

RULES AND REGULATIONS

Title 4—ADMINISTRATION

DEPARTMENT OF STATE

[4 PA. CODE CH. 191]

Alteration of Local Election Districts

The Department of State (Department) has amended 4 Pa. Code by adding Chapter 191 (relating to alteration of local election districts). The act of November 24, 1999 (P. L. 543 No. 51) (25 P. S. §§ 2745—2750) (act) provides for the manner in which a county board of elections may alter election districts and the manner in which a county board of elections shall report election data.

Notice of proposed rulemaking was published at 38 Pa.B. 4628 (August 23, 2008). Publication was followed by a 30-day public comment period. The Department did not receive any comments from the public. The Department received no comments from the Senate or House Committees as part of their review of proposed rulemaking under the Regulatory Review Act (71 P. S. §§ 745.1—745.12). On October 22, 2008, the Independent Regulatory Review Commission (IRRC), as part of its review of proposed rulemaking under the Regulatory Review Act, offered comments on the proposed rulemaking as described in detail as follows with the Department's response.

Statutory Authority

Section 540 of the act (25 P. S. § 2750) provides that regulations may be promulgated to administer the act.

Purpose

The purpose of the final-form rulemaking is to establish an efficient method for the reporting of alterations to local election districts by the various county boards of elections and to provide for the efficient reporting of election data for the local election districts contained within each county. By requiring the timely reporting of alterations to election districts, the regulations are intended to minimize confusion among voters who are directly affected by an election district alteration.

Explanation of Chapter 191:

Chapter 191: Alteration of local election districts.

The Department has adopted Chapter 191 to set forth four sections which include general provisions regarding: definitions; procedures for implementing alteration of local election districts; procedures for implementing the outcome of alteration of local election districts; and procedures for reporting election districts.

§ 191.1. Definitions.

IRRC commented that the definition of "report" contains the term "report," and "[s]ection 1.7(e) of the *Pennsylvania Code and Bulletin Style Manual (Style Manual)* states that '[t]he term being defined may not be included as part of the definition.'" Therefore, the Department replaced the term "report" with the term "record." The Department also added clarifying language as to what a "report" should consist of, by stating that it is a "record, which includes a map and a verbal description, of the boundaries of each resulting district after an election has been established, abolished, divided, consolidated or

altered . . ." The Department believes that the new language addresses IRRC's concern and gives further clarification for the public.

IRRC also commented that paragraphs (1)—(4) under the definition of "report" contained requirements for the content of the report and that § 1.7(c) of the *Style Manual* "does not permit the inclusion of substantive language in a definition." To address IRRC's concern, the Department moved paragraphs (1)—(3) to § 191.2(c), to clarify what a report should include.

§ 191.2. Procedures for implementing alteration of local election districts.

IRRC commented that subsection (a) required the county board of elections to submit a report to the Bureau of Commissions, Elections and Legislation (Bureau) and that the final-form regulations should clarify if written or electronic, or both, formats, are acceptable to the Bureau. To address IRRC's concern, the Department added the phrase "either electronically or in paper form" to subsection (a) to clarify what format a county board of elections may submit a report to the Bureau.

IRRC also commented that in subsection (b), the phrase ". . . may not be implemented until the *next following* primary or election" is confusing and the Department should remove the word "following." To address IRRC's concern, the Department removed the word "following" from the phrase in subsection (b).

§ 191.3. Procedures for implementing the outcome of alteration of local election districts.

The Department did not receive any comments on this section and did not make any changes. Therefore, the Department adopted this section as proposed.

§ 191.4. Procedures for reporting election results.

The Department did not receive any comments on this section and did not make any changes. Therefore, the Department adopted this section as proposed.

Fiscal Impact

The final-form rulemaking will have a negligible impact upon the Department and the county boards of elections because the rulemaking does not require the implementation of new programs or processes.

Paperwork Requirements

The paperwork requirements will not be substantially altered as a result of the final-form rulemaking.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 2, 2009, the Department submitted a copy of this final-form rulemaking and a copy of a Regulatory Analysis Form to IRRC and to the Chairpersons of the Senate and House State Government Committees (Committees). A copy of this material is available to the public upon request.

In compliance with section 5(c) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of comments received as well as other documents when requested. In preparing the final-form rulemaking, the Department considered all comments from IRRC, the Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on May 6, 2009, the final-form rule-making was deemed approved by the Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on May 7, 2009, and approved the final-form rulemaking.

Contact Person

Additional information may be obtained by contacting Shauna C. Graves, Assistant Counsel, Department of State, 301 North Office Building, Harrisburg, PA 17120-0029 or shgraves@state.pa.us.

Findings

The Department of State finds that:

(1) Public notice of the proposed rulemaking 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 promulgated under those sections in 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) A public comment period was provided as required by law and all comments were considered in drafting this final-form rulemaking.

(3) These amendments to the alteration of local election district regulations are necessary and appropriate for administering and enforcing the authorizing act identified in this preamble.

Order

The Department therefore orders that:

(a) The regulations of the Department, 4 Pa. Code are amended by adding §§ 191.1—191.4 to read as set forth in Annex A.

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

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

(d) The regulations shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

PEDRO A. CORTÉS,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 39 Pa.B. 2650 (May 23, 2009).)

Fiscal Note: Fiscal Note 16-42 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 4. ADMINISTRATION

PART VIII. BUREAU OF COMMISSIONS, ELECTIONS AND LEGISLATION

Subpart F. REDISTRICTING

CHAPTER 191. ALTERATION OF LOCAL ELECTION DISTRICTS

| | |
|--------|--|
| Sec. | |
| 191.1. | Definitions. |
| 191.2. | Procedures for implementing alteration of local election districts. |
| 191.3. | Procedures for implementing the outcome of alteration of local election districts. |
| 191.4. | Procedures for reporting election results. |

§ 191.1. Definitions.

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

Boundaries—The physical requirements for the resulting election district boundaries as set forth in the Pennsylvania Election Code (25 P. S. §§ 2601—3554). The requirements relating to congressional and legislative districts are set forth in section 506 of the Pennsylvania Election Code (25 P. S. § 2706).

Bureau—The Bureau of Commissions, Elections and Legislation.

Report—A record, which includes a map and a verbal description, of the boundaries of each resulting district after an election district has been established, abolished, divided, consolidated or altered, which shall be filed by a county board of elections with the Bureau under the Pennsylvania Election Code relating to alterations of election districts after the period of restriction.

(b) The definitions in sections 102 and 535 of the Pennsylvania Election Code (25 P. S. §§ 2602 and 2745), are incorporated by reference.

§ 191.2. Procedures for implementing alteration of local election districts.

(a) Within 30 days of an alteration, the county board of elections shall submit a report, as defined in § 191.1(a) (relating to definitions), to the Bureau either electronically or in paper form.

(b) The report shall be submitted to the Bureau at least 45 days prior to a primary or an election. If the county board of elections does not submit the report at least 45 days prior to the primary or election, the election district alteration may not be implemented until the next primary or election.

(c) The report must include the following:

(1) Maps of:

- (i) The resulting districts.
- (ii) The previous districts.

(2) Verbal description of:

- (i) The resulting districts.
- (ii) The previous districts.

(3) A signed court order approving the resulting districts.

(4) A description of the reasons for the alteration, including precinct splits, mergers, renaming of districts or boundary changes.

§ 191.3. Procedures for implementing the outcome of alteration of local election districts.

(a) The county board of elections or voter registration commission shall enter the outcome of the alteration in the Statewide Uniform Registry of Electors (SURE), only after it has completed all of the procedures outlined in § 191.2 (relating to procedures for implementing alteration of local election districts).

(b) If a county alters the election district of an elector, the county board of elections shall send that elector a new voter identification card, as provided in 25 Pa.C.S. § 1328(c)(2) (relating to approval of registration applications).

§ 191.4. Procedures for reporting election results.

The county board of elections shall report election results for each election district within the county either

electronically in the format prescribed by the Secretary of the Commonwealth or on the paper form provided by the Secretary of the Commonwealth.

[Pa.B. Doc. No. 09-1058. Filed for public inspection June 12, 2009, 9:00 a.m.]

Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 93]

Corrective Amendment to 25 Pa. Code § 93.9z

The Department of Environmental Protection (Department) has discovered a discrepancy between the agency text of 25 Pa. Code § 93.9z (relating to Drainage List Z) as deposited with the Legislative Reference Bureau and published at 30 Pa.B. 6059, 6106 (November 18, 2000) and the official text published in the *Pennsylvania Code Reporter* (Master Transmittal Sheet No. 315, February 2001), and as currently appearing in the *Pennsylvania Code*. The amendments made by the Department at 30 Pa.B. 6059, 6106 were codified incorrectly.

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 § 93.9z. The corrective amendment to 25 Pa. Code § 93.9z is effective as of February 3, 2001, the date the defective official text was announced in the *Pennsylvania Bulletin*.

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

JOHN HANGER,
Chairperson

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

GENERAL PROVISIONS

§ 93.9z. Drainage List Z.

Potomac River Basin in Pennsylvania

Potomac River

| <i>Stream</i> | <i>Zone</i> | <i>County</i> | <i>Water Uses Protected</i> | <i>Exceptions To Specific Criteria</i> |
|---|---|---------------|-----------------------------|--|
| | | * * * * * | | |
| 3—Toms Run | Basin (all sections in PA) | Franklin | WWF, MF | None |
| 2—Antietam Creek | | | | |
| 3—East Branch Antietam Creek | Basin, Source to Vineyard Run | Franklin | HQ-CWF, MF | None |
| 4—Vineyard Run | Basin | Franklin | HQ-CWF, MF | None |
| 3—East Branch Antietam Creek | Main Stem, Vineyard Run to Confluence with West Branch | Franklin | CWF, MF | None |
| 4—Unnamed tributaries to East Branch Antietam Creek | Basins (all sections in PA) Vineyard Run to Confluence with West Branch | Franklin | CWF, MF | None |
| 4—Deer Lick Run | Basin | Franklin | CWF, MF | None |
| 4—Biesecker Run | Basin | Franklin | CWF, MF | None |
| 4—Red Run | Main Stem | Franklin | CWF, MF | None |
| 5—Unnamed tributaries to Red Run | Basins (all sections in PA) | Franklin | CWF, MF | None |
| 5—Devils Run | Basin | Franklin | CWF, MF | None |
| 5—Mackey Run | Basin | Franklin | CWF, MF | None |
| 5—Falls Creek | Basin (all sections in PA) | Franklin | WWF, MF | None |
| 3—West Branch Antietam Creek | Basin, Source to SR 997 Bridge | Franklin | HQ-CWF, MF | None |
| 3—West Branch Antietam Creek | Basin, SR 997 Bridge to Confluence with East Branch | Franklin | CWF, MF | None |
| 2—Antietam Creek | Basin, Confluence of East and West Branches to PA-MD State Border | Franklin | WWF, MF | None |

| <i>Stream</i> | <i>Zone</i> | <i>County</i> | <i>Water Uses Protected</i> | <i>Exceptions To Specific Criteria</i> |
|---|--|---------------|-----------------------------|--|
| 2—Antietam Creek (MD) | | | | |
| 3—Unnamed tributaries to Antietam Creek | Basins (all sections in PA), PA-MD State Border to Mouth | Franklin | WWF, MF | None |
| 3—Marsh Run | Basin (all sections in PA) | Franklin | WWF, MF | None |
| 3—Marsh Creek | Basin, Source to Willoughby Run | Adams | CWF, MF | None |
| 4—Willoughby Run | Basin | Adams | WWF, MF | None |
| 3—Marsh Creek | Basin, Willoughby Run to PA-MD State Border | Adams | CWF, MF | None |
| 3—Marsh Creek (MD) | | | | |
| 4—Unnamed tributaries to Marsh Creek | Basins (all sections in PA) PA-MD State Border to Mouth | Adams | CWF, MF | None |
| 3—Rock Creek | Basin (all sections in PA) | Adams | WWF, MF | None |
| 3—Alloway Creek | Basin (all sections in PA) | Adams | WWF, MF | None |
| 3—Cattail Branch | Basin (all sections in PA) | Adams | WWF, MF | None |
| 3—Piney Creek | Basin (all sections in PA) | Adams | WWF, MF | None |
| 3—Toms Creek | Basin, Source to LR 01053 (SR 3021) Bridge | Adams | HQ-CWF, MF | None |
| 3—Toms Creek | Main Stem, LR 01053 to PA-MD State Border | Adams | CWF, MF | None |
| 4—Unnamed tributaries to Toms Creek | Basins, LR 01053 Bridge to PA-MD State Border | Adams | CWF, MF | None |
| 4—Miney Branch | Basin | Adams | CWF, MF | None |
| 4—Friends Creek | Basin (all sections in PA) | Adams | CWF, MF | None |
| 3—Toms Creek (MD) | | | | |
| 4—Unnamed tributaries to Toms Creek | Basins (all sections in PA), PA-MD State Border to Mouth | Adams | CWF, MF | None |
| 4—Flat Run | Basin (all sections in PA) | Adams | WWF, MF | None |
| 4—Middle Creek | Basin, Source to PA 116 Bridge (near Fairfield) | Adams | HQ-CWF, MF | None |
| 4—Middle Creek | Basin, PA 116 Bridge to PA-MD State Border | Adams | CWF, MF | None |
| 4—Middle Creek (MD) | | | | |
| 5—Unnamed tributaries to Middle Creek | Basins, (all sections in PA) PA-MD State Border to Mouth | Adams | CWF, MF | None |

[Pa.B. Doc. No. 09-1059. Filed for public inspection June 12, 2009, 9:00 a.m.]