

# RULES AND REGULATIONS

## Title 25—ENVIRONMENTAL PROTECTION

DEPARTMENT OF ENVIRONMENTAL PROTECTION

[25 PA. CODE CH. 93]

Corrective Amendment to 25 Pa. Code § 93.9l

The Department of Environmental Protection has discovered a discrepancy between the agency text of 25 Pa. Code § 93.9l (relating to Drainage List L) as deposited with the Legislative Reference Bureau and as published at 26 Pa.B. 5370, 5373 (November 9, 1996) and the official text published in the *Pennsylvania Code Reporter* (Master Transmittal Sheet No. 266), and as currently appearing in the *Pennsylvania Code*. Some of the amendments made by the Department at 26 Pa.B. 5370, 5373 were never codified.

Therefore, under 45 Pa.C.S. § 901: The Department of Environmental Protection has deposited with the Legislative Reference Bureau a corrective amendment to 25 Pa. Code § 93.9l. The corrective amendment to 25 Pa. Code § 93.9l is effective as of January 4, 1997, the date the defective official text was announced in the *Pennsylvania Bulletin*.

The correct version of 25 Pa. Code § 93.9l appears in Annex A, with ellipses referring to the existing text of the regulations.

### Annex A

#### TITLE 25. ENVIRONMENTAL PROTECTION

#### PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

#### Subpart C. PROTECTION OF NATURAL RESOURCES

#### ARTICLE II. WATER RESOURCES

#### CHAPTER 93. WATER QUALITY STANDARDS

#### DESIGNATED WATER USES AND WATER QUALITY STANDARDS

#### § 93.9l. Drainage List L.

#### Susquehanna River Basin in Pennsylvania *West Branch Susquehanna River*

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
	* * * * *			
4—Bullit Run	Basin	Centre	CWF	None
4—Greens Run	Basin	Centre	CWF	None
4—Lick Run	Basin	Centre	HQ-CWF	None
4—Hunters Run	Basin	Centre	CWF	None
	* * * * *			

[Pa.B. Doc. No. 05-551. Filed for public inspection March 25, 2005, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

[25 PA. CODE CH. 93]

[Correction]

Amendment to 25 Pa. Code § 93.9f

An error appeared at 35 Pa.B. 1762 (March 19, 2005). The correct version appears in Annex A.

## Annex A

**TITLE 25. ENVIRONMENTAL PROTECTION**  
**PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**Subpart C. PROTECTION OF NATURAL RESOURCES**  
**ARTICLE II. WATER RESOURCES**  
**CHAPTER 93. WATER QUALITY STANDARDS**  
**DESIGNATED WATER USES AND WATER QUALITY CRITERIA**

## § 93.9f. Drainage List F.

**Delaware River Basin in Pennsylvania**  
*Schuylkill River*

Stream	Zone	* * *	* * *	County	Water Uses Protected	Exceptions To Specific Criteria
4—Hosensack Creek	Basin			Montgomery	CWF	None
4—West Branch Perkiomen Creek	Basin, Source to SR 1022 Bridge (RM 12.9)			Berks	CWF	None
4—West Branch Perkiomen Creek	Basin, SR 1022 Bridge to SR 2069 Bridge (RM 8.0)			Berks	EV	None
4—West Branch Perkiomen Creek	Basin, SR 2069 Bridge to Mouth			Montgomery	CWF	None
3—Perkiomen Creek	Main Stem, Green Lane Reservoir Dam to Mouth			Montgomery	WWF, MF	None
		* * *	* * *			

[Pa.B. Doc. No. 05-491. Filed for public inspection March 18, 2005, 9:00 a.m.]

## Title 52—PUBLIC UTILITIES

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**  
**[52 PA. CODE CHS. 57 AND 59]**

[L-00030160]

### Preservation of Records

The Pennsylvania Public Utility Commission (Commission) on January 13, 2005, adopted a final omitted rulemaking order which amends existing regulations regarding the record retention period for jurisdictional electric and gas utilities by inserting a 20-year retention period for “journal vouchers and journal entries” that was inadvertently omitted from the Commission’s previously submitted final rulemaking, which became effective December 6, 2003. The contact person is Patricia Wiedt, Law Bureau (717) 787-5755.

#### *Executive Summary*

Section 57.45 of the Commission’s regulations establishes record retention requirements for electric utilities in Pennsylvania, and § 59.45 establishes record retention requirements for gas utilities in Pennsylvania. These regulations require the public utilities to keep their records in conformity with the most recent publication of “Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities,” which is published by the National Association of Regulatory Utility Commissioners (NARUC).<sup>1</sup> See 52 Pa. Code §§ 57.45 and 59.45. The NARUC regulations were last revised in 1985.

<sup>1</sup>The National Association of Regulatory Utility Commissioners (NARUC) is a nonprofit organization comprised of governmental agencies that regulate the activities of telecommunications, energy, and water utilities. NARUC’s mission is to serve the public interest by improving the quality and effectiveness of public utility regulation.

By Order entered on March 6, 2003 at Docket No. L-00030160, the Commission adopted a Proposed Rulemaking Order to amend 52 Pa. Code §§ 57.45 and 59.45, consistent with the report and recommendation of the working group established to review the Commission’s current record retention requirements for electric and gas utilities. The Commission agreed that the record retention changes as proposed by the working group will lessen the record retention burden and associated costs for the relevant utilities without compromising the Commission’s ability to adequately regulate those same utilities. See 66 Pa.C.S. § 1501. The Commission added that the proposed changes will facilitate a mandatory, uniform system of recordkeeping for the relevant utilities, consistent with Chapter 17 of the Public Utility Code, 66 Pa.C.S. §§ 1701, et seq.

On April 26, 2003, the Commission’s order initiating the proposed rulemaking was published in the *Pennsylvania Bulletin*, 33 Pa.B. 2064. On or around May 27, 2003, the Commission received comments from four parties: the Energy Association, the Peoples Natural Gas Company d/b/a Dominion Peoples, PPL Electric Utilities Corporation, and the Office of Consumer Advocate. All parties endorsed the proposed amendments to the Commission’s record retention regulations for electric and gas utilities at 52 Pa. Code §§ 57.45 and 59.45 and supported adoption of the amended regulations.

On June 2, 2003, the Independent Regulatory Review Commission (IRRC) issued a letter specifying that it had no objections, comments, or recommendations to offer on the Commission’s proposal to amend the record retention regulations at 52 Pa. Code §§ 57.45 and 59.45. The letter also noted that the proposed amendments would be deemed approved, if the Commission submits a final-form

regulation without revisions and the legislative committees do not take any action. By Order entered on August 14, 2003, the Commission adopted a Final Rulemaking Order to amend 52 Pa. Code §§ 57.45 and 59.45, consistent with the letter from IRRC.

On September 27, 2004, the Energy Association of Pennsylvania (Energy Association) petitioned the Commission regarding an oversight that occurred resulting in the omission of an item from the list of retention periods in §§ 57.45 and 59.45. The Energy Association indicated that a 20-year retention period for “journal vouchers and journal entries” was previously considered and approved during the working group and was inadvertently omitted from the group’s recommendations and as a consequence was omitted from the Final Rulemaking Order. Journal vouchers and journal entries are associated with journals and should logically have the same retention period as journals. Reducing one of these items to a 20-year retention period and not the other would be inconsistent as the NARUC and Commission retention requirements would be different for substantially similar records. This would cause confusion regarding retention for journals and journal vouchers and entries. The Commission believes that the working group discussed a 20-year retention period for “journal vouchers and journal entries” and mistakenly failed to include this item in its recommendations. This Final Omitted Rulemaking would correct this omission and reduce confusion regarding record keeping requirements for journals, journal vouchers and journal entries.

*Regulatory Review*

Under section 5(f) of the Regulatory Review Act (71 P. S. § 745.5(f)), on February 8, 2005, the Commission submitted a copy of this final-omitted rulemaking to IRRC and to the Chairpersons of the House Committee on Consumer Affairs and the Senate Committee on Consumer Protection and Professional Licensure.

On the same date, the final-omitted rulemaking was submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506) and to the Office of the Budget for fiscal impact. In accordance with section 5(c) of the Regulatory Review Act, this final-omitted rulemaking was deemed approved by the House and Senate Committees. IRRC met on March 10, 2005, and approved this final-omitted rulemaking.

Public Meeting held  
January 13, 2005

*Commissioners Present:* Wendell F. Holland, Chairperson;  
Robert K. Bloom, Vice Chairperson; Glen R. Thomas;  
Kim Pizzingrilli

*Final Omitted Rulemaking Order of Amendment of 52 Pa. Code § 57.45 and § 59.45 regarding Preservation of Records; Doc. No. L-00030160*

*Petition of the Energy Association of Pennsylvania for Amendment, Through Final Form Omitted Rulemaking, of Regulations Annexed to the Final Rulemaking Order; Doc. No. P-00042129*

**Final Omitted Rulemaking Order**

*By the Commission*

On December 6, 2003, the Commission amended its regulations regarding Preservation of Records for Electric and Natural Gas Utilities at 52 Pa. Code §§ 57.45 and

59.45. On September 27, 2004, the Energy Association of Pennsylvania petitioned the Commission to amend 52 Pa. Code §§ 57.45 and 59.45 to insert a 20-year retention period for “journal vouchers and journal entries,” that was considered and approved by the working group for the Commission, but was inadvertently omitted from the group’s recommendations and resulted in an omission from the final amended regulations. The Commission now reviews this matter for final disposition.

Pursuant to 45 P. S. § 1204(1) of the Commonwealth Documents Law, and as set forth below, the Commission believes that the procedures set forth in Sections 201 and 202 for proposed rulemaking are not appropriate, necessary or beneficial. The matter omitted was inadvertently left out of a previous rulemaking and amending the regulation to correct this omission would provide continuity and clarity to the existing regulations.

*Background*

In August of 2003, the Commission issued a Final Rulemaking Order adopting regulations at 52 Pa. Code §§ 57.45 and 59.45 for electric and gas utility record retention. Section 57.45 establishes record retention requirements for Electric Distribution Companies (EDCs), while § 59.45 establishes record retention requirements for Natural Gas Distribution Companies (NGDCs). Both of these regulations require public utilities to keep their records in conformity with the most recent publication of “Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities,” which is published by the National Association of Regulatory Utility Commissioners (NARUC). See 52 Pa. Code §§ 57.45 and 59.45. The most recent publication of the NARUC regulations governing record retention was revised in May of 1985.

The Commission has specifically recognized the value of eliminating unnecessary and burdensome reporting requirements whenever possible. At the same time, the Commission has emphasized that the elimination or amendment of existing Commission regulations must not impair the Commission’s ability to meet our statutory responsibility to ensure that all public utilities in the Commonwealth furnish and maintain adequate, efficient, safe, and reasonable service and facilities. See 66 Pa. C.S. § 1501.

In keeping with these dual interests, the Commission directed the formation of a working group to review the Commission’s current record retention regulations for EDCs and NGDCs that included the Law Bureau, the Bureau of Fixed Utility Services and the Bureau of Audits. After completing its review, the working group reported its recommendations to the Commission.

By Order entered March 6, 2003, the Commission adopted the consensus report of the working group dated January 30, 2003 to amend the Commission’s record retention regulations for electric and gas utilities at 52 Pa. Code §§ 57.45 and 59.45.

On April 26, 2003, the Proposed Rulemaking Order of the Commission was published in the *Pennsylvania Bulletin*, 33 Pa.B. 2064. The Commission received comments from four parties: the Energy Association, the Peoples Natural Gas Company d/b/a Dominion Peoples, PPL Electric Utilities Corporation, and the Office of Consumer Advocate. All of these parties endorsed the proposed

amendments to the Commission's record retention regulations for electric and gas utilities at 52 Pa. Code §§ 57.45 and 59.45 and supported adoption of the amended regulations. On December 6, 2003, the amended regulations were published in the *Pennsylvania Bulletin*, 33 Pa.B. 5923.

On September 27, 2004, the Energy Association of Pennsylvania (Energy Association) petitioned the Commission regarding an oversight that occurred resulting in the omission of an item from the list of retention periods at 52 Pa. Code §§ 57.45 and 59.45. The Energy Association indicated that a 20-year retention period for "journal vouchers and journal entries" was previously considered and approved during the working group and was inadvertently omitted from the group's recommendations and as a consequence was omitted from the Final Rulemaking Order.<sup>2</sup>

The Petition of the Energy Association of Pennsylvania for Amendment, Through Final Form Omitted Rulemaking, of Regulations Annexed to Final Rulemaking Order, P-00042129, was served to all parties on the official service list for PUC Docket No. L-00030160: Rulemaking Re: Amendment of 52 Pa. Code § 57.45 (Electric Service: Preservation of Records) and 52 Pa. Code § 59.45 (Gas Service: Preservation of Records) including: Robert Wilson, Bureau of Fixed Utility Services, Pennsylvania Public Utility Commission; Office of Trial Staff, Pennsylvania Public Utility Commission; William R. Lloyd, Jr., Small Business Advocate; Horace P. Payne, Jr., The Peoples Natural Gas Company; Matthew Totino, Law Bureau, Pennsylvania Public Utility Commission; John Crawford, Bureau of Audits, Pennsylvania Public Utility Commission; Tanya J. McCloskey, Senior Assistant Consumer Advocate; and Paul R. Russell, PPL Electric Utilities Corporation. No answers to this Petition have been filed with the Secretary's Bureau.

#### *Discussion*

The working group began by reviewing the provisions listed in NARUC's publication, "Schedule of Records and Period of Retention," and discussed possible changes from there.<sup>3</sup> Items 11(a) and 12(a) in NARUC's publication provide for a 50-year retention period for 11(a) journals, general and subsidiary ledgers and a 50-year retention period for 12(a) journal vouchers and journal entries. The Commission agrees that the provision for a 20-year retention period for "journal vouchers and journal entries" was considered and approved by the working group and inadvertently left out of the recommendations of this group. In the Final Rulemaking Order, the Commission adopted a provision for a 20-year retention period for "journals, general and subsidiary."<sup>4</sup> The Commission recognizes that a 20-year retention period for "journal vouchers and journal entries" would be consistent with this provision. Journal vouchers and journal entries are items contained within journals and should logically have the same retention period as journals. Reducing one of these items to a 20-year retention period and not the other would be inconsistent as the NARUC and Commission retention requirements would be different for substantially similar records. This would cause confusion regarding retention for journals and journal vouchers and entries. Therefore, it does seem apparent that this item was inadvertently omitted from the Final Rulemaking.

Additionally, the Commission believes that the working group discussed a 20-year retention period for "journal vouchers and journal entries" and mistakenly failed to include this item in their recommendations. Discussions with employees involved in this working group and research into the files from that working group supports that such an item amendment was considered and approved by the working group and inadvertently left out of their recommendations.

Amending §§ 57.45 and 59.45 to include a provision for a 20-year retention period for "journal vouchers and journal entries" would correct this oversight. The language listed in Annex A sets forth this correction at 52 Pa. Code §§ 57.45(12)(a) and 59.45(12)(a).

Accordingly, under sections 501 and 1501 of the Public Utility Code, 66 Pa.C.S. §§ 501 and 1501; Chapter 17 of the Public Utility Code, 66 Pa.C.S. § 1701 et seq.; sections 201, 202 and 204 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201, 1202 and 1204) and regulations promulgated there at 1 Pa. Code §§ 7.1, 7.2 and 7.4; section 204(b) of the Commonwealth Attorneys Act (71 P. S. § 732.204(b)); section 5 of the Regulatory Review Act; and section 612 of The Administrative Code of 1929 (71 P. S. § 232), we find that the amendment omitted previously from the Final Rulemaking Order to 52 Pa. Code §§ 57.45 and 59.45 should be approved as set forth in Annex A attached hereto, *Therefore*,

#### *It Is Ordered That:*

1. The Petition of the Energy Association of Pennsylvania for Amendment, Through Final Form Omitted Rulemaking, of Regulations Annexed to Final Rulemaking Order be granted.
2. The amendments to the Commission's regulations in §§ 57.45 and 59.45 are adopted as set forth in Annex A.
3. The Secretary shall submit this order and Annex A for review and approval to IRRC and Legislative Standing Committees in both houses of the General Assembly;
4. The Secretary shall submit this order and Annex A to the Office of Attorney General for review as to form and legality and to the Governor's Budget Office for review of fiscal impact.
5. The Secretary shall certify this order and Annex A, and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.
6. The regulations of the Commission, 52 Pa. Code Chapters 57 and 59, are amended by amending §§ 57.45 and 59.45 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

7. A copy of this order and Annex A shall be served upon the Energy Association of Pennsylvania, all jurisdictional electric and natural gas utilities, the Office of Trial Staff, the Office of Consumer Advocate and the Office of Small Business Advocate.

JAMES J. MCNULTY,  
*Secretary*

*(Editor's Note: For the text of the order, see 35 Pa.B. (March 26, 2005).)*

**Fiscal Note:** 57-277A. No fiscal impact; (8) recommends adoption.

<sup>2</sup> 33 Pa.B. 5923.

<sup>3</sup> "Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities," National Association of Regulatory Utility Commissioners (Revised ed. May 1985).

<sup>4</sup> 52 Pa. Code §§ 57.45(11)(a), 59.45(11)(a).

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 57. ELECTRIC SERVICE

Subchapter D. ACCOUNTS AND RECORDS

§ 57.45. Preservation of records.

Each electric utility shall keep and preserve its records in conformity with the provisions applicable to it in the most recent publication of the National Association of Regulatory Utility Commissioners, entitled "Regulations to Govern the Preservation of Records of Electric Gas and Water Utilities," except as follows when the following retention periods apply:

<i>Item No. and Description</i>	<i>Retention Period</i>
* * * * *	
12. (a) Journal vouchers and journal entries.	20 years

\* \* \* \* \*

CHAPTER 59. GAS SERVICE  
ACCOUNTS AND RECORDS

§ 59.45. Preservation of records.

Each gas utility shall keep and preserve its records in conformity with the provisions applicable to it in the most recent publication of the National Association of Regulatory Utility Commissioners, entitled "Regulations to Govern the Preservation of Records of Electric Gas and Water Utilities," except as follows when the following retention periods apply:

<i>Item No. and Description</i>	<i>Retention Period</i>
* * * * *	
12. (a) Journal vouchers and journal entries.	20 years
* * * * *	

[Pa.B. Doc. No. 05-552. Filed for public inspection March 25, 2005, 9:00 a.m.]