsley
 Address: 6000 Town Center Boulevard, Suite 300, Canonsburg, PA 15317
 County: Susquehanna
 Municipality Choconut Township:
 Name of Stream, Spring, Body of Water as identified on the most current 7 1/2 minute topographic quadrangle map of the United States Geologic Survey subject to the Section 3215(b)(4) waiver: Friendsville, Choconut Creek Watershed.

Well Permit #: 115-21106-00-00
 Well Farm Name Mordovancey 19 14H
 Applicant Name: WPX Energy Appalachia, LLC.
 Contact Person: Dean Tinsley
 Address: 6000 Town Center Blvd, Suite 300, Canonsburg, PA 15317
 County: Susquehanna
 Municipality Choconut Township:
 Name of Stream, Spring, Body of Water as identified on the most current 7 1/2 minute topographic quadrangle map of the United States Geologic Survey subject to the Section 3215(b)(4) waiver: Friendsville, Choconut Creek Watershed.

Well Permit #: 115-21107-00-00
 Well Farm Name Mordovancey 20 6H
 Applicant Name: WPX Energy Appalachia, LLC.
 Contact Person: Dean Tinsley
 Address: 6000 Town Center Blvd, Suite 300, Canonsburg, PA 15317
 County: Susquehanna
 Municipality Choconut Township:
 Name of Stream, Spring, Body of Water as identified on the most current 7 1/2 minute topographic quadrangle map of the United States Geologic Survey subject to the Section 3215(b)(4) waiver: Friendsville, Choconut Creek Watershed.

Well Permit #: 115-21108-00-00
 Well Farm Name Mordovancey 20 8H
 Applicant Name: WPX Energy Appalachia, LLC.
 Contact Person: Dean Tinsley
 Address: 6000 Town Center Blvd, Suite 300, Canonsburg, PA 15317
 County: Susquehanna
 Municipality Choconut Township:
 Name of Stream, Spring, Body of Water as identified on the most current 7 1/2 minute topographic quadrangle map of the United States Geologic Survey subject to the Section 3215(b)(4) waiver: Friendsville, Choconut Creek Watershed.

STORAGE TANKS

SITE-SPECTIFIC 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—6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C, have been issued by the Bureau of Environmental Cleanup and Brownfields, Director, PO 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>
13-62-006	United Refining Company 15 Bradley Street Warren, PA 16365-3299 Attn: Timothy Ruth	Warren	Glade Township	2 ASTs storing crude oil	14,215,084 gallons total

SPECIAL NOTICES

Request for Proposals; Joint Waste Disposal Capacity for Municipal Solid Waste

In accordance with Act 101 and Section 272 of the PA Solid Waste Rules and Regulations (as amended), Clarion and Forest County (Counties) are seeking joint waste disposal capacity for municipal solid waste (MSW) for a minimum of 5 years, with an option to extend said capacity for up to 5 additional years, for a total of 10 years. The Counties are hereby soliciting responses to qualify facilities to provide processing/disposal capacity for County-generated MSW, to begin on or after May 1, 2013.

Copies of the Counties' Facility Qualification Request (FQR) may be obtained from the County of Clarion Department of Planning and Development Administrative Building, 330 Main Street, Room 12, Clarion, PA, 16214 or by calling (814)-226-4000 x2800. 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 (3) copies to the address listed above, Attention Twila Rifemberrick by 3:00 p.m. EDT on February 18, 2013. Qualified facilities will be notified once all applications have been reviewed by the County of Clarion Department of Planning and Development.

The Counties reserve the right to reject any or all responses and to waive any informalities in the solicitation process.

Notice of Planning Grant Awards under section 901 of the Municipal Waste Planning Recycling and Waste Reduction Act of 1988, Act 101

The Department of Environmental Protection (DEP) hereby announces the following grants to counties pursuant to the Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act of 1988, Act 101, P. L. 556, Section 901 and Section 208 of the Waste Tire Recycling Act/Small Business and Household Pollution Prevention Act (Act 190 of 1996).

Planning grants are awarded to counties for 80% of approved costs for preparing municipal waste management plans as required by Act 101, for carrying out related studies, surveys, investigations, inquiries, research and analysis, including those related to siting, environmental mediation, education programs on pollution prevention and household hazardous waste and providing technical assistance to small businesses for pollution prevention. Grants may be awarded for feasibility studies and project development for municipal waste processing or disposal facilities, except for facilities for the combustion of municipal waste that are not proposed to be operated for the recovery of energy. All grant awards are predicated on the receipt of recycling fees required by Sections 701 and 702 of Act 101, and the availability of monies in the Recycling Fund.

Inquiries regarding the grant offerings should be directed to Mr. Mark Vottero, Department of Environmental Protection, Bureau of Waste Management, Division of Waste Minimization and Planning, PO Box 8472, Harrisburg, PA 17105-8472.

Act 101, Section 901 Planning Grant

<i>Region</i>	<i>County</i>	<i>Applicant</i>	<i>Project Description</i>	<i>Grant Award</i>
Northcentral	Lycoming	Lycoming County	Plan Revision / Update	\$175,000.00
Northeast	Lackawanna	Lackawanna County	Plan Revision / Update	\$75,000.00

Reclamation of Abandoned Strip Mine Projects

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

Under Act 181 of 1984, the Department of Environmental Protection solicits letters of interest from the landowners and licensed mine operators for the reclamation of abandoned strip mine projects identified as the Blair Project No. PBF 16850101.2, in Porter Township, Clarion County; the Truittsburg Project No. PBF 16820107.5, in Redbank Township, Clarion County; and the Merola Project No. PBF 61820102.5, in Irwin Township, Venango County. These projects require operation and maintenance of acid mine drainage treatment systems. Reclamation work may involve repair of existing passive treatment systems and access roads, monitoring and maintaining performance of passive treatment systems, water sampling, and other operation and maintenance functions as directed by the Knox District Mining Office. Letters of interest must be received by Joseph Ferrara, Compliance Manager, Department of Environmental Protection, P. O. Box 669, Knox, PA 16232, no later than 4:00 p.m. February 28, 2013, to be considered. Telephone inquiries shall be directed to Mr. Ferrara at 814-797-1191.

[Pa.B. Doc. No. 13-183. Filed for public inspection February 1, 2013, 9:00 a.m.]

Availability of Final General Plan Approval and/or General Operating Permit for Natural Gas Compression and/or Processing Facilities (BAQ-GPA/GP-5)

The Department of Environmental Protection (Department) has finalized the revisions to General Plan Approval and/or Operating Permit (BAQ-GPA/GP-5 or General Permit) for Natural Gas Compression and/or Processing Facilities that establishes emission limitations and other applicable Federal and State requirements including Best Available Technology requirements.

The notice of availability of the proposed General Permit was published at 42 Pa.B. 1187 (March 3, 2012). A 60-day comment period was provided and written comments were received. On May 2, 2012, the Department extended the public comment period to May 23, 2012, to provide adequate time to fully consider the Federal New Source Performance Standards and National Emission Standards for Hazardous Air Pollutant regulations. A comment and response document has been prepared, which summarizes the Department's response to the comments.

BAQ-GPA/GP-5 applies to the construction, operation and modification of both new and existing natural gas compression and/or processing facilities that compress and/or process natural gas, coal bed methane or gob gas

through steps such as gas dehydration, compression, fractionation and storage. BAQ-GPA/GP-5 is now issued by the Department and available for use by qualifying applicants. The applicant may seek authorization to use GP-5 by using the General Permit Application and must receive written approval prior to constructing and/or operating under this General Permit.

A copy of the General Permit with related documents can be obtained by contacting Jeanette Van Skike, Bureau of Air Quality, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-4325. The documents have also been placed on the Department's web site www.depweb.state.pa.us (DEP Keywords: "Air Permits").

MICHAEL L. KRANCER,
Secretary

[Pa.B. Doc. No. 13-184. Filed for public inspection February 1, 2013, 9:00 a.m.]

Mine Map Grant Program; 2013 Application Announcement

Applications for the 2013 Mine Map Grant (MMG) program are now available from the Department of Environmental Protection (Department). The MMG is a new, competitive grant program to establish 3-year grants that will provide funding to learning institutions and incorporated nonprofit organizations located in this Commonwealth to restore, preserve, inventory, scan, georeference and digitize mine maps and data.

The MMG will be funded from two special State funds under the authority provided in section 18(j) of the Surface Mining Conservation and Reclamation Act (52 P. S. § 1396.18(j)), section 105(10) of the Bituminous Coal Mine Safety Act (52 P. S. § 690-105(10)) and the Mine Subsidence Fund regulations set forth at 25 Pa. Code § 401.51 (relating to loans and grants).

This announcement opens on February 2, 2013, and grant applications submitted to the Department must be postmarked by March 15, 2013. Grant applications will begin to be evaluated on March 18, 2013, and grant agreements will be made with selected grantees at the earliest date possible thereafter. Subject to the availability of funds, up to \$1.65 million in grants will be provided. The minimal grant award will be \$20,000. Individual grant amounts will be based upon: the work identified in a proposal; a proposal's rating, which is based on the evaluation criteria established in the grant application rating analysis; and the availability of funds. Within practical administrative limits, efforts will be made to provide some funding to all eligible proposals.

Applications may be obtained by contacting the Department of Environmental Protection, Bureau of Mining Programs, P. O. Box 8461, Harrisburg, PA 17105-8461. For additional information and to obtain the electronic copy of the MMG application, visit the Department's web site at www.depweb.state.pa.us (DEP Keyword: MMG) or www.pamsi.org/MMG.html.

MICHAEL L. KRANCER,
Secretary

[Pa.B. Doc. No. 13-185. Filed for public inspection February 1, 2013, 9:00 a.m.]

Nutrient Credit Trading Program; Notice of Certification Requests

The Department of Environmental Protection (Department) provides notice of the following certification requests that have been submitted under the Nutrient Credit Trading Program (Trading Program). See 25 Pa. Code § 96.8 (relating to use of offsets and tradable credits from pollution reduction activities in the Chesapeake Bay Watershed), published at 40 Pa.B. 5790 (October 9, 2010).

The information described in this notice relates to a submitted certification requests received in December of 2012.

Certification Requests

The following requests are being reviewed by the Department.

Applicant

Material Matters on behalf of Columbia Municipal Authority Wastewater Treatment Authority. (Lancaster County) (NPDES Permit No. PA-0026123)

Buchart Horn, Inc. on behalf of City of York Wastewater Treatment Plant. (York County) (NPDES Permit No. PA-0026263)

Sunbury City Municipal Authority. (Northumberland County) (NPDES Permit No. PA-0026557)

Pollutant Reduction Activity Description

This certification request is for nutrient reduction credits to be generated from Agriculture Best Management Practices on Jamie Lonenecker's Farm.

This certification request is for nutrient reduction credits to be generated from the pollutant reduction activity of York City's installed wastewater treatment process.

This certification request is for nutrient reduction credits to be generated from the pollutant reduction activity of Sunbury City Municipal Authority's installed wastewater treatment process.

Written Comments

Interested persons may submit written comments on this proposed pollutant reduction activity by February 28, 2013. The Department will accept comments submitted by e-mail, but comments submitted by facsimile will not be accepted. A return name and address must be included in each e-mail transmission. Written comments should be submitted to Jay Braund, Bureau of Point and Non-Point Source Regulation, Department of Environmental Protection, P. O. Box 8774, Harrisburg, PA 17105-8774, (717) 772-5636, jbraund@pa.gov.

For further information about this certification request or the Trading Program contact Jay Braund, at the previously listed address or phone number or visit the Department's web site at www.dep.state.pa.us (DEP Keywords: "Nutrient Trading").

MICHAEL L. KRANCER,
Secretary

[Pa.B. Doc. No. 13-186. Filed for public inspection February 1, 2013, 9:00 a.m.]

Oil and Gas Technical Advisory Board Special Meeting

The Oil and Gas Technical Advisory Board will hold a special meeting on February 20, 2013, at 10 a.m. in Room 105, Rachel Carson State Office Building, Harrisburg, PA. The purpose of the meeting is to discuss regulatory revisions to 25 Pa. Code Chapter 78, Subchapter C (relating to environmental protection performance standards) regarding surface activities of oil and gas exploration and production and the Addressing Spills and Releases at Oil and Gas Well Sites technical guidance document.

Questions concerning this schedule or agenda items can be directed to Kurt Klapkowski, (717) 772-2199 or kklapkowski@pa.gov. This schedule and agenda for the meeting will be available through the Public Participation Center on Department of Environmental Protection's (Department) web site at www.dep.state.pa.us.

Persons in need of accommodations as provided for in the Americans with Disabilities Act of 1990 should contact Darek Jagiela at (717) 783-9645 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

MICHAEL L. KRANCER,
Secretary

[Pa.B. Doc. No. 13-187. Filed for public inspection February 1, 2013, 9:00 a.m.]

Plan Approval and Operating Permit Exemptions

Under 25 Pa. Code § 127.14 (relating to exemptions), the Department of Environmental Protection (Department) may determine sources or classes of sources which may be exempt from the plan approval and permitting requirements of 25 Pa. Code Chapter 127 (relating to construction, modification, reactivation and operation of sources). In accordance with 25 Pa. Code § 127.14(d), the listing of these determinations is being revised and a draft is now available. The Department is reproposing this technical guidance document for Category No. 33 pertaining to compressed natural gas fueling and Category No. 38 pertaining to oil and gas exploration, development, production facilities and associated equipment since changes have been made to the previously proposed document, on which the public did not have the opportunity to comment. The previously proposed technical guidance document was published at 41 Pa.B. 1066 (February 26, 2011).

The revised exemption Category Nos. 33 and 38 are as follows:

I. Listing of Plan Approval Exemptions

* * * * *

B. Section 127.14(a)(8) exemptions that do not require submission of a RFD form

The following is a list of those sources and classes of sources determined, in accordance with § 127.14(a)(8), to be exempt from the Plan Approval requirements of §§ 127.11 and 127.12. The owner/operator of a facility does not need to submit a Request for Determination of Changes of Minor Significance and Exemption from Plan Approval/Operating Permit (RFD) form for the following sources and classes of sources. Commencements of construction of sources are exempted from the plan approval

requirements provided the exemption criteria are met. Unless labeled otherwise, emission rates are to be considered actual tons per year (tpy). Note that certain exceptions and qualifications regarding this list are contained in the discussion that follows the list.

* * * * *

33. a) Retail gasoline dispensing facilities and similar vehicle-fueling operations at industrial plant sites.

b) Compressed natural gas dispensing facilities meeting the following requirements:

i. Combined NOx emissions from the stationary internal combustion engines at a facility less than 100 lbs/hr, 1000 lbs/day, 2.75 tons per ozone season (period beginning May 1 of each year and ending on September 30 of the same year) and 6.6 tons per year on a 12-month rolling basis. The emission criteria do not include emissions from sources which are approved by plan approvals or the general permit or emissions from sources approved under Category 33(a) at the facility.

ii. Combined VOC emissions from all the sources at the facility less than 2.7 tons on a 12-month rolling basis. If the VOCs include HAPs, the HAP exemption criteria in this paragraph must be met. Compliance with this criterion shall be determined using any generally accepted model or calculation methodology. Combined HAP emissions (not including Polychlorinated Biphenyls (PCBs), Chromium (Cr), Mercury (Hg), Lead (Pb), Polycyclic Organic Matter (POM), Dioxins and Furans) at the facility less than 1000 lbs. of a single HAP or one ton of a combination of HAPs in any consecutive 12-month period. The emission criteria do not include emissions from sources which are approved by the plan approvals or the general permits or emissions from sources approved under Category 33(a) at the facility.

iii. The owner or operator of the compressed natural gas fueling station shall use forward looking infrared ("FLIR") detection, a gas leak detector capable of reading methane concentrations in air of 0% to 5% with an accuracy of +/- 0.2% or any other leak detection monitoring device or process approved by the Department for the detection of leaks. If a gas leak detector is used, a leak shall be detected by placing the probe inlet at the surface of a component. After the initial evaluation, FLIR, a gas leak detector as previously defined or any other Department approved monitoring device or process shall be used on an annual basis to detect leaks. If a leak is detected, the owner or operator of the facility shall quantify and repair the leak to operate with less than a concentration of 2.5% methane as expeditiously as practicable, but no later than thirty (30) days after the leak is detected. Such leaks and the repairs must be recorded. The Department may grant an extension for leak detection deadlines or repairs upon receipt of a written request from the owner or operator of the facility documenting the justification for the requested extension.

* * * * *

38. Oil and gas exploration, development, production facilities and associated equipment which meet the following requirements:

i. Wells, wellheads, and associated equipment subject to 40 CFR Part 60 Subpart OOOO provided the exemption criteria specified in Paragraphs iii, iv, v, vi and vii as applicable are met.

ii. Conventional wells, wellheads and associated equipment.

iii. The owner or operator of the well heads and storage vessels/storage tanks shall within 60 days after the completion of the well use forward looking infrared ("FLIR") detection, a gas leak detector capable of reading methane concentrations in air of 0% to 5% with an accuracy of +/- 0.2% or any other leak detection monitoring device or process approved by the Department for the detection of leaks. If a gas leak detector is used, a leak shall be detected by placing the probe inlet at the surface of a component. After the initial evaluation, FLIR, a gas leak detector as previously defined or any other Department approved monitoring device or process shall be used on an annual basis to detect leaks. If a leak is detected, the owner or operator of the facility shall quantify and repair the leak to operate with no detectable organic emissions consistent with 40 CFR Part 60 Subpart OOOO, or be less than a concentration of 2.5% methane as expeditiously as practicable, but no later than thirty (30) days after the leak is detected. Such leaks and the repairs must be recorded. The Department may grant an extension for leak detection deadlines or repairs upon receipt of a written request from the owner or operator of the facility documenting the justification for the requested extension.

iv. Storage vessels/storage tanks equipped with VOC emission controls achieving emission reduction of 95% or greater. Compliance shall be demonstrated in accordance with 40 CFR Part 60 Subpart OOOO.

v. Combined VOC emissions from all the sources at the facility less than 2.7 tons on a 12-month rolling basis. If the VOCs include HAPs, the HAP exemption criteria in this paragraph must be met. Compliance with this criterion shall be determined using any generally accepted model or calculation methodology. Combined HAP emissions (not including Polychlorinated Biphenyls (PCBs), Chromium (Cr), Mercury (Hg), Lead (Pb), Polycyclic Organic Matter (POM), Dioxins and Furans) at the facility less than 1000 lbs. of a single HAP or one ton of a combination of HAPs in any consecutive 12-month period. The emission criteria do not include emissions from sources which are approved by the plan approvals or the general permits at the facility and the emissions from well heads meeting the exemption criteria specified in Paragraphs iii, iv or vi.

vi. Flaring operations used at a wellhead subject to 40 CFR Part 60 Subpart OOOO requirements. Flaring used by exploration wells drilled to determine whether oil and/or gas exists in a geological formation or to appraise the physical extent, reserves and likely production rate of an oil or gas field. Enclosed flares used for other operations at a wellhead or facility. Unenclosed flares used for repair, rework or re-completion at a wellhead. Flare operations required for emergency or safety purposes provided the Department is notified of the emergency or safety issue within 24 hours.

vii. Combined NOx emissions from the stationary internal combustion engines at a facility less than 100 lbs. /hr., 1000 lbs. /day, 2.75 tons per ozone season (period beginning May 1 of each year and ending on September 30 of the same year) and 6.6 tons per year on a 12-month rolling basis. The emission criteria do not include emissions from sources which are approved by plan approvals or the general permit at the facility.

viii. Non-road engines as defined in 40 CFR, Part 89.

The owner or operator must comply with all applicable requirements including notification, recordkeeping, and reporting requirements as specified in 40 CFR Part 60

Subpart OOOO. The owner or operator must also demonstrate to the Department compliance with the exemption criteria using any generally accepted model or calculation methodology within 180 days of after the well completion or installation of a source.

The owners and operators of sources not meeting the requirements under (i)—(viii) of this category may submit a Request for Determination (RFD) form to the Department. If the RFD is not approved by the DEP, an application seeking authorization to use a general permit or a plan approval application should be submitted to the Department, as appropriate.

The Department invites written comments on this proposed exemption 38 of the plan approval and operating permit exemptions. Notice and opportunity for comment will also be provided to the United States Environmental Protection Agency and Delaware, Maryland, New Jersey, New York, Ohio, Virginia and West Virginia. Interested persons may submit written comments, suggestions or objections to Krishnan Ramamurthy, Environmental Program Manager, Division of Permits, Bureau of Air Quality, 12th Floor, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, kramamurth@pa.gov. Written public comments must be submitted to the Department no later than March 19, 2013. Comments received by facsimile will not be accepted.

Following the comment period, the listings will be revised, as appropriate, and published in final-form in the *Pennsylvania Bulletin*. Interested parties are encouraged to obtain and review a copy of this proposed plan approval and operating permit exemptions by contacting Jeanette Van Skike, Division of Permits, Bureau of Air Quality, 12th Floor, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-4325, jvanskike@state.pa.us. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service (800) 654-5984. Internet users can access a copy of this document at <http://www.dep.state.pa.us> (DEP Keyword: Air Quality Home).

MICHAEL L. KRANCER,
Secretary

[Pa.B. Doc. No. 13-188. Filed for public inspection February 1, 2013, 9:00 a.m.]

Submission Deadline for Application for Reimbursement for Certified Host Municipality Inspectors under Act 101 (Section 1102), the Municipal Waste Planning, Recycling and Waste Reduction Act of 1988 and Act 108 (Section 304), the Hazardous Sites Cleanup Act of 1988

The Department of Environmental Protection (Department) announces the submission deadline for 2012 Host Municipality Inspector Program (program) reimbursement applications as April 1, 2013. Reimbursements are available to municipalities under the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.101—6020.1305). Municipalities include cities, boroughs, incorporated towns, townships and home-rule municipalities.

Reimbursements are allocated from the Recycling Fund authorized under the Municipal Waste Planning, Recycling and Waste Reduction Act for municipal waste

facilities or from the Hazardous Sites Cleanup Fund under the Hazardous Sites Cleanup Act for hazardous waste facilities. Reimbursements are available to any municipality that has a municipal waste landfill, resource recovery facility or commercial hazardous waste storage, treatment and disposal facility located within its geographic borders. Upon application from any host municipality, the Department shall award reimbursements for authorized costs incurred for the salary and expenses of up to two certified Host Municipality Inspectors. The reimbursement shall not exceed 50% of the approved costs of salaries and expenses. Reimbursement is available only for Host Municipality Inspectors trained and certified by the Department.

The application for reimbursement contains tables for specifying the itemized expenses for certified inspectors and for calculating the total reimbursement request. Complete instructions are included with the application, which is being distributed to all municipalities that have participated in the program. If the municipality does not receive but requires an application, or for persons who have any questions about this program, contact the Program Development Section, Department of Environmental Protection, Bureau of Waste Management, Rachel Carson State Office Building, P. O. Box 8471, Harrisburg, PA 17105-8471, (717) 787-9870 or visit the Department's web site at www.dep.state.pa.us (PA Keyword: "Host Municipality Inspector").

The deadline for submitting applications is 4:30 p.m. on April 1, 2013. Applications post marked after the deadline will not be considered.

MICHAEL L. KRANCER,
Secretary

[Pa.B. Doc. No. 13-189. Filed for public inspection February 1, 2013, 9:00 a.m.]

Water Resources Advisory Committee Meeting Cancellation

The February 13, 2013, meeting of the Water Resources Advisory Committee (Committee) is cancelled.

Questions concerning the next scheduled meeting of the Committee can be directed to Duke Adams at (717) 783-4693, ranadams@pa.gov. The agenda and meeting materials for the May 8, 2013, meeting will be available through the Public Participation Center on the Department of Environmental Protection's (Department) web site at <http://www.dep.state.pa.us> (Select "Public Participation," "Advisory Committees" and "Water Resources Advisory Committee").

Persons in need of accommodations as provided for in the Americans with Disabilities Act of 1990 should contact the Department at (717) 783-4693 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

MICHAEL L. KRANCER,
Secretary

[Pa.B. Doc. No. 13-190. Filed for public inspection February 1, 2013, 9:00 a.m.]

DEPARTMENT OF GENERAL SERVICES

Exemption from Requirements

A study to determine if the Department of Corrections' (Department) buildings located at State Correctional Institution—Dallas, PA should be exempted from the requirements of section 2420 of The Administrative Code of 1929 (71 P. S. § 650) will be performed within the next 90 days. The result from this study may result in the conversion of the Department's coal-fired heating system to a fuel other than coal.

For additional information, contact Gary R. Taylor, Director, Bureau of Engineering and Architecture, Department of General Services, 18th and Herr Streets, 201 Headquarters Building, Harrisburg, PA 17125, (717) 787-6200, fax (717) 772-2036, gtaylor@pa.gov.

SHERI PHILLIPS,
Secretary

[Pa.B. Doc. No. 13-191. Filed for public inspection February 1, 2013, 9:00 a.m.]

Exemption from Requirements

A study to determine if the Department of General Services' (Department) building known as the Lieutenant Governor's Residence, located at Two Governor's Way, Annville, PA should be exempted from the requirements of section 2420 of The Administrative Code of 1929 (71 P. S. § 650), will be performed within the next 90 days. The result from this study may result in the conversion of the Department's coal-fired heating system to a fuel other than coal.

For additional information, contact Gary R. Taylor, Director, Bureau of Engineering and Architecture, Department of General Services, 18th and Herr Streets, 201 Headquarters Building, Harrisburg, PA 17125, (717) 787-6200, fax (717) 772-2036, gtaylor@pa.gov.

SHERI PHILLIPS,
Secretary

[Pa.B. Doc. No. 13-192. Filed for public inspection February 1, 2013, 9:00 a.m.]

DEPARTMENT OF HEALTH

Long-Term Care Nursing Facilities; Request for Exception

The following long-term care nursing facilities are seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building):

Carbondale Nursing & Rehabilitation Center
10 Hart Drive
Carbondale, PA 18407
FAC ID 030702

Forbes Center for Rehabilitation and Healthcare
6655 Frankstown Avenue
Pittsburgh, PA 15206

Manorcare Health Services—Williamsport South
101 Leader Drive
Williamsport, PA 17701
FAC ID 641502

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.67(k) (relating to electric requirements for existing and new construction):

Thornwald Home
442 Walnut Bottom Road
Carlisle, PA 17013

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, ra-paexcept@pa.gov.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously. Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the address or phone number listed previously, or for speech and/or hearing impaired persons V/TT (717) 783-6514, or the Pennsylvania AT&T Relay Service (800) 654-5984 (TT).

MICHAEL WOLF,
Acting Secretary

[Pa.B. Doc. No. 13-193. Filed for public inspection February 1, 2013, 9:00 a.m.]

Summary of Selected Morbidity and Mortality Weekly Report Articles on Pediatric/Adolescent Immunizations

In accordance with 31 Pa. Code §§ 89.806(a) and 89.807(b) (relating to coverage of child immunizations; and immunizing agents, doses and AWP), the Department of Health (Department), Bureau of Communicable Diseases, Division of Immunization is updating 31 Pa. Code Chapter 89, Appendices G and H (relating to ACIP recommendations prescribing child immunization practices; and immunizing agents and doses). The Department has primary responsibility for the interpretation and the implementation of 31 Pa. Code §§ 89.806 and 89.807. See 31 Pa. Code § 89.801(b) (relating to authority and purpose; implementation).

Health Insurance policies are required by the Childhood Immunization Insurance Act (act) (40 P.S. §§ 3501—3508) and regulations promulgated thereunder, 31 Pa. Code Chapter 89, Subchapter L (relating to childhood immunization insurance) to include coverage for certain childhood immunizations, unless the policies are exempted by the act and 31 Pa. Code § 89.809 (relating to exempt policies). The childhood immunizations covered are those that meet Advisory Committee on Immunization Practices (ACIP) standards in effect on May 21, 1992. See 31 Pa. Code § 89.806(a). A list of the Morbidity and Mortality Weekly Report (MMWR) publications contain-

ing ACIP recommendations issued under the ACIP standards in effect on May 21, 1992, appears in 31 Pa. Code Chapter 89, Appendix G.

The Department is required to update the list of these MMWR publications appearing in 31 Pa. Code Chapter 89, Appendix G. See 31 Pa. Code § 89.806(a). The additions to the list are as follows, the remainder of the list at 31 Pa. Code Chapter 89, Appendix G remains in full force and effect:

August 17, 2012, Vol. 61/No. 32

Prevention and Control of Influenza with Vaccines: Recommendations of the Advisory Committee on Immunization Practices (ACIP)—United States, 2012-13 Influenza Season

In 2010, the Advisory Committee on Immunization Practices (ACIP) first recommended annual influenza vaccination for all persons aged 6 months or older in the United States. Annual influenza vaccination of all persons aged 6 months or older continues to be recommended. This document: 1) describes influenza vaccine virus strains included in the United States seasonal influenza vaccine for 2012-2013; 2) provides guidance for the use of influenza vaccines during the 2012-2013 season, including an updated vaccination schedule for children aged 6 months through 8 years and a description of available vaccine products and indications; 3) discusses febrile seizures associated with administration of influenza and 13-valent pneumococcal conjugate (PCV-13) vaccines; 4) provides vaccination recommendations for persons with a history of egg allergy; and 5) discusses the development of quadrivalent influenza vaccines for use in future influenza seasons. Information regarding issues related to influenza vaccination that are not addressed in this update is available in CDC's Prevention and Control of Influenza with Vaccines: Recommendations of the Advisory Committee on Immunization Practices (ACIP), 2010 and associated updates.

August 31, 2012, Vol. 61/No. 34

National and State Vaccination Coverage Among Adolescents Aged 13-17 Years—United States, 2011

Since 2005, the Advisory Committee on Immunization Practices (ACIP) has expanded the routine adolescent vaccination schedule with administration of the following vaccines at ages 11 or 12 years: meningococcal conjugate (MenACWY), 2 doses; tetanus, diphtheria, acellular pertussis (Tdap), 1 dose; human papillomavirus (HPV), 3 doses; and influenza, 1 dose annually. To assess vaccination coverage among adolescents aged 13 through 17 years, CDC analyzed data from the National Immunization Survey-Teen (NIS-Teen). This report summarizes the results of that assessment, which indicated that, from 2010 to 2011, vaccination coverage increased for ≥1 dose Tdap on or after age 10 years (from 68.7% to 78.2%), ≥1 dose MenACWY (from 62.7% to 70.5%) and, among females, for ≥1 dose of HPV (from 48.7% to 53.0%) and ≥3 doses of HPV (from 32.0 to 34.8%). Vaccination coverage varied widely among States. Interventions that increase adolescent vaccination coverage include strong recommendations from health-care providers, urging consideration of every health visit as an opportunity for vaccination, reducing out-of-pocket costs and using reminder or recall systems. Despite increasing adolescent vaccination coverage, the percentage point increase in ≥1 dose HPV coverage among adolescent females was less than half that of the increase in ≥1 dose of Tdap or MenACWY. The causes of lower coverage with HPV vaccine are multifactorial; addressing missed opportuni-

ties for vaccination, as well as continued evaluation of vaccination-promoting initiatives, is needed to protect adolescents against HPV-related cancers.

NIS-Teen collects vaccination information for adolescents aged 13 through 17 years in the 50 States, the District of Columbia, selected areas, and the United States Virgin Islands, using a random-digit-dialed sample of landline and, starting in 2011, cellular telephone numbers. Parent/guardian respondents provide vaccination and sociodemographic information on adolescents in their care. After the parent/guardian grants permission to contact their child's vaccination provider, a questionnaire is mailed to that provider to obtain a vaccination history from the medical record. A total of 23,564 adolescents (12,328 males and 11,236 females) are included in the national estimates.

August 24, 2012, Vol. 61/No. 33

Vaccination Coverage Among Children in Kindergarten—United States, 2011-12 School Year

In 2011, CDC reported 17 outbreaks of measles and 222 measles cases, most of which were imported cases in unvaccinated persons. This was the highest number of measles cases in any year in the United States since 1996 and highlights the importance of monitoring measles vaccination coverage at the local level. To identify areas of undervaccination for measles and other vaccine-preventable diseases, State and local health departments monitor compliance with school immunization requirements using annual school vaccination assessment reports, supported as a CDC immunization funding objective for the 64 grantees, including the 50 States, the District of Columbia (DC), five cities and eight other reporting areas. CDC also monitors progress toward meeting Healthy People 2020 objectives for the vaccination of children entering kindergarten. This report summarizes vaccination coverage, exemption rates, and reporting methods from the 2011-2012 school year kindergarten vaccination assessments submitted by 56 grantees, including 49 States, DC, one city and five other reporting areas. Median coverage with 2 doses of measles, mumps and rubella (MMR) vaccine was 94.8% among 47 reporting states and DC. Total exemption rates, including medical, religious and philosophic exemptions, among 49 reporting States and DC, ranged from <0.1% to 7.0% (median: 1.5%). Although Statewide levels of vaccination coverage are at or very near target levels, locally low vaccination coverage for extremely transmissible diseases such as measles remains a threat to health. Monitoring MMR vaccination coverage at the local and state level will continue to be critical as long as the risk for measles importation and outbreaks exist.

September 7, 2012, Vol. 61/No. 35

National, State, and Local Area Vaccination Coverage Among Children Aged 19-35 Months—United States, 2011

High vaccination coverage in children by age 2 years has resulted in historically low levels of most vaccine-preventable diseases in the United States, but coverage must be maintained to reduce the burden of disease further and prevent a resurgence of these diseases, particularly in populations with lower vaccination coverage. This report describes national, state, and selected local area vaccination coverage by age 19 through 35 months for children born during January 2008 through May 2010, based on 2011 National Immunization Survey (NIS) results. Vaccination coverage remained above the national Healthy People 2020 target of 90% for ≥ 1 dose

measles, mumps, rubella vaccine (MMR) (91.6%), ≥ 3 doses of hepatitis B vaccine (HepB) (91.1%), ≥ 3 doses of poliovirus vaccine (93.9%), and ≥ 1 dose of varicella vaccine (90.8%). For the birth dose of HepB, coverage increased from 64.1% in 2010 to 68.6% in 2011; for the more recently recommended ≥ 2 doses of hepatitis A vaccine (HepA) and rotavirus vaccines, coverage increased from 49.7% to 52.2% and from 59.2% to 67.3%, respectively; and for the full series of *Haemophilus influenzae* type b vaccine (Hib), coverage increased from 66.8% to 80.4%, reflecting recovery from the Hib shortage that occurred during December 2007 through September 2009. The percentage of children who had not received any vaccinations remained at <1%. Children living below the poverty level had lower coverage than children living at or above poverty for ≥ 4 doses of diphtheria, tetanus toxoid and acellular pertussis vaccine (DTaP) and ≥ 4 doses of pneumococcal conjugate vaccine (PCV) (by 6 percentage points each); the full Hib series (by 8 percentage points); and for rotavirus vaccination (by 10 percentage points). Continued partnerships among national, state, local, private, and public entities are needed to sustain current coverage levels and ensure that coverage for the more recently recommended vaccines continues to increase for all children.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotape, Braille) should contact Department of Health, Wayne Fleming, Public Health Program Administrator, Division of Immunizations, Room 1026, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-5681 or for speech and/or hearing impaired persons at V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

MICHAEL WOLF,
Acting Secretary

[Pa.B. Doc. No. 13-194. Filed for public inspection February 1, 2013, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

Uniform Construction Code Review and Advisory Council Meeting

The Uniform Construction Code Review and Advisory Council will hold a meeting on Thursday, February 28, 2013, at 10 a.m. at the 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. Scroll down and click on the link for "Uniform Construction Code" and "UCC Review and Advisory Council."

Questions concerning this may be directed to Edward Leister at (717) 783-6304.

JULIA K. HEARTHWAY,
Secretary

[Pa.B. Doc. No. 13-195. Filed for public inspection February 1, 2013, 9:00 a.m.]

DEPARTMENT OF REVENUE

Annual Inflation Adjustment; Pennsylvania Gaming Cash Flow Management

In accordance with 61 Pa. Code § 1001.8 (relating to State Gaming Fund transfers), the Secretary of Revenue announces that, for the year beginning January 1, 2013, the Annual Inflation Adjustment as proscribed in 4 Pa.C.S. § 1403(d) (relating to establishment of State Gaming Fund and net slot machine revenue distribution) is 1.8%.

Section 1403(c) of 4 Pa.C.S. requires the Department to utilize the most recent Consumer Price Index effective immediately prior to the date the adjustment is due to take effect. This adjustment was published by the United States Department of Labor, Bureau of Labor Statistics on January 17, 2013. Therefore, the Department is publishing notice of the Annual Inflation Adjustment.

DANIEL MEUSER,
Secretary

[Pa.B. Doc. No. 13-196. Filed for public inspection February 1, 2013, 9:00 a.m.]

Pennsylvania Fat Wallet Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Fat Wallet.

2. *Price:* The price of a Pennsylvania Fat Wallet instant lottery game ticket is \$5.

3. *Play Symbols:* Each Pennsylvania Fat Wallet instant lottery game ticket will contain one play area featuring a “WINNING NUMBERS” area and a “YOUR NUMBERS” area. The play symbols and their captions located in the “WINNING NUMBERS” area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWY TWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWYNIN), 30 (THIRTY), 31 (THYONE), 32 (THYTWO), 33 (THYTHR), 34 (THYFOR), 35 (THYFIV), 36 (THYSIX), 37 (THYSVN), 38 (THYEGT), 39 (THYNIN) and 40 (FORTY). The play symbols and their captions located in the “YOUR NUMBERS” area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWY TWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWYNIN), 30 (THIRTY), 31 (THYONE), 32 (THYTWO), 33 (THYTHR), 34 (THYFOR), 35 (THYFIV), 36 (THYSIX), 37 (THYSVN), 38 (THYEGT), 39 (THYNIN), 40 (FORTY), Wallet (WALLET) symbol and a Money (MONEY) symbol.

4. *Prize Symbols:* The prize symbols and their captions located in the “YOUR NUMBERS” area are: \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$20⁰⁰ (TWENTY), \$25⁰⁰ (TWY FIV), \$40⁰⁰ (FORTY), \$50⁰⁰ (FIFTY), \$100 (ONE HUN), \$250 (TWOHUNFTY), \$500 (FIV HUN), \$1,000 (ONE THO), \$10,000 (TEN THO) and \$100,000 (ONEHUNTHO).

5. *Prizes:* The prizes that can be won in this game are: \$5, \$10, \$20, \$25, \$40, \$50, \$100, \$250, \$500, \$1,000, \$10,000 and \$100,000. A player can win up to 12 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 10,800,000 tickets will be printed for the Pennsylvania Fat Wallet instant lottery game.

7. Determination of Prize Winners:

(a) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$100,000 (ONEHUNTHO) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$100,000.

(b) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$10,000 (TEN THO) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$10,000.

(c) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Money (MONEY) symbol, and a prize symbol of \$10,000 (TEN THO) appears in the “prize” area under that Money (MONEY) symbol, on a single ticket, shall be entitled to a prize of \$10,000.

(d) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$1,000 (ONE THO) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(e) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Money (MONEY) symbol, and a prize symbol of \$1,000 (ONE THO) appears in the “prize” area under that Money (MONEY) symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(f) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Wallet (WALLET) symbol and a prize symbol of \$250 (TWOHUNFTY) appears in two of the “prize” areas and a prize symbol of \$50⁰⁰ (FIFTY) appears in ten of the “prize” areas, on a single ticket, shall be entitled to a prize of \$1,000.

(g) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$500 (FIV HUN) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$500.

(h) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Money (MONEY) symbol, and a prize symbol of \$500 (FIV HUN) appears in the “prize” area under that Money (MONEY) symbol, on a single ticket, shall be entitled to a prize of \$500.

(i) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Wallet (WALLET) symbol and a prize symbol of \$50⁰⁰ (FIFTY) appears in two of the “prize” areas and a prize symbol of \$40⁰⁰ (FORTY)

appears in ten of the “prize” areas, on a single ticket, shall be entitled to a prize of \$500.

(j) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$250 (TWOHUNFTY) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$250.

(k) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Money (MONEY) symbol, and a prize symbol of \$250 (TWOHUNFTY) appears in the “prize” area under that Money (MONEY) symbol, on a single ticket, shall be entitled to a prize of \$250.

(l) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Wallet (WALLET) symbol and a prize symbol of \$25.00 (TWY FIV) appears in two of the “prize” areas and a prize symbol of \$20.00 (TWENTY) appears in ten of the “prize” areas, on a single ticket, shall be entitled to a prize of \$250.

(m) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$100 (ONE HUN) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$100.

(n) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Money (MONEY) symbol, and a prize symbol of \$100 (ONE HUN) appears in the “prize” area under that Money (MONEY) symbol, on a single ticket, shall be entitled to a prize of \$100.

(o) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Wallet (WALLET) symbol and a prize symbol of \$25.00 (TWY FIV) appears in two of the “prize” areas and a prize symbol of \$5.00 (FIV DOL) appears in ten of the “prize” areas, on a single ticket, shall be entitled to a prize of \$100.

(p) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$50.00 (FIFTY) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$50.

(q) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Money (MONEY) symbol, and a prize symbol of \$50.00 (FIFTY) appears in the “prize” area under that Money (MONEY) symbol, on a single ticket, shall be entitled to a prize of \$50.

(r) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$40.00 (FORTY) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$40.

(s) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Money (MONEY) symbol, and a prize symbol of \$40.00 (FORTY) appears in the “prize” area under that Money (MONEY) symbol, on a single ticket, shall be entitled to a prize of \$40.

(t) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$25.00 (TWY FIV) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$25.

(u) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Money (MONEY) symbol, and a prize symbol of \$25.00 (TWY FIV) appears in the “prize” area under that Money (MONEY) symbol, on a single ticket, shall be entitled to a prize of \$25.

(v) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$20.00 (TWENTY) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$20.

(w) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Money (MONEY) symbol, and a prize symbol of \$20.00 (TWENTY) appears in the “prize” area under that Money (MONEY) symbol, on a single ticket, shall be entitled to a prize of \$20.

(x) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$10.00 (TEN DOL) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$10.

(y) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Money (MONEY) symbol, and a prize symbol of \$10.00 (TEN DOL) appears in the “prize” area under that Money (MONEY) symbol, on a single ticket, shall be entitled to a prize of \$10.

(z) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$5.00 (FIV DOL) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$5.

(aa) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Money (MONEY) symbol, and a prize symbol of \$5.00 (FIV DOL) appears in the “prize” area under that Money (MONEY) symbol, on a single ticket, shall be entitled to a prize of \$5.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

When Any Of Your Numbers Match Any Winning Number, Win Prize Shown Under The Matching Number. Win With:

\$5
\$10 w/ MONEY
\$10
\$5 × 4
\$20 w/ MONEY
\$20

Win:

\$5
\$10
\$10
\$20
\$20
\$20

Approximate Odds Are 1 In:

8.57
20
60
200
150
200

Approximate No. Of Winners Per 10,800,000 Tickets:

1,260,000
540,000
180,000
54,000
72,000
54,000

When Any Of Your Numbers Match
Any Winning Number, Win Prize
Shown Under The Matching Number.
Win With:

	Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 10,800,000 Tickets:
(\$10 × 2) + \$5	\$25	300	36,000
(\$5 w/ MONEY) × 5	\$25	300	36,000
\$25 w/ MONEY	\$25	300	36,000
\$25	\$25	300	36,000
\$5 × 8	\$40	600	18,000
(\$10 w/ MONEY) × 4	\$40	600	18,000
\$40 w/ MONEY	\$40	300	36,000
\$40	\$40	600	18,000
\$10 × 5	\$50	600	18,000
(\$25 w/ MONEY) × 2	\$50	600	18,000
\$50 w/ MONEY	\$50	600	18,000
\$50	\$50	600	18,000
WALLET w/ ((\$25 × 2) + (\$5 × 10))	\$100	521.74	20,700
\$25 × 4	\$100	1,412	7,650
\$50 × 2	\$100	1,412	7,650
(\$10 w/ MONEY) × 10	\$100	1,412	7,650
\$100 w/ MONEY	\$100	1,043	10,350
\$100	\$100	1,412	7,650
WALLET w/ ((\$25 × 2) + (\$20 × 10))	\$250	5,000	2,160
\$50 × 5	\$250	15,000	720
\$250 w/ MONEY	\$250	12,000	900
\$250	\$250	15,000	720
WALLET w/ ((\$50 × 2) + (\$40 × 10))	\$500	24,000	450
\$50 × 10	\$500	60,000	180
\$250 × 2	\$500	60,000	180
(\$100 w/ MONEY) × 5	\$500	60,000	180
\$500 w/ MONEY	\$500	40,000	270
\$500	\$500	60,000	180
WALLET w/ ((\$250 × 2) + (\$50 × 10))	\$1,000	40,000	270
\$500 × 2	\$1,000	60,000	180
\$1,000 w/ MONEY	\$1,000	60,000	180
\$1,000	\$1,000	120,000	90
\$10,000 w/ MONEY	\$10,000	1,080,000	10
\$10,000	\$10,000	1,080,000	10
\$100,000	\$100,000	1,080,000	10

Reveal a "MONEY" (MONEY) symbol, win prize shown under it automatically.
Reveal a "WALLET" (WALLET) symbol, win all 12 prizes shown!

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Fat Wallet instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentive).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Fat Wallet, prize money from winning Pennsylvania Fat Wallet instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Fat Wallet instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Fat Wallet or through normal communications methods.

DANIEL MEUSER,
Secretary

[Pa.B. Doc. No. 13-197. Filed for public inspection February 1, 2013, 9:00 a.m.]

Pennsylvania 5 Times Lucky Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania 5 Times Lucky.

2. *Price:* The price of a Pennsylvania 5 Times Lucky instant lottery game ticket is \$2.

3. *Play Symbols:* Each Pennsylvania 5 Times Lucky instant lottery game ticket will contain one play area featuring a "WINNING NUMBERS" area and a "YOUR NUMBERS" area. The play symbols and their captions located in the "WINNING NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN) and 20 (TWENT). The play symbols and their captions located in the "YOUR NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), LUCKY (LUCKY) symbol and a 5X (5TIMES) symbol.

4. *Prize Symbols:* The prize symbols and their captions located in the "Prize" areas are: \$2⁰⁰ (TWO DOL), \$4⁰⁰ (FOR DOL), \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$20⁰⁰ (TWENTY), \$25⁰⁰ (TWY FIV), \$50⁰⁰ (FIFTY), \$100 (ONE HUN), \$250 (TWOHUNFTY), \$500 (FIV HUN), \$1,000 (ONE THO) and \$25,000 (TWYFIVTHO).

5. *Prizes:* The prizes that can be won in this game are: \$2, \$4, \$5, \$10, \$20, \$25, \$50, \$100, \$250, \$500, \$1,000 and \$25,000. The player can win up to 10 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 13,800,000 tickets will be printed for the Pennsylvania 5 Times Lucky instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$25,000 (TWYFIVTHO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$25,000.

(b) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$1,000 (ONE THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(c) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$500 (FIV HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(d) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 5X (5TIMES) symbol and a prize symbol of \$100 (ONE HUN) appears in the "Prize" area under that 5X (5TIMES) symbol, on a single ticket, shall be entitled to a prize of \$500.

(e) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$250 (TWOHUNFTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$250.

(f) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 5X (5TIMES) symbol and a prize symbol of \$50⁰⁰ (FIFTY) appears in the "Prize" area under that 5X (5TIMES) symbol, on a single ticket, shall be entitled to a prize of \$250.

(g) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the

"WINNING NUMBERS" play symbols and a prize symbol of \$100 (ONE HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(h) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Lucky (LUCKY) symbol and a prize symbol of \$100 (ONE HUN) appears in the "Prize" area under that Lucky (LUCKY) symbol, on a single ticket, shall be entitled to a prize of \$100.

(i) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 5X (5TIMES) symbol and a prize symbol of \$20⁰⁰ (TWENTY) appears in the "Prize" area under that 5X (5TIMES) symbol, on a single ticket, shall be entitled to a prize of \$100.

(j) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$50⁰⁰ (FIFTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(k) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Lucky (LUCKY) symbol and a prize symbol of \$50⁰⁰ (FIFTY) appears in the "Prize" area under that Lucky (LUCKY) symbol, on a single ticket, shall be entitled to a prize of \$50.

(l) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 5X (5TIMES) symbol and a prize symbol of \$10⁰⁰ (TEN DOL) appears in the "Prize" area under that 5X (5TIMES) symbol, on a single ticket, shall be entitled to a prize of \$50.

(m) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$25⁰⁰ (TWY FIV) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$25.

(n) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 5X (5TIMES) symbol and a prize symbol of \$5⁰⁰ (FIV DOL) appears in the "Prize" area under that 5X (5TIMES) symbol, on a single ticket, shall be entitled to a prize of \$25.

(o) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$20⁰⁰ (TWENTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(p) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Lucky (LUCKY) symbol and a prize symbol of \$20⁰⁰ (TWENTY) appears in the "Prize" area under that Lucky (LUCKY) symbol, on a single ticket, shall be entitled to a prize of \$20.

(q) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 5X (5TIMES) symbol and a prize symbol of \$4⁰⁰ (FOR DOL) appears in the "Prize" area under that 5X (5TIMES) symbol, on a single ticket, shall be entitled to a prize of \$20.

(r) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$10⁰⁰ (TEN DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(s) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 5X (5TIMES)

symbol and a prize symbol of \$2.⁰⁰ (TWO DOL) appears in the "Prize" area under that 5X (5TIMES) symbol, on a single ticket, shall be entitled to a prize of \$10.

(t) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$5.⁰⁰ (FIV DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(u) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Lucky (LUCKY) symbol and a prize symbol of \$5.⁰⁰ (FIV DOL) appears in the "Prize" area under that Lucky (LUCKY) symbol, on a single ticket, shall be entitled to a prize of \$5.

(v) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol

of \$4.⁰⁰ (FOR DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$4.

(w) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$2.⁰⁰ (TWO DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$2.

(x) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Lucky (LUCKY) symbol and a prize symbol of \$2.⁰⁰ (TWO DOL) appears in the "Prize" area under that Lucky (LUCKY) symbol, on a single ticket, shall be entitled to a prize of \$2.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

<i>When Any Of Your Numbers Match Either Winning Number, Win Prize Shown Under The Matching Number. Win With:</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 13,800,000 Tickets</i>
\$2	\$2	8.82	1,564,000
\$2 x 2	\$4	30	460,000
\$4	\$4	37.5	368,000
\$5	\$5	37.5	368,000
\$5 x 2	\$10	750	18,400
\$2 w/ 5X	\$10	250	55,200
(\$2 w/ LUCKY) x 5	\$10	250	55,200
\$10	\$10	750	18,400
\$2 x 10	\$20	1,500	9,200
\$5 x 4	\$20	1,500	9,200
\$4 w/ 5X	\$20	214.29	64,400
\$20	\$20	1,500	9,200
(\$5 x 3) + \$10	\$25	2,400	5,750
\$20 + \$5	\$25	2,400	5,750
\$5 w/ 5X	\$25	685.71	20,125
(\$5 w/ LUCKY) x 5	\$25	685.71	20,125
\$25	\$25	2,400	5,750
\$5 x 10	\$50	4,000	3,450
(\$5 x 5) + \$25	\$50	4,000	3,450
\$10 w/ 5X	\$50	1,091	12,650
\$50	\$50	4,000	3,450
\$10 x 10	\$100	6,000	2,300
\$20 w/ 5X	\$100	2,667	5,175
(\$20 w/ LUCKY) x 5	\$100	2,667	5,175
\$100	\$100	5,000	2,760
\$25 x 10	\$250	30,000	460
\$50 w/ 5X	\$250	10,909	1,265
(\$50 w/ LUCKY) x 5	\$250	10,909	1,265
\$250	\$250	30,000	460
\$50 x 10	\$500	120,000	115
\$100 w/ 5X	\$500	40,000	345
(\$100 w/ LUCKY) x 5	\$500	40,000	345
\$500	\$500	120,000	115
\$1,000	\$1,000	30,000	460
\$25,000	\$25,000	690,000	20

Reveal a "LUCKY" (LUCKY) symbol, win prize shown under it automatically.
 Reveal a "5X" (5TIMES) symbol, win 5 times the prize shown under it.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell

Pennsylvania 5 Times Lucky instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentive).

10. *Unclaimed Prize Money:* For a period of 1 year from

the announced close of Pennsylvania 5 Times Lucky, prize money from winning Pennsylvania 5 Times Lucky instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania 5 Times Lucky instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law*: In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P.S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game*: The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania 5 Times Lucky or through normal communications methods.

DANIEL MEUSER,
Secretary

[Pa.B. Doc. No. 13-198. Filed for public inspection February 1, 2013, 9:00 a.m.]

Pennsylvania Hot Million Instant Lottery Game

Under the State Lottery Law (72 P.S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name*: The name of the game is Pennsylvania Hot Million.

2. *Price*: The price of a Pennsylvania Hot Million instant lottery game ticket is \$20.

3. *Play Symbols*: Each Pennsylvania Hot Million instant lottery game ticket will contain one play area and a separate “BONUS” area containing two prize symbols. The “BONUS” area is played separately. The play symbols and their captions, printed in black ink and located in the play area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWYNIN), 30 (THIRTY), 31 (THYONE), 32 (THY TWO), 33 (THYTHR), 34 (THYFOR), 35 (THYFIV), 36 (THYSIX), 37 (THYSVN), 38 (THYEGT), 39 (THYNIN), 40 (FORTY), Stack of Cash (CASH) symbol and a MILLION (MILLION) symbol. The play symbols and their captions, printed in red ink and located in the play area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWYNIN), 30 (THIRTY), 31 (THYONE), 32 (THY TWO), 33 (THYTHR), 34 (THYFOR), 35 (THYFIV), 36 (THYSIX), 37

(THYSVN), 38 (THYEGT), 39 (THYNIN), 40 (FORTY) and a HOT (RDHOT) symbol.

4. *Prize Symbols*: The prize symbols and their captions located in the play area are: \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$20⁰⁰ (TWENTY), \$25⁰⁰ (TWY FIV), \$30⁰⁰ (THIRTY), \$40⁰⁰ (FORTY), \$50⁰⁰ (FIFTY), \$100 (ONE HUN), \$200 (TWO HUN), \$250 (TWOHUNFTY), \$500 (FIV HUN), \$1,000 (ONE THO), \$10,000 (TEN THO), \$100,000 (ONEHUNTHO) and \$1MILL (ONE MIL). The prize play symbols and their captions located in the “BONUS” area are: \$20⁰⁰ (TWENTY), \$30⁰⁰ (THIRTY), \$40⁰⁰ (FORTY), \$50⁰⁰ (FIFTY), \$100 (ONE HUN) and \$200 (TWO HUN).

5. *Prizes*: The prizes that can be won in this game are: \$5, \$10, \$20, \$25, \$30, \$40, \$50, \$100, \$200, \$250, \$500, \$1,000, \$10,000, \$100,000 and \$1,000,000. The prizes that can be won in the “BONUS” are: \$20, \$30, \$40, \$50, \$100 and \$200. A player can win up to 18 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game*: Approximately 6,600,000 tickets will be printed for the Pennsylvania Hot Million instant lottery game.

7. Determination of Prize Winners:

(a) Holders of tickets with a Stack of Cash (CASH) symbol in the play area, with the symbol and caption printed in black ink, and a prize symbol of \$1MILL (ONE MIL) in the “PRIZE” area to the right of that Stack of Cash (CASH) symbol, on a single ticket, shall be entitled to a prize of \$1,000,000. This prize shall be paid as a lump-sum cash payment.

(b) Holders of tickets with a MILLION (MILLION) symbol in the play area, with the symbol and caption printed in black ink, and a prize symbol of \$1MILL (ONE MIL) in the “PRIZE” area to the right of that MILLION (MILLION) symbol, on a single ticket, shall be entitled to a prize of \$1,000,000. This prize shall be paid as a lump-sum cash payment.

(c) Holders of tickets with a Stack of Cash (CASH) symbol in the play area, with the symbol and caption printed in black ink, and a prize symbol of \$100,000 (ONEHUNTHO) in the “PRIZE” area to the right of that Stack of Cash (CASH) symbol, on a single ticket, shall be entitled to a prize of \$100,000.

(d) Holders of tickets with a Stack of Cash (CASH) symbol in the play area, with the symbol and caption printed in black ink, and a prize symbol of \$10,000 (TEN THO) in the “PRIZE” area to the right of that Stack of Cash (CASH) symbol, on a single ticket, shall be entitled to a prize of \$10,000.

(e) Holders of tickets with a HOT (RDHOT) symbol in the play area, with the symbol and caption printed in red ink, and a prize symbol of \$1,000 (ONE THO) in two of the “PRIZE” areas and a prize symbol of \$500 (FIV HUN) in 16 of the “PRIZE” areas, on a single ticket, shall be entitled to a prize of \$10,000.

(f) Holders of tickets with a Stack of Cash (CASH) symbol in the play area, with the symbol and caption printed in black ink, and a prize symbol of \$1,000 (ONE THO) in the “PRIZE” area to the right of that Stack of Cash (CASH) symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(g) Holders of tickets with a HOT (RDHOT) symbol in the play area, with the symbol and caption printed in red ink, and a prize symbol of \$100 (ONE HUN) in two of the “PRIZE” areas and a prize symbol of \$50⁰⁰ (FIFTY) in 16 of the “PRIZE” areas, on a single ticket, shall be entitled to a prize of \$1,000.

(h) Holders of tickets with a Stack of Cash (CASH) symbol in the play area, with the symbol and caption printed in black ink, and a prize symbol of \$500 (FIV HUN) in the "PRIZE" area to the right of that Stack of Cash (CASH) symbol, on a single ticket, shall be entitled to a prize of \$500.

(i) Holders of tickets with a HOT (RDHOT) symbol in the play area, with the symbol and caption printed in red ink, and a prize symbol of \$50⁰⁰ (FIFTY) in two of the "PRIZE" areas and a prize symbol of \$25⁰⁰ (TWY FIV) in 16 of the "PRIZE" areas, on a single ticket, shall be entitled to a prize of \$500.

(j) Holders of tickets with a Stack of Cash (CASH) symbol in the play area, with the symbol and caption printed in black ink, and a prize symbol of \$250 (TWOHUNFTY) in the "PRIZE" area to the right of that Stack of Cash (CASH) symbol, on a single ticket, shall be entitled to a prize of \$250.

(k) Holders of tickets with a Stack of Cash (CASH) symbol in the play area, with the symbol and caption printed in black ink, and a prize symbol of \$200 (TWO HUN) in the "PRIZE" area to the right of that Stack of Cash (CASH) symbol, on a single ticket, shall be entitled to a prize of \$200.

(l) Holders of tickets with a HOT (RDHOT) symbol in the play area, with the symbol and caption printed in red ink, and a prize symbol of \$20⁰⁰ (TWENTY) in two of the "PRIZE" areas and a prize symbol of \$10⁰⁰ (TEN DOL) in 16 of the "PRIZE" areas, on a single ticket, shall be entitled to a prize of \$200.

(m) Holders of tickets with two \$200 (TWO HUN) prize play symbols in the "BONUS" area, on a single ticket, shall be entitled to a prize of \$200.

(n) Holders of tickets with a Stack of Cash (CASH) symbol in the play area, with the symbol and caption printed in black ink, and a prize symbol of \$100 (ONE HUN) in the "PRIZE" area to the right of that Stack of Cash (CASH) symbol, on a single ticket, shall be entitled to a prize of \$100.

(o) Holders of tickets with two \$100 (ONE HUN) prize play symbols in the "BONUS" area, on a single ticket, shall be entitled to a prize of \$100.

(p) Holders of tickets with a Stack of Cash (CASH) symbol in the play area, with the symbol and caption printed in black ink, and a prize symbol of \$50⁰⁰ (FIFTY) in the "PRIZE" area to the right of that Stack of Cash (CASH) symbol, on a single ticket, shall be entitled to a prize of \$50.

(q) Holders of tickets with two \$50⁰⁰ (FIFTY) prize play symbols in the "BONUS" area, on a single ticket, shall be entitled to a prize of \$50.

(r) Holders of tickets with a Stack of Cash (CASH) symbol in the play area, with the symbol and caption printed in black ink, and a prize symbol of \$40⁰⁰ (FORTY) in the "PRIZE" area to the right of that Stack of Cash (CASH) symbol, on a single ticket, shall be entitled to a prize of \$40.

(s) Holders of tickets with two \$40⁰⁰ (FORTY) prize play symbols in the "BONUS" area, on a single ticket, shall be entitled to a prize of \$40.

(t) Holders of tickets with a Stack of Cash (CASH) symbol in the play area, with the symbol and caption printed in black ink, and a prize symbol of \$30⁰⁰ (THIRTY) in the "PRIZE" area to the right of that Stack of Cash (CASH) symbol, on a single ticket, shall be entitled to a prize of \$30.

(u) Holders of tickets with two \$30⁰⁰ (THIRTY) prize play symbols in the "BONUS" area, on a single ticket, shall be entitled to a prize of \$30.

(v) Holders of tickets with a Stack of Cash (CASH) symbol in the play area, with the symbol and caption printed in black ink, and a prize symbol of \$25⁰⁰ (TWY FIV) in the "PRIZE" area to the right of that Stack of Cash (CASH) symbol, on a single ticket, shall be entitled to a prize of \$25.

(w) Holders of tickets with a Stack of Cash (CASH) symbol in the play area, with the symbol and caption printed in black ink, and a prize symbol of \$20⁰⁰ (TWENTY) in the "PRIZE" area to the right of that Stack of Cash (CASH) symbol, on a single ticket, shall be entitled to a prize of \$20.

(x) Holders of tickets with two \$20⁰⁰ (TWENTY) prize play symbols in the "BONUS" area, on a single ticket, shall be entitled to a prize of \$20.

(y) Holders of tickets with a Stack of Cash (CASH) symbol in the play area, with the symbol and caption printed in black ink, and a prize symbol of \$10⁰⁰ (TEN DOL) in the "PRIZE" area to the right of that Stack of Cash (CASH) symbol, on a single ticket, shall be entitled to a prize of \$10.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

<i>Reveal a "STACK OF CASH" (CASH) Symbol, Win Prize Shown To The Right Of It. Win With:</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 6,600,000 Tickets:</i>
\$10 × 2	\$20	30	220,000
2-\$20s w/ BONUS GAME	\$20	10	660,000
\$20	\$20	30	220,000
\$20 + \$5	\$25	50	132,000
\$25	\$25	50	132,000
\$20 + \$10	\$30	100	66,000
2-\$30s w/ BONUS GAME	\$30	75	88,000
\$30	\$30	100	66,000
\$10 × 4	\$40	300	22,000
\$20 × 2	\$40	300	22,000
2-\$40s w/ BONUS GAME	\$40	150	44,000
\$40	\$40	300	22,000

Reveal a "STACK OF CASH" (CASH) Symbol, Win Prize Shown To The Right Of It. Win With:

	Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 6,600,000 Tickets:
\$10 × 5	\$50	300	22,000
\$25 × 2	\$50	300	22,000
2-\$50s w/ BONUS GAME	\$50	150	44,000
\$50	\$50	300	22,000
\$20 × 5	\$100	300	22,000
\$25 × 4	\$100	300	22,000
\$50 × 2	\$100	300	22,000
\$100	\$100	300	22,000
HOT w/ ((\$20 × 2) + (\$10 × 16))	\$200	143.71	45,925
\$20 × 10	\$200	600	11,000
\$50 × 4	\$200	600	11,000
\$100 × 2	\$200	600	11,000
(2-\$50s w/ BONUS GAME) + (\$50 × 3)	\$200	600	11,000
\$200	\$200	600	11,000
HOT w/ ((\$50 × 2) + (\$25 × 16))	\$500	1,500	4,400
\$50 × 10	\$500	3,429	1,925
\$100 × 5	\$500	3,429	1,925
(\$50 × 5) + (\$25 × 10)	\$500	3,429	1,925
(\$100 × 2) + \$250 + \$50	\$500	3,429	1,925
(2-\$100s w/ BONUS GAME) + (\$100 × 4)	\$500	3,000	2,200
(2-\$100s w/ BONUS GAME) + (\$50 × 8)	\$500	1,600	4,125
(2-\$200s w/ BONUS GAME) + (\$50 × 6)	\$500	3,000	2,200
\$500	\$500	3,429	1,925
HOT w/ ((\$100 × 2) + (\$50 × 16))	\$1,000	6,000	1,100
\$250 × 4	\$1,000	15,000	440
\$500 × 2	\$1,000	12,000	550
(\$100 × 5) + (\$50 × 10)	\$1,000	15,000	440
(\$100 × 2) + \$500 + \$250 + \$50	\$1,000	15,000	440
(2-\$100s w/ BONUS GAME) + (\$100 × 9)	\$1,000	6,000	1,100
(2-\$200s w/ BONUS GAME) + (\$50 × 16)	\$1,000	6,000	1,100
\$1,000	\$1,000	12,000	550
HOT w/ ((\$1,000 × 2) + (\$500 × 16))	\$10,000	188,571	35
\$10,000	\$10,000	188,571	35
\$100,000	\$100,000	660,000	10
\$1,000,000 w/ MILLION	\$1,000,000	2,200,000	3
\$1,000,000	\$1,000,000	3,300,000	2

Reveal a "HOT" (RDHOT) symbol, win all 18 prizes shown.

Reveal a "MILLION" (MILLION) symbol, win \$1 million instantly!

BONUS GAME: Get two like amounts, win that amount! Bonus played separately.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Hot Million instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentive).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Hot Million, prize money from winning Pennsylvania Hot Million instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Hot Million instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P.S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Hot Million or through normal communications methods.

DANIEL MEUSER,
Secretary

[Pa.B. Doc. No. 13-199. Filed for public inspection February 1, 2013, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Bureau of Maintenance and Operations; Access Route Approval

Under 75 Pa.C.S. § 4908 (relating to operation of certain combinations on interstate and certain other highways), the Department of Transportation approved on

December 14, 2012, the following access routes for use by the types of truck combinations as indicated:

1. (X) 96" wide twin trailers (28 1/2' maximum length of each trailer).
2. (X) 102" wide 53' long trailer.
3. (X) 102" wide 48' long trailer.
4. (X) 102" wide twin trailers (28 1/2' feet maximum length-each).
5. (X) 102" wide maxi-cube.

<i>Route Identification</i>	<i>Route Description</i>	<i>Length Miles</i>
SR 507	from SR 191 to SR 3001	.98

Questions should be directed to Matthew Hedge at (717) 772-5462.

BARRY J. SCHOCH, P.E.,
Secretary

[Pa.B. Doc. No. 13-200. Filed for public inspection February 1, 2013, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD

Meeting Cancellation

The February 19, 2013, meeting of the Environmental Quality Board (Board) is cancelled. The next regularly scheduled meeting of the Board will occur on Tuesday, March 19, 2013, at 9 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105. An agenda and meeting materials for the March 19, 2013, meeting will be available on the Department of Environmental Protection's web site at www.dep.state.pa.us (Select "Public Participation"; "Public Participation Center").

Questions concerning the Board's next scheduled meeting may be directed to Michele Tate at (717) 783-8727 or mtate@pa.gov.

MICHAEL L. KRANCER,
Chairperson

[Pa.B. Doc. No. 13-201. Filed for public inspection February 1, 2013, 9:00 a.m.]

GOVERNOR'S OFFICE

Regulatory Agenda

Executive Order 1996-1 requires all agencies under the jurisdiction of the Governor to submit for publication an agenda of regulations under development or consideration. Subsequent agendas will be published on the first Saturdays in February and July.

The agendas are compiled to provide members of the regulated community advanced notice of regulatory activity. It is the intention of the Administration that these agendas will serve to increase public participation in the regulatory process.

Agency contacts should be contacted for more information regarding the regulation and the procedure for submitting comments.

This Agenda represents the Administration's present intentions regarding future regulations. The nature and complexity of an individual regulation obviously will determine whether and when any particular regulation listed below (as well as any considered subsequent to publication of this Agenda) is published.

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
ADMINISTRATION			
No regulations being developed or considered at this time.			
AGING			
No regulations being developed or considered at this time.			
AGRICULTURE			
Domestic Animal 7 Pa. Code Chapters 2, 3, 16, 18 and 20a	December 2013, as proposed.	The long-term project is intended to update the Department's Regulatory authority to make it more consistent with the provisions of the Domestic Animal Law (3 Pa.C.S. §§ 2301—2389).	Craig E. Shultz, DVM, Director (717) 772-2852
Biofuels 70 Pa. Code Chapter 11	June 2013, as proposed.	This will establish regulations required under the Biofuel Development and In-State Production Incentive Act.	Walt Remmert (717) 787-6772
Weights and Measures Regulations 70 Pa. Code Chapters 1 through 101	March 2013, as proposed.	This long-term project is intended to update the Department's regulations authorized by the Consolidated Weights and Measures Act.	John Dillabaugh (717) 787-6772

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Commercial Feed Rules and Regulations 7 Pa. Code Chapter 71	October 2013, as proposed.	This regulation will replace 7 Pa. Code Chapter 71 and implement provisions of 3 Pa.C.S. §§ 5101—5115 (Commercial Feed Act).	Erin Bubb (717) 772-5215
Pet Food Rules and Regulations 7 Pa. Code Chapter 72	October 2013, as proposed.	This regulation will replace 7 Pa. Code Chapter 72 and implement provisions of 3 Pa.C.S. §§ 5101—5115 (Commercial Feed Act).	Erin Bubb (717) 772-5215
Fertilizer Regulations 7 Pa. Code Chapter 73	September 2013, as proposed.	This regulation will replace 7 Pa. Code Chapter 73 and implement provisions of 3 Pa.C.S. §§ 6701—6725 (Fertilizer Act).	Erin Bubb (717) 772-5215
Soil and Plant Amendment Regulations 7 Pa. Code Chapter 130a	September 2013, as proposed.	This regulation will replace 7 Pa. Code Chapter 130a and implement provisions of 3 Pa.C.S. §§ 6901—6921 (Soil and Plant Amendment Act).	Erin Bubb (717) 772-5215
Clean and Green Regulations 7 Pa. Code Chapter 137b	March 2013, as final.	This regulation will address statutory changes made by Act 235 of 2004, Act 88 of 2010 and Act 109 of 2010 and will otherwise update the current regulations.	Douglas Wolfgang (717) 783-3167
Agriculture Conservation Easement Purchase Program Regulations 7 Pa. Code Chapter 138e	December 2013, as proposed.	This regulation will address statutory changes made by Act 61 of 2005 and Act 46 of 2006, and will otherwise update the current regulations.	Douglas Wolfgang (717) 783-3167
PA Food Code 7 Pa. Code Chapter 46	February 2013, as final.	This regulation will amend 7 Pa. Code Chapter 46 to make this Chapter consistent with the Retail Food Facility Safety Act and the Food Safety Act.	Lydia Johnson (717) 787-4315
Pennsylvania Preferred Program Regulations	February 2013, as proposed.	This regulation will establish standards required under the Pennsylvania Preferred Act (3 Pa.C.S. §§ 4601—4611).	Frank Jurbala (717) 783-8462
<i>BANKING & SECURITIES</i>			
Annual Assessment Regulation	Late 2013	Required pursuant to 17 Pa.C.S. § 503(a) and 71 P. S. § 733-204.A.	Carter D. Frantz Chief Counsel (717) 787-1471
Regulation governing continuing education under the Debt Management Services Act.	Late 2013	Required pursuant to 63 P. S. § 2409(c).	Carter D. Frantz Chief Counsel (717) 787-1471
Merger-related amendatory regulations under the Pennsylvania Securities Act of 1972	Late 2013	Required pursuant to 70 P. S. § 1-609	Carter D. Frantz Chief Counsel (717) 787-1471
<i>BOARD OF PARDONS</i>			
No regulations being developed or considered at this date.			

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
COMMUNITY & ECONOMIC DEVELOPMENT			
Title 12 of the Pennsylvania Code, Chapter 149	June, 2013	The Manufactured Housing Improvement Act as amended on May 8, 2012 requires the Department to promulgate regulations to establish an installation and construction (habitability) standard for manufactured homes previously installed and are now being relocated to a site in the Commonwealth (relocated/used manufactured homes). Currently there are no clear standards for the manufactured housing industry or local code officials to follow for proper handling of these relocated manufactured homes. This regulation will enable the department to develop and publish these standards or guides.	Mark Conte (717) 720-7416
COMMISSION ON CRIME AND DELINQUENCY			
37 Pa. Code Chapter 431 Constables' Education and Training Board	March 2012	The purpose of this regulation is to eliminate any waivers of the firearms portion of the basic training course, preclude any constable under the age of 21 from participating in the firearms portion of the basic training course and to require a constable who fails a first and second examination in the basic training course bear the financial responsibility for a second or third basic training. The proposed rulemaking also eliminates the 10mm caliber firearm from the firearms training course. Recent statutory changes have necessitated updates to the regulations.	John Pfau (717) 265-8546
CONSERVATION & NATURAL RESOURCES			
State Forests (Chapter 21)	Publish proposed rulemaking July 2013	A number of provisions in this chapter need to be clarified and updated. The State Forest Picnic Area chapter (23) will be incorporated into this chapter to eliminate duplication and for ease of reference. Legal basis: Sections 302, 313, 502 of the Conservation and Natural Resources Act (71 P. S. §§ 1340.302, 1340.313 and 1340.502)	Matt Beaver (717) 783-0379 Wendy Carson, Esq. (717) 772-4171
State Forest Picnic Areas (Chapter 23)	Publish proposed rulemaking July 2013	The provisions of this chapter will be incorporated into Chapter 21 (State Forests) for purposes of simplification and ease of reference. Legal basis: Sections 302, 313, 502 of the Conservation and Natural Resources Act (71 P. S. §§ 1340.302, 1340.313 and 1340.502)	Matt Beaver (717) 783-0379 Wendy Carson, Esq. (717) 772-4171
Conservation of Pennsylvania Native Wild Plants (Chapter 45)	Publish proposed rulemaking February 2013	Purpose of rulemaking is to change the beginning date of the ginseng harvest season from Aug. 1 to Sept. 1. Legal basis: Section 7 of the Wild Resource Conservation Act (32 P. S. § 5307); and Section 313 of the Conservation and Natural Resources Act (71 P. S. § 1340.313).	Ellen Shultzabarger (717) 214-3818 Wendy Carson, Esq. (717) 772-4171
CORRECTIONS			
Revisions to 37 Pa. Code § 91.3	September 2013, as proposed	The county reception regulations are being revised to be consistent with statutory law mandating that certain documentation be presented by the counties before inmate reception can occur.	Randall N. Sears (717) 728-7763
Revisions to 37 Pa. Code § 93.2	September 2013, as proposed	The inmate correspondence regulations are being revised for clarification and to more accurately comport with current standards.	Randall N. Sears (717) 728-7763
Revisions to 37 Pa. Code §§ 93.301—93.308	September 2013, as Proposed	The Motivational Boot Camp regulations are being revised to reduce costs by eliminating unnecessary mandates.	Jamie Boyd (717) 728-7761
Revisions to 37 Pa. Code Chapter 94	September 2013, as proposed	The prerelease regulations are being repealed to be consistent with Act 122 of 2012.	Joseph Fulginiti (717) 728-7761

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Revisions to 37 Pa. Code Chapter 96(a)	September 2013, as proposed	The temporary transfers of regulations are being revised to require the counties to pay reasonable transportation costs for inmates transferred pursuant to court appearances.	Julie Tilghman (717) 728-7761
EDUCATION			
Standards for Approved Private Schools 22 Pa. Code Chapter 171 Subchapter C	Spring 2013, as final.	These standards define the elements of Approved Private Schools and the Chartered Schools (schools for the deaf and blind). These standards contain general provisions and allowable expenses and costs. The standards are promulgated under the Authority of the Public School Code of 1949, as amended, P.L. 30, No. 14, March 16, 1949, P. S. §§ 1-101, et. seq.	John Tommasini (717) 783-6134
State Board of Private Licensed Schools 22 Pa. Code Chapter 73	Spring 2013, as final.	These regulations define the requirements for obtaining licensure or registration and for operating as a Private Licensed School. The regulations also define the investigatory and hearing process for enforcement of statutory and regulatory requirements. The Board plans to update the regulations which were promulgated in 1988 to reflect inflation and to address certain issues that have arisen during that time. The regulations are promulgated under the authority of the Private Licensed Schools Act (24 P. S. §§ 6501, et. seq.).	Patricia Landis (717) 783-8228
State Board of Education 22 Pa. Code Chapter 4	Spring 2013, as final.	These regulations establish rigorous academic standards and assessments to facilitate the improvement of student achievement and to provide parents and communities a measure by which school performance can be determined. The regulations are promulgated under the authority of the Public School Code of 1949, 24 P. S. §§ 26-2603-B and 2604-B.	Karen Molchanow (717) 787-3787
Regulations of the State Board of Private Academic Schools 22 Pa. Code Chapters 51, 53, 55, 57, 61 and 63	Spring 2014, as proposed.	These regulations define the requirements for obtaining licensure as a Private Academic School. The Board plans to update the regulations, which were promulgated in 1988. The regulations are promulgated under the Authority of the Private Academic Schools Act (24 P. S. §§ 6701 et. seq.).	Robert Staver (717) 783-6583
State Board of Education 22 Pa. Code Chapter 31	January 2013, as final-omitted	This regulation conforms a provision of Chapter 31 pertinent to specialized associate degree programs with language used in regulations and policy documents of the Pennsylvania Higher Education Assistance Agency and the State Board of Private Licensed Schools to clarify that such programs may be measured in clock hours or credit hours. The regulation is promulgated under the authority of the Public School Code of 1949, 24 P. S. §§ 26-2603-B and 26-2604-B.	Karen Molchanow (717) 787-3787
State Board of Education 22 Pa. Code Chapter 18	January 2013, as proposed	These regulations address criteria the Secretary of Education may consider in determining whether to designate a school district in financial recovery status and in determining whether a district is in moderate or severe recovery status. The regulations are promulgated under the authority of the Public School Code of 1949, 24 P. S. § 621-A(A)(2)(I).	Karen Molchanow (717) 787-3787

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Standards for Approved Private Schools 22 Pa. Code Chapter 171 Subchapter A	Summer 2013, as proposed.	These standards define the elements of Approved Private Schools and the Chartered Schools (schools for the deaf and blind). This subchapter contains general provisions, which the Department seeks to update to conform to intervening changes in applicable law. The standards are promulgated under the Authority of the Public School Code of 1949, as amended, P.L. 30, No. 14, March 16, 1949, P. S. §§ 1-101, et. seq.	John Tommasini (717) 783-6134
Regulations of the State Library and Advisory Council on Library Development 22 Pa. Code, Chapters 127, 131, 133, 135 and 141—143	Spring 2013, as proposed.	The Department will be promulgating regulations under the Authority of the Library Code of 2012, Act 210 of 2012, P. N. 2411. The Department plans to update the regulations (promulgated in 1962) in 2013. These regulations will address the use of the State Library, the Advisory Council on Library Development, general provisions and plans for the use of State Aid, certification of library personnel, grants for public library facilities and State document depositories.	Stacey Aldrich (717) 783-2466
EMERGENCY MANAGEMENT AGENCY			
No regulations being developed or considered at this time.			
ENVIRONMENTAL HEARING BOARD			
25 Pa. Code Chapter 1021 Practice and Procedure	The Environmental Hearing Board intends to submit proposed rulemaking in the first quarter of 2013.	The Environmental Hearing Board intends to propose the following revisions to its rules of practice and procedure: 1) correct an omission in the language of 25 Pa. Code § 1021.51 which was amended in 2009, 2) eliminate its rules pertaining to the Costs Act which has expired, 3) adopt rules to implement mandatory electronic filing, and 4) clarify the types of responses that may be filed to a dispositive motion.	Maryanne Wesdock Senior Counsel (412) 565-5245
ENVIRONMENTAL PROTECTION			
Noncoal Program Noncoal Surface Mining Conservation and Reclamation Act 25 Pa. Code Chapter 77	Fall 2013, as proposed	This rulemaking includes revisions to Chapter 77 (Noncoal Mining) that govern the licensing of mine operators and permitting of mines for minerals other than coal. Specific areas for revision include clarification of permit application requirements including hydrologic data requirements.	Bill Allen (717) 783-9580 wallen@pa.gov
Water Supply Replacement Surface Mining Conservation and Reclamation Act 25 Pa. Code Chapters 87 and 88	Summer 2013, as proposed	The rulemaking includes revisions to Chapters 87 and 88, which will clarify what is necessary to meet the coal mine operator's obligation to permanently pay the operation and maintenance costs for replacement water supplies.	Bill Allen (717) 783-9580 wallen@pa.gov
Remining Requirements (Subchapters F and G Revisions) Surface Mining Conservation and Reclamation Act, 25 Pa. Code Chapters 86 and 88	Summer 2013, as proposed	The rulemaking includes amendments to remining requirements in Chapters 86 and 88 (Subchapters F and G) in order to reflect changes enacted in EPA regulations.	Bill Allen (717) 783-9580 wallen@pa.gov

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Federal Office of Surface Mining (OSM) Program Consistency Updates Surface Mining Conservation and Reclamation Act, 25 Pa. Code Chapters 86, 89 and 90	Summer 2013, as proposed	The regulatory package will include amendments to clarify the definition of "mining activities" in Chapter 86 in order to comply with Federal regulatory requirements; revisions to Chapter 89 effluent limits for passive treatment systems to comply with Federal regulations; and updates to Chapter 90 coal refuse site selection regulations to comply with the revised Coal Refuse Disposal Control Act.	Bill Allen (717) 783-9580 wallen@pa.gov
Areas Unsuited for Surface Mining Surface Mining Conservation and Reclamation Act 25 Pa. Code Chapter 86	Summer 2013, as proposed	The rulemaking includes amendments to Chapter 86 to designate coal seams within Big Run watershed, Graham Township, Clearfield County, as unsuitable for surface mining operations. The regulation results from a petition submitted to the EQB by the Graham Township Supervisors, which requested that the Big Run drainage be designated as unsuitable for surface mining operations.	Geoff Lincoln (717) 783-9582 glincoln@pa.gov
Financial Guarantees Acts 95 and 157 of 2012 25 Pa. Code Chapter 86	Summer 2013, as proposed	This rulemaking will implement Act 95 and 157 which provide for an incentive for reclamation of mine sites with bioenergy crops and establish the Land Reclamation Financial Guarantee Program, respectively.	Bill Allen (717) 783-9580 wallen@pa.gov
Handling and Use of Explosives Explosives Act of 1937; The Administrative Code of 1929; Reorganization Plan No. 2 of 1975; Reorganization Plan No. 8 of 1981; Surface Mining Conservation and Reclamation Act; and Noncoal Surface Mining Conservation and Reclamation Act 25 Pa. Code Chapter 211	Fall 2013, as proposed	The rulemaking will revise current explosive regulations to address blasting activities relating to seismic exploration. The rulemaking will also update explosives use requirements, enforcement authority and eliminate antiquated requirements.	Rick Lamkie (814) 472-1885 rlamkie@pa.gov
Oil and Gas Well Program Oil and Gas Act 25 Pa. Code Chapter 78 Subchapter C	Winter 2013, as proposed	The rulemaking includes revisions to Chapter 78 (Oil and Gas Wells) Subchapter C, regulating all surface activities associated with Oil and Gas exploration and development, including; changes to PPC planning, production fluid control, storage, disposal and containment in pits/tanks, liner standards for centralized impoundments, disposal of drill cuttings and residual wastes, secondary containment, site restoration, pipelines, water management plans, reporting releases and road spreading of brine.	Shamus Malone (717) 783-9643 smalone@pa.gov
Oil & Gas Well Program Oil and Gas Act 25 Pa. Code Chapter 78 Subchapter D	Fall 2013, as proposed	The rulemaking includes revisions to Chapter 78 (Oil and Gas Wells) Subchapter D, regulating the drilling, casing, cementing, completion, operation, production, plugging and other subsurface activities associated with Oil and Gas exploration and development, including revisions to well plugging procedures, venting, alternative methods, and to address the plugging of unconventional wellbore laterals and coal bed methane wells.	Kurt Klapkowski (717) 772-2199 kklapkowski@pa.gov

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Oil & Gas Well Program Oil and Gas Act 25 Pa. Code Chapter 78 Subchapter B	Winter 2013, as proposed	The rulemaking includes revisions to Chapter 78 (Oil and Gas Wells), Subchapter B, to increase well permit fees for wells that produce gas from nonconventional formations.	Scott Perry (717) 783-9438 scperry@pa.gov
Underground Coal Mine Safety Surface Regulations Bituminous Coal Mine Safety Act 25 Pa. Code Chapter 208	Spring 2013, as proposed	The rulemaking adopts by reference, with certain modifications, the MSHA regulations (30 CFR Part 77) for surface areas of underground bituminous coal mines.	Joseph Sbaffoni (724) 439-7469 jsbaffoni@pa.gov
Underground Coal Mine Safety High Voltage Continuous Mining Machine Standards for Underground Coal Mines Bituminous Coal Mine Safety Act 25 Pa. Code Chapter 208	Summer 2013, as proposed	This rulemaking adopts by reference, with certain modifications, the MSHA regulations (30 CFR Part 75) for a high voltage continuous mining machine standard for underground bituminous coal mines.	Joseph Sbaffoni (724) 439-7469 jsbaffoni@pa.gov
Underground Coal Mine Safety Maintenance of Incombustible Content of Rock Dust in Underground Coal Mines Bituminous Coal Mine Safety Act 25 Pa. Code Chapter 208	Spring 2013, as proposed	This rulemaking adopts by reference, with certain modifications, the MSHA regulations (30 CFR Part 75) for maintenance of incombustible content of rock dust in underground bituminous coal mines.	Joseph Sbaffoni (724) 439-7469 jsbaffoni@pa.gov
Water Quality Standards Triennial Review Clean Streams Law 25 Pa. Code Chapter 93	Spring 2013, as final	This rulemaking will include revisions to the Commonwealth's water quality criteria and standards in Chapter 93 to reflect the latest scientific information and Federal guidelines for criteria development, as required by the triennial review requirements in the Federal Clean Water Act.	Tom Barron (717) 787-9637 tbarron@pa.gov
Emissions of Particulate Matter Air Pollution Control Act 25 Pa. Code § 139.12	Spring 2013, as final	The final rulemaking amends 25 Pa. Code § 139.12 (relating to emissions of particulate matter) to reflect changes in Federal test method requirements. The Environmental Quality Board amended § 139.12 at 27 Pa.B. 6804 (December 27, 1997) to require source testing only for filterable particulate matter. The United States Environmental Protection Agency has revised the source test method (Method 202) to require the testing of both filterable and condensable particulate matter for purposes of emission inventories and new source review applicability determinations. Other clarifying amendments to Chapter 139 (relating to sampling and testing) addressing timeliness of reporting requirements are also included.	Susan Hoyle (717) 772-2329 shoyle@pa.gov

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Flexible Packaging Printing Presses and Offset Lithographic and Letterpress Printing Presses Air Pollution Control Act 25 Pa. Code Chapters 121 and 129	Spring 2013, as final	The final rulemaking amends 25 Pa. Code Chapter 129 (relating to standards for sources) to add requirements to reduce the emissions of volatile organic compounds (VOCs) from flexible packaging printing presses and offset lithographic printing and letterpress printing presses to meet the Clean Air Act's "reasonably available control measures" requirement for ozone nonattainment areas. The final rulemaking amends §§ 129.51 and 129.67 (relating to general; and graphic arts systems) and adds §§ 129.67a and 129.67b (relating to control of VOC emissions from flexible packaging printing presses; and control of VOC emissions from offset lithographic and letterpress printing presses) to adopt emission limits and work practice standards for flexible packaging printing presses and offset lithographic printing and letterpress printing presses. Amendments to § 121.1 (relating to definitions) are also made to support the amendments to Chapter 129.	Susan Hoyle (717) 772-2329 shoyle@pa.gov
Air Quality Title V Fee Amendments Air Pollution Control Act 25 Pa. Code Chapter 127	Winter 2013, as proposed	The proposed rulemaking would amend 25 Pa. Code Chapter 127, Subchapter I (relating to plan approval and operating permit fees) by amending the existing per ton emission fee paid by the owner or operator of a Title V facility.	Dean Van Orden (717) 783-9264 dvanorden@pa.gov
Amendments for the Control of Major Sources of NOx and VOCs Air Pollution Control Act 25 Pa. Code Chapter 129	Spring 2013, as proposed	The proposed rulemaking would amend the Reasonably Available Control Technology Requirements for major NOx- and VOC-emitting stationary sources; the proposed requirements would not apply to major VOC-emitting facilities subject to Federal Control Technique Guideline recommendations adopted by the Board as final rulemakings.	Susan Hoyle (717) 772-2329 shoyle@pa.gov
Control of VOCs from Gasoline Dispensing Facilities (Stage II) Air Pollution Control Act 25 Pa. Code § 129.82	Spring 2013, as proposed	The proposed rulemaking would amend 25 Pa. Code § 129.82 (relating to control of VOCs from gasoline dispensing facilities (Stage II)) to remove the requirements for installing new and operating existing Stage II vapor recovery systems. The proposed rulemaking would establish procedures for the decommissioning of existing Stage II systems and would require Stage II systems that are not decommissioned to still comply with regulatory maintenance requirements.	Susan Hoyle (717) 772-2329 shoyle@pa.gov

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Control of VOC Emissions from Miscellaneous Metal Products and Plastic Parts Surface Coating Processes, Automobile and Light-duty Truck Assembly Surface Coating Processes, Industrial Cleaning Solvent Operations and Fiberglass Boat Manufacturing Processes, and Amendments to Mobile Equipment Repair and Refinishing and Adhesives, Sealants, Primers and Solvents Air Pollution Control Act 25 Pa. Code Chapters 121—129 and 130	Summer 2013, as proposed	The proposed rulemaking would amend the existing surface coating regulations under 25 Pa. Code Chapter 129 (relating to standards for sources) to further reduce the emissions of volatile organic compounds (VOCs) from miscellaneous metal products and plastic parts surface coating processes, automobile and light-duty truck assembly surface coating processes, industrial cleaning solvent operations and fiberglass boat manufacturing processes to meet the Clean Air Act (CAA) “reasonably available control measures,” including “reasonably available control technology” (RACT), requirements for ozone nonattainment areas. The emission limits and work practice standards would be consistent with the recommendations of the United States Environmental Protection Agency (EPA) included in the corresponding Control Techniques Guideline (CTG) documents. The proposed rulemaking would also amend the existing surface coating regulations in 25 Pa. Code § 129.75 (relating to mobile equipment repair and refinishing) to coordinate emission limits and work practice requirements of the CAA RACT for automobiles and light-duty trucks and the Ozone Transport Commission model rule requirements for motor vehicle and mobile equipment non-assembly line coating operations. Clarifying amendments would be proposed for the adhesives, sealants, primers and solvents regulations in 25 Pa. Code §§ 129.77 and 130.701—130.708 (relating to control of emissions from the use or application of adhesives, sealants, primers and solvents; and adhesives, sealants, primers and solvents). Amendments to 25 Pa. Code § 121.1 (relating to definitions) would also be proposed to support the amendments to Chapter 129.	Susan Hoyle (717) 772-2329 shoyle@pa.gov
Regulated Medical and Chemotherapeutic Waste Amendments Solid Waste Management Act 25 Pa. Code Chapter 284	Spring 2013, as proposed	This rulemaking will amend the existing Chapter 284. This will include some definitions in Chapter 271 that will be added or amended. The term infectious waste will be replaced with the term “regulated medical waste”. This terminology change will be a global change. In addition to definitional changes, this proposal also includes changes to storage, transporter licensing and manifesting requirements for regulated medical waste.	Ali Tarquino Morris (717) 783-2630 altarquino@pa.gov
Radiological Health 25 Pa. Code Chapters 215—240	Spring 2013, as proposed	This rulemaking will amend 25 Pa. Code Chapters 215—240 in order to incorporate by reference Federal regulations pertaining to the security of certain radioactive material; to address new x-ray technology that is not addressed in current regulations; and to include radon revisions that are not addressed in current regulations.	Joe Melnic (717) 783-9730 jmelnic@pa.gov
GENERAL SERVICES			
Responsibility, 4 Pa. Code Chapter 60	Spring 2013, as proposed	This chapter will be amended to be consistent with the Procurement Code and to provide for uniform debarment and suspension procedures.	Ken Rapp (717) 787-5295 Chuck Anderson (717) 214-7739 Michael Barrett (717) 346-9781
Committee on Construction Contract Documents, 4 Pa. Code Chapter 62	Fall 2013, as final omitted	The Procurement Code repealed the legislation creating this committee, which no longer exists.	Liz O'Reilly (717) 787-7095 Ed Olivieri (717) 783-3280

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Selections Committee, 4 Pa. Code Chapter 64	Fall 2013, as final omitted	These regulations should be rescinded since they have been superseded by the Commonwealth Procurement Code.	Liz O'Reilly (717) 787-7095 Ed Olivieri (717) 783-3280
Emergency Construction Repairs 4 Pa. Code Chapter 67	Fall 2013, as final omitted	These regulations should be rescinded since they have been superseded by the Commonwealth Procurement Code.	Liz O'Reilly (717) 787-7095 Ed Olivieri (717) 783-3280
Contract Compliance 4 Pa. Code Chapter 68, Subchapter A, Prequalification of Vendors and Non-construction Contractors	Fall 2013, as final omitted	These regulations should be rescinded since the subject matter of these rules is now covered by the directives management system.	Liz O'Reilly (717) 787-7095 Ed Olivieri (717) 783-3280
Methods of Awarding Contracts, 4 Pa. Code Chapter 69	Summer 2013, as final omitted	These regulations should be rescinded since they have been superseded by the Commonwealth Procurement Code.	Ken Rapp (717) 787-5295 Chuck Anderson (717) 214-7739
HEALTH			
Emergency Medical Services System Regulations 28 Pa. Code, Chapters 1021—1033.	Spring 2013, as final.	These new regulations will facilitate the Department's administration of the Emergency Medical Services System Act (Act) chapter of Act 37 (2009), 35 Pa.C.S. §§ 8101—8157. The Act is designed to update the existing emergency medical services system by ensuring higher quality and better coordinated emergency medical services are provided in a system that is fully integrated with the overall health care system and, in particular, with the public health system.	Michael D.I. Siget (717) 783-2500
Communicable and non-Communicable Diseases 28 Pa. Code Chapter 27	Spring 2013, as proposed.	These existing regulations are being revised to improve the Department's ability to prevent and control the spread of communicable and non-communicable diseases. The Department's authority to promulgate these regulations is found in the Disease Prevention Control law of 1955, 35 P. S. §§ 521.1 et seq. (the Act). Section 16(a) of the (Act 35 P. S. § 521.16 (a)) gives the Board authority to issue rules and regulations on a variety of matters related to communicable and non-communicable diseases. Section 16(b) of the Act (35 P. S. § 521.16 (b)) gives the Secretary of Health the authority to review existing regulations and make recommendations to the Board for changes that the Secretary considers to be desirable. There is also a legislative authority for specific provisions of the regulations. Administrative Code of 1929 (71 P. S. §§ 51 et seq.) (Code) Section 20102 (g) of the Code (71 P. S. § 532 (g)) provides general authority for the Department to promulgate regulations.	Jalene Kolb (717) 783-8228
Photo Identification Tag Regulations 28 Pa. Code Chapter 54	Spring 2013, as proposed.	The Health Care Facilities Act (35 P. S. §§ 448.101 et seq.) was amended by the passage of Act 2010-110 on November 23, 2010. This new section of the Act (35 P. S. § 448.809.2) requires health care workers employed in health care facilities and physician practices to wear photo identification tags that also contain other information including name, title and name of the health care facility.	James T. Steele (717) 783-2500

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
School Health Services 28 Pa. Code Chapter 23	Spring 2014, as proposed.	The School Health regulations were promulgated pursuant to the Department's authority to oversee school health services required by Article XIV of the Public School Code, 24 P. S. §§ 14.1401 et seq. State and Federal laws enacted since 2005 have changed the requirements for school health services. Those legislative changes require changes to the school health regulations. Anticipated changes include new provisions to address: possession and use of asthma inhalers and epinephrine auto-injectors (24 P. S. § 14-1414.1); currently accepted precautions against the spread of tuberculosis (24 P. S. § 14-1416); medical examinations of teachers and other persons including volunteers (24 P. S. § 14-1418(b)); requirements for local wellness policies (24 P. S. § 14-1422.1); requirements for independent dental hygiene practitioners working in the school setting; and revisions to the duties of the Certified School Nurse to track requirements in Federal laws protecting the rights of students with disabilities and to incorporate applicable professional nursing practice standards.	Karin Simpson (717) 783-2500
HOUSING FINANCE AGENCY			
No regulations being developed or considered at this date.			
INFRASTRUCTURE INVESTMENT AUTHORITY			
No regulations being developed or considered at this date.			
INSURANCE			
31 Pa. Code §§ 25.1—25.23, Rules and Procedural Requirements for Insurance Holding Company Systems	Spring 2013, as proposed.	This Chapter will be updated in accordance with NAIC model regulation standards amendments to the Holding Companies Act enacted in July of 2012.	Peter J. Salvatore, Regulatory Coordinator (717) 787-4429
31 Pa. Code §§ 161.1—1619, Requirements for Qualified and Certified Reinsurers and 163 Requirements for Funds Held as Security for the Payment of Obligations of Unlicensed, Unqualified Reinsurers	Spring 2013, as final	These Chapters will be updated to include procedures for certifying reinsurers as per NAIC model standards and amendments to the Reinsurance Credits Act enacted in July of 2012.	Peter J. Salvatore, Regulatory Coordinator (717) 787-4429
31 Pa. Code §§ 124.1—124.10, Surplus Lines Insurance	Spring 2013, as proposed.	This Chapter will be updated in accordance with amendments made to the "Surplus Lines Law" (40 P. S. §§ 991.1601—991.1626) in 2002, 2010, and 2011.	Peter J. Salvatore, Regulatory Coordinator (717) 787-4429
31 Pa. Code §§ 84.1—84.6, Tables Approved for use in Determining Minimum Nonforfeiture Standards and Minimum Standards for Valuation	Spring 2013, as proposed	This Chapter will be updated in accordance with amendments made by the NAIC to the corresponding model regulation to add an updated individual annuity mortality table.	Peter J. Salvatore, Regulatory Coordinator (717) 787-4429

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
LABOR AND INDUSTRY			
Uniform Construction Code, Title 34, Part XIV, Bureau of Occupational and Industrial Safety	Submit proposed rulemaking in Winter 2013	Update and clarify administrative provisions of the Uniform Construction Code and adopt updated standards for elevator construction	Edward Leister (717) 783-6304
Flammable and Combustible Liquids, Title 37, Part I, Bureau of Occupational and Industrial Safety	Submit proposed rulemaking in Spring 2013	Update regulations based on Act 144 of 2012 and adopt requirements for storage and dispensing of compressed natural gas as vehicular fuel	Edward Leister (717) 783-6304
Bureau of Occupational and Industrial Safety (PENNSAFE Division) Title 34, Chapters 301—323, Worker and Community Right to Know	Submit proposed rulemaking by Summer 2013	Amend the PA Hazardous Substance List	Carol Freeman (717) 214-0852
Unemployment Compensation Title 34, Chapter 101, Board of Review	Submit final omitted in Winter 2013	Delete language re distance requirement in telephone regulation to conform with Act 6 of 2011	Gerard Mackarevich (717) 783-1232
Bureau of Labor Law Compliance, Title 34, Part XII, Chapter 225, Prohibition of Excessive Overtime in Health Care Act	Submit final-form rulemaking in Spring 2013	Regulations to establish a complaint and hearing process	Karen Galli (717) 787-4186
Bureau of Labor Law Compliance, Title 34, Chapters 83 and 84, Apprentices	Submit proposed rulemaking in Fall 2013	Amend regulations to reflect Federal requirements.	Rich Lengler (717) 787-4186
Office of Deaf and Hard of Hearing, Title 34, Chapter 501 Registration of Sign Language Interpreters and Translitterators	Submit proposed rulemaking in Fall 2013	Amend regulations to be consistent with amendments in Sign Language Interpreter and Translitterator State Registration Act, 63 P. S. §§ 1725.1—1725.11, that were enacted in November 2010.	Sharon Behun (717) 783-4912
Bureau of Labor Law Compliance, Title 34, Chapter 231, Minimum Wage	Submit proposed rulemaking by Summer of 2013	Update regulations to be consistent with Federal regulations changes	Richard Lengler (717) 787-4186
Workers' Compensation Appeal Board (Board), Title 34, Chapter 111, Special Rules of Administrative and Procedure Before the Board	Submit proposed rulemaking by Winter 2013	Revise regulations to reflect evolving procedures and technological changes	Commissioner Alfonso Frioni, Jr. (412) 531-2680
Office of Adjudication, Title 34, Chapter 131, Special Rules of Administrative Practice and Procedure Before the Workers' Compensation Judges	Submit proposed rulemaking by Winter 2013	Revise regulations to reflect evolving procedures and technological changes	Deputy Secretary Elizabeth Crum (717) 787-5082

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Bureau of Workers' Compensation, Title 34, Chapter 121, General Provisions	Submit Statement of Policy by Fall 2013	Update regulations to address changes resulting from new computer system	BWC Director Stephen Fireoved (717) 783-5421
Bureau of Labor Law Compliance, Title 34, Chapter 11, Employment of Minors	Submit proposed rulemaking by Summer of 2013	Revise/update current regulations in light of the new Child Labor Act	Richard Lengler (717) 787-4186
MILITARY AND VETERANS AFFAIRS			
43 Pa. Code Chapter 11 Fort Indiantown Gap	February 2013, as final omitted	Section 708 of the Military and Veterans Code (51 Pa.C.S. § 708) authorizes the Adjutant General to promulgate rules, regulations, and polices for the continuing operation of Fort Indiantown Gap and to designate regulations as being for the protection of persons or property at Fort Indiantown Gap. The new 43 Pa. Code Chapter 11 provides comprehensive regulations for the operation, management and control of this military installation. Fort Indiantown Gap is owned by the Commonwealth, but the bulk of it is leased by the United States Government. The Fort Indiantown Gap Police Force is a state entity with offices commissioned under state law and powers and duties defined by 51 Pa.C.S. § 711.	Dennis Guise (717) 861-8503
43 Pa. Code Chapter 7 State Veterans Homes	March 2012, as final omitted	The Department wishes to promulgate a comprehensive update to its regulations on State Veterans' Homes. The statutory authority for these regulations is section 902(10) of the Military and Veterans Code (51 Pa.C.S. § 903(10)). These regulations are out-of-date. They were last updates in 1986. The purpose of the changes to these regulations is to bring them in line with best practices in the long-term care arena.	Dennis Guise (717) 861-8503
MUNICIPAL POLICE OFFICERS' EDUCATION AND TRAINING COMMISSION			
No regulations being developed or considered at this time.			
PENNSYLVANIA MUNICIPAL RETIREMENT SYSTEM			
No regulations being developed or considered at this time.			
PENNSYLVANIA HIGHER EDUCATION ASSISTANCE AGENCY			
22 Pa. Code Chapter 121 Student Financial Aid	June 2013 as Proposed	These regulations have not been updated in some time. The revisions seek to increase the transparency in regard to the processes used for financial assistance determinations.	Christine Zuzack (717) 720-2368
PROBATION AND PAROLE			
Revision to 37 Pa. Code §§ 63, 65, 67, 69, 71, 73, 75 and 77 "Board of Probation and Parole"	Updates to incorporate recent changes to Title 61 and emphasis on evidence based practices.	Continues to be worked on in FY 2012.	Barbara Christie Chief Counsel (717) 787-8126
Addition of a section to 37 Pa. Code Part II. "Board of Probation and Parole"	Addition to address urinalysis collection as mandated by 61 Pa.C.S. § 6137(e).	Continues to be worked on in FY 2012.	Colleen Fickel, Director, Central Services, PBPP (717) 787-5699 x 292

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
37 Pa. Code, Chapter 79 The County Probation and Parole Officers Firearms Education and Training Law 61 P. S. § 332.5 (13) requires the Commission to “make rules and regulations and to perform other duties as may be reasonably necessary or appropriate to implement the training program for county probation and parole officers.”	Add new sections relating to “Break in Service,” and “Weapons Change.”	Expected to be submitted to IRRC in 2013.	Todd Burns Executive Director, FETC (717) 787-5699 x 389
<i>PUBLIC SCHOOL EMPLOYEES’ RETIREMENT SYSTEM</i>			
No regulations being developed or considered at this time.			
<i>PUBLIC WELFARE</i>			
Psychiatric Rehabilitation Services 55 Pa. Code Chapter 5230	March 2013, as final-form	This regulation promulgates the minimum standards for the delivery of Psychiatric Rehabilitation Services (PRS) for adults. PRS are therapeutic rehabilitation services for individuals with serious mental illness that increase competence in normal life activities and allow individuals to pursue life goals with the greatest possible level of independence.	Angie Logan (717) 772-4141
Payment for Nursing Facility Services Provided by Special Rehabilitation Nursing Facilities; Change in Methods and Standards of Setting Payment Rates. 55 Pa. Code Chapter 1187	May 2013, as proposed	This change in rate methodology will allow the Commonwealth to provide for a distinct method of calculating peer group medians and prices between the initial four Special Rehabilitation Facilities (SRFs) and the facilities classified as SRFs after 2000.	Angie Logan (717) 772-4141
Supplemental Ventilator Care Payment for Medical Assistance Nursing Facilities. 55 Pa. Code Chapter 1187 and 1189	April 2013, as proposed	This change in rate methodology will allow the Commonwealth to offer a new category of supplemental payment to Medical Assistance (MA) nursing facilities that care for a significant number of MA ventilator care residents beginning July 1, 2012.	Angie Logan (717) 772-4141
Rate Setting for County Nursing Facilities that Privatize. 55 Pa. Code Chapter 1187	June 2013, as proposed	This change will establish a new methodology for setting rates for county nursing facilities that have a change of ownership to a private nursing facility provider. County nursing facilities that privatize will have per diem rates determined using the peer group price for resident care, other resident related and administrative costs from the appropriate peer group in accordance with 55 Pa. Code § 1187.94 (relating to peer grouping for price setting) until there is a nursing facility cost report submitted by the new provider audited for use in the rebasing process.	Angie Logan (717) 772-4141

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Appeal and Fair Hearing and Administrative Disqualification Hearings 55 Pa. Code Chapter 275	December 2013, as proposed	This regulation will update definitions, streamline administrative practices, and incorporate hearing procedures that will support efficiency in the hearing and appeals process.	Angie Logan (717) 772-4141
Medical Assistance Provider Appeal Procedures 55 Pa. Code Chapter 41	December 2013, as proposed	This regulation will clarify procedural and substantive matters related to provider appeals including the filing and post hearing practices for provider appeals.	Angie Logan (717) 772-4141
Administration of County Children and Youth Programs 55 Pa. Code Chapter 3130	June 2013, as proposed	This regulation incorporates the amendments to state law and the Federal regulations for Title IV-B and Title IV-E funding for child welfare services	Angie Logan (717) 772-4141
Payment for Child Care 55 Pa. Code Chapter 287	April 2013, as proposed	Chapter 287 will be rescinded as it no longer reflects current policy. Chapter 3140 (relating to planning and financial reimbursement requirements for county children and youth social service programs) already provides the current determination requirements of TANF and Medical Assistance eligibility for children placed by county children and youth agencies.	Angie Logan (717) 772-4141
Planning and Financial Reimbursement requirements for County Children and Youth Social Service Programs 55 Pa. Code Chapter 3140	December 2013, as proposed	This regulation provides the requirements for reimbursement for services to county children and youth agencies. The regulations are in need of revision to ensure consistency with Federal requirements and policy to ensure the validity of state and Federal claims.	Angie Logan (717) 772-4141
Medical Assistance Disqualifications 55 Pa. Code Chapter 255	June 2013, as proposed	This regulation provides disqualification penalties for individuals who were prosecuted for Medical Assistance fraud. These regulations will mirror Federal regulations (found at 42 USCS § 1320a-7b) to allow for a one-year disqualification based on a court conviction for a crime against the Medical Assistance program.	Angie Logan (717) 772-4141
REVENUE			
Amendments to Estates & Trusts— Personal Income Tax Regulations 61 Pa. Code, Chapters 101, 103, 105 and 117	June 2013, as proposed.	The Department is promulgating this regulation to codify the Department's policy for the taxation of estates and trusts in the Commonwealth and to provide clear instructions for taxpayers regarding reporting requirements.	Douglas Berguson (717) 346-4633
Amended Returns— Personal Income Tax Regulations 61 Pa. Code Chapters 117, 119 and 121	February 2013, as final.	The Department is promulgating this regulation to clarify the Department's policy on Amended Returns for PA. PIT and replace outdated language. In addition, the regulation will provide clear instructions for taxpayers regarding petitions for refunds.	Douglas Berguson (717) 346-4633
Consolidation of Administrative Appeals under the Board of Appeals 61 Pa. Code Chapters 7 and 901	February 2013, as final.	The Department is proposing regulations to consolidate the administrative appeals under the Board of Appeals and streamline the administrative appeals process.	Douglas Berguson (717) 346-4633

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Amendments to Realty Transfer Tax Regulations 61 Pa. Code Chapter 91	December 2013, as final	Amendments to the Realty Transfer Tax regulations are being proposed to improve the clarity and effectiveness of the regulations.	Douglas Berguson (717) 346-4633
Amendments to Local Option Small Games of Chance (SGOC) 61 Pa. Code Chapter 901a	June 2013, as proposed	The Department is proposing to replace Chapter 901 with a new Chapter 901a as a result of the amendments to the SGOC law enacted under Acts 2 and 184 of 2012. The proposed rulemaking will reorganize and clarify the SGOC regulations as well as incorporate necessary changes to implement Acts 2 and 184.	Douglas Berguson (717) 346-4633
General Provisions Application of Payments 61 Pa. Code Chapter 5a	June 2013, as proposed	The Department is promulgating this regulation to clarify the provisions of the Taxpayers' Bill of Rights and provide a procedure for the application of a payment received from a taxpayer to tax liability owed the Department.	Douglas Berguson (717) 346-4633
General Provisions Payments by Electronic Funds Transfer (EFT) 61 Pa. Code Chapter 5	Published at 42 Pa.B. 7279 (December 1, 2012), as final	The Department promulgated a final-omitted rulemaking to implement a statutory change (Act 87 of 2012) that revised EFT payments required under § 5.3 from "\$20,000 or more" to "\$10,000 or more."	Douglas Berguson (717) 346-4633
STATE			
Bureau of Professional and Occupational Affairs—Telephonic Testimony— 49 Pa. Code Chapter 43b. (number not yet assigned)	Fall 2013, as Proposed.	This proposed rulemaking would provide rules for the admission of testimony received by telephone at hearings conducted by boards/commissions or hearing examiners. Statutory Authority: Section 3 of the act of July 2, 1993 (P. L. 345, No. 48) authorizes the Commissioner of Professional and Occupational Affairs to promulgate regulations setting forth the procedural rules to be followed in the conduct of hearings in disciplinary matters before a licensing board or commission, after consultation with the licensing boards and commissions.	Cynthia K. Montgomery (717) 783-7200
Recording Devices— 49 Pa. Code §§ 43b.101 and 43b.102 (16A-45)	Fall 2013, as Proposed.	This proposed rulemaking would provide rules for the use of electronic (audio and visual) recording devices during meetings of the boards and commissions within the Department of State for which the Bureau of Professional and Occupational Affairs provides administrative support. Statutory Authority: Sections 710 and 711 of the Sunshine Act, Act of October 15, 1998 (P. L. 179, No. 93) authorizes the adoption of rules and regulations governing the use of recording devices in public meetings.	Cynthia K. Montgomery (717) 783-7200
State Board of Accountancy—General Revisions— 49 Pa. Code Chapter 11 (number not yet assigned)	Fall 2013, as Proposed.	This proposed rulemaking would implement the amendments to the CPA Law made by the Act of July 9, 2008 (P. L. 954, No. 73). Statutory Authority: Section 3 of the C.P.A. Law, 63 P. S. § 9.3	Sara Fox (717) 783-1404
State Architects Licensure Board—Experience Requirement— 49 Pa. Code §§ 9.41 and 9.46 (16A-4120)	Summer 2013, as Proposed.	This proposed rulemaking would clarify that the experience requirement must be completed as a condition of licensure rather than as a condition of admittance to the licensing examination and is sufficient that an examination candidate has begun acquiring qualifying experience. Statutory Authority: Section 6(a) and (d) of the Architects Licensure Law, 63 P. S. § 34.6(a) and (d).	Penny Walker (717) 783-3397

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
State Athletic Commission —Mixed martial arts update— 58 Pa. Code § 29.30 (16-53)	Spring 2013, as Final.	The proposed rulemaking would alter the Commission's current MMA regulations to permit amateur contestants to petition to strike at an opponent's head when on the ground and waive the shin/instep pad requirement after at least three amateur bouts. Statutory Authority: Sections 103(b) and 501 of the State Athletic Code, 5 Pa.C.S. § 103(b)(1), authorizes the Commission to promulgate regulations regarding professional and amateur boxing contests and exhibitions.	Martha Brown (717) 783-0736
State Board of Auctioneer Examiners —Schedule of Civil Penalties— 49 Pa. Code § 43b.12a (16A-648)	Summer 2013, as Proposed.	The proposed rulemaking would make updates to the current schedule of civil penalties, as requested by the Board. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a), authorizes the Commissioner of Professional and Occupational Affairs to set forth schedules of civil penalties.	Terrie Kocher (717) 783-3397
—Biennial Renewal Fees— 49 Pa. Code § 1.41 (16A-649)	Spring 2013, as Proposed.	The proposed rulemaking would increase biennial renewal fees to meet projected expenditures as required by law. Statutory Authority: Section 6(a) of the Auctioneer Licensing and Trading Assistant Registration Act, 63 P. S. § 734.6(a).	Terrie Kocher (717) 783-3397
State Board of Barber Examiners —Fees— 49 Pa. Code § 3.103 (16A-428)	Spring 2013, as Proposed.	The proposed rulemaking would increase biennial renewal fees and fees for other board services to meet projected expenditures as required by law. Statutory Authority: Section 14 of the Barbers License Law, 63 P. S. § 564.	Kelly Diller (717) 783-3402
General Revisions— 49 Pa. Code Chapter 3 (16A-429)	Fall 2013, as Proposed.	The proposed rulemaking would update the regulations for barber managers, temporary student licenses, barber shops and schools of barbering. Statutory Authority: Section 10 of the Barbers License Law, 63 P. S. § 560.	Kelly Diller (717) 783-3402
State Board of Chiropractic —Chiropractic specialties— 49 Pa. Code Ch. 5 (16A-4312)	Spring 2013, as Proposed.	The Chiropractic Practice Act prohibits licensees from holding themselves out as specialists unless they possess a post-graduate certification in that specialty. This proposed rulemaking would identify the certifications acceptable to the Board. Statutory Authority: Section 302(3) of the Chiropractic Practice Act, 63 P. S. § 625.302(3).	Mary Sue Ferster (717) 783-7155
—Licensure by Reciprocity— 49 Pa. Code § 5.13 (16A-4320)	Spring 2013, as Final.	This regulation would provide a revised method of licensing out-of-state chiropractors by reciprocity. Statutory Authority: Sections 302(3) and 504 of the Chiropractic Practice Act, 63 P. S. §§ 625.302(3) and 625.504.	Mary Sue Ferster (717) 783-7155
—Volunteer License— 49 Pa. Code § 5.20 (16A-4321)	Summer 2013, as Final (proposed-omitted).	This regulation would amend the volunteer license regulations to conform to amendments to the Volunteer Health Services Act. Statutory Authority: Section 302 of the Chiropractic Practice Act, 63 P. S. § 625.302; and section 5 of the Volunteer Health Services Act, 35 P. S. § 449.45.	Mary Sue Ferster (717) 783-7155
—Child Abuse Reporting Requirements— 49 Pa. Code §§ 5.91—5.96 (16A-4322)	Summer 2013, as Final (proposed-omitted).	This regulation would update the Board's existing regulations relating to mandatory reporting of suspected child abuse under the Child Protective Services Law (CPSL), 23 P. S. §§ 6301—6386. Statutory Authority: Section 6383(b)(2) of the CPSL, 23 P. S. § 6383(b)(2); and section 302(3) of the Chiropractic Practice Act, 63 P. S. § 62.302(3).	Mary Sue Ferster (717) 783-7155

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Corporation Bureau —UCC Revised Article 9— (16-35)	Fall 2013, as Proposed.	This proposed rulemaking would adopt (with some revisions) the Model rules promulgated by the International Association of Corporate Administrators, which call for the delivery of filings by electronic means and acceptance of credit card payments. Statutory Authority: Section 9526 of the Uniform Commercial Code Modernization Act of 2001, 13 Pa.C.S. § 9526.	Martha Brown (717) 787-6802
State Board of Cosmetology —Fees— 49 Pa. Code § 7.2 (16A-4515)	Spring 2013, as Proposed.	The proposed rulemaking would increase biennial renewal fees for all licensee classifications to meet projected expenditures as required by law and would increase certain application fees where the current fees have been determined to be inadequate. Statutory Authority: Section 16(d) of the Beauty Culture Law, 63 P. S. § 522(d), requires the Board to increase fees by regulation to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to match expenditures over a 2-year period.	Kelly Diller (717) 783-7130
—Sanitation— 49 Pa. Code Chapter 7 (16A-4516)	Fall 2013, as Proposed.	This proposed rulemaking would update the Board's regulations on sanitation to conform to modern standards within the profession. Statutory Authority: Sections 11 and 14 of the Act of May 3, 1933 (P. L. 242, No. 86), commonly referred to as the Beauty Culture Law, 63 P. S. §§ 517 and 520.	Kelly Diller (717) 783-7130
—Schedule of Civil Penalties— 49 Pa. Code, § 43b.5. (number not yet assigned)	Spring 2013, as Proposed.	This proposed rulemaking would amend the schedule of civil penalties for the State Board of Cosmetology to implement Act 48 civil penalties for failure of a school to submit quarterly reports. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	Kelly Diller (717) 783-7130
State Board of Crane Operators —Fees— 49 Pa. Code § 6.4 (16A-7102)	Spring 2013, as Proposed.	This proposed regulation would increase the biennial renewal fee for licensed crane operators. Statutory Authority: Section 701(a) of the Crane Operator Licensure Act, 63 P. S. § 2400.701(a).	Penny Walker (717) 783-1404
State Board of Dentistry —Anesthesia Update— 49 Pa. Code, Subchapter E, §§ 33.331—33.342 (16A-4621)	Spring 2013, as Proposed.	This proposed rulemaking would update the standards for the administration of general anesthesia, deep sedation, moderate sedation, minimal sedation and nitrous oxide/oxygen analgesia in dental offices. Statutory Authority: Sections 3(o) and 11.2 of the Dental Law, 63 P. S. §§ 122(o) and 130c.	Lisa Burns (717) 783-7162
—Volunteer License— 49 Pa. Code § 33.110 (16A-4625)	Summer 2013, as Final (proposed-omitted).	This regulation would amend the current volunteer license regulations to conform to amendments to the Volunteer Health Services Act. Statutory Authority: Section 3(o) of the Dental Law, 63 P. S. § 122(o).	Lisa Burns (717) 783-7162
—Child Abuse Reporting Requirements— 49 Pa. Code § 33.250 (16A-4626)	Summer 2013, as Final (proposed-omitted).	This regulation would update the Board's existing regulations relating to mandatory reporting of suspected child abuse under the Child Protective Services Law (CPSL), 23 P. S. §§ 6301—6386. Statutory Authority: section 6383(b)(2) of the CPSL, 23 P. S. § 6383(b)(2); and section 3(o) of the Dental Law, 63 P. S. § 122(o).	Lisa Burns (717) 783-7162
—Biennial Renewal Fees— 49 Pa. Code § 33.3 (16A-4627)	Spring 2013, as Proposed.	This proposed rulemaking would increase biennial renewal fees to meet projected expenditures as required by law. Statutory Authority: Sections 3(j) and 4(b) of the Dental Law, 63 P. S. §§ 122(j) and 123(b).	Lisa Burns (717) 783-7162

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
State Registration Board for Professional Engineers, Land Surveyors and Geologists—Qualifications for Licensure—49 Pa. Code Chapter 37 (16A-4711)	Spring 2013, as Final.	The regulation implements Act 25 of 2010, to provide for the certification of geologists-in-training, and to update the board's regulations concerning the licensure process for engineers and land surveyors. Statutory Authority: Section 4(l) of the Engineer, Land Surveyor and Geologist Registration Law, 63 P. S. § 151(l).	Robin Shearer (717) 783-7049
State Board of Funeral Directors—Renewal; Continuing Education Enforcement—49 Pa. Code Chapter 13 (16A-4819)	Spring 2013, as Proposed.	This proposed rulemaking would update and clarify the Board's regulations relating to renewal of licenses and enforcement of continuing education. Statutory authority: Sections 10(b)(1) and 16(a) of the Funeral Director Law, 63 P. S. §§ 479.10(b)(1) and 479.16(a).	Heidy Weirich (717) 783-3397
—Schedule of Civil Penalties—Funeral Directors 49 Pa. Code § 43b.6 (16A-4820)	Spring 2013, as Proposed.	This proposed regulation would establish a schedule of civil penalties for continuing education enforcement. Statutory Authority: Section 5(a) of the act of July 2, 1993 (P. L. 345, No. 48), 63 P. S. § 2205(a).	Heidy Weirich (717) 783-3397
—Fees— 49 Pa. Code § 13.12 (16A-4822)	Spring 2013, as Proposed.	This proposed rulemaking would increase biennial renewal fees to meet projected expenditure as required by law. Statutory Authority: Section 18.1 of the Funeral Director Law, 63 P. S. § 479.18.1.	Heidy Weirich (717) 783-3397
—Child Abuse Reporting Requirements— 49 Pa. Code § 13.301—13.307 (16A-4823)	Summer 2013, as Final (proposed-omitted).	This regulation would update the Board's existing regulations relating to mandatory reporting of suspected child abuse under the Child Protective Services Law (CPSL), 23 P. S. §§ 6301—6386. Statutory Authority: section 6383(b)(2) of the CPSL, 23 P. S. § 6383(b)(2); and section 16(a) of the Funeral Director Law, 63 P. S. § 479.16(a).	Heidy Weirich (717) 783-3397
State Board of Landscape Architects—Continuing Education; Licensure without Examination— 49 Pa. Code Chapter 15 (16A-6110)	Spring 2013, as Proposed.	This regulation would implement the act of July 17, 2009 (P. L. 94, No. 24). Statutory Authority: Section 4(9) of the Landscape Architects' Registration law, 63 P. S. § 904(9).	Terrie Kocher (717) 772-8528
—General Revisions— 49 Pa. Code Chapter 15 (16A-6111)	Summer 2013, as Proposed	This proposed rulemaking implements updates to current practices of the Board with respect to qualifications and experience, examinations and continuing education. Statutory Authority: Section 4(9) of the Landscape Architects' Registration Law, 63 P. S. § 904(9).	Terrie Kocher (717) 772-8528
—Schedule of Civil Penalties— Landscape Architects 49 Pa. Code Chapter 43b. (16A-6120)	Summer 2013, as Proposed.	This proposed rulemaking would adopt a schedule of civil penalties for unlicensed practice and other violations of the Landscape Architects Registration Law. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a), authorizes the Commissioner of Professional and Occupational Affairs to set forth schedules of civil penalties, with the approval of the Board.	Terrie Kocher (717) 772-8528

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
—Electronic Seals and Signing— 49 Pa. Code Chapter 15 (16A-6121)	Summer 2013, as Proposed.	This proposed rulemaking will implement rules on electronic seals and signing from other design professional boards in Pennsylvania and other states. Statutory Authority: Sections 4 and 9 of the Landscape Architects' Registration Law, 63 P. S. §§ 904 and 909.	Terrie Kocher (717) 772-8528
State Board of Massage Therapy— Child Abuse Reporting Requirements— 49 Pa. Code Chapter 20 (16A-722)	Summer 2013, as Proposed.	This proposed rulemaking establishes mandatory reporting requirements relating to suspected child abuse under the Child Protective Services Law (CPSL), 23 P. S. §§ 6301—6386. Statutory Authority: Section 6383(b)(2) of the CPSL, 23 P. S. § 6383(b)(2); and section 4(2) of the Massage Therapy Law, 63 P. S. § 627.4(2).	Judy Harner (717) 783-7155
State Board of Medicine— Licensure of Respiratory Therapists and Physician Assistants— 49 Pa. Code Chapter 18 (16A-4930)	Spring 2013, as Final.	The proposed rulemaking would implement the amendments made to the Medical Practice Act by the Act of July 4, 2008 (P. L. 580, No. 45) relating to licensure of respiratory therapists and physician assistants. Statutory authority: Section 8 of the Act of July 4, 2008 (P. L. 580, No. 45) requires the Board and the State Board of Osteopathic Medicine to jointly promulgate regulations to implement the amendments.	Tammy Dougherty (717) 783-1400
—Certified Midwives— 49 Pa. Code Chapter 18 (16A-4932)	Fall 2013, as Proposed.	The proposed rulemaking would provide for the licensure of “certified” midwives as suggested by the Commonwealth Court’s decision in <i>Goslin v. State Board of Medicine</i> , 949 A.2d 372. Statutory Authority: Sections 1and 2 of the Midwife Registration Law of 1929, 63 P. S. §§ 171 and 172, and section 8 of the Medical Practice Act of 1985, 63 P. S. § 422.8, make it unlawful to practice as a midwife without a certificate from the Medical Board and authorize the Board to issue rules and regulations as may be necessary for the examination, licensing, and proper conduct of the practice of midwifery by midwives.	Tammy Dougherty (717) 783-1400
—Prescribing— 49 Pa. Code § 16.92 (16A-4933)	Spring 2013, as Final.	The rulemaking would rewrite, simplify and update the Board’s regulations relating to prescribing controlled substances and other drugs of abuse. Statutory Authority: Section 8 of the Medical Practice Act of 1985, 63 P. S. § 422.8.	Tammy Dougherty (717) 783-1400
—Volunteer Licenses— 49 Pa. Code Chapter 16 (16A-4934)	Summer 2013, as Final (proposed-omitted).	This regulation will amend the volunteer license regulations to conform to amendments to the Volunteer Health Services Act (Acts 29 of 2007 and 58 of 2002). Statutory Authority: Section 8 of the Medical Practice Act of 1985, 63 P. S. § 422.8.	Tammy Dougherty (717) 783-1400
—Perfusionists— 49 Pa. Code Chapter 18, Subchapter J (16A-4935)	Spring 2013, as Final.	The proposed rulemaking sets forth the requirements for licensure of perfusionists. Statutory Authority: Section 4 of the Act of June 11, 2008 (P. L. 154, No. 19) requires the Board to promulgate regulations to implement licensure of perfusionists.	Tammy Dougherty (717) 783-1400
—Licensure of Athletic Trainers— 49 Pa. Code Chapter 18, Subchapter H (16A-4936)	Spring 2013, as Final (proposed-omitted).	This regulation is required to amend the Board’s regulations regarding athletic trainers to refer to “licensure” rather than “certification” as amended by the act of December 22, 2011 (P. L. 1110, No. 124). Statutory Authority: Section 8 of the Medical Practice Act of 1985, 63 P. S. § 422.8.	Tammy Dougherty (717) 783-1400

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
—Genetic Counselors— 49 Pa. Code Chapter 18 (16A-4937)	Spring 2013, as Proposed.	This proposed rulemaking would implement the act of December 22, 2011 (P. L. 576, No. 125) relating to the licensure of genetic counselors. Statutory Authority: Section 3 of Act 125 of 2011 requires the Board to promulgate regulations within 12 months. Section 8 of the Medical Practice Act of 1985, 63 P. S. § 422.8, provides the general regulatory authority of the Board.	Tammy Dougherty (717) 783-1400
—CRNP Revisions— 49 Pa. Code Chapter 18, Subchapter C (16A-4938)	Spring 2013, as Final (proposed-omitted).	This regulation is needed to delete outdated regulations relating to CRNP practice because the Board no longer jointly regulates CRNPs, which are now under the sole authority of the State Board of Nursing. Statutory Authority: Section 8 of the Medical Practice Act of 1985, 63 P. S. § 422.8.	Tammy Dougherty (717) 783-1400
—Use of Medical Lasers— 49 Pa. Code Chapter 18, Subchapter G (16A-4939)	Spring 2013, as Proposed.	This proposed rulemaking is intended to clarify the requirements for the use and delegation of medical devices and medical lasers. Statutory Authority: Section 8 of the Medical Practice Act of 1985, 63 P. S. § 422.8.	Tammy Dougherty (717) 783-1400
—Child Abuse Reporting Requirements— 49 Pa. Code §§ 16.101—16.107 (16A-4941)	Summer 2013, as Final (proposed-omitted).	This regulation updates the Board's existing regulation on mandatory reporting of suspected child abuse under the Child Protective Services Law (CPSL), 23 P. S. §§ 6301—6386. Statutory Authority: Section 6383(b)(2) of the CPSL, 23 P. S. § 6383(b)(2); and section 8 of the Medical Practice Act of 1985, 63 P. S. § 422.8.	Tammy Dougherty (717) 783-1400
—Schedule of Civil Penalties— 49 Pa. Code § 43b.20. (16A-4942)	Spring 2013, as Proposed.	This proposed rulemaking would amend the schedule of civil penalties for the State Board of Medicine to implement Act 48 civil penalties for practicing on a lapsed license and for continuing education violations. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	Tammy Dougherty (717) 783-1400
—Prosthetists, orthotists, pedorthists and orthotic fitters— 49 Pa. Code Chapters 16 and 18 (Number not yet assigned)	Spring 2013, as Proposed.	This proposed regulation would implement Act 90 of 2012 to establish licensure of prosthetists, orthotists, pedorthists and orthotic fitters. Statutory Authority: Section 3 of the act of July 5, 2012 (P. L. 873, No. 90) directs the Board to promulgate regulations within 18 months.	Tammy Dougherty (717) 783-1400
Navigation Commission for the Delaware River and its Navigable Tributaries —General Revisions— 4 Pa. Code §§ 405.7, 405.8 and 405.12 (16A-663)	Spring 2013, as Proposed.	The proposed rulemaking would require all currently licensed pilots to hold and maintain an active Federal first class pilot's license and endorsement for the routes to be traversed. Statutory Authority: Section 4 of the Act of March 29, 1803 (P. L. 542), 55 P. S. § 31, and section 2504-B(4) of the Administrative Code of 1929, 71 P. S. § 670.2(4).	Barbara Dupler (717) 783-1618
State Board of Nursing —Application Procedures— 49 Pa. Code § 21.151 (16A-5134)	Fall 2013, as Proposed.	The proposed rulemaking would provide for admission to the practical nurse exam for applicants who have graduated from a foreign practical nursing program that is equivalent to an LPN education program of study required in this Commonwealth at the time the program was completed as determined by the Commission on Graduate of Foreign Nursing Schools (CGFNS). Statutory Authority: Sections 5 and 17.6 of the Practical Nurse Law, 63 P. S. §§ 655 and 667.6.	Cindy Miller (717) 783-7142

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
—Reactivation/ Re-licensure after Lapse— 49 Pa. Code Chapter 21 (16A-5135)	Summer 2013, as Proposed.	This proposed rulemaking would set standards for the reactivation/relicensure of nurses whose licenses have lapsed for a significant period of time. Statutory Authority: Sections 2.1 and 11 of the Professional Nursing Law, 63 P. S. §§ 212.1 and 221; and sections 13.1 and 17.6 of the Practical Nurse Law, 63 P. S. §§ 663.1 and 667.6, authorize the Board to regulate the renewal of expired or inactive licenses and to promulgate regulations generally.	Cindy Miller (717) 783-7142
—Continuing Education— 49 Pa. Code §§ 21.131—21.134 (16A-5136)	Summer 2013, as Proposed.	This proposed regulation will amend the Board's continuing education regulations to eliminate the ability of registered nurses to renew their licenses without completing their continuing education. Statutory Authority: Sections 2.1 and 12.1 of the Professional Nursing Law, 63 P. S. §§ 212.1 and 222.	Cindy Miller (717) 783-7142
—Out of State Nursing Education Programs using Pennsylvania Clinical Sites— 49 Pa. Code Chapter 21 (16A-5137)	Fall 2013, as Proposed.	This proposed rulemaking would require out of state educational programs that intend to place nursing students in Pennsylvania facilities for clinical education with a Pennsylvania licensed nurse preceptor to apply to the Board for permission to utilize the clinical site. This same requirement is placed on Pennsylvania nursing education programs. Statutory Authority: Section 6.1 of the Professional Nursing Law, 63 P. S. § 216.1 and Section 9 of the Practical Nurse Law, 63 P. S. § 659.	Cindy Miller (717) 783-7142
—Volunteer License— 49 Pa. Code §§ 21.601—21.607. (16A-5139)	Summer 2013, as Final (Proposed- omitted).	This regulation would amend the volunteer license regulations to conform to amendments to the Volunteer Health Services Act. Statutory Authority: Section 2.1(k) of the Professional Nursing Law, 63 P. S. § 212.1(k).	Cindy Miller (717) 783-7142
—Child Abuse Reporting Requirements— 49 Pa. Code §§ 21.501—21.507. (16A-5140)	Summer 2013, as Final (proposed- omitted).	This regulation updates the Board's existing regulations relating to mandatory reporting of suspected child abuse under the Child Protective Services Law, (CPSL), 23 P. S. §§ 6301—6386. Statutory Authority: Section 6383(b)(2) of the CPSL, 23 P. S. § 6383(b)(2); section 2.1(k) of the Professional Nursing Law, 63 P. S. § 212.1(k); and Section 17.6 of the Practical Nurse Law, 63 P. S. § 667.6.	Cindy Miller (717) 783-7142
State Board of Examiners of Nursing Home Administrators —Sexual Misconduct— 49 Pa. Code §§ 39.1 and 39.9 (16A-6211)	Summer 2013, as Proposed.	This proposed rulemaking would add sexual abuse and sexual misconduct as offenses for which a nursing home administrator's license may be disciplined. Statutory Authority: Sections 4(c) and 6(g) of the Nursing Home Administrators Licensure Act, 63 P. S. §§ 1104(c) and 1106(g).	Chris Stuckey (717) 783-7155
—Schedule of Civil Penalties— 49 Pa. Code § 43b.17 (16A-6213)	Spring 2013, as Proposed.	This proposed rulemaking would amend the schedule of civil penalties for the State Board of Examiners of Nursing Home Administrators to implement Act 48 civil penalties for continuing education violations. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	Chris Stuckey (717) 783-7155
—Continuing Education— 49 Pa. Code Chapter 39 (16A-6215)	Fall 2013, as Proposed.	This proposed regulation updates the Board's existing regulations relating to continuing education requirements and reporting. Statutory Authority: Sections 4(c) and 9(b) of the Nursing Home Administrators Act, 63 P. S. §§ 1104(c) and 1109(b).	Chris Stuckey (717) 783-7155

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
State Board of Occupational Therapy Education and Licensure—Continued Competency—49 Pa. Code §§ 42.50—42.58 (16A-677)	Summer 2013, as Final.	The proposed rulemaking would implement section 15(a) of the Occupational Therapy Practice Act, 63 P. S. § 1515(a), which authorizes the board to establish additional requirements for the license renewal designed to assure continued competency. Statutory Authority: Section 5(b) of the Occupational Therapy Practice Act, 63 P. S. § 1505(b).	Judy Harner (717) 783-1389
—Referrals by Certified Registered Nurse Practitioners and Physician Assistants—49 Pa. Code Chapter 42 (16A-678)	Spring 2013, as Final (Proposed omitted)	The regulation would conform the board's regulations with changes made by Act 48 of 2007 and Act 45 of 2008, which permit CRNPs and Physician Assistants to make referrals to Occupational Therapists. Statutory Authority: Section 5(b) of the Occupational Therapy Practice Act, 63 P. S. § 1505(b).	Judy Harner (717) 783-1389
—Child Abuse Reporting Requirements—49 Pa. Code Chapter 42 (16A-679)	Summer 2013, as Final (Proposed omitted)	This regulation updates the Board's regulations on mandatory reporting of suspected child abuse under the Child Protective Services Law (CPSL), 23 P.S. §§ 6301—6386. Statutory Authority: Section 6383(b)(2) of the CPSL requires the Board to promulgate regulations consistent with the CPSL; Section 5(b) of the Occupational Therapy Practice Act, 63 P. S. § 1505(b) directs the Board to adopt regulations consistent with law.	Judy Harner (717) 783-1389
—Code of Ethics—49 Pa. Code § 42.24 (16A-6710)	Summer 2013, as Proposed.	This proposed rulemaking would update and amend the Board's existing code of ethics to adopt the AOTA ethics standards. Statutory authority: Section 5(b) of the Occupational Therapy Practice Act, 63 P. S. § 1505(b).	Judy Harner (717) 783-1389
—General Revisions—49 Pa. Code Chapter 42 (16A-6711)	Spring 2013, as Proposed.	This proposed rulemaking implements the act of July 5, 2012 (P. L.1132, No. 138), which amended the Occupational Therapy Practice Act. Statutory Authority: Section 5(b) of the Occupational Therapy Practice Act, 63 P. S. § 1505(b) directs the Board to adopt regulations consistent with law.	Judy Harner (717) 783-1389
State Board of Optometry—Schedule of Civil Penalties—Optometrists 49 Pa. Code Chapter 43b (16A-5212)	Summer 2013, as Proposed.	This proposed rulemaking would adopt a schedule of civil penalties for continuing education violations. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a), authorizes the Commissioner to set forth schedules of civil penalties.	Mary Sue Ferster (717) 783-7155
—Continuing Education and Prescriptions for Contact Lenses—49 Pa. Code Chapter 23 (16A-5213)	Summer 2013, as Proposed.	This proposed rulemaking would update the Board's regulations to conform to current practices. Statutory Authority: Sections 3(b)(14) and 5 of the Optometric Practice and Licensure Act (63 P. S. §§ 244.3(b)(14) and 244.5).	Mary Sue Ferster (717) 783-7155
—Volunteer License—49 Pa. Code § 23.26 (16A-5214)	Summer 2013, as Final (Proposed-omitted).	This regulation would amend the Board's volunteer license regulations to conform to amendments to the Volunteer Health Services Act. Statutory Authority: Section 3(b)(14) of the Optometric Practice and Licensure Act, 63 P. S. § 244.3(b)(14).	Mary Sue Ferster (717) 783-7155

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
—Child Abuse Reporting Requirements— 49 Pa. Code §§ 23.111—23.116 (16A-5215)	Summer 2013, as Final (proposed-omitted).	This regulation updates the Board's existing regulations relating to mandatory reporting of suspected child abuse under the Child Protective Services Law, CPSL), 23 P. S. §§ 6301—6386. Statutory Authority: Section 6383(b)(2) of the CPSL, 23 P. S. § 6383(b)(2); and section 3(b)(14) of the Optometric Practice and Licensure Act, 63 P. S. § 244.3(b)(14).	Mary Sue Ferster (717) 783-7155
State Board of Osteopathic Medicine—Licensure of Respiratory Therapists and Physician Assistants—49 Pa. Code Chapter 25 (16A-5321)	Spring 2013, as Final.	The rulemaking implements the amendments made to the Osteopathic Medical Practice Act by the Act of July 4, 2008 (P. L. 589, No. 46) relating to licensure of respiratory therapists and physician assistants. Statutory authority: Section 8 of the Act of July 4, 2008 (P. L. 589, No. 46) requires the Board and the State Board of Medicine to jointly promulgate regulations to implement the amendments.	Tammy Dougherty (717) 783-4858
—Volunteer License— 49 Pa. Code §§ 25.601—25.607. (16A-5323)	Summer 2013, as Final (Proposed-omitted).	This regulation would amend the Board's volunteer license regulations to conform to amendments to the Volunteer Health Services Act made by Act 58 of 2002 and Act 29 of 2007. Statutory Authority: Section 16 of the Osteopathic Medicine Act, 63 P. S. § 271.16.	Tammy Dougherty (717) 783-4858
—Perfusionists— 49 Pa. Code Chapter 25 (16A-5324)	Spring 2013, as Final.	The regulation would sets forth the requirements for licensure of perfusionists. Statutory Authority: Section 4 of the Act of June 11, 2008 (P. L. 161, No. 20) requires the Board to promulgate regulations to implement licensure of perfusionists.	Tammy Dougherty (717) 783-4858
—Licensure of Athletic Trainers— 49 Pa. Code Chapter 25, Subchapter M (16A-5325)	Spring 2013, as Final (proposed omitted)	This regulation is required to amend the Board's regulations regarding athletic trainers to refer to "licensure" rather than "certification" as amended by the act of December 22, 2011 (P. L. 1109, No. 123). Statutory Authority: Section 16 of the Osteopathic Medicine Practice Act, 63 P. S. § 271.16.	Tammy Dougherty (717) 783-4858
—Child Abuse Reporting Requirements— 49 Pa. Code §§ 25.401—25.416 (16A-5326)	Summer 2013, as Final (proposed-omitted).	This regulation updates the Board's existing regulations relating to mandatory reporting of suspected child abuse under the Child Protective Services Law, (CPSL), 23 P. S. §§ 6301—6386. Statutory Authority: Section 6383(b)(2) of the CPSL, 23 P. S. § 6383(b)(2); and section 16 of the Osteopathic Medicine Practice Act, 63 P. S. § 271.16.	Tammy Dougherty (717) 783-4858
—Schedule of Civil Penalties— 49 Pa. Code Chapter 43b. (16A-5327)	Spring 2013, as Proposed.	This proposed rulemaking would establish a schedule of civil penalties for the State Board of Osteopathic Medicine to implement Act 48 civil penalties for failure to report complaints filed against an osteopathic physician in a medical professional liability action. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	Tammy Dougherty (717) 783-4858
—Genetic Counselors— 49 Pa. Code Chapter 25 (16A-5328)	Spring 2013, as Proposed.	This proposed rulemaking would implement the act of December 22, 2011 (P. L. 581, No. 126) relating to the licensure of genetic counselors. Statutory Authority: Section 3 of Act 126 of 2011 requires the Board to promulgate regulations within 12 months. Section 16 of the Osteopathic Medicine Practice Act, 63 P. S. § 271.16, provides the general regulatory authority of the Board.	Tammy Dougherty (717) 783-4858

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
State Board of Pharmacy—Compounding Practices—49 Pa. Code Chapter 27 (16A-5419)	Summer 2013, as Proposed.	This proposed rulemaking would establish standards for the compounding of drugs by pharmacists. Statutory Authority: Section 6(k)(9) of the Pharmacy Act, 63 P. S. § 390-6(k)(9) grants the authority to promulgate rules and regulations to effectuate the purposes of the act. Section 2 of the Pharmacy Act, 63 P. S. § 390-2(11) defines the practice of pharmacy to include the compounding of drugs.	Melanie Zimmerman (717) 783-7156
—Cancer Drug Repository Program—49 Pa. Code Chapter 27 (16A-5423)	Spring 2013, as Final.	The regulation would establish the eligibility criteria, standards and procedures for the administration of a cancer drug repository program. Statutory authority: Section 7 of the Act of May 13, 2008 (P. L. 139, No. 14), known as the Cancer Drug Repository Program Act, requires the Board to promulgate regulations to carry out the purposes of the act.	Melanie Zimmerman (717) 783-7156
—Pharmacy Internship—49 Pa. Code Chapter 27 (16A-5424)	Summer 2013, as Final.	This proposed rulemaking would update the Board's regulations relating to the pharmacy internship required under section 3 of the Pharmacy Act. Statutory Authority: Section 3 of the Pharmacy Act, 63 P. S. § 390-3(c) requires the Board to establish by regulation the internship requirements which must be satisfactorily completed prior to issuance of a pharmacist license.	Melanie Zimmerman (717) 783-7156
—Collaborative Management of Drug Therapy—49 Pa. Code Chapter 27 (16A-5425)	Summer 2013, as Proposed.	This proposed rulemaking would implement Act 29 of 2010, which provides for collaborative drug therapy management between a pharmacist and a licensed physician. Statutory Authority: Section 5 of the act of June 1, 2010 (P. L. 201, No. 29) requires the Board to promulgate regulations to implement Act 29 within 18 months of its effective date.	Melanie Zimmerman (717) 783-7156
—Emergency Preparedness—49 Pa. Code Chapter 27 (16A-5426)	Summer 2013, as Proposed.	The proposed rulemaking would establish procedures and standards for the operation of remote emergency pharmacies in the event of an emergency caused by a natural or manmade disaster or any other exceptional situation that causes an extraordinary demand for pharmacy services. Statutory Authority: Section 6(k)(9) of the Pharmacy Act, 63 P. S. § 390-6(k)(9).	Melanie Zimmerman (717) 783-7156
—General Revisions to Standards of Practice—49 Pa. Code § 27.18 (16A-5427)	Summer 2013, as Proposed.	This proposed rulemaking would update the Board's regulations relating to standards of practice for pharmacists. Statutory Authority: Section 6(k)(9) of the Pharmacy Act, 63 P. S. § 390-6(k)(9).	Melanie Zimmerman (717) 783-7156
—Correctional Facility Drug Redistribution—49 Pa. Code Chapter 27 (number not yet assigned)	Summer 2013, as Proposed.	This proposed rulemaking is required to conform the Board's regulations to the act of July 9, 2010 (P. L. 457, No. 59), which permits a vendor pharmacy to redistribute drugs returned by a correctional facility to other correctional facilities. Statutory Authority: Section 6(k)(9) of the Pharmacy Act, 63 P. S. § 390-6(k)(9).	Melanie Zimmerman (717) 783-7156
—Schedule of Civil Penalties—49 Pa. Code § 43b.7 (number not yet assigned)	Summer 2013, as Proposed.	This proposed rulemaking would amend the schedule of civil penalties for the State Board of Pharmacy to implement Act 48 civil penalties for continuing education violations. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	Melanie Zimmerman (717) 783-7156

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
State Board of Physical Therapy—Child Abuse Reporting Requirements—49 Pa. Code §§ 40.201—40.207. (16A-6515)	Summer 2013, as Final (proposed-omitted).	This regulation updates the Board's existing regulations relating to mandatory reporting of suspected child abuse under the Child Protective Services Law, (CPSL), 23 P. S. §§ 6301—6386. Statutory Authority: Section 6383(b)(2) of the CPSL, 23 P. S. § 6383(b)(2); and section 3(a) of the Physical Therapy Practice Act, 63 P. S. § 1303(a).	Michelle Roberts (717) 783-7134
—Schedule of Civil Penalties—49 Pa. Code, Chapter 43b. (number not yet assigned)	Summer 2013, as Proposed.	This proposed rulemaking would establish a schedule of civil penalties for the State Board of Physical Therapy to implement Act 48 civil penalties for practicing on a lapsed license. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	Michelle Roberts (717) 783-7134
State Board of Podiatry—Certificate of Authority to Perform Acupuncture—49 Pa. Code Chapter 29 (16A-449)	Spring 2013, as Proposed.	This proposed rulemaking would establish the fees and regulate the practice of acupuncture by podiatrists under the Acupuncture Registration Act. Statutory Authority: Section 3 of the Acupuncture Registration Act, 63 P. S. § 1803.	Tammy Dougherty (717) 783-4858
—Volunteer License—49 Pa. Code § 29.55 (16A-4411)	Summer 2013, as Final (Proposed-omitted).	This regulation would amend the Board's volunteer license regulations to conform to recent amendments to the Volunteer Health Services Act. Statutory Authority: Section 15 of the Podiatry Practice Act, 63 P. S. § 42.15.	Tammy Dougherty (717) 783-4858
—Child Abuse Reporting Requirements—49 Pa. Code §§ 29.91—29.97 (16A-4412)	Summer 2013, as Final (proposed-omitted).	This regulation updates the Board's existing regulations relating to mandatory reporting of suspected child abuse under the Child Protective Services Law, (CPSL), 23 P. S. §§ 6301—6386. Statutory Authority: Section 6383(b)(2) of the CPSL, 23 P. S. § 6383(b)(2); and section 15 of the Podiatry Practice Act, 63 P. S. § 42.15.	Tammy Dougherty (717) 783-4858
—Schedule of Civil Penalties—Podiatrists 49 Pa. Code Chapter 43b (16A-4413)	Spring 2013, as Proposed.	This proposed rulemaking would adopt a schedule of civil penalties for continuing education violations. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a), authorizes the Commissioner to set forth schedules of civil penalties.	Tammy Dougherty (717) 783-4858
—Therapeutic Drugs—49 Pa. Code § 29.41 (16A-4414)	Spring 2013, as Proposed.	This proposed rulemaking would amend the list of therapeutic drugs that podiatrists may prescribe. Statutory Authority: Section 15 of the Podiatry Practice Act, 63 P. S. § 42.15.	Tammy Dougherty (717) 783-4858
State Board of Psychology—Continuing Education—49 Pa. Code § 41.59 (16A-6317)	Summer 2013, as Proposed.	This proposed rulemaking would amend the Board's continuing education requirements regarding home study, instruction and carry over. Statutory Authority: Section 15 of the Professional Psychologists Practice Act, 63 P. S. § 1215.	Chris Stuckey (717) 783-7155
—Code of Ethics—49 Pa. Code § 41.61 (16A-6318)	Summer 2013, as Proposed.	This proposed rulemaking would update the Board's Code of Conduct so that it would be in line with changes to the American Psychological Association and the Association of State and Provincial Psychology Boards. Statutory Authority: Section 3.2(2) of the Professional Psychologists Practice Act, 63 P. S. § 1203.2(2).	Chris Stuckey (717) 783-7155
—Education and Experience—49 Pa. Code § 41.31 (16A-6320)	Fall 2013, as Proposed.	This proposed rulemaking would clarify the education, examination and experience requirements. Statutory Authority: Section 3.2(2) of the Professional Psychologists Practice Act, 63 P. S. § 1203.2(2).	Chris Stuckey (717) 783-7155

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
—Child Abuse Reporting Requirements— 49 Pa. Code Chapter 41 (16A-6322)	Summer 2013, as Final (Proposed omitted).	This regulation would amend the board's regulations to conform to changes made to the Child Protective Services Act. Statutory Authority: Section 6383(b)(2) of the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2) and section 3.2(2) of the Professional Psychologists Practice Act, 63 P. S. § 1203.2(2).	Chris Stuckey (717) 783-7155
State Board of Certified Real Estate Appraisers— Schedule of Civil Penalties— Real Estate Appraisers— 49 Pa. Code § 43b.15a (16A-7016)	Spring 2013, as Proposed.	The proposed rulemaking will codify and amend the Board's current schedule of civil penalties statement of policy. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a), authorizes the Commissioner to set forth schedules of civil penalties, with the approval of the Board.	Heidy Weirich (717) 783-4866
—Appraisal Management Companies— General Temporary Regulations— 49 Pa. Code Chapter 36, Subchapter D (16A-7017)	Spring 2013, as Temporary regulations.	These temporary regulations will provide for the registration of appraisal management companies under the act of February 2, 2012 (P. L. 30, No. 4), known as the Appraisal Management Company Registration Act. Section 4(b) of the Appraisal Management Company Act, 63 P. S. § 457.24(b), authorizes the Board to promulgate temporary regulations.	Heidy Weirich (717) 783-4866
—Assessment Record Keeping and Reporting— 49 Pa. Code §§ 36.201 and 36.265 (16A-7018)	Spring 2013, as Proposed.	The proposed rulemaking updates the Board's regulations to reflect current practice followed by assessment offices throughout the Commonwealth, and to assure consistency with Uniform Standards of Appraisal Practice (USPAP) and International Association of Assessing Officers (IAAO) standards of assessment practice. Statutory Authority: Section 3 of the Assessors Certification Act, 63 P. S. § 457.3.	Heidy Weirich (717) 783-4866
State Real Estate Commission— Advertising and Solicitation— 49 Pa. Code § 35.305 (16A-5620)	Fall 2013, as Proposed.	The proposed rulemaking would require licensees to advertise or otherwise hold themselves out to the public only under the name listed on their licenses. Statutory Authority: Section 404 of the Real Estate Licensing and Registration Act, 63 P. S. § 455.404.	Patricia Ridley (717) 783-3658
—Escrow requirements— 49 Pa. Code Chapter 35 (16A-5622)	Fall 2013, as Proposed.	This proposed rulemaking would establish additional escrow requirements consistent with the changes made by Act 14 of 2009. Statutory Authority: Section 404 of the Real Estate Licensing and Registration Act, 63 P. S. § 455.404.	Patricia Ridley (717) 783-3658
—Schedule of Civil Penalties— 49 Pa. Code § 43b.8 (16A-5623)	Summer 2013, as Proposed.	This proposed rulemaking would amend the schedule of civil penalties for the State Real Estate Commission to implement Act 48 civil penalties for continuing education violations. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	Patricia Ridley (717) 783-3658
State Board of Social Workers, Marriage and Family Therapists and Professional Counselors— Schedule of Civil Penalties— 49 Pa. Code Chapter 43b. (16A-6917)	Spring 2013, as Final.	This proposed rulemaking would establish a schedule of civil penalties for the State Board of Social Workers, Marriage and Family Therapists and Professional Counselors to implement Act 48 civil penalties for practicing without a license or practicing on a lapsed license. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	Sandra Matter (717) 783-1389

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
—Continuing Education Audit and Enforcement—49 Pa. Code Chapters 47—49 (16A-6918)	Spring 2013, as Final.	This proposed rulemaking would establish provisions for the enforcement of the continuing education requirements for licensed social workers, licensed clinical social workers, licensed marriage and family therapists and licensed professional counselors. Statutory Authority: Section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act, 63 P. S. § 1906(2).	Sandra Matter (717) 783-1389
—Child Abuse Reporting Requirements—49 Pa. Code §§ 47.51—47.57 (16A-6919)	Summer 2013, as Final (proposed-omitted).	This regulation would amend the board's regulations to conform to changes made to the Child Protective Services Act. Statutory Authority: Section 6383(b)(2) of the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2) and section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act, 63 P. S. § 1906(2).	Sandra Matter (717) 783-1389
—Biennial Renewal Fees—49 Pa. Code § 47.4 (16A-6920)	Spring 2013, as Proposed.	The proposed rulemaking would increase biennial renewal fees to meet projected expenditures as required by law. Statutory Authority: Section 18(c) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act, 63 P. S. § 1918(c).	Sandra Matter (717) 783-1389
—Qualifications for License—49 Pa. Code §§ 47.12c, 48.13 and 49.13 (16A-6921)	Spring 2013, as Proposed.	This regulation would amend the Board's existing regulations to incorporate changes made by the act of March 14, 2012 (P. L. 191, No. 17) relating to the qualifications for licensure of licensed clinical social workers, marriage and family therapists and professional counselors. Statutory Authority: Section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act, 63 P. S. § 1906(2).	Sandra Matter (717) 783-1389
—General Revisions—49 Pa. Code Chapters 47—49 (number not yet assigned)	Fall 2013, as Proposed.	This proposed rulemaking will eliminate outdated regulations, and update existing regulations to comport with current standards of the profession and current practices of the Board. Statutory Authority: Section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act, 63 P. S. § 1906(2).	Sandra Matter (717) 783-1389
State Board of Examiners in Speech-Language and Hearing —General Revisions—49 Pa. Code Chapter 45 (16A-6803)	Summer 2013, as Proposed.	This proposed rulemaking would update the regulations of the Board to delete or amend outdated regulations. Statutory Authority: Section 5(2) of the Speech-Language and Hearing Licensure Act, 63 P. S. § 1705(2).	Sandra Matter (717) 783-1389
—Child Abuse Reporting Requirements—49 Pa. Code §§ 45.401—45.407 (16A-6805)	Summer 2013, as Final (proposed-omitted).	This regulation would amend the board's regulations to conform to changes made to the Child Protective Services Act. Statutory Authority: Section 6383(b)(2) of the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2) and section 5(2) of the Speech-Language and Hearing Licensure Act, 63 P. S. § 1705(2).	Sandra Matter (717) 783-1389
—Termination of Grandfather Provisions—49 Pa. Code § 45.21 (16A-6806)	Spring 2013, as Proposed.	This proposed rulemaking is intended to terminate an outdated grandfathering provision. Statutory Authority: Section 5(2) of the Speech-Language and Hearing Licensure Act, 63 P. S. § 1705(2).	Sandra Matter (717) 783-1389

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
—Continuing Education— 49 Pa. Code Chapter 45. (16A-6807)	Spring 2013, as Proposed.	This proposed rulemaking is intended to clarify the continuing education requirements for licensees that hold more than one class of license issued by the Board. Statutory Authority: Section 5(2) of the Speech-Language and Hearing Licensure Act, 63 P. S. § 1705(2).	Sandra Matter (717) 783-1389
State Board of Vehicle Manufacturers, Dealers and Salespersons —Salesperson License— 49 Pa. Code Chapter 19 (16A-609)	Spring 2013, as Proposed.	This proposed rulemaking would clarify and update the requirements for salespersons in order to permit salespersons to sell at other locations of the same dealer. Statutory Authority: Section 4(9) of the Board of Vehicles Act, 63 P. S. § 818.4(9).	Janice Cline (717) 783-1697
—Fee for Out-of-state RV Dealer Participating in a Show— 49 Pa. Code § 19.4 (16A-6011)	Fall 2013, as Proposed.	This proposed rulemaking would establish a fee for processing applications under section 32.1(c) of the act, 63 P. S. § 818.32a(c), for out-of-state RV dealers to register with the Board in order to participate in an RV show in this Commonwealth. Statutory Authority: Sections 4(9) and 32.1(c) of the Board of Vehicles Act, 63 P. S. §§ 818.4(9) and 818.32.1(c).	Janice Cline (717) 783-1697
State Board of Veterinary Medicine —Facilities— 49 Pa. Code Chapter 31 (16A-5720)	Summer 2013, as Proposed.	This proposed rulemaking would establish standards for and require registration of veterinary facilities. Statutory Authority: Sections 5 and 27 of the Veterinary Medicine Practice Act, 63 P. S. §§ 485.5 and 485.27.	Michelle Roberts (717) 783-7134
—Licensure of Euthanasia Technicians— 49 Pa. Code Chapter 31 (number not yet assigned)	Fall 2013, as Proposed.	This proposed rulemaking is necessary to implement the act of October 24, 2012 (P. L. 1452, No. 182) (Act 182 of 2012) to authorize animal protection organizations to purchase, possess and administer euthanasia drugs and to license euthanasia technicians. Statutory Authority: Section 304(b) and (c) of Act 182 of 2012 direct the board to promulgate regulations within 18 months of the effective date of the act.	Michelle Roberts (717) 783-7134
STATE EMPLOYEES' RETIREMENT SYSTEM			
4 Pa. Code § 247.51. Time for Recomputation of Annuity. (This would impose a time limit for annuitants to change the optional payment plan authorized by the second to the last sentence of 71 Pa.C.S. § 5907(j)).	2014	This would provide guidance on when an annuitant is permitted to change their optional payment plan. There is no time frame in the statute for this election to occur causing administrative difficulties including possibly permitting anti-selection of death benefits, requiring members to make a declaration under discontinued disability benefits and negating an option change absent another qualifying event.	Brian McDonough, Esq. (717) 787-7317 Sharon Smith (717) 787-9657 David Durbin (717) 783-7210
4 Pa. Code § 243.8. Membership rules for educational employees.	2014	This would clarify the requirements for membership and final average salary calculations for educational employees.	Brian McDonough, Esq. (717) 787-7317 Sharon Smith (717) 787-9657 David Durbin (717) 783-7210

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
4 Pa. Code § 245.4. Member contributions for the purchase of credit for previous State service or to become a full coverage member. (This would be amended to specify the effects of a service purchase or reinstatement.)	2014	This would clarify the effects of the reinstatement or purchase of previous State service. An administrative decision has offered partial guidance in this area. This would enable consistent application of the statute and would reduce litigation of purchase of service issues. This is also being considered as a statutory amendment.	Brian McDonough, Esq. (717) 787-7317 Sharon Smith (717) 787-9657 David Durbin (717) 783-7210
STATE POLICE			
37 Pa. Code § 41.5 Designation of Emergency Vehicles	June 2014	Title 75 Pa.C.S. § 6106 allows PSP to designate emergency vehicles upon certain findings. This regulation would add Philadelphia Prison System vehicles used to escort ambulances transporting sick or injured inmates to the class of vehicles eligible for designation.	Major Marshall A. Martin (717) 783-5566
STATE SYSTEM OF HIGHER EDUCATION			
No regulations being developed or considered at this date.			
TRANSPORTATION			
175—Vehicle Equipment and Inspection 67 Pa. Code Chapter 175	Final Rulemaking— Estimated Promulgation May 2013	Many changes are needed to bring the regulations in line with changes in the Vehicle Code. Other changes include an initiative to update recertification requirements for safety inspectors and accommodate electronic recordkeeping of vehicle safety inspection findings. The changes will also allow for the utilization of laser guided systems to improve quality, efficiency and safety associated with snow plow and line painting operations.	Kristen Singer (717) 787-2171 James Smith (717) 787-4299
23—Delivery of Certificates of Title 67 Pa. Code Chapter 23	Proposed Rulemaking— Estimated Promulgation June 2013	The method of title delivery has changed due to the electronic lien and title program (75 Pa.C.S. § 1151). This Chapter needs to be updated to reflect the ability to transmit titles with liens electronically, rather than by mail.	Andy Cleaver (717) 787-2171
17—Authorization to Verify ID Numbers 67 Pa. Code Chapter 17	Final Rulemaking— Estimated Promulgation May 2013	Changes are needed to document the Vehicle Identification Number (VIN) verification process. The VIN verification process is not currently documented in either the Vehicle Code or in regulations.	Andy Cleaver (717) 787-2171
71—School Bus Drivers 67 Pa. Code Chapter 71	Proposed Rulemaking— Estimated Promulgation December 2013	The regulations will be updated to help ensure that school bus drivers diagnosed with various cardiovascular diseases are in stable condition. The regulations will also update the medical standards for school bus drivers that have brain disease, cognitive impairment or a mental/emotional disorder.	Rich Kirkpatrick (717) 783-5958
83—Physical & Mental Criteria—Including Vision Standards Relating to the Licensing of Drivers 67 Pa. Code Chapter 83	Proposed Rulemaking— Estimated Promulgation December 2013	The regulations will be updated to help ensure that license holders diagnosed with various cardiovascular diseases are in stable condition. The regulations will also update the medical standards for license holders that have brain disease, cognitive impairment or a mental/emotional disorder.	Rich Kirkpatrick (717) 783-5958
105—Mechanical Electrical and Electronic Speed Timing Devices 67 Pa. Code Chapter 105	Proposed Rulemaking— On Hold, pending analysis	The regulations are being updated to reflect changes in equipment technology relating to calibration and maintenance of speed timing devices used for law enforcement purposes and to delete references to obsolete equipment and calibration procedures.	Kristen Singer (717) 787-2171

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Chapter 427—Public Transportation (Act 44 of 2008)	Final Rulemaking—Estimated Promulgation March 2013	Act 44 of 2008, Chapter 15, Sustainable Mobility Options, authorizes almost all public transportation funding programs for the Commonwealth. The legislation required the Department to develop regulations for several sections of the legislation. The temporary regulations were published in the <i>Pennsylvania Bulletin</i> on July 18, 2009. Permanent regulations were published on November 12, 2011. IRRC provided comments to Office of Chief Counsel. As of May 15, 2012, Office of Chief Counsel is in the process of addressing the IRRC comments.	LaVerne Collins (717) 787-1214
Chapter 441 Driveway/Local Road Regulation Fees	Final Rulemaking—On hold	Allows sales agreement or mineral right owners to apply for permits. Update sight distance requirements to AASHTO standards. Relocate driveway designs to Publication 282 to allow immediate updates. Allow driveway applications to be submitted by electronic submission. Remove fees and fee structure from regulation and publish in <i>PA Bulletin</i> . Updating outdated references.	Mike Dzurko (717) 787-7350
Chapter 459 Occupancy of Highways by Utilities 67 Pa. Code Chapter 459	Proposed Rulemaking—June 2013	Allow utility applications to be submitted by electronic submission. Allows newest techniques in utility work to be used. Remove fees and fee structure from regulation and publish in <i>PA Bulletin</i> . Updating outdated references.	Glenn Rowe (717) 787-3620
Chapter 101 Authorizing Appropriately Attired Persons to Direct, Control or Regulate Traffic 67 Pa. Code Chapter 101	Proposed Rulemaking—Estimated publication June 2013	The proposed regulation change is needed to be consistent with a Federal Highway Administration rule making (23 CFR Part 634: Worker Visibility Rule—issued November 24, 2008).	Matt Briggs (717) 783-6268
Chapter 443 Roadside Rest Areas 67 Pa. Code Chapter 443	Final Rulemaking—On hold	These amendments more clearly delineate what activities are prohibited and permitted at roadside rest areas.	Terry Pearsal (717) 787-0466
175—Vehicle Equipment and Inspection 67 Pa. Code Chapter 175	Final Rulemaking—Estimated Promulgation May 2013	Many changes are needed to bring the regulations in line with changed in the Vehicle Code. Other changes include an initiative to update recertification requirements for safety inspectors and accommodate electronic record keeping of vehicle safety inspection findings. The changes will also allow for the utilization of laser guided systems to improve quality, efficiency and safety associated with snow plow and line painting operations.	Kristen Singer (717) 787-2171 James Smith (717) 787-4299

[Pa.B. Doc. No. 13-202. Filed for public inspection February 1, 2013, 9:00 a.m.]

HISTORICAL AND MUSEUM COMMISSION

National Register Nominations to be Reviewed by the Historic Preservation Board

The Historic Preservation Board (Board) will hold a meeting on February 5, 2013, at 9:45 a.m. at the Rachel Carson State Office Building, Harrisburg, PA. For individuals with a disability who wish to attend this meeting, and require an auxiliary aid, service or other accommodation to participate, contact Cheri Garrett at (717) 783-

9933 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Board can accommodate their needs. For persons who have any questions or comments, contact the National Register Office of the Bureau for Historic Preservation at (717) 783-8947.

1. Joe Frazier's Gym, 2917 North Broad Street, Philadelphia City, Philadelphia County, No. 157203
2. John Wilde & Brother, Inc., 3737 Main Street, Philadelphia City, Philadelphia County, No. 157099
3. Idlewild, 110 Idlewild Lane, Upper Providence Township, Delaware County, No. 155153

4. Mascot Roller Mills (Boundary Increase), intersection of Newport and Stumptown Roads, Upper Leacock Township, Lancaster County, No. 156394

5. August Wilson House, 1727 Bedford Avenue, Pittsburgh City, Allegheny County, No. 155045

6. Pittsburgh Renaissance Historic District, roughly bounded by the Allegheny River, Stanwix Street, the Monongahela and the Ohio Rivers, Pittsburgh City, Allegheny County, No. 156390

7. Penn-Liberty Historic District (boundary increase), roughly bounded by Liberty Avenue, Stanwix Street, Fort Duquesne Boulevard, 9th, French and 10th Streets, Pittsburgh City, Allegheny County, No. 156700

8. Pittsburgh Central Downtown Historic District (boundary increase and additional documentation), roughly bounded by Grant Street, Fourth Avenue, Wood Street, Sixth and Liberty Avenues, the former Pennsylvania Railroad tracks and Seventh Avenue, Pittsburgh City, Allegheny County, No. 156803

9. Fourth Avenue Historic District (boundary increase and additional documentation), roughly bounded by Smithfield Street, Third Avenue, Market Square Place and Fifth Avenue, Pittsburgh City, Allegheny County, No. 156804

10. Firstside Historic District (boundary increase and additional documentation), roughly bounded by the Boulevard of the Allies, Grant Street, Fort Pitt Boulevard and Stanwix Street, Pittsburgh City, Allegheny County, No. 156805

11. Pittsburgh Terminal Warehouse and Transfer Company, 333-400 East Carson Street, Pittsburgh City, Allegheny County, No. 007715

JAMES M. VAUGHAN,
Executive Director

[Pa.B. Doc. No. 13-203. Filed for public inspection February 1, 2013, 9:00 a.m.]

INSURANCE DEPARTMENT

Agency Contract Termination of Martin's Hatchery Poultry Farms under Act 143; Westfield Insurance; Doc. No. AT13-01-013

A prereview telephone conference initiated by this office is scheduled for February 14, 2013, at 9:30 a.m. A review of the agency contract termination is scheduled for March 7, 2013, at 9:30 a.m.

Motions preliminary to those at the review, protests, petitions to intervene or notices of intervention, if any, must be filed on or before February 4, 2013, 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 February 13, 2013.

On or before February 28, 2013, each party shall file with the Administrative Hearings Office a review statement which shall contain: (1) a comprehensive statement of undisputed facts to be stipulated between the parties; (2) a statement of additional contended facts; (3) names and address of witnesses along with the specialties of experts to be called; (4) a list of documents to be used at

the hearing; (5) special evidentiary or other legal issues; and (6) the estimated time for that party's case.

Persons with a disability who wish to attend the previously-referenced administrative review and require an auxiliary aid, service or other accommodation to participate in the review should contact Donna R. Fleischauer, Human Resources Director, (717) 705-4194.

MICHAEL F. CONSEDINE,
Insurance Commissioner

[Pa.B. Doc. No. 13-204. Filed for public inspection February 1, 2013, 9:00 a.m.]

Application and Request for a Certificate of Authority to Provide a Continuing Care Retirement Community by Attleboro Retirement Community, LLC

Attleboro Retirement Community, LLC has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at Attleboro Retirement Village in Langhorne, PA. The initial filing was received on January 22, 2013, and was made under the Continuing-Care Provider Registration and Disclosure Act (40 P. S. §§ 3201—3225).

Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party; identification of the application to which the statement is addressed; and a concise statement with sufficient detail to inform the Department of the exact basis of the statement. Written statements should be directed to Steven L. Yerger, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557 or syerger@pa.gov.

MICHAEL F. CONSEDINE,
Insurance Commissioner

[Pa.B. Doc. No. 13-205. Filed for public inspection February 1, 2013, 9:00 a.m.]

Application and Request for a Certificate of Authority to Provide a Continuing Care Retirement Community by Harlee Manor, Inc.

Harlee Manor, Inc. has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at Harlee Manor, Inc. in Springfield, PA. The initial filing was received on January 22, 2013, and was made under the Continuing-Care Provider Registration and Disclosure Act (40 P. S. §§ 3201—3225).

Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party; identification of the application to which the statement is addressed; and a concise statement with sufficient detail to inform the Department of the exact basis of the statement. Written

statements should be directed to Steven L. Yerger, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557 or syerger@pa.gov.

MICHAEL F. CONSEDINE,
Insurance Commissioner

[Pa.B. Doc. No. 13-206. Filed for public inspection February 1, 2013, 9:00 a.m.]

ary, Insurance Department, Insurance Product Regulation, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlaverty@pa.gov within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

MICHAEL F. CONSEDINE,
Insurance Commissioner

[Pa.B. Doc. No. 13-208. Filed for public inspection February 1, 2013, 9:00 a.m.]

Highmark, Inc.; Rate Increase Filing for Several LTC Forms

Highmark, Inc. is requesting approval to increase the premium an aggregate 40% on 552 policyholders with the following individual Highmark Blue Shield LTC policy form numbers: SPL-336-HMBSPA and FSPL-336-HMBSPA. The increase will average 40% but individual policyholders can receive increases ranging from 0% to 60%.

Unless formal administrative action is taken prior to April 17, 2013, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) web site at www.insurance.pa.gov. Under the tab "How to Find . . ." click on the link "PA Bulletin."

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's Harrisburg office.

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlaverty@pa.gov within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

MICHAEL F. CONSEDINE,
Insurance Commissioner

[Pa.B. Doc. No. 13-207. Filed for public inspection February 1, 2013, 9:00 a.m.]

MedAmerica Insurance Company; Rate Increase Filing for Several LTC Forms

MedAmerica Insurance Company is requesting approval to increase the premium an aggregate 38% on 464 policyholders with the following MedAmerica LTC policy form numbers: SPL-336 and FSPL-336. The increase will average 38% but individual policyholders can receive increases ranging from 0% to 60%.

Unless formal administrative action is taken prior to April 17, 2013, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) web site at www.insurance.pa.gov. Under the tab "How to Find . . ." click on the link "PA Bulletin."

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's Harrisburg office.

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlaverty@pa.gov within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

MICHAEL F. CONSEDINE,
Insurance Commissioner

[Pa.B. Doc. No. 13-209. Filed for public inspection February 1, 2013, 9:00 a.m.]

Highmark, Inc.; Rate Increase Filing for Several LTC Forms

Highmark, Inc. is requesting approval to increase the premium an aggregate 41% on 518 policyholders with the following individual Highmark Blue Cross Blue Shield LTC policy form numbers: SPL-336-HMBCBSPA and FSPL-336-HMBCBSPA. The increase will average 41% but individual policyholders can receive increases ranging from 0% to 60%.

Unless formal administrative action is taken prior to April 17, 2013, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) web site at www.insurance.pa.gov. Under the tab "How to Find . . ." click on the link "PA Bulletin."

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's Harrisburg office.

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary,

Review Procedure Hearings under the Unfair Insurance Practices Act

The following insureds have requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (act) (40 P.S. § 1171.8) in connection with their company's termination of the insureds' homeowners policy. The hearing will be held in accordance with the requirements of the act; 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearing will be held in the Insurance Department's regional office in Harrisburg, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102.

Appeal of Kevin and Paula O'Donnell; file no. 12-114-131295; The Travelers Home and Marine Insurance Company; Doc. No. P13-01-011; February 28, 2013, 10 a.m.

Parties may appear with or without counsel and offer relevant testimony and/or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

Following the hearing and receipt of the stenographic transcript, the Insurance Commissioner (Commissioner) will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Donna R. Fleischauer, Human Resources Director at (717) 705-4194.

MICHAEL F. CONSEDINE,
Insurance Commissioner

[Pa.B. Doc. No. 13-210. Filed for public inspection February 1, 2013, 9:00 a.m.]

Surplus Lines Agents and Interested Parties; Export List of Insurance Coverages

In May 2012, the Insurance Commissioner (Commissioner) determined that certain insurance coverages were generally unavailable in the authorized market and declared those coverages as exportable. A list of exportable coverages was published at 42 Pa.B. 2571 (May 12, 2012). Accordingly, for those insurance coverages that are included on the export list, a diligent search among insurers admitted to do business in this Commonwealth is not required before placement of the coverages in the surplus lines market.

The Commissioner declared that the export list would remain in effect until revised or superseded by a subsequent list.

At this time, the Commissioner is soliciting comments regarding the current export list. Persons may request in writing that a coverage be added or removed from the list.

Persons wishing to comment on the Commissioner's current export list are invited to submit a written statement within 30 days from the date of publication of this notice in the *Pennsylvania Bulletin*. Each written statement must include sufficient detail and relevant facts to inform the Insurance Department of the exact basis of the statement. Written statements should be directed to Cressinda Bybee, Office of Corporate and Financial Regulation, Insurance Department, 1345 Strawberry Square, Harrisburg, PA, 17120, fax (717) 787-8557, cbybee@pa.gov. After consideration of all comments received, the Commissioner will publish a notice in the *Pennsylvania Bulletin* providing a 15-day opportunity to comment on any proposed changes before formal publication of the revised list.

MICHAEL F. CONSEDINE,
Insurance Commissioner

[Pa.B. Doc. No. 13-211. Filed for public inspection February 1, 2013, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by February 19, 2013. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Application of the following for approval to begin operating as common carriers for transportation of persons as described under the application.

A-2012-2329717. La Mexicana Express Service, LLC (1044 Union Street, Reading, PA 19604) for the right to begin to transport, as a common carrier, by motor vehicle, persons, in paratransit service, from point to point within Berks County.

Application of the following for amendment to the certificate of public convenience approving the operation of motor vehicles as common carriers for transportation of persons as described under the application.

A-2012-2329971. Interstate Nursing Services, Inc., t/a Whitehall Medical Transport Services (1041 North 6th Street, Whitehall, PA 18052), a corporation of this Commonwealth, for amendment to its common carrier certificate, which grants the right to transport as a common carrier, persons in paratransit service, between points in the Counties of Lehigh and Northampton, and from points in said counties, to points in Pennsylvania, and return. Subject to the following conditions:

1. That no right, power or privilege is granted to transport persons to or from points in Northampton County, except for the transportation of persons to or from points within Bethlehem Township, the City of Bethlehem and the Boroughs of Northampton and Nazareth, Northampton County.

2. That no right, power or privilege is granted to transport persons to or from the Lehigh Valley Hospital-Muhlenberg, located in the City of Bethlehem, Northampton County.

So as to Permit the transportation of persons in paratransit service, between points in the Counties of Bucks, Berks, Chester, Montgomery, Northampton, Philadelphia and Schuylkill.

Application of the following for approval of the additional right and privilege of operating motor vehicles as common carriers for transportation of persons as described under the application.

A-2012-2331737. Joseph A. Trapuzzano, t/a Broadway Limousine (624 Woodward Avenue, McKees Rocks, PA 15136) for the additional right to begin to transport, as a common carrier by motor vehicle, persons in group and party service, in vehicles seating 11 to 15 passengers, including the driver, from points in the Counties of Allegheny, Beaver, Butler, Washington and Westmoreland, to points in Pennsylvania, and return, excluding areas under the jurisdiction of the Philadelphia Parking Authority. *Attorney:* David M. O'Boyle, Wick, Streiff, Meyer, O'Boyle & Szeligo, PC, 1450 Two Chatham Center, 112 Washington Place, Pittsburgh, PA 15219-3455.

Application of the following for approval to begin operating as contract carriers for transportation of persons as described under the application.

A-2012-2329000. Morton-Battles Corporation, t/a Global Coach, (1810 Widener Place, Philadelphia, PA 19141) for the right to begin to transport, as a contract carrier for Access2Care, by motor vehicle, persons in paratransit service, between points in the Counties of Philadelphia, Bucks, Delaware, Montgomery, Chester, Lancaster, Lehigh and Northampton, and to points in Pennsylvania, and return.

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-2012-2339012. Herbert U Craft, Jr., t/a Craft Funeral Home (814 Bethlehem Pike, Erdenheim, PA 19038) for the discontinuance of service and cancellation of his Certificate of Public Convenience as a common carrier, by motor vehicle, at A-00099861 authorizing the transportation of persons in limousine service between points in Pennsylvania.

A-2012-2340706. Amish Express, LLC (240 Letort Road, Millersville, Lancaster County, PA 17551)—discontinuance of service—persons, in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Lancaster, to points in Pennsylvania, and return.

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 13-212. Filed for public inspection February 1, 2013, 9:00 a.m.]

Telecommunications

A-2013-2343554 and A-2013-2343555. Birch Communications, Inc. and Covista, Inc. Joint application of Birch Communications, Inc. and Covista, Inc., for approval of the transfer of all of Covista, Inc.'s Pennsylvania customers and telecommunications assets to Birch Communications, Inc.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant on or before February 19, 2013. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, on the Pennsylvania Public Utility Commission's web site at www.puc.state.pa.us, and at the applicant's business address.

Applicants: Birch Communications, Inc., Covista, Inc.

Through and By Counsel: Susan E. Bruce, Esquire, McNeese, Wallace and Nurick, LLC, 100 Pine Street, P. O. Box 1166, Harrisburg, PA 17108-1166

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 13-213. Filed for public inspection February 1, 2013, 9:00 a.m.]

Telecommunications

A-2013-2343827. United Telephone Company of Pennsylvania, LLC, d/b/a CenturyLink and United States Cellular Corporation. Joint petition of United Telephone Company of Pennsylvania, LLC, d/b/a CenturyLink and United States Cellular Corporation for approval of an executed true and correct ICC Bill-and-Keep Amendment to the CRMS interconnection agreement between CenturyLink and United States Cellular Corporation under section 252(e) of The Telecommunications Act of 1996.

United Telephone Company of Pennsylvania, LLC, d/b/a CenturyLink and United States Cellular Corporation, by its counsel, filed January 18, 2013, at the Pennsylvania Public Utility Commission (Commission) a joint petition for approval of an executed true and correct ICC Bill-and-Keep Amendment to the CRMS interconnection agreement between CenturyLink and United States Cellular Corporation, under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the CenturyLink and United States Cellular Corporation joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 13-214. Filed for public inspection February 1, 2013, 9:00 a.m.]

Transfer of Indirect Control

A-2013-2343851 and A-2013-2343853. Yankee Metro Partners, LLC, Sidera Networks, LLC, NEON Connect, Inc. and LTS Buyer, LLC. Joint application of Yankee Metro Partners, LLC, Sidera Networks, LLC,

NEON Connect, Inc. and LTS Buyer, LLC for approval of a general rule transfer of indirect control of Sidera Networks, LLC and NEON Connect, Inc., to LTS Buyer LLC.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant on or before February 19, 2013. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, on the Pennsylvania Public Utility Commission's web site at www.puc.state.pa.us, and at the applicant's business address.

Applicants: Sidera Networks, LLC, NEON Connect, Inc.

Through and By Counsel: Michael A. Gruin, Esquire, Stevens & Lee, 17 North Second Street, 16th Floor, Harrisburg, PA 17101

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 13-215. Filed for public inspection February 1, 2013, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority will accept sealed bids for Project No. 13-003.1, On-Call Marine Dive Inspection & Repair Services, until 2 p.m. on Thursday, March 7, 2013. Information (including mandatory prebid information) can be obtained from the web site www.philaport.com under Procurement or call (215) 426-2600.

JAMES T. McDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 13-216. Filed for public inspection February 1, 2013, 9:00 a.m.]

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project No. 12-044.P, Request for Proposal—Design of Video Surveillance for Various PRPA Facilities, until 2 p.m. on Thursday, February 28, 2013. Information concerning this project can be obtained from the web site www.philaport.com under Procurement or call (215) 426-2600.

JAMES T. McDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 13-217. Filed for public inspection February 1, 2013, 9:00 a.m.]

STATE BOARD OF PHARMACY

Bureau of Professional and Occupational Affairs v. Phila RX Pharmacy; Doc. No. 1220-54-2012

On July 1, 2012, the State Board of Pharmacy suspended the license of Phila RX Pharmacy, license no. PP481266, of Philadelphia, Philadelphia County for non-payment of a previously issued civil penalty.

Individuals may obtain a copy of the order of suspension by writing to Kerry E. Maloney, Board Counsel, State Board of Pharmacy, P. O. Box 2649, Harrisburg, PA 17105-2649.

EDWARD J. BECHTEL, R.Ph.,
Chairperson

[Pa.B. Doc. No. 13-218. Filed for public inspection February 1, 2013, 9:00 a.m.]

STATE CONSERVATION COMMISSION

Action on Odor Management Plans for Concentrated Animal Operations and Concentrated Animal Feeding Operations and Volunteers Complying with the Commonwealth's Facility Odor Management Program

The State Conservation Commission has taken the following actions on previously received applications for Odor Management Plans under 3 Pa.C.S. §§ 501—522 (relating to nutrient management and odor management).

Persons aggrieved by any action may appeal under 3 Pa.C.S. § 517 (relating to appealable actions), section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service at (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

Important legal rights are at stake, so individuals interested in challenging this action 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.

Odor Management Plan—Public Notice Spreadsheet—Actions

<i>Ag Operation Name, Address</i>	<i>County/ Township</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>New or Amended</i>	<i>Action Taken</i>
Troxell Farms 250 Showers Road New Columbia, PA 17856	Union County/ White Deer Township	1,453.81	Swine	Amended	Approved
Amos K. Stoltzfus 350 Evans Road Lititz, PA 17543	Lancaster County/ Elizabeth Township	57.0	Layer	New	Approved
Grant Martin 380 Gameland Road Newville, PA 17241	Cumberland County/ Upper Mifflin Township	8.85	Guineas	New	Approved
Cotner Farms, Inc. 127 Rushtown Road Danville, PA 17821	Northumberland County/ Rush Township	1,444.0	Layer	Amended	Approved
Daniel S. Smucker 2095 North Churchtown Road Narvon, PA 17555	Lancaster County/ Caernarvon Township	6.5	Cattle	New	Approved
Dale L. Brubaker 2565 Long Lane Lebanon, PA 17046	Lebanon County/ North Lebanon Township	205.3	Broiler	New	Approved
Esbensshade, Inc.— Maytown Farm 2569 Maytown Road Marietta, PA 17547	Lancaster County/ East Donegal Township	1,679.39	Layer	New	Approved
Country View Family Farms, LLC— New Hope Farm 23177 Back Road Conford, PA 17217	Franklin County/ Fannett Township	2,716.0	Swine	Amended	Approved
Presque Isle Downs, Inc. 8199 Perry Highway Erie, PA 16509	Erie County/ Summit Township	309.86	Horses	New	Disapproved

MICHAEL L. KRANCER,
Chairperson

[Pa.B. Doc. No. 13-219. Filed for public inspection February 1, 2013, 9:00 a.m.]

