

# PENNSYLVANIA BULLETIN

Volume 48

Number 18

Saturday, May 5, 2018 • Harrisburg, PA

Pages 2571—2744

## Agencies in this issue

The Governor

The Courts

Delaware River Basin Commission

Department of Agriculture

Department of Banking and Securities

Department of Environmental Protection

Department of Human Services

Fish and Boat Commission

Health Care Cost Containment Council

Independent Regulatory Review Commission

Insurance Department

Joint Committee on Documents

Milk Marketing Board

Pennsylvania Gaming Control Board

Pennsylvania Public Utility Commission

State Board of Medicine

State Board of Nursing

State Board of Occupational Therapy Education  
and Licensure

Susquehanna River Basin Commission

**Detailed list of contents appears inside.**



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

**No. 522, May 2018**

CUT ON DOTTED LINES AND ENCLOSE IN AN ENVELOPE

**CHANGE NOTICE/NEW SUBSCRIPTION**

If information on mailing label is incorrect, please email changes to [info@pbulletin.com](mailto:info@pbulletin.com) or mail to:

**FRY COMMUNICATIONS, INC.**  
Attn: *Pennsylvania Bulletin*  
800 W. Church Rd.  
Mechanicsburg, PA 17055-3198

CUSTOMER NUMBER (6 digit number above name on mailing label)

NAME OF INDIVIDUAL

OFFICE NAME—TITLE

ADDRESS (Number and Street)

(City) (State) (Zip Code)

TYPE OR PRINT LEGIBLY

**PENNSYLVANIA**



**BULLETIN**

(ISSN 0162-2137)

The *Pennsylvania Bulletin* is published weekly by Fry Communications, Inc. for the Commonwealth of Pennsylvania, Legislative Reference Bureau, 641 Main Capitol Building, Harrisburg, Pennsylvania 17120, under the policy supervision and direction of the Joint Committee on Documents under 4 Pa.C.S. Part II (relating to publication and effectiveness of Commonwealth documents). The subscription rate is \$87.00 per year, postpaid to points in the United States. Individual copies are \$2.50. Checks for subscriptions and individual copies should be made payable to "*Fry Communications, Inc.*" Periodicals postage paid at Harrisburg, Pennsylvania.

Postmaster send address changes to:

FRY COMMUNICATIONS, Inc.  
Attn: *Pennsylvania Bulletin*  
800 West Church Road  
Mechanicsburg, Pennsylvania 17055-3198  
(717) 766-0211 ext. 2340  
(800) 334-1429 ext. 2340 (toll free, out-of-State)  
(800) 524-3232 ext. 2340 (toll free, in State)

Orders for subscriptions and other circulation matters should be sent to:

Fry Communications, Inc.  
Attn: *Pennsylvania Bulletin*  
800 West Church Road  
Mechanicsburg, Pennsylvania 17055-3198

Copyright © 2018 Commonwealth of Pennsylvania

Editorial preparation, composition, printing and distribution of the *Pennsylvania Bulletin* is effected on behalf of the Commonwealth of Pennsylvania by FRY COMMUNICATIONS, Inc., 800 West Church Road, Mechanicsburg, Pennsylvania 17055-3198.

# CONTENTS

## THE GOVERNOR

### GOVERNOR'S OFFICE

#### Proclamations

Proclamation; Senate Bill No. 936, Printer's No. 1281 ..... 2580

#### Vetoes

Notice of Veto; Senate Bill No. 936, Printer's No. 1281 ..... 2580

## THE COURTS

### DISCIPLINARY BOARD OF THE SUPREME COURT

Collection fee and late payment penalty; 2018-2019 registration year ..... 2621  
 Notice of administrative suspension ..... 2621

### JUDICIAL SYSTEM GENERAL PROVISIONS

Amendment of Rules 1.1 and 1.6 of the Pennsylvania Rules of Professional Conduct; No. 157 disciplinary rules doc. .... 2582  
 Electronic case record public access policy of the Unified Judicial System of Pennsylvania ..... 2582  
 Order amending public access policy of the Unified Judicial System of Pennsylvania: case records of the appellate and trial courts; No. 496 judicial administration doc. .... 2602

### JUVENILE RULES

Order amending Rule 409 of the Rules of Juvenile Court Procedure; No. 763 Supreme Court rules doc. .... 2615  
 Order amending Rule 1140 of the Rules of Juvenile Court Procedure; No. 764 Supreme Court rules doc. .... 2615

### LOCAL COURT RULES

#### Butler County

Clerk of courts' schedule of fees and costs; misc.; administrative doc. No. 1-2018 ..... 2619

#### Schuylkill County

Local rule of criminal procedure No. 106, continuances; AD 31-18 ..... 2620

### MINOR COURT CIVIL RULES

Order amending Rule 314 of the Rules of Civil Procedure before Magisterial District Judges; No. 420 magisterial rules doc. .... 2617

## EXECUTIVE AND INDEPENDENT AGENCIES

### DELAWARE RIVER BASIN COMMISSION

#### Notices

Public hearing and business meeting ..... 2658

### DEPARTMENT OF AGRICULTURE

#### Rules and Regulations

Commercial kennel canine health regulations ..... 2623

### DEPARTMENT OF BANKING AND SECURITIES

#### Notices

Actions on applications ..... 2661

### DEPARTMENT OF ENVIRONMENTAL PROTECTION

#### Notices

Applications, actions and special notices ..... 2662  
 Proposed Annual Monitoring Network Plan for Allegheny County ..... 2722  
 Proposed Annual Monitoring Network Plan for Philadelphia ..... 2722

### DEPARTMENT OF HUMAN SERVICES

#### Notices

Additional class of disproportionate share payments ..... 2723  
 Additional class of disproportionate share payments for burn centers ..... 2723  
 Disproportionate share hospital payments for obstetrical and neonatal services ..... 2724  
 Payment for nursing facility services provided by nonpublic nursing facilities located in a county of the eighth class; nonpublic nursing facility supplementation payment for fiscal year 2017-2018 ..... 2724

### FISH AND BOAT COMMISSION

#### Proposed Rulemaking

Boating; capacity plates; special regulations counties ..... 2654  
 Commission property ..... 2655

#### Notices

Classification of wild trout streams; proposed additions and revisions; July 2018 ..... 2725  
 Proposed changes to list of Class A wild trout waters; July 2018 ..... 2729

### HEALTH CARE COST CONTAINMENT COUNCIL

#### Notices

Meeting scheduled ..... 2731

### INDEPENDENT REGULATORY REVIEW COMMISSION

#### Notices

Action taken by the Commission ..... 2731  
 Notice of comments issued ..... 2732

### INSURANCE DEPARTMENT

#### Notices

Review procedure hearings; cancellation or refusal of insurance ..... 2736

### JOINT COMMITTEE ON DOCUMENTS

#### Notices

Department of Transportation publication 282—review of classification of section 2.2; extension of time ..... 2737

---

Available Online at <http://www.pabulletin.com>

---

**MILK MARKETING BOARD**

**Notices**

Dairy market issues; public hearing. . . . . 2737

**PENNSYLVANIA GAMING CONTROL BOARD**

**Rules and Regulations**

Interactive gaming qualified gaming entities; accounting and internal controls; player accounts; compulsive and problem gambling requirements; self-excluded persons; commencement of operations; temporary regulations. . . . . 2631

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Notices**

Electric generation supplier license cancellations of companies with an expired financial security or insufficient financial security amount . . . . . 2737  
 Service of notice of motor carrier applications. . . . . 2738  
 Service of notice of motor carrier formal complaints. 2739  
 Wastewater service . . . . . 2741  
 Water service. . . . . 2741

**STATE BOARD OF MEDICINE**

**Notices**

Bureau of Professional and Occupational Affairs v. Joseph Paul Cotropia, MD; doc. No. 2255-49-15 . . . . . 2741

**STATE BOARD OF NURSING**

**Notices**

Bureau of Professional and Occupational Affairs v. Ramie Beth Kantner, LPN; file No. 14-51-06151; doc. No. 1184-51-15 . . . . . 2741  
 Bureau of Professional and Occupational Affairs v. Adebayo Omotayd Onigbinde, RN; file No. 18-51-03155; doc. No. 0729-51-18 . . . . . 2742  
 Bureau of Professional and Occupational Affairs v. Brooke Lynn Rosenthal, LPN; file No. 17-51-00242; doc. No. 1965-51-17 . . . . . 2742  
 Bureau of Professional and Occupational Affairs v. Shane Sackett, LPN; file No. 15-51-14364; doc. No. 1491-51-2017 . . . . . 2742  
 Bureau of Professional and Occupational Affairs v. Mary Jane Steiner, LPN; file No. 14-51-11307; doc. No. 2292-51-2015 . . . . . 2742

**STATE BOARD OF OCCUPATIONAL THERAPY EDUCATION AND LICENSURE**

**Rules and Regulations**

General revisions . . . . . 2624

**SUSQUEHANNA RIVER BASIN COMMISSION**

**Notices**

Projects approved for consumptive uses of water . . . 2743  
 Projects approved for minor modifications . . . . . 2743  
 Projects rescinded for consumptive uses of water. . . 2744

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

## *Pennsylvania Bulletin*

The *Pennsylvania Bulletin* is the official gazette of the Commonwealth of Pennsylvania. It is published weekly. A cumulative subject matter index is published quarterly.

The *Pennsylvania Bulletin* serves several purposes. It is the temporary supplement to the *Pennsylvania Code*, which is the official codification of agency rules and regulations, Statewide court rules, and other statutorily authorized documents. Changes in the codified text, whether by adoption, amendment, rescission, repeal or emergency action, must be published in the *Pennsylvania Bulletin*.

The following documents are published in the *Pennsylvania Bulletin*: Governor's Executive Orders; 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 rescind regulations must first publish in the *Pennsylvania Bulletin* a Proposed Rulemaking. There are limited instances when the agency may omit the proposal step; it still must publish the adopted version.

The 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. A Final Rulemaking must be published in the *Pennsylvania Bulletin* before the changes can take effect. If the agency wishes to adopt changes to the 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, Statewide court rules and other statutorily authorized documents. The *Pennsylvania Bulletin* is the temporary supplement to the *Pennsylvania Code*, printing changes when they are adopted. 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.

### **How to Find Rules and Regulations**

Search for your area of interest in the *Pennsylvania Code*. The *Pennsylvania Code* is available at [www.pacode.com](http://www.pacode.com).

Source Notes give the history of regulations. 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/cfdocs/legis/CH/Public/pcde\\_index.cfm](http://www.legis.state.pa.us/cfdocs/legis/CH/Public/pcde_index.cfm).

A quarterly List of *Pennsylvania Code* Sections Affected 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](http://www.pabulletin.com).

**Subscription Information: (717) 766-0211**  
**General Information and Finding Aids: (717) 783-1530**

### Printing Format

#### *Rules, Regulations and Statements of Policy in Titles 1—107 of the Pennsylvania Code*

Text proposed to be added is printed in **underscored bold face**. Text proposed to be deleted is enclosed in brackets [ ] and printed in **bold face**.

Proposed new chapters and sections are printed in regular type to enhance readability. Final rulemakings and statements of policy are printed in regular type.

Ellipses, a series of five asterisks, indicate text that is not amended.

In Proposed Rulemakings and proposed Statements of Policy, existing text corresponds to the official codified text in the *Pennsylvania Code*.

#### *Court Rules in Titles 201—246 of the Pennsylvania Code*

Added text in proposed and adopted court rules is printed in **underscored bold face**. Deleted text in proposed and adopted court rules is enclosed in brackets [ ] and printed in **bold face**.

Proposed new chapters and rules are printed in regular type to enhance readability.

Ellipses, a series of five asterisks, indicate text that is not amended.

### Fiscal Notes

Section 612 of The Administrative Code of 1929 (71 P. S. § 232) requires the Governor's Budget Office to prepare a fiscal note for regulatory actions and administrative procedures of the administrative departments, boards, commissions and authorities receiving money from the State Treasury. The fiscal note states whether the action or procedure causes a loss of revenue or an increase in the cost of programs for the Commonwealth or its political subdivisions. The fiscal note is required to be published in the *Pennsylvania Bulletin* at the same time as the change is advertised.

A fiscal note provides 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 5 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 5 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; and (8) recommendation, if any, of the Secretary of the Budget and the reasons therefor.

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, 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 item (8) the recommendation, if any, made by the Secretary of the Budget is published with the fiscal note. "No fiscal impact" means no additional cost or revenue loss to the Commonwealth or its local political subdivision is intended. See 4 Pa. Code Chapter 7, Subchapter R (relating to fiscal notes).

### Reproduction, Dissemination or Publication of Information

Third parties may not take information from the *Pennsylvania Code* and *Pennsylvania Bulletin* and reproduce, disseminate or publish information except as provided by 1 Pa. Code § 3.44:

#### § 3.44. General permission to reproduce content of *Code* and *Bulletin*.

Information published under this part, which information includes, but is not limited to, cross references, tables of cases, notes of decisions, tables of contents, indexes, source notes, authority notes, numerical lists and codification guides, other than the actual text of rules or regulations may be reproduced only with the written consent of the [Legislative Reference] Bureau. The information which appears on the same leaf with the text of a rule or regulation, however, may be incidentally reproduced in connection with the reproduction of the rule or regulation, if the reproduction is for the private use of a subscriber and not for resale. There are no other restrictions on the reproduction of information published under this part, and the Commonwealth hereby consents to a reproduction.

# 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 2018.

## 1 Pa. Code (General Provisions)

### Adopted Rules

301	2126
303	2126
305	2126
307	2126
309	2126
311	2126
311a	2126
315	2126

## 4 Pa. Code (Administration)

### Adopted Rules

1	210, 1087, 1089
6	212, 214
7a	217
62	1498
64	1499
67	1500
69	1501

### Statements of Policy

9	37, 299, 522, 1423, 1710, 2138, 2388
501	879

## 7 Pa. Code (Agriculture)

### Adopted Rules

28a	2623
149	1416

## 10 Pa. Code (Banking and Securities)

### Adopted Rules

1	389
59	2493
102	389
202	389
203	389
204	389
205	389
206	389
207	389
208	389
209	389
210	389
211	389
301	389
302	389
303	389
304	389
305	389
401	389
404	389
501	389
504	389
513	389
601	389
602	389
603	389
604	389
605	389
606	389
609	389
610	389
701	389

901	389
1001	389

## 17 Pa. Code (Conservation and Natural Resources)

### Proposed Rules

53	515
----	-----

## 25 Pa. Code (Environmental Protection)

### Adopted Rules

93	866
109	2509
121	1932
126	1932
208	251
250	1503
801	1939

### Proposed Rules

77	733
245	1101, 1421
901	255
902	255
903	255

## 28 Pa. Code (Health and Safety)

### Adopted Rules

1210	1508
------	------

## 31 Pa. Code (Insurance)

### Proposed Rules

89	517
----	-----

## 37 Pa. Code (Law)

### Proposed Rules

33	297
301	267, 742
311	267, 742

### Statements of Policy

471	608
-----	-----

## 49 Pa. Code (Professional and Vocational Standards)

### Adopted Rules

42	2136, 2624
----	------------

### Proposed Rules

5	1177
33	1179
47	872

## 52 Pa. Code (Public Utilities)

### Proposed Rules

54	1696
----	------

### Statements of Policy

41	882
----	-----

## 58 Pa. Code (Recreation)

### Adopted Rules

51	1672
57	1672
65	1676
71	1672
75	1672
79	1672

93	1672
135	1677
147	1677, 1680
801	21
802	21
803	21
804	2631
805	1513
806	1513
807	1513
808	1513
809	2544
810	2550
811	2631
812	2631
813	2550
814	2631
815	2631
817	2550
818	2631
1001	29
1101	1524, 1681
1102	1524, 1681
1103	1524, 1681
1104	1524, 1681
1105	1524, 1681
1106	1524, 1681
1107	1524, 1681
1108	1524, 1681
1109	1524, 1681
1110	1524, 1681
1111	1524, 1681
1112	1524, 1681
1113	1524, 1681
1114	1524, 1681
1115	1524, 1681
1116	1524, 1681
1117	1524, 1681
1118	1524, 1681
1119	1524, 1681
1120	1524, 1681
1201	2559
1202	2559
1203	2559
1204	2559
1205	2559
1206	2559
1208	2559
1209	2559
<b>Proposed Rules</b>	
53	2655
99a	2654
111	2654
135	1688
139	1689
141	1682, 1683, 1685, 1686
147	1685, 1695
<b>61 Pa. Code (Revenue)</b>	
<b>Adopted Rules</b>	
876	1829
<b>67 Pa. Code (Transportation)</b>	
<b>Proposed Rules</b>	
441	1563
<b>104 Pa. Code (Senate of Pennsylvania)</b>	
<b>Statements of Policy</b>	
7	1833

<b>201 Pa. Code (Rules of Judicial Administration)</b>	
<b>Adopted Rules</b>	
7	595
<b>204 Pa. Code (Judicial System General Provisions)</b>	
<b>Adopted Rules</b>	
29	222
81	2582
89	727
91	727
213	2113, 2582, 2602
221	1092
303	716
<b>Proposed Rules</b>	
83	1270
305	2367
<b>210 Pa. Code (Appellate Procedure)</b>	
<b>Adopted Rules</b>	
1	461
5	461
7	461
9	461
11	461
13	461
15	461
17	461
19	461
21	461
25	461
27	461
<b>231 Pa. Code (Rules of Civil Procedure)</b>	
<b>Adopted Rules</b>	
200	224, 475
1000	475
1900	477
1910	477, 1093
1915	477, 1095
1920	477
1930	477
1940	1095
1950	477
2020	475
Part II	483
<b>Proposed Rules</b>	
1915	1813
1920	1814
Part II	486, 728, 1271
<b>234 Pa. Code (Rules of Criminal Procedure)</b>	
<b>Adopted Rules</b>	
1	487, 490, 856
4	224
5	487, 729, 856
<b>Proposed Rules</b>	
4	496, 1930
5	507
<b>237 Pa. Code (Juvenile Rules)</b>	
<b>Adopted Rules</b>	
4	2615
11	2615
<b>Proposed Rules</b>	
11	1098



**246 Pa. Code (Minor Court Civil Rules)**

**Adopted Rules**

200 ..... 511  
300 ..... 2617

**249 Pa. Code (Philadelphia Rules)**

Unclassified ..... 10, 227, 731, 732, 1825, 2125

**255 Pa. Code (Local Court Rules)**

Unclassified ..... 10, 227, 236, 249, 513, 596, 598, 863,  
975, 976, 1497, 1827, 2383, 2385, 2619, 2620

# THE GOVERNOR

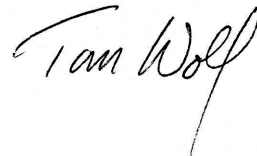
## GOVERNOR'S OFFICE

### Proclamation; Senate Bill No. 936, Printer's No. 1281

I, Tom Wolf, Governor of the Commonwealth of Pennsylvania, have caused this Proclamation to issue and, in compliance with the provisions of Section 15 of Article IV of the Constitution of Pennsylvania, do hereby give notice that I have filed in the Office of the Secretary of the Commonwealth, with my objections thereto, the following bill passed by both houses of the General Assembly at the Regular Session of 2017.

Senate Bill No. 936, Printer's No. 1281, entitled "An act defining the liability of an employer to pay damages for injuries received by an employe in the course of employment; establishing an elective schedule of compensation; providing procedure for the determination of liability and compensation thereunder; and prescribing penalties. . ."

*Given* under my hand and the Great Seal of the Commonwealth, at the City of Harrisburg, this twenty-seventh day of April, in the year of our Lord two thousand and eighteen, and of the Commonwealth the two hundred and forty-second.



Governor

Attest:  
ROBERT TORRES,

*Acting Secretary of the Commonwealth*

[Pa.B. Doc. No. 18-671. Filed for public inspection May 4, 2018, 9:00 a.m.]

## GOVERNOR'S OFFICE

### Notice of Veto; Senate Bill No. 936, Printer's No. 1281

April 27, 2018

To the Honorable Senate of the  
Commonwealth of Pennsylvania:

Pursuant to Article IV, Section 15 of the Pennsylvania Constitution, I am returning herewith, without my approval, Senate Bill 936, Printer's Number 1281.

This legislation proposes a fundamental change to the way medical treatment is administered under the Workers' Compensation system. The Workers' Compensation system is unique in that it affords health care coverage and coordinates income replacement protection for workers who encounter serious injury, disability, or illness on the job. The Workers' Compensation system is inherently narrower in scope than general health insurance programs that focus more on long-term health outcomes and disease management in larger, more diverse groups of people. The formulary proposed in this bill runs counter to the compact we have made with injured workers and does so to save money for insurers and businesses.

The implementation of a drug formulary as prescribed by this legislation will not improve overall health outcomes for Pennsylvania's injured workers and will not stem the tide of the opioid crisis that is ravaging every area of

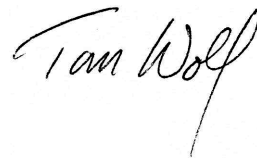
our society. Many opioid medications are among the least costly prescription medications available on the market. Since the bill's drug formulary is designed to steer physicians toward prescribing less costly drugs, it will not likely accomplish the often-stated objective of the bill's promoters—curbing opioid over-prescription.

Since taking office, a top priority of my administration has been to combat the heroin and opioid epidemic. I am proud of the work that I've done together with the General Assembly to address this crisis. However, this approach does not further that goal in a responsible or targeted way.

My administration has outlined a number of executive and legislative actions that can be taken immediately to address the rising misuse and overprescribing of opioids in the health care system, including Workers' Compensation. Rather than rationing health care for millions of workers who could be injured on the job, we can curb abuse while still prioritizing the individual needs of injured workers and preserve the ability of doctors to make treatment decisions about their patients based on their best clinical judgment.

For the reasons set forth above, I must withhold my signature from Senate Bill 936, Printer's Number 1281.

Sincerely,

A handwritten signature in black ink that reads "Tom Wolf". The signature is written in a cursive, flowing style.

*Governor*

[Pa.B. Doc. No. 18-672. Filed for public inspection May 4, 2018, 9:00 a.m.]

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART V. PROFESSIONAL ETHICS AND CONDUCT [ 204 PA. CODE CH. 81 ]

#### Amendment of Rules 1.1 and 1.6 of the Pennsylvania Rules of Professional Conduct; No. 157 Disciplinary Rules Doc.

##### Order

*Per Curiam*

And Now, this 23rd day of April, 2018, upon the recommendation of the Disciplinary Board of the Supreme Court of Pennsylvania; the proposal having been published for public comment in the *Pennsylvania Bulletin*, 47 Pa.B. 5926 (September 23, 2017):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 1.1 and 1.6 of the Pennsylvania Rules of Professional Conduct are amended as set forth in Annex A.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective July 1, 2018.

##### Annex A

### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

#### PART V. PROFESSIONAL ETHICS AND CONDUCT

##### Subpart A. PROFESSIONAL RESPONSIBILITY

#### CHAPTER 81. RULES OF PROFESSIONAL CONDUCT

##### Subchapter A. RULES OF PROFESSIONAL CONDUCT

#### § 81.4. Rules of Professional Conduct.

The following are the Rules of Professional Conduct:

##### CLIENT-LAWYER RELATIONSHIP

#### Rule 1.1. Competence.

\* \* \* \* \*

##### Comment:

\* \* \* \* \*

#### Maintaining Competence

(8) To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject. **To provide competent representation, a lawyer should be familiar with policies of the courts in which the lawyer practices, which include the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania.**

#### Rule 1.6. Confidentiality of Information.

\* \* \* \* \*

##### Comment:

\* \* \* \* \*

#### Acting Competently to Preserve Confidentiality

(25) Pursuant to paragraph (d), a lawyer should act in accordance with court policies governing disclosure of sensitive or confidential information, including the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania. Paragraph (d) requires a lawyer to act competently to safeguard information relating to the representation of a client against unauthorized access by third parties and against inadvertent or unauthorized disclosure by the lawyer or other persons who are participating in the representation of the client or who are subject to the lawyer's supervision. See Rules 1.1, 5.1 and 5.3. The unauthorized access to, or the inadvertent or unauthorized disclosure of, information relating to the representation of a client does not constitute a violation of paragraph (d) if the lawyer has made reasonable efforts to prevent the access or disclosure. Factors to be considered in determining the reasonableness of the lawyer's efforts include, but are not limited to, the sensitivity of the information, the likelihood of disclosure if additional safeguards are not employed, the cost of employing additional safeguards, the difficulty of implementing the safeguards, and the extent to which the safeguards adversely affect the lawyer's ability to represent clients (e.g., by making a device or important piece of software excessively difficult to use). A client may require the lawyer to implement special security measures not required by this Rule or may give informed consent to forgo security measures that would otherwise be required by this Rule. Whether a lawyer may be required to take additional steps to safeguard a client's information in order to comply with other law, such as state and federal laws that govern data privacy or that impose notification requirements upon the loss of, or unauthorized access to, electronic information, is beyond the scope of these Rules. For a lawyer's duties when sharing information with nonlawyers outside the lawyer's own firm, see Rule 5.3, Comments (3)-(4).

\* \* \* \* \*

[Pa.B. Doc. No. 18-673. Filed for public inspection May 4, 2018, 9:00 a.m.]

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

#### [ 204 PA. CODE CH. 213 ]

#### Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania

In accordance with the Judicial Code, 42 Pa.C.S. § 4301(b), the following amendment to the Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania has been approved by the Supreme Court. The amendment shall be effective immediately in the interest of justice. The changes to the policy are shown in bold and underline; deletions are shown in bold and brackets.

The entire policy, including this amendment and other related information, can be found on the Unified Judicial System's public records webpage located at <http://www.pacourts.us>.

Filed in the Administrative Office of Pennsylvania Courts on April 19, 2018.

THOMAS B. DARR,  
*Court Administrator of Pennsylvania*

### Annex A

## TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

### PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

#### CHAPTER 213. COURT RECORDS POLICIES

#### Subchapter C. ELECTRONIC CASE RECORD PUBLIC ACCESS POLICY OF THE UNIFIED JUDICIAL SYSTEM OF PENNSYLVANIA

#### § 213.73. Electronic Case Record Information Excluded from Public Access.

The following information in an electronic case record is not accessible by the public:

\* \* \* \* \*

(12) information to which access is otherwise restricted by federal law, state law, or state court rule; **[ and ]**

(13) information presenting a risk to personal security, personal privacy, or the fair, impartial and orderly administration of justice, as determined by the Court Administrator of Pennsylvania with the approval of the Chief Justice **[ . ]**; **and**

**(14) information regarding arrest warrants and supporting affidavits until execution.**

### EXPLANATORY REPORT

#### Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania

##### Introduction

With the statewide implementation of the Common Pleas Criminal Court Case Management System (CPCMS) in process, the Administrative Office of the Pennsylvania Courts (AOPC) faced the complicated task of developing a uniform public access policy to criminal case records for Pennsylvania's Unified Judicial System (UJS). Public access to case records is a subject well known to the AOPC. Specifically, the AOPC has been providing information to the public from the judiciary's Magisterial District Judge Automated System (MDJS) pursuant to a public access policy covering MDJS records since 1994.<sup>1</sup> For over a decade now, the AOPC has endeavored to provide accurate and timely MDJS information to requestors without fail.

Like many other state court systems as well as the federal courts, Pennsylvania is confronted with the complex issues associated with public access to case records. Should information found in court files be completely open to public inspection? Or do privacy and/or personal security concerns dictate that some of this information be protected from public view? How is the balance struck between the benefits associated with publicly accessible court data and the threat of harm to privacy and personal security? Should paper case records and electronic case records be treated identically for public access purposes?

<sup>1</sup> The *Public Access Policy of the Unified Judicial System of Pennsylvania: District Justice Records* was originally adopted in 1994, but was later revised in 1997.

Does aggregation of data present any special concerns or issues? The above mentioned issues are a mere sampling of the many serious, and often competing, factors that were weighed in the development of this policy.

Through an ad hoc committee ("Committee") appointed by the Court Administrator of Pennsylvania, the AOPC crafted a public access policy covering case records. A summary of the administrative, legal, and public policy considerations that guided the design of the policy provisions follows herewith.

#### *Administrative Scope of the Public Access Policy Governing Case Records*

First and foremost, the Committee was charged with determining the scope of this public access policy. After extensive discussions, the Committee reached agreement that at present the public access policy should cover electronic case records as defined in the policy.<sup>2</sup>

Concerning paper case record information, the Committee first noted that if this policy was applicable to all paper case records then each document that is contained in the court's paper file would have to be carefully scrutinized and possibly redacted pursuant to the policy provisions before it could be released to the public. Depending on individual court resources, such a policy may cause delays in fulfilling public access requests to case records, result in the inadvertent release of non-public information, or impede the business of a filing office or court responsible for the task of review and redaction.<sup>3</sup>

The Committee is hopeful, however, that the information contained in paper case records concerning a single case will continue to enjoy an acceptable level of protection provided by "practical obscurity," a concept that the U.S. Supreme Court spoke of in *United States Department of Justice v. Reporters Committee for Freedom of the Press*.<sup>4</sup> This notion of practical obscurity centers on the effort required to peruse the paper case file for detailed information at the courthouse in person, as opposed to obtaining it instantaneously by a click of the computer mouse.

At the heart of this issue is the question of whether access to paper records and electronic records should be the same. The Committee researched how other state court systems are addressing this issue. It appears that two distinct schools of thought have emerged. One school (represented by the New York<sup>5</sup> and Vermont<sup>6</sup> court systems) believes records should be treated the same and the goal is to protect certain information regardless of what form (paper or electronic) that information is in. The other school of thought (represented by the Massa-

<sup>2</sup> Electronic Case Records mean information or data created, collected, received, produced or maintained by a court or office in connection with a particular case that exists in the PACMS, CPCMS, or MDJS and that appears on the web docket sheets or is provided in response to bulk distribution requests, regardless of format.

<sup>3</sup> The Committee's research revealed that some jurisdictions have proposed or enacted rules/procedures to provide for the redaction of paper records without requiring court staff to redact the information. For example, a number of state court systems are proposing the use of sensitive data sheets to be filed by litigants (e.g., Washington and Arizona). These data sheets contain the personal identifiers (e.g., social security number, etc.) that are normally found throughout a complaint or petition. The data sheets appear to obviate the need for redaction on the part of the filing office or court and protect sensitive data. Another approach taken by the federal court system is the redaction, fully or partially, of sensitive data in the pleadings or complaint by litigants or their attorneys prior to filing (e.g., U.S. District Court for the Eastern District of Pennsylvania Local Rule of Civil Procedure Rule 5.1.3.). It is the opinion of the Committee that the UJS should move in the direction of creating sensitive data sheets (like Washington and Arizona), especially as electronic filing becomes more the norm.

<sup>4</sup> 489 U.S. 749, 780 (1989).

<sup>5</sup> *Report to the Chief Judge of the State of New York* by the Commission on Public Access to Court Records (February, 2004).

<sup>6</sup> VERMONT RULES FOR PUBLIC ACCESS TO COURT RECORDS § 1-8 (2004).

chusetts<sup>7</sup> and Minnesota<sup>8</sup> court systems) believes there is a difference between maintaining “public” records for viewing/copying at the courthouse and “publishing” records on the Internet.

The Committee further narrowed the scope of the public access policy concerning electronic case records by covering only those records that are created and maintained by one of the UJS’ automated case management systems, as opposed to any and all electronic case records created and maintained by courts within the UJS. The Committee is aware that some judicial districts currently have civil automated case management systems in place, but the scope and design of those systems is as different as the number of judicial districts employing them. Crafting a single policy that would take into account the wide differences among those systems led to the decision to limit the scope to the PACMS, CPCMS and MDJS.

*Legal Authority Pertinent to the Public Access Policy Governing Electronic Case Records*

Article V, Section 10(c) of the Pennsylvania Constitution vests the Supreme Court with the authority to, *inter alia*, prescribe rules governing practice, procedure and the conduct of all courts. Section 10(c) extends these powers to the administration of all courts and supervision of all officers of the Judicial Branch. Rule of Judicial Administration 505(11) charges the AOPC with the supervision of “all administrative matters relating to the offices of the prothonotaries and clerks of court and other system and related personnel engaged in clerical functions, including the institution of such uniform procedures, indexes and dockets as may be approved by the Supreme Court.” Rule of Judicial Administration 501(a) provides in part that “[t]he Court Administrator [of Pennsylvania] shall be responsible for the prompt and proper disposition of the business of all courts. . . .” Rule of Judicial Administration 504(b) sets forth that “the Court Administrator shall. . . exercise the powers necessary for the administration of the system and related personnel and the administration of the Judicial Branch and the unified judicial system.” In addition, Rule of Judicial Administration 506(a) provides that “[a]ll system and related personnel shall comply with all standing and special requests or directives made by the [AOPC] for information and statistical data relative to the work of the system and of the offices related to and serving the system and relative to the expenditure of public monies for their maintenance and operation.”

Moreover, 42 Pa.C.S. § 4301(b) provides in part that “all system and related personnel engaged in clerical functions shall establish and maintain all dockets, indices and other records and make and file such entries and reports, at such times, in such manner and pursuant to such procedures and standards as may be prescribed by the Administrative Office of Pennsylvania Courts with the approval of the governing authority.” 42 Pa.C.S. § 102 provides that system and related personnel of our Unified Judicial System is defined as including but not limited to clerks of courts and prothonotaries. Under the auspices of the aforementioned legal authority, this policy was created.

As part of its preparations to devise provisions governing access to electronic case records, the Committee researched and reviewed the applicable body of law concerning the public’s right to access case records and countervailing interests in personal privacy and security.

<sup>7</sup> Policy Statement by the Justices of the Supreme Judicial Court Concerning Publications of Court Case Information on the Web (May 2003).

<sup>8</sup> MN ST ACCESS TO REC RULE 1-11 (WEST 2006).

*Common Law Right to Access*

A general common law right to inspect and copy public judicial records and documents exists. And while this common law right to access has been broadly construed, the right is not absolute. In determining whether this common law right to access is applicable to a specific document, a court must consider two questions.<sup>9</sup>

The threshold question is whether the document sought to be disclosed constitutes a public judicial document.<sup>10</sup> Not all documents connected with judicial proceedings are public judicial documents.<sup>11</sup> If a court determines that a document is a public judicial document, the document is presumed open to public inspection and copying. This presumption of openness may be overcome by circumstances warranting closure of the document. Therefore, the second question a court must address is whether such circumstances exist and outweigh the presumption of openness.<sup>12</sup>

Circumstances that courts have considered as outweighing the presumption of openness and warranting the closure of documents include: (a) the protection of trade secrets;<sup>13</sup> (b) the protection of the privacy and reputations of innocent parties;<sup>14</sup> (c) guarding against risks to national security interests;<sup>15</sup> (d) minimizing the danger of unfair trial by adverse publicity;<sup>16</sup> (e) the need of the prosecution to protect the safety of informants;<sup>17</sup> (f) the necessity of preserving the integrity of ongoing criminal investigations;<sup>18</sup> and (g) the availability of reasonable alternative means to protect the interests threatened by disclosure.<sup>19</sup>

These types of considerations have been found to outweigh the common law right to access with respect to the following records: transcript of bench conferences held in camera;<sup>20</sup> working notes maintained by the prosecutor and defense counsel at trial;<sup>21</sup> a brief written by the district attorney and presented only to the court and the defense attorney but not filed with the court nor made part of the certified record of appeal;<sup>22</sup> and private documents collected during discovery as well as pretrial dispositions and interrogatories.<sup>23</sup>

On the other hand, examples of records wherein the common law right to access has prevailed include arrest warrant affidavits;<sup>24</sup> written bids submitted to the federal district court for the purpose of selecting lead counsel to represent plaintiffs in securities litigation class action;<sup>25</sup> search warrants and supporting affidavits;<sup>26</sup> transcripts of jury voir dire;<sup>27</sup> pleadings and settlement agreements.<sup>28</sup>

<sup>9</sup> See *Commonwealth v. Fenstermaker*, 530 A.2d 414, 418-20 (Pa. 1987).

<sup>10</sup> *Id.* at 418.

<sup>11</sup> *In re Cendant*, 260 F.3d 183, 192 (3d Cir. 2001) (stating that documents that have been considered public judicial documents have one or more of the following characteristics: (a) filed with the court, (b) somehow incorporated or integrated into the court’s adjudicatory proceedings, (c) interpreted or the terms of it were enforced by the court, or (d) required to be submitted to the court under seal).

<sup>12</sup> See *Fenstermaker*, 530 A.2d at 420.

<sup>13</sup> *In re Buchanan*, 823 A.2d 147, 151 (Pa. Super. Ct. 2003), citing *Katz v. Katz*, 514 A.2d 1374, 1377-78 (Pa. Super. Ct. 1986).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Fenstermaker*, 530 A.2d at 420.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* at 418.

<sup>21</sup> *Id.*

<sup>22</sup> *Commonwealth v. Crawford*, 789 A.2d 266, 271 (Pa. Super. Ct. 2001).

<sup>23</sup> *Stenger v. Lehigh Valley Hosp. Ctr.*, 554 A.2d 954, 960-61 (Pa. Super. Ct. 1989), citing *Seattle Times v. Rhinehart*, 467 U.S. 20, 33 (1984).

<sup>24</sup> *Fenstermaker*, 530 A.2d at 420.

<sup>25</sup> *In re Cendant*, 260 F.3d at 193.

<sup>26</sup> *PG Publ’g Co. v. Copenhefer*, 614 A.2d 1106, 1108 (Pa. 1992).

<sup>27</sup> *U.S. v. Antar*, 38 F.3d 1348, 1358 (3d Cir. 1994).

<sup>28</sup> *Stenger*, 554 A.2d at 960, citing *Fenstermaker*, 530 A.2d 414; *Bank of Am. Nat’l Trust v. Hotel Rittenhouse Associates*, 800 F.2d 339 (3d Cir. 1987); *In re Alexander Grant and Co. Litigation*, 820 F.2d 352 (11th Cir. 1987).

### Federal Constitutional Right to Access

The United States Supreme Court has recognized a First Amendment right of access to most, but not all, court proceedings and documents.<sup>29</sup> To determine if a First Amendment right attaches to a particular proceeding or document, a two prong inquiry known as the “experience and logic test” must guide the decision to allow access or prohibit it. The “experience” prong involves consideration of whether the place and process have historically been open to the press and general public.<sup>30</sup> The “logic” prong involves consideration of “whether public access plays a significant positive role in the functioning of the particular process in question.”<sup>31</sup>

With respect to the “logic” test, courts have looked to the following societal interests advanced by open court proceedings:

- (1) promotion of informed discussion of governmental affairs by providing the public with a more complete understanding of the judicial system;
- (2) promotion of the public perception of fairness which can be achieved only by permitting full public view of the proceedings;
- (3) providing significant therapeutic value to a community as an outlet for concern, hostility, and emotion;
- (4) serving as a check on corrupt practices by exposing the judicial process to public scrutiny;
- (5) enhancement of the performance of all involved; and
- (6) discouragement of perjury.<sup>32</sup>

If the court finds that a First Amendment right does attach to a proceeding or document, *there is not an absolute right to access*. Rather, the court may close a proceeding or document if closure is justified by overriding principles. For instance, in criminal cases, closure can occur if it serves a compelling government interest and, absent limited restrictions upon the right to access to the proceeding or document, other interests would be substantially and demonstrably impaired.<sup>33</sup> For example, a court may be able to withhold the release of the transcript of the jury voir dire until after the verdict is announced if in the court’s opinion it was necessary to protect the jury from outside influences during its deliberations.<sup>34</sup>

Examples of proceedings or documents in which the courts have found a First Amendment right to access include: the voir dire examination of potential jurors,<sup>35</sup> preliminary hearings,<sup>36</sup> and post trial examination of jurors for potential misconduct.<sup>37</sup>

Examples of proceedings or documents wherein the courts have not found a First Amendment right to access include: a motion for contempt against a United States

Attorney for leaking secret grand jury information,<sup>38</sup> sentencing memorandum and briefs filed that contained grand jury information,<sup>39</sup> and pretrial discovery materials.<sup>40</sup>

The defendant’s Sixth Amendment right to a public trial may also warrant closure of judicial documents and proceedings; however, this right is implicated when the defendant objects to a proceeding being closed to the public. Courts have held that a proceeding can be closed even if the defendant does object, for the presumption of openness may be overcome by an overriding interest based on findings that closure is essential to preserve higher values and is narrowly tailored to serve that interest.<sup>41</sup>

### Pennsylvania Constitutional Right to Access

The Pennsylvania Supreme Court has established that courts shall be open by virtue of provisions in the Pennsylvania Constitution. Specifically, this constitutional mandate is found in Article I, § 9 which provides in part that “[i]n all criminal prosecutions the accused hath a right to . . . a speedy public trial by an impartial jury of the vicinage[.]” and Article I, § 11 which provides in part that “[a]ll courts shall be open. . . .”<sup>42</sup> Specifically, in *Fenstermaker*, the Court held that

[t]he historical basis for public trials and the interests which are protected by provisions such as Pennsylvania’s open trial mandate have been well researched and discussed in two recent opinions of the United States Supreme Court, *Gannett Co. v. DePasquale*, [citation omitted] and *Richmond Newspapers, Inc. v. Virginia*, [citation omitted] and can be briefly summarized as follows: generally, to assure the public that justice is done even-handedly and fairly; to discourage perjury and the misconduct of participants; to prevent decisions based on secret bias or partiality; to prevent individuals from feeling that the law should be taken into the hands of private citizens; to satisfy the natural desire to see justice done; to provide for community catharsis; to promote public confidence in government and assurance that the system of judicial remedy does in fact work; to promote the stability of government by allowing access to its workings, thus assuring citizens that government and the courts are worthy of their continued loyalty and support; to promote an understanding of our system of government and courts.

These considerations, which were applied by the United States Supreme Court in its analysis of the First and Sixth Amendments [of the United States Constitution] in *Gannett* and *Richmond Newspapers* apply equally to our analysis of Pennsylvania’s constitutional mandate that courts shall be open and that an accused shall have the right to a public trial.<sup>43</sup>

With regard to the right to a public trial, the Court has held that in determining whether a court’s action has violated a defendant’s right to a public trial, a court must keep in mind that such a right serves two general purposes: “(1) to prevent an accused from being subject to a star chamber proceeding;<sup>44</sup> and (2) to assure the public

<sup>29</sup> *In re Newark Morning Ledger Co.*, 260 F.3d 217, 220-21 (3d Cir. 2001), citing *Richmond Newspapers v. Va.*, 448 U.S. 555, 578 (1980); *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 597 (1978); *Antar*, 38 F.3d at 1359-60; *Press-Enterprise v. Super. Ct. of Cal.*, 478 U.S. 1, 11-12 (1986) [hereinafter *Press-Enterprise II*]; *Leucadia, Inc. v. Applied Extrusion Techs., Inc.*, 998 F.2d 157, 161 (3d Cir. 1993); *U.S. v. Criden*, 675 F.2d 550, 554 (3d Cir. 1982); *U.S. v. Smith*, 787 F.2d 111, 114 (3d Cir. 1986); *Douglas Oil Co. of Cal. v. Petrol Stops*, 441 U.S. 211, 218 (1979). *But see U.S. v. McVeigh*, 119 F.3d 806 (10th Cir. 1997) (declining to decide whether there is a First Amendment right to judicial document, noting the lack of explicit Supreme Court holdings on the issue since *Press Enterprise II*, 478 U.S. 1, 11-12 (1986)).

<sup>30</sup> *In re Newark Morning Ledger*, 260 F.3d at 221 n.6., citing *Press-Enterprise II*, 478 U.S. at 8-9.

<sup>31</sup> *Id.*, citing *Press-Enterprise II*, 478 U.S. at 8-9.

<sup>32</sup> *Id.*, citing *Smith*, 787 F.2d at 114 (summarizing *Criden*, 675 F.2d at 556).

<sup>33</sup> *In re Newark Morning Ledger*, 260 F.3d at 221, citing *U.S. v. Smith*, 123 F.3d 140, 147 (3d Cir. 1997) (quoting *Antar*, 38 F.3d at 1359).

<sup>34</sup> *Antar*, 38 F.3d at 1362.

<sup>35</sup> *Richmond Newspapers*, 448 U.S. 555 (1980).

<sup>36</sup> *Press-Enterprise II*, 478 U.S. 1 (1982).

<sup>37</sup> *U.S. v. DiSalvo*, 14 F.3d 833, 840 (3d Cir. 1994).

<sup>38</sup> *In re Newark Morning Ledger*, 260 F.3d 217.

<sup>39</sup> *Smith*, 123 F.3d at 143-44.

<sup>40</sup> *Stenger*, 554 A.2d at 960, citing *Seattle Times*, 467 U.S. at 33.

<sup>41</sup> E.g., *Waller v. Georgia*, 467 U.S. 39, 45 (1984), citing *Press-Enterprise Co. v. Super. Ct. of Cal.*, 464 U.S. 501, 510 (1984) [hereinafter *Press-Enterprise I*].

<sup>42</sup> *Fenstermaker*, 530 A.2d at 417 (citing PA. CONST. art. I, §§ 9, 11).

<sup>43</sup> *Id.*, citing *Commonwealth v. Contankos*, 453 A.2d 578, 579-80 (Pa. 1982).

<sup>44</sup> During the reign of Henry VIII and his successors, the jurisdiction of the star chamber court was illegally extended to such a degree (by punishing disobedience to the king’s arbitrary proclamations) that it was eventually abolished. Black’s Law Dictionary (1990).

that standards of fairness are being observed.<sup>45</sup> Moreover, the right to a public trial is not absolute; rather, “it must be considered in relationship to other important interests. . . [such as] the orderly administration of justice, the protection of youthful spectators and the protection of a witness from embarrassment or emotional disturbance.”<sup>46</sup> If a court determines that the public should be excluded from a proceeding, the exclusion order “must be fashioned to effectuate protection of the important interest without unduly infringing upon the accused’s right to a public trial either through its scope or duration.”<sup>47</sup>

With regard to the constitutional mandate that courts shall be open, “[p]ublic trials, so deeply ingrained in our jurisprudence, are mandated by Article I, Section 11 of the Constitution of this Commonwealth [and further that] *public trials include public records* [emphasis added].”<sup>48</sup> Courts in analyzing Section 11 issues have held that there is a presumption of openness which may be rebutted by a claim that the denial of public access serves an important government interest and there is no less restrictive way to serve that government interest. Under this analysis, “it must be established that the material is the kind of information that the courts will protect and that there is good cause for the order to issue.”<sup>49</sup> For example, a violation of Section 11 was found when a court closed an inmate/defendant’s preliminary hearing to the public under the pretense of “vague” security concerns.<sup>50</sup>

In at least one case, the Court set forth in a footnote that Article 1, § 7 is a basis for public access to court records.<sup>51</sup> Section 7 provides in part that “[t]he printing press shall be free to every person who may undertake to examine the proceedings of the Legislature or any branch of government and no law shall ever be made to restrain the right thereof.”

#### *Legislation Addressing Public Access to Government Records*

The Freedom of Information Act (FOIA), codified in Title 5 § 552 of the United States Code, was enacted in 1966 and generally provides that any person has the right to request access to federal agency records or information. All agencies of the executive branch of the United States government are required to disclose records upon receiving a written request for them, except for those records (or portions of them) that are protected from disclosure by the nine exemptions and three exclusions of the FOIA. This right of access is enforceable in court. The FOIA does not, however, provide access to records held by state or local government agencies, or by private businesses or individuals.<sup>52</sup>

The Privacy Act of 1974<sup>53</sup> is a companion to the FOIA. The Privacy Act regulates federal government agency record-keeping and disclosure practices and allows most individuals to seek access to federal agency records about themselves. The Act requires that personal information in agency files be accurate, complete, relevant, and timely. The subject of a record may challenge the accuracy of information. The Act requires that agencies obtain infor-

mation directly from the subject of the record and that information gathered for one purpose is not to be used for another purpose. Similar to the FOIA, the Act provides civil remedies for individuals whose rights may have been violated. Moreover, the Act restricts the collection, use and disclosure of personally identifiable information (e.g., social security numbers) by federal agencies.<sup>54</sup>

Pennsylvania’s Right to Know Act<sup>55</sup> (RTKA) gives Pennsylvanians the right to inspect and copy certain executive branch records. The RTKA was originally enacted in 1957 but was substantially amended by Act 100 of 2002. Records that are available under the RTKA include “any account, voucher or contract dealing with the receipt or disbursement of funds by an agency or its acquisition, use or disposal of services or of supplies, materials, equipment or other property and any minute, order or decision by an agency fixing the personal or property rights, privileges, immunities, duties or obligations of any person or group of persons.”<sup>56</sup> However, records that are not available under the RTKA include:

any report, communication or other paper, the publication of which would disclose the institution, progress or result of an investigation undertaken by an agency in the performance of its official duties, except those reports filed by agencies pertaining to safety and health in industrial plants; any record, document, material, exhibit, pleading, report, memorandum or other paper, access to or the publication of which is prohibited, restricted or forbidden by statute law or order or decree of court, or *which would operate to the prejudice or impairment of a person’s reputation or personal security*, or which would result in the loss by the Commonwealth or any of its political subdivisions or commissions or State or municipal authorities of Federal funds, except the record of any conviction for any criminal act [emphasis added].<sup>57</sup>

While these federal and state laws are not applicable to court records, the Committee consulted these statutory provisions in drafting the policy.

#### *Other Court Systems’ Approaches Concerning Public Access to Electronic Case Records*

The Committee looked to the policies, whether adopted or proposed by rule or statute or otherwise, of other court systems (federal and state) for guidance and in doing so found a wide variety of practices and approaches to public access. Not surprisingly, the process of putting court records online has produced remarkably disparate results. Courts have made records available in many forms ranging from statewide access systems to individual jurisdictions providing access to their records. Some court systems provide access to both criminal and civil records, while others make distinctions between the treatment of those types of records or restrict users’ access to records that may contain sensitive personal information. As noted previously, some states distinguish between electronic and paper records, while others do not.

In particular, the Committee reviewed the policies (whether proposed or fully adopted) of: the Judicial Conference Committee on Court Administration and Case Management (including the Report of the Federal Judicial Center entitled *Remote Public Access to Electronic Criminal Case Records: A Report on a Pilot Project in Eleven*

<sup>45</sup> *Commonwealth v. Harris*, 703 A.2d 441, 445 (Pa. 1997), citing *Commonwealth v. Berrigan*, 501 A.2d 226 (Pa. 1985).

<sup>46</sup> *Commonwealth v. Conde*, 822 A.2d 45, 49 (Pa. Super. Ct. 2003), citing *Commonwealth v. Knight*, 364 A.2d 902, 906-07 (Pa. 1976).

<sup>47</sup> *Id.*, citing *Knight*, 364 A.2d at 906-07.

<sup>48</sup> *Commonwealth v. French*, 611 A.2d 175, 180 n.12 (Pa. 1992).

<sup>49</sup> *R.W. v. Hampe*, 626 A.2d 1218, 1220 (Pa. Super. Ct. 1993), citing *Hutchinson v. Luddy*, 581 A.2d 578, 582 (Pa. Super. Ct. 1990) (citing *Publiker Industries, Inc. v. Cohen*, 733 F.2d 1059, 1070 (3d Cir. 1983)).

<sup>50</sup> *Commonwealth v. Murray*, 502 A.2d 624, 629 (Pa. Super. Ct. 1985) *appeal denied*, 523 A.2d 1131 (Pa. 1987).

<sup>51</sup> *French*, 611 A.2d at 180 n.12.

<sup>52</sup> *United States Department of Justice Freedom of Information Act Reference Guide* (May 2006), available at <http://www.usdoj.gov/04foia/referenceguidemay99.htm>.

<sup>53</sup> 5 U.S.C. § 552a (2006).

<sup>54</sup> United States House of Representatives *A Citizen’s Guide on Using the Freedom of Information Act and the Privacy Act of 1974 to Request Government Records* (First Report 2003).

<sup>55</sup> PA. STAT. ANN. tit. 65, §§ 66.1—66.9 (West 2006).

<sup>56</sup> PA. STAT. ANN. tit. 65, § 66.1 (West 2006).

<sup>57</sup> *Id.*



*Federal Courts*), the U.S. District Court for the Eastern District of Pennsylvania and the Southern District of California, Alaska, Arizona, California, Colorado, Florida, Georgia, Indiana, Idaho, Kansas, Kentucky, Maryland, Massachusetts, Minnesota, Missouri, New York, North Carolina, Washington, Utah, and Vermont.

Additionally, the Committee closely reviewed the materials disseminated by the National Center for State Courts (NCSC) project titled "Developing a Model Written Policy Governing Access to Court Records." Perhaps as an indication of the difficulties inherent in drafting policy provisions to govern public access to court records in a single jurisdiction (let alone nationwide), the NCSC project shifted its focus from developing a model policy to guidelines for local policymaking.<sup>58</sup> The final report of this NCSC project was entitled "Developing CCJ/COSCA Guidelines for Public Access to Court Records: A National Project to Assist State Courts" (CCJ/COSCA Guidelines). As noted in the title, the CCJ/COSCA Guidelines were adopted by the Conference of Chief Justices and the Conference of State Court Administrators.

As it wrestled with and attempted to appropriately balance the thorny issues and significant challenges associated with the development and implementation of a statewide access policy, the Committee was grateful for the insight and thought-provoking discussions these policies engendered.

#### *Policy Perspectives Weighed in Devising the Public Access Policy Governing Electronic Case Records*

Increasingly in today's society, the courts are witness to the tension between the importance of fully accessible electronic case records and the protection of an individual's privacy and personal security. The two important, but at times seemingly incompatible, interests are perhaps better categorized as the interest in *transparency* (i.e., opening judicial branch processes to public scrutiny) and the competing interests of *personal privacy and personal security*.

Case records capture a great deal of sensitive, personal information about litigants and third parties (e.g., witness, jurors) who come in contact with the courts. The tension between transparency and personal privacy/security of case records has been heightened by the rapidly increasing use of the Internet as a source of data, enhanced automated court case management systems, and other technological realities of the Information Age.

Prior to the widespread use of computers and search engines, case record information was accessible by traveling to the local courthouse and perusing the paper files, presumably one at a time. Thus, most information contained in the court records enjoyed "practical obscurity." In the latter part of the twentieth century, the proliferation of computerized case records was realized. As a result, entire record systems are swept by private organizations within seconds and data from millions of records are compiled into enormous record databases, accessible by government agencies and the public.<sup>59</sup>

Cognizant of today's technological realities, the Committee explored the inherent tension between the trans-

parency of case records and the interest in personal privacy and security to more clearly understand the values associated with each.

#### *The Values of Transparency*

The values of transparency can be described as serving four essential functions: 1) shedding light on judicial activities and proceedings; 2) uncovering information about public officials and candidates for public office; 3) facilitating certain social transactions; and 4) revealing information about individuals for a variety of purposes.<sup>60</sup>

With regard to access to electronic case records, the Committee focused primarily on the first function of transparency, which aids the public in understanding how the judicial system works and promotes public confidence in its operations. Open electronic case records "allows the citizenry to monitor the functioning of our courts, thereby insuring quality, honesty, and respect for our legal system."<sup>61</sup> Transparent electronic case records allow the public to assess the competency of the courts in resolving cases and controversies that affect society at large, such as product liability, medical malpractice or domestic violence litigation.<sup>62</sup> Information that alerts the public to danger or might help prove responsibility for injuries should be available, as should that which enables the public to evaluate the performance of courts and government officials, the electoral process and powerful private organizations.<sup>63</sup>

The key to assessing the complete release of electronic case record data appears to hinge upon whether there is a legitimate public interest at stake or whether release is sought for "mere curiosity."<sup>64</sup> While this measure has been applied to analysis of the propriety of sealing individual court records, it should apply by extension to the broader subject of public access to electronic case record information. Analysis of whether release of electronic case record information satisfies a legitimate public interest should center on whether the effect would be to serve one of the four essential functions of transparency. Any other basis for release might serve to undermine the public's trust and confidence in the judiciary.

The values inherent in the transparency of electronic case records are the root of the "presumption of openness" jurisprudence. The Committee gave that presumption due consideration throughout its undertaking.

#### *Privacy and Personal Security Concerns Regarding the Release of Electronic Case Records*

The Committee debated at length as to where the line is drawn between transparency and privacy/personal security. Unfortunately, no legal authority exists that provides a "bright line" rule. Moreover, given that our society continues to witness and adopt new technology at a fast pace, the Committee worked to identify the privacy and personal security concerns that the release of electronic case record information triggers.

According to a national survey conducted a decade ago, nearly 80% of those polled were concerned or very concerned about the threat to their privacy due to the

<sup>58</sup> *Id.* at 1173.

<sup>59</sup> *Id.* at 1174 (citing *In re Cont'l Ill. Sec. Litig.*, 732 F.2d 1302, 1308 (7th Cir. 1984)).

<sup>60</sup> *Id.* at 1174-75.

<sup>61</sup> Stephen Gillers, *Why Judges Should Make Court Documents Public*, N.Y. Times, November 30, 2002, p 17.

<sup>62</sup> George F. Carpinello, *Public Access to Court Records in New York: The Experience Under Uniform Rule 216.1 and the Rule's Future in a World of Electronic Filing*, 66 ALB. L. REV. 1089, 1094 (2003) (citing *Dawson v. White & Case*, 584 N.Y.S.2d 814, 815 (N.Y. App. Div. 1992), wherein financial information concerning defendant's partners and clients was sealed as disclosure would not benefit a relevant and legitimate public interest).

<sup>58</sup> The Committee notes that, in its opinion, there was a shift in the treatment of paper and electronic records and the balance between open records versus privacy protections between the various draft versions of the CCJ/COSCA Guidelines submitted for review and comment.

<sup>59</sup> Daniel J. Solove, *Access and Aggregation: Public Records, Privacy and the Constitution*, 86 Minn. L. Rev. 1137 (2002) (noting that more than 165 companies compile "digital biographies" on individuals that by a click of a mouse can be scoured for data on individual persons).

increasing use of computerized records.<sup>65</sup> Concerns about advances in information technology have resulted in greater public support for legislative protection of confidential information.<sup>66</sup> The Committee noted that the last two legislative sessions of the Pennsylvania General Assembly have resulted in the introduction of more than forty bills that seek to restrict access to private and/or personal information.

Case records contain considerable amounts of sensitive personal information, such as social security numbers, financial information, home addresses, and the like. This information is collected not only with respect to the litigants but others involved in cases, such as witnesses and jurors. The threat to privacy is realized in the assembling of individual “dossiers” which can track the private details of one’s life, including spending habits, credit history, and purchases.<sup>67</sup>

Personal security issues arise from the ease with which sensitive data can usually be obtained. The threat of harm can either be physical or financial. By accessing home address information, individuals may be the subject of stalking or harassment that threatens their physical person.<sup>68</sup> Financial harm is documented by the fastest growing consumer fraud crime in the United States—identity theft. “According to CBS News, approximately every 79 seconds an identity thief steals someone’s identity, opens an account in the victim’s name and goes on a buying spree.”<sup>69</sup> The United States Federal Trade Commission reports that 10.1 million consumers have been victims of identity theft in 2003.<sup>70</sup> In addition, a recent study by the financial industry reveals that 9.3 million people were victims of the crime of identity theft in 2004.<sup>71</sup> The U.S. Department of Justice estimates that identity bandits may victimize up to 700,000 Americans per year.<sup>72</sup> In Eastern Pennsylvania, a regional identity theft task force was established to aid federal, state and local authorities to curb the growing incidence of identity theft.<sup>73</sup>

Recent newspaper accounts have recorded that the personal information of hundreds of thousands of individuals has been accessed by unauthorized individuals—raising the realistic concern of the possibility of widespread identity theft. Commercial entities—specifically Choicepoint and LexisNexis—have collectively released the personal information of 445,000 people to unauthorized individuals.<sup>74</sup> The University of California-Berkeley reported the theft of a laptop computer that contained the dates of birth, addresses, and social security numbers of 98,369 individuals who applied to or attended the school.<sup>75</sup> Boston College alerted 120,000 alumni that computers containing their addresses and social security numbers were hacked by an unknown intruder.<sup>76</sup> A

medical group in San Jose California reported the theft of computers that contained the information of 185,000 current and past patients.<sup>77</sup>

#### Conclusion

After a thorough evaluation of the legal authority and public policy issues attendant to public access of electronic case record information, the Committee devised a balancing test for evaluating the release of electronic case record information. And while a perfect balance cannot be struck between transparency and personal privacy/security, the Committee attempted to reach a reasonable accommodation protective of both interests.

In determining whether electronic case record information should be accessible by the public, the Committee evaluated first whether there was a legitimate public interest in release of the information. If such an interest was not found, the inquiry ended and the information was prohibited from release.

If such an interest was found, the Committee next assessed whether the release of this information would cause an unjustified invasion of personal privacy or presented a risk to personal security. If the answer to this inquiry was no, the information was released. If the answer was yes, the Committee weighed the unjustified invasion of personal privacy or risk to personal security against the public benefit in releasing the information.

#### Section 1.00 Definitions

A. “CPCMS” means the Common Pleas Criminal Court Case Management System.

B. “Custodian” is the person, or designee, responsible for the safekeeping of electronic case records held by any court or office and for processing public requests for access to case records.

C. “Electronic Case Record” means information or data created, collected, received, produced or maintained by a court or office in connection with a particular case that exists in the PACMS, CPCMS, or MDJS and that appears on web docket sheets or is provided in response to bulk distribution requests, regardless of format. This definition does not include images of documents filed with, received, produced or maintained by a court or office which are stored in PACMS, CPCMS or MDJS and any other automated system maintained by the Administrative Office of Pennsylvania Courts.

D. “MDJS” means the Magisterial District Judge Automated System.

E. “Office” is any entity that is using one of the following automated systems: Pennsylvania Appellate Court Case Management System (PACMS); Common Pleas Criminal Court Case Management System (CPCMS); or Magisterial District Judge Automated System (MDJS)."

F. “PACMS” means the Pennsylvania Appellate Court Case Management System.

G. “Party” means one by or against whom a civil or criminal action is brought.

H. “Public” includes any person, business, non-profit entity, organization or association.

“Public” does not include:

1. Unified Judicial System officials or employees, including employees of the office of the clerk of courts, prothonotary, and any other office performing similar functions;

<sup>65</sup> Barbara A. Petersen and Charlie Roberts, *Access to Electronic Public Records*, 22 FLA. ST. U.L. REV. 443, n. 247 (1994).

<sup>66</sup> *Id.* at 486.

<sup>67</sup> Solove, *supra* note 59, at 1140.

<sup>68</sup> Robert C. Lind and Natalie B. Eckart, *The Constitutionality of Driver’s Privacy Protection Act*, 17 Communication Lawyer 18 (1999). See also, Solove, *supra* note 59, at 1173.

<sup>69</sup> David Narkiewicz, *Identity Theft: A Rapidly Growing Technology Problem*, The Pennsylvania Lawyer, May-June 2004, at 58.

<sup>70</sup> Bob Sullivan, *Study: 9.3 Million ID Theft Victims Last Year*, MSNBC.com, January 26, 2005.

<sup>71</sup> *Id.*

<sup>72</sup> *ID Theft Is No. 1 Fraud Complaint*, CBSNEWS.com, January 22, 2003.

<sup>73</sup> Jim Smith, *Regional Task Force to Tackle ID-Theft Crimes*, phillynews.com, November 13, 2002.

<sup>74</sup> John Waggoner, *Id theft scam spreads across USA*, USATODAY.com, February 22, 2005; *LexisNexis Id theft much worse than thought*, MSNBC.com, April 12, 2005.

<sup>75</sup> *Thief steals UC-Berkeley laptop*, CNN.com, March 31, 2005.

<sup>76</sup> Hiawatha Bray, *BC warns its alumni of possible Id theft after computer is hacked*, Boston Globe, March 17, 2005.

<sup>77</sup> Jonathon Krim, *States Scramble to Protect Data*, Washington Post, April 9, 2005.

2. people or entities, private or governmental, who assist the Unified Judicial System or related offices in providing court services; and

3. any federal, state, or local governmental agency or an employee or official of such an agency when acting in his/her official capacity.

I. "Public Access" means that the public may inspect and obtain electronic case records, except as provided by law or as set forth in this policy.

J. "Request for Bulk Distribution of Electronic Case Records" means any request, regardless of the format the information is requested to be received in, for all or a subset of electronic case records.

K. "UJS" means the Unified Judicial System of Pennsylvania.

L. "Web Docket Sheets" are internet available representations of data that have been entered into a Unified Judicial System supported case management system for the purpose of recording filings, subsequent actions and events on a court case, and miscellaneous docketed items.

#### 2013 Commentary

The definition of "electronic case records" was amended to exclude images of documents filed with, received, produced or maintained by a court or office which are stored in PACMS, CPCMS or MDJS and any other automated system maintained by the Administrative Office of Pennsylvania Courts.

While the Judiciary is presently piloting, on a limited basis, e-filing in the statewide case management systems, design and development efforts have not advanced to allow for online publication or bulk dissemination of images of e-filed documents.

#### 2007 Commentary

In adopting the definitions to the above terms, the Committee considered Pennsylvania law, other states' laws and public access policies, and the CCJ/COSCA Guidelines. In most cases, the definitions that the Committee chose to adopt are found in one of the above-mentioned sources. The following list sets forth the source for each of the above definitions.

Subsection B, Custodian, is derived from Arizona's definition of custodian which is the "person responsible for the safekeeping of any records held by any court, administrative office, clerk of court's office or that person's designee who also shall be responsible for processing public requests for access to records."<sup>78</sup> To ensure that this definition would encompass any court or office that is the primary custodian of electronic case records the Committee chose to replace the phrase "any court, administrative office, clerk of court's office" with "any court or office."

Subsection C, Electronic Case Record, the Committee opines it is necessary to set forth a term for those records that exist within one of the UJS' automated case management systems (PACMS, CPCMS, or MDJS). This definition is derived from Minnesota's definition of "case record."<sup>79</sup> Nonetheless, this definition includes responses to requests for bulk distribution of electronic case records as well as web docket sheets as defined in this policy. However, paper documents concerning a single case produced from the PACMS, CPCMS, or MDJS are not included in this definition except as otherwise provided for in this definition.

<sup>78</sup> ARIZ. SUP. CT. R. 123(b)(6).

<sup>79</sup> *Recommendations of the Minnesota Supreme Court Advisory Committee on Rules of Public Access to Records of the Judicial Branch* (June 28, 2004), p. 2.

Subsection E, Office, is a Committee-created term. The Committee wanted to ensure that the Policy applies only to the office that is the primary custodian of an electronic case record, regardless of the title of the office. The Committee also wanted to avoid creating an obligation on the part of an office that possessed only a copy of a record to provide access to a requestor.

Subsection G, Party, is a Committee-created term. The Committee wanted to clarify who a party to an action is. This definition is a combination of the definition for party set forth in 42 Pa.C.S. § 102<sup>80</sup> and Seventh Edition of Black's Law Dictionary.<sup>81</sup>

Subsection H, Public, is a variation of a provision in the CCJ/COSCA Guidelines.<sup>82</sup> The most significant difference is that the CCJ/COSCA Guidelines provide for two additional classes of individuals and/or entities that are included in the definition of "public." The first class is "any governmental agency for which there is no existing policy defining the agency's access to court records."<sup>83</sup> In the Committee's judgment, all government requestors should be treated differently than non-government requestors. Thus, the Committee chose not to adopt this statement, as further explained below.

The second class is "entities that gather and disseminate information for whatever reason, regardless of whether it is done with the intent of making a profit, and without distinction as to nature or extent of access."<sup>84</sup> The Committee opines that any person or entity that falls within this category would also fall within our definition of the public. Therefore, this statement was thought to be redundant.

In the judgment of the Committee every member of the public should be treated equally when requesting access to electronic case records. The Policy creates three categories of individuals and entities that do not fall within the definition of the "public;" thus, the Policy's provisions are not applicable to them. Specifically, these three categories are (1) court employees, (2) those who assist the courts in providing court services (e.g., contractors), and (3) governmental agencies.

With regard to court employees and those who assist the courts in providing court services (e.g., contractors), the Committee asserts that they should also have as much access to electronic case records as needed to perform their assigned duties and tasks.

With regard to requests from governmental agencies, the Committee noted that AOPC's practice when responding to government requests for MDJS information has been to place few restrictions on fulfilling said requests. AOPC has provided to governmental agencies the following information: social security numbers, driver license numbers, dates of birth, and many other pieces of sensitive information that MDJS Policy prohibits access to by public (non-government) requestors. The Committee considers this to be consistent with the approach taken by other branches of Pennsylvania's government. Specifically, the RTKA provides that a requestor is defined as "a person who is a resident of the Commonwealth and requests a record pursuant to this act."<sup>85</sup> Thus, it appears

<sup>80</sup> "A person who commences or against whom relief is sought in a matter. The term includes counsel for such a person who is represented by counsel." See 42 Pa.C.S. § 102.

<sup>81</sup> "One by or against whom a lawsuit is brought." Black's Law Dictionary Seventh Edition 1144 (Bryan A. Garner, et al. eds. 1999).

<sup>82</sup> Steketee, Martha Wade and Carlson, Alan, *Developing CCJ/COSCA Guidelines for Public Access to Court Records: A National Project to Assist State Courts*, October 18, 2002, available at [www.courtaccess.org/modelpolicy](http://www.courtaccess.org/modelpolicy) [hereinafter *CCJ/COSCA Guidelines*], p. 10.

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> PA. STAT. ANN. tit. 65, § 66.1 (West 2006).

that the intent of the RTKA is for it to be only applicable to public (non-governmental) requestors.

Although the Committee is aware that the RTKA does exclude non-residents of Pennsylvania,<sup>86</sup> it sees no reason to limit the definition of public to exclude non-residents of the Commonwealth (for example, an executor in New York asking for court records concerning a Pennsylvania resident in order to settle an estate).

The Committee also noted that the CCJ/COSCA Guidelines provide that the policy “applies to governmental agencies and their staff where there is no existing law specifying access to court records for that agency, for example a health department. . . . If there are applicable access rules, those rules apply.”<sup>87</sup> Thus, the CCJ/COSCA Guidelines provide that unless there is specific legal authority governing the release of court records to a particular governmental agency, the governmental agency should be considered a member of the public for the purposes of access to information.

The Committee maintains that limitations upon the information provided to public requestors is a result of a balance struck between providing access to public information, and protecting the privacy and safety of the individuals whose information the courts and related offices possess. With regard to governmental entities, no such balance needs to be struck in that providing access to restricted information to another governmental agency does not presumably endanger individuals’ safety or privacy. To ensure that the requests are for legitimate governmental reasons, all government requestors should be required to complete a government request form, a separate form from that used by public requestors. This government request form should require the requestor to state the reason for the request, in contrast to the public request form, which should not. The justification for requiring more information about governmental requests lies with the much greater access afforded to governmental entities. However, information pertaining to these requests and the court’s response to the same should not be accessible to the public.

Nonetheless, while in the Committee’s judgment government requestors should be provided with greater access to information, there are some pieces of information that absolutely should not be released—for example, information sealed or protected pursuant to court order. Therefore, the Committee recommends that government requestors continue to be provided with greater access to information than public requestors, but such access should not be completely unrestricted.

Lastly, the Committee decided with regard to foreign government requestors that if a foreign government is permitted access pursuant to law, then access will be provided.

When the Committee was considering whether to include or exclude litigants and their attorneys in the definition of the “public,” the Committee noted that the current MDJS practice is to treat litigants and their attorneys the same as non-litigants or non-attorneys. However, it is noted that the CCJ/COSCA Guidelines provides that the parties to a case and their attorneys do not fall within the definition of the term “public.”<sup>88</sup> Therefore, in the CCJ/COSCA Guidelines, they will have nearly unrestricted access to the electronic case records, whereas the public’s access will be restricted.

Subsection I, Public Access, is a Committee created term because the Committee was unable to find an existing definition that was deemed adequate.

Subsection J, Request for Bulk Distribution of Electronic Case Records, is derived from the CCJ/COSCA Guidelines.<sup>89</sup> This definition includes all requests regardless of the format the requestors want to receive the information in (i.e., paper, electronic, etc.). It appears that this is a term of art that is commonly used nationwide.<sup>90</sup>

Subsection M, Web Docket Sheets, is a term created by the Administrative Office of Pennsylvania Courts. Currently, web docket sheets for the appellate and criminal divisions of the courts of common pleas are located at <http://ujspportal.pacourts.us/>.

### *Section 2.00 Statement of General Policy*

A. This policy covers all electronic case records.

B. The public may inspect and obtain electronic case record except as provided by law or as set forth in this policy.

C. A court or office may not adopt for electronic case records a more restrictive access policy or provide greater access than that provided for in this policy.

### *Commentary*

For the reasons stated in the Introduction, paragraph A sets forth that this policy covers electronic case records as defined in Section 1.00.

The language of subsection C is suggested in the CCJ/COSCA Guidelines, which provide “[i]f a state adopts a policy, in the interest of statewide uniformity the state should consider adding a subsection. . . to prevent local courts from adopting different policies. . . . This not only promotes consistency and predictability across courts, it also furthers equal access to courts and court records.”<sup>91</sup> The Committee opines it is essential for the Unified Judicial System to have this provision in the policy to prevent various courts and offices from enacting individual policies governing electronic case records.

The Committee also notes that subsection C applies to fees in that the level of fees may be a means of restricting access. Therefore, a court or office charged with fulfilling public access requests must comply with the fee schedule provisions contained in Section 5.00 of this policy.

### *Section 3.00 Electronic Case Record Information Excluded from Public Access*

The following information in an electronic case record is not accessible by the public:

A. social security numbers;

B. operator license numbers;

C. victim information including name, address and other contact information;

D. informant information including name, address and other contact information;

E. juror information including name, address and other contact information;

F. a party’s street address, except the city, state, and ZIP code may be released;

G. witness information including name, address and other contact information;

<sup>89</sup> *CCJ/COSCA Guidelines*, p. 29.

<sup>90</sup> For example this term is used by Indiana (Ind. Admin. R.9(C)(9)), Minnesota (*Recommendations of the Minnesota Supreme Court Advisory Committee on Rules of Public Access to Records of the Judicial Branch* (June 28, 2004), p. 15; MN ST ACCESS TO REC RULE 8(3) (WEST 2006).), and California (Cal. CT. R. 2073(f)).

<sup>91</sup> *CCJ/COSCA Guidelines*, pp. 24-25.

<sup>86</sup> *Id.*

<sup>87</sup> *CCJ/COSCA Guidelines*, p. 11.

<sup>88</sup> *CCJ/COSCA Guidelines*, p. 10.

H. SID (state identification) numbers;

I. financial institution account numbers, credit card numbers, PINS or passwords used to secure accounts;

J. notes, drafts, and work products related to court administration or any office that is the primary custodian of an electronic case record;

K. information sealed or protected pursuant to court order;

L. information to which access is otherwise restricted by federal law, state law, or state court rule; [ and ]

M. information presenting a risk to personal security, personal privacy, or the fair, impartial and orderly administration of justice, as determined by the Court Administrator of Pennsylvania with the approval of the Chief Justice[ . ]; and

**N. information regarding arrest warrants and supporting affidavits until execution.**

The Committee's reasoning for not releasing each category of sensitive information is set forth below.

**2018 Commentary**

**Information Regarding Arrest Warrants and Supporting Affidavits Until Execution**

**The federal courts<sup>92</sup> and several states, including California,<sup>93</sup> Florida,<sup>94</sup> Idaho,<sup>95</sup> Indiana,<sup>96</sup> and Maryland,<sup>97</sup> have a similar provision restricting public access to arrest warrants and supporting affidavits until execution.**

**While there may be a legitimate public interest in releasing this information, specifically for the community to know who is subject to arrest by law enforcement, advance warning to defendants about the impending service of an arrest warrant puts the safety of law enforcement personnel at risk, jeopardizes the judicial process, and likely increases the risk of flight by defendants. Therefore, this information shall not be released until the warrant is executed.**

**2007 Commentary**

**Social Security Numbers**

At the outset, the Committee noted that the MDJS Policy provides that the AOPC will not release social security numbers.<sup>98</sup> In addition, the Committee could not locate any controlling legal authority that required the courts and/or offices to either release or redact social security numbers from an electronic case record before

<sup>92</sup> The Judicial Conference of the United States approved the Judicial Conference Policy on Privacy and Public Access to Electronic Case Files (March 2008) that provides unexecuted summons or warrants of any kind (e.g. arrest warrants) shall not be included in the public case file, or be made available to the public at the courthouse or via remote electronic access.

<sup>93</sup> Cal. Rules of Court, Rule 2.507(c)(3). This Rule provides that "[t]he following information must be excluded from a court's electronic calendar, index, and register of actions: . . . [a]rrest warrant information."

<sup>94</sup> Fla. R. Jud. Admin. 2.420(c)(6). This Rule provides that "[c]opies of arrest . . . warrants and supporting affidavits retained by judges, clerks or other court personnel [shall be confidential] until execution of said warrants or until a determination is made by law enforcement authorities that execution cannot be made."

<sup>95</sup> IDAHO ADMIN. R. 32(g)(3) & (5). This Rule exempts from disclosure "[a]ffidavits or sworn testimony and records of proceedings in support of the issuance of . . . arrest warrant pending the return of the warrant" as well as "[u]nreturned arrest warrants, except bench warrants, or summonses in a criminal case, provided that the arrest warrants or summonses may be disclosed by law enforcement agencies at their discretion."

<sup>96</sup> IND. ADMIN. R. 9(G)(2)(j)(i) and (ii). Specifically, the Rule provides that case records excluded from public access include those arrest warrants ordered confidential by the judge, prior to the arrest of the defendant.

<sup>97</sup> MD R. CTS. J. and ATTYs Rule 16-907(g)(3)(A) and (B) This rule provides that access shall be denied to: "[t]he following case records. . . : A case record pertaining to an arrest warrant [that initiates a case as well as]. . . a case record pertaining to an arrest warrant issued pursuant to a grand jury indictment or conspiracy investigation. . . ."

<sup>98</sup> See MDJS policy, Section II.B.2.a.

permitting access to the same.<sup>99</sup> While such controlling authority is non-existent, the Committee's review of the RTKA, federal law, federal and other states court's policies (either enacted or proposed) yielded much information on this subject.

First, case law interpreting the RTKA consistently maintains that social security numbers fall within the personal security exception of the RTKA and thus should not be released.<sup>100</sup>

Second, the Freedom of Information Act (FOIA)<sup>101</sup> and the Privacy Act<sup>102</sup> apply only to records of "each authority of the Government of the United States,"<sup>103</sup> and they do not apply to state case records.<sup>104</sup> However, even if these laws did apply to state case records, social security numbers are exempted from public disclosure under the FOIA personal privacy exemption,<sup>105</sup> while the Privacy Act does not appear to restrict the dissemination of social security numbers (only the collection of them).

In addition, Section 405 of the Social Security Act provides that "social security account numbers and related records that are obtained or maintained by authorized persons pursuant to any provision of law, enacted on or after October 1, 1990, shall be confidential, and no authorized person shall disclose any such social security account number."<sup>106</sup> Although, it is unclear as to whether this law is applicable to state courts, some courts such as Vermont<sup>107</sup> and Minnesota<sup>108</sup> appear to have used this statute as a basis for formulating a recommendation on the release of social security numbers.

With regard to the federal courts, the Judicial Conference Committee on Court Administration and Case Management ("Judicial Conference") in September 2001 recommended that the courts should only release the last four digits of any social security number in electronic civil case files available to the public.<sup>109</sup> The Judicial Conference also recommended that the public should not have electronic access to criminal case files. However, in March 2002, the Judicial Conference established a pilot program wherein eleven federal courts provide public access to criminal case files electronically. In this pilot program,

<sup>99</sup> Over the past several legislative terms, several bills have been introduced concerning the confidentiality of social security numbers. For example, please see Senate Bill 1407 (2001-2002), Senate Bill 703 (2003-2004) and Senate Bill 601 (2005 and 2006).

<sup>100</sup> See, e.g., *Tribune-Review Publ'g Co. v. Allegheny County Hous. Auth.*, 662 A.2d 677 (Pa. Commw. Ct. 1995), *appeal denied*, 686 A.2d 1315 (Pa. 1996); *Cypress Media, Inc. v. Hazelton Area Sch. Dist.*, 708 A.2d 866, (Pa. Commw. Ct. 1998), *appeal dismissed*, 724 A.2d 347 (Pa. 1999); and *Times Publ'g Co., Inc. v. Michel*, 633 A.2d 1233 (Pa. Commw. Ct. 1993), *petition for allowance of appeal denied*, 645 A.2d 1321 (Pa. 1994).

<sup>101</sup> 5 U.S.C. § 552 (2006).

<sup>102</sup> 5 U.S.C. § 552(a) (2006).

<sup>103</sup> 5 U.S.C. § 551 (2006), *see also*, 5 U.S.C. § 552(f) (2006).

<sup>104</sup> Please note that the *CCJ/COSCA Guidelines* provide that "[a]lthough there may be restrictions on federal agencies disclosing Social Security Numbers; they do not apply to state or local agencies such as courts." See *CCJ/COSCA Guidelines*, p. 46.

<sup>105</sup> E.g., *Sheet Metal Worker Int'l Ass'n, Local Union No. 19 v. U.S. Dep't of Veterans Affairs*, 135 F.3d 891 (3d Cir. 1998).

<sup>106</sup> 42 U.S.C. § 405(c)(2)(C)(viii) (2006).

<sup>107</sup> See Reporter's Notes following VERMONT RULES FOR PUBLIC ACCESS TO COURT RECORDS RULE 6(b)(29) which provides that "[u]nder federal law social security numbers are confidential." The Reporter specifically cites to Section 405(c)(2)(C)(viii)(1) of the Social Security Act.

<sup>108</sup> *Recommendations of the Minnesota Supreme Court Advisory Committee on Rules of Public Access to Records of the Judicial Branch* (June 28, 2004), p. 37, n.76 (citing the Social Security Act's provision that provides "[f]ederal law imposes the confidentiality of SSN whenever submission of the SSN is 'required' by state or federal law enacted on or after October 1, 1990.")

<sup>109</sup> *Report of the Judicial Conference Committee on Court Administration and Case Management on Privacy and Public Access to Electronic Case Files*, p. 3. As a result of this report, the U.S. District Court for the Eastern District of Pennsylvania promulgated Local Rule 5.1.3 which provides that personal identifiers such as social security numbers should be modified or partially redacted in all documents filed with the court before public access is permitted. See also Local Rules of Practice for the Southern District of California Order 514-C which provides in part that parties shall refrain from including or shall partially redact social security numbers from pleadings filed with the court unless otherwise ordered by the court or the pleading is excluded from public access. If the social security number must be included, only the last four digits of that number should be used.

the Judicial Conference set forth that the courts shall only release the last four digits of any social security number.<sup>110</sup>

The Committee's review of other states' policies, whether enacted or proposed, found that the redaction of all or part of social security numbers is common. For instance, the policies of the following states provide that only the last four digits of a social security number shall be released: New York,<sup>111</sup> Indiana,<sup>112</sup> and Maryland.<sup>113</sup> In addition, the policies of the following states provide that the entire social security number is protected and no part of it is released: Arizona,<sup>114</sup> California,<sup>115</sup> Florida,<sup>116</sup> Vermont,<sup>117</sup> Washington,<sup>118</sup> Minnesota,<sup>119</sup> Massachusetts,<sup>120</sup> Kansas,<sup>121</sup> and Kentucky.<sup>122</sup>

The CCJ/COSCA Guidelines suggest that the release of social security numbers should be considered on a case by case basis to determine if access should be allowed only at the court facility (whether in electronic or paper form) under Section 4.50(a)<sup>123</sup> or to prohibit access altogether under Section 4.60.<sup>124</sup>

The Committee concluded when it balanced all the factors outlined above that there may be a legitimate public interest in releasing social security numbers in full or part. Specifically, the release of full or partial social security numbers generally permits the users of court information to link a specific party with specific case information. That is, a social security number is used for "matching" purposes. However, the Committee maintains that the other identifiers that are releasable under this policy, such as full date of birth and partial address, will ensure that accurate matches of parties and case information can be made. In addition, the Committee is convinced

<sup>110</sup> *Remote Public Access to Electronic Case Records: A Report on a Pilot Project in Eleven Federal Courts*, prepared by the Court Administration and Case Management Committee of the Judicial Conference, p. 12.

<sup>111</sup> *Report to the Chief Judge of the State of New York* by the Commission on Public Access to Court Records (February, 2004), p. 8. The Report recommends that social security numbers should be shortened to their last four digits.

<sup>112</sup> IND. ADMIN. R. 9(F)(4)(d) provides that when a request for bulk or compiled information includes release of social security numbers, that only the last four digits of the social security number should be released. However, Rule 9(G)(1)(d) provides that "[t]he following information in case records is excluded from public access and is confidential: . . . Social Security Numbers."

<sup>113</sup> Maryland Rule of Procedure 16-1007 provides that ". . . a custodian shall deny inspection of a case record or a part of a case record that would reveal: . . . [a]ny part of the social security number . . . of an individual, other than the last four digits."

<sup>114</sup> ARIZ. R. 123 Public Access to the Judicial Records of the State of Arizona, Subsection (c)(3) provides in part that "documents containing social security [numbers] . . . when collected by the court for administrative purposes, are closed unless made public in a court proceeding or upon court order." See also *Report and Recommendation of the Ad Hoc Committee to Study Public Access to Electronic Case Records* dated March 2001 Sections (IV)(B), (IV)(D), (V)(1) and (VI)(6).

<sup>115</sup> CAL. CT. R. 2077(c)(1) provides that "the following information must be excluded from a court's electronic calendar, index, and register of actions: (1) social security numbers" before public access is permitted.

<sup>116</sup> Order of Supreme Court of Florida, No. AOSO04-4 (February 12, 2004). Specifically, the Order lists information that shall be accessible in electronic format to the public. Social security numbers are not listed in the Order.

<sup>117</sup> VERMONT RULES FOR PUBLIC ACCESS TO COURT RECORDS RULE 6(b)(29). This subsection provides that "the public shall not have access to the following judicial branch records: . . . records containing a social security number of any person, but only until the social security number has been redacted from the copy of the record provided to the public." See also VERMONT RULES GOVERNING DISSEMINATION OF ELECTRONIC CASE RECORDS RULE § 3(b).

<sup>118</sup> WASH. CT. GR. 31 (2006). Parties required to omit or redact social security numbers prior to filing documents with the court, except as provided in General Rule 22. Rule 22 provides that in family law and guardianship court records social security numbers are restricted personal identifiers, and as such not generally accessible to the public.

<sup>119</sup> MN ST ACCESS TO REC RULE 8(2)(b)(1) (WEST 2006). Specifically, Rule 8(2)(b)(1) provides that remote access to social security numbers of parties, their family members, jurors, witnesses, or victims in electronic records will not be allowed.

<sup>120</sup> *Policy Statement by the Justices of the Supreme Court Judicial Court Concerning Publications of Court Case Information on the Web*, (May 2003), p. 3, subsection (A)(6) which provides in part that no information regarding an individual's social security number should appear on the Court Web site.

<sup>121</sup> Kansas Rules Relating to District Courts Rule 196(d)(3) "[d]ue to privacy concerns, some otherwise public information, as determined by the Supreme Court, may not be available through electronic access. A nonexhaustive list of information generally not available electronically includes Social Security numbers. . . ."

<sup>122</sup> *Kentucky Court of Justice Access to Electronic Court Records* (December 2003) provides in part that "we decided to remove the individual's . . . social security number . . . from public remote access."

<sup>123</sup> *CCJ/COSCA Guidelines*, p. 40.

<sup>124</sup> *CCJ/COSCA Guidelines*, p. 45.

that the release of any part of a social security number would cause an unjustified invasion of personal privacy as well as present a risk to personal security. Thus, the Committee recommends that the MDJS policy of restricting the release of any part of a social security number should be continued.

#### *Operator License Numbers*

The Committee notes that the MDJS policy provides that the AOPC will not release operator license numbers.<sup>125</sup> The Committee found no controlling legal authority that would prohibit a court and/or office from redacting operator license numbers from an electronic case record prior to its release to the public. However, several statutes were of interest to the Committee in analyzing this issue.

First, the Driver's Privacy Protection Act<sup>126</sup> (DPPA) provides that a state department of motor vehicles, and any officer, employee, or contractor, thereof, shall not knowingly disclose or otherwise make available to any person or entity personal information about any individual obtained by the department in connection with a motor vehicle record.<sup>127</sup> The DPPA defines personal information as "information that identifies an individual, including an individual's photograph, social security number, driver identification number. . . ." <sup>128</sup> The AOPC has reviewed the DPPA previously and determined that it is inapplicable to the judiciary and its electronic case records.

Second, the Pennsylvania Vehicle Code provides that "it is unlawful for [a]ny police officer, or any officer, employee or agent of any Commonwealth agency or local authority which makes or receives records or reports required to be filed under [title 75] to sell, publish or disclose or offer to sell, publish or disclose records or reports which relate to the driving record of any person."<sup>129</sup> In addition, this statute provides "it is unlawful for [a]ny person to purchase, secure or procure or offer to purchase, secure or procure records or reports described [above]."<sup>130</sup> It appears that in order for this statute to be applicable to case records, the judiciary would have to be considered a "Commonwealth Agency." There is no definition in Title 75 for a "Commonwealth Agency." However, the Committee reviewed many other statutes that do define Commonwealth Agency and in its opinion the judiciary would not be considered a Commonwealth Agency under any of these definitions. Therefore, this statute is inapplicable to the courts and related offices. However, the spirit of this statute, as well as the DPPA, clearly conveys that in Pennsylvania the government should not be releasing operator license numbers to the public.

Moreover, the Committee's research revealed that the states of California,<sup>131</sup> Florida,<sup>132</sup> Vermont,<sup>133</sup> and Washington<sup>134</sup> do not permit the release of operator license numbers.

<sup>125</sup> See MDJS policy, Section II.B.2.a.

<sup>126</sup> 18 U.S.C. §§ 2721—2725 (2006).

<sup>127</sup> 18 U.S.C. § 2721(a)(1) (2006).

<sup>128</sup> 18 U.S.C. § 2725(3) (2006).

<sup>129</sup> 75 PA. CONS. STAT. § 6114(a)(1) (2006).

<sup>130</sup> 75 PA. CONS. STAT. § 6114(a)(2) (2006).

<sup>131</sup> CAL. CT. R 2077(c)(11) provides that "the following information must be excluded from a court's electronic calendar, index, and register of actions: (11) driver license numbers" before public access is permitted.

<sup>132</sup> Order of Supreme Court of Florida, No. AOSO04-4 (February 12, 2004). Specifically, the Order lists information that shall be accessible in electronic format to the public. Operator license numbers are not listed in the Order.

<sup>133</sup> VERMONT RULES GOVERNING DISSEMINATION OF ELECTRONIC CASE RECORDS RULE § 3(b).

<sup>134</sup> WASH. CT. GR. 31 (2006). Parties required to omit or redact driver's license numbers prior to filing documents with the court, except as provided in General Rule 22. Rule 22 provides that in family law and guardianship court records social security numbers are restricted personal identifiers, and as such not generally accessible to the public.

Security issues may be raised if a person's operator license number is used in conjunction with other personal identifiers. Specifically, if one knows some basic personal information about another such as his/her name, date of birth, and operator license number, he/she could alter the other's driver and vehicle information maintained by PennDOT.

In addition to identity theft, personal safety is also an issue. Threats to personal safety were documented in numerous incidents that lead to the enactment of the DPPA. Specifically:

[i]n 1989 actress Rebecca Schaeffer was killed by an obsessed fan. The fan was able to locate Schaeffer's home after he hired a private investigator who obtained the actress's address by accessing her California motor vehicle record, which was open to public inspection. As a result, the State of California restricted the dissemination of such information to specified recipients. In addition to the Schaeffer murder, public access to personal information contained in motor vehicle records allowed antiabortion groups to contact abortion clinic patients and criminals to obtain addresses of owners of expensive automobiles.<sup>135</sup>

The Committee concluded when it balanced all the factors outlined above that there may be a legitimate public interest in releasing operator license numbers, specifically ensuring that the "right" party is matched with the "right" case information. However, the Committee maintains that the other identifiers that are releasable under this policy, such as full date of birth and partial address, will ensure that accurate matches of parties and case information can be made. In addition, the Committee is convinced that the release of operator license numbers would cause unjustified invasions of personal privacy as well as present risks to personal security. Thus, the Committee recommends that the MDJS policy provisions restricting the release of operator license numbers should be continued.

#### *Victim Information*

The Committee notes that the MDJS policy provides that "names of juvenile victims of abuse" shall not be released.<sup>136</sup> Additionally, it is noted that the CCJ/COSCA Guidelines state that "parts of the court record, or pieces of information (as opposed to the whole case file) for which there may be a sufficient interest to prohibit public access [include] name, address, telephone number, e-mail, or places of employment of a victim, particularly in a sexual assault case, stalking or domestic violence case. . ."<sup>137</sup>

Additionally, the Committee notes that several states, such as California,<sup>138</sup> Florida,<sup>139</sup> Indiana,<sup>140</sup> Minnesota,<sup>141</sup> Massachusetts,<sup>142</sup> as well as the federal govern-

<sup>135</sup> Robert C. Lind, Natalie B. Eckart, *The Constitutionality of the Driver's Privacy Protection Act*, 17 *Communication Lawyer* 18 (1999).

<sup>136</sup> See MDJS policy, Section II.B.2.b. This prohibition is pursuant to 42 PA. CONS. STAT. § 5988(a) which provides that "[i]n a prosecution involving a child victim of sexual or physical abuse, unless the court otherwise orders, the name of the child victim shall not be disclosed by officers or employees of the court to the public, and any records revealing the name of the child victim will not be open to public inspection."

<sup>137</sup> See *CCJ/COSCA Guidelines*, p. 48.

<sup>138</sup> CAL. CT. R. 2077(c)(5) provides that "the following information must be excluded from a court's electronic calendar, index and register of actions: (5) victim information" before public access is permitted.

<sup>139</sup> Order of Supreme Court of Florida, No. AOSO04-4 (February 12, 2004). Specifically, the Order lists information that shall be accessible in electronic format to the public. Victim information is not listed in the Order.

<sup>140</sup> IND. ADMIN. R. 9(G)(1)(e). Specifically, the Rule provides that case records excluded from public access information that tends to explicitly identify victims, such as addresses, phone numbers, and dates of birth.

<sup>141</sup> MN ST ACCESS TO REC RULE 8(2)(b) (WEST 2006). Remote access in electronic records to a victim's social security number, street address, telephone

number<sup>143</sup> (concerning victims in protection from abuse cases) have enacted or proposed public access policies or court rules that would prohibit the release of victim information.

The Committee concluded that although there may be a legitimate public interest in releasing victim information, such as alerting the community as to whom crimes are being committed against and where crimes are being committed, it is outweighed by the interest of protecting the victim. The Committee, therefore, opines that the release of victim information including name, address and other contact information may result in intimidation or harassment of those individuals who are victims of a crime and would cause unjustified invasions of personal privacy as well as present risks to personal security. Thus, the Committee recommends that the MDJS policy provisions restricting the release of victim information should be continued.

#### *Informant Information*

The Committee asserts that information about an informant should not be released in that doing so could put the informant and/or law enforcement personnel who may be working with an informant at risk of harm, as well as possibly impede ongoing criminal investigations. Although the Committee could not find any court policies or rules that would specifically prohibit the release of informant information, the Committee notes that several states, such as Florida,<sup>144</sup> Minnesota,<sup>145</sup> and Massachusetts<sup>146</sup> have enacted or proposed public access policies or court rules that would prohibit the release of informant information, if the informant is a witness on the case. Additionally, the CCJ/COSCA Guidelines provide that parts of the court record, or pieces of information (as opposed to the whole case file) for which there may be a sufficient interest to prohibit public access "[include] name, address, or telephone number of informants in criminal cases."<sup>147</sup>

The Committee concluded when it balanced all the information outlined above that it was hard pressed to find a legitimate public interest in releasing informant information. The release of this information would be an unjustified invasion of personal privacy as well as present risks to personal security. Thus, the Committee recommends informant information should not be released.

#### *Juror Information*

The Committee notes that the CCJ/COSCA Guidelines state that "parts of the court record, or pieces of information (as opposed to the whole case file) for which there

number, financial account numbers or information that specifically identifies the individual or from which the identity of the individual could be ascertained is prohibited.

<sup>142</sup> *Policy Statement by the Justices of the Supreme Judicial Court Concerning Publications of Court Case Information on the Web* (May 2003), p. 2. The policy provides that the trial court web site should not list any information that is likely to identify victims.

<sup>143</sup> Title 18 U.S.C.A. § 2265(d)(3) provides that "[a] State. . . shall not make available publicly on the Internet any information regarding the registration or filing of a protection order, restraining order, or injunction in either the issuing or enforcing State. . . if such publication would be likely to publicly reveal the identity or location of the party protected under such order. A State. . . may share court-generated and law enforcement-generated information contained in secure, government registries for protection order enforcement purposes."

<sup>144</sup> Order of Supreme Court of Florida, No. AOSO04-4 (February 12, 2004). Specifically, the Order lists information that shall be accessible in electronic format to the public. Informant information is not listed in the Order.

<sup>145</sup> MN ST ACCESS TO REC RULE 8(2)(b) (WEST 2006). Remote access in electronic records to a witness' social security number, street address, telephone number, financial account numbers or information that specifically identifies the individual or from which the identity of the individual could be ascertained will not be allowed.

<sup>146</sup> *Policy Statement by the Justices of the Supreme Judicial Court Concerning Publications of Court Case Information on the Web*, (May 2003), p. 2. The policy provides that the trial court web site should not list any information that is likely to identify witnesses (except for expert witnesses).

<sup>147</sup> *CCJ/COSCA Guidelines*, p. 48.

may be a sufficient interest to prohibit public access [include] names, addresses, or telephone numbers of potential or sworn jurors in a criminal case. . . [and] juror questionnaire information.”<sup>148</sup> In addition, the Committee notes that Rule 630 of the Pennsylvania Rules of Criminal Procedure sets forth that “[t]he information provided on the juror qualification form shall be confidential” and further provides that “[t]he original and any copies of the juror qualification form shall not constitute a public record.”<sup>149</sup>

Rule 632 of the Pennsylvania Rules of Criminal Procedure provides that “[t]he information provided by the jurors on the questionnaires shall be confidential and limited to use for the purpose of jury selection only. . . .”<sup>150</sup> Rule 632 also sets forth that “the original and any copies of the juror information questionnaire shall not constitute a public record.”<sup>151</sup> Further, it states “[t]he original questionnaire of all impaneled jurors shall be retained in a sealed file and shall be destroyed upon completion of the juror’s service, unless otherwise ordered by the trial judge.”<sup>152</sup> The Rule also provides that “[t]he original and any copies of questionnaires of all prospective jurors not impaneled or not selected for any trial shall be destroyed upon completion of the jurors’ service.”<sup>153</sup>

In addition, in the case of *Commonwealth v. Karl Long*,<sup>154</sup> the Superior Court held that there is no constitutional or common law right of access to the names and addresses of jurors. Further, the Court noted that:

“a number of states have enacted legislation with the intent to protect jurors’ privacy. New York has adopted legislation to protect the privacy of jurors by keeping empanelled jurors’ names and addresses confidential. *N.Y. Judiciary Law C § 509(a)(2003)*; see also *Newsday, Inc. v. Sise*, 524 N.Y.S.2d 35, 38-89 (N.Y. 1987). Delaware has also enacted juror privacy legislation. *Del. Code Ann. Tit. 10 § 4513*; also *Gannett*, 571 A.2d 735 (holding that the media did not have the right to require announcement of juror’s names during the highly publicized trial, even though the parties have full access to such information and the proceedings are otherwise open to the public). Indiana legislation provides that the release of names and identifying information of potential jurors is within the discretion of the trial judge. *Ind. Code § 2-210(5)*.”<sup>155</sup>

Moreover, the Committee notes that several states, such as Vermont,<sup>156</sup> Idaho,<sup>157</sup> Maryland,<sup>158</sup> Arizona,<sup>159</sup>

Minnesota,<sup>160</sup> and Utah<sup>161</sup> have enacted or proposed public access policies or court rules that would prohibit the release of some or all juror information.

In February 2005, the American Bar Association’s House of Delegates approved a series of model jury principles.<sup>162</sup> Principle 7 addresses the need for juror privacy when consistent with the requirements of justice and the public interest. More specifically, principle 7 recommends that juror addresses and phone numbers be kept under seal.<sup>163</sup>

In Pennsylvania, section 4524 of the Judicial Code provides with respect to the jury selection commission that “[a] separate list of names and addresses of persons assigned to each jury array shall be prepared and made available for public inspection at the offices of the commission no later than 30 days prior to the first date on which the array is to serve.”

Therefore, the Committee concluded that existing Pennsylvania legal authority as cited above requires that juror information contained in electronic case records shall not be released to the public. Moreover, the Committee notes that such a result appears to be consistent with the approach taken by other states.

#### Party’s Address

The Committee notes that the MDJS policy provides that AOPC will not release the addresses of parties.<sup>164</sup> The Committee notes that the CCJ/COSCA Guidelines state that “additional categories of information to which a state or individual court might also consider restricting general public access include: addresses of litigants in cases. . . .”<sup>165</sup>

In addition, several states and the federal courts<sup>166</sup> have enacted or proposed public access policies or court rules that would prohibit the release of a party address or permit the release of only a partial address. Those states include: Indiana,<sup>167</sup> Minnesota,<sup>168</sup> Massachusetts,<sup>169</sup> Kansas<sup>170</sup>, Kentucky<sup>171</sup> and Vermont.<sup>172</sup> In addition,

<sup>159</sup> ARIZ. R. 123 Public Access to the Judicial Records of the State of Arizona, Subsection (e)(9) provides that “the home and work telephone numbers and addresses of jurors, and all other information obtained by special screening questionnaires or in voir dire proceedings that personally identifies jurors summoned for service, except the names of jurors on the master jury list, are confidential, unless disclosed in open court or otherwise opened by order of the court.”

<sup>160</sup> MN ST ACCESS TO REC RULE 8(2)(b) (WEST 2006). Remote access in electronic records to a juror’s social security number, street address, telephone number, financial account numbers or information that specifically identifies the individual or from which the identity of the individual could be ascertained will not be allowed.

<sup>161</sup> UTAH J. ADMIN. R. 4-202.02(2)(k) provides that “public court records include but are not limited to: name of a person other than a party, but the name of a juror or prospective juror is private unless released by a judge.” Moreover, subsection (4)(i) of the same Rule provides that “the following court records are private; the following personal identifying information about a person other than a party; address, email address, telephone number, date of birth, driver’s license number, social security number, account description and number, password, identification number, maiden name and mother’s maiden name.” Rule 4-202-03 provides who has access to private records which in general appears not to be the public.

<sup>162</sup> <http://abanet.org/juryprojectstandards/principles.pdf>.

<sup>163</sup> Stellwag, Ted. “The Verdict on Juries.” *The Pennsylvania Lawyer*, pp. 15, 20. May-June 2005 (quoting the chairperson of the American Jury Project to say “jurors should not have to give up their privacy. . . to do their public service.”).

<sup>164</sup> See MDJS policy, Section I.B.2.a.

<sup>165</sup> See CCJ/COSCA Guidelines, p. 49.

<sup>166</sup> *Remote Public Access to Electronic Case Records: A Report on a Pilot Project in Eleven Federal Courts*, prepared by the Court Administration and Case Management Committee of the Judicial Conference, p. 12. Although there is no restriction on the release of a party’s address in civil cases, the pilot program in the eleven federal courts to provide public access to criminal case files electronically requires the redaction of all home addresses including those of parties.

<sup>167</sup> IND. ADMIN. R. 9(F)(4)(d) provides that a request for bulk distribution and compiled information of case records that includes a request for addresses will be complied with by only providing the zip code of the addresses. However, Rule 9(G)(1)(e) provides that “[t]he following information in case records is excluded from public access and is confidential. . . addresses. . . [o]f witnesses or victims in criminal, domestic violence, stalking, sexual assault, juvenile, or civil protection order proceedings. . . .”

<sup>168</sup> MN ST ACCESS TO REC RULE 8(2)(b)(2) (WEST 2006). Remote access in electronic records to a party’s street address will not be allowed.

<sup>169</sup> *Policy Statement by the Justices of the Supreme Judicial Court Concerning Publications of Court Case Information on the Web* (May 2003), p. 3. The policy provides that the trial court web site should not list an individual’s address.

<sup>170</sup> Kansas Rules Relating to District Courts Rule 196(d)(3) “[d]ue to privacy concerns, some otherwise public information, as determined by the Supreme Court,

<sup>148</sup> *Id.*

<sup>149</sup> PA.R.CRIM.P. 630(A)(2), (3).

<sup>150</sup> PA.R.CRIM.P. 632(B).

<sup>151</sup> PA.R.CRIM.P. 632(C).

<sup>152</sup> PA.R.CRIM.P. 632(F).

<sup>153</sup> PA.R.CRIM.P. 632(G).

<sup>154</sup> Please note that the Supreme Court has granted a petition for allowance of appeal in this matter. For more information, please see 884 A.2d 248-9 and 39-40 WAP 2005. See also *Jury Service Resource Center v. De Muniz*, —P3d—, 2006 WL 1101064 (April 27, 2006) (Oregon Supreme Court held that the First Amendment did not require state and county officials to give full access to jury pool records).

<sup>155</sup> *Id.* At p. 7.

<sup>156</sup> VERMONT RULES FOR PUBLIC ACCESS TO COURT RECORDS RULE 6(b)(30). This subsection provides that “the public shall not have access to the following judicial branch records. . . records with respect to jurors or prospective jurors as provided in Rules Governing Qualification, List, Selection and Summoning of All Jurors.”

<sup>157</sup> IDAHO RULES GOVERNING THE ADMINISTRATION AND SUPERVISING OF THE UNIFIED AND INTEGRATED IDAHO JUDICIAL SYSTEM, RULE 32(d)(5)&(6) records exempt from disclosure include “records of. . . the identity of jurors of grand juries” and “the names of jurors placed in a panel for a trial of an action and the contents of jury qualification forms and jury questionnaires for these jurors, unless ordered to be released by the presiding judge.”

<sup>158</sup> Maryland Rule of Procedure 16-1004(B)(2) provides that “. . . a custodian shall deny inspection of a court record used by the jury commissioner or clerk in connection with the jury selection process. Except as otherwise provided by court order, a custodian may not deny inspection of a jury list sent to the court pursuant to Maryland Rules 2-512 or 4-312 after the jury has been empanelled and sworn.”



some federal courts have begun releasing only a partial address as well.<sup>173</sup> Furthermore, the Committee notes that in *Sapp Roofing Co. v. Sheet Metal Workers' Int'l*<sup>174</sup> and *Barger v. Dep't of Labor and Indus.*,<sup>175</sup> Pennsylvania courts held that a home address falls under the personal security provision of the RTKA and thus should not be released pursuant to a request under the RTKA.

The Committee was faced with three choices: to release a full address, to release a partial address, or to restrict access to addresses. The Committee asserts that there is a legitimate public interest in releasing a party's address, specifically ensuring that the "right" party is matched with the "right" case information. However, the Committee is concerned that releasing the entire address would cause an unjustified invasion of personal privacy as well as present a risk to personal security.

Therefore, when coupled with other identifiers accessible under this Policy, the Committee opines that the release of a partial address (city, state, and zip code only) will facilitate a requestor's need to match the "right" party with the "right" case while at the same time not raise any significant issues of personal privacy or security. Thus, the Committee recommends the same.

#### Witness Information

The Committee notes that the MDJS Policy provides that AOPC will not release the following information about a witness: address, social security number, telephone number, fax number, pager number, driver's license number, SID number or other identifier that would present a risk to the witness' personal security or privacy.<sup>176</sup> In addition, the Committee notes that the CCJ/COSCA Guidelines state that "parts of the court record, or pieces of information (as opposed to the whole case file) for which there may be a sufficient interest to prohibit public access" include addresses of witnesses (other than law enforcement personnel) in criminal or domestic violence protective order cases.<sup>177</sup> The Committee also notes that several states have enacted or proposed public access policies or court rules that would prohibit the release of witness information. Those states include: California,<sup>178</sup> Florida,<sup>179</sup> Indiana,<sup>180</sup> Minnesota,<sup>181</sup> and Massachusetts.<sup>182</sup>

may not be available through electronic access. A nonexhaustive list of information generally not available electronically includes street addresses. . . ."

<sup>171</sup> *Kentucky Court of Justice Access to Electronic Court Records* (December 2003) provides in part that "we decided to remove the individual's address... from public remote access."

<sup>172</sup> VERMONT RULES GOVERNING DISSEMINATION OF ELECTRONIC CASE RECORDS RULE § 3(b).

<sup>173</sup> See also Local Rules of Practice for the Southern District of California Order 514-C(1)(e) which provides that "in criminal cases, the home address of any individual (i.e. victim)" is required to be removed or redacted from all pleadings filed with the court. Eastern District of Pennsylvania Local Rule 5.1.2 (electronic case file privacy) which provides in a part that in criminal cases parties should refrain from including or partially redacting home addresses from all documents filed with the court. ("If a home address must be included, only the city and state should be listed").

<sup>174</sup> 713 A.2d 627, 630 (Pa. 1998).

<sup>175</sup> 720 A.2d 500, 502 (Pa. Commw. Ct. 1998).

<sup>176</sup> See MDJS policy, Section II.B.2.a.

<sup>177</sup> See CCJ/COSCA Guidelines, p. 48.

<sup>178</sup> CAL. CT. R. 2077(c)(6) provides that "the following information must be excluded from a court's electronic calendar, index and register of actions: (6) witness information" before public access is permitted.

<sup>179</sup> Order of Supreme Court of Florida, No. AOSO04-4 (February 12, 2004). Specifically, the Order lists information that shall be accessible in electronic format to the public. Witness information is not listed in the Order.

<sup>180</sup> IND. ADMIN. R. 9(G)(1)(e). Specifically, the Rule provides that case records excluded from public access information that tends to explicitly identify witnesses, such as addresses, phone numbers, and dates of birth.

<sup>181</sup> MN ST ACCESS TO REC RULE 8(2)(b) (WEST 2006). Remote access in electronic records to a witness' social security number, street address, telephone number, financial account numbers or information that specifically identifies the individual or from which the identity of the individual could be ascertained is prohibited.

<sup>182</sup> *Policy Statement by the Justices of the Supreme Judicial Court Concerning Publications of Court Case Information on the Web* (May 2003), p. 2. The policy provides that the trial court web site should not list any information that is likely to identify witnesses except for expert witnesses.

The Committee concluded when it balanced all the information outlined above that there may be a legitimate public interest in releasing witness information, specifically that the public's ability to ascertain who testified at a public trial. However, the Committee is convinced that the release of witness information including name, address and other contact information may result in intimidation or harassment of the witnesses and thus would be an unjustified invasion of personal privacy as well as present a risk to personal security. Thus, the Committee recommends that the MDJS policy provisions restricting the release of victim information should be extended to witnesses.

#### SID Numbers

A SID number (or a state identification number) is a unique identifying number that is assigned by the Pennsylvania State Police (PSP) providing for specific identification of an individual through analysis of his/her fingerprints. The PSP does not release SID numbers to the public on the basis that SID numbers are criminal history record information, the release of which is controlled by the Criminal History Record Information Act (CHRIA).<sup>183</sup> Moreover, the MDJS policy provides in part that "[t]he following information will not be released: . . . state fingerprint identification number (SID)."<sup>184</sup>

The Committee found it very instructive that the PSP does not release SID numbers to the public on the basis that SID numbers are criminal history record information, the release of which is controlled by CHRIA. Therefore, the Committee is not convinced that there is a legitimate public interest in releasing SID numbers. Therefore, the Committee recommends that the MDJS Policy of not releasing SID numbers be continued.

#### Financial Institution Account Numbers, Credit Card Numbers, PINS or Passwords Used to Secure Accounts

The Committee maintains when an individual provides the court or office with a financial institution account number (e.g., banking account number) and/or a credit card number that they should not be released to the public because of the financial harm that can result. The CCJ/COSCA Guidelines provide in part that examples of "documents, parts of the court record, or pieces of information (as opposed to the whole case file) for which there may be a sufficient interest to prohibit public access [include f]inancial information that provide identifying account numbers on specific assets, liabilities, accounts, credit cards, or personal identification numbers (PINs) of individuals or business entities."<sup>185</sup> In addition, the Committee notes that the federal courts<sup>186</sup> and several states, such as Arizona,<sup>187</sup> California,<sup>188</sup> Colorado,<sup>189</sup> Florida,<sup>190</sup>

<sup>183</sup> 18 PA. CONS. STAT. § 9101 et. seq.

<sup>184</sup> See MDJS Policy, Section II.B.2.a.

<sup>185</sup> See CCJ/COSCA Guidelines, p. 48.

<sup>186</sup> *Remote Public Access to Electronic Case Records: A Report on a Pilot Project in Eleven Federal Courts*, prepared by the Court Administration and Case Management Committee of the Judicial Conference, p. 12 and the *Report of the Judicial Conference Committee on Court Administration and Case Management on Privacy and Public Access to Electronic Case Files*, p. 3. With regard to Judicial Conference's recommendation for public access to civil case files electronically and the pilot program in the eleven federal courts to provide public access to criminal case files electronically, both require that only the last four digits of the financial account number are releasable. See also Local Rules of Practice for the Southern District of California Order 514-C(1)(d) and Eastern District of Pennsylvania Local Rule of Civil Procedure 5.1.3.

<sup>187</sup> ARIZ. SUP. CT. R. 123(c)(3). The Rule provides that "documents containing . . . credit card, debit card, or financial account numbers or credit reports of an individual, when collected by the court for administrative purposes, are closed unless made public in a court proceeding or upon court order." Arizona Rule 123 Public Access to the judicial records of the state, and *Report and Recommendation of the Ad Hoc Committee to Study Public Access to Electronic Records* dated March 2001 Sections (IV)(B), (IV)(D), (V)(1) and (VI)(6).

<sup>188</sup> CAL. CT. R. 2077(c)(2) which provides that "the following information must be excluded from a court's electronic calendar, index, and register of actions: (2) any financial information" before public access is permitted.

Indiana,<sup>191</sup> Minnesota,<sup>192</sup> New York<sup>193</sup> and Vermont<sup>194</sup> either prohibit the release of this information entirely or only permit the partial release of this information (i.e., the last four digits).

The Committee opines that there is no legitimate public interest in obtaining financial account, credit card information, PINS or passwords used to secure accounts. Using the balancing test, the analysis would be concluded. In addition, the Committee stresses that releasing this information will further the threat of identity theft. The Committee, therefore, recommends that financial account and credit card information shall not be released.

*Notes, Drafts, and Work Products Related to Court Administration or any Office that is the Primary Custodian of an Electronic Case Record*

The Committee notes that several states including: Arizona,<sup>195</sup> Idaho,<sup>196</sup> Indiana,<sup>197</sup> Minnesota,<sup>198</sup> Vermont,<sup>199</sup> and Utah<sup>200</sup> have a similar provision regarding notes, drafts, and work products related to court administration or any office that is the primary custodian of an electronic case record. In addition, the CCJ/COSCA Guidelines provide in part that examples of “documents, parts of the court record, or pieces of information (as opposed to the whole case file) for which there may be a sufficient interest to prohibit public access [include] judicial, court administration and clerk of court work product.”<sup>201</sup>

The CCJ/COSCA Guidelines define judicial work product as:

work product involved in the court decisional process, as opposed to the decision itself. This would include such things as notes and bench memos prepared by

staff attorneys, draft opinions and orders, opinions being circulated between judges, etc. Any specification about this should include independent contractors working for a judge or the court, externs, students, and others assisting the judge who are not employees of the court or the clerk of court’s office.<sup>202</sup>

Court administration and clerk of court work product is defined by the CCJ/COSCA Guidelines as “information . . . generated during the process of developing policy relating to the court’s administration of justice and its operations.”<sup>203</sup> The Guidelines indicate that court administration information that other states have excluded from public access include: communication logs of court personnel, meeting minutes, and correspondence of court personnel.<sup>204</sup>

Although the Committee will not attempt to list every piece of information that will not be released pursuant to this provision, the Committee would note the following. This provision would prohibit the release of information pertaining to the internal operations of a court, such as data recorded in the case notes or judicial notes portions of the automated systems wherein the court and court staff can record various work product and confidential information and help desk records.

The Committee when it balanced all the factors outlined above concluded that there is no legitimate public interest in releasing this type of information. Therefore, the Committee asserts that the same should not be released.

*Information Sealed or Protected Pursuant to Court Order*

If there is a court order that seals a case record or information contained within that case record, the same shall not be released to the public. The Committee notes that New York<sup>205</sup> has proposed and Maryland<sup>206</sup> has adopted a similar prohibition.

*Information to which Access is Restricted by Federal Law, State Law or State Court Rule*

This policy cannot supplant federal law, state law, or state court rule. Thus, if information is not releasable to the public pursuant to such authorities, the information cannot be released. The Committee did not specifically set forth in the policy each federal law, state law, or state court rule that prohibits the release of information to the public in that it suspects that to do so would require an amendment to the policy every time a law or rule was changed.<sup>207</sup>

<sup>202</sup> See *CCJ/COSCA Guidelines*, p. 50.

<sup>203</sup> See *CCJ/COSCA Guidelines*, p. 50.

<sup>204</sup> See *CCJ/COSCA Guidelines*, p. 51. See also ARIZ. SUP. CT. R. 123(e) (restricting access to *inter alia* judicial case assignments, pre-decisional documents, and library records); CAL. CT. R. 2072(a) (excluding personal notes or preliminary memoranda of court personnel from definition of court record); FLA. J. ADMIN. R. 2.051(c) (keeping confidential *inter alia* materials prepared as part of the court’s judicial decision-making process utilized in disposing of case and controversies unless filed as a part of the court record); *Report to the Chief Judge of the State of New York* by the Commission on Public Access to Court Records (February 2004), p. 1, fn. 2 which indicates that information captured by a case tracking system that is for internal use only is not deemed to be public case record data; proposed amendment to VERMONT RULES FOR PUBLIC ACCESS TO COURT RECORDS RULE 5(b)(14) (restricting access to *inter alia* “communications between judicial branch personnel with regard to internal operations of the court, such as scheduling of cases, and substantive or procedural issues.”).

<sup>205</sup> *Report to the Chief Judge of the State of New York* by the Commission on Public Access to Court Records (February, 2004), p. 22 which provides that “sealed records may not be viewed by the public.”

<sup>206</sup> Maryland Rule of Procedure 16-1006(J)(1) which provides that “the custodian shall deny inspection of . . . a case record that: a court has ordered sealed or not subject to inspection. . . .”

<sup>207</sup> See, e.g., 42 Pa.C.S. §§ 6307, 6352.1 and Pa.R.J.C.P. 160 (providing limitations on the release of juvenile case record information).

<sup>189</sup> Colo. C.J.D. 05-01 Section 4.60(b) provides that “the following information in court records is not accessible in electronic format due to the inability to protect confidential information. It may be available at local courthouses. . . financial files—everything except for the financial summary screen.”

<sup>190</sup> Order of Supreme Court of Florida, No. AOSO04-4 (February 12, 2004). Specifically, the Order lists information that shall be accessible in electronic format to the public. Financial account numbers and credit card numbers are not listed in the Order.

<sup>191</sup> IND. ADMIN. R. 9(G)(1)(f). Specifically, the Rule provides that account numbers of specific assets, liabilities, accounts, credit cards, and personal identification numbers (PINS) shall not be released.

<sup>192</sup> MN ST ACCESS TO REC RULE 8(2)(b)(4) (WEST 2006). Remote access in electronic records to financial account numbers of parties or their family members, witnesses, jurors, or victims of criminal or delinquent acts is prohibited.

<sup>193</sup> *Report to the Chief Judge of the State of New York* by the Commission on Public Access to Court Records (February, 2004), p. 8. The Report provides that financial account numbers should be shortened to their last four digits.

<sup>194</sup> VERMONT RULES FOR PUBLIC ACCESS TO COURT RECORDS RULE 6(b)(10) & (11). These Rules provide that the public shall not have access to records containing financial information furnished to the court in connection with an application to proceed in forma pauperis (not including the affidavit submitted in support of the application) and records containing financial information furnished to the court in connection with an application for an attorney at public expense (not including the affidavit submitted in support of the application). See also VERMONT RULES GOVERNING DISSEMINATION OF ELECTRONIC CASE RECORDS RULE § 3(b).

<sup>195</sup> PUBLIC ACCESS TO THE JUDICIAL RECORDS OF THE STATE OF ARIZONA, Rule 123(d)(3) provides that “notes, memoranda or drafts thereof prepared by a judge or other court personnel at the direction of a judge and used in the process of preparing a final decision or order are closed.”

<sup>196</sup> IDAHO ADMIN. R. 32(d)(15). This Rule provides that judicial work product or drafts, including all notes, memoranda or drafts prepared by a judge or a court-employed attorney, law clerk, legal assistant or secretary and used in the process of preparing a final decision or order except the official minutes prepared pursuant to law are not accessible by the public.

<sup>197</sup> IND. ADMIN. R. 9(G)(1)(h). Specifically, the Rule provides that case records excluded from public access include all personal notes and email, and deliberative material, of judges, court staff and judicial agencies.

<sup>198</sup> MN ST ACCESS TO REC RULE 4(1)(c) (WEST 2006). Case records that are not accessible by the public include “all notes and memoranda or drafts thereof prepared by a judge or by a court employed attorney, law clerk, legal assistant or secretary and used in the process of preparing a final decision or order. . . .”

<sup>199</sup> VERMONT RULES FOR PUBLIC ACCESS TO COURT RECORDS RULE 6(b)(12). These Rules provide that “records representing judicial work product, including notes, memoranda, research results, or drafts prepared by a judge or prepared by other court personnel on behalf of a judge, and used in the process of preparing a decision or order” are not available for public access.

<sup>200</sup> UTAH J. ADMIN. R. 4-202.02(5)(H) provides that “the following court records are protected. . . memorandum prepared by staff for a member of any body charged by law with performing a judicial function and used in a decision making process.”

<sup>201</sup> See *CCJ/COSCA Guidelines*, p. 48-49.

*Information Presenting a Risk to Personal Security, Personal Privacy, or the Fair, Impartial and Orderly Administration of Justice, as Determined by the Court Administrator of Pennsylvania with the Approval of the Chief Justice.*

The MDJS policy provides that “the following information will not be released: . . . other identifiers which would present a risk to personal security or privacy.”<sup>208</sup> Moreover, the RTKA provides that the definition of “public records” does not include “any record . . . which would operate to the prejudice or impairment of a person’s reputation or personal security. . . .”<sup>209</sup>

The Committee is mindful that it is difficult to anticipate every possible public access consideration, whether related to technology, administration, security or privacy, that might arise upon implementation of a policy. Moreover, resolution of issues that may have statewide impact need to be resolved in a timely and unified fashion.

For example, in the recent past, law enforcement and court personnel raised security concerns with the AOPC about the release of certain MDJS data that jeopardized the safety of police officers and the administration of justice. The aforementioned MDJS policy provision permitted the Court Administrator to review the specific concerns and quickly take action to remedy the situation. The result being a more narrowly tailored access to MDJS criminal case data for bulk requestors that balanced the interests of transparency, security and operations of the court system. In a system as vast as ours, it is critical that such measures can be taken in a coordinated and effective manner.

It is important to note that other state court systems’ policies and rules have similarly provided for the need to promptly address unanticipated privacy and security concerns. See *[Massachusetts] Policy Statement by the Justices of the Supreme Judicial Court Concerning Publications of Court Case Information on the Web* (May 2003), p. 3; Kan.Sup.Ct. Rule 196(d)(3).

The Committee is cognizant that providing a “catchall” provision such as this could lead to a perception of overreaching, and due consideration was given before offering this recommendation. Notwithstanding, it is believed that such a provision used in judicious fashion is absolutely necessary to the successful implementation of this policy, as has been the case with the MDJS.

### *Section 3.10 Requests for Bulk Distribution of Electronic Case Records*

A. A request for bulk distribution of electronic case records shall be permitted for data that is not excluded from public access as set forth in this policy.

B. A request for bulk distribution of electronic case records not publicly accessible under Section 3.00 of this Policy may be fulfilled where: the information released does not identify specific individuals; the release of the information will not present a risk to personal security or privacy; and the information is being requested for a scholarly, journalistic, governmental-related, research or case preparation purpose.

1. Requests of this type will be reviewed on a case-by-case basis.

2. In addition to the request form, the requestor shall submit in writing:

(a) the purpose/reason for the request;

(b) identification of the information sought;

(c) explanation of the steps that the requestor will take to ensure that the information provided will be secure and protected;

(d) certification that the information will not be used except for the stated purposes; and

(e) whether IRB approval has been received, if applicable.

### *2013 Commentary*

An Institutional Review Board (“IRB”) ascertains the acceptability of and monitors research involving human subjects. An IRB will typically set forth requirements for research projects, such as where the information is to be kept, who has access, how the information is codified, and what information is needed for matching purposes. If there is IRB approval documentation setting forth the information required under Subsection B(2), such documentation may be sufficient to satisfy the “writing” requirement of this subsection.

### *2007 Commentary*

In the judgment of the Committee, the number of electronic case records that may be requested by the public should not be limited. AOPC’s practice has been to fulfill requests for bulk distribution of electronic MDJS case records regardless of the number of records involved. In addition, the Committee’s recommendation and analysis on this issue closely mirrors the CCJ/COSCA Guidelines, which permit the release of bulk distribution of court records.<sup>210</sup> In addition, the Committee notes that several states, including California,<sup>211</sup> Indiana,<sup>212</sup> and Minnesota<sup>213</sup> permit the release of bulk data. Some states such as Kansas<sup>214</sup> and Colorado<sup>215</sup> (in part) do not permit the release of bulk data. Moreover, the RTKA provides that “[a] policy or regulation may not include any of the following: a limitation on the number of public records which may be requested or made available for inspection or duplication.”<sup>216</sup> Therefore, the Committee recommends that requests for bulk distribution of electronic case records continue to be fulfilled.

With regard to these requests, the Committee believes that the Judicial Automation Department may in the future implement in the Court’s automated systems (PACMS, CPCMS, and MDJS) various “canned” reports which a user can produce for requestors in response to a request. However, until the development of these “canned” reports or in a situation where the request cannot be fulfilled with one of these “canned” reports, the requestor should be referred to the AOPC.

A request for bulk distribution of electronic case records is defined as a request for all, or a subset, of electronic case records. Bulk distribution of electronic case record information shall be permitted for data that are publicly

<sup>210</sup> See CCJ/COSCA Guidelines, pp. 34, 35, and 39.

<sup>211</sup> See CAL. CT. R. 2073(f) which provides that “a court may provide bulk distribution of only its electronic calendar, register of actions and index. ‘Bulk distribution’ means distribution of all, or a significant subset, of the court’s electronic records.”

<sup>212</sup> IND. ADMIN. R. 9(F) permits the release of bulk or compiled data.

<sup>213</sup> MN ST ACCESS TO REC RULE 8(3) (WEST 2006).

<sup>214</sup> Kansas Rules Relating to District Courts Rule 196(e) “Bulk and Compiled Information Distribution—Information in bulk or compiled format will not be available.”

<sup>215</sup> Colo. C.J.D. 05-01 provides in Section 4.30 that bulk data will not be released to individuals, government agencies or private entities. Bulk data being the entire database or that subset of the entire database that remains after the extraction of all data that is confidential under law. However, Section 4.40 provides that requests for compiled data for non-confidential data will be entertained. There are numerous criteria that will be used to determine if the request will be granted. Compiled data is defined as data that is derived from the selection, aggregation or reformulation of specific data elements within the database.”

<sup>216</sup> PA. STAT. ANN. tit. 65, § 66.8(c)(1) (West 2006).

<sup>208</sup> See MDJS Policy, Section II.B.2.a.

<sup>209</sup> PA. STAT. ANN. tit. 65, § 66.1 (West 2006).

accessible as specified in the policy (e.g., date of birth, a party's address limited to city, state and ZIP code).

In addition, a request for bulk distribution of information/data not publicly accessible may be permitted where: the information released does not identify specific individuals; the release of the information will not present a risk to personal security or privacy; and the information is being requested for a scholarly, journalistic, governmental-related, research or case preparation purpose.

The court, office or record custodian will review requests for this type of information/data on a case-by-case basis. For example, a requestor may want to know the offense location of all rapes for a given year in Pennsylvania, but he does not want any personal information about the victims (such as name, social security number, etc) because he is conducting a study to see if most rapes occur in apartment buildings, single-family structures, or in public areas (such as malls or parking lots). This request could be fulfilled if the information released does not identify any of the victims; there is no risk to the personal security or privacy of the victims involved; and the information is being requested for a scholarly, journalistic, governmental-related, research or case preparation purpose.

For requests of non-releasable information, the requestor shall in addition to the request form, submit in writing:

- the purpose/reason for the request;
- identification of the information sought;
- explanation of the steps that the requestor will take to ensure that the information provided will be secure and protected; and
- certification that the information will not be used except for the stated purposes.

This section addresses requests for large volumes of data available from the statewide automation case management systems (PACMS, CPCMS, and MDJS) including incremental data files used to update previously received bulk distributions.<sup>217</sup>

#### *Section 3.20 Requests for Electronic Case Record Information from Another Court or Office*

Any request for electronic case record information from another court should be referred to the proper record custodian in the court or office where the electronic case record information originated. Any request for electronic case record information concerning multiple magisterial district judge courts or judicial districts should be referred to the Administrative Office of the Pennsylvania Courts.

#### *Commentary*

The Committee asserts that for electronic case record information "filed" within a specific court or office the requestor should contact the court or office for information. However, requests for information about multiple magisterial district judge courts or judicial districts should be directed to and processed by the AOPC.

In light of the fact that the CPCMS provides the capability for a clerk of courts in one county to produce information about a case in another county, the Committee is concerned that this policy might be used by a requestor to attempt to compel court and office personnel to produce information about a case in another county.

<sup>217</sup> After receipt of the initial bulk data transfer, requestors receive additional data sets (increments) periodically that allow them to update their current file.

The Committee assumes that most personnel would be averse to producing information about a case from another county in that the courts and offices currently have "control" over the release of their own case records. Therefore, it is preferable that situations in which court or office X is releasing court or office Y's case records be avoided. Therefore this section makes it clear that requests for electronic case record information should be made to the record custodian in the court or office where the electronic case record information originated.

Generally, requests for information regarding a specific court or office should continue to be handled at the local level, but should be consistent with the statewide public access policy, thus ensuring that a requestor will get the same kinds of information from any court or office statewide. If a requestor is unable to obtain the information, the AOPC should work with the record custodian or appropriate administrative authority (e.g., district court administrator) to facilitate the fulfillment of the request consistent with the policy, as currently is done for MDJS requests. As a last resort, the AOPC may handle these requests directly, if possible.

For requests regarding multiple magisterial district judge courts or judicial districts, the Committee recommends that such requests should be referred to the AOPC, which alone should respond to the same. The Committee opines that the AOPC will be in the best position to more efficiently handle these requests, considering the AOPC will be capable of identifying the precise technological queries needed to "run" the request.

#### *Section 4.00 Responding to a Request for Access to Electronic Case Records*

A. Within 10 business days of receipt of a written request for electronic case record access, the respective court or office shall respond in one of the following manners:

1. fulfill the request, or if there are applicable fees and costs that must be paid by the requestor, notify requestor that the information is available upon payment of the same;
2. notify the requestor in writing that the requestor has not complied with the provisions of this policy;
3. notify the requestor in writing that the information cannot be provided; or
4. notify the requestor in writing that the request has been received and the expected date that the information will be available. If the information will not be available within 30 business days, the court or office shall notify the Administrative Office of Pennsylvania Courts and the requestor simultaneously.

B. If the court or office cannot respond to the request as set forth in subsection A, the court or office shall concurrently give written notice of the same to the requestor and Administrative Office of Pennsylvania Courts.

#### *Commentary*

Implementing the provisions of this policy should not unduly burden the courts and offices, nor should implementation impinge upon the judiciary's primary service—the delivery of justice. The question raised by this section is not whether there is to be access, but rather *how and when access should be afforded*.

In drafting this section, the Committee was faced with two competing interests. First, any requirements imposed upon courts and offices regarding how and when they

should respond to these requests must not interfere with the courts' and offices' ability to conduct their day-to-day operations, often with limited resources. Second, all requests should be handled by courts and offices in a predictable, consistent, and timely manner statewide. It is the Committee's opinion that the provisions of this section strike the appropriate balance between these two competing interests.

As noted earlier in this Report, FOIA and RTKA are not applicable to the judiciary. However, the Committee when drafting this section of the policy paid particular close attention as to how both Acts address this issue. In fact, the Committee incorporated elements of those Acts into this section of the policy.<sup>218</sup>

Under subsection A(4), the court or office shall specifically state in its written notification to the requestor the expected date that the information will be available. If the information will not be available within 30 business days, the court or office shall provide written notification to the requestor and the Administrative Office of Pennsylvania Courts at the same time. Possible reasons a court or office may need the additional period of time include:

—the request, particularly if for bulk distribution of electronic case records, involves such voluminous amounts of information that the court or office may not be able to fulfill the same within the initial 10 business day period without substantially impeding the orderly conduct of the court or office; or

—the court or office is not able to determine if this policy permits the release of the requested information within the initial 10 business day period. Therefore, the court or office may require an additional period of time to conduct an administrative review of the request to make this determination.

If the court or office believes that the requestor has failed to comply with this policy, written notification to the requestor should set forth the specific areas of non-compliance. For example, a requestor may have failed to pay the appropriate fees associated with the request.

Any written notification to the requestor stating that the information requested cannot be provided shall set forth the reason(s) for this determination.

If the court or office is unable to respond to the request as set forth above, the AOPC should work with the record custodian or appropriate administrative authority (e.g., district court administrator) to facilitate the fulfillment of the request consistent with the policy, as currently is done for MDJS requests. As a last resort, the AOPC may handle these requests directly.

The phrase "in writing" includes but is not limited to electronic communications such as email and fax.

The Committee also discussed when a request is partially fulfilled (e.g., if the requestor asked for a defendant's name, address, and social security number, pursuant to Section 3.00 of this policy a court or office could not release the defendant's social security number or street address) whether the court or office should specifically set forth that it has the restricted information on record although it did not release the same. In the judgment of the Committee it is important that requestors are apprised that all requests for information are fulfilled pursuant to a statewide policy without necessarily pointing out each piece of information that is in the court's or office's possession but not released under the policy. Therefore, when responding to any request, a court or

office should provide a general statement to the requestor that "your request for information is being fulfilled consistent with the provisions of the Unified Judicial System Public Access Policy."

The time frames set forth in this section will usually only concern requests for bulk distribution for electronic case records.

#### Section 5.00 Fees

A. Reasonable fees may be imposed for providing public access to electronic case records pursuant to this policy.

B. A fee schedule shall be in writing and publicly posted.

C. A fee schedule in any judicial district, including any changes thereto, shall not become effective and enforceable until:

1. a copy of the proposed fee schedule is submitted by the president judge to the Administrative Office of Pennsylvania Courts; and

2. the Administrative Office of Pennsylvania Courts has approved the proposed fee schedule.

#### Commentary

The Committee first considered whether to charge a fee for fulfilling public access requests. It was noted that public access requests are often for information that is not readily available and require staff and equipment time to fulfill the same. The Committee asserts that these costs incurred by courts and offices in fulfilling a request should be passed on to the requestor. Clearly, absent the request, the court or office would not incur these costs.

The Committee noted that the MDJS policy provides that "[c]osts shall be assessed based on the actual costs of the report medium, a pro-rata share of computer and staff time, plus shipping and handling."<sup>219</sup> The RTKA also provides that fees may be charged by agencies in fulfilling RTKA requests.<sup>220</sup> The Committee reviewed the RTKA fee schedules of the Governor's Office, Lieutenant Governor's Office, and the Executive Offices<sup>221</sup> and the Department of Environmental Protection.<sup>222</sup> Outside of Pennsylvania, the Committee also noted that several states charge a fee to a requestor when responding to a public access request (which will be discussed in greater detail below). Therefore, the Committee opines that the current practice of charging public access requestors a fee for fulfilling their requests should continue.

The Committee reviewed the costs charged by various state courts in responding to public access requests. In general, it appears that most court systems charge a fee that is intended to recoup from the requestor the costs incurred by the court in responding to the request. These court systems include Colorado,<sup>223</sup> New York,<sup>224</sup> Ver-

<sup>219</sup> See MDJS Policy, Section II.B.5.

<sup>220</sup> See PA. STAT. ANN. tit. 65, § 66.7 (West 2006).

<sup>221</sup> See *Commonwealth of Pennsylvania Governor's Office, Lieutenant Governor's Office, and Executive Offices—Right-To-Know Request Policy*.

<sup>222</sup> See *DEP and the Pennsylvania Right-To-Know Law Schedule of Charges for Public Access*.

<sup>223</sup> Colo. DJD. 05-01 Section 6.00—Fees for Access—"Clerks of Court and the State Court Administrator's Office may charge a fee for access to court records pursuant to § 24-72-205(2) and (3) C.R.S. and Chief Justice Directive 96-01. The costs shall include: administrative personnel costs associated with providing the court records; direct personnel costs associated with programming or writing queries to supply data; the personnel costs associated with testing the data for validity and accuracy; maintenance costs associated with hardware and software that are necessary to provide data as expressed in Computer Processing Unit (CPU), network costs, and operating costs of any reproduction medium (i.e. photocopies, zip disks, CD, etc). To the extent that public access to electronic court records is provided exclusively through a vendor, the State Court Administrator's Office will ensure that any fee imposed by the vendor for the cost of providing access is reasonable. The authorization to charge fees does not imply the service is currently available."

<sup>224</sup> *Report to the Chief Judge of the State of New York* by the Commission on Public Access to Court Records (February, 2004), p. 7-8. The Report provides that "records over the Internet [should] be free of charges; if the [court] determines that a charge is

<sup>218</sup> 5 U.S.C. § 552(a)(6) (2006) and PA. STAT. ANN. tit. 65, §§ 66.3-3 (West 2006).

mont,<sup>225</sup> Maryland,<sup>226</sup> Idaho,<sup>227</sup> California,<sup>228</sup> and Florida.<sup>229</sup> However, some court systems, such as Minnesota,<sup>230</sup> Arizona,<sup>231</sup> and Utah<sup>232</sup> appear to permit a cost/fee that is in excess of the costs incurred in responding to the request. The Committee also noted that the RTKA and FOIA differ on this issue as well. Specifically, the RTKA provides that fees must be reasonable and based on the prevailing fees for comparable services provided by local business entities, except for postage fees which must be the actual cost of postage.<sup>233</sup> However, FOIA provides that only the direct costs incurred by the agency can be charged to the requestor.<sup>234</sup>

If fees are based on the prevailing market rate, then fees will not only recoup the actual costs incurred by the particular court of office but also result in a profit. The objective of courts or offices in responding to public access requests is not to make a profit; rather it is to foster the values of open court records without unduly burdening court resources. Put simply, fees should not be financial barriers to accessing case record information. Fees assessed by courts or offices in satisfying public access requests must be reasonable, fair and affordable. To aid in defining the parameters of reasonable, fair and affordable fees, the Committee finds the definition for charges in the Vermont<sup>235</sup> and New York<sup>236</sup> policies instructive. Generally, the public access request fees should not exceed the actual costs associated with producing the requested information for copying, mailing or other methods of transmission, materials used and staff time.

advisable we recommend that the charge be nominal and that it in no event should exceed the actual cost to provide such record.”

<sup>225</sup> 1 VT. STAT. ANN. § 316(b)—(d) and (f) provides that if any cost is assessed it is based upon the actual cost of copying, mailing, transmitting, or providing the document.

<sup>226</sup> Maryland Rule of Procedure 16-1002(d) provides that “Reasonable fees means a fee that bears a reasonable relationship to the actual or estimated costs incurred or likely to be incurred in providing the requested access. Unless otherwise expressly permitted by these Rules, a custodian may not charge a fee for providing access to a court record that can be made available for inspection, in paper form or by electronic access, with the expenditure of less than two hours of effort by the custodian or other judicial employee. A custodian may charge a reasonable fee if two hours or more of effort is required to provide the requested access. The custodian may charge a reasonable fee for making or supervising the making of a copy or printout of a court record.”

<sup>227</sup> IDAHO ADMIN. R. 32(1). This Rule provides the clerk should charge \$1.00 a page for making a copy of any record filed in a case (per Idaho Stat. § 31-3201) and for any other record the clerk shall charge the actual cost of copying the record, including personnel costs.

<sup>228</sup> CAL. CT. R. 2076 provides that the court may impose fees for the cost of providing public access to its electronic records as provided by Government Code section 68150(h) (which sets forth that access shall be provided at cost).

<sup>229</sup> See FLA. J. ADMIN. R. 2.051(e)(3) and FLA. STAT. ANN. § 119.07 which appears to permit the charging for cost of duplication, labor and administrative overhead.

<sup>230</sup> MN ST ACCESS TO REC RULE 8(6) (WEST 2006). “When copies are requested, the custodian may charge the copy fee established by statute but, unless permitted by statute, the custodian shall not require a person to pay a fee to inspect a record. When a request involves any person’s receipt of copies of publicly accessible information that has commercial value and is an entire formula, pattern, compilation, program, device, method, technique, process, data base, or system developed with a significant expenditure of public funds by the judicial branch, the custodian may charge a reasonable fee for the information in addition to costs of making, certifying, and compiling the copies.”

<sup>231</sup> Arizona Rule 123 Public Access to the Judicial Records of the State of Arizona, Subsection (f)(3) provides different levels of fees for requestors for non-commercial purposes and commercial purposes. For non-commercial requestors “[i]f no fee is prescribed by statute, the custodian shall collect a per page fee based upon the reasonable cost of reproduction.” See Rule 123(f)(3)(A). For commercial requestors, “the custodian shall collect a fee for the cost of: (i) obtaining the original or copies of the records and all redaction costs; and (ii) the time, equipment and staff used in producing such reproduction.” See Rule 123(f)(3)(B)(i) and (ii).

<sup>232</sup> UTAH J. ADMIN. R. 4-202.08 establishes a uniform fee schedule for requests for records, information, and services.

<sup>233</sup> See PA. STAT. ANN. tit. 65, § 66.7 (West 2006).

<sup>234</sup> 5 U.S.C. § 552(a)(4)(a)(iv) (2006). In addition, the Committee noted that for certain types of requestors FOIA provides that the first two hours of search time or the first 100 pages of duplication can be provided by the agency without charging a fee. 5 U.S.C. § 552(a)(4)(a)(iv)(II) (2006).

<sup>235</sup> 1 VT. STAT. ANN. § 316(b)—(d) and (f) provides that if any cost is assessed it is based upon the actual cost of copying, mailing, transmitting, or providing the document.

<sup>236</sup> Report to the Chief Judge of the State of New York by the Commission on Public Access to Court Records (February, 2004), p. 7-8. The Report provides that “records over the Internet [should] be free of charges; if the [court] determines that a charge is advisable we recommend that the charge be nominal and that it in no event should exceed the actual cost to provide such record.”

In the judgment of the Committee, it would be beneficial to both the public and AOPC if all courts or offices were required to promulgate their fee schedules. Therefore, the Committee recommends that a court’s or office’s fee schedule be in writing and publicly posted (preferably so as to permit viewing both in person and remotely via the Internet). This method is similar to the procedures adopted for the promulgation of local rules.<sup>237</sup>

Subsection C provides that the Administrative Office of Pennsylvania Courts must approve all judicial district fee schedules—to include adoption of any new fees or fee increases—before the same are effective and enforceable.<sup>238</sup> The purpose of this provision is to further a unified approach to fees associated with case record access in the Pennsylvania Judiciary—with an eye toward avoiding inconsistent and unfair charges amongst the various jurisdictions. This type of approach is not novel, as it is quite similar to the procedure set forth in Rule of Judicial Administration 5000.7(f) pertaining to the approval of court transcripts.

#### Section 6.00 Correcting Data Errors

A. A party to a case, or the party’s attorney, seeking to correct a data error in an electronic case record shall submit a written request for correction to the court in which the record was filed.

B. A request to correct an alleged error contained in an electronic case record of the Supreme Court, Superior Court or Commonwealth Court shall be submitted to the prothonotary of the proper appellate court.

C. A request to correct an alleged error contained in an electronic case record of the Court of Common Pleas, Philadelphia Municipal Court or a Magisterial District Court shall be submitted and processed as set forth below.

1. The request shall be made on a form designed and published by the Administrative Office of Pennsylvania Courts.

2. The request shall be submitted to the clerk of courts if the alleged error appears in an electronic case record of the Court of Common Pleas or Philadelphia Municipal Court. The requestor shall also provide copies of the form to all parties to the case, the District Court Administrator and the Administrative Office of Pennsylvania Courts.

3. The request shall be submitted to the Magisterial District Court if the alleged error appears in an electronic case record of the Magisterial District Court. The requestor shall also provide copies of the form to all parties to the case, the District Court Administrator and the Administrative Office of Pennsylvania Courts.

4. The requestor shall set forth on the request form with specificity the information that is alleged to be in error and shall provide sufficient facts including supporting documentation that corroborates the requestor’s contention that the information in question is in error.

5. Within 10 business days of receipt of a request, the clerk of courts or Magisterial District Court shall respond in writing to the requestor, all parties to the case, and the Administrative Office of Pennsylvania Courts, in one of the following manners:

a. the request does not contain sufficient information and facts to adequately determine what information is alleged to be error; accordingly, the request form is being returned to the requestor; and no further action will be

<sup>237</sup> See PA.R.J.A. 103(c), PA.R.CRIMP. 105(c) and PA.R.C.P. No. 239(c).

<sup>238</sup> See Pa. Const. Art. V, § 10(c); Pa.R.J.A. 501(a), 504(b), 505(11), 506(a); 42 Pa.C.S. § 4301.

taken on this matter unless the requestor resubmits the request with additional information and facts.

b. the request does not concern an electronic case record that is covered by this policy; accordingly, the request form is being returned to the requestor; no further action will be taken on this matter.

c. it has been determined that an error does exist in the electronic case record and that the information in question has been corrected.

d. it has been determined that an error does not exist in the electronic case record.

e. the request has been received and an additional period not exceeding 30 business days is necessary to complete the review of this matter.

6. A requestor has the right to seek review of a final decision under subsection 5(a)—(d) rendered by a clerk of courts or a Magisterial District Court within 10 business days of notification of that decision.

a. The request for review shall be submitted to the District Court Administrator on a form that is designed and published by the Administrative Office of Pennsylvania Courts.

b. If the request for review concerns a Magisterial District Court's decision, it shall be reviewed by the judge assigned by the President Judge.

c. If the request for review concerns a clerk of courts' decision, it shall be reviewed by the judge who presided over the case from which the electronic case record alleged to be in error was derived.

#### Commentary

An important aspect of transparent electronic case records and personal privacy/security is the quality of the information in the court record. The information in UJS electronic case records should be complete and accurate, otherwise incorrect information about a party to a case or court proceeding could be disseminated. The Committee recognizes that electronic case records are as susceptible to errors and omissions as any other public record, particularly when considered in view of the widespread Internet use and access, and agreed procedures for correcting these errors should be incorporated into this policy.

The power of the court to correct errors in its own records is inherent.<sup>239</sup> "Equity enjoys flexibility to correct court errors that would produce unfair results."<sup>240</sup> Therefore, the Committee opines that the authority for a court to correct errors in its own records is inherent and does not arise from the Criminal History Record Information Act (CHRIA).<sup>241</sup> Although, the Committee does not interpret CHRIA as being applicable to the correction of court records,<sup>242</sup> the Committee consulted the correction of error section of CHRIA in drafting this section of the

policy,<sup>243</sup> specifically with regard to the safeguards that are found in CHRIA related to the time limitations for action and appeals. CHRIA permits a criminal justice agency 60 days to review a challenge to the accuracy of its record. The Committee believes the time for a decision concerning an alleged error in a court record should be limited in this section of the policy to a maximum of 40 business days. CHRIA also permits the challenger who believes the agency decision is in error to file an appeal. Similarly, in this policy, Subsection 6 permits a requestor who believes the decision is erroneous to seek administrative review as well.

Subsection 6 provides an individual who asserts that an electronic case record is in error an administrative process by which that allegation can be reviewed and resolved. This administrative review process is modeled after the review process set forth in CHRIA and is in addition to any other remedies provided by law. It is important to note the review provided for in Subsection 6 by the Court of Common Pleas is administrative in nature.

The Committee also took note of corrective procedures that other states, including Arizona,<sup>244</sup> Colorado,<sup>245</sup> Kansas,<sup>246</sup> Minnesota,<sup>247</sup> and Wisconsin<sup>248</sup> as well as the CCJ/COSCA Guidelines,<sup>249</sup> establish in their policies and/or court rules (enacted or proposed).

In considering the procedures for correcting errors, it is important to emphasize that this section does not provide a party who is dissatisfied with a court's decision, ruling or judgment a new avenue to appeal the same by merely alleging that there is an error in the court's decision, ruling or judgment. Rather, this section permits a party to "fix" information that appears in an electronic case record which does not, for one reason or another, correctly set forth the facts contained in the official court record (paper case file).

It is anticipated that those reviewing these alleged errors shall compare the information set forth in the electronic case record against the official court record. If the information in the electronic case record and official court record is consistent, the request to correct the electronic case record should be denied. If the information is not consistent, the reviewer shall determine what, if any, corrections are needed to the electronic case record. Nonetheless, if the requestor believes that the official court record is in error, such an alleged error does not fall within the purview of this section. Rather, the current practices in place in the courts to resolve these errors should continue.

By way of example, the official court records of a case set forth that the defendant's name is "John Smith", however, the electronic case record provides that the defendant's name is "John Smyth". Obviously this was a

Office, a part of the Executive Branch of Government, would be reviewing a decision issued by a Court of the Unified Judicial System. Such a procedure appears to raise some constitutional concerns.

<sup>243</sup> See 18 Pa.C.S. § 9152.

<sup>244</sup> *Report and Recommendation of the Ad Hoc Committee to Study Public Access to Electronic Records* dated March 2001 Sections (V)(8) and (VI)(8); ARIZ. SUP. CT. R. 123(g)(6) (this provision, and others related to public access, was adopted by Order of Arizona Supreme Court dated June 6, 2005 to be effective December 1, 2005; effective date postponed by Court's Order dated September 27, 2005 to permit effective and efficient implementation of the provisions).

<sup>245</sup> Colo. C.J.D. 05-01 Section 9.00 provides for a process to change inaccurate information in a court record.

<sup>246</sup> K.S.A. § 60-260 and Kansas Rules Relating to District Courts Rule 196(f).

<sup>247</sup> MN ST ACCESS TO REC RULE 7(5) (WEST 2006).

<sup>248</sup> Wisconsin Circuit Court Access (WCCA) Web site, "The information on a case is incorrect. Could you correct the information?" at: <http://wcca.wicourts.gov/faqnav.xsl;jsessionid=8036D1470A038AB3CBB55B35613773C6.render4#Faq11> and "Who do I contact if I want clarification about information displayed on WCCA?" at: <http://wcca.wicourts.gov/faqnav.xsl;jsessionid=8036D1470A038AB3CBB55B35613773C6.render4#Faq18>

<sup>249</sup> See CCJ/COSCA Guidelines, p. 69.

<sup>239</sup> E.g. *Jackson v. Hendrick*, 746 A.2d 574 (Pa. 2000).

<sup>240</sup> Id. at 577.

<sup>241</sup> 18 Pa.C.S. § 9101—9183.

<sup>242</sup> The Committee notes that it is unclear the extent, if any, to which CHRIA is applicable to court records. Specifically, 18 Pa.C.S. Section 9103 provides that CHRIA is applicable to "person within this Commonwealth and to any agency of the Commonwealth or its political subdivisions which collects, maintains, disseminates or receives criminal history record information." Clearly, the court is not an agency, political subdivision or a person of the Commonwealth. Moreover, Criminal History Record Information is defined in 18 Pa.C.S. Section 9102 as "does not include...information and records specified in section 9104 (relating to scope)." 18 Pa.C.S. Section 9014(a)(2) appears to reference "any documents, records, or indices prepared or maintained by or filed in any court of this Commonwealth, including but not limited to the minor judiciary." Moreover, Section 9104(b) provides that "court dockets. . . and information contained therein shall . . . for the purpose of this chapter, be considered public records." If one does contend that the correction procedures set forth in CHRIA are applicable to court records, it is important to note that the procedure provides that a person who wants to appeal a court's decision regarding an alleged error files that appeal with the Attorney General Office. Thus, the Attorney General

clerical or data entry error. This type of error falls within the purview of this section. However, if for example, a party claims that he was convicted of the crime of simple assault, but the official court record sets forth that he was convicted of the crime of driving under the influence, this error does not fall within the purview of this section in that the requestor is alleging an error in the official court record.

This section does not preclude a court from accepting and responding to verbal or informal requests to correct a data error in an electronic case record. However, if a requestor wishes to enjoy the benefits of the relief and procedures set forth in this section, he/she must file a formal written request. This procedure is consistent with the RTKA which permits a governmental agency to accept and respond to verbal requests, but provides that “[i]n the event that the requestor wishes to pursue the relief and remedies provided for in this act, the requestor must initiate such relief with a written request.”<sup>250</sup>

In Subsection A, a “party’s attorney” means attorney of record.

In Subsection B, the Committee understands that the errors that may appear in appellate court records are different in nature and kind that those that appear at the lower courts. Specifically, most errors will concern the original records from the lower court that the appellate court is reviewing. Therefore, the Committee believes that appellate courts’ current practices in resolving these errors should continue.

The term “clerk of courts” includes any office performing the duties of a clerk of courts, regardless of titles (i.e., Clerk of Quarter Sessions, Office of Judicial Support, Office of Judicial Records).

#### *Section 7.00 Continuous Availability of Policy*

A copy of this policy shall be continuously available for public access in every court or office that is using the PACMS, CPCMS, and/or MDJS.

#### *Commentary*

The Committee opines that it is essential that the public has access to the provisions of this policy on a continuing basis. In drafting this language, the Committee found that the statewide Rules of Criminal Procedure and Civil Procedure have similar provisions regarding the continuing availability of local rules in each judicial district.<sup>251</sup> The Committee used that language as a guide in drafting this provision. The Committee recommends that this policy be publicly posted (preferably so as to permit viewing both in person and remotely via the Internet).

#### *Additional Recommendations Concerning Paper Case Records*

As noted in the Introduction to the Report, the practical difficulties associated with covering paper case records concerning a single case counseled against inclusion in this policy. Even so, the Committee recommends that the UJS take steps in the future to avoid the personal privacy and security issues that may arise with respect to these records.

The Committee proposes the creation of a sensitive information data form. When filing a document with a court or office, litigants and their attorneys would be

required to refrain from inserting any sensitive information (such as social security numbers, financial account numbers, etc) in the filed document. Rather, all sensitive information should be inserted on the sensitive information data form, which would not be accessible to the public. Thus, the use of this form should over time help prevent sensitive information from appearing in the paper records that are accessible to the public. The Committee notes that Washington<sup>252</sup> and Kansas<sup>253</sup> already uses a sensitive information data form, and Arizona<sup>254</sup> and Minnesota<sup>255</sup> are considering enacting rules/policies to provide for the same. The Committee recommends that this sensitive information data form be available at the courthouse and via the Internet.

[Pa.B. Doc. No. 18-674. Filed for public inspection May 4, 2018, 9:00 a.m.]

## **Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS**

### **PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS**

#### **[ 204 PA. CODE CH. 213 ]**

### **Order Amending Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts; No. 496 Judicial Administration Doc.**

#### **Amended Order**

#### *Per Curiam*

And Now, this 28th day of March, 2018, upon the recommendation of the Administrative Office of Pennsylvania Courts to amend the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* to include all minor courts within the scope of the Policy and achieve one statewide policy for case records in every court:

*It Is Ordered* that:

- 1) The Policy is amended to read as follows.
- 2) The name of the Policy is amended as follows *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*.
- 3) The Administrative Office of Pennsylvania Courts shall publish the amended Policy and accompanying Explanatory Report on the Unified Judicial System’s website.
- 4) Every court and custodian’s office, as defined by the Policy, shall continuously make available for public in-

<sup>252</sup> WASH. CT. GR. 22(c)(2) (2006). Please note that this rule only applies to family law cases.

<sup>253</sup> Kansas Rules Relating to District Courts Rule 123 (Rule Requiring Use of Cover Sheets and Privacy Policy Regarding Use of Personal Identifiers in Pleading). The Rule provides that in divorce, child custody, child support or maintenance cases, a party must enter certain information only on the cover sheet which is not accessible to the public. Specifically, a party’s or party’s child’s SSN and date of birth must be entered on the cover sheet only. Moreover, the Rule provides that unless required by law, attorneys and parties shall not include SSNs in pleadings filed with the court (if must be included use last four digits), dates of birth (if must be included use year of birth), and financial account numbers (if must be included use last four digits).

<sup>254</sup> See Supreme Court of Arizona’s Order of September 27, 2005 vacating amendments to Rule 123 (that were set to become effective on December 1, 2005). The September Order creates a working group of court officials to resolve outstanding issues and issue a report to the Court on or before June 1, 2006.

<sup>255</sup> *Recommendations of Minnesota Supreme Court Advisory Committee on Rules of Public Access to Records of the Judicial Branch* (June 28, 2004), p. 74-75.

<sup>250</sup> 65 P.S. § 66.2(b).

<sup>251</sup> PA.R.CRIM.P. 105(c)(5) and PA.R.C.P. No. 239(c)(5) provide that the local rules shall be kept continuously available for public inspection and copying in the office of the prothonotary or clerk of courts. Upon request and payment of reasonable costs of reproduction and mailing, the prothonotary or clerk shall furnish to any person a copy of any local rule.



spection a copy of the amended Policy in appropriate physical locations as well as on their website.

5) The *Public Access Policy of the Unified Judicial System of Pennsylvania: Official Case Records of the Magisterial District Courts* is hereby rescinded as of July 1, 2018.

6) Whereas prior distribution and publication of this rule would otherwise be required, it has been determined that immediate promulgation is required in the interest of justice and efficient administration. Pa.R.J.A. No. 103(a)(3).

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective July 1, 2018.

#### Annex A

### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

#### PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

#### CHAPTER 213. COURT RECORDS POLICIES

##### Subchapter D. **CASE RECORDS PUBLIC ACCESS POLICY OF THE UNIFIED JUDICIAL SYSTEM OF PENNSYLVANIA [ : CASE RECORDS OF THE APPELLATE AND TRIAL COURTS ]**

§ 213.81. **Case Records** Public Access Policy of the Unified Judicial System of Pennsylvania [ : **Case Records of the Appellate and Trial Courts** ].

#### Section 1.0. Definitions.

A. "Abuse Victim" is a person for whom a protection order has been granted by a court pursuant to Pa.R.C.P. No. 1901 et seq. and 23 Pa.C.S. § 6101 et seq. or Pa.R.C.P. No. 1951 et seq. and 42 Pa.C.S. § 62A01 et seq. **as well as Pa.R.C.P.M.D.J. No. 1201 et seq.**

B. "Case Records" are (1) documents for any case filed with, accepted and maintained by a court or custodian; (2) dockets, indices, and documents (such as orders, opinions, judgments, decrees) for any case created and maintained by a court or custodian. This term does not include notes, memoranda, correspondence, drafts, **worksheets**, and work product of judges and court personnel. Unless otherwise provided in this policy, this definition applies equally to case records maintained in paper and electronic formats.

C. "Clerical errors" are errors or omissions appearing in a case record that are patently evident, as a result of court personnel's action or inaction.

D. "Court" includes the Supreme Court, Superior Court, Commonwealth Court, Courts of Common Pleas, [ **and** ] Philadelphia Municipal Court, [ **excluding the Traffic Division of Philadelphia Municipal Court** ] **and Magisterial District Courts.**

**E. "Court of Record" includes the Supreme Court, Superior Court, Commonwealth Court, Courts of Common Pleas, and Philadelphia Municipal Court.**

[ **E.** ] **F.** "Court Facility" is the location or locations where case records are filed or maintained.

[ **F.** ] **G.** "Custodian" is any person responsible for maintaining case records or for processing public requests for access to case records.

[ **G.** ] **H.** "Docket" is a chronological index of filings, actions, and events in a particular case, which may include identifying information of the parties and counsel,

a brief description or summary of the filings, actions, and events, and other case information.

[ **H.** ] **I.** "Financial Account Numbers" include financial institution account numbers, debit and credit card numbers, and methods of authentication used to secure accounts such as personal identification numbers, user names and passwords.

[ **I.** ] **J.** "Financial Source Documents" are:

1. Tax returns and schedules;
2. W-2 forms and schedules including 1099 forms or similar documents;
3. Wage stubs, earning statements, or other similar documents;
4. Credit card statements;
5. Financial institution statements;
6. Check registers;
7. Checks or equivalent; and
8. Loan application documents.

[ **J.** ] **K.** "Medical/psychological records" are records relating to the past, present, or future physical or mental health or condition of an individual.

[ **K.** ] **L.** "Minor" is a person under the age of eighteen.

[ **L.** ] **M.** "Party" is one who commences an action or against whom relief is sought in a matter.

[ **M.** ] **N.** "Public" is any person, member of the media, business, non-profit entity, organization or association. The term does not include a party to a case; the attorney(s) of record in a case; Unified Judicial System officials or employees if acting in their official capacities; or any federal, state, or local government entity, and employees or officials of such an entity if acting in their official capacities.

[ **N.** ] **O.** "Remote Access" is the ability to electronically search, inspect, print or copy information in a case record without visiting the court facility where the case record is maintained or available, or requesting the case record from the court or custodian pursuant to Section 4.0.

#### Commentary

Regarding Subsection B, "documents for any case filed with, accepted and maintained by a court or custodian" are those not created by a court or custodian, such as pleadings and motions. Indices are tools for identifying specific cases.

Regarding Subsection C, examples of clerical errors are the docket entry links to the wrong document or court personnel misspells a name in the caption.

Regarding Subsection [ **F** ] **G**, the definition of "custodian" **includes clerks of court, prothonotaries, clerks of orphans' court and magisterial district judges, for example. The definition** does not include those entities listed in Pa.R.A.P. 3191 who receive copies of briefs filed in an appellate court **or a register of wills.**

Regarding Subsection [ **J** ] **K**, this definition is derived from the definition of "health information" provided in 45 C.F.R. § 160.103 (HIPAA). Examples of case records that would fall within this exclusion are: drug and alcohol treatment records, psychological reports in custody matters, and DNA reports.

Regarding Subsection [ L ] M, *amici curiae* are not parties. See Pa.R.A.P. 531.

Regarding Subsection [ M ] N, Unified Judicial System officials or employees include: judicial officers and their personal staff, administrative staff and other central staff, prothonotaries, clerks of the courts, clerks of the orphans' court division, sheriffs, prison and correctional officials, and personnel of all the above.

### Section 2.0. Statement of General Policy.

A. This policy shall govern access by the public to case records.

B. Security, possession, custody, and control of case records shall generally be the responsibility of the applicable custodian and designated staff.

C. Facilitating access by the public shall not substantially impede the orderly conduct of court business.

D. A court or custodian may not adopt more restrictive or expansive access protocols than provided for in this policy. Nothing in this policy requires a court or custodian to provide remote access to case records. However, if a court or custodian chooses to provide remote access to any of its case records, access shall be provided in accordance with Section 10.0.

#### Commentary

[ **The Supreme Court of Pennsylvania has adopted other policies governing public access to Unified Judicial System case records: the** ] The Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania [ **that** ] provides for access to the statewide case management systems' web docket sheets and requests for bulk data [ **and the Public Access Policy of the Unified Judicial System of Pennsylvania: Official Case Records of the Magisterial District Courts that provides for access to case records of the magisterial district courts maintained in a paper format** ].

### Section 3.0. Access to Case Records.

All case records shall be open to the public in accordance with this policy.

### Section 4.0. Requesting Access to Case Records.

A. When desiring to inspect or copy case records, a member of the public shall make an oral [ **or written** ] request to the applicable custodian, unless otherwise provided by [ **court order or rule** ] a local rule or an order issued by a court of record. [ **If the request is oral, the custodian may require a written request.** ]

**B. When the information that is the subject of the request is complex or voluminous, the custodian may require a written request. If the requestor does not submit a written request when required, access may be delayed until the written request is submitted or a time when an individual designated by the custodian is available to monitor such access to ensure the integrity of the case records is maintained.**

[ **B.** ] C. Requests shall identify or describe the records sought with specificity to enable the custodian to ascertain which records are being requested.

#### Commentary

Public access requests to the courts and custodians are routinely straightforward and often involve a limited

number of records. Therefore, artificial administrative barriers should not be erected so as to inhibit making these requests in an efficient manner.

This policy provides the courts and custodians latitude to establish appropriate administrative protocols for viewing/obtaining case records remotely. However, the definition of "remote access" in Section 1.0 clarifies that a request under this section is neither necessary nor expected under this policy.

Nonetheless, Subsection [ **A** ] B provides a custodian with the flexibility to require that a more complex request be submitted in writing to avoid misunderstandings and errors that can often result in more time being expended to provide the requested information than is necessary. This approach is not novel; submission of a written request form has been a longstanding practice under the Unified Judicial System's *Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania* [ **and Public Access Policy of the Unified Judicial System of Pennsylvania: Official Case Records of the Magisterial District Courts** ].

Subsection [ **B** ] C does not require a requestor to identify a case by party or case number in order to have access to the files, but the request shall clearly identify or describe the records requested so that court personnel can fulfill the request.

Written requests should be substantially in the format designed and published by the Administrative Office of Pennsylvania Courts.

### Section 5.0. Responding to Requests for Access to Case Records.

A. A custodian shall fulfill a request for access to case records as promptly as possible under the circumstances existing at the time of the request.

B. If a custodian cannot fulfill the request promptly or at all, the custodian shall inform the requestor of the specific reason(s) why access to the information is being delayed or denied.

C. If a custodian denies a written request for access, the denial shall be in writing.

D. [ **Relief** ] Except as provided in Subsection E, relief from a custodian's written denial may be sought by filing a motion or application with the court for which the custodian maintains the records.

**E. Relief from a magisterial district court may be sought by filing an appeal with the president judge of the judicial district or the president judge's designee. Relief from a written denial by the Philadelphia Municipal Court may be sought by filing a motion with the president judge of Philadelphia Municipal Court or the president judge's designee.**

#### Commentary

Given that most public access requests for case records are straightforward and usually involve a particular case or matter, custodians should process the same in an expeditious fashion.

There are a number of factors that can affect how quickly a custodian may respond to a request. For example, the custodian's response may be slowed if the request is vague, involves retrieval of a large number of case records, or involves information that is stored off-site. Ultimately, the goal is to respond timely to requests for case records.

In those unusual instances in which access to the case records cannot be granted in an expeditious fashion, the custodian shall inform the requestor of the specific reason(s) why access to the information is being delayed or denied, which may include:

- the request involves such voluminous amounts of information that the custodian is unable to fulfill the same without substantially impeding the orderly conduct of the court or custodian's office;
- records in closed cases are located at an off-site facility;
- a particular file is in use by a judge or court staff. If a judge or court staff needs the file for an extended period of time, special procedures should be considered, such as making a duplicate file that is always available for public inspection;
- the requestor failed to pay the appropriate fees, as established pursuant to Section 6.0 of this policy, associated with the request;
- the requested information is restricted from access pursuant to applicable authority, or any combination of factors listed above.

**[ An ] With respect to Subsection D, an** aggrieved party may seek relief from a denial of a written request for access consistent with applicable authority (for example, in an appellate court, Pa.R.A.P. 123 sets forth procedures for applications for relief under certain circumstances, or pertinent motion practice at the trial court level).

#### **Section 6.0. Fees.**

A. Unless otherwise provided by applicable authority, fees for duplication by photocopying or printing from electronic media or microfilm shall not exceed \$0.25 per page.

B. **[ A ] Except as provided in Subsection C, a** custodian shall establish a fee schedule that is (1) posted in the court facility in an area accessible to the public, and (2) posted on the custodian's website.

**C. Any fee schedule for a magisterial district court shall be established by the president judge of the judicial district by local rule pursuant to Pa.R.J.A. No. 103(c). The fee schedule shall be publicly posted in an area accessible to the public.**

#### **Commentary**

Reasonable fees may be imposed for providing public access to case records pursuant to this policy and in accordance with applicable authority. This section does not authorize fees for viewing records that are stored at the court facility.

To the extent that the custodian is not the court, approval of the fee schedule by the court may be necessary.

An example of applicable authority setting forth photocopying fees is 42 Pa.C.S. § 1725(c)(1)(ii) that provides the Clerk of Orphans' Court of the First Judicial District shall charge \$3 per page for a copy of any record. *See also* 42 P.S. § 21032.1 (providing authority for the establishment of fees in orphans' court in certain judicial districts). In addition, the copying fees for appellate court records are provided for in 204 Pa. Code § 155.1. However, copies of most appellate court opinions and orders are available for free on the Unified Judicial System's website, www.pacourts.us.

#### **Section 7.0. Confidential Information.**

A. Unless required by applicable authority or as provided in Subsection C, the following information is confidential and shall be not included in any document filed with a court or custodian, except on a Confidential Information Form filed contemporaneously with the document:

1. Social Security Numbers;
2. Financial Account Numbers, except an active financial account number may be identified by the last four digits when the financial account is the subject of the case and cannot otherwise be identified;
3. Driver License Numbers;
4. State Identification (SID) Numbers;
5. Minors' names and dates of birth except when a minor is charged as a defendant in a criminal matter (see 42 Pa.C.S. § 6355); and
6. Abuse victim's address and other contact information, including employer's name, address and work schedule, in family court actions as defined by Pa.R.C.P. No. 1931(a), except for victim's name.

This section is not applicable to cases that are sealed or exempted from public access pursuant to applicable authority.

B. The Administrative Office of Pennsylvania Courts shall design and publish the Confidential Information Form.

C. Instead of using the Confidential Information Form, a court **of record** may adopt a rule or order permitting the filing of any document in two versions, a "Redacted Version" and "Unredacted Version." The "Redacted Version" shall not include any information set forth in Subsection A, while the "Unredacted Version" shall include the information. Redactions must be made in a manner that is visibly evident to the reader. **This Subsection is not applicable to filings in a magisterial district court.**

D. Parties and their attorneys shall be solely responsible for complying with the provisions of this section and shall certify their compliance to the court. The certification that shall accompany each filing shall be substantially in the following form: "I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* [ : *Case Records of the Appellate and Trial Courts* ] that require filing confidential information and documents differently than non-confidential information and documents."

E. A court or custodian is not required to review or redact any filed document for compliance with this section. A party's or attorney's failure to comply with this section shall not affect access to case records that are otherwise accessible.

F. If a filed document fails to comply with the requirements of this section, a court **of record** may, upon motion or its own initiative, with or without a hearing order the filed document sealed, redacted, amended or any combination thereof. A court **of record** may impose sanctions, including costs necessary to prepare a compliant document for filing in accordance with applicable authority.

**G. If a filed document fails to comply with the requirements of this section, a magisterial district court may, upon request or its own initiative, with**

**or without a hearing order the filed document redacted, amended or both.**

[ G. ] **H.** This section shall apply to all documents for any case filed with a court or custodian on or after the effective date of this policy.

#### Commentary

There is authority requiring information listed in Subsection A to appear on certain documents. For example, Pa.R.C.P. No. 1910.27 provides for inclusion of the plaintiff's and defendant's social security number on a complaint for support.

This section is not applicable to cases that are sealed or exempted from public access pursuant to applicable authority, for example, cases filed under the Juvenile Act that are already protected by 42 Pa.C.S. § 6307, and Pa.Rs.J.C.P. 160 and 1160.

**While Pa.R.C.P. No. 1931 is suspended in most judicial districts, the reference to the rule is merely for definitional purposes.**

Unless constrained by applicable authority, court personnel and jurists are advised to refrain from inserting confidential information in court-generated case records (e.g., orders, notices) when inclusion of such information is not essential to the resolution of litigation, appropriate to further the establishment of precedent or the development of law, or necessary for administrative purposes. For example, if a court's opinion contains confidential information and, therefore, must be sealed or heavily redacted to avoid release of such information, this could impede the public's access to court records and ability to understand the court's decision.

Whether using a Confidential Information Form or filing a redacted and unredacted version of a document **in a court of record**, the drafter shall indicate where in the document confidential information has been omitted. For example, the drafter could insert minors' initials in the document, while listing full names on the Confidential Information Form. If more than one child has the same initials, a different moniker should be used (e.g., child one, child two, etc.).

**[ While Pa.R.C.P. No. 1931 is suspended in most judicial districts, the reference to the rule is merely for definitional purposes. ]**

**The option to file a redacted and unredacted version of a document does not apply to filings in a magisterial district court. Most filings in magisterial district courts are completed on statewide forms designed by the Administrative Office of Pennsylvania Courts. Safeguarding the information set forth in this Section for magisterial district courts is achieved through the use of a Confidential Information Form (see Subsection A) in tandem with other administrative protocols (e.g., instituting a public access copy page to the citation form set).**

With regard to Subsection D, the certification of compliance is required whether documents are filed in paper form or via an e-filing system. **Moreover, the certification is required on every document filed with a court or custodian regardless of whether the filing contains "confidential information" requiring safeguarding under this policy.**

With regard to Subsection E, a court or custodian is not required to review or redact documents filed by a party or attorney for compliance with this section. However, such activities are not prohibited.

[ Any ] **With regard to Subsection F any party may make a motion to the court of record to cure any defect(s) in any filed document that does not comport with this section.**

**With regard to Subsection G, any party may file a request form designed and published by the Administrative Office of Pennsylvania Courts with a magisterial district court when there is an allegation that a filing was made with that court that does not comply with this policy.**

#### Section 8.0. Confidential Documents.

A. Unless required by applicable authority, the following documents are confidential and shall be filed with a court or custodian under a cover sheet designated "Confidential Document Form":

1. Financial Source Documents;
2. Minors' educational records;
3. Medical/Psychological records;
4. Children and Youth Services' records;
5. Marital Property Inventory and Pre-Trial Statement as provided in Pa.R.C.P. No. 1920.33;
6. Income and Expense Statement as provided in Pa.R.C.P. No. 1910.27(c); and
7. Agreements between the parties as used in 23 Pa.C.S. § 3105.

This section is not applicable to cases that are sealed or exempted from public access pursuant to applicable authority.

B. The Administrative Office of Pennsylvania Courts shall design and publish the Confidential Document Form.

C. Confidential documents submitted with the Confidential Document Form shall not be accessible to the public, except as ordered by a court. However, the Confidential Document Form or a copy of it shall be accessible to the public.

D. Parties and their attorneys shall be solely responsible for complying with the provisions of this section and shall certify their compliance to the court. The certification that shall accompany each filing shall be substantially in the following form "I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*: *Case Records of the Appellate and Trial Courts* ] that require filing confidential information and documents differently than non-confidential information and documents."

E. A court or custodian is not required to review any filed document for compliance with this section. A party's or attorney's failure to comply with this section shall not affect access to case records that are otherwise accessible.

F. If confidential documents are not submitted with the Confidential Document Form, a court **of record** may, upon motion or its own initiative, with or without a hearing, order that any such documents be sealed. A court **of record** may also impose appropriate sanctions for failing to comply with this section.

**G. If a filed document fails to comply with the requirements of this section, a magisterial district court may, upon request or its own initiative, with or without a hearing order that any such documents be sealed.**

[ G. ] **H.** This section shall apply to all documents for any case filed with a court or custodian on or after the effective date of this policy.

#### Commentary

This section is not applicable to cases that are sealed or exempted from public access pursuant to applicable authority, such as Juvenile Act cases pursuant to 42 Pa.C.S. § 6307, and Pa.Rs.J.C.P. 160 and 1160.

Unless constrained by applicable authority, court personnel and jurists are advised to refrain from attaching confidential documents to court-generated case records (e.g., orders, notices) when inclusion of such information is not essential to the resolution of litigation, appropriate to further the establishment of precedent or the development of law, or necessary for administrative purposes. For example, if a court's opinion contains confidential information and, therefore, must be sealed or heavily redacted to avoid release of such information, this could impede the public's access to court records and ability to understand the court's decision.

Examples of "agreements between the parties" as used in Subsection (A)(7) include marital settlement agreements, post-nuptial, pre-nuptial, ante-nuptial, marital settlement, and property settlement. See 23 Pa.C.S. § 3105 for more information about agreements between parties.

With regard to Subsection D, the certification of compliance is required whether documents are filed in paper form or via an e-filing system. **Moreover, the certification is required on every document filed with a court or custodian regardless of whether the filing contains a "confidential document" requiring safeguarding under this policy.**

With regard to Subsection E, if the party or party's attorney fails to use a cover sheet designated "Confidential Document Form" when filing a document deemed confidential pursuant to this section, the document may be released to the public.

**[ Any ] With regard to Subsection F any party may make a motion to the court of record to cure any defect(s) in any filed document that does not comport with this section.**

**With regard to Subsection G, any party may file a request form designed and published by the Administrative Office of Pennsylvania Courts with a magisterial district court when there is an allegation that a filing was made with that court that does not comply with this policy.**

#### Section 9.0. Limits on Public Access to Case Records at a Court Facility.

The following information shall not be accessible by the public at a court facility:

A. Case records in proceedings under 20 Pa.C.S. § 711(9), including but not limited to case records with regard to issues concerning recordation of birth and birth records, the alteration, amendment, or modification of such birth records, and the right to obtain a certified copy of the same, except for the docket and any court order or opinion;

B. Case records concerning incapacity proceedings filed pursuant to 20 Pa.C.S. §§ 5501—5555, except for the docket and any final decree adjudicating a person as incapacitated;

C. Any Confidential Information Form or any Unredacted Version of any document as set forth in Section 7.0;

D. Any document filed with a Confidential Document Form as set forth in Section 8.0;

E. Information sealed or protected pursuant to court order;

F. Information to which access is otherwise restricted by federal law, state law, or state court rule; and

G. Information presenting a risk to personal security, personal privacy, or the fair, impartial and orderly administration of justice, as determined by the Court Administrator of Pennsylvania with the approval of the Chief Justice. The Court Administrator shall publish notification of such determinations in the *Pennsylvania Bulletin* and on the Unified Judicial System's website.

#### Commentary

Unless constrained by applicable authority, court personnel and jurists are advised to refrain from inserting confidential information in or attaching confidential documents to court-generated case records (e.g., orders, notices) when inclusion of such information is not essential to the resolution of litigation, appropriate to further the establishment of precedent or the development of law, or necessary for administrative purposes. For example, if a court's opinion contains confidential information and, therefore, must be sealed or heavily redacted to avoid release of such information, this could impede the public's access to court records and ability to understand the court's decision.

With respect to Subsection F, Pennsylvania Rule of Appellate Procedure 104(a), Pa.R.A.P. 104(a), provides that the appellate courts may make and amend rules of court governing their practice. The Administrative Office of Pennsylvania Courts shall from time to time publish a list of applicable authorities that restrict public access to court records or information. This list shall be published on the Unified Judicial System's website and in the *Pennsylvania Bulletin*. In addition, all custodians shall post this list in their respective court facilities in areas accessible to the public and on the custodians' websites.

With respect to Subsection G, the Administrative Office of Pennsylvania Courts shall include any such determinations in the list of applicable authorities referenced above. The same provision appears in **[ existing statewide public access policies adopted by the Supreme Court: ]** *the Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania [ and Public Access Policy of the Unified Judicial System of Pennsylvania: Official Case Records of the Magisterial District Courts ]*. The provision is intended to be a safety valve to address a future, extraordinary, unknown issue of statewide importance that might escape timely redress otherwise. It cannot be used by parties or courts in an individual case.

#### Section 10.0. Limits on Remote Access to Case Records.

A. The following information shall not be remotely accessible by the public:

1. The information set forth in Section 9.0;

2. In criminal cases, information that either specifically identifies or from which the identity of jurors, witnesses (other than expert witnesses), or victims could be ascertained, including names, addresses and phone numbers;

3. Transcripts lodged of record, excepting portions of transcripts when attached to a document filed with the court;

4. *In Forma Pauperis* petitions;

5. Case records in family court actions as defined in Pa.R.C.P. No. 1931(a), except for dockets, court orders and opinions;

6. Case records in actions governed by the Decedents, Estates and Fiduciaries Code, Adult Protective Services Act and the Older Adult Protective Services Act, except for dockets, court orders and opinions; and

7. Original and reproduced records filed in the Supreme Court, Superior Court or Commonwealth Court as set forth in Pa.R.A.P. 1921, 1951, 2151, 2152, and 2156.

B. With respect to Subsections A(5) and A(6), unless otherwise restricted pursuant to applicable authority, dockets available remotely shall contain only the following information:

1. A party's name;
2. The city, state, and ZIP code of a party's address;
3. Counsel of record's name and address;
4. Docket number;
5. Docket entries indicating generally what actions have been taken or are scheduled in a case;
6. Court orders and opinions;
7. Filing date of the case; and
8. Case type.

C. Case records remotely accessible by the public prior to the effective date of this policy shall be exempt from this section.

#### Commentary

Remote access to the electronic case record information residing in the Pennsylvania Appellate Court Case Management System (PACMS), the Common Pleas Case Management System (CPCMS) and the Magisterial District Judges System (MDJS) is provided via web dockets, available on <https://ujportal.pacourts.us/>, and is governed by the *Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania*.

Depending upon individual court resources, some courts have posted online docket information concerning civil matters. If a court elects to post online docket information concerning family court actions and actions governed by the Decedents, Estates and Fiduciaries Code, Adult Protective Services Act and the Older Adult Protective Services Act, the docket may only include the information set forth in Subsection B. This information will provide the public with an overview of the case, its proceedings and other pertinent details, including the court's decision. Release of such information will enhance the public's trust and confidence in the courts by increasing awareness of the procedures utilized to adjudicate the claims before the courts as well as the material relied upon in reaching determinations. This provision does not impact what information is maintained on the docket available at the court facility.

Access to portions of transcripts when attached to a document filed with the court in family court actions is governed by Subsection A(5). While Pa.R.C.P. No. 1931 is suspended in most judicial districts, the reference to the rule is merely for definitional purposes.

#### Section 11.0. Correcting Clerical Errors in Case Records.

A. A party, or the party's attorney, seeking to correct a clerical error in a case record may submit a written request for correction.

1. A request to correct a clerical error in a case record of the Supreme Court, Superior Court or Commonwealth Court shall be submitted to the prothonotary of the proper appellate court.

2. A request to correct a clerical error in a case record of a court of common pleas [ or ], **the Philadelphia Municipal Court, or a magisterial district court** shall be submitted to the applicable custodian.

B. The request shall be made on a form designed and published by the Administrative Office of Pennsylvania Courts.

C. The requestor shall specifically set forth on the request form the information that is alleged to be a clerical error and shall provide sufficient facts, including supporting documentation, that corroborate the requestor's allegation that the information in question is in error.

D. The requestor shall provide copies of the request to all parties to the case.

E. Within 10 business days of receipt of a request, the custodian shall respond in writing to the requestor and all parties to the case in one of the following manners:

1. The request does not contain sufficient information and facts to determine what information is alleged to be in error, and no further action will be taken on the request.

2. The request does not concern a case record that is covered by this policy, and no further action will be taken on the request.

3. A clerical error does exist in the case record and the information in question has been corrected.

4. A clerical error does not exist in the case record.

5. The request has been received and an additional period not exceeding 30 business days is necessary to complete a review of the request.

F. A requestor may seek review of the custodian's response under Subsections E(1)—(4) within 10 business days of the mailing date of the response.

1. The request for review shall be submitted on a form that is designed and published by the Administrative Office of Pennsylvania Courts.

2. The request shall be reviewed by the judge(s) who presided over the case. **However, if the request for review concerns a magisterial district court's decision, it shall be reviewed by the president judge or his/her designee.**

#### Commentary

Case records are as susceptible to clerical errors and omissions as any other public record. The power of the court to correct errors in its own records is inherent. *E.g., Jackson v. Hendrick*, 746 A.2d 574 (Pa. 2000). It is important to emphasize that this section does not provide a party who is dissatisfied with a court's decision, ruling or judgment a new avenue to appeal the same by merely alleging there is an error in the court's decision, ruling or judgment. Rather, this section permits a party to "fix" information that appears in a case record which is not, for one reason or another, correct.

Particularly in the context of Internet publication of court records, a streamlined process is appropriate for addressing clerical errors to allow for prompt resolution of oversights and omissions. For example, to the extent that a docket in a court's case management system incorrectly reflects a court's order, or a scanning error occurred with regard to an uploaded document, such clerical inaccuracies may be promptly corrected by the appropriate court staff, upon notification, without a court order. Since 2007, the *Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania* has provided a similar procedure for any errors maintained on the web docket sheets of the PACMS, CPCMS and MDJS. The procedure has successfully addressed clerical errors on docket entries in a timely and administratively simple manner.

A party or party's attorney is not required to utilize the procedures set forth in this section before making a formal motion for correction of a case record in the first instance. Alleged inaccuracies in orders and judgments themselves must be brought to the attention of the court in accordance with existing procedures.

This section is not intended to provide relief for a party's or attorney's failure to comply with Sections 7.0 and 8.0 of this policy. Sections 7.0 and 8.0 already provide for remedial action in the event that non-compliance occurs.

With respect to this section, a custodian includes, but is not limited to, the county prothonotaries, clerks of orphans' court, [ and ] clerks of the court, **and magisterial district judges**.

A log of all corrections made pursuant to this section may be maintained by the custodian, so that there is a record if an objection is made in the future. Such a log should remain confidential. It is suggested that custodians include a registry entry on the case docket when a request is received and a response is issued.

#### **Section 12.0. Continuous Availability of Policy.**

A copy of this policy shall be continuously available for public inspection in every court and custodian's office and posted on the Unified Judicial System's website.

### **EXPLANATORY REPORT**

#### **Case Records Public Access Policy of the Unified Judicial System of Pennsylvania [ : Case Records of the Appellate and Trial Courts ]**

##### *General Introduction*

Recognizing the importance of the public's access to the courts and with the Supreme Court's approval, the Administrative Office of Pennsylvania Courts (AOPC) has developed statewide policies governing access to court records. Protocols have been implemented for access to electronic case records in the Judiciary's statewide case management systems, magisterial district court case records, and financial records of the Unified Judicial System (UJS). In 2013, the AOPC embarked on the next phase of policy development designed to address access to case records of the trial and appellate courts.

This latest effort is necessitated by the confluence of several factors. The proliferation of e-filing systems and related decisions to post (or not post) case records online (as part of document imaging or e-filing systems) on a county-by-county basis has resulted in disjointed accessibility to the UJS's trial court case records. A county may post all divorce and custody records online for viewing, perhaps for free, and a neighboring county may not.

Online posting of sensitive information contained in case records, such as social security numbers, currently depends upon geography. Surveys conducted by the AOPC also revealed the treatment of sensitive information contained in paper case records maintained by the filing offices varies widely. For example, whether a social security number is available to a member of the public who wishes to view the records of a particular case in a filing office depends upon local practices.

The implementation of e-filing in Pennsylvania's appellate courts and future initiatives at other court levels is also a catalyst for policy development. While appellate court opinions, orders and dockets have been online via the UJS's website for over a decade, the e-filing of appellate briefs and related legal papers raises basic questions that should be considered when a court undertakes such a project, for instance: What sensitive information must be redacted? Who is responsible for ensuring the appropriate information is redacted?

At the state and local level, the Judiciary is moving forward into the digital age, and it clearly needs to give thoughtful consideration to its systems and procedures to ensure equal access to the UJS's trial and appellate case records. Disparate filing and access protocols certainly impede the statewide practice of law in the Commonwealth. Litigants and third parties, some of whom are unrepresented or are not voluntary participants in the judicial process, may be left in the dark as to whether their private, personal identifiers and intimate details of their lives will be released (online) for public viewing.

Government and the private sector collect extensive amounts of personal data concerning individuals' finances, unique identifiers, medical history and so on. Many of these types of data are relevant to the cases that are before the courts for decision, and some data is provided in court filings even though irrelevant to the matter before the court. Therefore, like other branches of government and the private sector, the courts are constantly considering issues regarding the need for openness and transparency and the concern for personal privacy and security.

With regard to the courts, however, the constitutional and common law presumption of openness has to be carefully weighed against relevant practical, administrative considerations when crafting solutions to avert breaches of privacy and security. Striking the right balance is not an easy task.

The public's right to access court proceedings and records is grounded in the First and Sixth Amendments of the U.S. Constitution, Article I §§ 7, 9, and 11 of the Pennsylvania Constitution, and the common law. While there is overlap between the common law and constitutional analyses, there is a distinction between the two. Specifically, the constitutional provisions provide a greater right of access than the common law.<sup>1</sup> However, these constitutional and common law rights are not absolute and may be qualified by overriding interests. A more extensive discussion of the right to access is contained in the Explanatory Report of the *Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania*.<sup>2</sup>

Therefore, with the approval of the Supreme Court, the Court Administrator of Pennsylvania convened a working group to study and develop a proposed policy for public

<sup>1</sup> See *Commonwealth v. Long*, 922 A.2d 892 (Pa. 2007).

<sup>2</sup> Explanatory Report is found at: <http://www.pacourts.us/assets/files/page-381/file-833.pdf?cb=1413983484884>.

comment. Under the experienced and dedicated leadership of Commonwealth Court Judge René J. Cohn Jubelirer and Montgomery County Court of Common Pleas Judge Lois E. Murphy, the working group undertook its charge with an open mind and an aim to appropriately balance the competing interests at hand. The group consisted of judges, appellate court filing office personnel, local court personnel, two Prothonotaries/Clerks of Courts, one Register of Wills/Clerk of Orphans' Court, and representatives from the Pennsylvania Bar Association and the rules committees of the Supreme Court, as well as AOPC staff.

Before developing a proposed policy, the working group studied and discussed the different types of records pertaining to criminal, domestic relations, civil, juvenile, orphans' court and appellate matters filed in the courts. Tackling each case type individually, the working group considered existing legal restrictions and other jurisdictions' access policies on the release of data and documents. In formulating whether information and documents should be considered confidential, the group also determined how access would be limited. There are categories of information that are completely restricted, such as social security numbers, and categories that are restricted from online viewing by the public but remain available for public inspection at a court facility, such as original and reproduced records filed in the appellate courts.

The working group published its proposal for a 60-day public comment period<sup>3</sup> and received thirty-two submissions. The comments reflected diverse, and sometimes conflicting, viewpoints, which helped the working group define the issues and find solutions. In doing so, the working group endeavored to find as much "common ground" as it could in reviewing and addressing the various comments.

In crafting its proposal, the group was guided at all times by the long-standing tradition of access to court records and the important interests it serves, as follows:

to assure the public that justice is done evenhandedly and fairly; to discourage perjury and the misconduct of participants; to prevent decisions based on secret bias or partiality; to prevent individuals from feeling that the law should be taken into the hands of private citizens; to satisfy the natural desire to see justice done; to provide for community catharsis; to promote public confidence in government and assurance that the system of judicial remedy does in fact work; to promote the stability of government by allowing access to its workings, thus assuring citizens that government and the courts are worthy of their continued loyalty and support; to promote an understanding of our system of government and courts. *Commonwealth v. Fenstermaker*, 530 A.2d 414, 417 (Pa. 1987) (citing *Commonwealth v. Contankos*, 453 A.2d 578, 579-80 (Pa. 1982)).

However, the group also recognized that transparency of judicial records and proceedings must be balanced with other considerations in this Internet age. The group attempted to strike the appropriate balance between access and interests involving the administration of justice, personal privacy and security—particularly with regard to online records. Also essential to the group's evaluation were practical considerations, such as the methods of redaction to be implemented and identification of various "best practices" that should be instituted statewide.

<sup>3</sup> <http://www.pabulletin.com/secure/data/vol45/45-6/222.html>.

The working group provides the following relevant commentary for the sections of the policy.

#### Section 1

The definitions incorporate elements of those found in existing UJS public access policies and other authorities.

This policy governs access to (1) official paper case records of appellate courts, courts of common pleas, [ and ] Philadelphia Municipal Court, and magisterial district courts, (2) images of scanned or e-filed documents residing in the three statewide case management systems, (3) images of scanned or e-filed documents residing in the case management systems of the judicial districts, and (4) case record information posted online by judicial districts via their own "local" case management systems. This approach ensures a more equitable and systematic approach to the case records filed in and maintained for the trial and appellate courts.

It is important to note how this policy intersects with [ existing UJS policies, namely ] the *Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania* (hereinafter referred to as "*Electronic Policy*") [ and *MDC Paper Policy* ] as well as the recently rescinded Public Access Policy of the Unified Judicial System of Pennsylvania: Official Case Records of the Magisterial District Courts (hereinafter referred to as "*MDC Paper Policy*"). The *Electronic Policy* governs access to the electronic case record information, excluding images of scanned documents, residing in the three statewide case management systems: Pennsylvania Appellate Courts Case Management System, Common Pleas Case Management System and the Magisterial District Judge System. Put simply, the *Electronic Policy* governs what information resides on the public web docket sheets accessible via the UJS web portal or is released to a member of the public requesting electronic case record information from one of the systems.

[ **The *MDC Paper Policy* governs access to the paper case records on file in a magisterial district courts.** ]

**The *MDC Paper Policy* had governed access to the paper case records on file in a magisterial district court, but was rescinded when this Policy was amended in 2018 to govern public access to those records.**

The definition of "financial source document" is derived from the definition of "sealed financial source documents" used in Minnesota (Minn.G.R.Prac. Rule 11.01) and Washington (WA.R.Gen. Rule 22(b)).

#### Section 2

This section's provisions are similar to those contained in the rescinded *MDC Paper Policy*, which [ have ] had been successfully implemented.

#### Section 4

Requestors may be unable to complete a written request, if required by a court. In such circumstances, access should not be denied but may be delayed until the custodian or designated staff is available to assist the requestor. If the request is granted, it may be necessary for the custodian or designated staff to sit with the requestor and monitor the use of the file to ensure its integrity. This is consistent with the responsibility placed upon the custodian and designated staff for the security, possession, custody and control of case records in Section



2.0(B). Such a practice is also consistent with the requirement that addressing requests for access cannot impede the administration of justice or the orderly operation of a court, pursuant to Section 2.0(C).

This section's provisions are similar to those contained in the rescinded MDC Paper Policy.

#### Section 5

While implementing the provisions of this policy should not unduly burden the courts and custodians or impinge upon the delivery of justice, it is reasonable for the public to expect that courts and custodians shall respond to requests for access in a consistent fashion. This section brings uniformity, in general, as to when and how courts and custodians must respond to requests. **[ Similar sections are found in the *Electronic Policy* and *MDC Paper Policy*. ] Both the *Electronic Policy* and the rescinded MDC Paper Policy contained similar sections.**

#### Section 6

Judicial districts have adopted different approaches to imposition of fees, especially with regard to remote access to court records. Some impose a fee for providing remote access because the costs associated with building and maintaining such systems are often substantial. Given that remote access is a value-added service, not a requirement, it is thought that those who avail themselves of this service should be charged for the convenience of maintaining these systems.

Others do not impose fees for remote access because providing this service reduces the "foot traffic" in the filing offices for public access requests. This, in turn, frees staff to attend to other business matters, resulting in a financial benefit by reducing costs associated with dealing with the requests over the counter. The AOPC has provided "free" online access to public web docket sheets for cases filed in the appellate courts, criminal divisions of the courts of common pleas and Philadelphia Municipal Court, as well as the magisterial district courts for years. In 2014, 59 million of those web dockets sheets were accessed online.

It is interesting to note that the two largest judicial districts in the Commonwealth are at opposite ends of the spectrum (i.e., one has posted virtually all dockets and documents for free, and the other posts some dockets for free but not documents). While the working group recognizes that other factors play into these determinations (such as, technological capabilities, statutorily mandated fees), judicial districts should ensure that fees do not become a barrier to public access. Completion of statewide case management systems in all levels of court will likely bring about standardization in remote access to case records.

The working group notes that this section's provisions are similar to those contained in the rescinded MDC Paper Policy.

#### Section 7

The concept of restricting access to particular, sensitive identifiers is not novel. The *Electronic Policy* and the rescinded MDC Paper Policy restrict access to social security numbers and financial account numbers, for example. The federal courts, and many state court systems, have restricted access to the types of identifiers that are listed in Section 7.0.

The *Electronic Policy* and the rescinded MDC Paper Policy provide that access to social security numbers is

shielded from release. Moreover, there are scores of authorities at both the federal and state level that protect the release of this information. While some of these authorities are not applicable to court records, they require access to this information in government records be limited or wholly restricted. For example: 65 P.S. § 67.708(b)(6)(i)(A), 74 P.S. § 201, 42 U.S.C.A. § 405(c)(2)(C)(viii), F.R.Civ.P.5.2(a)(1), F.R.Crim.P. 49.1(a)(1), Alaska (AK R Admin Rule 37.8(a)(3)), Arizona (AZ ST S CT Rule 123(c)(3)), Arkansas (Sup. Ct. Admin. Order 19(VII)(a)(4)), Florida (FL ST J ADMIN Rule 2.420(d)(1)(B)(iii)), Idaho (ID R Admin Rule 32(e)(2)), Indiana (Ind. St. Admin. Rule 9(G)(1)(d)), Maryland (MD. Rules 16-1007), Michigan (Administrative Order 2006-2), Minnesota (Minn.Gen.R.Prac. Rule 11.01(a)), Mississippi (Administrative Order dated August 27, 2008 paragraph 8), Nebraska (Neb Ct R § 1-808(a) and Neb. Rev. Stat § 84-712.05(17)), New Jersey (NJ R GEN APPLICATION Rule 1:38-7(a)), North Dakota (N.D.R.Ct. Rule 3.4(a)(1) and A.R. 41(5)(B)(10)(a)), Ohio (OH ST Sup Rules 44(h) and 45(d)), South Dakota (SDCL § 15-15A-8), Texas (TX ST J ADMIN Rule 12.5(d)), Utah (UT R J ADMIN Rules 4-202.02(4)(i) and 4-202-03(3)), Vermont (VT R PUB ACC CT REC § 6(b)(29)), Washington (WA.R.Gen. Rule 31(3)(1)(a) and West Virginia (WV R RAP Rule 40(e)(3)).

With regard to financial account numbers, the *Electronic Policy* and the rescinded MDC Paper Policy provide that this information is not accessible. Many other jurisdictions have taken a similar approach. For example: F.R.Civ.P. 5.2(a)(1), F.R.Crim.P. 49.1(a)(1), Alaska (AK R Admin Rule 37.8(a)(5)), Arizona (AZ ST S CT Rule 123(c)(3)), Arkansas (Sup. Ct. Admin. Order 19(VII)(a)(4)), Florida (FL ST J ADMIN Rule 2.420(d)(1)(B)(iii)), Idaho (ID R Admin Rule 32(e)(2)), Indiana (Ind. St. Admin. Rule 9(G)(1)(f)), Minnesota (Minn.Gen.R.Prac. Rule 11.01(a)), Nebraska (Neb Ct R § 1-808(a) and Neb. Rev. Stat § 84-712.05(17)), New Jersey (NJ R GEN APPLICATION Rule 1:38-7(a)), North Dakota (N.D.R.Ct. Rule 3.4(a)(1) and A.R. 41(5)(B)(10)(a)), Ohio (OH ST Sup Rules 44(h) and 45(d)), South Dakota (SDCL § 15-15A-8), Vermont (VT R PUB ACC CT REC § 6(b)(29)), Washington (WA.R.Gen. Rule 31(3)(1)(b)) and West Virginia (WV R RAP Rule 40(e)(4)).

Concerning driver license numbers, the *Electronic Policy* provides that driver license numbers should be protected. Moreover, there are many authorities at both the federal and state level that protect the release of this information. While some of these authorities are not applicable to court records, they require access to this information in government records be limited or wholly restricted. For example: 65 P.S. § 67.708(b)(6)(i)(A), 75 Pa.C.S. § 6114, 18 U.S.C. §§ 2721—2725, Alaska (AK R Admin Rule 37.8(a)(4)), Idaho (ID R Admin Rule 32(e)(2)), New Jersey (NJ R GEN APPLICATION Rule 1:38-7(a)), Utah (UT R J ADMIN Rules 4-202.02(4)(i) and 4-202-03(3)), Vermont (VT R PUB ACC CT REC § 6(b)(29)) and Washington (WA.R.Gen. Rule 31(3)(1)(c)).

State Identification Numbers ("SID") have been defined as "[a] unique number assigned to each individual whose fingerprints are placed into the Central Repository of the State Police. The SID is used to track individuals for crimes which they commit, no matter how many subsequent fingerprint cards are submitted." See 37 Pa. Code § 58.1. The *Electronic Policy* prohibits the release of SID. Furthermore, in *Warrington Crew v. Pa. Dept. of Corrections*, (Pa. Cmwlth., No. 1006 C.D. 2010, filed Nov. 19,

2010)<sup>4</sup>, the Commonwealth Court upheld a ruling by the Office of Open Records that a SID number is exempt from disclosure through a right-to-know request because such numbers qualify as a confidential personal identification number.

Other jurisdictions provide similar protections to minors' names, dates of births, or both. For example: F.R.Civ.P. 5.2(a)(1), F.R.Crim.P. 49.1(a)(1), Alaska (AK R Admin Rule 37.8(a)(6)), North Dakota (N.D.R.Ct. Rule 3.4(a)(3) and A.R.41(5)(B)(10)(c)), Utah (UT R J ADMIN Rules 4-202.02(4)(1) and 4-202-03(3)) and West Virginia (WV R RAP Rule 40(e)(1)).

With regard to abuse victims' address and other contact information, Pennsylvania through the enactment of various statutes has recognized the privacy and security needs of victims of abuse. For example, Pennsylvania's Domestic and Sexual Violence Victim Address Confidentiality Act (23 Pa.C.S. §§ 6701—6713) provides a mechanism whereby victims of domestic and sexual violence can shield their physical address (even in court documents) and hence protect their ability to remain free from abuse. The Pennsylvania Right To Know Law (65 P.S. §§ 67.101—67.1304) recognizes the potential risk of harm which can be caused by the disclosure by the government of certain personal information. For example, 65 P.S. § 67.708(b)(1)(ii) prohibits the disclosure that "would be reasonably likely to result in a substantial and demonstrable risk of physical harm to or the personal security of an individual." Moreover, 23 Pa.C.S. § 5336(b) prohibits the disclosure of the address of a victim of abuse in a custody matter to the other parent or party. 23 Pa.C.S. § 4305(a)(10)(ii) and (iii) provides that the domestic relations section shall have the power and duty to:

"implement safeguards applicable to all confidential information received by the domestic relations section in order to protect the privacy rights of the parties, including: prohibitions against the release of information on the whereabouts of one party or the child to another party against whom a protective order with respect to the former party or the child has been entered; and prohibitions against the release of information on the whereabouts of one party or the child to another person if the domestic relations section has reason to believe that the release of the information may result in the physical or emotional harm to the party or the child."

In addition, other jurisdictions have taken a measure to protect similarly situated individuals, such as: Alaska (AK R Admin Rule 37.8(a)(2)), Florida (FL ST J ADMIN Rule 2.420(d)(1)(B)(iii)), Indiana (Ind. St. Admin. Rule 9(G)(1)(e)(i)), New Jersey (NJ R GEN APPLICATION Rule 1:38-3(c)(12)), and Utah (UT R J ADMIN Rules 4-202.02(8)(E)(i) and 4-202-03(7)).

To maintain the confidentiality of the information listed in subsection (A), parties and their attorneys can set forth the listed information on a Confidential Information Form, designed and published by the AOPC. This is akin to the procedure set forth in the rescinded MDC Paper Policy [ ; the Confidential Information Form used by that policy is posted on the UJS's website at [www.pacourts.us](http://www.pacourts.us)].

Alternatively, parties and their attorneys can file two versions of each document with the court/custodian—one with sensitive information redacted ("redacted copy") and

the other with no information redacted ("unredacted copy"). The redacted copy shall omit any information not accessible under this policy in a visibly evident manner, and be available for public inspection. The unredacted copy shall not be accessible by the public. At least one other jurisdiction has implemented a similar approach. See WA.R.Gen. R. 22(e)(2) (Washington). Some contend that a redacted copy of a document will be more readable than an unredacted copy containing monikers as placeholders for sensitive information not included in the document. This approach was also identified as a more amenable solution given the current design of the statewide e-filing initiative.

**This option is not applicable to filings in a magisterial district court, rather filers must use the Confidential Information Form as provided in subsection (A). However, most of the forms that are found within the case files of a magisterial district court are statewide forms that are generated from the Magisterial District Judge System (a statewide case management system for these courts). The protection of confidential information captured on current MDJS forms requires a multi-faceted approach that takes into account how each form that contains such information is used. For example, AOPC has removed or suppressed social security numbers and operator license numbers from various forms when such information is extraneous to the court's adjudication of the case or the collection of the information is not otherwise required. In some instances, the filer will be responsible for placing the confidential information on the Confidential Information Form.**

While a court or custodian is not required to review any pleading, document, or other legal paper for compliance with this section, such activity is not prohibited. If a court or custodian wishes to accept the burden of reviewing such documents and redacting the same, such a process must be applied uniformly across all documents or cases. This provision, however, does not alter or expand upon existing legal authority limiting a custodian's authority to reject a document for filing. See *Nagy v. Best Home Services, Inc.*, 829 A.2d 1166 (Pa. Super. 2003).

Courts that permit e-filing should consider the development of a compliance "checkbox" whereby e-filers could indicate their compliance with this policy.

This section only applies to documents filed with a court or custodian on or after the effective date of this policy. There will be a period of transition prior to full implementation of this policy; that is, some documents filed with a court or custodian prior to the effective date of this policy will contain information that the policy restricts from public access. To expect full and complete implementation of this policy by applying it retroactively to those documents filed prior to the effective day of this policy is impractical and burdensome.

However, it is important to remember with regard to pre-policy records, a party or attorney always has the option to file a motion with [ the court ] a court of record to seal, in whole or part, a document or file. This includes the ability to request sealing and/or redaction of only some information that resides on a document in the court file (e.g., a social security number on a document).

#### Section 8

The protocol of submitting to a court or custodian certain documents under a cover sheet so that the documents are not accessible to the public has been

<sup>4</sup> Pursuant to Section 414(a) of the Commonwealth Court's Internal Operating Procedures, an unreported panel decision issued by the Court after January 15, 2008 may be cited "for its persuasive value, but not as binding precedent." 210 Pa. Code § 69.414(a).

instituted in other jurisdictions, such as Minnesota (Minn.G.R.Prac. Rule 11.03), South Dakota (SDCL § 15-15A-8), and Washington (WA.R.Gen. Rule 22(b)(8) and (g)). One manner in which to implement this protocol (e.g., the need to separate a confidential document within a file accessible to the public) is to maintain a confidential electronic folder or confidential documents file within the case file, thus ensuring that the file folder with the non-public information can be easily separated from the public case file, when access is requested.

Concerning financial source documents, other jurisdictions have similar provisions regarding such documents including Minnesota (Minn.G.R.Prac. Rule 11.03), South Dakota (SDCL § 15-15A-8), and Washington (WA.R.Gen. Rule 22(b)(8) and (g)).

Similar protocols with regard to minors' education records are found in other jurisdictions, such as Nebraska (Neb Ct R § 1-808(a) and Neb. Rev. Stat § 84-712.05(1)) and Wyoming (WY R Gov Access Ct Rule 6(a) and WY ST § 16-4-203(d)(viii)).

With regard to medical records, other jurisdictions have similar provisions including Indiana (Ind. St. Admin. Rule 9(G)(1)(b)(xi)), Maryland (MD. Rules 16-1006(i)), Nebraska (Neb Ct R § 1-808(a) and Neb. Rev. Stat § 84-712.05(2)), Utah (UT R J ADMIN Rules 4-202.02(4)(k) and 4-202-03(3)), Vermont (VT R PUB ACC CT REC § 6(b)(17)), West Virginia (WV R RAP Rule 40(e)(1)) and Wyoming (WY R Gov Access Ct Rule 6(t)).

Section 7111 of the Mental Health Procedures Act, 50 P.S. § 7111, provides that all documentation concerning an individual's mental health treatment is to be kept confidential and may not be released or disclosed to anyone, absent the patient's written consent, with certain exceptions including a court's review in the course of legal proceedings authorized under the Mental Health Procedures Act (50 P.S. § 7101). While it is unclear if this provision is applicable to the public accessing an individual's mental health treatment records in the court's possession, the working group believes this provision provides guidance on the subject. Thus, such records should not be available to the public except pursuant to a court order. See *Zane v. Friends Hospital*, 575 Pa. 236, 836 A.2d 25 (2003). Other jurisdictions have similar protocols, such as Maryland (MD. Rules 16-1006(i)), New Mexico (NMRA Rule 1-079(c)(5)), Utah (UT R J ADMIN Rules 4-202.02(4)(k) and 4-202-03(3)), Vermont (VT R PUB ACC CT REC § 6(b)(17)) and Wyoming (WY R Gov Access Ct Rule 6(p)).

Children and Youth Services' records introduced in juvenile dependency or delinquency matters are not open to public inspection. See 42 Pa.C.S. § 6307 as well as Pa.Rs.J.C.P. 160 and 1160. Introduction of such records in a different proceeding (e.g., a custody matter) should not change the confidentiality of these records; thus, the records should be treated similarly. These records are treated similarly by other jurisdictions, such as Florida (FL ST J ADMIN Rule 2.420(d)(1)(B)(i)), Indiana (Ind. St. Admin. Rule 9(G)(1)(b)(iii)) and New Jersey (NJ R GEN APPLICATION Rule 1:38-3(d)(12) and (15)).

The extent of financially sensitive information required by Pa.R.C.P. No. 1910.27(c) and 1920.33 that must be listed on income and expense statements, marital property inventories and pre-trial statements rivals information contained in a financial source document. Therefore, these documents should also be treated as confidential. Vermont has a similar protocol (VT R PUB ACC CT REC § 6(b)(33) and 15 V.S.A. § 662).

Courts that permit e-filing should consider the development of a compliance "checkbox" whereby e-filers could indicate their compliance with this policy.

This section only applies to documents filed with a court or custodian on or after the effective date of this policy. There will be a period of transition prior to full implementation of this policy; that is, some documents filed with a court or custodian prior to the effective date of this policy will contain information that the policy restricts from public access. To expect full and complete implementation of this policy by applying it retroactively to those documents filed prior to the effective day of this policy is impractical and burdensome.

However, it is important to remember with regard to pre-policy records, a party or attorney always has the option to file a motion with [ **the court** ] **a court of record** to seal, in whole or part, a document or file. This includes the ability to request sealing and/or redaction of only some information that resides on a document in the court file (e.g., a social security number on a document).

### Section 9

This section safeguards certain sensitive information that is already protected by existing authority or was deemed to require protection by the working group from access at the court facility. The latter category included two specific types of records: birth records and incapacity proceeding records.

Access to a birth certificate from the Department of Health, particularly an amended birth certificate, such as in an adoption case, is limited pursuant to various statutes. 35 P.S. §§ 450.603, 2915 and 2931. Unrestricted access to records filed in proceedings about birth records could have the unintended effect of circumventing the purposes of the confidentiality provisions of the above statutory framework. Moreover, at least one jurisdiction, Florida (FL ST J ADMIN Rule 2.420(d)(1)(B)(vi)), provides similar protections to these records. However, concerned that the lack of transparency may erode the public's trust and confidence, dockets and any court order, decree or judgment in these cases are exempted by the policy. Releasing the dockets as well as any order, decree or judgment disposing of the case is believed to strike the appropriate balance between access to the court's decision, and hence the public's understanding of the judicial function, and personal privacy.

Given the extent of financial and sensitive information that is provided in order that a court may determine whether a person is incapacitated and, if so, that must subsequently be reported in a guardian's report, these records are not be accessible. Similar provisions are found in many other jurisdictions including: California (Cal. Rules of Court, Rule 2.503(c)(3)), Florida (F.S.A. §§ 744.1076 and 744.3701), Georgia (Ga. Code Ann. § 29-9-18), Idaho (ID. R. Admin. Rule 32), Maryland (MD. Rules 16-1006), New Jersey (NJ R GEN APPLICATION Rule 1:38-3(e)), New Mexico (NMRA Rule 1-079(c)(7)), South Dakota (SDCL § 15-15A-7(3)(m)), Utah (UT R J Admin. Rule 4-202.02(4)(L)(ii)), Washington (WA.R.Gen. Rule 22(e)) and Wyoming (WY R Gov Access Ct Rule 6(g)). For the reasons of transparency, the case docket and any court order, decree or judgment for these cases is exempted pursuant to this policy.

The provisions of Subsection G are consistent with those contained in the *Electronic Policy*, **the rescinded MDC Paper Policy** and Rule of Judicial Administration 509. The Judiciary's commitment to the principle of open

and accessible case records is reflected in the inclusion of a publication requirement.

#### Section 10

Any information to which access is limited pursuant to Sections 7, 8 or 9 is also not accessible remotely pursuant to Subsection A(1). As to Subsections A(2) through (A)(7), it is important to note that this information will remain available at the courthouse or court facility where access has been traditionally afforded. There is a difference between maintaining “public” records for viewing/copying at the courthouse and “publishing” records on the Internet. Thus, there is certain information for which at the present time courthouse access remains the appropriate forum.

Concerning Subsection A(2)’s restriction on remote access to information that identifies jurors, witnesses, and victims in criminal cases, similar provision exist in the *Electronic Policy* and have been implemented by other jurisdictions, including Alaska (AK R ADMIN Rule 37.8(a)(1) and (2)), Indiana (Ind. St. Admin. Rule 9(G)(1)(e)), Mississippi (Administrative Order dated August 27, 2008 paragraph 8), Nebraska (NE R CT § 1-808(b)(3)), Texas (TX ST J ADMIN Rule 12.5(d)) and Utah (UT R J ADMIN Rules 4-202.02(8)(e) and 4-202-03(7)).

As pertains to Subsection A(5), in considering family court records (i.e., divorce, custody, and support), individual courts have implemented protocols to shield some of these records from access. Sensitive to these concerns, prohibiting online posting of any family court records (save for a docket, court orders and opinions), along with the requirements that certain information and documents filed with the court or custodian be restricted from access via the use of a Confidential Information Form, redacted filings or a Confidential Document Form, removes a significant amount of the personal, sensitive information from access, while allowing public access to ensure accountability and transparency of the judicial system.

With regard to Subsection A(6), New Mexico has a similar protocol protecting Older Adult Protective Services Act matters (NMRA Rule 1-079(c)(4)). For the reasons expressed above, remote access should be afforded to dockets, court orders and opinions in these cases, to the extent that the judicial districts have developed systems and procedures that facilitate such access.

While case records remotely accessible to the public prior to the effective date of this policy may remain online in unredacted form, judicial districts are not prohibited from taking steps to safeguard sensitive case records designated by this section. To expect full and complete implementation of the policy by applying it retroactively to records remotely accessible prior to the effective date of this policy is impractical and burdensome.

However, it is important to remember with regard to pre-policy records, a party or attorney always has the option to file a motion with the court to seal, in whole or part, a document or file. This includes the ability to request sealing and/or redaction of only some information that resides on a document in the court file (e.g., a social security number on a document).

It is essential that courts and custodians in designing systems, such as those for document imaging, e-filing, or both consider the requirements of this policy and ensure such systems are in compliance. This is imperative as the

Judiciary moves toward statewide e-filing for all levels of courts.

As for systems currently in existence, the policy may require changes to current protocols and processes.

#### Section 11

A similar provision is included in the *Electronic Policy*. This policy delineates a procedure by which an individual may correct a clerical error that appears in a case record accessible remotely. As noted in the Explanatory Report to the *Electronic Policy*, these provisions borrow heavily from the correction provisions in the Criminal History Record Information Act. For the same reasons outlined in the Explanatory Report, a similar protocol was included in this policy.

#### Best Practices

The following are various “best practices” that should be considered by the courts, parties and their attorneys to promote the successful implementation of this policy.

1. The Judiciary should remain cognizant of this policy in the development of e-filing and case management systems, procedures and forms. The following “best practices” should be considered as courts develop systems for e-filing:

a. Access to the courts should be promoted by the e-filing processes;

b. Court control over its own records should be preserved;

c. Systems should have consistent functionality, compatible protocols and rules to facilitate statewide practice;

d. Processes for *pro se* litigants should be defined to provide equal and secure access to the system;

e. Issues involving public access to e-documents, and the sensitive data that may be contained therein, should be fully studied before the e-filing system is developed (e.g., separate e-filing of exhibits from other documents);

f. Payment of any required filing fees should be accomplished via electronic methods;

g. Bi-directional exchange of data should be facilitated between e-filing and case management systems; and

h. Maximum flexibility in the design of a system should be sought to accommodate future evolutions of technology.

2. Compliance with this policy and the Judiciary’s commitment to open records may be assisted by various technological and administrative solutions, such as:

a. Implementation of redaction and “optical character recognition” software may assist parties and their attorneys in complying with the policy. Some judicial districts also employ redaction software to protect sensitive data as a “best practice.”

b. Due consideration and routine review by custodians should be given to the standards for record retention as applied to those records in paper form and electronic form.

[Pa.B. Doc. No. 18-675. Filed for public inspection May 4, 2018, 9:00 a.m.]

## Title 237—JUVENILE RULES

### PART I. RULES

[ 237 PA. CODE CH. 4 ]

#### Order Amending Rule 409 of the Rules of Juvenile Court Procedure; No. 763 Supreme Court Rules Doc.

##### Order

*Per Curiam*

And Now, this 23rd day of April, 2018, upon the recommendation of the Juvenile Court Procedural Rules Committee, the proposal having been published for public comment at 47 Pa.B. 7304 (December 2, 2017):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 409 of the Pennsylvania Rules of Juvenile Court Procedure is amended in the following form.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective on July 1, 2018.

##### Annex A

#### TITLE 237. JUVENILE RULES

### PART I. RULES

#### Subpart A. DELINQUENCY MATTERS

#### CHAPTER 4. ADJUDICATORY HEARING

#### Rule 409. Adjudication of Delinquency.

A. *Adjudicating the [juvenile delinquent] Juvenile Delinquent.* Once the court has ruled on the offenses as provided in Rule 408, the court shall conduct a hearing to determine if the juvenile is in need of treatment, supervision, or rehabilitation.

1) *Not in [need] Need.* If the court determines that the juvenile is not in need of treatment, supervision, or rehabilitation, the court shall enter an order providing that:

a) **[jurisdiction shall be terminated] the petition shall be dismissed** and the juvenile shall be released, if detained, unless there are other reasons for the juvenile's detention; and

b) any records, fingerprints, and photographs taken shall be expunged or destroyed.

2) *In [need] Need.*

\* \* \* \* \*

##### Comment

Under paragraph (A), absent evidence to the contrary, evidence of the commission of acts that constitute a felony is sufficient to sustain a finding that the juvenile is in need of treatment, supervision, or rehabilitation. *See* 42 Pa.C.S. § 6341(b).

If the court determines that the juvenile is not in need of treatment, supervision, or rehabilitation and the court enters an order **[terminating jurisdiction] dismissing the petition**, the victim, if not present, shall be notified of the final outcome of the proceeding. *See* Victim's Bill of Rights, 18 P.S. § 11.201 *et seq.*

This rule addresses adjudicating the juvenile delinquent or **[releasing the juvenile from the court's jurisdiction] dismissing the petition**. This determina-

tion is different from finding the juvenile committed a delinquent act under Rule 408.

\* \* \* \* \*

**Official Note:** Rule 409 adopted April 1, 2005, effective October 1, 2005. Amended December 24, 2009, effective immediately. Amended May 26, 2011, effective July 1, 2011. Amended July 28, 2014, effective September 29, 2014. **Amended April 23, 2018, effective July 1, 2018.**

##### Committee Explanatory Reports:

Final Report explaining the provisions of Rule 409 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 409 published with the Court's Order at 40 Pa.B. 222 (January 9, 2010).

Final Report explaining the amendments to Rule 409 published with the Court's Order at 41 Pa.B. 3180 (June 25, 2011).

Final Report explaining the amendments to Rule 409 published with **the** Court's Order at 44 Pa.B. 5447 (August 16, 2014).

**Final Report explaining the amendments to Rule 409 published with the Court's Order at 48 Pa.B. 2615 (May 5, 2018).**

##### FINAL REPORT<sup>1</sup>

##### Amendment of Pa.R.J.C.P. 409

On April 23, 2018, the Supreme Court amended Rule of Juvenile Court Procedure 409 to change the outcome from "termination of jurisdiction" to "dismissal of petition" when the court finds the juvenile is "not in need."

The amendment is not intended to have a substantive impact on current procedure. Rather, it represents a change in terminology to more precisely identify the procedural outcome, to avoid conflation of "jurisdiction" with its use in other Rules of Juvenile Court Procedure, see e.g., Pa.R.J.C.P. 630, and to enhance correlation with Rule 170(A)(2).

The amendment will become effective July 1, 2018.

[Pa.B. Doc. No. 18-676. Filed for public inspection May 4, 2018, 9:00 a.m.]

## Title 237—JUVENILE RULES

### PART I. RULES

[ 237 PA. CODE CH. 11 ]

#### Order Amending Rule 1140 of the Rules of Juvenile Court Procedure; No. 764 Supreme Court Rules Doc.

##### Order

*Per Curiam*

And Now, this 23rd day of April, 2018, upon the recommendation of the Juvenile Court Procedural Rules Committee, the proposal having been published for public comment at 47 Pa.B. 7016 (November 18, 2017):

<sup>1</sup> 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.

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 1140 of the Pennsylvania Rules of Juvenile Court Procedure is amended in the following form.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective on July 1, 2018.

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart B. DEPENDENCY MATTERS
CHAPTER 11. GENERAL PROVISIONS

PART A. BUSINESS OF COURTS

Rule 1140. Bench Warrants for Failure to Appear.

A. Issuance of [ warrant ] Warrant.

1) Before a bench warrant may be issued by a judge, the judge shall find that the subpoenaed or summoned person received sufficient notice of the hearing and failed to appear.

2) For the purpose of a bench warrant, a judge may not find notice solely based on first-class mail service.

3) The judge shall not issue an arrest warrant for a dependent child who absconds.

B. Party.

1) Where to [ take the party ] Take the Party.

\* \* \* \* \*

2) Prompt [ hearing ] Hearing.

a) If a party is detained pursuant to a specific order in the bench warrant, the party shall be brought before the judge who issued the warrant, a judge designated by the President Judge to hear bench warrants, or an out-of-county judge pursuant to paragraph (B)(4) within seventy-two hours.

b) If the party is not brought before a judge within this time, the party shall be released.

3) Notification of [ guardian ] Guardian. If a party is a child and is taken into custody pursuant to a bench warrant, the arresting officer shall immediately notify the child's guardian of the child's whereabouts and the reasons for the issuance of the bench warrant.

4) [ Out-of-county custody. ] Out-of-County Custody.

\* \* \* \* \*

5) Time [ requirements ] Requirements. The time requirements of Rules 1242, 1404, 1510, and 1607 shall be followed.

C. Witnesses.

1) Where to [ take the witness ] Take the Witness.

\* \* \* \* \*

2) Prompt [ hearing ] Hearing.

a) If a witness is detained pursuant to paragraph (C)(1)(c) or brought back to the county of issuance pursuant to paragraph (C)(4)(f), the witness shall be brought before the judge by the next business day.

b) If the witness is not brought before a judge within this time, the witness shall be released.

3) Notification of [ guardian ] Guardian. If a witness who is taken into custody pursuant to a bench warrant is a minor, the arresting officer shall immediately notify the witness's guardian of the witness's whereabouts and the reasons for the issuance of the bench warrant.

4) [ Out-of-county custody. ] Out-of-County Custody.

\* \* \* \* \*

E. Return & [ execution of the warrant for parties and witnesses ] Execution of the Warrant for Parties and Witnesses.

\* \* \* \* \*

Comment

Pursuant to paragraph (A), the judge is to ensure that the person received sufficient notice of the hearing and failed to attend. The judge may order that the person be served in-person or by certified mail, return receipt. The judge may rely on first-class mail service if additional evidence of sufficient notice is presented. For example, testimony that the person was told in person about the hearing is sufficient notice. Before issuing a bench warrant, the judge should determine if the guardian was notified.

Under Rule 1800, 42 Pa.C.S. § 6335(c) was suspended only to the extent that it is inconsistent with this rule. Under paragraph (A)(1), the judge is to find a subpoenaed or summoned person failed to appear and sufficient notice was given to issue a bench warrant. The fact that the party or witness may abscond or may not attend or be brought to a hearing is not sufficient evidence for a bench warrant. The normal rules of procedure in these rules are to be followed if a child is detained. See Chapter Twelve[ , Part D ].

[ Pursuant to paragraph (B)(1)(a), the party is to be taken immediately to the judge who issued the bench warrant or a judge designated by the President Judge of that county to hear bench warrants. Pursuant to paragraph (B)(1)(b), if a bench warrant specifically provides that the party may be detained, the party may be detained without having to be brought before the judge until a hearing within seventy-two hours under paragraph (B)(2)(a). Pursuant to this paragraph, if a hearing is not held promptly, the party is to be released. See paragraph (B)(2)(b). ]

Paragraph (A)(3) does not preclude the issuance of a bench warrant for a case in which the child is subject to the jurisdiction of the dependency and delinquency court, see Rule 141 (Bench Warrants for Absconders), or an order for protective custody. Nor does the paragraph preclude judicial inquiry into efforts to locate a missing dependent child.

In paragraphs (B)(1)(c)(i), (C)(1)(c)(i), & (C)(4)(e)(i), "other placement as deemed appropriate by the judge" does not include a detention facility if a child is only alleged to be dependent because the use of detention facilities for dependent children is strictly prohibited. See 42 Pa.C.S. § 6302 & 6327(e).

Under paragraphs (B)(2) and (B)(4), a party taken into custody pursuant to a bench warrant is to have a hearing within seventy-two hours regardless of where the party is found. See Rule 1242(D).

Pursuant to paragraph (B)(4), the party may be detained out-of-county until transportation arrangements can be made.

[ Pursuant to paragraph (B)(5), the time requirements of all other rules are to apply to children who are detained. *See, e.g.*, Rules 1242, 1404, 1510, and 1607. ]

Pursuant to paragraph (C)(1)(a), the witness is to be taken immediately to the judge who issued the bench warrant or a judge designated by the President Judge of that county to hear bench warrants. Pursuant to paragraph (C)(1)(b), if the judge is not available, the witness is to be released immediately unless the warrant specifically orders detention. Pursuant to paragraph (C)(1)(c), a motion for detention as a witness may be filed. If the witness is detained, a prompt hearing pursuant to paragraph (C)(2) is to be held by the next business day or the witness is to be released. *See* paragraph (C)(2)(b). ]

Pursuant to paragraph (C)(4)(b), a witness is to be brought before an out-of-county judge by the next business day unless the witness can be brought before the judge who issued the bench warrant within this time. When the witness is transported back to the county of issuance within seventy-two hours of the execution of the bench warrant, the witness is to be brought before the judge who issued the bench warrant by the next business day. *See* paragraph (C)(4)(f).

[ Pursuant to paragraph (E)(2), the bench warrant is to be returned to the judge who issued the warrant or to the judge designated by the President Judge to hear warrants by the arresting officer executing a return of warrant. *See* paragraph (E)(3). ]

Pursuant to paragraph (E)(4), the bench warrant is to be vacated after the return of the warrant is executed so the party or witness is not taken into custody on the same warrant if the party or witness is released. “Vacated” is to denote that the bench warrant has been served, dissolved, executed, dismissed, canceled, returned, or any other similar language used by the judge to terminate the warrant. The bench warrant is no longer in effect once it has been vacated.

See 42 Pa.C.S. § 4132 for punishment of contempt for children and witnesses.

Throughout these rules, the “child” is the subject of the dependency proceedings. When a witness or another party is under the age of eighteen, the witness or party is referred to as a “minor.” When “minor” is used, it may include a child. This distinction is made to differentiate between children who are alleged dependents and other minors who are witnesses. See also Rule 1120 for the definitions of “child” and “minor.”

**Official Note:** Rule 1140 adopted March 19, 2009, effective June 1, 2009. Amended April 21, 2011, effective July 1, 2011. **Amended April 23, 2018, effective July 1, 2018.**

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1140 published with the Court’s Order at 39 Pa.B. 1614 (April 4, 2009).

Final Report explaining the amendments to Rule 1140 published with the Court’s Order at 41 Pa.B. 2319 (May 7, 2011).

**Final Report explaining the amendments to Rule 1140 published with the Court’s Order at 48 Pa.B. 2615 (May 5, 2018).**

## FINAL REPORT<sup>1</sup>

### *Amendment of Pa.R.J.C.P. 1140*

On April 23, 2018, the Supreme Court amended Rule of Juvenile Court Procedure 1140 to add paragraph (a)(3) to clarify that arrest warrants are not to be issued for absconding dependent children. Further, the Comment was revised to state that Rule 1140(a)(3) does not preclude the issuance of a warrant for a case in which the child is subject to the jurisdiction of the dependency and delinquency court or a pickup order for protective custody. Post-publication, the Juvenile Court Procedural Rules Committee recommended additional language in the Comment indicating that judicial inquiry into efforts to locate a missing dependent child is not precluded under the Rule.

Several portions of the Comment merely reiterative of the rule text were deleted to improve readability.

The amendment will become effective July 1, 2018.

[Pa.B. Doc. No. 18-677. Filed for public inspection May 4, 2018, 9:00 a.m.]

## Title 246—MINOR COURT CIVIL RULES

### PART I. GENERAL

#### [ 246 PA. CODE CH. 300 ]

### Order Amending Rule 314 of the Rules of Civil Procedure Before Magisterial District Judges; No. 420 Magisterial Rules Doc.

#### Order

*Per Curiam*

And Now, this 20th day of April, 2018, upon the recommendation of the Minor Court Rules Committee, the proposal having been published for public comment at 47 Pa.B. 4082 (July 29, 2017):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 314 of the Pennsylvania Rules of Civil Procedure Before Magisterial District Judges is amended in the following form.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective on July 1, 2018.

#### Annex A

### TITLE 246. MINOR COURT CIVIL RULES

#### PART I. GENERAL

#### CHAPTER 300. CIVIL ACTION

### Rule 314. Return, Waiver and Failure of Service; Reinstatement.

A. The person serving the complaint shall, at or before the time of the hearing, make proof of service which shall show (1) the manner of service, (2) the date, time, and place of service and, (3) the name and relationship or

<sup>1</sup> 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.

title, if any, of the person on whom the complaint was served. The proof of service shall be filed with the original complaint.

B. When service is made by certified mail or comparable delivery method resulting in a return receipt in paper or electronic form, the return receipt shall be filed with the original complaint.

C. The appearance of a defendant in person or by representative or the filing by a defendant of a claim in the case shall be deemed a waiver of any defect in service but not a waiver of a defect in venue.

D. If the complaint is not served on the defendant in time to permit holding a hearing within 60 days of the filing of the complaint, the magisterial district judge shall dismiss the complaint without prejudice.

[ **E. Upon written request of the plaintiff, a complaint that has been dismissed without prejudice for failure to make service pursuant to subdivision D of this rule** ] **E.(1) When the complaint is dismissed without prejudice for failure to make service pursuant to paragraph D of this rule as to all defendants, upon written request of the plaintiff the complaint may be reinstated at any time and any number of times. The date of reinstatement shall be the date upon which the request for reinstatement is filed.**

**(2) When the complaint has been filed against multiple defendants and subsequently dismissed without prejudice for failure to make service pursuant to paragraph D of this rule as to less than all defendants, any further action against an unserved defendant after a hearing on the merits or the entry of a default judgment must be initiated by the filing of a new complaint.**

*Official Note:* The provision concerning appearance not being a waiver of venue was inserted in [ **subdivision** ] **paragraph C** of this rule to prevent the concentration of business in the office of a favorable magisterial district judge. Also, the public cannot generally be expected to be aware of venue provisions. See Rule 302H regarding improper venue.

[ **Subdivision** ] **Paragraph D** is intended to prevent the accumulation of stale claims in the office of the magisterial district judge.

[ **Subdivision E** ] **Subparagraph E(1)** provides for the reinstatement, upon written request of the plaintiff, of a complaint that has been dismissed without prejudice for failure to make service under [ **subdivision D** ] **paragraph D against all defendants.** Compare [ **Pa. R.C.P.** ] **Pa.R.C.P.** No. 401(b). The written request for reinstatement may be in any form and may consist of a notation on the permanent copy of the complaint form, "Reinstatement of complaint requested," subscribed by the plaintiff. The magisterial district judge shall mark all copies of the reinstated complaint, "Complaint reinstated. Request for reinstatement filed on \_\_\_\_\_ (date)." If it is necessary to use a new form for the reinstated complaint, the reinstated complaint, except for service portions thereof, shall be an exact copy of the original complaint, although signatures may be typed or printed with the mark "/s/" indicating an actual signature. The language in [ **subdivision E** ] **subparagraph E(1)** that a complaint may be reinstated "at any time" will permit reinstatement after a faulty service without waiting for further proceedings in the case. Reinstatement must occur within the period of the statute of limitations from

the date of the last filing or reinstatement. The cost for reinstating a complaint is specified in Section 1725.1 of the Judicial Code, 42 Pa.C.S. § 1725.1. In addition, there may be additional server costs for service of the reinstated complaint.

**Subparagraph E(2) addresses the scenario involving multiple defendants when timely service is not made upon all defendants, resulting in a dismissal without prejudice as to some defendants. Subparagraph E(2) clarifies that the plaintiff may not reinstate the complaint after the hearing or entry of a default judgment in this circumstance, but must initiate an entirely new action by filing a new complaint, subject to the applicable fees and costs for a new filing.**

## FINAL REPORT<sup>1</sup>

### Recommendation 1-2018, Minor Court Rules Committee

#### *Amendment of Pa.R.C.P.M.D.J. No. 314*

#### Reinstatement of Complaint

##### I. Introduction

The Minor Court Rules Committee ("Committee") recommended amendments to Rule 314 of the Pennsylvania Rules of Civil Procedure before Magisterial District Judges ("Rules"). Rule 314 addresses the reinstatement of a complaint following a dismissal without prejudice for failure to make timely service upon a defendant. The amendments distinguish the procedure for cases when the complaint is dismissed as to all defendants from dismissal for only some defendants.

##### II. Background and Discussion

Rule 314 addresses matters relating to service. Rule 314D provides for the dismissal of the complaint without prejudice for failure to make timely service on the defendant, and 314E provides for reinstatement of the complaint following a dismissal without prejudice for failure to make timely service.

The Committee received an inquiry regarding a dismissal without prejudice pursuant to Rule 314D and the ability to reinstate the complaint under Rule 314E when the complaint names multiple defendants, not all defendants have been served, the complaint is dismissed as to the unserved defendant(s), but the case moves forward against the served defendant(s), and proceeds to a hearing on the merits or a default judgment. In this scenario, a concern arises when the plaintiff subsequently locates an unserved defendant and requests reinstatement of the complaint pursuant to Rule 314E. The rule does not address this scenario, and reinstating an adjudicated case to proceed against the previously unserved defendants raises concerns with maintaining the integrity of the court's original judgment, including the appeal period applicable to the parties.

The Committee discussed the inquiry, and agreed that it would be appropriate to recommend the amendment of the procedures set forth in Rule 314E to distinguish between scenarios when the complaint has been dismissed as to all defendants and when the complaint has been dismissed as to less than all defendants.

##### III. Rule Changes

The Committee recommended amendment of Rule 314 by expanding Rule 314E into two subparagraphs. Sub-

<sup>1</sup> The Committee's Final Report should not be confused with the Official Notes to the Rules. Also, the Supreme Court of Pennsylvania does not adopt the Committee's Official Notes or the contents of the explanatory Final Reports.



paragraph E(1) provides that when the complaint is dismissed without prejudice as to all defendants for failure to make timely service, the complaint may be reinstated. Subparagraph E(2), in contrast, provides that when the complaint has been dismissed without prejudice for failure to make timely service as to less than all defendants, any further action against a previously unserved defendant must be initiated by filing a new complaint. The Official Note provides that the new action in subparagraph E(2) is subject to all applicable fees and costs for a new filing.

The Committee also recommended minor stylistic changes throughout Rule 314.

[Pa.B. Doc. No. 18-678. Filed for public inspection May 4, 2018, 9:00 a.m.]

**Title 255—LOCAL COURT RULES**

**BUTLER COUNTY**

**Clerk of Courts’ Schedule of Fees and Costs; Misc.; Administrative Doc. No. 1-2018**

**Order of Court**

*And Now*, this 12th day of April, 2018, upon consideration of the Clerk of Courts’ Petition to Increase Fees and Costs Pursuant to 42 Pa.C.S.A. § 1725.4 *It Is Hereby Ordered, Adjudged and Decreed*, that:

1. The revised fee schedule submitted by the Clerk of Courts of Butler County, Pennsylvania, a copy of which follows hereto and incorporated herein, is approved.
2. The revised fee schedule approved by this Order of Court shall be effective on May 1, 2018.
3. The Clerk of Courts is hereby directed to immediately cause the publication of the revised fee schedule in the *Butler County Legal Journal* once a week for two (2) successive weeks, and to file a copy of the Proof of Publication of the advertisement at the previously listed term and docket number.
4. The Clerk of Courts shall file one (1) certified copy hereof with AOPC and distribute two (2) certified copies plus a diskette to the Legislative Reference Bureau for publication in the *PA Bulletin*.
5. The Clerk of Courts is to distribute a copy of the fee schedule to each of the Judges of the Court of Common Pleas of Butler County and to the Butler County Bar Association.

6. Nothing contained herein shall prevent this Court to further revise the fee schedule approved by this Order of Court upon proper application made in accordance with law.

*By the Court*

MARILYN J. HORAN,  
*Judge*

**Clerk of Courts’ Petition to Increase Fees and Costs Pursuant to 42 Pa.C.S. § 1725.4**

*And Now*, comes Lisa Weiland Lotz, Clerk of Courts of Butler County, by and through Leo M. Stepanian II, Esquire, Solicitor, and respectfully petitions this Court as follows:

1. Petitioner is the duly elected Clerk of Courts of the Common Pleas Court of Butler County, Pennsylvania.
2. Butler County is a county of the fourth class.
3. Act 36 of 2000 provides in pertinent part:  
The amount of any fee or charge increased pursuant to paragraph (1) may be increased every three years, provided that the amount of the increase may not be greater than the percentage of increase in the Consumer Price Index for Urban Workers for the immediate three years preceding the last increase in the fee or charge.

42 Pa.C.S. § 1725.4(a)(2).

4. The Clerk of Courts last sought approval for and this Court last granted approval for an increase in the fees and costs charged by the Clerk of Courts in March 2015.

5. Pursuant to 42 Pa.C.S. § 1725.4(a)(2), the Clerk of Courts may request, and the President Judge may approve, an increase in the fees and costs charged by the Clerk of Courts based upon the increase in the Consumer Price Index for the period from July 2011 to June 2013.

6. Based upon the Consumer Price Index for Urban Workers (Urban Wage Earners and Clerical Workers), the Consumer Price Index has increased 3.45% (July 2011 to June 2013).

7. Following hereto as Exhibit “A” is a proposed fee bill for the Clerk of Courts of Butler County, Pennsylvania that takes into account the increase in the Consumer Price Index as previously set forth.

*Wherefore*, the Clerk of Courts of Butler County, Pennsylvania respectfully requests this honorable Court to authorize and adopt the schedule of fees and costs as proposed hereby.

LEO M. STEPANIAN, II,  
*Solicitor for the Clerk of Courts*

**Exhibit “A”**

**BUTLER COUNTY CLERK OF COURTS’ FEE BILL (Effective 5/1/18)**

**Criminal Filings**

Misdemeanor and Felony Case During or After Trial .....	\$220.00
Misdemeanor and Felony Case Before Trial (Plea or ARD) .....	\$164.50
Summary Case .....	\$33.75
Juvenile Case .....	\$21.75

**Appeal Fees**

Summary Appeal/Nunc Pro Tunc Filing Fee (Non-Refundable)	\$61.00
Appellate Court Appeal (Payable to Clerk of Courts)	\$66.25
Appellate Court Appeal (Check Payable to Superior/Supreme/Cw. Court)	Current Rate
Liquor Control Board Appeals	\$21.75

**Bench Warrant/Bail Related Fees**

Processing all types	\$21.75
Fee per dollar, for the first \$1,000 .0525	\$54.50
Fee per dollar, for each additional \$1,000 .018	\$18.75
Bail Forfeiture	\$21.75
Bail Piece (Includes Certified Copy to Bondsman)	\$33.75
Bench Warrant (Includes Certified Copy to Sheriff)	\$33.75

**Miscellaneous Filings/Fees**

Automation Fee for Clerk of Courts' Office (All initiations—42 Pa.C.S.A. 1725.4(b))	\$5.00
Certified Copy	\$11.00
Constable—Bond/Oath/I.D. Card	\$21.75
Copies (per page)	\$0.50
Criminal Search (per name)	\$21.75
Exemplifications	\$21.75
Expungement (per case)	\$73.50
Facsimile (fax) Fee	\$5.50
NSF Check/Cancelled Money Order/Credit-Debit Card Reversals	\$25.00
Private Detective (Individual) Bond/Oath per year	\$100.00
Private Detective (Corporate) Bond/Oath per year	\$150.00
Miscellaneous Case	\$21.75
Road Docket	\$21.75
Subpoenas	\$4.25
File Retrieval From Iron Mountain	Current Rate

[Pa.B. Doc. No. 18-679. Filed for public inspection May 4, 2018, 9:00 a.m.]

**Title 255—LOCAL COURT RULES**

**SCHUYLKILL COUNTY**

**Local Rule of Criminal Procedure No. 106, Continuances; AD 31-18**

**Order of Court**

And Now, this 24th day of April, 2018, at 9 a.m., the Schuylkill County Court of Common Pleas hereby amends Local Rule of Criminal Procedure No. 106, Continuances, for use in the Schuylkill County Court of Common Pleas, Twenty-First Judicial District, effective 30 days after publication in the *Pennsylvania Bulletin*.

The Schuylkill County District Court Administrator is Ordered and Directed to do the following:

1) File one (1) copy of this Order and Rule with the Administrative Office of the Pennsylvania Courts via email to adminrules@pacourts.us.

2) File two (2) paper copies of this Order and Rule and (1) electronic copy in a Microsoft Word format to bulletin@palrb.us with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3) Publish the local rule on the Schuylkill County Court website at www.co.schuylkill.pa.us.

4) Incorporate the local rule into the set of local rules on www.co.schuylkill.pa.us within thirty (30) days after publication in the *Pennsylvania Bulletin*.

5) File one (1) copy of the local rule in the Office of the Schuylkill County Clerk of Courts for public inspection and copying.

6) Forward one (1) copy to the Law Library of Schuylkill County for publication in the *Schuylkill Legal Record*.

By the Court

WILLIAM E. BALDWIN,  
President Judge

## RULES OF CRIMINAL PROCEDURE

**Rule 106. Continuances.**

All motions for continuance of trial shall be in writing, on forms approved by the Court and served on the opposing party. A motion by the Defendant must be signed by defense counsel or by a pro se Defendant. All such motions shall be heard by the Court each Criminal Term on the date and at the time established by the published Court Calendar.

The Commonwealth must be represented at the hearing for all continuance motions.

The presence in Continuance Court of the Defendant and his or her counsel is only required in response to a Commonwealth motion for continuance when the Defendant opposes the motion; however, lack of opposition from the Defendant will not automatically result in the Commonwealth's motion being granted.

A Defendant who files a motion for continuance pro se must appear in Continuance Court, at which time the Court shall advise the Defendant of his or her rights pursuant to Pa.R.Crim.P. 600 before hearing the motion for continuance.

The presence of a Defendant who is represented by counsel shall be excused at Continuance Court if the motion for continuance includes a certification by defense counsel, on a form approved by the Court, that counsel has explained to the Defendant his or her rights pursuant to Pa.R.Crim.P. 600 and the impact of a defendant receiving a continuance on those rights, and further certifies that the Defendant is in agreement with counsel's request for the continuance. If the continuance motion fails to include such certification, the Defendant must be present at Continuance Court.

[Pa.B. Doc. No. 18-680. Filed for public inspection May 4, 2018, 9:00 a.m.]

## DISCIPLINARY BOARD OF THE SUPREME COURT

### Collection Fee and Late Payment Penalty; 2018-2019 Registration Year

Notice is hereby given that in accordance with Pennsylvania Rules of Disciplinary Enforcement 219(d)(2) and 219(f), The Disciplinary Board of the Supreme Court of Pennsylvania has established the collection fee for checks returned as unpaid and the late payment penalty for the 2018-2019 Registration Year as follows:

Where a check in payment of the annual registration fee for attorneys has been returned to the Board unpaid, the collection fee will be \$100.00 per returned item.

Any attorney who fails to complete registration by July 31 shall be automatically assessed a non-waivable late payment penalty of \$200.00. A second non-waivable late payment penalty of \$200.00 shall be automatically added to the delinquent account of any attorney who has failed to complete registration by August 31.

SUZANNE E. PRICE,  
*Attorney Registrar*

[Pa.B. Doc. No. 18-681. Filed for public inspection May 4, 2018, 9:00 a.m.]

## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Administrative Suspension

Notice is hereby given that the following attorneys have been Administratively Suspended by Order of the Supreme Court of Pennsylvania dated March 21, 2018, pursuant to Rule 111(b) Pa.R.C.L.E., which requires that every active lawyer shall annually complete, during the compliance period for which he or she is assigned, the continuing legal education required by the Continuing Legal Education Board. The Order became effective April 20, 2018 for Compliance Group 2.

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

Adelman, Cort Andrew  
Marlton, NJ

El Fadl, Khaled Medhat Abou  
Los Angeles, CA

Goldbas, Jacob Mervyn  
Seattle, WA

Hafter, Jacob Louis  
Las Vegas, NV

Hildebrand, W. B.  
Haddonfield, NJ

Hogan, Mary Ellen  
Tampa, FL

Johnson, III, Woodie  
Fort Washington, MD

Kirschner, Meredith Anne  
Haddon Township, NJ

Kuhlmann, Shirley Rose  
Cambridge, MA

Mariam, Abiye  
Seattle, WA

Masciocchi, Francis J.  
Mount Laurel, NJ

McDonough, Sean M.  
New Brunswick, NJ

Mullally, Kathe Flinker  
Hull, MA

O'Connell, Robert Edward  
Deerfield Beach, FL

Pascu, Paul Albert  
Cherry Hill, NJ

Peace, Denise Ann  
Kennesaw, GA

Porter, Marwan Emmett  
Stuart, FL

Teitz, Corey Patrick  
New York, NY

Tippett, John Milton  
Wilmington, DE

Tipton, Kevin Thomas  
Fairmont, WV

Wadhwa, Rubina Arora  
Lansdowne, VA

Warren, Richard F.  
Annandale, VA

SUZANNE E. PRICE,  
*Attorney Registrar*

[Pa.B. Doc. No. 18-682. Filed for public inspection May 4, 2018, 9:00 a.m.]

---

# RULES AND REGULATIONS

## Title 7—AGRICULTURE

### DEPARTMENT OF AGRICULTURE

#### [ 7 PA. CODE CH. 28a ]

#### Commercial Kennel Canine Health Regulations

The Department of Agriculture (Department) amends § 28a.8 (relating to flooring).

##### *Effective Date*

This final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin*.

##### *Statutory Authority*

This final-form rulemaking is authorized under the Dog Law (act) (3 P.S. §§ 459-101—459-1205). Section 902 of the act (3 P.S. § 459-902) authorizes the Department to promulgate regulations as necessary to carry out the provisions and intent of the act.

##### *Background and Summary*

This final-form rulemaking deletes former § 28a.8(5), as Commonwealth Court determined this paragraph contradicted the express statutory provisions of the act and violates the legislative intent of the act.

Section 28a.8(5), regarding nursing mothers, effectively allowed for up to 50% of the floor area in certain primary enclosures used to house dogs at commercial kennels to be of a type that did not comply with section 207(i)(3) of the act (3 P.S. § 459-207(i)(3)). In effect, § 28a.8(5) allowed a portion of the floor of a primary enclosure in which nursing mothers and puppies were housed to be more permeable than otherwise allowed under section 207(i)(3) of the act.

After § 28a.8(5) became effective, a lawsuit was brought in Commonwealth Court against the Department seeking a determination that § 28a.8(5) conflicted with the act. See *Keith et al. v. Department of Agriculture*, 116 A.3d 756 (2015). On September 9, 2016, Commonwealth Court granted summary judgment for the petitioners, and specifically determined that § 28a.8(5) directly contradicted express provisions of the act and violated the legislative intent of the act.

##### *Response to Comments*

Notice of proposed rulemaking was published at 47 Pa.B. 5951 (September 23, 2017), with a 30-day public comment period. No comments were received from the public, the Independent Regulatory Review Commission (IRRC) or the House and Senate Committees on Agriculture and Rural Affairs.

##### *Fiscal Impact*

##### *Commonwealth*

This final-form rulemaking will not have appreciable fiscal impact upon the Commonwealth.

##### *Political subdivisions*

This final-form rulemaking will not have appreciable fiscal impact on political subdivisions.

##### *Private sector*

This final-form rulemaking will apply to operators of Department-licensed commercial kennels. There are currently approximately 78 licensees. The Department is aware, through onsite inspections, that these kennels are

in compliance with the flooring requirements and additional changes or expenses will not result from the deletion of § 28a.8(5).

##### *General public*

This final-form rulemaking will not have appreciable fiscal impact on the general public.

##### *Paperwork Requirements*

This final-form rulemaking will not have impact on the paperwork handled by the Department or the impacted kennels.

##### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on September 11, 2017, the Department submitted a copy of the notice of proposed rulemaking, published at 47 Pa.B. 5951, to IRRC and the Chairpersons of the House and Senate Agriculture and Rural Affairs Committees for review and comment.

Under section 5(c) of the Regulatory Review Act, the Department is required submit to IRRC and the House and Senate Committees copies of comments received during the public comment period, as well as other documents when requested.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on March 21, 2018, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5(g) of the Regulatory Review Act, the final-form rulemaking was deemed approved by IRRC effective March 21, 2018.

##### *Additional Information*

Additional information may be obtained from Kristen Donmoyer, Director, Bureau of Dog Law Enforcement, Department of Agriculture, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 705-8896.

##### *Findings*

The Department finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) and regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and no comments were received.

(4) The amendments to the regulations of the Department are necessary and appropriate for the administration of the authorizing statute.

##### *Order*

The Department, acting under the authorizing statute, orders that:

(a) The regulations of the Department, 7 Pa. Code Chapter 28a, are amended by amending § 28a.8 to read as set forth at 47 Pa.B. 5951.

(b) The Department shall submit a copy of this order and 47 Pa.B. 5951 to the Office of the Attorney General and the Office of General Counsel for approval as required by law.

(c) The Department shall submit this order and 47 Pa.B. 5951 to IRRC as required by law.

(d) The Department shall certify this order and 47 Pa.B. 5951 and deposit them with the Legislative Reference Bureau as required by law.

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

RUSSELL C. REDDING,  
*Secretary*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 48 Pa.B. 2029 (April 7, 2018).)*

**Fiscal Note:** Fiscal Note 2-190 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 18-683. Filed for public inspection May 4, 2018, 9:00 a.m.]

## Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

### STATE BOARD OF OCCUPATIONAL THERAPY EDUCATION AND LICENSURE

[ 49 PA. CODE CH. 42 ]

#### General Revisions

The State Board of Occupational Therapy Education and Licensure (Board) amends §§ 42.13—42.16 and 42.51—42.58 and adds §§ 42.61—42.63 (relating to professional liability insurance requirement; notifications; and automatic suspension) to read as set forth in Annex A.

#### *Effective Date*

This final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin*.

#### *Statutory Authority*

Section 5(b) of the Occupational Therapy Practice Act (act) (63 P.S. § 1505(b)) authorizes the Board to promulgate and adopt rules and regulations not inconsistent with the act as it deems necessary for the performance of its duties and the proper administration of the act. Section 8(5)(vi) of the act (63 P.S. § 1508(5)(vi)) requires the Board to promulgate regulations governing self-insurance. Section 15(a) of the act (63 P.S. § 1515(a)) further provides that “[t]he board may establish additional requirements for license renewal designed to assure continued competency of the applying occupational therapist or occupational therapy assistant.”

#### *Background and Purpose*

The act of July 5, 2012 (P.L. 1132, No. 138) (Act 138) amended the act to, among other things, require the maintenance of professional liability insurance by occupational therapists, provide for the imposition of civil penalties in accordance with the act of July 2, 1993 (P.L. 345, No. 48), permit the Board to participate in the Bureau of Professional and Occupational Affairs’ impaired professionals program and authorize the Board to establish additional requirements for licensure renewal designed to assure continued competency for occupational therapy assistants. The Board established continued competency requirements for occupational therapists at 43 Pa.B. 3350 (June 22, 2013). This final-form rulemaking implements the professional liability insurance and continued competency provisions of Act 138.

#### *Comments to Proposed Rulemaking*

The Board published notice of proposed rulemaking at 46 Pa.B. 888 (February 20, 2016), with a 30-day public comment period. During the public comment period, the Board received a comment from Cathy Dolhi, OTD, OTR/L, FAOTA. In addition, the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC) submitted comments. Following is a summary of the comments received and the Board’s response.

#### *Public Comment*

The commentator submitted a comment regarding § 42.15(d)(3) (relating to application for temporary license), which permits a temporary license applicant to submit a certification indicating that the applicant will be covered by an employer against professional liability, effective upon the beginning of employment. The commentator requested clarification regarding § 42.15(d)(3) and asked if this provision allows temporary license applicants to submit this certification instead of providing proof of existing professional liability insurance.

Section 8(5)(iv) of the act and § 42.15(d)(1)—(3) require submission of one of the following: proof that the applicant has professional liability insurance; a letter from the applicant’s insurance carrier indicating that the applicant will be covered against professional liability in the required amount upon the issuance of the applicant’s temporary license; or a certification, as previously described. Therefore, consistent with the act, the Board’s regulations allow a temporary license applicant to submit a certification instead of proof of existing professional liability insurance. However, as indicated in § 42.62(b), a temporary licensee whose license was issued in reliance on a letter or certification permitted under § 42.15(d)(2) or (3) shall provide the Board with proof of professional liability insurance coverage within 30 days after the beginning of employment (for example, certificate of insurance issued by the insurer, a copy of the declarations page of the professional liability insurance policy or evidence of a plan of self-insurance). The commentator suggested that the Board include instructions regarding the certification on the Board’s application and that the Board provide a standard certificate for applicants. The Board incorporated instructions regarding the certification into its application forms. Applicants who wish to submit a certification instead of proof of professional liability insurance shall submit a written statement indicating that the applicant will be covered by an employer against professional liability, effective upon the beginning of employment. The Board is currently transitioning its application process to the Pennsylvania Licensing System (PALS), a new online database system. The online application in PALS will contain a selection box that will operate as the standard certification.

#### *Comments from the HPLC*

On April 4, 2016, the HPLC submitted one comment to the Board regarding the proposed continued competency requirement for occupational therapy assistants. The HPLC asked the Board to provide the rationale for requiring occupational therapy assistants to complete the same number of hours of continuing education as is required for occupational therapists. An occupational therapy assistant is licensed to assist in the practice of occupational therapy under the supervision of an occupational therapist. Although occupational therapy assistants practice under the supervision of an occupational therapist, under § 42.22(d) (relating to supervision of occupa-

tional therapy assistants) an occupational therapy assistant may work without direct supervision up to 90% of the time. An occupational therapy assistant's primary role is treatment administration, including direct patient therapy and implementation of therapeutic interventions; therefore, contemporary practice knowledge is necessary. Given the occupational therapy assistant's ability to practice without direct supervision for up to 90% of the time, continued competency at the same level of an occupational therapist is necessary and appropriate.

Requiring equivalent hours is consistent with National certification requirements (National Board for Certification in Occupational Therapy), which require occupational therapy assistants to devote the same number of hours to professional development activities as occupational therapists to maintain certification. Equivalent hours are also consistent with the vast majority of regulations in other states, which require equivalent or greater continuing competence requirements for occupational therapy assistants. Further, requiring equivalent hours is consistent with Commonwealth law regarding physical therapists and physical therapy assistants, which requires 30 contact hours for both licensee classifications. See sections 7.2 and 9.1(j) of the Physical Therapy Practice Act (63 P.S. §§ 1307.2 and 1309.1(j)) and §§ 40.67(a)(1) and 40.192(a)(1) (relating to continuing education for licensed physical therapist; and continuing education for certified physical therapist assistant).

#### *Comments from IRRC*

IRRC submitted comments on the proposed rulemaking to the Board on April 20, 2016.

IRRC suggested that the Board clarify §§ 42.13(b)(3) and 42.14(c)(3) (relating to application for licensure; and foreign-educated applicants) and § 42.15(d)(3) by adding the following statutory language to each section: "provided that the applicant does not practice occupational therapy prior to the commencement of such employment." The Board agrees that adding the statutory language clarifies licensees' obligation to obtain and maintain professional liability insurance; therefore, the Board incorporated the statutory language in these sections.

IRRC asked the Board to explain its rationale to issue "regular" licenses (that is, temporary and permanent licenses) to applicants who have not secured employment and do not have professional liability insurance instead of "provisional" licenses that are conditioned upon submission of appropriate proof of insurance. The act does not contain a provisional license classification for an otherwise qualified applicant who has not yet secured employment and corresponding professional liability insurance. Instead, section 8(5)(iv)(B) of the act authorizes the Board to issue "regular" licenses to qualified applicants, and provides that it is sufficient that the applicants certify that they will be covered by an employer against professional liability once employed, provided they do not practice occupational therapy prior to beginning of employment. Given this prohibition against practice, a provisional status does not appear to be necessary. Moreover, the Board suggests that requiring a provisional license for applicants who qualify for temporary and permanent licenses, but who have not yet secured employment and corresponding professional liability insurance, would exceed the statutory authority of the act.

IRRC suggested that the Board require some basic information in the renewal application such as the insurance company name and policy number given the statutory requirement to obtain a certificate of insurance or a

copy of the policy declaration page for initial licensure. To address IRRC's concern, the Board revised § 42.16 (relating to biennial renewal; inactive status; failure to renew) to require applicants to certify maintenance of the required professional liability insurance, including the insurance company name and policy number, as applicable.

IRRC asked the Board to explain why it is reasonable to apply the same standards for continued competency to occupational therapists and occupational therapy assistants. The HPLC expressed the same concern and, as previously explained more fully, the Board believes that equivalent continued competence requirements are necessary and appropriate because of the occupational therapy assistants' ability to practice without direct supervision. Additionally, requiring equivalent continued competency requirements is consistent with National certification requirements as well as the majority of other states.

Proposed amendments to § 42.53(a) (relating to continued competency requirements) required occupational therapy assistants to complete a minimum of 24 contact hours in each biennial period beginning with the July 1, 2015—June 30, 2017, biennium. IRRC questioned how the Board intended to implement this given the timing of the proposed rulemaking and the lack of notice to occupational therapy assistants. The Board revised § 42.53(a) to require completion of the required 24 contact hours for occupational therapy assistants beginning with the July 1, 2019—June 30, 2021, biennium. While the act provides the Board with statutory authority to require continued competency for occupational therapy assistants, the act does not mandate continued competency requirements. Thus, in balancing the importance of continued competency requirements with the importance of providing sufficient notice to occupational therapy assistants, the Board determined that postponing the effective date to the 2019—2021 biennium is appropriate as it will provide reasonable notice to occupational therapy assistants. The Board has taken steps to notify licensees regarding the upcoming continued competency requirements for occupational therapy assistants by posting a notice on its web site. Additionally, following publication of this final-form rulemaking, the Board will notify occupational therapy assistants of the new continued competency requirements by e-mail and announcing it in a newsletter.

IRRC asked the Board to provide a detailed response explaining what issues led to the delay in promulgating this final-form rulemaking and what alternative were considered to resolve those issues. Act 138 was enacted on July 5, 2012, effective in 60 days. In accordance with Executive Order 1996-1, less than 2 weeks later, on July 16, 2012, the Board sent a draft proposal to interested parties and stakeholders. At the Board's next public meeting on September 27, 2012, the Board reviewed the stakeholder comments and adopted the proposed annex. The Board generally meets quarterly. On February 21, 2013, the Board reviewed the preamble and amendments to the annex. At the June 6, 2013, Board meeting, the Board adopted additional amendments and voted to promulgate the regulation as proposed. Thereafter, it proceeded through department-level review and ultimately was forwarded to the Governor's Office of Policy and Planning, the Office of General Counsel and the Governor's Budget Office for review and approval in accordance with Executive Order 1996-1 on August 29, 2013. The Board responded to questions from the Governor's Office of Policy and Planning regarding the proposed regulation in April 2014. The Governor's Budget Office completed the fiscal note on the proposed regulation in August 2014.

However, due in part to the change in administration, the Board did not receive the required approvals from the Governor's Office of Policy and Planning or the Office of General Counsel until December 2015. After receiving the required approvals, the Board expeditiously prepared the proposed rulemaking for delivery and publication, which occurred in February 2016. Much of the delay was beyond the Board's control. The Board respectfully requests that the delay not be considered in evaluating the Board's final regulations.

#### *Amendments to this Final-form Rulemaking*

Based on the comments received from the public, the HPLC and IRRC, the following amendments have been made to this final-form rulemaking.

Sections 42.13(b)(3), 42.14(c)(3) and 42.15(d)(3) have been revised to include the statutory provision permitting an applicant to provide a certification statement that the applicant will be covered by an employer against professional liability upon beginning employment, "provided that the applicant does not practice occupational therapy prior to the commencement of such employment." In this final-form rulemaking, the Board substituted "beginning" for "commencement" as used in the act because the Legislative Reference Bureau's *Pennsylvania Code & Bulletin Style Manual* prefers the use of "beginning." The Board also revised § 42.14(b) by replacing "he" with "the applicant."

The Board revised § 42.16(c)(1) to require that an applicant for renewal provide the applicant's professional liability insurance company name and policy number, as applicable, on the biennial renewal application, as suggested by IRRC. The Board further revised § 42.16(b) to add "other official documents" to the list of forms and documents that will be forwarded to the last mailing address of record. Additionally, the Board revised § 42.16(b) to include forms and documents distributed by the Department of State. The Board revised § 42.16(b) for clarification and to ensure that licensees understand that the Board and the Department of State may send documents other than forms and literature to the last mailing address of record.

In addition, at the suggestion of the Legislative Reference Bureau, the Board reconsidered the proposed amendment to the first sentence of § 42.52 (relating to definitions). The Board determined that the proposed amendment was unnecessary because the definitions in § 42.52 apply to terms used in §§ 42.51 and 42.53—42.58, not throughout the entire chapter.

The Board further revised § 42.53 to clarify that the continued competency requirements for occupational therapy assistants will begin with the July 1, 2019—June 30, 2021, biennium to allow time to provide adequate notice to licensees.

The Board made minor revisions to correct typographical errors in the proposed rulemaking as published in the *Pennsylvania Bulletin*.

#### *Fiscal Impact and Paperwork Requirements*

To implement the statutory requirements of Act 138 and this final-form rulemaking, the Board will amend its applications for initial licensure, biennial renewal and reactivation. There may be other costs associated with increased prosecutions if occupational therapists fail to obtain and maintain professional liability insurance or occupational therapy assistants fail to complete the continued competency requirements. The Board determined

that it has sufficient funds to absorb these costs without a fee increase at this time. Occupational therapists who wish to become licensed or maintain their licenses shall either obtain professional liability insurance, self-insure or have their employers provide coverage. It is estimated that the annual premium for the required professional liability insurance ranges from \$85 to \$230 annually. They will also be subject to increased paperwork requirements because occupational therapists will be required to provide documentary proof that they have obtained the required insurance upon initial licensure and upon reactivation of an inactive license. Occupational therapy assistants will incur costs associated with completing the required continued competency contact hours, which the Board estimates a cost of approximately \$300 annually. However, the Board's regulations provide for low and no cost ways to obtain continued competency contact hours. Therefore, the costs of continued competency may be less or even negated if occupational therapy assistants choose the lower cost or free continued competency options. Occupational therapy assistants will also be subject to additional paperwork requirements because they will be required to maintain a professional continued competency portfolio and make it available to the Board.

#### *Sunset Date*

The Board continuously monitors the effectiveness of its regulations. Therefore, a sunset date has not been assigned.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on February 5, 2016, the Board submitted a copy of the notice of proposed rulemaking, published at 46 Pa.B. 888, to IRRC and the Chairpersons of the HPLC and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) for review and comment.

Under section 5(c) of the Regulatory Review Act, the Board shall submit to IRRC, the HPLC and the SCP/PLC copies of 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 HPLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on March 21, 2018, the final-form rulemaking was deemed approved by the HPLC and the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on March 22, 2018, and approved the final-form rulemaking.

#### *Findings*

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) and regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law.

(3) This final-form rulemaking does not include amendments that enlarge the scope of the proposed rulemaking published at 46 Pa.B. 888.

(4) This final-form rulemaking adopted by this order is necessary and appropriate for the administration of the act.



*Order*

The Board, acting under its authorizing statute, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 42, are amended by adding §§ 42.61—42.63 and amending §§ 42.13—42.16 and 42.51—42.58 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

(c) The Board shall submit this order and Annex A to IIRC, the HPLC and the SCP/PLC as required by law.

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

(e) This final-form rulemaking shall take effect upon publication in the *Pennsylvania Bulletin*.

KERRI L. HAMPLE, OTC, OTR/L,  
*Chairperson*

(*Editor's Note:* See 48 Pa.B. 2029 (April 7, 2018) for IIRC's approval order.)

**Fiscal Note:** Fiscal Note 16A-6711 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 42. STATE BOARD OF OCCUPATIONAL THERAPY EDUCATION AND LICENSURE**

**LICENSURE**

**§ 42.13. Application for licensure.**

(a) To apply for licensure, an applicant shall pay the required fee and submit evidence satisfactory to the Board, on forms provided by the Board, that the applicant meets all of the following criteria:

- (1) Is of good moral character.
- (2) Has met the academic requirements of an educational program in occupational therapy approved by the Board, or an equivalent program as defined in § 42.1 (relating to definitions).
- (3) Has successfully completed a period of supervised fieldwork experience at a recognized educational institute or a training program approved by the educational institution where the academic requirements were met as follows:

(i) For an occupational therapist, a minimum of 6 months of supervised fieldwork.

(ii) For an occupational therapy assistant, a minimum of 2 months of supervised fieldwork.

(4) Has passed the licensure examination or has qualified for a waiver of the licensure examination under § 42.12 (relating to waiver of licensure examination).

(b) In addition to the requirements in subsection (a), an applicant for an occupational therapist license shall submit one of the following:

(1) Proof that the applicant has professional liability insurance as set forth in § 42.61 (relating to professional liability insurance requirement).

(2) A letter from the applicant's insurance carrier indicating that the applicant will be covered against professional liability in the amount specified in § 42.61(a) upon the issuance of the applicant's license to practice occupational therapy in this Commonwealth.

(3) A certification from the applicant indicating that the applicant will be covered by an employer against professional liability in the amount specified in § 42.61(a) effective upon the beginning of employment as an occupational therapist, provided that the applicant does not practice occupational therapy prior to the beginning of employment.

**§ 42.14. Foreign-educated applicants.**

(a) To apply for licensure, the foreign-educated applicant shall, before examination, submit evidence satisfactory to the Board, on forms provided by the Board, that the applicant meets all of the following requirements:

- (1) Is of good moral character.
- (2) Has completed educational requirements substantially equal to § 42.13(2) (relating to application for licensure). The Board will accept a credentials evaluation done by the NBCOT as proof that the foreign-educated applicant has completed the educational requirements.

(b) The foreign-educated applicant may be licensed by the Board if the applicant has complied with subsection (a) and has met one of the following criteria:

- (1) Passed the licensure examination.
- (2) Qualified for a waiver of the licensure examination under § 42.12 (relating to waiver of licensure examination).

(c) In addition to the requirements in subsections (a) and (b), a foreign-educated applicant for an occupational therapist license shall submit one of the following:

(1) Proof that the foreign-educated applicant has professional liability insurance as set forth in § 42.61 (relating to professional liability insurance requirement).

(2) A letter from the foreign-educated applicant's insurance carrier indicating that the applicant will be covered against professional liability in the amount specified in § 42.61(a) upon the issuance of the applicant's license to practice occupational therapy in this Commonwealth.

(3) A certification from the foreign-educated applicant indicating that the applicant will be covered by an employer against professional liability in the amount specified in § 42.61(a) effective upon the beginning of employment as an occupational therapist, provided that the applicant does not practice occupational therapy prior to the beginning of employment.

**§ 42.15. Application for temporary license.**

(a) The Board may issue a temporary license to an applicant who pays the required fee and submits evidence satisfactory to the Board, on forms provided by the Board, that the applicant:

(1) Has met requirements for licensure under § 42.13 (relating to application for licensure).

(2) Is eligible and has applied to take the licensure examination or has failed the licensure examination but applied to retake the examination on the next scheduled date if the following applies:

(i) The temporary license shall expire automatically upon the failure of the applicant to take the licensure examination, except for an appropriate excuse approved by the Board.

(ii) The temporary license shall expire automatically upon receipt by the applicant of notice of failure of re-examination, and the applicant may not be eligible for another temporary license for a period of 1 year from the date of the notice.

(iii) Even after 1 year from the date of notice of failure of re-examination, the applicant may not be issued another temporary license, except at the discretion of the Board.

(b) A temporary license issued under subsection (a) authorizes the practice of occupational therapy only as an assistant under the direct supervision of an occupational therapist licensed under the act and this chapter.

(c) The Board may also issue a temporary license to an applicant who:

(1) Pays the required fee.

(2) Submits evidence satisfactory to the Board, on forms provided by the Board, that the applicant is not a resident and is not licensed in this Commonwealth.

(3) Submits evidence to the Board that the applicant is either licensed under the laws of the District of Columbia or of a state or territory of the United States which has licensure requirements substantially equal to the requirements of the act or has met the requirements for certification as an occupational therapist registered or a certified occupational therapy assistant established by NBCOT.

(4) Certifies that the applicant will perform services for not longer than a 6 consecutive month period in a calendar year, in association with an occupational therapist licensed under the act.

(d) In addition to the requirements in subsection (a) or (c), an applicant for a temporary license as an occupational therapist shall submit one of the following:

(1) Proof that the applicant has professional liability insurance as set forth in § 42.61 (relating to professional liability insurance requirement).

(2) A letter from the applicant's insurance carrier indicating that the applicant will be covered against professional liability in the amount specified in § 42.61(a) upon the issuance of the applicant's temporary license.

(3) A certification from the applicant indicating that the applicant will be covered by an employer against professional liability in the amount specified in § 42.61(a) effective upon the beginning of employment, provided that the applicant does not practice occupational therapy prior to the beginning of employment.

**§ 42.16. Biennial renewal; inactive status; failure to renew.**

(a) A license granted under the act expires on June 30 of every odd numbered year unless renewed for the next biennium.

(b) Biennial renewal forms, other forms and literature, and other official documents to be distributed by the

Board or the Department of State will be sent to the last mailing address of record. The licensee has the responsibility to notify the Board of changes to the mailing address of record in writing within 10 days after making the address change.

(c) To retain the right to engage in practice, the licensee shall renew the licensee's license biennially as follows:

(1) An occupational therapist shall complete the biennial renewal application, pay the required fee, certify completion of the continued competence requirement as specified in § 42.53 (relating to continued competency requirements) and certify maintenance of the required professional liability insurance coverage as specified in § 42.61 (relating to professional liability insurance requirement) which must include the insurance company name and policy number, as applicable.

(2) An occupational therapy assistant shall complete the biennial renewal application, pay the required fee and certify completion of the continued competence requirement as specified in § 42.53.

(d) As set forth in section 225 of the Bureau of Professional and Occupational Affairs Fee Act (63 P.S. § 1401-225), a licensee who has engaged in practice beyond the renewal date without renewing the license will be charged a fee of \$5 for each month or partial month of practice during which the license was not renewed, in addition to the biennial renewal fee.

(e) A licensee who does not intend to practice in this Commonwealth and who does not desire to renew his license shall inform the Board in writing. Written confirmation of the Board's receipt of his letter and notice that his license has been classified as inactive will be forwarded to the licensee.

(f) The licensee who either fails to pay the biennial renewal fee or who notifies the Board that he does not desire to renew his license will not be sent biennial renewal forms for following biennial renewal periods unless the licensee notifies the Board, in writing, of his desire to reactivate the license.

(g) A licensee who is applying to return to active status is required to pay fees which are due and submit all of the following:

(1) A sworn statement stating the period of time during which the licensee was not engaged in practice in this Commonwealth.

(2) A resume of professional activities since the most recent licensure.

(3) A letter of good standing from another state or territory where the licensee is currently licensed or registered to practice, if applicable.

(4) Proof of professional liability insurance coverage as set forth in § 42.61 if applying to reactivate an occupational therapist license.

(h) The applicant for licensure renewal will not be assessed a fee or penalty for preceding biennial periods in which the applicant did not engage in practice in this Commonwealth.

(i) An applicant who has failed to renew a license and has not practiced for longer than 4 years shall pass the licensure examination or qualify for a waiver of examination under § 42.12 (relating to waiver of licensure examination) before the license is renewed. In addition, the

Board may require the applicant to do one or more of the following:

- (1) Be personally interviewed by a designated Board member or representative.
- (2) Pass an oral practical examination.
- (3) Prove physical and mental fitness to practice in this Commonwealth.
- (j) If other conditions of the act and this chapter have been met, active status will be restored upon payment of fees and penalties which have accrued.
- (k) A licensee who has engaged in practice during a period in which the licensee's license was not active may be subject to criminal prosecution under section 16(c) of the act (63 P.S. § 1516(c)).

**CONTINUED COMPETENCY**

**§ 42.51. Purpose.**

The purpose of §§ 42.52—42.58 is to implement section 15(a) of the act (63 P.S. § 1515(a)), which authorizes the Board to establish additional requirements for licensure renewal to ensure continued competency to achieve the legislative purpose in section 2 of the act (63 P.S. § 1502) to ensure the highest degree of professional care and conduct on the part of licensees.

**§ 42.52. Definitions.**

The following words and terms, when used in §§ 42.51 and 42.53—42.58, have the following meanings, unless the context clearly indicates otherwise:

*Contact hour*—A unit of measure for a continued competency activity that equals 50—60 minutes of participation.

*Continued competency*—The multidimensional process by which a licensee demonstrates the development and maintenance of the knowledge, skills, attitudes, judgment, abilities and ethics necessary to practice occupational therapy in a variety of roles and settings.

*Educational courses*—Academic and continuing education courses delivered onsite or by distance education.

*Level I fieldwork*—Introductory fieldwork experiences that are a component of an educational program in occupational therapy in which students develop a basic understanding of the needs of clients through directed observation and supervised participation in the occupational therapy process.

*Level II fieldwork*—In-depth fieldwork experiences that are a component of an educational program in occupational therapy that provide multiple occupational therapy services to a variety of clients in multiple settings.

*Mentor*—A person who holds a current license, certificate or registration in a health-related or education field, or who is otherwise exempt by statute from the requirement to hold a license, certificate or registration, who is engaged in a one-on-one or group teaching/coaching relationship with a licensee for the stated purpose of imparting specific knowledge and skills that will advance the licensee's competency in occupational therapy.

*Mentorship*—Participation in a formalized, one-on-one or group teaching/learning relationship for the purposes of building a licensee's competency in occupational therapy.

*Mentorship agreement*—A written agreement between the mentor and the protege or proteges that outlines

specific goals and objectives and designates a plan of activities.

*Professional continued competence portfolio*—A document that evidences the licensee's completion of the continued competency requirement in § 42.53 (relating to continued competency requirements).

*Protege*—A licensee who is engaged in a one-on-one or group relationship with a mentor for the stated purpose of acquiring specific skills and knowledge related to the practice of occupational therapy.

*Unpaid service*—Volunteering in an organization when the unpaid service directly relates to occupational therapy.

**§ 42.53. Continued competency requirements.**

(a) Beginning with the July 1, 2013—June 30, 2015, biennium, an occupational therapist shall complete a minimum of 24 contact hours in each biennial period in acceptable continued competency activities listed in § 42.55 (relating to acceptable continued competency activities) as a condition of licensure renewal. Beginning with the July 1, 2019—June 30, 2021, biennium, an occupational therapy assistant shall complete a minimum of 24 contact hours in each biennial period in acceptable continued competency activities listed in § 42.55 as a condition of licensure renewal.

(b) A licensee is exempt from complying with subsection (a) for the first biennial renewal period following initial licensure.

(c) A licensee seeking to reactivate a lapsed or inactive license shall show compliance with the continued competency contact hour requirement during the 2-year period immediately preceding application for reactivation.

(d) As a condition of reinstatement, a licensee whose license has been suspended or revoked shall complete the required continued competency contact hours for each licensure biennium in which the license was suspended or revoked.

**§ 42.54. Education program providers.**

(a) *General.* Educational courses offered by preapproved and Board-approved providers will be accepted as satisfying the continued competency requirement. It is the responsibility of the licensee to ascertain the approval status of the provider before undertaking a course.

\* \* \* \* \*

(e) *Individual course approval.*

(1) A licensee may request approval of contact hours for educational courses not otherwise approved by submitting an application for approval to the Board no later than 90 days before the end of the biennial renewal period that includes all of the following:

\* \* \* \* \*

**§ 42.55. Acceptable continued competency activities.**

\* \* \* \* \*

(b) The following activities are acceptable so long as the specific activity complies with subsection (a):

\* \* \* \* \*

(3) Fieldwork supervision.

(i) A licensee may earn:

\* \* \* \* \*

(4) Professional writing.

(i) A licensee may earn the following contact hours, up to a maximum aggregate of 15 per biennium, for professional writing:

\* \* \* \* \*

(5) Editing.

(i) A licensee may earn the following contact hours, up to a maximum aggregate of 15 per biennium, for editing:

\* \* \* \* \*

(6) Presentation and instruction.

(i) A licensee may earn 2 contact hours, up to a maximum aggregate of 12 per biennium, for each 60-minute oral or poster presentation or instruction related to occupational therapy.

\* \* \* \* \*

(7) Unpaid service.

(i) A licensee may earn:

\* \* \* \* \*

**§ 42.56. Waivers of continued competency requirements; extension of time to complete.**

(a) The Board may waive all or part of the continued competency activity requirements, or grant an extension of time to complete the requirements, in the case of a serious illness, injury or emergency which prevents a licensee from completing the continued competency requirements.

(b) A licensee seeking a waiver or extension of time shall submit a written request and provide documentary evidence to the satisfaction of the Board of the serious illness, injury or emergency which would preclude the completion of the continued competency requirements.

(c) The request for a waiver or extension of time shall be filed with the Board 60 days before the end of the biennium in which the contact hours are being accrued unless the licensee proves to the satisfaction of the Board that it was impracticable to do so.

**§ 42.57. Documentation and reporting of continued competency activities.**

(a) A provider of a continued competency activity shall furnish to each participant documentation, signed by the provider, which includes all of the following, unless otherwise directed in § 42.55(b)(1)(iii), (2)(iv), (3)(ii), (4)(iii), (5)(ii) and (6)(iv) (relating to acceptable continued competency activities):

(1) The name of the participant, provider and instructor.

(2) The title, date and location of the activity.

(3) The number of contact hours awarded.

(b) A licensee shall:

(1) Prepare a professional continued competence portfolio as defined in § 42.52 (relating to definitions) for each biennial period and retain it for 4 years following the last day of the biennial period during which the continued competency activities were completed.

(2) Verify completion of the required contact hours of continued competency activities when the license is re-

newed. A licensee who has not completed the required hours of continued competency activities will not be eligible for renewal until the hours are completed, unless a waiver or extension has been granted.

(3) Provide a copy of the professional continued competence portfolio to the Board within 30 days of notification of an audit.

**§ 42.58. Disciplinary action.**

A licensee who fails to comply with the continued competency activity requirements or the audit requirements or submits false documents in connection with the continued competency requirement will be subject to disciplinary action under section 16 of the act (63 P.S. § 1516).

**PROFESSIONAL LIABILITY INSURANCE**

**§ 42.61. Professional liability insurance requirement.**

(a) Effective July 1, 2013, an occupational therapist shall obtain and maintain professional liability insurance coverage in the minimum amount of \$1 million per occurrence or claims made.

(b) Proof of professional liability insurance coverage may include:

(1) A certificate of insurance or copy of the declaration page from the insurance policy setting forth the effective date, expiration date and dollar amounts of coverage.

(2) Evidence of a plan of self-insurance approved by the Insurance Commissioner of the Commonwealth under regulations of the Insurance Department in 31 Pa. Code Chapter 243 (relating to medical malpractice and health-related self-insurance plans).

(c) An occupational therapist who does not maintain the professional liability insurance required under subsection (a) may not practice occupational therapy in this Commonwealth.

**§ 42.62. Notifications.**

(a) An occupational therapist shall notify the Board within 30 days of a failure to maintain the required professional liability insurance.

(b) An occupational therapist whose license was issued in reliance on a letter or certificate as permitted under section 8(5)(iv)(A) and (B) of the act (63 P.S. § 1508(5)(iv)(A) and (B)) and in accordance with §§ 42.13(b) (2) or (3), 42.14(c)(2) or (3), or 42.15(d)(2) or (3) (relating to application for licensure; foreign-educated applicants; and application for temporary license) shall provide the Board with proof of professional liability insurance coverage as set forth in § 42.61 (relating to professional liability insurance requirement) within 30 days after the date of issuance of the license or beginning of employment, as applicable.

(c) Failure to notify the Board within 30 days as required in subsection (a) or (b) constitutes unprofessional conduct and subjects the occupational therapist to disciplinary action under section 16(a)(2) of the act (63 P.S. § 1516(a)(2)).

**§ 42.63. Automatic suspension.**

(a) An occupational therapist's license will be automatically suspended during any period in which the occupational therapist fails to maintain professional liability insurance.

(b) A license that has been automatically suspended under subsection (a) will be reinstated only upon receipt

of a copy of documentation demonstrating that the occupational therapist has the required professional liability insurance as set forth in § 42.61 (relating to professional liability insurance requirement).

[Pa.B. Doc. No. 18-684. Filed for public inspection May 4, 2018, 9:00 a.m.]

## Title 58—RECREATION

### PENNSYLVANIA GAMING CONTROL BOARD

[ 58 PA. CODE CHS. 804, 811, 812, 814, 815 AND 818 ]

#### **Interactive Gaming Qualified Gaming Entities; Accounting and Internal Controls; Player Accounts; Compulsive and Problem Gambling Requirements; Self-Excluded Persons; Commencement of Operations; Temporary Regulations**

The Pennsylvania Gaming Control Board (Board), under its specific authority in 4 Pa.C.S. § 13B03(b) (relating to regulations) and the general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers), adds rules regarding: eligibility and petition requirements for qualified gaming entities (the specific process by which these entities may be selected for licensure by the Board will be determined at a later date and posted on the Board’s web site); requirements for interactive gaming certificate holder’s and interactive gaming operator licensee’s internal controls; requirements and prohibitions regarding establishing, maintaining and suspending player accounts; rules regarding compulsive and problem gambling; rules regarding the process for an individual to self-exclude from interactive gaming activities in this Commonwealth; and the minimum requirements an interactive gaming certificate holder or interactive gaming operator shall satisfy to begin operations including clarification on the source of gaming skins as well as the appearance of gaming skins.

#### *Purpose of this Temporary Rulemaking*

This temporary rulemaking includes rules to ensure the integrity and security of interactive gaming in this Commonwealth.

#### *Explanation of Chapters 804, 811, 812, 814, 815 and 818*

Chapter 804 (relating to qualified gaming entity—temporary regulations) addresses what entities qualify as eligible qualified gaming entities and the information these entities shall provide to the Board to obtain interactive gaming certificates not sought by current slot machine licensees.

Chapter 811 (relating to interactive gaming accounting and internal controls—temporary regulations) addresses internal controls that include required reporting, data retention and system logging rules that, along with internal operation structures and player terms and conditions, shall be submitted to and approved by the Bureau of Gaming Operations.

Chapter 812 (relating to interactive gaming player accounts—temporary regulations) addresses specific guidelines relative to how players can establish, fund, limit and close interactive gaming accounts, and rules regarding certificate holder and licensee requirements relative to confirming player identities and maintaining player privacy.

Chapter 814 (relating to compulsive and problem gambling requirements—temporary regulations) addresses requirements for interactive gaming certificate holder and interactive gaming operator compulsive and problem gambling plans, including self-exclusion guidelines.

Chapter 815 (relating to interactive gaming self-excluded persons—temporary regulations) addresses the requirements for interactive gaming certificate holder and interactive gaming operator compulsive and problem gambling plans, including self-exclusion guidelines.

Chapter 818 (relating to interactive gaming commencement of operations—temporary regulations) provides clarification that the Board may authorize interactive gaming certificate holders or interactive gaming operator licensees operating an interactive gaming system on behalf of an interactive gaming certificate holder to deploy interactive gaming skins or interactive gaming web sites, that clearly identify the interactive gaming certificate holder or an entity within the interactive gaming certificate holder’s organizational structure, on the display screen visible to players. Furthermore, interactive gaming certificate holders or interactive gaming operator licensees operating an interactive gaming system on behalf of an interactive gaming certificate holder may conduct interactive gaming utilizing players registered in other jurisdictions with which the Commonwealth has entered into a reciprocal agreement permitting interstate interactive gaming.

#### *Affected Parties*

An entity that operates interactive gaming in this Commonwealth, and an entity or individual that will interact with or participate in interactive gaming operations in this Commonwealth, will be affected by this temporary rulemaking. This temporary rulemaking provides: eligibility and petition requirements for qualified gaming entities (the specific process by which these entities may be selected for licensure by the Board will be determined at a later date and posted on the Board’s web site); requirements for interactive gaming certificate holder’s and interactive gaming operator licensee’s internal controls; requirements and prohibitions relative to establishing, maintaining and suspending player accounts; rules regarding compulsive and problem gambling; rules regarding the process for an individual to self-exclude from interactive gaming activities in this Commonwealth; and the minimum requirements an interactive gaming certificate holder or interactive gaming operator shall satisfy to begin operations, including clarification on the source of gaming skins as well as the appearance of gaming skins.

#### *Fiscal Impact*

#### *Commonwealth*

The Board expects that this temporary rulemaking will have minimal fiscal impact on the Board and other Commonwealth agencies. Impact should be confined to the additional personnel and expenses related to implementing these temporary regulations as well as continued oversight of expanded gaming with portions of these costs absorbed by existing Board staff.

#### *Political subdivisions*

This temporary rulemaking will not have direct fiscal impact on political subdivisions of this Commonwealth. Host municipalities and counties benefit from the local share funding mandated by the act of January 7, 2010 (P.L. 1, No. 1).

*Private sector*

This temporary rulemaking includes rules regarding: eligibility and petition requirements for qualified gaming entities (the specific process by which these entities may be selected for licensure by the Board will be determined at a later date and posted on the Board's web site); requirements for interactive gaming certificate holder's and interactive gaming operator licensee's internal controls; requirements and prohibitions relative to establishing, maintaining and suspending player accounts; rules regarding compulsive and problem gambling; rules regarding the process for an individual to self-exclude from interactive gaming activities in this Commonwealth; and the minimum requirements an interactive gaming certificate holder or interactive gaming operator shall satisfy to begin operations including clarification on the source of gaming skins as well as the appearance of gaming skins. It is anticipated that this temporary rulemaking will have an impact on those individuals seeking to operate interactive gaming in this Commonwealth as well as those individuals and entities affiliated with the operation of interactive gaming in this Commonwealth. The fiscal impact to these parties will be offset by revenues collected through the play of interactive games.

*General public*

This temporary rulemaking will not have direct fiscal impact on the general public.

*Paperwork Requirements*

Interactive gaming certificate holders, interactive gaming operators, and individuals and entities providing services to those entities in connection with interactive gaming operations will be required to generate and maintain various types of information relative to their interactive gaming operations, including records on player accounts, wagers placed and problem gambling compliance efforts. Interactive gaming certificate holders, interactive gaming operators, and individuals and entities providing services to those entities in connection with interactive gaming operations will also be required to draft, maintain and submit documents related to internal controls and accounting associated with interactive gaming in this Commonwealth.

*Effective Date*

This temporary rulemaking will become effective upon publication in the *Pennsylvania Bulletin* and expires 2 years after publication.

*Public Comments*

While this temporary rulemaking will be effective upon publication, the Board is seeking comments from the public and affected parties as to how these temporary regulations might be improved.

Interested persons are invited to submit written comments, suggestions or objections regarding this temporary rulemaking within 30 days after the date of publication in the *Pennsylvania Bulletin* to Laura R. Burd, Senior Counsel, Pennsylvania Gaming Control Board, P.O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation # 125-215.

*Contact Person*

The contact person for questions about this temporary rulemaking is Laura R. Burd, Senior Counsel, (717) 346-8300, lburd@pa.gov.

*Regulatory Review*

Under 4 Pa.C.S. § 13B03, the Board has the authority to promulgate temporary regulations to facilitate the

prompt implementation of interactive gaming in this Commonwealth. The temporary regulations adopted by the Board are not subject to sections 201—205 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201—1205), known as the Commonwealth Documents Law, the Regulatory Review Act (71 P.S. §§ 745.1—745.14) and section 204(b) of the Commonwealth Attorneys Act (71 P.S. § 732-204(b)). Under 4 Pa.C.S. § 13B03(c), these temporary regulations expire 2 years after publication in the *Pennsylvania Bulletin*.

*Findings*

The Board finds that:

(1) Under 4 Pa.C.S. § 13B03, the temporary regulations are exempt from the requirements of the Regulatory Review Act, sections 201—205 of the Commonwealth Documents Law and section 204(b) of the Commonwealth Attorneys Act.

(2) The adoption of the temporary regulations is necessary and appropriate for the administration and enforcement of 4 Pa.C.S. Part II (relating to the Pennsylvania Race Horse Development and Gaming Act).

*Order*

The Board, acting under the provisions of 4 Pa.C.S. Part II, orders that:

(1) The regulations of the Board, 58 Pa. Code, are amended by adding temporary §§ 804.1—804.4, 811.1—811.9, 812.1—812.14, 814.1—814.6, 815.1—815.8 and 818.1—818.3 to read as set forth in Annex A.

(2) The temporary regulations will be posted on the Board's web site.

(3) The temporary regulations are subject to amendment as deemed necessary by the Board.

(4) The Chairperson of the Board has certified this order and Annex A and shall deposit them with the Legislative Reference Bureau as required by law.

(5) These temporary regulations are effective upon publication in the *Pennsylvania Bulletin* and expire on May 5, 2020.

DAVID M. BARASCH,  
Chairperson

**Fiscal Note:** 125-215. No fiscal impact; (8) recommends adoption.

**Annex A****TITLE 58. RECREATION****PART VII. GAMING CONTROL BOARD****Subpart L. INTERACTIVE GAMING****CHAPTER 804. QUALIFIED GAMING ENTITY—TEMPORARY REGULATIONS**

Sec.	
804.1.	Qualified gaming entity license requirements.
804.2.	Qualified gaming entity petition requirements.
804.3.	Qualified gaming entity application requirements.
804.4.	Qualified gaming entity license term and renewal.

**§ 804.1. Qualified gaming entity license requirements.**

(a) A qualified gaming entity seeking to offer interactive gaming in this Commonwealth may petition the Board for an interactive gaming certificate if all of the following apply:

(1) At least 120 days after the Board begins accepting petitions to offer interactive gaming in this Commonwealth under the act has passed.

(2) Any category of interactive game, as detailed in § 802.1(b) (relating to interactive gaming certificate requirements), remains available after eligible slot machine licensees failed to petition for authorization to offer that category of interactive game directly or through an interactive gaming operator.

(3) The entity holds a license, in good standing, in any gaming jurisdiction which entitles the entity to conduct casino, table or poker-style games in a physical land-based casino or by means of the Internet, or both.

(b) The Board will approve and post the process for selecting eligible qualified gaming entities, in the event more eligible qualified gaming entities petition for an interactive gaming certificate than there are interactive gaming certificates available, prior to the deadline for entities to petition the Board for any available interactive gaming certificates.

**§ 804.2. Qualified gaming entity petition requirements.**

(a) A qualified gaming entity petitioner for an interactive gaming certificate shall submit to the Board a petition containing the information required by slot machine licensees seeking an interactive gaming certificate under § 802.2 (relating to interactive gaming certificate petition and standards).

(b) The qualified gaming entity petitioner shall also show, by clear and convincing evidence, all of the following:

(1) It is licensed in good standing in another gaming jurisdiction.

(2) The licensing standards of that other gaming jurisdiction are comprehensive and thorough and provide similar safeguards as those required by the Commonwealth.

(3) The petitioner has the business experience and expertise to operate an interactive gaming system.

(c) In addition to the materials required under subsections (a) and (b), the qualified gaming entity petitioner for an interactive gaming certificate shall show, by clear and convincing evidence, that it has implemented or will implement all of the following:

(1) Interactive gaming that complies in all respects with the requirements of this subpart and regulations promulgated by the Board.

(2) A system of age, identity and location verification protocols designed to block access to individuals under 21 years of age and persons otherwise excluded or prohibited from engaging in interactive gaming in accordance with this subpart, as approved by the Board, has been implemented by the petitioner.

(3) Appropriate data security standards to prevent unauthorized access by any person whose age, identity and location has not been verified or cannot be verified in accordance with the regulations promulgated by the Board.

(4) Appropriate standards to protect the privacy and security of registered players with a reasonable degree of certainty.

(5) A system of internal and accounting controls applicable to interactive gaming, and the security and integrity of all financial transactions in connection with the system, that complies with this chapter and regulations promulgated by the Board.

**§ 804.3. Qualified gaming entity application requirements.**

(a) If selected under the Board process in § 804.1(b) (relating to qualified gaming entity license requirements), the eligible qualified gaming entity petitioner shall submit all applicable applications for licensure as required by the Bureau of Licensing.

(b) In determining whether an eligible qualified gaming entity petitioner is suitable to be issued a qualified gaming entity interactive gaming certificate under this subpart, the Board will consider all of the following:

(1) The financial fitness, good character, honesty, integrity and responsibility of the petitioner.

(2) If all principals of the petitioner are eligible and suitable under the standards of section 1311.1 of the act (relating to licensing of principals).

(3) The integrity of all financial backers.

(4) The suitability of the petitioner and the principals of the petitioner based on the satisfactory results of all of the following:

(i) The background investigation of the principals.

(ii) A current tax clearance review performed by the Department.

(iii) A current Unemployment Compensation Tax clearance review and a Workers Compensation Tax clearance review performed by the Department of Labor and Industry.

**§ 804.4. Qualified gaming entity license term and renewal.**

(a) A qualified gaming entity interactive gaming certificate and the renewal thereof is valid for 5 years from the date of approval of the application by the Board.

(b) A renewal application for a qualified gaming entity interactive gaming certificate shall be filed at least 6 months prior to the expiration of the current certificate.

(c) A qualified gaming entity interactive gaming certificate for which a completed renewal application and fee has been received by the Board will continue in effect until acted upon by the Board.

**CHAPTER 811. INTERACTIVE GAMING ACCOUNTING AND INTERNAL CONTROLS—TEMPORARY REGULATIONS**

Sec.	
811.1.	Scope.
811.2.	Internal controls.
811.3.	Terms and conditions.
811.4.	Information to be displayed on web site.
811.5.	Segregation of bank accounts and reserve requirements.
811.6.	Interactive gaming certificate holder's or interactive gaming operator licensee's organization.
811.7.	Mandatory interactive gaming system logging.
811.8.	Records/data retention requirements.
811.9.	Required reports; reconciliation.

**§ 811.1. Scope.**

To ensure the integrity and security of interactive gaming operations in this Commonwealth, this chapter applies to all interactive gaming certificate holders or interactive gaming operator licensees seeking to offer interactive gaming to patrons in this Commonwealth.

**§ 811.2. Internal controls.**

(a) At least 90 days prior to commencing interactive gaming under this part, an interactive gaming certificate holder or interactive gaming operator licensee shall submit to the Board for approval internal controls for all

aspects of interactive gaming prior to implementation and any time a change is made thereafter. The internal controls must include detailed procedures for system security, operations, accounting, and reporting of compulsive and problem gamblers.

(b) Notwithstanding subsection (a), the procedures and controls may be implemented by an interactive gaming certificate holder or interactive gaming operator licensee upon the filing of the procedures and controls with the Board. Each procedure or control submission must contain narrative and diagrammatic representations of the system to be utilized and must include all of the following:

(1) Procedures for reliable accounting controls, including the standardization of forms and definition of terms to be utilized in the interactive gaming operations.

(2) Procedures, forms and, when appropriate, formulas to govern all of the following:

- (i) Calculation of hold percentages.
- (ii) Revenue drops.
- (iii) Expense and overhead schedules.
- (iv) Complimentary services.
- (v) Cash-equivalent transactions.

(3) Job descriptions and the system of personnel and chain of command establishing a diversity of responsibility among employees engaged in interactive gaming operations, including employees of an interactive gaming operator, and identifying primary and secondary management and supervisory positions for areas of responsibility, salary structure and personnel practices.

(4) Procedures for the registration of players and establishment of interactive gaming accounts, including a procedure for authenticating the age, identity and physical address of an applicant for an interactive gaming account and whether the applicant is a person prohibited from establishing or maintaining an account under section 13B22 of the act (relating to establishment of interactive gaming accounts).

(5) Procedures for terminating a registered player's interactive gaming account and the return of any funds remaining in the interactive gaming account to the registered player.

(6) Procedures for suspending or terminating a dormant interactive gaming account and the return of any funds remaining in the dormant interactive gaming account to the registered player.

(7) Procedures for the logging in and authentication of a registered player to enable the player to commence interactive gaming and the logging off of the registered player when the player has completed play, including a procedure to automatically log a registered player out of the player's interactive gaming account after a specified period of inactivity.

(8) Procedures for the crediting and debiting of a registered player's interactive gaming account.

(9) Procedures for cashing checks, receiving electronic negotiable instruments, and redeeming chips, tokens or other cash equivalents.

(10) Procedures for withdrawing funds from an interactive gaming account by the registered player.

(11) Procedures for the protection of a registered player's funds, including the segregation of a registered player's funds from operating funds of the interactive gaming certificate holder.

(12) Procedures for recording transactions pertaining to interactive gaming.

(13) Procedures for the security and sharing of personal identifiable information of a registered player, funds in an interactive gaming account and other information as required by the Board. The procedures must include the means by which an interactive gaming certificate holder or interactive gaming operator will provide notice to a registered player related to the sharing of personal identifiable information. For the purpose of this paragraph, "personal identifiable information" means any data or information that can be used, on its own or with other data or information, to identify, contact or otherwise locate a registered player, including a registered player's name, address, date of birth and Social Security number.

(14) Procedures and security for the calculation and recordation of revenue.

(15) Procedures for the security of interactive gaming devices and associated equipment.

(16) Procedures and security standards as to receipt, handling, and storage of interactive gaming devices and associated equipment.

(17) Procedures and security standards to protect the interactive gaming certificate holder's interactive gaming skin or interactive gaming web site and interactive gaming devices and associated equipment from hacking or tampering by any person.

(18) Procedures for responding to suspected or actual hacking or tampering with an interactive gaming certificate holder's interactive gaming skin or interactive gaming web site and interactive gaming devices and associated equipment, including partial or complete suspension of interactive gaming or the suspension of any or all interactive gaming accounts when warranted.

(19) Procedures to verify each registered player's physical location each time a registered player logs into his interactive gaming account and at appropriate intervals thereafter as determined by the Board.

(20) Procedures to ensure that the interactive games are fair and honest and that appropriate measures are in place to deter, detect and, to the extent possible, prevent cheating, including collusion, and use of cheating devices, including the use of software programs that make wagers according to algorithms.

(21) Procedures to assist problem and compulsive gamblers, including procedures intended to prevent a person from participating in authorized interactive gaming who is otherwise prohibited from participating in interactive gaming.

(22) Procedures to govern emergencies, including suspected or actual cyber-attacks, hacking or tampering with the interactive gaming certificate holder's interactive gaming skin, interactive gaming platform or interactive gaming web site. The procedures must include the process for the reconciliation or repayment of a registered player's interactive gaming account.

(c) The submission required under subsections (a) and (b) must include a detailed description of the interactive gaming certificate holder's or interactive gaming operator licensee's administrative and accounting procedures related to interactive gaming, including its written system of internal controls. Each written system of internal controls must include all of the following:

(1) An organizational chart depicting appropriate duties and responsibilities of employees involved in interactive gaming.



(2) A description of the duties and responsibilities of each position shown on the organizational chart.

(3) The record retention policy of the interactive gaming certificate holder or interactive gaming operator licensee.

(4) The procedure to be utilized to ensure that money generated from the conduct of interactive gaming is safeguarded and accounted for.

(5) Procedures to ensure that recorded accountability for assets is compared with actual assets at intervals required by the Board and appropriate action is taken with respect to discrepancies.

(6) Procedures to be utilized by an employee of an interactive gaming certificate holder or interactive gaming operator licensee in the event of a malfunction of an interactive gaming system or other equipment used in the conduct of interactive gaming.

(7) Procedures to be utilized by the interactive gaming certificate holder or interactive gaming operator licensee to prevent persons under 21 years of age, self-excluded or involuntary excluded individuals, and players outside this Commonwealth, unless otherwise authorized by an interactive gaming reciprocal agreement, from engaging in interactive gaming.

(8) Other items the Board may request in writing to be included in the internal controls.

(d) Prior to authorizing an interactive gaming certificate holder or interactive gaming operator licensee to commence the conduct of interactive gaming, the Board will review the system of internal controls, security protocols and audit protocols submitted under this chapter to determine whether they conform to the requirements of this chapter and whether they provide adequate and effective controls for the conduct of interactive gaming.

(e) If an interactive gaming certificate holder or interactive gaming operator licensee intends to make a change or amendment to its system of internal controls, it shall submit the change or amendment electronically to the Bureau of Gaming Operations in a manner prescribed by the Bureau of Gaming Operations. The interactive gaming certificate holder or interactive gaming operator licensee may implement the change or amendment on the 30th calendar day following the filing of a complete submission unless the interactive gaming certificate holder or interactive gaming operator licensee receives written notice tolling the change or amendment in accordance with this chapter or written notice from the Board's Executive Director rejecting the change or amendment.

(f) If during the 30-day review period in in this chapter, the Bureau of Gaming Operations preliminarily determines that a procedure in a submission contains an insufficiency likely to negatively affect the integrity of interactive gaming or the control of revenue generated from interactive gaming, the Bureau of Gaming Operations, by written notice to the interactive gaming certificate holder or interactive gaming operator licensee, will:

(1) Specify the nature of the insufficiency and, when possible, an acceptable alternative procedure.

(2) Direct that the 30-calendar day review period in this chapter to be tolled and that any internal controls at issue not be implemented until approved under this chapter.

(g) Examples of submissions that may contain an insufficiency likely to negatively affect the integrity of interactive gaming may include the following:

(1) Submissions that fail to provide information sufficient to permit the review of interactive gaming activities by the Board, the Bureau, the Department or law enforcement.

(2) Submissions that fail to provide for the segregation of incompatible functions so that an employee is not in a position to commit an error and perpetrate a fraud and to conceal the error or fraud in the normal course of the employee's duties.

(3) Submissions that do not include forms or other materials referenced in the submission or required under the act or this part.

(4) Submissions that would implement operations or accounting procedures not authorized by the act or this part.

(h) Whenever a change or amendment has been tolled under this chapter, the interactive gaming certificate holder or interactive gaming operator licensee may submit a revised change or amendment within 30 days of receipt of the written notice from the Bureau of Gaming Operations. The interactive gaming certificate holder or interactive gaming operator licensee may implement the revised change or amendment upon receipt of written notice of approval from the Board's Executive Director or on the 30th calendar day following the filing of the revision unless the interactive gaming certificate holder or interactive gaming operator licensee receives written notice tolling the change or amendment in accordance with this chapter or written notice from the Board's Executive Director rejecting the change or amendment.

**§ 811.3. Terms and conditions.**

(a) An interactive gaming certificate holder or interactive gaming operator licensee shall develop terms and conditions for interactive gaming which must be included in the internal controls. The terms and conditions and any changes thereto shall be acknowledged by the player and the acknowledgment must be date and time-stamped by the interactive gaming system.

(b) The terms and conditions must address all aspects of the interactive gaming operation, including all of the following:

(1) The name of the party with whom the player is entering into a contractual relationship, including any interactive gaming certificate holder or interactive gaming operator licensee.

(2) The player's consent to have the interactive gaming certificate holder or interactive gaming operator licensee confirm the player's age and identity.

(3) Rules and obligations applicable to the player other than rules of the game including all of the following:

(i) Prohibition from allowing any other person to access or use his interactive gaming account.

(ii) Prohibition from engaging in interactive gaming activity, unless the player is physically located in this Commonwealth.

(iii) Consent to the monitoring and recording by the interactive gaming certificate holder or the Board, or both, of any wagering communications and geographic location information.

(iv) Consent to the jurisdiction of this Commonwealth to resolve any disputes arising out of interactive gaming.

(v) Prohibition against utilizing automated computerized software or other equivalent mechanism, such as a bot, to engage in play.

(4) Full explanation of all fees and charges imposed upon a player related to interactive gaming transactions.

(5) Availability of account statements detailing player account activity.

(6) Privacy policies, including information access and use of customer data.

(7) Legal age policy, including a statement that it is a criminal offense to allow a person who is under 21 years of age to participate in interactive gaming and a player who does so must be prohibited from interactive gaming.

(8) Notification that if the player's interactive gaming account remains dormant for 1 year any funds remaining on deposit and any pending wagers shall be forfeited.

(9) The player's right to set responsible gaming limits and self-exclude.

(10) The player's right to suspend his account for no less than 72 hours.

(11) Actions that will be taken in the event a player becomes disconnected from the interactive gaming system during game play.

(12) Notice that a malfunction voids all pays.

(13) Estimated time-period for withdrawal of funds from the interactive gaming account.

(14) Detailed information to be displayed on a player protection page.

(15) Method for changing or retrieving a password or other approved access security feature and the ability to choose strong authentication login protection.

(16) Method for filing a complaint with the interactive gaming certificate holder and method for filing with the Board an unresolved complaint after all reasonable means to resolve the complaint with the interactive gaming certificate holder or interactive gaming operator licensee have been exhausted.

(17) Method for obtaining a copy of the terms and conditions agreed to when establishing an interactive gaming account.

(18) Method for the player to obtain account and game history from the interactive gaming certificate holder or interactive gaming operator licensee.

(19) Notification of Federal prohibitions and restrictions regarding interactive gaming, specifically, any limitations upon interactive gaming in 18 U.S.C.A. § 1084 and the Unlawful Internet Gambling Enforcement Act of 2006 (31 U.S.C.A. §§ 5361—5367). The notice must explicitly state that it is a Federal offense for persons physically located outside of this Commonwealth to engage in interactive wagering through an interactive gaming certificate holder or interactive gaming operator licensee unless explicitly authorized by the Board or an interactive gaming reciprocal agreement.

(20) Any other information required by the Board.

#### § 811.4. Information to be displayed on web site.

Interactive gaming certificate holders and interactive gaming operator licensees shall provide for the prominent display of all of the following information on a page which, by virtue of the construction of the web site, authorized players must access before beginning a gambling session:

(1) The full name of the interactive gaming certificate holder or interactive gaming operator licensee and address from which it carries on business.

(2) A logo, to be provided by the Board, indicating that the interactive gaming certificate holder or interactive gaming operator licensee on behalf of the interactive gaming certificate holder is authorized to operate interactive gaming in this Commonwealth.

(3) The interactive gaming certificate holders and interactive gaming operator licensee's license number.

(4) A statement that persons under 21 years of age are not permitted to engage in interactive gaming.

(5) A statement that persons located in a jurisdiction where interactive gaming is not legal are not permitted to engage in interactive gaming.

(6) Active links to all of the following:

(i) Information explaining how disputes are resolved.

(ii) A problem gambling web site that is designed to offer information pertaining to responsible gaming.

(iii) The Board's web site.

(iv) A web site that allows for an authorized player to choose to be excluded from engaging in interactive gaming.

(v) A link to the house rules adopted by the interactive gaming certificate holder or interactive gaming operator licensee.

#### § 811.5. Segregation of bank accounts and reserve requirements.

(a) An interactive gaming certificate holder or interactive gaming operator licensee shall maintain a Pennsylvania bank account for player's funds separate from all other operating accounts to ensure the security of funds held in the player's interactive gaming accounts.

(b) The balance maintained in this account must be greater than or equal to the sum of the daily ending cashable balance of all player interactive gaming accounts, funds on game and pending withdrawals.

(c) An interactive gaming certificate holder or interactive gaming operator licensee shall have unfettered access to all player interactive gaming account and transaction data to ensure the amount held in its independent account is sufficient. An interactive gaming certificate holder's or interactive gaming operator licensee's chief financial officer shall file a monthly attestation with the Board, unless otherwise directed by the Board, that the funds have been safeguarded under this section.

#### § 811.6. Interactive gaming certificate holder's or interactive gaming operator licensee's organization.

(a) An interactive gaming certificate holder's or interactive gaming operator licensee's systems of internal controls must include organization charts depicting segregation of functions and responsibilities and descriptions of the duties and responsibilities for each position shown on each organization chart. Interactive gaming certificate holders and interactive gaming operator licensees are permitted, except as otherwise provided in this section, to tailor organizational structures to meet the needs or policies of a particular management philosophy. An interactive gaming certificate holder's and interactive gaming operator licensee's organization charts must provide for all of the following:

(1) A system of personnel and chain of command which permits management and supervisory personnel to be held accountable for actions or omissions within their areas of responsibility.

(2) The segregation of incompatible functions, duties and responsibilities so that an employee is not in a position to commit an error and perpetrate a fraud and to conceal the error or fraud in the normal course of the employee's duties.

(3) The performance of all functions, duties and responsibilities in accordance with sound financial practices by qualified personnel.

(4) The areas of responsibility which are not so extensive as to be impractical for an individual to monitor.

(b) In addition to other positions required as part of an interactive gaming certificate holder's or interactive gaming operator licensee's internal controls, an interactive gaming certificate holder or interactive gaming operator licensee shall maintain an information technology department supervised by an individual licensed as a key employee who functions, for regulatory purposes, as the information technology director. An interactive gaming certificate holder or interactive gaming operator shall employ an information technology security officer and an interactive gaming manager, both of whom shall be licensed as a key employee.

(c) The information technology director shall be responsible for the integrity of all data, and the quality, reliability and accuracy of all computer systems and software used by the interactive gaming certificate holder in the conduct of interactive gaming, whether the data and software are located within or outside the certificate holder's or interactive gaming operator licensee's facility, including, without limitation, specification of appropriate computer software, hardware and procedures for security, physical integrity, audit and maintenance of all of the following:

(1) Access codes and other computer security controls used to insure appropriately limited access to computer software and data.

(2) Monitoring logs of user access, security incidents and unusual transactions.

(3) Logs used to document and maintain the details of any hardware and software modifications.

(4) Computer tapes, disks or other electronic storage media containing data relevant to interactive gaming operations.

(5) Computer hardware, communications equipment and software used in the conduct of interactive gaming.

(d) The information technology security officer shall report to the information technology director and be responsible for all of the following:

(1) Maintaining access codes and other computer security controls used to insure appropriately limited access to computer software and data.

(2) Reviewing logs of user access, security incidents and unusual transactions.

(3) Coordinating the development of the interactive gaming certificate holder's information security policies, standards and procedures.

(4) Coordinating the development of an education and training program on information security and privacy matters for employees and other authorized users.

(5) Ensuring compliance with all State and Federal information security policies and rules.

(6) Preparing and maintaining security-related reports and data.

(7) Working with internal and external audit personnel to ensure all findings are addressed in a timely and effective manner.

(8) Developing and implementing an Incident Reporting and Response System to address security breaches, policy violations and complaints from external parties.

(9) Serving as the official contact for information security and data privacy issues, including reporting to law enforcement.

(10) Developing and implementing an ongoing risk assessment program that targets information security and privacy matters by identifying methods for vulnerability detection and remediation and overseeing the testing of those methods.

(11) Remaining current with the latest information technology security and privacy legislation, rules, advisories, alerts and vulnerabilities to ensure the interactive gaming certificate holder's security program and security software is effective.

(e) The interactive gaming manager shall report to the information technology director, or other department manager as approved by the Board, and be responsible for ensuring the proper operation and integrity of interactive gaming and reviewing all reports of suspicious behavior. The interactive gaming manager shall immediately notify the Bureau upon detecting any person participating in interactive wagering who is:

(1) Engaging in or attempting to engage in, or who is reasonably suspected of cheating, theft, embezzlement, collusion, money laundering or any other illegal activities.

(2) A self-excluded person under the act and Board regulations.

(3) Prohibited by the interactive gaming certificate holder or interactive gaming operator licensee from interactive gaming.

**§ 811.7. Mandatory interactive gaming system logging.**

(a) An interactive gaming system must employ a mechanism capable of maintaining a separate copy of the information required to be logged under this chapter on a separate and independent logging device capable of being administered by an employee with no incompatible function. If the interactive gaming system can be configured so that any logged data is in a secure transaction file, a separate logging device is not required.

(b) An interactive gaming system must provide a mechanism for the Board to query and export, in a format required by the Board, all gaming system data.

(c) An interactive gaming system must electronically log the date and time any interactive gaming account is created or terminated (Account Creation Log).

(d) An interactive gaming system must maintain all information necessary to recreate player game play and account activity during each player session, including any identity or location verifications, for no less than 10 years.

(e) Unless otherwise authorized by the Board, when software is installed on or removed from an interactive gaming system, the action must be recorded in a secure electronic log (Software Installation/Removal Log), which must include all of the following:

(1) The date and time of the action.

(2) The identification of the software.

(3) The identity of the person performing the action.

(f) Unless otherwise authorized by the Board, when a change in the availability of game software is made on a gaming system, the change must be recorded in a secure electronic log (Game Availability Log), which must include all of the following:

- (1) The date and time of the change.
- (2) The identification of the software.
- (3) The identity of the person performing the change.

(g) Unless otherwise exempted by the Board, an interactive gaming system must record all promotional offers (Promotions Log) issued through the system. The Promotions Log must provide the information necessary to audit compliance with the terms and conditions of current and previous offers.

(h) Results of all authentication attempts must be retained in an electronic log (Authentication Log) and accessible for 90 days.

(i) All adjustments to gaming system data made using stored procedures must be recorded in an electronic log (Adjustments Log), which lists all of the following:

- (1) The date and time.
- (2) The identification and user ID of user performing the action.
- (3) A description of the event or action taken.
- (4) The initial and ending values of any data altered as a part of the event or action performed.

**§ 811.8. Records/data retention requirements.**

(a) For the purposes of this section, "books, records and documents" means any book, record or document pertaining to, prepared in or generated by the operation of the interactive gaming certificate holder or interactive gaming operator licensee including all forms, reports, accounting records, ledgers, subsidiary records, computer generated data, internal audit records, correspondence and personnel records required to be generated and maintained under this part. This definition applies without regard to the medium through which the record is generated or maintained (for example, paper, magnetic media or encoded disk).

(b) Original books, records and documents pertaining to the operation of interactive gaming must be:

(1) Prepared and maintained in a complete, accurate and legible form. Electronic data must be stored in a format that ensures readability, regardless of whether the technology or software that created or maintained it has become obsolete.

(2) Retained in a secure location by the interactive gaming certificate holder or interactive gaming operator licensee that is equipped with a fire suppression system or at another location approved under subsection (d).

(3) Made available for inspection by agents of the Board, the Department and the Pennsylvania State Police during all hours of operation.

(4) Organized and indexed in a manner to provide immediate accessibility to agents of the Board, the Department and the Pennsylvania State Police.

(5) Destroyed only after expiration of the minimum retention period specified in subsection (c), except that the Board may, upon the written request of an interactive

gaming certificate holder or interactive gaming operator licensee and for good cause shown, permit the destruction at an earlier date.

(c) Original books, records and documents shall be retained by an interactive gaming certificate holder or interactive gaming operator licensee for a minimum of 5 years.

(d) An interactive gaming certificate holder or interactive gaming operator licensee may request, in writing, that the Board's Executive Director approve an alternative location outside of this Commonwealth to store original books, records and documents. The request must include all of the following:

(1) A detailed description of the proposed location, including security and fire suppression systems.

(2) The procedures under which the Board, the Department and the Pennsylvania State Police will be able to gain access to the original books, records and documents retained at the location outside of this Commonwealth.

(e) An interactive gaming certificate holder or interactive gaming operator licensee may request, in writing, that the Board's Executive Director approve a microfilm, microfiche or other suitable media system for the copying and storage of original books, records and documents. The request must include representations regarding all of the following:

(1) The processing, preservation and maintenance methods which will be employed to ensure that the books, records and documents are available in a format which makes them readily available for review and copying.

(2) The inspection and quality control methods which will be employed to ensure that microfilm, microfiche or other media when displayed on a reader/viewer or reproduced on paper exhibits a high degree of legibility and readability.

(3) The availability of a reader/printer for use by the Board, the Department and the Pennsylvania State Police at the location approved by the Board and the readiness with which the books, records or documents being stored on microfilm, microfiche or other media can be located, read and reproduced.

(4) The availability of a detailed index of all microfilm, microfiche or other stored data maintained and arranged in a manner to permit the immediate location of any particular book, record or document.

(f) Nothing herein shall be construed as relieving an interactive gaming certificate holder or interactive gaming operator licensee from meeting any obligation to prepare or maintain any book, record or document required by any other Federal, State or local governmental body, authority or agency.

**§ 811.9. Required reports; reconciliation.**

(a) An interactive gaming system shall be designed to generate reports as specified by the Board that must include, at a minimum, all of the following:

- (1) The report title.
- (2) The version number of the current system software and report definition.
- (3) The date or time period of activity, or description as of a point in time.
- (4) The date and time the report was generated.
- (5) Page numbering, indicating the current page and total number of pages.

(6) Subtotals and grand totals as required by the Department.

(7) A description of any filters applied to the data presented in the document.

(8) Column and row titles, if applicable.

(9) The name of the interactive gaming certificate holder.

(b) All required reports must be generated by the interactive gaming system, even if the period specified contains no data to be presented. The report generated must indicate all required information and contain an indication of "No Activity" or similar message if no data appears for the period specified.

(c) An interactive gaming system must provide a mechanism to export the data generated for any report to a format approved by the Board.

(d) An interactive gaming system must generate all of the following daily reports, at a minimum, for each gaming day to calculate the taxable revenue:

(1) A Player Account Summary Report, which must include transaction information for each player on account for all of the following categories:

- (i) Beginning balance.
- (ii) Total amount of deposits.
- (iii) Total amount of noncashable bonuses deposited.
- (iv) Total amount of noncashable bonuses wagered.
- (v) Total amount of noncashable bonuses expired.
- (vi) Total amount of transfers to games.
- (vii) Total amount of transfers from games.
- (viii) Total amount of withdrawals.
- (ix) Total amount of funds on game at the beginning of the gaming day (the amount of pending wagers at the end of the prior gaming day).
- (x) Total amount of funds on game at the end of the gaming day (the amount of pending wagers plus funds transferred to a game but not yet wagered).
- (xi) Win or loss, calculated as the amount of transfers from games and beginning funds on game less the amount of transfers to games and ending funds on game.
- (xii) Ending balance.

(2) A Wagering Summary Report, which must include all of the following by authorized game and poker variation, as applicable:

- (i) Total amounts wagered.
- (ii) Total amounts won.
- (iii) Total tournament entry or participation fees.
- (iv) Rake or vigorish.
- (v) Total amounts of guaranteed funds paid to players.
- (vi) Total amounts due to or from an interactive gaming network.
- (vii) Win or loss calculated as the net of the total amounts wagered and total amounts won plus tournament entry fees, rake or vigorish, guaranteed funds, and amounts due to or from an interactive gaming system.

(3) A noncashable Promotional Account Balance Report, which must include the ending noncashable promotional balance in each player account.

(e) An interactive gaming system must generate the following daily reports for each participating interactive gaming certificate holder, at a minimum, for each gaming day to reconcile the daily gross interactive gaming revenue:

(1) A System Player Account Summary Report, which must include all of the following transaction information for each player account:

- (i) Player identification number.
- (ii) Total amount of transfers to games.
- (iii) Total amount of transfers from games.
- (iv) Win or loss statistics.
- (v) Total amount of rake.
- (vi) Total amount of entry fees.

(2) A System Wagering Summary Report, which must include all of the following game activity by authorized game or poker variation:

- (i) Total amounts wagered.
- (ii) Total amounts won.
- (iii) Total tournament entry or participation fees.
- (iv) Rake or vigorish.
- (v) Total amounts of guaranteed funds paid to players.
- (vi) Win or loss statistics, calculated as the net of the total amounts wagered and total amounts won plus tournament entry fees, rake or vigorish, and guaranteed funds.

(f) An interactive gaming certificate holder must utilize the Wagering Summary Report to calculate interactive gross gaming revenue on a daily basis for reporting purposes. In addition, the certificate holder shall do all of the following:

- (1) Prepare a Variance Report documenting the win/loss amounts from the Player Account Report and Wagering Summary Report.
- (2) Calculate the variance between the two amounts.
- (3) Document the reason for the variance.
- (4) Report a manual adjustment to increase revenue by the amount of the variance whenever the total of the Player Account Summary Report is greater than the total of the Wagering Summary Report, unless the reason for the variance as documented above is sufficient to support a determination that revenue was properly reported.

(g) Instead of subsection (f), an interactive gaming certificate holder or interactive gaming operator licensee may accumulate the daily Variance Report information on a monthly Variance Report in a manner described in the interactive gaming certificate holder's internal controls.

(h) An interactive gaming system must generate, on a daily basis commencing 1 year after the creation of the first interactive gaming account, a Dormant Account Report, which must list all player accounts including the Pending Wager Account Report that have not had activity for 1 year. The report must include all of the following:

- (1) The player name and account number.
- (2) The date of the last transaction.

(3) The account balance.

(i) Voids of completed wagering transactions may not occur without Board approval.

(j) An interactive gaming system must generate a Performance Report, which compares the theoretical return to player (RTP) to the actual RTP of each game offered by a gaming system. The report must also provide the total number of rounds of play for each game and shall be generated and reviewed monthly by the interactive gaming certificate holder to evaluate the performance of all games offered to the public. The Performance Report must include the data required by this subsection from the first day interactive gaming was offered to the date of the report.

(k) An interactive gaming system must generate a Player Account Adjustments Report, which shall be reviewed on a daily basis by either the interactive gaming certificate holder or interactive gaming operator licensee to evaluate the legitimacy of player account adjustments. If the daily review is performed by the interactive gaming operator, the interactive gaming certificate holder or interactive gaming operator licensee shall conduct a weekly review of the Player Account Adjustment Reports. Unless otherwise authorized by the Board, the report must, at a minimum, include all of the following:

- (1) The player's name.
- (2) An account number.
- (3) The date and time of the adjustment.
- (4) The person who performed the adjustment.
- (5) The reason for the adjustment.
- (6) The amount of the adjustment.

(l) An interactive gaming system must generate a report on a weekly basis identifying potential compulsive and problem gamblers, including those players who self-report. The interactive gaming certificate holder shall review the report and document any action taken.

(m) An interactive gaming system must be capable of generating a Pending Transaction Account Report, which must include and separately itemize all pending transactions for each player account, including funds on game and deposits and withdrawals not yet cleared.

(n) In accordance with internal controls, an interactive gaming certificate holder or interactive gaming operator licensee shall periodically submit to the Board a copy of the bank statement that reflects the balance of the restricted account maintained to protect player funds required under this part.

## CHAPTER 812. INTERACTIVE GAMING PLAYER ACCOUNTS—TEMPORARY REGULATIONS

Sec.	
812.1.	Definitions.
812.2.	Player account registration.
812.3.	Account security.
812.4.	Single account requirement.
812.5.	Account terms and conditions disclosures.
812.6.	Self-exclusion list.
812.7.	Player funding of accounts.
812.8.	Player loyalty programs.
812.9.	Player account controls.
812.10.	Player withdrawals.
812.11.	Player account statements.
812.12.	Suspended accounts.
812.13.	Dormant accounts.
812.14.	Use of player data.

### § 812.1. Definitions.

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

*Electronic identifier*—A unique identifier, other than personal identifying information (for example, a Social Security number), used to identify a player.

*Player session*—A player session consists of all activities and communications performed by an authorized registered player and the interactive gaming system between the time the registered player logs in to the interactive gaming system and the time the registered player logs out or is logged out of the interactive gaming system.

*Strong authentication*—A method that is intrinsically stringent enough to ensure the security of the system it protects by withstanding any attacks it is likely to encounter by combining at least two mutually-independent factors so that the compromise of one method should not lead to the compromise of the second and includes one nonreusable element, which cannot easily be reproduced or stolen from the Internet, to verify the identity of a registered player.

### § 812.2. Player account registration.

(a) Prior to engaging in interactive gaming, a player shall establish an interactive gaming account.

(b) To establish an interactive gaming account, the player shall provide all of the following information:

- (1) The player's legal name.
- (2) The player's date of birth.
- (3) The entire or last four digits of the player's Social Security number, if voluntarily provided, or equivalent for a foreign player such as a passport or taxpayer identification number.
- (4) The player's address.
- (5) The player's e-mail address.
- (6) The player's telephone number.

(7) Any other information collected from the player to verify his identity.

(c) An interactive gaming certificate holder or interactive gaming operator licensee shall create and maintain an electronic player file containing the information the player submitted to establish the player account.

(d) The electronic player file created by an interactive gaming certificate holder or interactive gaming operator licensee must encrypt the information in an electronic player file.

(e) The interactive gaming certificate holder or interactive gaming operator licensee shall verify the player's identity and record the document number of the government-issued credential examined, or other methodology for remote, multisourced authentication, which may include third-party and governmental databases, as approved by the Board.

(f) The interactive gaming certificate holder or interactive gaming operator licensee shall verify that the player is of the legal age of 21 years of age, not self-excluded or otherwise prohibited from participation in interactive gaming.

(g) The interactive gaming certificate holder or interactive gaming operator licensee shall require the player to affirm that the information provided to the interactive gaming certificate holder is accurate.

(h) The interactive gaming certificate holder or interactive gaming operator licensee shall record the player's acceptance of the interactive gaming certificate holder's terms and conditions to participate in interactive gaming.

(i) The interactive gaming certificate holder or interactive gaming operator licensee shall record the player's acknowledgement that the legal age for interactive gaming is 21 years of age and that he is prohibited from allowing any other person to access or use his interactive gaming account.

(j) The interactive gaming certificate holder or interactive gaming operator licensee shall record the player's acknowledgement that any violations of the interactive gaming regulations are subject to the penalties provided in the act and may result in criminal prosecution under 18 Pa.C.S. (relating to Crimes Code).

(k) The interactive gaming certificate holder or interactive gaming operator licensee shall require the player to establish a password or other access security feature as approved by the Board and advise the player of the ability to utilize strong authentication login protection.

(l) The interactive gaming certificate holder or interactive gaming operator licensee shall notify the player of the establishment of the account by e-mail or first class mail.

**§ 812.3. Account security.**

(a) An interactive gaming system must utilize sufficient security to ensure player access is appropriately limited to the registered account holder. Unless otherwise authorized by the Board, security measures must include, at a minimum, all of the following:

- (1) A username.
- (2) A password of sufficient length and complexity to ensure its effectiveness.
- (3) Upon account creation, the option for users to choose strong authentication login protection.
- (4) When a player logs into his registered interactive gaming account, the system must display the date and time of the player's previous log on.
- (5) An option to permit a player to elect to receive an electronic notification to the player's registered e-mail address, cellular phone or other device each time an interactive gaming account is accessed.

(6) The interactive gaming system must require a player to re-enter his username and password after 15 minutes of user inactivity.

(b) An interactive gaming certificate holder or interactive gaming operator licensee may not permit the creation of anonymous interactive gaming accounts or accounts using fictitious names. A registered player may, while engaged in interactive gaming, represent himself using a screen name other than his actual name.

(c) An interactive gaming system must provide an account statement with account details to a player, on demand, which must include information as required under this chapter.

(d) An interactive gaming system must utilize sufficient security to ensure third-party access to player accounts is limited as follows:

(1) Network shared drives containing application files and data for interactive gaming system must be secured so that only authorized personnel may gain access.

(2) Login accounts and passwords required to administer network and other equipment are secured so that only authorized IT personnel from the interactive gaming certificate holder or interactive gaming operator licensee may gain access to these devices.

(3) Remote access by vendor personnel to any component of the interactive gaming system is allowed for purposes of support or updates and is enabled only when approved by authorized IT personnel employed by the technology provider.

(e) Interactive gaming certificate holders and interactive gaming operator licensees may utilize third-party vendors to verify player information so long as those vendors are licensed by the Board when required and the agreements related to the provided services is submitted to the Board.

**§ 812.4. Single account requirement.**

(a) A player shall have only one interactive gaming account for each interactive gaming certificate holder or interactive gaming operator licensee. Each interactive gaming account must be nontransferable, unique to the player who establishes the account, and distinct from any other account number that the player may have established with the interactive gaming certificate holder or interactive gaming operator licensee for noninteractive gaming activity.

(b) Each registered player account shall be treated independently and players may not be permitted to transfer funds between accounts held with different interactive gaming certificate holders or interactive gaming operator licensees. Registered players are prohibited from transferring funds to an account held by another player.

(c) To ensure compliance with this subpart, interactive gaming certificate holders and interactive gaming operators shall:

- (1) Record and maintain the physical location of the registered player while logged in to the interactive gaming account.
- (2) Ensure that a registered player does not occupy more than one position at a game at any given time.

**§ 812.5. Account terms and conditions disclosures.**

(a) During the registration process the player shall agree to the terms and conditions which govern the relationship between the interactive gaming certificate holder or interactive gaming operator licensee and the player. The terms and conditions must include a privacy policy which governs the protection and use of the player's data.

(b) The terms and conditions provided to players by interactive gaming certificate holders and interactive gaming operator licensees shall be submitted to the Bureau of Gaming Operations for review. The terms and conditions must contain, at minimum, all of the following:

- (1) The name and address of the interactive gaming certificate holder or interactive gaming operator licensee.
- (2) A statement that the interactive gaming certificate holder or interactive gaming operator licensee is licensed and regulated by the Board for the purposes of operating and offering interactive gaming services in this Commonwealth.

(3) A requirement that the player acknowledges that he has read the terms and conditions and agrees to be bound by them.

(4) A requirement that the player will comply with all applicable laws, statutes and regulations.

(5) A statement that no individual under 21 years of age may participate in interactive gaming and that it is a criminal offense to allow a person who is not legally of age to participate in interactive gaming in this Commonwealth.

(6) A statement that the player consents to verification of registration information including name, address, date of birth, Social Security number, passport identification (for non-United States residents) and any other identification information required to confirm age and identity.

(7) A statement that the player consents to verification of his location for the duration of play of interactive games.

(8) A statement that players have the right to set responsible gaming limits and to self-exclude from interactive gaming.

(9) A dispute resolution policy including notifying players of their right to file a complaint with the Board.

(10) A player disconnection policy.

(11) Any other information that may be required by the Board.

#### § 812.6. Self-exclusion list.

(a) All interactive gaming certificate holders and interactive gaming operator licensees shall have a link to the self-exclusion page of the Board web site.

(b) Any person seeking to place his name on the self-exclusion list shall follow the procedures in the Board's regulations.

#### § 812.7. Player funding of accounts.

(a) A player's interactive gaming account may be funded through the use of all of the following:

(1) Cash deposits made directly with the interactive gaming certificate holder or interactive gaming operator licensee.

(2) Personal checks, cashier's checks, wire transfer and money order deposits made directly or mailed to the interactive gaming certificate holder or interactive gaming operator licensee.

(3) A player's credit card or debit card, including prepaid cards.

(4) A player's deposit of cash, gaming vouchers or gaming chips at a cashiering location approved by the Board.

(5) A player's reloadable prepaid card, which has been verified as being issued to the player and is nontransferable.

(6) Cash complimentarys, promotional credits or bonus credits.

(7) Winnings.

(8) Automated clearing house (ACH) transfer, provided that the interactive gaming certificate holder or interactive gaming operator licensee has security measures and controls to prevent ACH fraud. A failed ACH deposit attempt may not be considered fraudulent if the player has successfully deposited funds through an ACH transfer on a previous occasion with no outstanding chargebacks.

If the interactive gaming certificate holder or interactive gaming operator licensee suspects fraud after multiple failed ACH deposit attempts, the interactive gaming certificate holder or interactive gaming operator licensee may temporarily freeze or suspend the player's account to investigate and, if the interactive gaming certificate holder or interactive gaming operator licensee determines that fraud has occurred, suspend the player's account.

(9) Adjustments made by the interactive gaming certificate holder or interactive gaming operator licensee following the resolution of disputes provided there is documented notification to the player.

(10) Any other means as approved by the Board.

(b) An interactive gaming certificate holder or interactive gaming operator licensee shall neither extend credit to a player nor allow the deposit of funds into an interactive gaming account that are derived from the extension of credit by affiliates or agents of the interactive gaming certificate holder or interactive gaming operator licensee.

(c) A player's interactive gaming account may not have a negative account balance.

(d) Player account balances must be updated after each game cycle to ensure that sufficient funds are available for any future real money games the player may choose to play.

(e) Interactive gaming certificate holders or interactive gaming operator licensees may not accept or facilitate a wager:

(1) On any interactive game not approved by the Board for play in this Commonwealth.

(2) On any interactive game which the operator knows or reasonably should know is not between individuals.

(3) On any interactive game which the operator knows or reasonably should know is made by a person on the self-exclusion or the Board's exclusion lists.

(4) From a person who the interactive gaming certificate holder or interactive gaming operator licensee knows or reasonably should know is placing the wager in violation of State or Federal law.

(5) From any licensed individual who is not permitted to participate in interactive gaming by virtue of his position with an interactive gaming certificate holder, interactive gaming operator licensee or other affiliated entity.

(f) All adjustments to interactive gaming accounts for amounts of \$500 or under shall be periodically reviewed by supervisory personnel as set forth in the interactive gaming certificate holder's or interactive gaming operator licensee's internal controls. All other adjustments shall be authorized by supervisory personnel prior to being entered.

#### § 812.8. Player loyalty programs.

If player loyalty programs are supported by an interactive gaming system, all of the following must apply:

(1) Redemption of registered player loyalty points earned must be by a secure transaction that automatically debits the points balance for the value of the prize redeemed.

(2) All registered player loyalty database transactions are to be recorded by the interactive gaming system. If the player loyalty program is provided by an external



service provider, the interactive gaming system must be capable of securely communicating with that service.

(3) The interactive gaming system must make readily accessible to the registered player all terms and conditions governing each available promotional or bonus feature.

(4) The terms and conditions must be clear and unambiguous, especially when bonuses or promotions are limited to certain tables or nontournament play, or when other specific conditions apply.

**§ 812.9. Player account controls.**

(a) A player session is started when a player logs in to the interactive gaming system.

(1) A player must be provided with the electronic identifier created by the interactive gaming certificate holder or interactive gaming operator, if applicable, and a password to start a session.

(2) The interactive gaming system must allow players to change their passwords.

(3) When a player has forgotten his password/PIN, the interactive gaming system must provide a secure process for the reauthentication of the player and the retrieval or resetting, or both, of the password/PIN. Processes for dealing with lost player user IDs or passwords must be clearly described to the player.

(4) When a player logs in to the interactive gaming system, the date and time of his prior player session must be displayed.

(5) Each player session must have a unique identifier assigned by the interactive gaming system which distinguishes the current session from previous and future sessions.

(b) During a peer-to-peer game, the software must permit a player to set an away from computer status (that is, self-imposed session inactivity). This functionality must be fully described in the help screens or applicable terms and conditions.

(1) The away from computer status must disallow all play and also cause the player's turn to be automatically skipped during any round of play which takes place while this status is active.

(2) If a player sets an away from computer status during the middle of a round of play, he automatically forfeits play for that round (for example, for a round of poker, the software must automatically fold the player's hand during the next round of betting).

(3) If a player performs any game action within the game window while in an away from computer status, the status must be removed and the player will be enrolled into the next round of play. Nongame sensitive actions, such as accessing the help menu from the game window do not require this status to be removed.

(4) If action has not been taken by the player within the time period specified in the help screens or the terms and conditions, or both, the player must be automatically placed into the away from computer status.

(5) If a player has been in the away from computer status for over 30 minutes, the player must be automatically logged out of the game or player account, or both.

(c) Interactive gaming systems must employ a mechanism that detects session inactivity and terminates a player session when applicable.

(1) If the interactive gaming system fails to receive a response from the interactive gaming device within 30 minutes, whether the player has been in away from computer mode or not, the interactive gaming system must implement a user inactivity timeout and terminate the player session.

(2) If a player session is terminated due to player inactivity timeout, the interactive gaming device must display to the player the player session termination (that is, the user inactivity timeout) upon the player's next attempted action on the interactive gaming system.

(3) Further game play is not permitted until the interactive gaming system and the interactive gaming device establish a new session.

(d) A player session ends when:

(1) The player notifies the interactive gaming system that the session is finished (for example, logs out).

(2) A session inactivity timeout is reached.

(3) The interactive gaming system terminates the session.

(i) When the interactive gaming system terminates a player session, a record must be written to an audit file that includes the termination reason.

(ii) The interactive gaming system must attempt to send a session finished message to the interactive gaming device each time a session is terminated by the interactive gaming system.

(e) A responsible gaming page must be readily accessible from any screen where game play may occur. The responsible gaming page must contain, at a minimum, all of the following:

(1) Information about potential risks associated with gambling and where to get help for a gambling problem.

(2) A list of the responsible gaming measures that can be invoked by the player, such as player session time limits and bet limits, and an option to enable the player to invoke those measures.

(3) Mechanisms which detect unauthorized use of the player's account, such as observing the Last Log in Time Display, the IP address of the last login and reviewing financial account information.

(4) A link to the terms and conditions that the player agreed to be bound to by entering and playing on the site.

(5) A link to the applicable privacy policy.

(6) A link to Board's web site.

(f) All links to player protection services (for example, self-exclusion and other player imposed limits) provided by third parties are to be tested by the interactive gaming certificate holder or interactive gaming operator licensee periodically as required by the Board. Game play may not occur when links used to supply information on player protection services are not displayed or are not operational. When the link to player protection services is no longer available, the interactive gaming certificate holder or interactive gaming operator licensee shall provide an alternative support service.

(g) Players must be provided with a clear mechanism to impose self-limitations for gaming parameters including deposits, wagers, losses and player session durations as required by the Board. The self-limitation mechanism must provide all of the following functionality:

(1) Any decrease to self-limitations for gaming must be effective no later than the player's next login. Any increase to these limits must become effective only after the time-period of the previous limit has expired and the player reaffirms the requested increase.

(2) A deposit limit as determined by the player must be offered on a daily, weekly and monthly basis, and must specify the maximum amount of money a player may deposit into his interactive gaming account during the designated period of time.

(3) A spend limit as determined by the player must be offered on a daily, weekly and monthly basis, and must specify the maximum amount of player deposits that may be put at risk during a designated period of time.

(4) A time-based limit as determined by the interactive gaming account holder must be offered on a daily basis and must specify the maximum amount of time that a player may spend playing on an interactive gaming system, provided that if the time-based limit is reached a player will be permitted to complete any round of play, or active or prepaid tournament.

(i) The self-limitations set by a player may not override any system imposed limitations or contradict information within the game rules.

(ii) Once established by a player and implemented by the interactive gaming system, it must only be possible to reduce the self-limitations upon 24-hour notice.

(h) The interactive gaming system must be capable of applying system-imposed limits as required by the terms and conditions agreed to by the player upon registration and as required by the Board. System-imposed limits must adhere to all of the following:

(1) Players must be notified in advance of any system-imposed limits and their effective dates.

(2) Once updated, system-imposed limits must be consistent with what is disclosed to the player.

(3) Upon receiving any system-limitation request, the interactive gaming system must ensure that all specified limits are correctly implemented immediately or at a specified time (that is, next login, next day, and the like) that was clearly indicated to the player.

(4) In cases when system-imposed limitation values (for example, deposit, wager, loss and player session duration) are greater than self-imposed player limit values, the system-imposed limitations must take priority.

(i) Players must be provided with an easy and obvious mechanism to self-exclude from game play. The self-exclusion mechanism must provide all of the following functionality:

(1) The player must be provided with the option to self-exclude temporarily for a specified period of time as defined in the terms and conditions, or indefinitely.

(2) In the case of temporary self-exclusion, the interactive gaming system must ensure that:

(i) Immediately upon receiving the self-exclusion order, new bets or deposits are not accepted from that player until the temporary self-exclusion has expired.

(ii) During the temporary self-exclusion period, the player is not prevented from withdrawing any or all of his account balance, provided that the interactive gaming system acknowledges that the funds have cleared.

(iii) In the case of indefinite self-exclusion, the interactive gaming system must ensure that:

(A) The player is paid in full for his account balance, provided that the interactive gaming system acknowledges that the funds have cleared.

(B) All player accounts must be closed or deactivated.

(j) The interactive gaming system must provide a clear mechanism to advise the player of the right to make a complaint against the interactive gaming certificate holder, interactive gaming operator licensee or another player (that is, when collusion is suspected or when a player is disruptive or abusive).

#### § 812.10. Player withdrawals.

(a) An interactive gaming certificate holder or interactive gaming operator licensee shall establish protocols for players to withdraw funds, whether an interactive gaming account is open or closed.

(b) An interactive gaming certificate holder or interactive gaming operator licensee shall prevent unauthorized withdrawals from an interactive gaming account.

(c) Funds may be withdrawn from a player's interactive gaming account for all of the following:

(1) The funding of game play.

(2) A cash-out at the cashier's cage immediately upon player's request.

(3) A cash-out through the issuance of a check from the interactive gaming certificate holder or interactive gaming operator licensee.

(4) A cash-out transfer to a player's reloadable prepaid cash card, which has been verified as being issued to the player and is nontransferable.

(5) Adjustments made by the interactive gaming certificate holder or interactive gaming operator licensee following the resolution of disputes provided there is documented notification to the player.

(6) Cash-out transfers directly to the player's individual account with a bank or other financial institution (banking account) provided that the interactive gaming certificate holder or interactive gaming operator licensee verifies the validity of the account with the financial institution.

(7) Any other means approved by the Board.

(d) An interactive gaming certificate holder or interactive gaming operator licensee may not permit a player to transfer funds to another player.

#### § 812.11. Player account statements.

(a) At the request of a player, interactive gaming systems must provide an interactive gaming account statement which must include detailed account activity for at least the 6 months preceding the request. In addition, an interactive gaming system must, upon request, be capable of providing a summary statement of all player activity during the past year. Information to be provided on the summary statement must include, at a minimum, all of the following:

(1) Deposits to the interactive gaming account.

(2) Withdrawals from the interactive gaming account.

(3) Win or loss statistics.

(4) Beginning and ending account balances.

(5) Self-imposed responsible gaming limit history, if applicable.

(b) Account statements must be sent to the registered address (e-mail or first class) of the player upon request for the time period specified.

**§ 812.12. Suspended accounts.**

(a) Interactive gaming systems must employ a mechanism to place an interactive gaming account in a suspended mode:

(1) When requested by the player for a specified period of time, which may not be less than 72 hours.

(2) When required by the Board.

(3) When initiated by an interactive gaming certificate holder or interactive gaming operator licensee that has evidence to indicate all of the following:

(i) Illegal activity.

(ii) A negative player account balance.

(iii) A violation of the terms of service has taken place on an authorized registered player's interactive gaming account.

(b) When an interactive gaming account is in a suspended mode, the interactive gaming certificate holder or interactive gaming operator licensee may not remove funds from the account without prior approval from the Board. In addition, the interactive gaming system must do all of the following:

(1) Prevent the player from engaging in interactive gaming.

(2) Prevent the player from depositing funds.

(3) Prevent the player from withdrawing funds from his interactive gaming account, unless the suspended mode was initiated by the player.

(4) Prevent the player from making changes to his interactive gaming account.

(5) Prevent the removal of the interactive gaming account from the interactive gaming system.

(6) Prominently display to the authorized player that the account is in a suspended mode, the restrictions placed on the account and any further course of action needed to remove the suspended mode.

(c) An interactive gaming certificate holder or interactive gaming operator licensee shall notify the player by mail (first class or e-mail) whenever his interactive gaming account has been closed or placed in a suspended mode. The notification must include the restrictions placed on the account and any further course of action needed to remove the restriction.

(d) A suspended account may be restored:

(1) Upon expiration of the time period established by the player.

(2) When permission is granted by the Board.

(3) When the interactive gaming certificate holder or interactive gaming operator licensee has lifted the suspended status.

**§ 812.13. Dormant accounts.**

(a) An interactive gaming account will be deemed dormant if there is no activity (login, game play, withdrawal, and the like) for 1 year.

(b) Interactive gaming certificate holders and interactive gaming operator licensees shall provide notification

to the player at the player's registered address (physical or electronic) if the player's interactive gaming account remains dormant for 1 year.

(c) Funds remaining on deposit in an interactive gaming account which is dormant and for which the player has not requested payment must be abandoned 60 days after the notice in subsection (b) is provided. Interactive gaming certificate holders and interactive gaming operator licensees shall report abandoned funds from dormant accounts in accordance with rules and regulations on abandoned and unclaimed property set forth by the Pennsylvania Treasury, Bureau of Abandoned and Unclaimed Property.

**§ 812.14. Use of player data.**

(a) An interactive gaming certificate holder, interactive gaming operator licensee, or an employee or other person engaged in duties related to the conduct of interactive gaming may not disclose information about the name of a player, or other identifying information.

(b) Interactive gaming certificate holders or interactive gaming operator licensees with employees who have direct contact with players by phone, e-mail, electronic chat or other means shall implement training for those employees, at the start of their employment and at regular intervals thereafter, addressing recognition of the nature and symptoms of problem gambling behavior and how to assist players in obtaining information regarding help for a gambling problem and self-exclusion program.

**CHAPTER 814. COMPULSIVE AND PROBLEM GAMBLING REQUIREMENTS—TEMPORARY REGULATIONS**

Sec.	
814.1.	General requirements.
814.2.	Responsible gaming self-limits.
814.3.	Compulsive and problem gambling plan.
814.4.	Employee training program.
814.5.	Reports.
814.6.	Website requirements.

**§ 814.1. General requirements.**

(a) Interactive gaming shall only be engaged in by registered players who have established an interactive gaming account for interactive gaming.

(b) The message "IF YOU OR SOMEONE YOU KNOW HAS A GAMBLING PROBLEM, HELP IS AVAILABLE, CALL 1-800-GAMBLER," or comparable language approved the Board, must be prominently displayed to a person visiting or logging onto and logging off of the interactive gaming certificate holder or interactive gaming operator licensee's interactive gaming skin.

(c) When a registered player logs on to an interactive gaming system, the system must display the date and time of the registered player's previous log on.

(d) If a registered player has suspended his account, an interactive gaming certificate holder or interactive gaming operator licensee may not send gaming-related electronic or direct postal mail to that player while the account is suspended.

(e) Software utilized for interactive gaming must display the all of following information, in addition to the minimum display standards in this subpart:

(1) The current time in the time zone where the registered player is physically located and the time elapsed while in the current registered player session.

(2) Cause a pop-up notification, at least every hour, to be prominently displayed on the interactive gaming de-

vice advising the registered player of the amount of time elapsed since his log on, and the amount of money wagered since his log on.

(3) Offer the registered player the option to select a pop-notification, in 15-minute and 30-minute increments, advising the registered player of the amount of money wagered since his log on.

(4) Offer the option to activate self-imposed limits during the player account registration process.

(f) An interactive gaming certificate holder or interactive gaming operator licensee offering interactive gaming shall have a dedicated employee responsible for notifying the Board upon detecting a person participating in interactive gaming who is required to be excluded under Board regulations or any person who is otherwise prohibited from engaging in interactive gaming. This employee shall be licensed as a key employee.

(g) All terms and conditions for interactive gaming must be included as an appendix to the internal controls or, when specified, as part of the interactive gaming compulsive and problem gambling plan of the interactive gaming certificate holder or interactive gaming operator licensee addressing all aspects of the operation, including all of the following:

(1) Registered player's right to set responsible gaming limits and to self-exclude.

(2) Registered player's right to suspend his account for any selected period of time.

(3) Information to be displayed on a registered player protection page, which shall be accessible to a registered player during a registered player session. The registered player protection page must contain, at a minimum, all of the following:

(i) A prominent message, which states "If you or someone you know has a gambling problem, help is available. Call 1-800-Gambler" in a size and font as approved the Director of the Office of Compulsive and Problem Gaming (OCPG).

(ii) A direct link to all of the following:

(A) The Council on Compulsive Gambling of Pennsylvania's web site.

(B) The Department of Drug and Alcohol Programs' (or successor agency) gambling addiction participating provider list webpage.

(C) The OCPG webpage.

(iii) All of the following responsible gaming information that shall be approved by the Board's Director of the OCPG:

(A) A clear statement of the interactive gaming certificate holder or interactive gaming operator licensee's policy and commitment to responsible gaming.

(B) Informational documents, which shall be reviewed and updated annually by the interactive gaming certificate holder or interactive gaming operator licensee, regarding all of the following subjects, or a direct link to information regarding all of the following subjects, if available, from an organization based in this Commonwealth or the United States dedicated to helping people with potential gambling disorders and labeled as:

(I) Rules of responsible gambling.

(II) Myths about gambling.

(III) Risks associated with gambling.

(IV) Signs and symptoms of gambling disorders.

(V) The Board's self-exclusion brochure.

(C) Rules governing self-imposed responsible gaming limits, including all of the following:

(I) List of each type of self-imposed limit.

(II) How to enroll in each type of self-imposed limit.

(iv) The following statement: "A person who has enrolled in interactive gaming self-exclusion or has otherwise been excluded from interactive gaming activities, and individuals who are under the age of 21, shall not participate in interactive gaming or interactive gaming activities and will have their winnings forfeited and interactive gaming accounts suspended upon violation." The text and font size of the notices shall be submitted for approval to the Director of the OCPG.

(h) An interactive gaming system must comport with all requirements regarding player accounts in Chapter 812 (relating to interactive gaming player accounts—temporary regulations).

#### § 814.2. Responsible gaming self-limits.

An interactive gaming system must be capable of allowing a registered player to establish the following responsible gaming limits. Any decrease to these limits may not be effective later than the registered player's next login. Any increase to these limits must become effective only after the time period of the previous limit has expired and the registered player reaffirms the requested increase:

(1) A deposit limit must be offered on a daily, weekly and monthly basis and must specify the maximum amount of money a registered player may deposit into his interactive gaming account during a particular period of time.

(2) A limit on the amount of money lost within a daily, weekly and monthly basis must be offered. The registered player shall be unable to participate in gaming for the remainder of the time selected if the registered player reaches the loss limit.

(3) A limit on the maximum amount of any single wager on any interactive game.

(4) A time-based limit must be offered on a daily basis and must specify the maximum amount of time, measured hourly from the registered player's login to log off, a registered player may spend engaging in interactive gaming, provided that if the time-based limit is reached a registered player is permitted to complete any round of play, or active or prepaid tournament.

(5) A temporary suspension of interactive gaming through the interactive gaming account must be offered for any number of hours or days, as selected by the registered player.

(6) The interactive gaming certificate holder or interactive gaming operator licensee shall provide a mechanism by which a registered player may change the controls of paragraphs (1)—(5). Notwithstanding any other provision in this section, the registered player may not change gaming controls while an interactive gaming account is suspended. The registered player shall continue to have access to the interactive gaming account and shall be permitted to withdraw funds from the account upon proper application for the funds to the interactive gaming certificate holder or interactive gaming operator licensee.

**§ 814.3. Compulsive and problem gambling plan.**

(a) An interactive gaming certificate or interactive gaming operator applicant shall submit a compulsive and problem gambling plan for review at the time of submission of the application that conforms with § 501a.2 (relating to compulsive and problem gambling plan).

(b) In addition to the requirements in § 501a.2, an interactive gaming certificate holder's or interactive gaming operator applicant's compulsive and problem gambling plan must include all of the following:

- (1) The goals of the plan.
- (2) The identification of the individual who will be responsible for the implementation and maintenance of the plan.
- (3) Policies and procedures including all of the following:
  - (i) The commitment of the interactive gaming certificate holder or interactive gaming operator licensee to train appropriate employees.
  - (ii) The duties and responsibilities of the employees designated to implement or participate in the plan, including the dedicated employee who is responsible for ensuring the operation and integrity of interactive gaming and reviewing all reports of suspicious behavior.
  - (iii) The responsibility of registered players with respect to responsible gambling.
  - (iv) Procedures to identify registered players and employees with suspected or known compulsive and problem gambling behavior.
  - (v) Procedures for prominently posting the message "IF YOU OR SOMEONE YOU KNOW HAS A GAMBLING PROBLEM, HELP IS AVAILABLE, CALL 1-800-GAMBLER," or comparable language approved by the Board, on all interactive gaming sites and displaying the message to a person visiting or logging onto and logging off the interactive gaming certificate holder or interactive gaming operator licensee's interactive gaming skin or interactive gaming web site.
  - (vi) Procedures on displaying the date and time of the registered player's previous log on each time that registered player logs on to his interactive gaming account.
  - (vii) Procedures for preventing an underage person or a person on the interactive gaming self-exclusion list from being mailed any advertisement, promotion or other target mailing, including those sent electronically, no later than 5 business days after receiving notice from the Board that the person has been placed on the interactive gaming self-exclusion list.
  - (viii) A policy and procedures for the display of the time in the time zone where the registered player is physically located and the time elapsed while in the current registered player session and the cause of a pop-up notification, at least every hour, to be prominently displayed on the interactive gaming device advising the registered player of the amount of money wagered since his log on.
  - (ix) Procedures for offering registered players the option to select a pop-up notification in 15-minute and 30-minute increments advising the registered player of the amount of money wagered since his log on.
  - (x) Procedures for reviewing, updating and posting information on the interactive gaming certificate holder or interactive gaming operator licensee's web site regarding gambling addiction treatment services, gamblers

anonymous programs, compulsive gambling organizations and informational documents on all of the following:

- (A) Rules of responsible gambling.
- (B) Myths about gambling.
- (C) Risks associated with gambling.
- (D) Signs and symptoms of gambling disorders.
- (E) Randomness of play.
- (xi) Procedures for posting links to all of the following organizations' web sites on the interactive gaming certificate holder/operator licensee's web site:
  - (A) The Council on Compulsive Gambling of Pennsylvania.
  - (B) The National Council on Problem Gambling.
  - (C) The Department of Drug and Alcohol Programs' (or successor agency) gambling addiction participating provider list.
  - (D) Gamblers Anonymous of PA.
  - (E) Gam-Anon of PA.
  - (F) The Board's Office of Compulsive and Problem Gambling.
  - (G) A Pennsylvania or United States suicide prevention organization's webpage and telephone number.
  - (xii) Procedures for responding to patron requests for information regarding gambling addiction treatment services, gamblers anonymous programs, compulsive gambling organizations, and other and informational documents.
    - (A) The interactive gaming certificate holder or interactive gaming operator licensee shall provide examples of the materials to be used as part of its plan, including the problem gambling helpline number and message, informational documents and other posted material, including all of the following
      - (I) Rules of responsible gambling.
      - (II) Myths about gambling.
      - (III) Risks associated with gambling.
      - (IV) Signs and symptoms of gambling disorders.
      - (V) Randomness of play.
      - (VI) Self-exclusion brochure.
    - (4) Policies and procedures on the governing of self-imposed limits and suspension.
    - (5) An employee training program as required under this chapter, including training materials to be utilized and a plan for annual reinforcement training.
    - (6) A certification process established by the interactive gaming certificate holder or interactive gaming operator licensee to verify that each employee has completed the training required by the plan.
    - (7) An estimation of the cost of development, implementation and administration of the plan.
    - (8) Procedures to prevent underage gambling as required under § 513a.3(b) (relating to responsibilities of licensees, permittees, registrants and certification holders).
    - (9) Procedures to prevent excluded persons from gambling.
    - (10) Procedures to monitor all interactive gaming sites for suspicious activity including those who are:

(i) Engaging in or attempting to engage in, or who are reasonably suspected of, cheating, theft, embezzlement, collusion, money laundering or any other illegal activities.

(ii) Required to be excluded under Board regulations.

(iii) Prohibited by the interactive gaming certificate holder or interactive operator licensee from interactive gaming.

(11) Procedures on the reporting of those who may have or have a known gambling disorder.

(12) Details of outreach programs which the interactive gaming certificate holder or interactive gaming operator licensee intends to offer to employees and individuals who are not employees of the interactive gaming certificate holder or interactive gaming operator licensee.

(13) The plan for posting the statement "If you or someone you know has a gambling problem, help is available. Call 1-800-GAMBLER" on the interactive gaming certificate holder's or interactive gaming operator licensee's webpage and each skin.

(c) The compulsive and problem gambling plan of an applicant for an interactive gaming certificate or interactive gaming operator license that has been approved to receive an interactive gaming certificate or interactive gaming operator license shall be approved by the Director of the Office of Compulsive and Problem Gaming (OCPG). An applicant for an interactive gaming certificate or interactive gaming operator license who has been approved to receive an interactive gaming certificate or interactive gaming operator license will be notified in writing of any deficiencies in the plan and may submit revisions to the plan to the Director of the OCPG. An interactive gaming certificate holder or interactive gaming operator licensee may not commence operations until the Director of the OCPG approves the plan.

(d) Compliance with the plan approved under this chapter will be a condition of interactive gaming certificate or interactive gaming operator license renewal.

(e) An interactive gaming certificate holder or interactive gaming operator licensee shall submit any other policies and procedures intended to be used beyond what is required under subsection (d) to prevent and raise awareness of gambling disorders.

(f) An interactive gaming certificate holder or interactive gaming operator licensee shall submit amendments to the compulsive and problem gambling plan to the Director of the OCPG for review and approval at least 30 days prior to the intended implementation date of the amendments. The interactive gaming certificate holder or interactive gaming operator licensee may implement the amendments on the 30th calendar day following the filing the amendments unless the interactive gaming certificate holder or interactive gaming operator licensee receives a notice under subsection (h) objecting to the amendments.

(g) If during the 30-day review period the Director of the OCPG determines that the amendments may not promote the prevention of compulsive and problem gambling or assist in the proper administration of responsible gaming programs, the Director of the OCPG may, by written notice to the interactive gaming certificate holder or interactive gaming operator licensee, object to the amendments. The objection will:

(1) Specify the nature of the objection and, when possible, an acceptable alternative.

(2) Direct that the amendments not be implemented until approved by the Director of the OCPG.

(h) When amendments have been objected to under subsection (h), the interactive gaming certificate holder or interactive gaming operator licensee may submit revised amendments for review in accordance with subsections (g) and (h).

#### § 814.4. Employee training program.

(a) The annual employee training program required under this chapter must include instruction on all of the following:

(1) Characteristics and symptoms of compulsive behavior, including compulsive and problem gambling.

(2) The relationship of gambling disorders to other addictive behavior.

(3) The social and economic consequences of a gambling disorder, including debt, treatment costs, suicide, criminal behavior, unemployment and domestic issues.

(4) Techniques to be used when a gambling disorder is suspected or identified.

(5) Techniques to be used to discuss a gambling disorder with registered players and advise registered players to contact 1-800-GAMBLER to receive information regarding community, public and private treatment services.

(6) Procedures for suspending an interactive gaming account belonging to an underage individual or a person on the interactive gaming self-exclusion list, if necessary, procedures that include obtaining the assistance of appropriate law enforcement personnel.

(7) Procedures for preventing an excluded person or a person on the interactive gaming self-exclusion list from being mailed any advertisement, promotion or other target mailing no later than 5 business days after receiving notice from the Board that the person has been placed on the interactive gaming self-exclusion list.

(8) Procedures for preventing an individual under 21 years of age from receiving any advertisement, promotion or other target mailing.

(9) Procedures to prevent an individual under 21 years of age or a person on the interactive gaming self-exclusion list from having access to or from receiving complimentary services, or other like benefits.

(b) Training and training materials shall be updated annually and include current research and information on responsible and problem gambling.

(c) As part of each employee's orientation, and prior to the start of their job duties, responsible and problem gambling training for employees shall be conducted by a person with specialized knowledge, skill, training and experience in responsible gaming employee training programs as part of the employee's orientation. If an online training program is utilized, the training shall be created and maintained by a person with specialized knowledge, skill, training and experience in responsible gaming employee training programs.

(d) Employees who have received training shall be certified by the interactive gaming certificate holder or interactive gaming operator licensee under this chapter upon completion of the training.

(e) Employees are required to receive periodic reinforcement training at least once every calendar year starting with the year following the year in which the employee was hired. The date of the reinforcement training shall be recorded in each employee's personnel file.

(f) Employees shall report persons with a suspected or identified gambling disorder to a designated key employee or other supervisory employee.

(g) The identity of an individual with suspected or known problem gambling behavior must be confidential except as provided under Board regulations regarding interactive gaming self-exclusion list and section 1516(d) of the act (relating to list of persons self excluded from gaming activities).

(h) An interactive gaming certificate holder or interactive gaming operator licensee may collaborate with a person with specialized knowledge, skill, training and experience in responsible gaming employee training programs to develop an in-house or Internet-based employee training program to provide the training and reinforcement training required under this chapter.

(i) Policies or procedures, or both, that interactive gaming certificate holder or interactive gaming operator licensees may enact that are more stringent than those listed in these regulations, including stricter rules for those who sign up for a self-exclusion list.

**§ 814.5. Reports.**

(a) An interactive gaming certificate holder or interactive gaming operator licensee shall submit to the Director of the Office of Compulsive and Problem Gaming (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 all of the following:

- (1) Employee training, including all of the following:
  - (i) The dates of new hires 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.

(2) The amount spent on the Compulsive and Problem Gambling Plan for all of the following:

- (i) Employee training.
- (ii) Outreach including community training and sponsorships.
- (3) Additional information including all of the following:
  - (i) The number of underage individuals who were denied interactive gaming access.
  - (ii) The number of self-excluded individuals who were denied interactive gaming access.
  - (iii) A summary of any community outreach conducted by the certificate holder/operator licensee.

**§ 814.6. Website requirements.**

Under section 1509(c) of the act (relating to compulsive and problem gambling program), each interactive gaming certificate holder/operator licensee shall cause the words “IF YOU OR SOMEONE YOU KNOW HAS A GAMBLING PROBLEM, HELP IS AVAILABLE, CALL 1-800-GAMBLER” or comparable language approved by the Board, which must include the words “gambling problem” and “call 1-800-GAMBLER” to be prominently displayed to a person visiting or logging onto the interactive gaming

certificate holder or interactive gaming operator licensee’s interactive gaming skin or interactive gaming web site.

**CHAPTER 815. INTERACTIVE GAMING  
SELF-EXCLUDED PERSONS—TEMPORARY  
REGULATIONS**

Sec.	Scope.
815.1.	Scope.
815.2.	Definitions.
815.3.	Requests for interactive gaming self-exclusion.
815.4.	Interactive gaming self-exclusion list.
815.5.	Certificate holder and licensee duties.
815.6.	Removal from the interactive gaming self-exclusion list.
815.7.	Exceptions for individuals on the interactive gaming self-exclusion list.
815.8.	Disclosures of information related to persons on the self-exclusion list.

**§ 815.1. Scope.**

The purpose of this chapter is to provide players with a process to self-exclude from interactive gaming activities in this Commonwealth, and detail the process by which individuals may exclude themselves from interactive gaming activity and restore their ability to participate in interactive gaming activity in this Commonwealth.

**§ 815.2. Definitions.**

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

*Fully executed gaming transaction*—An activity involving interactive gaming which occurs in this Commonwealth which results in an individual obtaining any money or thing of value from, or being owed any money or thing of value by an interactive gaming certificate holder or interactive gaming operator licensee.

*Gaming activity*—The play of interactive gaming including play during contests, tournaments or promotional events.

*Gaming related activity*—An activity related to interactive gaming including applying for player club memberships or credit, cashing checks or accepting a complimentary gift, service, promotional item or other thing of value from an interactive gaming certificate holder, interactive gaming operator licensee or an affiliate thereof.

*Interactive gaming self-exclusion list*—A list of names and identifying information of persons who, under this chapter, have voluntarily agreed to be:

- (i) Excluded from engaging in interactive gaming in this Commonwealth.
- (ii) Prohibited from collecting any winnings or recovering any losses resulting from interactive gaming activity in this Commonwealth.

*Self-excluded person*—A person whose name and identifying information is included, at the person’s own request, on the self-exclusion list maintained by the Board.

*Winnings*—Any money or thing of value received from, or owed by, an interactive gaming certificate holder or interactive gaming operator licensee as a result of a fully executed gaming transaction.

**§ 815.3. Requests for interactive gaming self-exclusion.**

(a) A person requesting placement on the interactive gaming self-exclusion list shall submit electronically a completed Request for Voluntary Self-Exclusion from Interactive Gaming Only Activities Form available on the Board’s web site.

(b) A request for self-exclusion from interactive gaming must include all of the following identifying information:

- (1) Name, including any aliases or nicknames.
- (2) Date of birth.
- (3) Address of current residence.
- (4) Telephone number.
- (5) Social Security number, when voluntarily provided in accordance with section 7 of the Privacy Act of 1974 (5 U.S.C.A. § 552a).

(6) A physical description of the person that may assist in the identification of the person.

(c) The length of self-exclusion requested by a person must be one of the following:

- (1) One year (12 months).
- (2) Five years.
- (3) Lifetime.

(d) A request for self-exclusion from interactive gaming activities in this Commonwealth must include a signed release which:

- (1) Acknowledges that the request for self-exclusion has been made voluntarily.
- (2) Certifies that the information provided in the request for self-exclusion is true and accurate.
- (3) Acknowledges that the individual requesting self-exclusion is a problem gambler.
- (4) Acknowledges that self-exclusions for a 1-year or 5-year period remain in effect until the period of exclusion expires.
- (5) Acknowledges that if the individual is discovered participating in interactive gaming, that the individual's interactive gaming account will be suspended and the individual's winnings will be subject to confiscation and remittance to support compulsive and problem gambling programs.

(6) Releases, indemnifies, holds harmless and forever discharges the Commonwealth, the Board and all interactive gaming certificate holders or interactive gaming operator licensees from claims, damages, losses, expenses or liability arising out of, by reason of or relating to the self-excluded person or to any other party for any harm, monetary or otherwise, which may arise as a result of one or more of the following:

- (i) The failure of an interactive gaming certificate holder or interactive gaming operator licensee to withhold interactive gaming privileges from or restore interactive gaming privileges to a self-excluded person.
- (ii) Otherwise permitting or not permitting a self-excluded person to engage in interactive gaming activities in this Commonwealth while on the list of interactive gaming self-excluded persons.
- (iii) Confiscation of the individual's winnings.

(e) A person submitting an interactive gaming self-exclusion request shall provide a valid government-issued photo identification containing the person's signature and photograph when the person submits the request. If the request is made electronically, the individual shall present a scanned copy of a valid government-issued photo identification containing the person's signature and photograph when the person submits the request.

(f) A person requesting self-exclusion under this chapter shall upload a photo of his current valid government-issued photo identification during self-exclusion enrollment.

#### § 815.4. Interactive gaming self-exclusion list.

(a) The Board will maintain the official interactive gaming self-exclusion lists and notify each interactive gaming certificate holder and interactive gaming operator licensee of additions to or deletions from the lists within 5 business days of the verification of the information received under this chapter by first class mail or by transmitting the self-exclusion list electronically directly to each interactive gaming certificate holder and interactive gaming operator licensee.

(b) The notice provided to interactive gaming certificate holders or interactive gaming operator licensees by the Board will include all of the following information concerning a person who has been added to the interactive gaming self-exclusion list:

- (1) Name, including any aliases or nicknames.
- (2) Date of birth.
- (3) Address of current residence.
- (4) Telephone number.

(5) Social Security number, when voluntarily provided by the person requesting interactive gaming self-exclusion under section 7 of the Privacy Act of 1974 (5 U.S.C.A. § 552a).

(6) A physical description of the person that may assist in the identification of the person.

(7) A person requesting self-exclusion under this chapter shall upload a photo of his current valid government-issued photo identification during self-exclusion enrollment.

(c) The notice provided to interactive gaming certificate holders and interactive gaming operator licensees by the Board concerning a person whose name has been removed from the interactive gaming self-exclusion list will include the name and date of birth of the person.

(d) An interactive gaming certificate holder and interactive gaming operator licensee shall maintain a copy of the interactive gaming self-exclusion list and establish procedures to ensure that the copy of the interactive gaming self-exclusion list is updated and that all appropriate employees and agents of the interactive gaming certificate holder or interactive gaming operator are notified of any addition to or deletion from the list within 5 business days after the day notice is mailed to each interactive gaming certificate holder or interactive gaming operator or transmitted electronically under subsection (a).

(e) Information furnished to or obtained by the Board under this chapter will be deemed confidential and will not be disclosed except in accordance with this chapter.

(f) Interactive gaming certificate holders or interactive gaming operator licensees, employees or agents thereof may not disclose the name of, or any information about, a person who has requested self-exclusion from interactive gaming to anyone other than employees and agents of the interactive gaming certificate holder or interactive gaming operator licensee whose duties and functions require access to the information. Notwithstanding the foregoing, an interactive gaming certificate holder or interactive gaming operator licensee may disclose the identity of an interactive gaming self-excluded person to appropriate



employees of affiliated gaming entities in this or other jurisdictions for the limited purpose of assisting in the proper administration of responsible gaming programs.

(g) An interactive gaming self-excluded person may not collect in any manner or in any proceeding any winnings or recover any losses arising as a result of any interactive gaming activity for the entire period of time that the person is on the Board's interactive gaming self-exclusion lists.

(h) Winnings incurred by an interactive gaming self-excluded person shall be remitted to the Board to support compulsive and problem gambling programs of the Board.

(i) For the purposes of this section, winnings issued to, found on or about or redeemed by an interactive gaming self-excluded person's interactive gaming account shall be presumed to constitute winnings subject to remittance to the Board.

#### § 815.5. Certificate holder and licensee duties.

(a) An interactive gaming certificate holder or interactive gaming operator licensee shall train its employees and establish procedures to do all of the following:

(1) Refuse wagers from and deny gaming privileges to an interactive gaming self-excluded person.

(2) Deny gaming related activities and benefits to an interactive gaming self-excluded person.

(3) Ensure that interactive gaming self-excluded persons do not receive, either from the interactive gaming certificate holder, interactive gaming operator licensee or any agent thereof, targeted mailings, telemarketing promotions, player club materials or other promotional materials relating to interactive gaming activities.

(4) Make available to patrons materials explaining the interactive gaming self-exclusion program.

(b) An interactive gaming certificate holder or interactive gaming operator licensee shall submit a copy of its procedures and training materials established under this subsection to the Director of the Office of Compulsive and Problem Gaming (OCPG) for review and approval at least 30 days prior to initiation of interactive gaming activities on interactive gaming sites. The interactive gaming certificate holder or interactive gaming operator licensee will be notified in writing of any deficiencies in the procedures and training materials and may submit revisions to the procedures and training materials to the Director of the OCPG. An interactive gaming certificate holder or interactive gaming operator licensee may not commence operations until the Director of the OCPG approves the procedures and training.

(c) An interactive gaming certificate holder or interactive gaming operator licensee shall submit amendments to the procedures and training materials required under this subsection to the Director of the OCPG for review and approval at least 30 days prior to the intended implementation date of the amendments. The interactive gaming certificate holder or interactive gaming operator licensee may implement the amendments on the 30th calendar day following the filing of the amendments unless the interactive gaming certificate holder or interactive gaming operator licensee receives a notice under this subsection objecting to the amendments.

(d) If during the 30-day review period the Director of the OCPG determines that the amendments to the procedures and training materials may not promote the prevention of interactive gaming by self-excluded individuals or assist in the proper administration of the interactive

gaming self-exclusion program, the Director of the OCPG may, by written notice to the interactive gaming certificate holder or interactive gaming operator licensee, object to the amendments. The objection will:

(1) Specify the nature of the objection and, when possible, an acceptable alternative.

(2) Direct that the amendments not be implemented until approved by the Director of the OCPG.

(e) When the amendments to the procedures and training materials have been objected to under this subsection, the interactive gaming certificate holder or interactive gaming operator licensee may submit revised amendments in accordance with this subsection.

(f) The list of interactive gaming self-excluded persons is confidential, and any distribution of the list to an unauthorized source constitutes a violation of the act.

(g) An interactive gaming certificate holder or interactive gaming operator licensee shall report the discovery of an interactive gaming self-excluded person that did or attempt to engage in interactive gaming related activities to the Director of the OCPG within 24 hours.

#### § 815.6. Removal from the interactive gaming self-exclusion list.

(a) For individuals who are on the interactive gaming self-exclusion list for 1 year or 5 years, upon the conclusion of the period of self-exclusion, the individual will be removed from the interactive gaming self-exclusion list without further action on his part.

(b) For individuals who have elected to be interactive gaming self-excluded for less than lifetime, the individual may be removed from the interactive gaming self-exclusion list if all of the following has occurred:

(1) The individual has filed a petition with the Board's Office of Hearings and appeals requesting to be removed from the interactive gaming self-exclusion list.

(2) The individual has presented facts and circumstances which, in the Board's discretion, demonstrate a compelling reason for the Board to grant early removal from the interactive gaming self-exclusion list.

(3) The Board has found by a preponderance of the evidence that the person should be removed from the interactive gaming self-exclusion list and issues an order to that effect.

(c) For individuals who have elected to be interactive gaming self-excluded for lifetime, the individual will not be removed from the interactive gaming self-exclusion list until all of the following has occurred:

(1) At least 10 years has elapsed since the individual placed himself on the video gaming self-exclusion list for lifetime.

(2) The individual has filed a petition with the Board's Office of Hearings and appeals requesting to be removed from the interactive gaming self-exclusion list.

(3) The individual has presented facts and circumstances which, in the Board's discretion, demonstrate a compelling reason for the Board to grant early removal from the lifetime interactive gaming self-exclusion list.

(4) The Board has found by a preponderance of the evidence that the person should be removed from the interactive gaming self-exclusion list and issues an order to that effect.

**§ 815.7. Exceptions for individuals on the interactive gaming self-exclusion list.**

The prohibition against allowing interactive gaming self-excluded persons to engage in activities related to interactive gaming does not apply to an individual who is on the interactive gaming self-exclusion list if all of the following apply:

- (1) The individual is carrying out the duties of employment or incidental activities related to employment.
- (2) The individual does not otherwise engage in any interactive gaming activities.

**§ 815.8. Disclosures of information related to persons on the self-exclusion list.**

(a) The Board may periodically release to the public demographics and general information regarding the interactive gaming self-exclusion lists such as the total number of individuals on the list, gender breakdown and age range.

(b) The Board may make selected data available, upon request, for the limited purpose of assisting in the proper administration of responsible gaming programs.

(c) The Board will not disclose identifying information or confirm or deny the existence of an individual's name on the Board's interactive gaming self-exclusion lists.

**CHAPTER 818. INTERACTIVE GAMING  
COMMENCEMENT OF  
OPERATIONS—TEMPORARY REGULATIONS**

Sec.	
818.1.	Definitions.
818.2.	Commencement of operations generally.
818.3.	Interactive gaming skins.

**§ 818.1. Definitions.**

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

*Remote game server or remote game content*—Interactive gaming system hardware and software separate from that which comprises the gaming platform which allows access to games or may drive the features common to game offerings, game configurations, random number generators, reporting, and the like. The registered player initially communicates directly with the interactive gaming platform which can be integrated with one or more remote game servers or include remote game content, or both.

**§ 818.2. Commencement of operations generally.**

(a) Prior to the commencement of interactive gaming operations, an interactive gaming certificate holder or interactive gaming operator licensee shall submit all of the following:

- (1) Documentation verifying the platform and related information to include all of the following:
  - (i) Platform version number.
  - (ii) A list of all submitted games.
  - (iii) Documentation listing the entity that created the submitted games.
  - (iv) Certification that the system operates in accordance with Commonwealth law and regulations.
  - (v) A list of all critical files within the interactive gaming system.
  - (vi) A list of any remote game content providers that will work in conjunction with the submitted platform.

(2) Testing results for the platform as well as all games.

(3) Documentation that provides a detailed overview of the interactive gaming system including system architecture, encryption methods utilized, user roles and permission settings, configuration settings, and logical and physical security.

(4) Documentation that provides an overview of the random number generator which must include a method that allows for extraction of the random number generator values for statistical analysis

(5) A list of devices that will work in conjunction with the submitted platform.

(6) Details regarding the location and security standards for the primary and secondary equipment as well as data warehouses, data safes and other system related equipment.

(7) Copies of signed contracts between the interactive gaming certificate holder or interactive gaming operator licensee and any third party integrating with the submitted platform.

(8) Documentation demonstrating, to the satisfaction of Board staff, implementation of all accounting and internal controls governing all of the following:

- (i) Age and identity verification procedures.
- (ii) Geolocation compliance.
- (iii) Procedures on establishing and maintaining player accounts.
- (iv) Procedures for ensuring player confidentiality.
- (v) Procedures for ensuring accurate and timely submission of revenue and tax information to the Department.
- (vi) Procedures governing player complaints.
- (vii) Procedures for compiling and maintaining all requisite reports and logs.
- (viii) Procedures regarding player protection, including implementation of compulsive and problem gambling and self-exclusion links on the certificate holder's web site.

(b) Prior to commencement of operations, the interactive gaming certificate holder's or interactive gaming operator's employees required to be licensed or permitted by the Board shall be appropriately licensed or permitted and trained in the performance of their responsibilities.

(c) Prior to commencement of operations, the interactive gaming certificate holder or interactive gaming operator licensee shall ensure that new and existing employees of the certificate holder and interactive gaming operator licensee are regularly informed about the restrictions on placing wagers by the interactive gaming sites offered by or associated with the interactive certificate holder.

(d) Prior to commencement of operations, the interactive gaming certificate holder or interactive gaming operator licensee shall have successfully completed a test period.

(e) The Board will establish a commencement date upon which interactive gaming may commence in this Commonwealth.

(f) All interactive gaming certificate holders and interactive gaming operator licensees shall commence operations on the date established by the Board unless granted an extension by the Board, upon a showing of good cause

by the interactive gaming certificate holder or interactive gaming operator licensee, up to 12 months from that date. Failure to commence interactive gaming operations within the time directed by the Board may result in administrative sanctions up to and including revocation of the certificate or license to operate interactive gaming in this Commonwealth.

**§ 818.3. Interactive gaming skins.**

(a) Under the act, the Board may issue an interactive gaming certificate to slot machine licensees to conduct interactive gaming in this Commonwealth, directly or through an interactive gaming operator licensee acting on behalf of the interactive gaming certificate holder pursuant to the terms of an interactive gaming agreement that has been approved by the Board. For purposes of this subpart, “slot machine licensee” includes all Category 1, 2 and 3 slot machine licensees, and eligible qualified gaming entities.

(b) Under the act, the Board may authorize interactive gaming certificate holders or interactive gaming operator licensees operating an interactive gaming system on behalf of an interactive gaming certificate holder to deploy interactive gaming skins or interactive gaming web sites, including through mobile applications, to facilitate the conduct of interact gaming activities for registered players in this Commonwealth or registered players in any other state or jurisdiction which the Commonwealth has entered into an interactive gaming reciprocal agreement.

(c) Interactive gaming operator licensees are not permitted to offer interactive games in this Commonwealth independent from an interactive gaming certificate holder and the interactive gaming certificate holder’s webpage or the webpage of an entity within the interactive gaming certificate holder’s organizational structure.

(d) Interactive gaming certificate holders and interactive gaming operator licensees acting on behalf of an interactive gaming certificate holder may only offer interactive gaming in this Commonwealth through the interactive gaming certificate holder’s webpage or mobile application or the webpage or mobile application of an entity within the interactive gaming certificate holder’s organizational structure.

(e) Interactive gaming certificate holders and interactive gaming operator licensees operating an interactive gaming system on behalf of an interactive gaming certificate holder shall obtain Board approval of all interactive gaming skins operated on behalf of the interactive gaming certificate holder for purposes of conducting interactive gaming in this Commonwealth.

(f) To ensure compliance with the act:

(1) A slot machine licensee or eligible qualified gaming entity shall petition for and obtain its own interactive gaming certificate to operate interactive gaming operations in this Commonwealth.

(2) All interactive gaming webpages, web sites, skins or mobile applications must, at all times, clearly identify the interactive gaming certificate holder or an entity within the interactive gaming certificate holder’s organizational structure on the display screen visible to players.

(g) Nothing in this section is intended to prohibit interactive gaming certificate holders from entering into interactive gaming operation agreements with multiple licensed interactive gaming operators to offer interactive games the Board has authorized the interactive gaming certificate holder to conduct.

(h) Nothing in this section is intended to prohibit interactive gaming operator licensees from entering into interactive gaming operation agreements with multiple interactive gaming certificate holders to offer interactive games the Board has authorized the interactive gaming certificate holder to conduct.

(i) Nothing in this section is intended to prohibit interactive gaming certificate holders or interactive gaming operator licensees operating an interactive gaming system on behalf of an interactive gaming certificate holder from conducting interactive gaming utilizing players registered in other jurisdictions with which the Commonwealth has entered into a reciprocal agreement permitting interstate interactive gaming.

[Pa.B. Doc. No. 18-685. Filed for public inspection May 4, 2018, 9:00 a.m.]

# PROPOSED RULEMAKING

## FISH AND BOAT COMMISSION

[ 58 PA. CODE CHS. 99a AND 111 ]

### Boating; Capacity Plates; Special Regulations Counties

The Fish and Boat Commission (Commission) proposes to add Chapter 99a (relating to capacity plates) and amend Chapter 111 (relating to special regulations counties) to read as set forth in Annex A. The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code).

#### A. *Effective Date*

This proposed rulemaking, if approved on final-form rulemaking, will go into effect upon final-form publication in the *Pennsylvania Bulletin*.

#### B. *Contact Person*

For further information on this proposed rulemaking, contact Wayne Melnick, P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7827. This proposed rulemaking is available on the Commission's web site at [www.fish.state.pa.us](http://www.fish.state.pa.us).

#### C. *Statutory Authority*

The proposed addition of Chapter 99a is published under the statutory authority of section 5122 of the code (relating to registrations, licenses, permits, plates and statistics). The proposed amendments to §§ 111.3 and 111.16 (relating to Armstrong County; and Clarion County) are published under the statutory authority of section 5124 of the code (relating to particular areas of water).

#### D. *Purpose and Background*

This proposed rulemaking is designed to improve, enhance and update the Commission's boating regulations. The specific purpose of the proposed amendments is described in more detail under the summary of proposals. On December 7, 2017, the Commission's Boating Advisory Board considered the proposed amendments and recommended that the Commission approve the publication of a proposed rulemaking.

#### E. *Summary of Proposals*

(1) Prior to January 1, 2013, the Commission issued capacity plates for certain boats that were operated or offered for sale in this Commonwealth. During an audit of the Commission's Recreational Boating Safety Program in 2011, the United States Coast Guard identified this practice as a violation of Federal regulation and directed the Commission to stop issuing the plates. In response to this direction, the Commission rescinded Chapter 99. At the time, this decision was thought to be the best way to handle the issue. However, it has since been determined that the best change would have been to rescind only those sections dealing with the Commission's issuance of capacity plates and not to rescind other sections that extended the Federal standard to Commonwealth waters. Commission staff examined what other states have done regarding capacity plates and recommend that certain sections of the former regulations be reinstated.

The Commission proposes that Chapter 99a be added to read as set forth in Annex A.

(2) Keystone Lake is a 1,000-acre impoundment in Armstrong County that provides water to the Keystone Generation Station, Chief Keystone Power, LLC. The property is leased to the Commission for fishery and aquatic resource management, and recreational fishing and boating purposes. Under a prior agreement, a horsepower restriction for motorboats was set at 10 horsepower. The Commission adopted this restriction in § 111.3(b).

In March 2017, the lease agreement for this property was renewed. As part of that renewal, Chief Keystone Power requested that the 10 horsepower restriction be raised to 20 horsepower. The Commission proposes to amend § 111.3 to read as set forth in Annex A.

(3) At the September 2017 Commission meeting, Jeffrey Pfister approached the Commission on behalf of several landowners adjacent to Redbank Creek, Clarion County. The landowners are concerned about boating safety because the creek traditionally had been locally treated as a slow, no wake (SNW) zone without an official designation.

In recent years, the amount of boating traffic entering Redbank Creek from Pool 9 on the Allegheny River has increased substantially. This traffic goes above SNW even where the creek narrows to less than 200 feet across, creating a safety hazard. The landowners petitioned the Commission for Redbank Creek to be designated as a SNW zone.

The Commission's Bureau of Law Enforcement staff from the Northwest Region were tasked with exploring the issue and to offer an opinion. Upon investigation, they determined that the creek does narrow and the entrance from the river quickly becomes congested with boats. The presence of an old railroad bridge also adds to the congestion as boats have to traverse under and between the bridge abutments to navigate safely.

Allegheny Land Trust (Trust), the owner of the bridge that is now part of a rail to trails, is concerned about erosion damage to the shore line and the bridge itself due to the excessive wake in a confined area. If the proposed amendment is adopted, the Trust has agreed to allow signage to be posted on the bridge structure for the SNW zone.

The Commission proposes to amend § 111.16 to read as set forth in Annex A.

#### F. *Paperwork*

This proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

#### G. *Fiscal Impact*

This proposed rulemaking will not have adverse fiscal impacts on the Commonwealth or its political subdivisions. This proposed rulemaking will not impose new costs on the private sector or the general public.

#### H. *Public Comments*

Interested persons are invited to submit written comments, objections or suggestions about this proposed rulemaking to the Executive Director, Fish and Boat Commission, P.O. Box 67000, Harrisburg, PA 17106-7000 within 30 days after publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

JOHN A. ARWAY,
Executive Director

Fiscal Note: 48A-279. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart C. BOATING

CHAPTER 99a. CAPACITY PLATES

(Editor's Note: The following chapter is proposed to be added and printed in regular type to enhance readability.)

- Sec.
99a.1. Boats requiring capacity plates.
99a.2. Information required.
99a.3. Replacement plates.
99a.4. Prohibited acts.

§ 99a.1. Boats requiring capacity plates.

(a) A capacity plate must be permanently affixed to a monohull boat less than 20 feet in length designed to carry two or more persons and propelled by machinery or oars as its principal source of power if one of the following applies:

- (1) The boat is manufactured, transferred, sold or offered for sale in this Commonwealth.
(2) The boat is operated on waters in this Commonwealth.
(b) Sailboats, canoes, kayaks and inflatable boats are exempt from this chapter.

(c) As used in this chapter, "manufacture" means to construct or assemble a boat or alter a boat in a manner that changes its weight carrying capacity.

§ 99a.2. Information required.

The capacity plate must contain the following information:

(1) For boats designed for or represented by the manufacturer as being suitable for use with outboard motors, all of the following:

- (i) The total weight of persons, motor, gear and other articles placed aboard which the boat is capable of carrying safely under normal conditions.
(ii) The recommended number of persons consistent with the weight capacity of the boat and the presumed weight in pounds of those persons. The presumed weight per person may not be less than 150 pounds.

(iii) The maximum horsepower of the motor that the boat is designed or intended to accommodate.

(2) For other boats to which the requirement applies, all of the following:

(i) The total weight of persons, gear and other articles placed aboard which the boat is capable of carrying safely under normal conditions.

(ii) The recommended number of persons consistent with the weight capacity of the boat and the presumed weight in pounds of those persons. The presumed weight per person may not be less than 150 pounds.

§ 99a.3. Replacement plates.

If the manufacturer did not affix a plate, a plate is damaged to the point of being not discernable or a plate is removed, the owner of the boat shall make application to the manufacturer for a replacement.

§ 99a.4. Prohibited acts.

(a) A person may not tamper with or remove a capacity plate or any of the information shown.

(b) A person may not sell or otherwise transfer ownership of a boat subject to this chapter that does not comply with this chapter.

(c) A person may not operate a boat displaying an illegible capacity plate. Owners of these boats shall apply for a replacement plate as provided in § 99a.3 (relating to replacement plates).

(d) A person may not operate a boat for which a capacity plate is required unless the boat displays the capacity plate.

(e) A manufacturer, dealer or other person may not offer a boat for sale for which a capacity plate is required unless a capacity plate is properly affixed.

CHAPTER 111. SPECIAL REGULATIONS
COUNTIES

§ 111.3. Armstrong County.

\* \* \* \* \*

(b) Keystone Lake. The use of motors in excess of [ 10 ] 20 horsepower is prohibited.

\* \* \* \* \*

§ 111.16. Clarion County.

(a) Clarion River. Boats are limited to slow, no-wake speed from the mouth of McGourvey Run to the mouth of Blyson Run.

(b) Redbank Creek. Boats are limited to slow, no wake speed on the entire creek from its headwaters to its confluence with the Allegheny River.

[Pa.B. Doc. No. 18-686. Filed for public inspection May 4, 2018, 9:00 a.m.]

FISH AND BOAT COMMISSION

[ 58 PA. CODE CH. 53 ]

Commission Property

The Fish and Boat Commission (Commission) proposes to amend Chapter 53 (relating to Commission property) to read as set forth in Annex A. The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code).

A. Effective Date

This proposed rulemaking, if approved on final-form rulemaking, will go into effect upon final-form publication in the Pennsylvania Bulletin.

### B. Contact Person

For further information on this proposed rulemaking, contact Wayne Melnick, P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7827. This proposed rulemaking is available on the Commission's web site at [www.fish.state.pa.us](http://www.fish.state.pa.us).

### C. Statutory Authority

The proposed amendments to § 53.11 (relating to off-highway vehicles, snowmobiles and mobility devices) are published under the statutory authority of section 741 of the code (relating to control of property).

### D. Purpose and Background

This proposed rulemaking is designed to improve, enhance and update the Commission's property regulations. The specific purpose of the proposed amendments is described in more detail under the summary of proposal.

### E. Summary of Proposal

Section 53.11(c) currently allows persons who are exempt from the fishing license requirement under section 2709(b) of the code (relating to exemptions from license requirements) and persons who are deprived of the use of a leg or both legs in a manner that significantly limits mobility to apply for a permit to use an off-road motorized vehicle on Commission property for the purpose of gaining access to fishing or boating opportunities. A recent review of this section and the Commission's application disclosed that both are in need of updating so that they meet current requirements of the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C.A. §§ 12101—12213) and United States Department of Justice regulations implementing the requirements of the ADA. In addition, to give the Commission more flexibility in adapting to future changes in law, the Commission proposes deleting certain language from § 53.11 and relying on the application form and the conditions in the permit. The Commission also proposes housekeeping changes to subsection (a).

The Commission proposes to amend § 53.11 to read as set forth in Annex A.

### F. Paperwork

This proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

### G. Fiscal Impact

This proposed rulemaking will not have adverse fiscal impacts on the Commonwealth or its political subdivisions. This proposed rulemaking will not impose new costs on the private sector or the general public.

### H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about this proposed rulemaking to the Executive Director, Fish and Boat Commission, P.O. Box 67000, Harrisburg, PA 17106-7000 within 30 days after publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at [www.fishandboat.com/regcomments](http://www.fishandboat.com/regcomments). If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

JOHN A. ARWAY,  
Executive Director

**Fiscal Note:** 48A-280. No fiscal impact; (8) recommends adoption.

## Annex A

### TITLE 58. RECREATION

#### PART II. FISH AND BOAT COMMISSION

##### Subpart A. GENERAL PROVISIONS

#### CHAPTER 53. COMMISSION PROPERTY

§ 53.11. Off-highway vehicles [ and ], snowmobiles and mobility devices.

(a) *General rule.* Except as provided in subsection (c), the use of off-road motorized vehicles[ , **including trail bikes, Tote Gotes, all terrain vehicles (ATVs), air cushioned vehicles, track vehicles, hydrofoils and the like,** ] is prohibited on Commission-owned or -controlled property. **As used in this subsection, "off-road motorized vehicle" means a motorized vehicle specifically designed for this use. The term includes trail bikes, Tote Gotes, all-terrain vehicles, air cushioned vehicles, track vehicles and hydrofoils. The term does not include a vehicle licensed or registered for on-road use, such as a 4 by 4 sport utility vehicle, and the like.**

(b) *Snowmobiles.* It is unlawful to operate a snowmobile on Commission-owned or -controlled property except in areas designated for use by the Executive Director and so posted. The Commission will maintain a list of areas when use is permitted. In those areas where use of snowmobiles is permitted, the following conditions apply:

(1) Snowmobiles may be loaded or unloaded in Commission parking areas unless otherwise posted.

(2) Snowmobiles may be operated in parking areas only for the purpose of direct access and egress to other areas where operation is permitted. Parking areas may not be used for general snowmobile operation.

(3) The operation of snowmobiles on Commission-owned and -controlled property is at the sole risk of the operator. The Commission assumes no responsibility for the operations and makes no representations as to the suitability of trails or areas for their use.

(4) The operation of snowmobiles on frozen lakes, ponds, rivers and streams is prohibited.

(c) *Persons with disabilities.*

(1) *Motorized wheelchairs.* A person whose disability requires him to use a motorized wheelchair or similar device powered by an electric motor may use the device on Commission property. The Commission does not represent that Commission properties except those specifically marked and designated for access by persons with disabilities are suitable for this use.

[ (2) *Other motorized vehicles.* The Executive Director or a designee may permit persons exempt from the fishing license requirement under section 2709(b) of the code (relating to exemptions from license requirements) and persons who are deprived of the use of a leg or both legs in a manner that significantly limits mobility to use an off-road motorized vehicle on Commission property for the purpose of gaining access to fishing or boating opportunities under the following conditions:

(i) The person applies in writing for permission stating the nature of the disability, the description

of the vehicle and the areas for which use is proposed. The application should be sent to:

Director, Bureau of Law Enforcement  
 Pennsylvania Fish and Boat Commission  
 Post Office Box 67000  
 Harrisburg, Pennsylvania 17106-7000

The application shall include a statement from a physician or a chiropractor licensed to practice in this Commonwealth describing the disability and certifying that the applicant meets the requirements of this section.

(ii) The vehicle is operated by the person with a disability or a person identified in the application to operate the vehicle for the person with disability.

(iii) The person agrees that he will be responsible for the operation of the vehicle, the suitability of the site for the operation, and for damages caused by operation of the vehicle.

(iv) The person acknowledges that the Commission does not represent that Commission properties, except those specifically marked and designated for access by persons with disabilities, are suitable for any such use.

(d) As used in this section, the term, "off-road motorized vehicle," means a motorized vehicle specifically designed for this use. The term does not include a vehicle licensed or registered for on-road use, such as a 4 by 4 sport utility vehicle and the like. ]

(2) Other power-driven mobility devices. The Executive Director or a designee may permit persons who have a disability for which they need to use other power-driven mobility devices to use them on Commission property for the purpose of gaining access to fishing or boating opportunities under all of the following conditions:

(i) The person applies in writing for permission on the form provided by the Commission and sends the application to the Director, Bureau of Law Enforcement, Pennsylvania Fish and Boat Commission, Post Office Box 67000, Harrisburg, Pennsylvania 17106-7000.

(ii) The person who has received permission under subparagraph (i) complies with the written conditions of the permit.

(iii) For purposes of this paragraph, "other power-driven mobility devices" means any mobility device, other than a wheelchair, powered by battery, fuel or other engine that is used by persons with a mobility disability for the purpose of locomotion. The term includes golf carts and electronic personal assistance mobility devices such as a Segway or any mobility device designed to operate in areas without defined pedestrian routes, regardless of whether it is designed primarily for use by persons with a mobility disability.

[Pa.B. Doc. No. 18-687. Filed for public inspection May 4, 2018, 9:00 a.m.]

# NOTICES

## DELAWARE RIVER BASIN COMMISSION

### Public Hearing and Business Meeting

The Delaware River Basin Commission (Commission) will hold a public hearing on Wednesday, May 16, 2018. A business meeting will be held the following month on Wednesday, June 13, 2018. The hearing and business meeting are open to the public and will be held at the West Trenton Volunteer Fire Company Ballroom, 40 West Upper Ferry Road, West Trenton, NJ.

*Public hearing.* The public hearing on May 16, 2018, will begin at 1:30 p.m. Hearing items subject to the Commission's review will include draft dockets for withdrawals, discharges and other water-related projects, as well as resolutions to: (a) adopt the Commission's annual Current Expense and Capital Budgets for the Fiscal Year ending June 30, 2019 (July 1, 2018, through June 30, 2019); (b) apportion among the signatory parties the amounts required for the support of the Current Expense and Capital Budgets for the Fiscal Year ending June 30, 2019 (July 1, 2018, through June 30, 2019); (c) clarify and restate the Commission's policy for the replacement of water consumptively used by electric generating or cogenerating facilities during critical hydrologic conditions; and (d) authorize the Executive Director to enter into a contract for professional engineering services for technical evaluations and cost estimations for upgrades of wastewater treatment plants discharging to the Delaware River Estuary.

Written comments on matters scheduled for hearing on May 16, 2018, will be accepted through 5 p.m. on May 21, 2018. Time permitting, an opportunity for open public comment will be provided upon the conclusion of Commission business at the June 13, 2018, business meeting.

The public is advised to check the Commission's web site periodically prior to the hearing date, as items scheduled for hearing may be postponed if additional time is deemed necessary to complete the Commission's review, and items may be added up to 10 days prior to the hearing date. In reviewing docket descriptions, the public is also asked to be aware that project details commonly change in the course of the Commission's review, which is ongoing.

1. *Global Advanced Metals USA, Inc., D-1970-072-6.* An application to modify the approval of the applicant's existing 0.222 million gallons per day (mgd) industrial wastewater treatment plant (IWTP) and its discharge of treated industrial process water, noncontact cooling water, lagoon underdrain water, steam condensate and reverse osmosis reject water. The requested modification is to the previously approved total dissolved solids (TDS) determination, and consists of a decrease in the average monthly TDS effluent limit for Outfall No. 001 from 9,620 milligrams per liter (mg/l) to 9,270 mg/l and an increase in the average monthly TDS effluent limit for Outfall No. 002 from 750 mg/l to 1,500 mg/l. The resultant overall allowable average monthly TDS load from the combined outfalls will be reduced from 14,590 pounds per day (lbs/day) to 14,521 lbs/day. No modifications to the IWTP facilities are proposed. Treated effluent will continue to discharge to Swamp Creek at River Mile 92.47—32.3—12.9—12.6 (Delaware River—Schuylkill River—Perkiomen

men Creek—Swamp Creek) in Douglass Township, Montgomery County and Colebrookdale Township, Berks County, PA.

2. *Roamingwood Sewer and Water Association, D-1988-014 CP-3.* An application to renew the approval of the existing 1.755 mgd Roamingwood wastewater treatment plant (WWTP) and its discharge. The WWTP will continue to discharge treated effluent to Ariel Creek, upstream of Lake Wallenpaupack, at River Mile 277.7—15.8—14.2—3.5 (Delaware River—Lackawaxen River—Wallenpaupack Creek—Ariel Creek), within the drainage area of the section of the nontidal Delaware River known as the Upper Delaware, which the Commission has classified as Special Protection Waters, in Salem Township, Wayne County, PA.

3. *Northeast Land Company, D-1989-010 CP-4.* An application to renew the approval of a groundwater withdrawal (GWD) project to continue to supply up to 4.81 million gallons per month (mgm) of water from existing Wells Nos. 1 and 2 for use in the applicant's public water supply system. The wells are completed in the Catskill Formation in the Tunkhannock Creek Watershed, within the drainage area of the section of the nontidal Delaware River known as the Lower Delaware, which the Commission has classified as Special Protection Waters, in Kidder Township, Carbon County, PA.

4. *Whitemarsh Township Authority, D-1993-037 CP-5.* An application to renew the approval of the existing 2.0 mgd Whitemarsh Wastewater Pollution Control Center (WPCC) and its discharge. The WPCC will continue to discharge treated effluent to the Schuylkill River at River Mile 92.47—18.7 (Delaware River—Schuylkill River), in Whitemarsh Township, Montgomery County, PA.

5. *Commonwealth National Golf Club, D-1996-027-3.* An application to renew the approval of an existing groundwater and surface water withdrawal (SWWD) of up to 5.17 mgm to irrigate the applicant's golf course from existing Well No. CW-2 and an existing intake on a pond which is located on an unnamed tributary (UNT) of Park Creek. Well No. CW-2 is completed in the Stockton Formation. The requested allocation is not an increase from the previous allocation. The project is located in the Commission's designated Southeastern Pennsylvania Ground Water Protected Area (GWPA) in the Park Creek Watershed in Horsham Township, Montgomery County, PA.

6. *Horsham Water and Sewer Authority, D-1997-016 CP-4.* An application to renew the approval of an existing GWD of up to 86.139 mgm to supply the applicant's public water supply distribution system from 15 existing wells. The project wells are completed in the Stockton Formation. The requested allocation is not an increase from the previous allocation. The wells are located in the Commission's designated GWPA in the Pennypack Creek, Park Creek and Little Neshaminy Creek watersheds in Horsham Township, Montgomery County, PA.

7. *Macoby Run Golf Course, Inc., D-1998-007-3.* An application to renew the approval of an existing GWD of up to 3.875 mgm to irrigate the applicant's golf course from existing Well No. PW-1. Well No. PW-1 is completed in the Brunswick Formation. The requested allocation is not an increase from the previous allocation. The project is located in the Commission's designated GWPA in the Macoby Creek Watershed in Marlborough Township, Montgomery County, PA.



8. *Merck Sharp & Dohme Corporation, D-1998-014-3*. An application to renew the approval of an existing GWD of up to 46.5 mgm to supply the applicant's groundwater remediation and industrial operations from 12 existing wells. The project wells are completed in the Brunswick and Lockatong formations. The requested allocation is not an increase from the previous allocation. The project is located in the Commission's designated GWPA in the Skippack and Wissahickon Creek watersheds in Upper Gwynedd Township, Montgomery County, PA.

9. *Honey Brook Golf Club, D-1998-028-3*. An application to renew the approval of an existing GWD and SWWD of up to 10.37 mgm from existing Well No. PW1 and existing intakes in Pond No. 3 (main irrigation pond) and Pond No. 5 for golf course irrigation. The well is completed in felsic and intermediate gneiss in the West Branch Brandywine Creek Watershed in Honey Brook Township, Chester County, PA.

10. *Pennsylvania American Water Company, D-1999-029 CP-3*. An application to renew the approval of the existing 1.25 mgd Pocono Country Place WWTP and its discharge. The WWTP will continue to discharge treated effluent to Dresser Run at River Mile 183.7—84.1—24.5—1.7—0.5 (Delaware River—Lehigh River—Tobyhanna Creek—East Branch Tobyhanna Creek—Dresser Run), within the drainage area of the section of the nontidal Delaware River known as the Lower Delaware, which the Commission has classified as Special Protection Waters, in Coolbaugh Township, Monroe County, PA.

11. *East Marlborough Township, D-2000-043 CP-4*. An application to renew the approval of the existing 0.44 mgd Unionville Regional WWTP and its discharge to land. The existing WWTP will continue to discharge treated effluent to land by spray irrigation in the West Branch Red Clay Creek Watershed, in the drainage area of Water Quality Zone C5, in East Marlborough Township, Chester County, PA.

12. *Upper Uwchlan Township Municipal Authority, D-2000-055 CP-4*. An application to renew the approval of the existing 0.6 mgd Route 100 WWTP and its discharge to land by drip and spray irrigation. The WWTP will continue to discharge treated effluent to eight drip and spray irrigation areas located in the Pickering Creek and Marsh Creek watersheds, in Upper Uwchlan Township, Chester County, PA.

13. *Avondale Borough, D-2000-066 CP-3*. An application to renew the approval of the existing 0.5 mgd Avondale WWTP and its discharge. The WWTP will continue to discharge treated effluent to a UNT of East Branch White Clay Creek at River Mile 70.7—10.3—15.7—7.6—0.6 (Delaware River—Christina River—White Clay Creek—East Branch White Clay Creek—UNT East Branch White Clay Creek), in Avondale Borough, Chester County, PA.

14. *Tidewater Utilities, Inc., D-2002-004 CP-3*. An application to renew the approval of an existing export of up to 1.302 mgd of water from the Delaware River Basin (DRB) to the Atlantic Basin. The export results from the withdrawal of up to 53.791 mgm of groundwater from four existing wells in the DRB to serve the docket holder's public water system. The wastewater is conveyed to a treatment facility outside the basin. The wells are completed in the Columbia-Pocomoke and Beaverdam formations in the Canary Creek-Broadkill River Watershed in Sussex County, DE.

15. *Bear Creek Mountain Resort and Conference Center, D-2005-016-3*. An application to renew the approval of the existing Bear Creek Mountain Resort and Conference Center WWTP, its discharge to land by spray application, and reuse for snowmaking. The WWTP will continue to discharge treated effluent at a maximum daily rate of 0.035 mgd to land adjacent to Swabia Creek in the Lehigh River Watershed, within the drainage area of the section of the nontidal Delaware River known as the Lower Delaware, which the Commission has classified as Special Protection Waters, in Longswamp Township, Berks County, PA.

16. *Coolbaugh Township, D-2006-023 CP-5*. An application to renew the approval of the applicant's existing 0.052 mgd WWTP and its discharge. The WWTP will continue to discharge treated effluent to Tobyhanna Creek at River Mile 183.66—83.5—22.3 (Delaware River—Lehigh River—Tobyhanna Creek), within the drainage area of the section of the nontidal Delaware River known as the Lower Delaware, which the Commission has classified as Special Protection Waters, in Coolbaugh Township, Monroe County, PA.

17. *East Brandywine Township Municipal Authority, D-2007-043 CP-3*. An application to renew the approval to construct the new 0.0554 mgd Hillendale WWTP and its discharge to land. The WWTP will utilize a Sequencing Batch Reactor treatment process with ultraviolet (UV) disinfection, and will discharge treated effluent to land by four drip irrigation fields to be located in the Brandywine-Christina River Watershed in East Brandywine Township, Chester County, PA.

18. *Bryn Athyn Borough, D-2008-013 CP-5*. An application to renew the approval of the existing 0.065 mgd New Church WWTP and its discharge. The WWTP will continue to discharge treated effluent to a UNT of Huntingdon Valley Creek at River Mile 109.8—12.0—1.1—0.2 (Delaware River—Pennypack Creek—Huntingdon Valley Creek—UNT Huntingdon Valley Creek) in Bryn Athyn Borough, Montgomery County, PA.

19. *Tobyhanna Army Depot, D-2009-041 CP-4*. An application to renew the approval of the existing 0.802 mgd Tobyhanna Army WWTP and its discharge. The WWTP will continue to discharge treated effluent into Hummler Run at River Mile 183.7—83.5—26.4—1.8 (Delaware River—Lehigh River—Tobyhanna Creek—Hummler Run), within the drainage area of the section of the nontidal Delaware River known as the Lower Delaware, which the Commission has classified as Special Protection Waters, in Coolbaugh Township, Monroe County, PA.

20. *Pocono Waterworks Company, Inc., D-2013-009 CP-2*. An application to renew the approval of the existing 0.021 mgd Pine Grove Estates WWTP and its discharge. The WWTP will continue to discharge treated effluent to a UNT of the Delaware River at River Mile 289.5—1.8 (Delaware River—UNT Delaware River), within the drainage area of the section of the nontidal Delaware River known as the Upper Delaware, which the Commission has classified as Special Protection Waters, in Damascus Township, Wayne County, PA.

21. *SPI Pharma, D-1969-006-2*. An application to renew the approval of the applicant's existing 2.64 mgd IWTP and its discharge. The IWTP will continue to discharge treated effluent to Water Quality Zone 6 of the Delaware Bay at River Mile 0.74, in the City of Lewes, Sussex County, DE.

22. *Aqua Pennsylvania, Inc., D-1975-078 CP-5*. An application to renew the approval of an existing GWD of up to 22.28 mgm for the applicant's public water supply system from existing Wells Nos. 2—6 and a spring. The application will also renew the approval of an existing importation of 0.494 mgd of groundwater from the Susquehanna River Basin. The applicant is also requesting an increased allocation in Well No. 3 from 2.676 mgm to 3.5 mgm. The total public water supply system allocation will remain the same as the previous allocation. Wells Nos. 2—6 are completed in the Duncannon, Polar Gap and Packerton members of the Catskill Formation and are located in the Van Auken Watershed within the drainage area of the section of the main stem Delaware River known as the Upper Delaware, which the Commission has classified as Special Protection Waters, in Waymart Borough and Canaan Township, Wayne County, PA.

23. *SPI Pharma, D-1978-085-2*. An application to renew the approval of an existing GWD to supply water to the applicant's industrial facility for magnesium extraction. The renewal will also approve an increase in allocation from 18 million gallons per 30 days (mg/30 days) to 23.76 mgm from 17 existing wells. The wells are located beneath the Cape Henlopen State Park fishing pier in Delaware Bay in Water Quality Zone 6. The project is located in the Delaware Bay Watershed, City of Lewes, Sussex County, DE.

24. *Hilltown Township Water & Sewer Authority, D-1992-020 CP-4*. An application to renew the approval of an existing GWD and to increase the allocation from 16.0 mg/30 days to 21.52 mgm from existing Wells Nos. 1A, 2 and 5. Wells Nos. 1A and 2 are completed in the Brunswick Formation and Well No. 5 is completed in the Lockatong Formation. The wells are located in the Commission's designated GWPA in the Pleasant Spring Creek Watershed, Hilltown Township, Bucks County, PA.

25. *Gan Eden Estates, D-2017-002 CP-1*. An application to approve a GWD project to supply up to 4.60 mgm of water to the applicant's proposed public water supply system from new Wells Nos. TW-5, TW-6 and TW-8. The wells are completed in the Upper Walton Formation in the East Mongaup River Watershed, within the drainage area of the section of the nontidal Delaware River known as the Upper Delaware, which the Commission has classified as Special Protection Waters, in the towns of Fallsburg and Thompson, Sullivan County, NY.

26. *Camp Starlight, With You, LLC, D-2017-005-1*. An application to approve the existing 0.027 mgd Camp Starlight WWTP and its discharge. The WWTP will continue to discharge treated effluent to a UNT of Shehawken Creek at River Mile 330.5—0.5—5.0—0.3 (Delaware River—West Branch Delaware River—Shehawken Creek—UNT Shehawken Creek), within the drainage area of the section of the nontidal Delaware River known as the Upper Delaware, which is classified as Special Protection Waters, in Preston Township, Wayne County, PA.

27. *Glencrest Mobile Home Park, D-2017-007-1*. An application to approve the existing 0.035 mgd Glencrest Mobile Home Park WWTP and its discharge. The WWTP will continue to discharge treated effluent to a UNT of Coplay Creek at River Mile 183.7—21.1—12.6—0.47 (Delaware River—Lehigh River—Coplay Creek—UNT Coplay Creek), within the drainage area of the section of the nontidal Delaware River known as the Lower Dela-

ware, which the Commission has classified as Special Protection Waters, in Washington Township, Lehigh County, PA.

28. *Merion Golf Club, D-2017-013-1*. An application to approve a SWWD of up to 12.416 mgm to irrigate the docket holder's East and West golf courses from existing surface water Intakes Nos. 11 Fairway and 13 Fairway, and an impounded spring known as Intake West, which feeds into a UNT of Darby Creek. The approval will also include construction of new surface water Intake No. 10 Fairway on a UNT of Cobbs Creek to replace Intake No. 13 Fairway. The project is located in the Cobbs Creek Watershed, Haverford Township, Delaware County, PA.

*Public meeting.* The public business meeting on June 13, 2018, will begin at 10:30 a.m. and will include: adoption of the minutes of the Commission's March 14, 2018, business meeting; announcement of upcoming meetings and events; a report on hydrologic conditions; reports by the Executive Director and the Commission's General Counsel; and consideration of any items for which a hearing has been completed or is not required. The latter are expected to include resolutions: (a) authorizing the Executive Director to revise the *Administrative Manual—By-Laws, Management and Personnel*; and (b) providing for election of the Commission Chair, Vice Chair and Second Vice Chair for the year beginning July 1, 2018, and ending June 30, 2019.

After all scheduled business has been completed and as time allows, the business meeting will also include up to 1 hour of open public comment.

There will be no opportunity for additional public comment for the record at the June 13, 2018, business meeting on items for which a hearing was completed on May 16, 2018, or a previous date. Commission consideration on June 13, 2018, of items for which the public hearing is closed may result in approval of the item (by docket or resolution) as proposed, approval with changes, denial or deferral. When the Commissioners defer an action, they may announce an additional period for written comment on the item, with or without an additional hearing date, or they may take additional time to consider the input they have already received without requesting further public input. Any deferred items will be considered for action at a public meeting of the Commission on a future date.

*Advance sign-up for oral comment.* Individuals who wish to comment on the record during the public hearing on May 16, 2018, or to address the Commissioners informally during the open public comment portion of the meeting on June 13, 2018, as time allows, are asked to sign-up in advance through EventBrite. Links to EventBrite for the public hearing and the business meeting are available at drbc.net. For assistance contact Paula Schmitt at paula.schmitt@drbc.nj.gov.

*Submitting written comment.* Written comment on items scheduled for hearing may be made through SmartComment, the web-based comment system recently introduced by the Commission, a link to which is provided at drbc.net. Use of SmartComment ensures that all submissions are captured in a single location and their receipt is acknowledged. Exceptions to the use of SmartComment are available based on need, by writing to the attention of the Commission Secretary, Delaware River Basin Commission, 25 Cosey Road, West Trenton, NJ 08628-0360. For assistance in using SmartComment contact Paula Schmitt at paula.schmitt@drbc.nj.gov.

*Accommodations for special needs.* Individuals in need of an accommodation as provided for in the Americans with Disabilities Act who wish to attend the meeting or hearing should contact the Commission Secretary directly at (609) 883-9500, Ext. 203 or through the Telecommunications Relay Services (TRS) at 711, to discuss how the Commission can accommodate their needs.

*Additional information and contacts.* Additional public records relating to hearing items may be examined at the

Commission's offices by appointment by contacting Denise McHugh at (609) 883-9500, Ext. 240. For other questions concerning hearing items contact Judith Scharite, Project Review Section Assistant, at (609) 883-9500, Ext. 216.

PAMELA M. BUSH,  
Secretary

[Pa.B. Doc. No. 18-688. Filed for public inspection May 4, 2018, 9:00 a.m.]

## DEPARTMENT OF BANKING AND SECURITIES

### Actions on Applications

The Department of Banking and Securities (Department), under the authority in the Banking Code of 1965 (7 P.S. §§ 101—2204), the Department of Banking and Securities Code (71 P.S. §§ 733-1—733-1203) and 17 Pa.C.S. (relating to Credit Union Code), has taken the following actions on applications received for the week ending April 24, 2018.

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 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

#### Holding Company Acquisitions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
4-24-2018	Juniata Valley Financial Corp. Mifflintown Juniata County Application for approval to acquire 100% of Liverpool Community Bank, Liverpool.	Approved

#### Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
4-24-2018	The Juniata Valley Bank Mifflintown Juniata County Application for approval to merge Liverpool Community Bank, Liverpool, with and into The Juniata Valley Bank, Mifflintown.	Approved

### Branch Applications

#### De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
4-9-2018	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	1700 New Butler Road New Castle Lawrence County	Opened
4-19-2018	Somerset Trust Company Somerset Somerset County	161 12th Street New Florence Westmoreland County	Filed
4-20-2018	Kish Bank Belleville Mifflin County	109 East Main Street Allensville Mifflin County	Filed
4-23-2018	Orrstown Bank Shippensburg Cumberland County	500 Olde Hickory Road Lancaster Lancaster County	Approved

**Branch Relocations**

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
4-23-2018	Wayne Bank Honesdale Wayne County	<i>To:</i> 56 Stewart Avenue Roscoe Sullivan County, NY  <i>From:</i> 43 Stewart Avenue Roscoe Sullivan County, NY	Effective

**Branch Discontinuances**

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
4-24-2018	Univest Bank and Trust Co. Souderton Montgomery County	50 Penn Avenue Telford Montgomery County	Closed
4-24-2018	Univest Bank and Trust Co. Souderton Montgomery County	101 Walnut Street Green Lane Montgomery County	Closed
4-24-2018	Univest Bank and Trust Co. Souderton Montgomery County	1465-7 West Broad Street Quakertown Bucks County	Closed

**Articles of Amendment**

<i>Date</i>	<i>Name and Location of Institution</i>	<i>Action</i>
4-24-2018	Sharon Savings Bank Darby Delaware County	Effective

Articles of Amendment provide for the institution's Articles of Incorporation to be amended and restated in their entirety to change their corporate title to "Sharon Bank."

**CREDIT UNIONS**

No activity.

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

ROBIN L. WIESSMANN,  
*Secretary*

[Pa.B. Doc. No. 18-689. Filed for public inspection May 4, 2018, 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 POLLUTANT 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

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
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 &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PAS202209 (Storm Water)	Apollo Metals, LTD 1001 14th Avenue Bethlehem, PA 18018-2207	Lehigh County Bethlehem City	Unnamed Tributary to Monocacy Creek (2-C)	Yes
PA0060704 (Sewage)	Pleasant Valley Manor WWTP 4227 Manor Drive Stroudsburg, PA 18360	Monroe County Hamilton Township	McMichael Creek (01E)	Yes

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0020648— SEW	Port Royal Municipal Authority 804 8th St PO Box 236 Port Royal, PA 17082	Juniata County/ Port Royal Borough	Juniata River/12-A	Y
PA0081833— SEW	Peach Bottom Inn 6085 Delta Road Delta, PA 17413	York County/ Peach Bottom Township	Scott Creek/7-I	Y
PA0043672— IW	General Dynamics—OTS (PA) Inc. 200 East High Street Red Lion, PA 17356-0127	York County/ Red Lion Borough	Fishing Creek/7-I	Y
PA0081281— SEW	Park Acquisition, LLC (Calvary Heights MHP) 2160 Hanover Road Gettysburg, PA 17325	Adams County/ Mt. Pleasant Twp	UNT White Run/13-D	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0032603 (Sewage)	Devites MHP 2546 Ben Franklin Highway Edinburg, PA 16116-4302	Lawrence County Mahoning Township	Unnamed Tributary to Shenango River (20-A)	Yes

## 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. Telephone 484-250-5970.*

**PA0053554**, Storm Water, SIC Code 2875, **Scotts Company D.B.A. Hyponex Corporation**, 944 Newark Road, Avondale, PA 19311-1133. Facility Name: Hyponex Corporation Potting Soil Facility. This existing facility is located in New Garden Township, **Chester County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated Industrial Stormwater.

The receiving stream(s), Unnamed Tributary of West Branch Red Clay Creek, is located in State Water Plan watershed 3-I and is classified for Migratory Fishes and Trout Stocking, 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 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
4,4-DDD	XXX	XXX	XXX	XXX	Report	XXX
4,4-DDT	XXX	XXX	XXX	XXX	Report	XXX
4,4-DDE	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Outfall 001 are based on a design flow of 0 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
pH (S.U.)	XXX	XXX	Report Inst Min	XXX	XXX	Report
Dissolved Oxygen	XXX	XXX	Report Inst Min	XXX	XXX	XXX
Carbonaceous Biochemical Oxygen Demand (CBOD <sub>5</sub> )	XXX	XXX	XXX	XXX	Report	XXX
Chemical Oxygen Demand (COD)	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	XXX	Report	XXX
Nitrate-Nitrite as N	XXX	XXX	XXX	XXX	Report	XXX
Total Nitrogen	XXX	XXX	XXX	XXX	Report	XXX
Ammonia-Nitrogen	XXX	XXX	XXX	XXX	Report	XXX
Nitrate as N	XXX	XXX	XXX	XXX	Report	XXX
Total Phosphorus	XXX	XXX	XXX	XXX	Report	XXX
Aluminum, Total	XXX	XXX	XXX	XXX	Report	XXX
Arsenic, Total	XXX	XXX	XXX	XXX	Report	XXX
Chromium, Total	XXX	XXX	XXX	XXX	Report	XXX
Copper, Total	XXX	XXX	XXX	XXX	Report	XXX
Iron, Dissolved	XXX	XXX	XXX	XXX	Report	XXX
Iron, Total	XXX	XXX	XXX	XXX	Report	XXX
Lead, Total	XXX	XXX	XXX	XXX	Report	XXX
Zinc, Total	XXX	XXX	XXX	XXX	Report	XXX
Pentachlorophenol	XXX	XXX	XXX	XXX	Report	XXX

In addition, the permit contains the following major special conditions:

Proposed Part C Conditions:

- I. Stormwater outfalls and authorized non-stormwater discharges
- II. Best management practices (BMPs)
- III. Routine inspections
- IV. Preparedness, prevention, and contingency (PPC) plan
- V. Stormwater monitoring requirements
- VI. Other requirements

- A. Acquire Necessary Property Rights
- B. Sludge Disposal Requirement
- C. BAT/BCT Reopener
- D. Remedial Measures if Public Nuisance
- E. Groundwater Monitoring 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.

*Northeast Regional Office: Regional Clean Water Program Manager; 2 Public Square, Wilkes-Barre, PA 18701-1915, Telephone: 570.826.2511.*

**PA0276022**, Storm Water, SIC Code 2652, **Great Northern Corp**, 7220 Schantz Road, Allentown, PA 18106. Facility Name: Great Northern Lamination. This proposed facility is located in Upper Macungie Township, **Lehigh County**.

Description of Proposed Activity: The application is for a new NPDES permit for an exostong discharge of treated Industrial Stormwater.

The receiving stream(s), Iron Run, is located in State Water Plan watershed 2-C and is classified for High Quality—Cold Water and Migratory Fish, 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 MGD.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Average Weekly		Average Monthly	Daily Maximum	
pH (S.U.)	XXX	XXX	6.0 Daily Min	XXX	XXX	9.0
Chemical Oxygen Demand (COD)	XXX	XXX	XXX	XXX	120.0	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	100.0	XXX

The proposed effluent limits for Outfall 002 are based on a design flow of 0 MGD.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Average Weekly		Average Monthly	Daily Maximum	
pH (S.U.)	XXX	XXX	6.0 Daily Min	XXX	XXX	9.0
Chemical Oxygen Demand (COD)	XXX	XXX	XXX	XXX	120.0	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	100.0	XXX

The proposed effluent limits for Outfall 003 are based on a design flow of 0 MGD.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Average Weekly		Average Monthly	Daily Maximum	
pH (S.U.)	XXX	XXX	6.0 Daily Min	XXX	XXX	9.0
Chemical Oxygen Demand (COD)	XXX	XXX	XXX	XXX	120.0	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	100.0	XXX

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 in effect.

**PA0020168**, Sewage, SIC Code 4952, **East Stroudsburg Borough**, P.O. Box 303, East Stroudsburg, PA 18301. Facility Name: East Stroudsburg Borough WWTP. This existing facility is located in East Stroudsburg Borough, **Monroe 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, Brodhead Creek, is located in State Water Plan watershed 01E and is classified for Cold Water Fishes and Migratory Fishes (CWF, MF), 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 2.25 MGD.—Interim Limits.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Daily Maximum		Average Monthly	Daily Maximum	
Antimony, Total	Report	Report	XXX	Report	Report	XXX
Copper, Total	Report	Report	XXX	Report	Report	XXX
Lead, Total	Report	Report	XXX	Report	Report	XXX
Silver, Total	Report	Report	XXX	Report	Report	XXX
Thallium, Total	Report	Report	XXX	Report	Report	XXX

The proposed effluent limits for Outfall 001 are based on a design flow of 2.25 MGD.—Final Limits.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Daily Maximum		Average Monthly	Daily Maximum	
Antimony, Total	1.31	2.06	XXX	0.07	0.11	XXX
Copper, Total	0.70	1.10	XXX	0.03	0.05	XXX
Lead, Total	0.76	1.19	XXX	0.04	0.06	XXX
Silver, Total	0.19	0.29	XXX	0.01	0.015	XXX
Thallium, Total	0.057	0.090	XXX	0.003	0.004	XXX

The proposed effluent limits for Outfall 001 are based on a design flow of 2.25 MGD.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Daily Maximum		Average Monthly	Daily Maximum	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.5	XXX	1.6
Carbonaceous Biochemical Oxygen Demand (CBOD <sub>5</sub> )	469	751	XXX	25	40	50
Biochemical Oxygen Demand (BOD <sub>5</sub> ) Influent	Report	Report	XXX	Report	XXX	XXX
Total Suspended Solids	563	844	XXX	30	45	60
Total Suspended Solids Influent	Report	Report	XXX	Report	XXX	XXX
Fecal Coliform (CFU/100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2,000	XXX	XXX
May 1 - Sep 30	XXX	XXX	XXX	200	XXX	XXX
Nitrate-Nitrite as N	Report	XXX	XXX	Report	XXX	XXX
Total Nitrogen	Report	XXX	XXX	Report	XXX	XXX
Ammonia-Nitrogen						
May 1 - Oct 31	178	XXX	XXX	9.5	XXX	XXX
Total Kjeldahl Nitrogen	Report	XXX	XXX	Report	XXX	XXX
Total Phosphorus	Report	XXX	XXX	Report	XXX	XXX
Arsenic, Total	Report	Report	XXX	Report	Report	XXX
Selenium, Total	Report	Report	XXX	Report	Report	XXX
Zinc, Total	Report	Report	XXX	Report	Report	XXX
1,4-Dioxane	Report	Report	XXX	Report	Report	XXX
Total Dissolved Solids	XXX	XXX	XXX	Report	XXX	XXX
				Daily Max		

Sludge use and disposal description and location(s): Sludge is dewatered and hauled off-site for disposal at Keystone Landfill in Dunmore, PA.

In addition, the permit contains the following major special conditions:

- WET Testing

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.*

**PA0247782**, Storm Water, SIC Code 5015, **Value Auto Salvage**, 13058 Greenwood Road, Huntingdon, PA 16652-6030. Facility Name: Value Auto Salvage. This existing facility is located in Jackson Township, **Huntingdon County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of Stormwater Associated with Industrial Activity.



The receiving stream(s), Standing Stone Creek, is located in State Water Plan watershed 11-B and is classified for High Quality—Cold Water and Migratory Fish, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX
Aluminum, Total	XXX	XXX	XXX	XXX	Report	XXX
Iron, Total	XXX	XXX	XXX	XXX	Report	XXX
Lead, Total	XXX	XXX	XXX	XXX	Report	XXX

In addition, the permit contains the following major special conditions:

- Part C. I. Stormwater outfalls and authorized non-stormwater discharges (standard)
- Part C. II. Best Management Practices (BMPs)
  - A. Pollution Prevention and Exposure Minimization (standard)
  - B. Good Housekeeping (standard)
  - C. Erosion and Sedimentation Controls (standard)
  - D. Spill Prevention and Responses (standard)
  - E. Sector—Specific BMPs (see PAG-03 NPDES General Permit Appendix O)
- Part C III. Routine Inspections (standard)
- Part C IV. Preparedness, Prevention and Contingency (PPC) plan (standard)
- Part C V. Stormwater Monitoring Requirements (standard)
- Part C VI. Other Requirements (standard)

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 in effect.

**PA0085332**, Sewage, SIC Code 4952, **Delta Borough**, PO Box 278, Delta, PA 17314-0278. Facility Name: Delta Borough STP. This existing facility is located in Delta Borough, **York 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), Scott Creek, is located in State Water Plan watershed 7-I and is classified for Trout Stocking, 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 0.24 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Weekly Average</i>		<i>Average Monthly</i>	<i>Weekly Average</i>	
Flow (MGD)	Report	Report Daily Max	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0 Daily Min	XXX	9.0 Daily Max	XXX
Dissolved Oxygen	XXX	XXX	5.0 Daily Min	XXX	XXX	XXX
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.061	XXX	0.199
Carbonaceous Biochemical Oxygen Demand (CBOD <sub>5</sub> )	50	80	XXX	25.0	40.0	50
Biochemical Oxygen Demand (BOD <sub>5</sub> ) Raw Sewage Influent	Report	Report Daily Max	XXX	Report	XXX	XXX
Total Suspended Solids Raw Sewage Influent	Report	Report Daily Max	XXX	Report	XXX	XXX
Total Suspended Solids	60	90	XXX	30.0	45.0	60
Fecal Coliform (No./100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2,000 Geo Mean	XXX	10,000
May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	1,000
Nitrate-Nitrite as N	XXX	XXX	XXX	Report	XXX	XXX
Nitrate-Nitrite as N (Total Load, lbs) (lbs)	Report Total Mo	XXX	XXX	XXX	XXX	XXX

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Weekly Average</i>		<i>Average Monthly</i>	<i>Weekly Average</i>	
Total Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Nitrogen (Total Load, lbs)	Report	XXX	XXX	XXX	XXX	XXX
(lbs)	Total Mo					
Ammonia-Nitrogen						
Nov 1 - Apr 30	4.0	XXX	XXX	2.0	XXX	4
Ammonia-Nitrogen						
May 1 - Oct 31	12.0	XXX	XXX	6.0	XXX	12
Ammonia-Nitrogen (Total Load, lbs)	Report	XXX	XXX	XXX	XXX	XXX
(lbs)	Total Mo					
Total Kjeldahl Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Kjeldahl Nitrogen (Total	Report	XXX	XXX	XXX	XXX	XXX
Load, lbs) (lbs)	Total Mo					
Total Phosphorus	4.0	XXX	XXX	2.0	XXX	4
Total Phosphorus (Total Load, lbs)	Report	XXX	XXX	XXX	XXX	XXX
(lbs)	Total Mo					
Copper, Total	0.024	0.038	XXX	0.012	0.019	XXX
		Daily Max			Daily Max	
Zinc, Total	0.208	0.298	XXX	0.104	0.149	XXX
		Daily Max			Daily Max	

The proposed monitoring requirements and, where appropriate, effluent limits for implementation of the Chesapeake Bay Tributary Strategy are as follows for Outfall 001.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Monthly</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Monthly</i>	<i>Annual</i>		<i>Monthly Average</i>	<i>Maximum</i>	
Total Nitrogen (Total Load, lbs)	XXX	Report	XXX	XXX	XXX	XXX
(lbs)		Total Annual				
Ammonia-Nitrogen (Total Load, lbs)	XXX	Report	XXX	XXX	XXX	XXX
(lbs)		Total Annual				
Total Phosphorus (Total Load, lbs)	XXX	Report	XXX	XXX	XXX	XXX
(lbs)		Total Annual				

Sludge use and disposal description and location(s): The sludge is hauled to Sod Run Wastewater Treatment Plant in Harford County, Maryland.

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 in effect.

**PA0085332**, Sewage, SIC Code 4952, **Delta Borough**, PO Box 278, Delta, PA 17314-0278. Facility Name: Delta Borough STP. This existing facility is located in Delta Borough, **York 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), Scott Creek, is located in State Water Plan watershed 7-I and is classified for Trout Stocking, 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 0.24 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Weekly Average</i>		<i>Average Monthly</i>	<i>Weekly Average</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
		Daily Max				
pH (S.U.)	XXX	XXX	6.0	XXX	9.0	XXX
			Daily Min		Daily Max	
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
			Daily Min			
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.061	XXX	0.199
Carbonaceous Biochemical Oxygen	50	80	XXX	25.0	40.0	50
Demand (CBOD <sub>5</sub> )						
Biochemical Oxygen Demand	Report	Report	XXX	Report	XXX	XXX
(BOD <sub>5</sub> ) Raw Sewage Influent		Daily Max				
Total Suspended Solids Raw	Report	Report	XXX	Report	XXX	XXX
Sewage Influent		Daily Max				
Total Suspended Solids	60	90	XXX	30.0	45.0	60

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Weekly Average		Average Monthly	Weekly Average	
Fecal Coliform (No./100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2,000	XXX	10,000
May 1 - Sep 30	XXX	XXX	XXX	Geo Mean 200	XXX	1,000
Nitrate-Nitrite as N	XXX	XXX	XXX	Report	XXX	XXX
Nitrate-Nitrite as N (Total Load, lbs)	Report	XXX	XXX	XXX	XXX	XXX
Total Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Nitrogen (Total Load, lbs)	Report	XXX	XXX	XXX	XXX	XXX
Ammonia-Nitrogen						
Nov 1 - Apr 30	4.0	XXX	XXX	2.0	XXX	4
May 1 - Oct 31	12.0	XXX	XXX	6.0	XXX	12
Ammonia-Nitrogen (Total Load, lbs)	Report	XXX	XXX	XXX	XXX	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Kjeldahl Nitrogen (Total Load, lbs)	Report	XXX	XXX	XXX	XXX	XXX
Total Phosphorus	4.0	XXX	XXX	2.0	XXX	4
Total Phosphorus (Total Load, lbs)	Report	XXX	XXX	XXX	XXX	XXX
Copper, Total	0.024	0.038	XXX	0.012	0.019	XXX
Zinc, Total	0.208	Daily Max 0.298	XXX	0.104	Daily Max 0.149	XXX
		Daily Max			Daily Max	

The proposed monitoring requirements and, where appropriate, effluent limits for implementation of the Chesapeake Bay Tributary Strategy are as follows for Outfall 001.—Limits.

Parameters	Mass Units (lbs/day)		Monthly	Concentrations (mg/L)		Instant. Maximum
	Monthly	Annual		Monthly Average	Maximum	
Total Nitrogen (Total Load, lbs)	XXX	Report	XXX	XXX	XXX	XXX
Ammonia-Nitrogen (Total Load, lbs)	XXX	Total Annual	XXX	XXX	XXX	XXX
Total Phosphorus (Total Load, lbs)	XXX	Report	XXX	XXX	XXX	XXX
		Total Annual				

Sludge use and disposal description and location(s): The sludge is hauled to Sod Run Wastewater Treatment Plant in Harford County, Maryland.

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 in effect.

Southwest Regional Office: Regional Clean Water Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Telephone: 412.442.4000.

**PA0027464**, Sewage, **Pleasant Hills Authority Allegheny County**, 610 Old Clairton Road, Pittsburgh, PA 15236. Facility Name: Pleasant Hills Authority STP. This existing facility is located in South Park Township, **Allegheny 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), Lick Run, is located in State Water Plan watershed 19-C and is classified for Trout Stocking, 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 5 MGD.—Limits.

Parameters	Mass Units (lbs/day)		Daily Minimum	Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Weekly Average		Average Monthly	Weekly Average	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	Daily Max XXX	6.0	XXX	XXX	9.0
			Inst Max			

Parameters	Mass Units (lbs/day)		Daily Minimum	Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Weekly Average		Average Monthly	Weekly Average	
Dissolved Oxygen	XXX	XXX	6.0 Inst Max	XXX	XXX	XXX
Carbonaceous Biochemical Oxygen Demand (CBOD <sub>5</sub> )						
Nov 1 - Apr 30	1,042.5	1,584.6	XXX	25.0	38.0	50
May 1 - Oct 31	834.0	1,251.0	XXX	20.0	30.0	40
Biochemical Oxygen Demand (BOD <sub>5</sub> ) Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
Total Suspended Solids Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
Total Suspended Solids Fecal Coliform (No./100 ml)	1,251.0	1,876.5	XXX	30.0	45.0	60
Oct 1 - Apr 30	XXX	XXX	XXX	2,000	XXX	10,000
May 1 - Sep 30	XXX	XXX	XXX	200	XXX	1,000
Ultraviolet light dosage (mjoules/cm <sup>2</sup> )	XXX	XXX	Report	Geo Mean Report	XXX	XXX
Ammonia-Nitrogen						
Nov 1 - Apr 30	104.3	158.5	XXX	2.5	3.8	5
May 1 - Oct 31	62.6	95.9	XXX	1.5	2.3	3
Total Nitrogen	XXX	XXX	XXX	Report Avg Qrtly	XXX	XXX
Total Phosphorus	XXX	XXX	XXX	Report Avg Qrtly	XXX	XXX
Aluminum, Total	XXX	XXX	XXX	XXX	Report Daily Max	XXX
Iron, Total	XXX	XXX	XXX	XXX	Report Daily Max	XXX
Manganese, Total	XXX	XXX	XXX	XXX	Report Daily Max	XXX

Sludge is dewatered and hauled off-site for disposal at Allied Waste Imperial Landfill.

The EPA Waiver is not in effect.

---

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

**PA0265802**, Sewage, SIC Code 8800, **Jeffrey D. Williams**, 510 Petroleum Street, Titusville, PA 16354. Facility Name: Jeffrey Williams SRSTP. This proposed facility is located in Centerville Borough, **Crawford County**.

Description of Proposed Activity: The application is for a new NPDES permit for a new discharge of treated SRSTP Sewage.

The receiving stream(s), East Branch Oil Creek, is located in State Water Plan watershed 16-E and is classified for Cold Water 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 0.0004 MGD.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Average Weekly		Annual Average	Maximum	
Flow (MGD)	Report Annl Avg	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0 Daily Min	XXX	9.0 Daily Max	XXX
Biochemical Oxygen Demand (BOD <sub>5</sub> )	XXX	XXX	XXX	10.0	XXX	20
Total Suspended Solids	XXX	XXX	XXX	10.0	XXX	20
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200	XXX	1,000

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 814-332-6340.

The EPA Waiver is in effect.

**PA0271373**, Sewage, SIC Code 8800, **Brian & Jennifer Mills**, 2282 Happy Valley Road, East Springfield, PA 16411-9774. Facility Name: Brian & Jennifer Mills SRSTP. This proposed facility is located in Springfield Township, **Erie County**.

Description of Proposed Activity: The application is for a new NPDES permit for a new discharge of treated SRSTP Sewage.

The receiving stream, an Unnamed Tributary to Lake Erie, is located in State Water Plan watershed 15-A 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 0.0004 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>		<i>Annual Average</i>	<i>Maximum</i>	
Flow (MGD)	Report Annl Avg	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0 Inst Min	XXX	XXX	9.0
Biochemical Oxygen Demand (BOD <sub>5</sub> )	XXX	XXX	XXX	10.0	XXX	20.0
Total Suspended Solids	XXX	XXX	XXX	10.0	XXX	20.0
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200	XXX	XXX

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 814-332-6340.

The EPA Waiver is in effect.

**PA0265837**, Sewage, SIC Code 8800, **Barbara Hajel**, PO Box 169, Knox, PA 16232. Facility Name: Barbara Hajel SFTF. This proposed facility is located in Elk Township, **Clarion County**.

Description of Proposed Activity: The application is for a new NPDES permit for a new discharge of treated SFTF Sewage.

The receiving stream, an Unnamed Tributary to the Canoe Creek, is located in State Water Plan watershed 17-B and is classified for High Quality Waters—Cold Water 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 0.00075 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>		<i>Annual Average</i>	<i>Maximum</i>	
Flow (MGD)	Report Annl Avg	XXX	XXX	XXX	XXX	XXX
Biochemical Oxygen Demand (BOD <sub>5</sub> )	XXX	XXX	XXX	10.0	XXX	20.0
Total Suspended Solids	XXX	XXX	XXX	10.0	XXX	20.0
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200	XXX	XXX
pH (S.U.)	XXX	XXX	6.0 Inst Min	XXX	XXX	9.0

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 814-332-6340.

The EPA Waiver is in effect.

**PA0271454**, Sewage, SIC Code 8800, **Ellsworth McKnight**, 2930 Club House Road, Lakeland, FL 33812. Facility Name: Ellsworth McKnight SRSTP. This proposed facility is located 6365 West Stancliff Road, Edinboro, PA 16412 in Franklin Township, **Erie County**.

Description of Proposed Activity: The application is for a new NPDES permit for a new discharge of treated SRSTP Sewage.

The receiving stream(s), Unnamed Tributary to Porter Run, is located in State Water Plan watershed 15-A 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 0.0004 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>		<i>Annual Average</i>	<i>Maximum</i>	
Flow (GPD)	Report Annl Avg	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0 Inst Min	XXX	XXX	9.0
Biochemical Oxygen Demand (BOD <sub>5</sub> )	XXX	XXX	XXX	10.0	XXX	20
Total Suspended Solids	XXX	XXX	XXX	10.0	XXX	20
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200	XXX	XXX

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 814-332-6340.

The EPA Waiver is in effect.

**PA0265705**, Sewage, SIC Code 8800, **James Braun**, 1450 Fisherman's Cove Road, Polk, PA 16342. Facility Name: James Braun SRSTP. This proposed facility is located in Victory Township, **Venango County**.

Description of Proposed Activity: The application is for a new NPDES permit for a new discharge of treated SRSTP Sewage.

The receiving stream, the Allegheny River, is located in State Water Plan watershed 16-G and is classified for Warm Water 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 0.0004 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>		<i>Annual Average</i>	<i>Maximum</i>	
Flow (MGD)	Report Annl Avg	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0 Inst Min	XXX	XXX	9.0
Biochemical Oxygen Demand (BOD <sub>5</sub> )	XXX	XXX	XXX	10.0	XXX	20.0
Total Suspended Solids	XXX	XXX	XXX	10.0	XXX	20.0
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200	XXX	XXX

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 814-332-6340.

The EPA Waiver is in effect.

**PA0265756**, Sewage, SIC Code 8800, **Daniel Boisvert**, 3556 Follett Run Road, Warren, PA 16365. Facility Name: Daniel Boisvert SRSTP. This proposed facility is located in Conewango Township, **Warren County**.

Description of Proposed Activity: The application is for a new NPDES permit for a new discharge of treated SRSTP Sewage.

The receiving stream, an Unnamed Tributary to the Jackson Run, is located in State Water Plan watershed 16-B and is classified for Cold Water 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 0.0004 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>		<i>Annual Average</i>	<i>Maximum</i>	
Flow (MGD)	Report Annl Avg	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0 Inst Min	XXX	XXX	9.0
Biochemical Oxygen Demand (BOD <sub>5</sub> )	XXX	XXX	XXX	10.0	XXX	20.0
Total Suspended Solids	XXX	XXX	XXX	10.0	XXX	20.0
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200	XXX	XXX

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 814-332-6340.

The EPA Waiver is in effect.

---

**III. WQM Industrial Waste and Sewerage Applications under The Clean Streams Law.**

---

*Northeast Region: Clean Water Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915. Phone: 570-826-2511.*

**WQM Permit No. 4817402**, Sewage, **SPG Inc. DBA Whispering Hollow South Mobile Home Park (MHP)**, 139 Country Club Road, Northampton, PA 18067-3028.

This proposed facility is located in Allen Township, **Northampton County**.

Description of Proposed Action/Activity: New Equalization Tank and Aerated Sludge Holding Tank/Aerobic Digester at existing MHP Sewage Treatment Plant.

**WQM Permit No. 6690402A-1**, Sewage, **Saddleview Sewer, LLC**, 301 Shore Drive, Tunkhannock, PA 18657.

This existing facility is located in Tunkhannock Township, **Wyoming County**.

Description of Proposed Action/Activity: The new permittee submitted WQM permit amendment and transfer applications for the purpose of correctly identifying the current owner and documenting changes made to the WWTP. New upgrades will also be made to the WWTP.

The WWTP was permitted to have a capacity of 78,750 gpd and was designed to be constructed in two phases using two separate treatment trains, with each treatment train having a rated capacity of 39,375 gpd. To date, only one treatment train has been installed.

The proposed project is to upgrade the disinfection process to ultraviolet radiation. The facility currently utilizes Sodium Hypochlorite for disinfection and then Sodium Bisulfate to remove excess chlorine. Chemical disinfection would remain on site to serve as a backup in the event the UV system is off-line.

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

**NPDES Permit No. 0118402**, Sewerage, **Gettysburg Battlefield Resort**, 1960 Emmitsburg Road, Gettysburg, PA 17325. This proposed facility is located in Cumberland Township, **Adams County**.

Description of Proposed Action/Activity: Seeking permit approval for the construction/operation; replacement of existing sanitary on-lot system with new 30,000 GPD wastewater treatment facility.

**NPDES Permit No. 6718402**, Sewerage, **York Township, York County**, 19 Oak Road, Dallastown, PA 17313.

This proposed facility is located in Spring Garden Township, **York County**.

Description of Proposed Action/Activity: Seeking permit approval for the construction/operation of the Tyler Run Interceptor Upgrade (Country Club Road Crossing).

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

**WQM Permit No. 2518409**, Sewage, **Ellsworth McKnight**, 2930 Club House Road, Lakeland, FL 33812.

This proposed facility is located in Franklin Township, **Erie County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

**WQM Permit No. 1618403**, Sewage, **Bradley Mauersburg**, 132 Glo Min Drive, Pittsburgh, PA 15241.

This proposed facility is located in Clarion Borough, **Clarion County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

**WQM Permit No. 1018405**, Sewage, **Connoquenessing Borough Butler County**, PO Box 471, Connoquenessing, PA 16027-0471.

This proposed facility is located in Connoquenessing Borough, **Butler County**.

Description of Proposed Action/Activity: Construction of pump station and sewer system to serve Leslie Farms development.

**WQM Permit No. 4218402**, Sewage, **Keating Township Mckean County**, PO Box 103, East Smethport, PA 16730-0103.

This proposed facility is located in Keating Township, **McKean County**.

Description of Proposed Action/Activity: Collection system and pump stations.

**WQM Permit No. WQG02101801**, Sewage, **Western Butler County Authority**, 607 Market Street, Zelienople, PA 16063-1830.

This proposed facility is located in Zelienople Borough, **Butler County**.

Description of Proposed Action/Activity: Sanitary sewer extension to serve the Villas at Spring Valley development.

---

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


---

*Southeast Region: Waterways & Wetlands Program Manager, 2 East Main Street, Norristown, PA 19401. Telephone 484-250-5160.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD460025	Horsham Water & Sewer Authority 617 Horsham Road Horsham, PA 19044	Montgomery	Horsham Township	Park Creek WWF-MF Unnamed Tributary to Pennypack Creek TSF-MF
PAD150066	Landhope Realty Company 101 East Street Road Kennett Square, PA 19348	Chester	Lower Oxford Township	Unnamed Tributary to West Branch Big Elk Creek HQ-TSF-MF
PAD150073	Gunner Properties, Ltd. 2 Lindbergh Boulevard Hangar 5B Coatesville, PA 19320	Chester	Upper Uwchlan Township	Unnamed Tributary to Pickering Creek HQ-TSF

*Northeast Region: Waterways and Wetlands Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.*

*Lehigh County Conservation District, 4184 Dorney Park Road, Suite 105, Allentown, PA 18401.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD390079	Robyn Realty Co 3906 Mtn View Dr Danielsville, PA 18038	Lehigh	Lowgill Twp	UNT to Jordan Creek (HQ-CWF, MF)

*Monroe County Conservation District, 8050 Running Valley Road, Stroudsburg, PA 18347.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD450055	PPL Electri Util. Corp 2 N 9th St Allentown, PA 18101-1139	Monroe	Polk Twp Eldred Twp	UNT to Pohopoco Creek 1,2 (CWF, MF) Pohopoco Creek (HQ-CWF, MF) UNT Princess Run (CWF, MF) Chapple Creek (CWF, MF) UNT Chapple Creek 1,2,3 (CWF, MF) Buckwa Creek (CWF, MF) Aquashicola Creek (HQ-CWF, MF)
PAD450044	Brodhead Creek Regional Authority 410 Mill Creek Rd East Stroudsburg, PA 18301	Monroe	Paradise Twp Pocono Twp	Swiftwater Creek (HQ-CWF, MF)
PAD450038	Exeter Blakesless Lot 100 Land, LLC Exeter Blakeslee Lot 110 Land, LLC 101 W Elm St Ste 600 Conshohocken, PA 19428	Monroe	Tobyhanna Twp	Tobyhanna Creek (HQ-CWF, MF) Goose Run (HQ-CWF, MF)

*Southwest Region: Waterways & Wetlands Program, 400 Waterfront Drive, Pittsburgh, PA 15222, Dana Drake, Waterways and Wetlands Program Manager, 412-442-4000.*

<i>Permit No.</i>	<i>Applicant &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Stream Name</i>
PAD300006	Alfred Burns P.O. Box 41 Wind Ridge, PA 15380	Greene County	Gray Township	Grays Fork (HQ-WWF)



*Northwest Region: Waterways and Wetlands Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

*Butler County Conservation District, 122 McCune Drive, Butler, PA 16001, 724-284-5270.*

*Mercer County Conservation District, 747 Greenville Road, Mercer, PA 16137, 724-662-2242.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD100005	Maronda Homes Inc Ronald Wolf 11 Timberglen Drive Imperil, PA 15126	Butler	Buffalo Township	UNT to Sarver Run HQ, TSF
PAD430001 (Major Modification)	Greenville-Reynolds Development Corp 301 Arlington Drive Greenville, PA 16125	Mercer	Pymatuning Township	Shenango River WWF

---

#### **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. Telephone: 717-705-4707.*

**NPDES Permit No. PAG123747, CAFO, Rudolph Jason R,** 2129 Grace Avenue, Lebanon, PA 17046-8027.

This existing facility is located in Swatara Township, **Lebanon County**.

Description of size and scope of existing operation/activity: Poultry (Pullets): 181.1 AEUs.

The receiving stream, Unnamed Tributary of Swatara Creek, is in watershed 7-D and classified for: Migratory Fishes and Warm Water 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.

**NPDES Permit No. PA0266761, CAFO, Metzler J Douglas,** 81 Douts Hill Rd, Pequea, PA 17565.

This proposed facility is located in Martic Township, **Lancaster County**.

Description of size and scope of proposed operation/activity: Poultry (Layers, Roosters): 412.14 AEUs.

The receiving stream, Tucquan Creek, is in watershed 7-K and classified for: High Quality—Cold Water and Migratory Fish.

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.

**NPDES Permit No. PAG123752 A-1, CAFO, Shelmar Acres LLC,** 580 Colebrook Road, Mount Joy, PA 17552-9776.

This existing facility is located in East Donegal Township, **Lancaster County**.

Description of size and scope of existing operation/activity: Swine (Grow—Finish), Dairy (Heifers), Ponies: 1,476.6 AEUs.

The receiving stream, Unnamed Tributary to Donegal Creek, is in watershed 7-G and classified for: Migratory Fishes and Trout Stocking.

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.

**ACT 38**  
**NUTRIENT MANAGEMENT PLANS**  
**CAFO PUBLIC NOTICE SPREADSHEET—APPLICATIONS**

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>AEU's</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>New or Renewal</i>
Junk-Inn Farms, LLC 14492 Path Valley Road Willow Hill, PA 17271	Franklin	444	1,717.14	Swine, Turkey and Sheep	NA	Renewal
Michael Wilt 1408 Pointer Road Everett, PA 15537	Bedford	757.9	1,630.71	Swine	NA	New
Green Valley Swine LLC Location address: 2266 Junction Rd Seven Valleys, PA 17360 Mailing address: 6 South Broad St Suite 2 Lititz, PA 17543	York	256.6	2,144.49	Swine	NA	Renewal

**PUBLIC WATER SUPPLY (PWS)**  
**PERMITS**

Under the Pennsylvania Safe Drinking Water Act (35 P.S. §§ 721.1—721.17), the following parties have applied for PWS permits to construct or substantially modify public water systems.

Persons wishing to comment on permit applications are invited to submit statements to the office listed before the application within 30 days of this public notice. Comments received within this 30-day comment period will be considered in the formulation of the final determinations regarding an application. A comment 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. A public hearing may be held after consideration of comments received during the 30-day public comment period.

Following the comment period, the Department will make a final determination regarding the proposed permit. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The permit application and related documents are on file at the office listed before the application and available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability that require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

## SAFE DRINKING WATER

**Applications Received Under the Pennsylvania Safe Drinking Water Act.**

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

**Permit No. 1518505**, Public Water Supply.

Applicant **Aqua Pennsylvania, Inc.**  
762 West Lancaster Avenue  
Bryn Mawr, PA 19010

Township Upper Uwchlan

County **Chester**

Responsible Official Curt Steffy  
Vice President-Production  
762 West Lancaster Avenue  
Bryn Mawr, PA 19010

Type of Facility PWS

Consulting Engineer Margo Weigner, P.E.  
GHD, Inc.  
1240 North Mountain Road  
Harrisburg, PA 17112

Application Received Date April 9, 2018

Description of Action Application for installing ammonia feed equipment at the Milford Well Station.

**Permit No. 1518506**, Public Water Supply.

Applicant **Aqua Pennsylvania, Inc.**  
762 West Lancaster Avenue  
Bryn Mawr, PA 19010

Township Upper Uwchlan

County **Chester**

Responsible Official Curt Steffy  
Vice President-Production  
762 West Lancaster Avenue  
Bryn Mawr, PA 19010

Type of Facility PWS

Consulting Engineer Margo Weigner, P.E.  
GHD, Inc.  
1240 North Mountain Road  
Harrisburg, PA 17112

Application Received Date April 9, 2018

Description of Action Application for installing ammonia feed equipment at Saybrooke Well Station.

**Permit No. 1518511**, Public Water Supply.

Applicant **Aqua Pennsylvania, Inc.**  
762 West Lancaster Avenue  
Bryn Mawr, PA 19010

Township Upper Uwchlan

County **Chester**

Responsible Official Curt Steffy  
Vice President-Production  
762 West Lancaster Avenue  
Bryn Mawr, PA 19010

Type of Facility PWS

Consulting Engineer Margo Weigner, P.E.  
GHD, Inc.  
1240 North Mountain Road  
Harrisburg, PA 17112

Application Received Date April 9, 2018

Description of Action Application for installing ammonia feed equipment at the Stonehedge Well Station.

*Northeast Region: Safe Drinking Water Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.*

**Application No. 4018506**, Public Water Supply.

Applicant **Aqua PA, Inc.**  
1 Aqua Way  
White Haven, PA 18661

[Township or Borough] Butler Township  
**Luzerne County**

Responsible Official Patrick R. Burke  
Aqua PA, Inc.  
204 E. Sunbury Street  
Shamokin, PA 17872

Type of Facility PWS

Consulting Engineer David R. Knapton, PE  
GHD  
1240 North Mountain Road  
Harrisburg, PA 17112  
(717) 541-0622

Application Received Date 04/19/2018

Description of Action Construction of a new booster pump station.

*Northcentral Region: Safe Drinking Water Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.*

**Application No. 5318501—Construction—Public Water Supply.**

Applicant **Genesee Township Municipal Authority**

Township/Borough Genesee Township

County **Potter County**

Responsible Official Mr. Donald Reed Jr.  
P.O. Box 3  
Genesee, PA 16923

Type of Facility Public Water Supply-Construction

Consulting Engineer Mr. Timothy K. Steed  
Hunt Engineers, Architects &  
Land Surveyors, PC  
1 Elizabeth St.  
Suite 12  
Towanda, PA 18848

Application Received Date 04/18/18

Description of Action Authorizes the installation of a new well, interconnection of new well, integration with new storage tank, and other improvements.

---

**MINOR AMENDMENT**


---

**Applications Received Under the Pennsylvania Safe Drinking Water Act.**


---

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

**Application No. 0418516MA, Minor Amendment.**

Applicant **Beaver Falls Municipal Authority**  
1425 8th Avenue  
Beaver Falls, PA 15010

[Township or Borough] Eastvale Borough

Responsible Official Tracy Price, Production Manager  
Beaver Falls Municipal Authority  
1425 8th Avenue  
Beaver Falls, PA 15010

Type of Facility Water system

Consulting Engineer Entech Engineering  
400 Rouser Road  
Building 2, Suite 200  
Coraopolis, PA 15108

Application Received Date April 10, 2018

Description of Action Replacement of the filter media.

**Application No. 5617501MA-1, Minor Amendment.**

Applicant **Windber Area Authority**  
1700 Stockholm Avenue  
Windber, PA 15963

[Township or Borough] Paint Township

Responsible Official Barry Jerley, Chairman  
Windber Area Authority  
1700 Stockholm Avenue  
Windber, PA 15963

Type of Facility Water system

Consulting Engineer The EADS Group, Inc.  
450 Aberdeen Drive  
Somerset, PA 15501

Application Received Date April 16, 2018

Description of Action Installation of approximately 2,485 feet of 10-inch diameter waterline (Seanor Road waterline project).

**Application No. 1118501MA, Minor Amendment.**

Applicant **Glendale Valley Municipal Authority**  
1800 Beaver Valley Road  
Flinton, PA 16640

[Township or Borough] White Township

Responsible Official Richard Gates, Chairman  
Glendale Valley Municipal Authority  
1800 Beaver Valley Road  
Flinton, PA 16640

Type of Facility Water system

Consulting Engineer Keller Engineers, Inc.  
420 Allegheny Street  
Hollidaysburg, PA 16648

Application Received Date April 16, 2018

Description of Action Installation of approximately 1,000 feet of 8-inch diameter waterline (Church Hill waterline project)

**Application No. 0318501MA, Minor Amendment.**

Applicant **Kittanning-Plumcreek Water Authority**  
274 Schall Road  
Kittanning, PA 16201

[Township or Borough] Kittanning Township

Responsible Official Robert J. Kozicki, Chairman  
Kittanning-Plumcreek Water Authority  
274 Schall Road  
Kittanning, PA 16201

Type of Facility Water system

Consulting Engineer Bankson Engineers, Inc.  
267 Blue Run Road  
Suite 200  
Cheswick, PA 15024

Application Received Date April 19, 2018

Description of Action Installation of approximately 4,610 feet of 8-inch diameter waterline (SR 0422, Section 19A waterline project).

---

**LAND RECYCLING AND ENVIRONMENTAL REMEDIATION**  
**UNDER ACT 2, 1995**  
**PREAMBLE 1**

---

**Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P.S. §§ 6026.101—6026.907).**

---

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)(i) 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 Pennsylvania AT&T Relay Service at (800) 654-5984.

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

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

**Home Comfort Mechanical**, 149 West Third Avenue, Borough of Conshohocken, **Montgomery County**. Richard D. Trimpi, Trimpi Associates Inc., 1635 Old Plains Road, Pennsburg, PA 18073 on behalf of Erin Bydalek, Nationwide Indemnity, P.O. Box 371, Valley Forge, PA 19481 submitted a Notice of Intent to Remediate. A release of petroleum occurred at the site with impacts to site soil. The current use and proposed future use of the property is residential. The Notice of Intent to Remediate was published in the *Ambler Gazette* on January 14, 2018.

**1315 Grant Avenue**, 1315 Grant Avenue, Ridley Township, **Delaware County**. Michael Gonshor, P.G., Roux Associates, Inc., 402 Heron Drive, Logan Township, NJ 08085 on behalf of Charles J. Catania, Jr., Catania Engineering Associates, Inc., 520 West MacDade Boulevard, Milmont Park, PA 19033 submitted a Notice of Intent to Remediate. The site has been found to be contaminated with gasoline related constituents resulting from former site operations. The release has contaminated overburden groundwater on the site. The proposed future use of this site will remain residential. The Notice of Intent to Remediate was published in the *Delaware County Times* on March 5, 2018.

**Center Square Golf Club Property**, 2620 Skipack Pike, Worcester Township, **Montgomery County**. Terence A. O'Reilly, PG, Tri State Environmental Management Services Inc., 368 Dunksferry Road, Bensalem, PA 19020 on behalf of Michael A. Downs, PE, Toll-Mid-Atlantic LP Company, Inc., 250 Gibraltar Road, Horsham, PA 19044 submitted a Notice of Intent to Remediate. Soil at the site has been found to be impacted by organic pesticides and metals as a result of historic pesticide usage. The Notice of Intent to Remediate was published in the *Times Herald* on March 2, 2018.

**75 North York Road**, 75 North York Road, Upper Moreland Township, **Montgomery County**. Richard S.

Werner, Environmental Consulting, Inc., 2002 Renaissance Boulevard, Suite 110, King of Prussia, PA 19406 on behalf of Peter Polt, JERC Partners XXXIX, LLC, 171 State Route 173, Suite 201, Asbury, NJ 08802 submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of no. 2 heating oil. The intended future use of the subject property is residential. The Notice of Intent to Remediate was published in the *Willow Grove Guide* on March 25, 2018.

**Sears Logistics Services Terminal Freight**, 3820 North 2nd Street, City of Philadelphia, **Philadelphia County**. William F. Schmidt, PE, The Vertex Companies, Inc., 700 Turner Way, Suite 105, Aston, PA 19014 submitted a Notice of Intent to Remediate. Site soil was found to be contaminated with no. 2 fuel oil. Groundwater was found to be contaminated with MTBE. The Notice of Intent to Remediate states that the site formerly operated as Logistics Services Terminal Freight Handling Facility. The Notice of Intent to Remediate was published in the *Philadelphia Metro* on November 14, 2017.

**West Bridge Street**, 32 West Bridge Street, Morrisville Borough, **Bucks County**. John Mateo, Resource Control Consultants, 10 Lippincott Lane, Unit 1, Mount Holly, NJ 08060 on behalf of Robert White, Redevelopment Authority of the County of Bucks, 216 Pond Street, Bristol, PA 19007 submitted a Notice of Intent to Remediate. The site has been found to have elevated concentrations of organic and inorganic compounds associated with the former operations at the site, which are suspected to have impacted soil and groundwater at the site. Intended future use of the property is commercial. The Notice of Intent to Remediate was published in the *Bucks County Courier Times* on January 31, 2018.

**Melody Lakes Tires & Auto Care**, 1113 North West Boulevard, Richland Township, **Bucks County**. Andrew Markoski, Patriot Environmental Management, LLC, 21 Unionville Road, P.O. Box 629, Douglasville, PA 19518 on behalf of Andy Chalofsky, Melody Lakes Automotive dba United Tire Quakertown, 1113 North West End Boulevard, Quakertown, PA 18951 submitted a Notice of Intent to Remediate. Soil and groundwater were contaminated with heating oil. The future use of the property is expected to remain commercial. The Notice of Intent to Remediate was published in *The Intelligencer* newspaper on March 5, 2018.

**5 Woodlawn Avenue**, 5 Woodlawn Avenue, Upper Merion Township, **Montgomery County**. Richard S. Werner, Environmental Consulting, Inc., 2002 Renaissance Boulevard, Suite 110, King of Prussia, PA 19406 on behalf Peter Polt, JERC Partners XXXIX, LLC, 171 State Route 173, Suite 201, Asbury, NJ 08802 submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of no. 2, 4, 5, 6 fuel oil. Future use of the property will remain as a residential. The Notice of Intent to Remediate was published in the *Willow Grove Guide* on March 25, 2018.

**50 Village Lane**, 50 Village Lane, Falls Township, **Bucks County**. Thomas J. O'Brien, HomeBiz, LLC, 3900 Ford Road, Suite 20M, Philadelphia, PA 19131 on behalf of Jacob Grouser, Esq., Hoagland, Longo, Moran, Dunst & Doukas, LLP, 40 Patterson Street New Brunswick, NJ 08903 submitted a Notice of Intent to Remediate. The site soils have been found to be contaminated with fuel oil constituents. The future use of the property will remain as a residential home. The Notice of Intent to Remediate was published in the *Courier County Times* on February 22, 2018.

*Northeast Region: Environmental Cleanup & Brownfields Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.*

**Comfort Inn-Clarks Summit**, 811 Northern Boulevard, South Abington Township, **Lackawanna County**. United Environmental, P.O. Box 701, Schuylkill Haven, PA 17972, on behalf of Trudim, Inc., 811 Northern Boulevard, Clarks Summit, PA 18411, submitted a Notice of Intent to Remediate. Soil contamination was caused by a release from an underground storage tank that contained heating oil. Future use of the site will be non-residential. The Notice of Intent to Remediate was published in *The Abington Journal* on February 21, 2018.

**Pole Road Spill Site**, Pole Road, Kline Township, **Schuylkill County**. Advantage Engineers, 435 Independence Avenue, Suite C, Mechanicsburg, PA 17055, on behalf of Talley Petroleum Enterprises, 10046 Allentown Boulevard, Grantville, PA 17028, submitted a Notice of Intent to Remediate. Soil was contaminated with diesel fuel because of a truck accident. Future use of the site will be residential. The Notice of Intent to Remediate was published in *The Republican Herald* on April 19, 2018.

*Southcentral Region: Environmental Cleanup and Brownfields Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone 717.705.4705.*

**Former Structures Facility**, 471 North Reading Road, Ephrata, PA 17520, Ephrata Township, **Lancaster County**. August Mack Environmental, Inc., 941 Wheatland Avenue, Suite 202, Lancaster, PA 17603, on behalf of Charmaine Garman, 529 Stevens Road, Ephrata, PA 17522, submitted a Notice of Intent to Remediate groundwater contaminated with VOCs from a car dealership/garage. The site will be remediated to the Site-Specific Standard. Future use of the site is to be used for non-residential/commercial use. The Notice of Intent to Remediate was published in *The Lititz Record Express* the *Ephrata Review* on April 18, 2018.

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

**Application 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 Regulations to Operate Solid Waste Processing or Disposal Area or Site.**

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

**Permit Application No. 300997. Aqua Pennsylvania Inc./Foxcroft Landfill**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3402. This permit application is for the ten-year renewal to continue operation under Solid Waste Permit No. 300997 at the Foxcroft Residual Waste Landfill, a captive Class III residual waste facility, located at Sproul Road and Route 320 in Marple Township, **Delaware County**. The application was received by the Southeast Regional Office on January 19, 2018.

Comments concerning the application should be directed to the Pennsylvania Department of Environmental Protection (“DEP”) Waste Management Program Manager, Southeast Regional Office, 2 East Main Street, Norristown, PA 19401-4915. Persons interested in obtaining more information about the general permit application may contact the Southeast Regional Office by telephone at 484.250.5960. TDD users may contact the DEP through the Pennsylvania AT&T Relay Service, (800)

654.5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

### AIR QUALITY

#### PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

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 general public. This approach allows the owner or operator of a facility to submit permitting documents relevant to its application for all sources related to a facility or a proposed project, affords an opportunity for public input, and provides for a decision on the issuance of the necessary permits.

The Department received applications for Plan Approvals or Operating Permits from the following facilities.

Copies of the application, the Department’s analysis, all pertinent documents used in the evaluation of the application and subsequently prepared proposed plan approvals/operating permits are available for public review during normal business hours at the appropriate Department Regional Office. Appointments for scheduling a review must be made by calling the appropriate Department Regional Office. The address and phone number of the Regional Office is listed before the application notices.

Persons wishing to file a written protest or provide comments or additional information, which they believe should be considered prior to the issuance of a permit, may submit the information to the Department’s Regional Office. A 30-day comment period from the date of this publication will exist for the submission of comments, protests and information. Each submission must contain the name, address and telephone number of the person submitting the comments, identification of the proposed Plan Approval/Operating Permit including the permit number and a concise statement regarding the relevancy of the information or objections to issuance of the permit.

A person wishing to request a hearing may do so during the 30-day comment period. A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted based on the information received. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper, the *Pennsylvania Bulletin* or by telephone, when the Department determines this type of notification is sufficient. Requests for a public hearing and any relevant information should be directed to the appropriate Department Regional Office.

Permits issued to the owners or operators of sources subject to 25 Pa. Code Chapter 127, Subchapter D or E, or located within a Title V facility or subject to 25 Pa. Code § 129.51(a) or permits issued for sources with limitations on their potential to emit used to avoid otherwise applicable Federal requirements may be submitted to the United States Environmental Protection Agency for review and approval as a revision to the State Implementation Plan. Final Plan Approvals and Operating Permits will contain terms and conditions to ensure that the sources are constructed and operating in compliance with applicable requirements in the Air Pollution Control Act (35 P.S. §§ 4001—4015), 25 Pa. Code Chapters 121—145, the Federal Clean Air Act (42 U.S.C.A. §§ 7401—7671q) and regulations adopted under the Federal Clean Air Act.

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.

---

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

---

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

*Contact: Norman Frederick, P.E., Environmental Engineer Manager—Telephone: 570-826-2409.*

**PA 54-00005A: Wheelabrator Frackville Energy, Inc** (475 Morea Road, Frackville, PA 17931) for the operation of a carbon injection system used on its Circulating Fluidized Bed (CFB) Steam Boiler with a new carbon injection system to comply with the 40 CFR 63 Subpart UUUUU National Emission Standards for Hazardous Air Pollutants (NESHAP). All requirements that have already been established in the facilities current Title V Permit will be complied with in the issuance of this plan approval in Mahanoy Township, **Schuylkill County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.*

*Contact: David Balog, New Source Review Chief—Telephone: 814-332-6328.*

**43-356D: Hermitage Municipal Authority** (800 North Hermitage Road, Hermitage, PA 16148) for the reauthorization of an existing biogas and natural gas fueled combined heat & power (CHP) unit at their facility in the City of Hermitage, **Mercer County**.

Notice is hereby given pursuant to 25 Pa. Code §§ 127.44(b) and 127.424(b), that the Department of Environmental Protection (DEP) intends to issue Plan Approval 43-365D to Hermitage Municipal Authority for the reauthorization of an existing biogas and natural gas fueled combined heat & power (CHP) unit at their facility in the City of Hermitage, Mercer County. The Plan Approval will subsequently be incorporated into the facility's Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

Plan Approval No. 43-365D is for the reauthorization of an existing 600 kW biogas and natural gas fueled combined heat & power (CHP) unit and associated oxidation catalyst, existing 150 hp startup boiler, existing 1,474 hp emergency generator, and existing emergency bypass flare. All subject sources were previously authorized under Plan Approval 43-356C, which expired on its own terms. Based on the information provided by the applicant and DEP's own analysis, total emissions from the subject source(s) will not exceed 15.8 tons of nitrogen oxides (NO<sub>x</sub>), 2.57 tons of carbon monoxide, 2.65 tons of volatile organic compounds (VOC), 1.16 ton of particulate matter, and 2.13 tons of total hazardous air pollutants (HAP) per year.

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

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

Anyone wishing to provide DEP with additional information they believe should be considered may submit the information to the address shown below. Comments must be received by the Department within 30 days of the last day of publication. Written comments should include the name, address, and telephone number of the person submitting comments, identification of the proposed Plan Approval; No. 43-356D and a concise statement regarding the relevancy of the information or any objections to issuance of the Plan Approval.

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

#### 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: Raymond Kempa, New Source Review Chief—Telephone: 570-826-2507.*

**54-00008: Northeastern Generation Co./McAdoo Cogeneration** (PO Box 7, McAdoo, PA 18237-0007). The Department intends to issue a renewal Title V Operating Permit for the electric generation facility located in Kline Township, **Schuylkill County**. 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 at this facility consist of a fluidized bed boiler, ash handling system, and a power screen. The sources are controlled by cyclones, baghouses, and water sprays. These sources have the potential to emit major quantities of regulated pollutants above Title V emission thresholds. 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.

*Southcentral Region: Air Quality Program, 909 Elmer-ton Avenue, Harrisburg, PA 17110.*

*Contact: Thomas Hanlon, Facilities Permitting Chief, 717-705-4862, or William Weaver, Regional Air Quality Manager, 717-705-4702.*

**36-05001: Armstrong World Industries, Inc** (1507 River Road, Marietta, PA 17547-9403) for Armstrong's residential and commercial ceiling tile manufacturing plant in East Donegal Township, **Lancaster County**.

The Title V Operating Permit is undergoing a significant modification to incorporate a Reasonably Available Control Technology II (RACT II) plan.

In accordance with 25 Pa. Code §§ 129.91–129.100, the Department has made a preliminary determination to approve a RACT II plan, and to remove existing RACT I requirements, to be submitted as part of the State Implementation Plan (SIP) for Armstrong's ceiling tile manufacturing plant.

The proposed SIP revision does not adopt any new regulations. It incorporates the provisions and requirements contained in the amended RACT II approval for the facility, which are intended to satisfy the requirements for the 1997 National Ambient Air Quality Standard (NAAQS) and the 2008 NAAQS for ozone.

The proposed RACT II plan and RACT I plan removal, if approved by DEP, will be issued as a significant modification to the facility's Title V operating permit (36-05001). The relevant RACT II requirements will also be submitted to the U.S. Environmental Protection Agency (EPA) for approval and incorporation into Pennsylvania's State Implementation Plan. Requirements that are not part of the RACT II approval will be excluded from the SIP submittal.

The following is a summary of the proposed RACT II requirements for this facility that will be submitted to the EPA as part of the SIP:

#### RACT II Case-by-Case Requirements

##### Source ID 104, Boardmill Line:

(a) Pursuant to 25 Pa. Code § 129.99(d), the permittee shall install, maintain and operate the sources in accordance with the manufacturer's specifications and with good operating practices.

(b) The permittee shall maintain an O&M Plan for the boardmill burners. The permittee shall maintain records of any maintenance or modifications performed on the boardmill burners.

(c) The permittee shall maintain documentation of good operating practices for five years and make available to the Department upon written request pursuant to 25 Pa. Code § 129.100(d) and (i).

##### Public Comment Details:

Persons wishing to file a written protest or provide comments or additional information, which they believe should be considered prior to the issuance of a permit, may submit the information to Thomas Hanlon, Environmental Engineering Manager, Air Quality Permitting, at 909 Elmerton Avenue, Harrisburg, PA 17110. A 30-day comment period from the date of publication of this notice will exist for the submission of comments, protests and information. Each submission must contain the name, address and telephone number of the person submitting the comments, identification of the proposed RACT II Operating Permit including the permit number and a concise statement regarding the relevancy of the information or objections to issuance of the proposed RACT II Plan.

Public hearing. A public hearing will be held on June 11, 2018, at 10 a.m. at the DEP Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA 17110, to accept oral comments on the proposed permit action and the proposed SIP revision. To register to speak at the hearing, please contact Thomas Hanlon at 717-705-4862. Speakers must pre-register in order to testify at the

hearing. The last day to pre-register to speak at the hearing will be June 4, 2018.

Oral testimony at the hearing will be limited to a maximum of 5 minutes per individual and two written copies of the oral testimony are requested. Each organization is requested to designate one witness to present testimony on its behalf. Persons unable to attend the hearing, may submit three (3) copies of a written statement and exhibits within 10 days thereafter to Thomas Hanlon at 909 Elmerton Avenue, Harrisburg, PA 17110.

All pertinent documents are available for public review between 8 a.m. and 4 p.m. at the DEP Southcentral Regional Office at 909 Elmerton Avenue, Harrisburg, PA 17110. Appointments for scheduling a review may be made by calling Thomas Hanlon at 717-705-4862.

Individuals who are in need of an accommodation for the hearing as provided for in the Americans with Disabilities Act should contact Thomas Hanlon at 717-705-4862 or make accommodations through the Pennsylvania AT&T Relay Service at 1-800-654-5984 (TDD).

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.*

*Contact: Matt Williams, Facilities Permitting Chief—Telephone: 814-332-6131.*

**61-00181: Scrubgrass Generating Company** (2151 Lisbon Rd, Kennerdell, PA 16374-3305), the Department intends to issue the renewal of the Title V Operating Permit of an electric utility steam generating facility located in Scrubgrass Township, **Venango County**. Permitted air contamination sources at the facility include two coal refuse-fired circulating fluidized bed (CFB) boilers, a diesel-fired auxiliary boiler, an emergency diesel fire water pump, limestone pulverizing and drying operations, screening and crushing operations, ash and limestone storage silos, waste coal unloading operations, storage/storage piles and inplant bunkers, and facility roads. Starting with this renewal, the CFB boilers are subject to the following new requirements: National Emission Standards for Hazardous Air Pollutants (NESHAP): Coal- and Oil-Fired Electric Utility Steam Generating Units (40 CFR 63 Subpart UUUUU); Cross-State Air Pollution Rule (CSAPR) NO<sub>x</sub> and SO<sub>2</sub> Trading Programs (40 CFR 97 Subparts AAAAA, CCCCC, EEEEE); and Additional Reasonably Available Control Technology Requirements for Major Sources of NO<sub>x</sub> and VOC (RACT II, 25 Pa. Code §§ 129.96 to 129.100). The emergency diesel fire water pump and the limestone pulverizing and drying operations are also subject to RACT II. Other permit changes include update of Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units (40 CFR 63 Subpart Da); update of State regulations on sulfur compound emissions from combustion units (25 Pa. Code § 123.22); and removal of provisions of Clean Air Interstate Rule (CAIR), which is replaced by CSAPR. Considering the new limitations incorporated, the facility has potential-to-emit of 1,074 TPY SO<sub>x</sub>, 801 TPY NO<sub>x</sub>, 528 TPY CO, 229 TPY PM<sub>10</sub>, and 24 TPY VOC.

#### **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 19401.*

*Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.*



**23-00073: Alan McIlvain Co.** (501 Market St., Marcus Hook, PA 19061) for a non-Title V, State-Only, Synthetic Minor Operating Permit located in Marcus Hook Borough, **Delaware County**. This action is for the renewal of the State-Only Operating Permit. The permit was initially issued on 7-1-2002 and was subsequently renewed on 12-24-2007 and again on 6-19-2013. The facility's air emissions sources consist of various types of woodworking machinery with associated dust collectors and a wood waste (primary fuel) and No. 2 fuel oil-fired boiler with an associated multi-cyclone. The facility has six dry kilns and eleven space heaters that are powered by steam from the boiler. The potential to emit nitrogen oxides (NO<sub>x</sub>) from the facility exceeds the major facility threshold, but the company has elected to restrict the NO<sub>x</sub> emissions from the facility to less than 25 tons per year. The renewed permit will include monitoring, recordkeeping, reporting, and work practice standards designed to keep the facility operating within all applicable air quality requirements.

*Southcentral Region: Air Quality Program, 909 Elmerston Avenue, Harrisburg, PA 17110.*

*Contact: Thomas Hanlon, Facilities Permitting Chief, 717-705-4862, or William Weaver, Regional Air Quality Manager, 717-705-4702.*

**05-03010: New Enterprise Stone and Lime Co. Inc.—Ashcom Quarry Crushing** (PO Box 77, New Enterprise, PA 16664-0077) for the operation of a limestone crushing facility in Snake Spring Township, **Bedford County**. This is for a renewal of the existing state-only permit. Potential air emissions from the facility are estimated at 34.7 tpy PM, 0.275 tpy NO<sub>x</sub>, .025 tpy CO, 0.008 tpy VOC, and 0.393 tpy SO<sub>2</sub>. 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.

**36-03133: Wilkins Rogers Mills** (19 North Market Street, PO Box 175, Mount Joy, PA 17552) to issue a State Only Operating Permit for its flour mill located in Mount Joy Borough, **Lancaster County**. The potential emissions from the facility are estimated at 25 tpy PM<sub>10</sub>. 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 25 Pa. Code § 129.63.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701.*

*Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.*

**41-00081: East Lycoming School District** (349 Cemetery Street, Hughesville, PA 17737) to issue a renewal State Only Operating Permit for their Hughesville high school located in Hughesville Borough, **Lycoming County**. The facility's main sources include a biomass boiler, two natural gas fired boilers, two emergency generators, three parts washers and a wood working operation. The facility has potential to emit under 8.61 tons per year (tpy) of particulate matter/particulate matter with an effective aerodynamic diameter of less than or equal to 10 micrometer, 12.24 tpy of nitrogen oxides, 9.40 tpy of carbon monoxide, 1.11 tpy of volatile organic compounds including hazardous air pollutants and 0.73 tpy of sulfur oxides. The potential emissions for all criteria pollutants remained same at the facility. The

biomass fired boiler is subject to 40 CFR Part 63, Subpart JJJJJJ—National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers Area Sources. The emission limits and work practice standards along with testing, monitoring, recordkeeping and reporting requirements have been included in the operating permit to ensure the facility complies with all applicable Federal and State air quality regulations. These operating permit conditions have been derived from the applicable requirements of 25 Pa. Code Chapters 121—145, as well as 40 CFR Parts 60, 63 and 98. 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 570-327-0550.

**55-00007: Lozier Corp.** (48 East Ohio Street, McClure, PA 17841) for operation of their metal shelving and wire rack manufacturing facility in McClure Borough, **Snyder County**. The facility's main sources include a paint burn off oven, powder coating operation and a 6.3 MMBtu/hr anthracite coal fired boiler. The facility has potential to emit under 4.46 tons per year (tpy) of particulate matter/particulate matter with an effective aerodynamic diameter of less than or equal to 10 micrometer, 11.00 tpy of nitrogen oxides, 2.35 tpy of carbon monoxide, 0.34 tpy of volatile organic compounds including hazardous air pollutants and 38.04 tpy of sulfur oxides. The potential emissions for all criteria pollutants remained same at the facility. The anthracite fired boiler is subject to 40 CFR Part 63, Subpart JJJJJJ—National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers Area Sources. The emission limits and work practice standards along with testing, monitoring, recordkeeping and reporting requirements have been included in the operating permit to ensure the facility complies with all applicable Federal and State air quality regulations. These operating permit conditions have been derived from the applicable requirements of 25 Pa. Code Chapters 121—145, as well as 40 CFR Parts 60, 63 and 98. 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 570-327-0550.

**55-00022: Schreck's Custom Trim Finishing, Inc.** (PO Box 6, Mount Pleasant Mills, PA 17853) to issue a renewal State Only Operating Permit for their facility located in Perry Township, **Snyder County**. The facility's main sources include a surface coating operation and a wood fired boiler. The facility has potential to emit under 0.061 ton per year (tpy) of particulate matter/particulate matter with an effective aerodynamic diameter of less than or equal to 10 micrometer, 0.83 tpy of nitrogen oxides, 0.94 tpy of carbon monoxide, 5.66 tpy of volatile organic compounds including hazardous air pollutants and 0.37 tpy of sulfur oxides. The potential emissions for all criteria pollutants remained same at the facility. The emission limits and work practice standards along with testing, monitoring, recordkeeping and reporting requirements have been included in the operating permit to ensure the facility complies with all applicable Federal and State air quality regulations. These operating permit conditions have been derived from the applicable requirements Title 25 Pa. Code Chapters 121—145, as well as 40 CFR Parts 60, 63 and 98. 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 570-327-0550.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

*Contact: Thomas Joseph, P.E., Facilities Permitting Chief—Telephone: 412-442-4336.*

**65-00322: PIAD Precision Casting Corporation** (112 Industrial Park Road, Greensburg, PA 15601) In accordance with 25 Pa. Code §§ 127.424 and 127.425 the Department of Environmental Protection (DEP) gives notice that they intend to issue a State Only Operating Permit (SOOP) renewal to PIAD Precision Casting Corporation to authorize the operation of their Dunningville Asphalt Plant located in Hempfield Township, **Westmoreland County**.

Sources of air emissions include three induction furnaces, 24 electric resistance (holding) furnaces with corresponding water quench tanks, shot blasting area, sand blaster, grinding and cleaning area, welders and several dust collectors. The annual potential emissions are 7.20 tpy of PM<sub>10</sub>, 13.73 tpy of VOC and 0.67 tpy of HAP. The proposed SOOP contains emission restriction, testing, monitoring, recordkeeping, reporting and work practice standards derived from the applicable requirements of 25 Pa. Code Chapters 121—145 and 40 CFR Part 63 Subpart ZZZZ for emergency generator.

A person may oppose the proposed State Only Operating Permit by filing a written protest with the Department through Noor Nahar via mail to Pennsylvania Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222. Each protest or set of written comments must contain the name, address and telephone number of the person submitting the comments, identification of the proposed State Only Operating Permit (66-00322) and a concise statement of the objections to the Operating Permit issuance and the relevant facts upon which the objections are based.

PIAD Precision Casting Corporation State Only Operating Permit application, the Department's Air Quality Review Memorandum, and the Proposed Air Quality Operating Permit for this facility are available for review by any interested party at the Pennsylvania Department of Environmental Protection, Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222. To request a review of the PIAD Precision Casting Corporation State Only Operating Permit application, to receive an electronic copy of the Department's Air Quality Review Memorandum, or to receive an electronic copy of the Department's proposed air Quality Operating Permit for this facility, a person may contact Noor Nahar at nnahar@pa.gov or 412.442.5225.

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

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.*

*Contact: Matt Williams, Facilities Permitting Chief—Telephone: 814-332-6131.*

**10-00047: Callery LLC** (1424 Mars Evans City Rd, Evans City, PA 16033-9360). The Department is providing notice that they intend to renew a State Only Natural Minor Operating Permit for the industrial organic and inorganic chemical manufacturing facility located in Forward Township, **Butler County**. The facility's primary emission sources include two natural gas-fired boilers

(10.5 MMBtu/hr and 14.288 MMBtu/hr), miscellaneous natural gas combustion, the superoxide process, building 24 alkylborane production, hood 1B, building 31 product & process development, building 31 R&D, building 34 laboratory activities and R&D, building 37 boranes derivatives, building 37 bag filling station, building 37 boranes derivatives hydrogen vent, heated t-butanol storage tanks, building 44 alcoholates production, building 44 dryers & powder packaging, building 44 pilot plant, building 44 filter deactivation, building 64 potassium production, building 86 cylinder cleaning, building 94 powder packaging dust collection, building 98 tank farm & truck station, miscellaneous emergency generators (5), and miscellaneous storage tanks. The potential emissions of the primary pollutants from the facility after permit limitations are as follows: 29.2 TPY NO<sub>x</sub>, 19.6 TPY CO, 42.3 TPY VOC, 13.7 TPY PM<sub>10</sub> and PM<sub>2.5</sub>, 0.5 TPY SO<sub>x</sub>, 5.1 TPY single HAP, and 10.4 TPY combined HAPs; thus, the facility will operate as a minor source. The building 72 boiler is subject to 40 CFR 60 Subpart Dc, NSPS for Small Industrial-Commercial-Institutional Steam Generating Units. The tank farm is subject to 40 CFR 60 Subpart Kb, NSPS for Storage Vessels. Four of the emergency generators are subject to 40 CFR 63, Subpart ZZZZ, NESHAP for Stationary Reciprocating Internal Combustion Engines. The gatehouse emergency generator is subject to 40 CFR 60, Subpart JJJJ, NSPS for Stationary Spark Ignition Internal Combustion Engines. A 550-gallon gasoline storage tank permitted under miscellaneous storage tanks is subject to 40 CFR 63, Subpart CCCCCC, NESHAP for Gasoline Dispensing Facilities. The renewal permit contains restrictions related to the quantities of materials consumed or processed, which are enforceable as a practical matter; and associated emission limits, recordkeeping, work practices, and additional requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act.

#### PLAN APPROVALS

**Receipt of Plan Approval Applications and Intent to Issue Plan Approvals, and Intent to Issue Amended Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter B And Subchapter F. These actions may include the administrative amendments of an associated operating permit.**

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

*Contact: Norman Frederick, P.E., Environmental Engineer Manager—Telephone: 570-826-2409.*

**39-00107A: Pratt Industries, Inc** (1800 C Sarasota Business Pkwy, Conyers, GA 30013) for the construction and operation of a corrugated paper and box manufacturing plant at their facility in Lower Macungie Township, **Lehigh County**.

In accordance with 25 Pa. Code §§ 127.44(a) and 127.45(a), that the Department of Environmental Protection (DEP) has received and intends to issue a Plan Approval to Pratt Industries, Inc. (1800 C Sarasota Business Pkwy, Conyers, GA 30013) for the construction and operation of a corrugated paper and box manufacturing plant at their facility in Lower Macungie Township, Lehigh County. This Plan Approval No. 39-00107A will be incorporated into a Synthetic Minor Permit through an administrative amendment at a later date.

Plan Approval No. 39-00107A is for the installation and operation of cutting and gluing operations in the making

of corrugated boxes. 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.

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, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Any person(s) wishing to provide DEP with additional information, which they believe should be considered prior to the issuance of this permit, may submit the information to the address shown in the preceding paragraph. Each written comment must contain the name, address and telephone number of the person submitting the comments, identification of the proposed permit No.: 39-00107A and a concise statement regarding the relevancy of the information or objections to the 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 comments 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 the *Pennsylvania Bulletin* or by telephone, where DEP determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Ray Kempa, Chief, New Source Review Section, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915, Phone 570-826-2511 within 30 days after publication date.

**40-00137A: Western Industries Gas & Cylinder, LLC** (7173 Hwy 159E, Bellville, TX 77833) for the construction and operation of a specialty gas supply and distribution facility consisting of paint booths, bake oven, filling operation of gas cylinders operations at their facility in Salem Township, **Luzerne County**.

In accordance with 25 Pa. Code §§ 127.44(a) and 127.45(a), that the Department of Environmental Protection (DEP) has received and intends to issue a Plan Approval to Western Industries Gas & Cylinder, LLC (7173 Hwy 159E, Bellville, TX 77833) for the construction and operation of a specialty gas supply and distribution facility consisting of paint booths, bake oven, filling operation of gas cylinders operations at their facility in Salem Township, Luzerne County. This Plan Approval No. 40-00137A will be incorporated into a Synthetic Minor Permit through an administrative amendment at a later date.

Plan Approval No. 40-00137A is for the installation and operation of a specialty gas supply and distribution facility consisting of paint booths, bake oven, filling operation of gas cylinders operations. 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.

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, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Any person(s) wishing to provide DEP with additional information, which they believe should be considered prior to the issuance of this permit, may submit the information to the address shown in the preceding paragraph. Each written comment must contain the name,

address and telephone number of the person submitting the comments, identification of the proposed permit No.: 40-00137A and a concise statement regarding the relevancy of the information or objections to the 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 comments 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 the *Pennsylvania Bulletin* or by telephone, where DEP determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Ray Kempa, Chief, New Source Review Section, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915, Phone 570-826-2511 within 30 days after publication date.

Notice is hereby given in accordance with 25 Pa. Code §§ 127.44(a) and 127.45(a), that the Department of Environmental Protection (DEP) has received and intends to issue a Plan Approval to Ungerer & Company (110 N. Commerce Way, Bethlehem, PA 18017) for their facility located in Hanover Township, Northampton County. This Plan Approval No. 48-00064A will be incorporated into a Synthetic Minor Permit through an administrative process at a later date.

Plan Approval No. 48-00064A is for the removal of existing spray dryer no. 2 and installation and operation of a new spray dryer no. 3. Particulate emissions from the new dryer will be control by a wet scrubber capable of controlling 99% of particulate emissions. The project also involves relocation of existing dryer no. 1 and its control device to Northeast portion of building. Particulate emissions from the scrubber will not exceed 0.02 grain/dscf. The company shall be subject to and comply with 25 Pa. Code § 123.31 for malodorous emissions. The company shall be subject to and comply with 25 Pa. Code § 123.41 for Visible emissions. Emissions will be controlled by use of scrubber will meet Department's BAT requirements for this source. 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.

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, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Any person(s) wishing to provide DEP with additional information, which they believe should be considered prior to the issuance of this permit, may submit the information to the address shown in the preceding paragraph. Each written comment must contain the name, address and telephone number of the person submitting the comments, identification of the proposed permit No.: 48-00064A and a concise statement regarding the relevancy of the information or objections to the 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 comments 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 the *Pennsylvania Bulletin* or by telephone, where DEP determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Ray Kempa,

Environmental Group Manager, New Source Review Section, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915, Phone 570-826-2511 within 30 days after publication date.

## 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 Returned*

*New Stanton District Office: 131 Broadview Road, New Stanton, PA 15672, 724-925-5500.*

**30080201 and NPDES Permit No. PA0251470. Shannopin Materials, LLC** (103 Corporate Road, Suite 26501, Morgantown, WV 26501). Revision application for abatement plan to an existing bituminous surface mine, located in Monongahela Township, **Greene County**, affecting 13.3 acres. Receiving streams: unnamed tributaries to Monongahela River, classified for the following use: WWF. Application received: August 16, 2017. Permit revision returned: April 17, 2018.

### *Coal Applications Received*

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

**10970105 and NPDES No. PA0227625. State Industries, Inc.** (P.O. Box 1022, Kittanning, PA 16201). Renewal of an existing bituminous surface and auger mine and associated NPDES permit in Concord and Fairview Townships, **Butler County** affecting 4.8 acres. Receiving streams: Bear Creek and unnamed tributaries to Bear Creek, classified for the following uses: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: April 13, 2018.

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

**17080107 and NPDES PA0256811. Junior Coal Contracting, Inc.** (2330 Six Mile Road, Philipsburg, PA 16866). Permit renewal, revised mining and backfilling plan, plus remove water sample point for continued operation and restoration of a bituminous surface coal and auger mine located in Decatur and Woodward Townships, **Clearfield County** affecting 298.7 acres. Receiving stream(s): Unnamed Tributaries to Moshannon Creek and Moshannon Creek classified for the following use(s): CWF. There are no potable water supply intakes within 10 miles downstream. Application received: March 9, 2018.

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

**Permit No. 40180101. Land Stewardship, LLC**, (124 West Spring Street, Hazleton, PA 18201), commencement, operation and restoration of an anthracite surface mine operation in Sugarloaf Township and West Hazleton Borough, **Luzerne County** affecting 93.0 acres, receiving stream: Black Creek, classified for the following uses: cold water and migratory fishes. Application received: March 19, 2018.

### *Noncoal Applications Received*

*Effluent Limits*—The following effluent limits will apply to NPDES permits issued in conjunction with a noncoal mining permit:

Table 2

Parameter	30-day Average	Daily Maximum	Instantaneous Maximum
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Alkalinity exceeding acidity* pH*		greater than 6.0; less than 9.0	

\* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

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

**Permit No. 31180801. Abe Warner Excavating**, 7597 Old Plank Road, Broad Top, PA 16621, commencement, operation, and restoration of a small noncoal (industrial minerals) operation in Wood Township, **Huntingdon County**, affecting 5.0 acres. Receiving streams: unnamed tributary to Great Trough Creek. Application received: April 17, 2018.

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

**4774SM4. Hanson Aggregates Pennsylvania LLC** (7660 Imperial Way, Allentown, PA 18195). Revision to add 10.75 acres and Chapter 105 Encroachment Permit to existing large noncoal permit located in Montoursville Borough and Fairfield Township, **Lycoming County** affecting 950.05 acres. Receiving stream(s): West Branch of the Susquehanna River, Bennet's Run to Tules Run classified as: WWF and MF. There are no potable water supply intakes within 10 miles downstream. Application received: April 4, 2018.

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

**Permit No. 74740303A4C11 and NPDES No. PA0594334. New Enterprise Stone & Lime Company, Inc. d/b/a Eastern Industries, Inc.**, (3724 Crescent Court West, Whitehall, PA 18052), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Lower Mount Bethel Township, **Northampton County** affecting 367.1 acres, receiving stream: Delaware River, classified for the following uses: warm water fishes and migratory fishes. Application received: April 18, 2018.

### 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	

Alkalinity greater than acidity\*

\*The parameter is applicable at all times.

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 limits for noncoal mining activities as provided in 25 Pa. Code Chapter 77 are pH 6 to 9 and other parameters the Department may require.

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 563-2112-115, Developing National Pollutant Discharge Elimination System (NPDES) Permits for Mining Activities. 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. PA0033511 (Mining Permit No. 30743711), Cumberland Contura, LLC**, (158 Portal Road, P.O. Box 1020, Waynesburg, PA 15370). A revision to the NPDES and mining activity permit for the Cumberland Mine Coal Refuse Disposal Facility in Whiteley and Monongahela Townships, **Greene County** to revise limits for TDS and Sulfate at Outlet 001. Surface Acres Affected 152. Receiving stream: Monongahela River, classified for the following use: WWF. The application was considered administratively complete on October 5, 2017. Application received October 5, 2017.

Unless otherwise noted for a specific outfall, the proposed effluent limits for all outfalls in this permit are the BAT limits described previously for coal mining activities.

*Outfall 001* discharges to: Monongahela River

The proposed effluent limits for *Outfall 001* (Lat: 39° 50' 5.2" Long: -79° 55' 27") are:

#### *Concentration Based Limitations:*

<i>Parameter</i>		<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Flow	(mgd)	-	-	-	-
Iron	(mg/l)	-	3.0	6.0	7.0
Total Suspended Solids	(mg/l)	-	35	70	90
Manganese	(mg/l)	-	2.0	4.0	5.0
Aluminum	(mg/l)	-	0.75	0.75	0.75
Sulfate	(mg/l)	-	6,000	12,000	15,000
Total Dissolved Solids	(mg/l)	-	9,500	19,000	23,750
Chloride	(mg/l)	-	-	-	Report
Bromide	(mg/l)	-	-	-	Report
pH	(S.U.)	6.0	-	-	9.0
Alkalinity, Total as CaCO <sub>3</sub>	(mg/l)	-	-	-	Report
Acidity, Total as CaCO <sub>3</sub>	(mg/l)	-	-	-	Report
Alkalinity, Net	(mg/l)	0.0	-	-	-
Osmotic Pressure	(mOs/kg)	-	-	-	Report

#### *Mass Units Based Limitations:*

<i>Parameter</i>		<i>30-Day Average</i>	<i>Daily Maximum</i>
Flow	(mgd)	6.88	Report
Sulfate	(lb/d)	288,000	576,000
Total Dissolved Solids	(lb/d)	494,000	988,000

EPA Waiver not in effect.

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

**NPDES No. PA0256277 (Mining permit no. 17050108), King Coal Sales, Inc.**, P.O. Box 712, Philipsburg, PA 16866, renewal of an NPDES permit for bituminous coal surface mining in Graham Township, **Clearfield County**, affecting 91.2 acres. Receiving stream(s): Moravian Run, classified for the following use(s): CWF. West Branch Susquehanna River TMDL. Application received: February 1, 2018.

Unless otherwise noted for a specific outfall, the proposed effluent limits for all outfalls in this permit are the BAT limits described previously for coal mining activities.

The following outfall discharges to Moravian Run:

<i>Outfall No.</i>	<i>New Outfall (Y/N)</i>
LD-1	N

The proposed effluent limits for the previously listed outfall is as follows:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Iron (mg/l)		3.0	6.0	7.0
Manganese (mg/l)		2.0	4.0	5.0
Aluminum (mg/l)		3.3	3.3	3.3
Alkalinity greater than acidity <sup>1</sup>				
Total Suspended Solids (mg/l)		35.0	70.0	90.0

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

*New Stanton District Office: 131 Broadview Road, New Stanton, PA 15672, 724-925-5500.*

**NPDES No. PA0202967 (Mining permit no. 65010102), Coal Loaders, Inc.**, 210 East Main Street, P.O. Box 556, Ligonier, PA 15658, renewal NPDES permit for a bituminous surface mine in Fairfield Township, **Westmoreland County**, affecting 146.8 acres. Receiving stream: Hypocrite Creek and Hannas Run, classified for the following use: TSF and CWF, respectively. This receiving stream is included in the Kiski-Conemaugh TMDL. Application received: June 2, 2016.

Unless otherwise noted for a specific outfall, the proposed effluent limits for all outfalls in this permit are the BAT limits described previously for coal mining activities.

The following stormwater outfall discharges to unnamed tributary to UNT to Hannas Run:

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>	<i>Type</i>
005	N	Sediment Pond

The proposed effluent limits for the previously listed outfall is as follows:

<i>Outfalls: Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Iron (mg/l)	1.5	3.0	3.7
Manganese (mg/l)	1.0	2.0	2.5
Aluminum (mg/l)	0.75	0.75	0.75
Total Suspended Solids (mg/l)	35	70	90
Total Silver (mg/l)		Monitor and Report	
Total Nickel (mg/l)		Monitor and Report	
Total Cadmium (mg/l)		Monitor and Report	
Total Copper (mg/l)		Monitor and Report	
Phenols (mg/l)		Monitor and Report	

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**

*Southeast Region: Waterways and Wetlands Program Manager, 2 East Main Street, Norristown, PA 19401, Telephone 484-250-5900.*

**E06-728. Pennsylvania Department of Transportation Engineering District 5-0**, 1002 Hamilton Street, Allentown, PA 18103-1013, Maiden Creek Township, **Berks County**, ACOE Philadelphia District.

The Pennsylvania Department of Transportation (PennDOT) District 5-0 is proposing to perform the following water obstruction and encroachment activities associated with the S.R. 222 Section 22S (Allentown Pike) roadway widening over Willow Creek (HQ).

1) To remove an existing 127.85-foot, three-span, reinforced concrete T-beam bridge and two (2) associated piers resulting in 75 linear feet (410 square feet) of stream bed restoration. And in its place, to construct and maintain a 129.9-foot two-span, single pier, concrete spread box beam bridge resulting in 250 linear feet (2,575 square feet) of permanent floodway impact and 250 linear feet (10,227 square feet) of temporary floodway impact. This activity includes the permanent placement of riprap scour protection for the single pier and abutments.

2) To place fill within a wetland (PEM) (Wetland G) associated with roadway widening resulting in 404 square feet of permanent wetland impact.

3) To construct and maintain three (3) stormwater outfalls (18-inch, 12-inch and 18-inch) and modify one (1) end wall (18-inch) within the 100-year floodplain of Willow Creek (HQ) resulting in 499 square feet of permanent floodplain impact. This activity also includes the permanent placement of riprap rock aprons at each outfall.

This project also includes the placement of 192,819 cubic feet of fill within the 100-year floodplain of Willow Creek (HQ) associated with roadway widening. Project limit extends from North of Dries Road to the intersection of Allentown Pike and Tamarak Boulevard in Maiden Creek Township, Berks County; (USGS PA Fleetwood; Temple Quadrangle—Latitude 40.452586 N, Longitude 75.890329 W).

**E15-895, Bondsville Road Realty Venture, LLC**, 2298 Horseshoe Pike, Honey Brook, PA 19344, Caln Township, **Chester County**, ACOE Philadelphia District.

To construct and maintain 20 feet long by 51.5 feet wide by 7.87 feet high ConSpan arch bridge located in and along Beaver Creek (CWF, MF), associated with the construction of a new 57-unit senior living facility. The proposed project will also include additional utility crossings to provide water, electrical, cable, sewer, as well as a parking facility with an outfall structure.

The site is located approximately 1,200 Linear feet south the intersection of SR 0030 Bypass and Bondsville Road. (Downingtown, PA USGS map; Lat: 40.005072; Long: -75.744682).

**E15-896. Glenn M. White Land Company, Inc**, 4 Zachary Drive, West Chester, PA 19382, West Goshen

Township, **Chester County**, ACOE Philadelphia District.

To perform the below listed water obstruction and encroachment activities associated with the 901 Little Shiloh Road Project. The breach and removal of an existing man-made open water pond, relocation of an ephemeral stream channel, and the restoration of a stream/wetland corridor within the footprint of the pond to be removed. The proposed project will have 365 linear feet and 1,925 square feet of permanent stream impact. The project is located in the floodplain.

The site is approximately at 901 Little Shiloh Road. (West Chester Lat. 39° 57' 10"; Long. 75° 33' 43").

*Northeast Region: Waterways and Wetlands Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915, Telephone 570-826-2511.*

**E40-807 Michael and Meg Cramton**, 10 Highwoods Road, Wyoming, PA 18644, Harveys Lake Borough, **Luzerne County**, U.S. Army Corps of Engineers, Baltimore District.

To construct and maintain the following water obstructions and encroachments:

To remove an existing 50-foot long stacked stone and concrete retaining wall and replace in kind.

1) To construct and maintain a 755 sq. ft., pile-supported dock having a 200 sq. ft. boat slip within the basin of Harveys Lake (HQ-CWF).

The project is located approximately at Pole 306 along Lakeside Drive (S.R. 415) (Harveys Lake, PA Quadrangle, Latitude: 41° 21' 8.4"; Longitude: -76° 2' 10.13").

**E40-808 Frank M. Henry Associates**, 1575 Wyoming Avenue, Forty Fort, PA 18704, Harveys Lake Borough, **Luzerne County**, U.S. Army Corps of Engineers, Baltimore District.

To construct and maintain an expansion of an existing dock/boathouse consisting of a 352 sq. ft., pile-supported boathouse and a 45 sq. ft. jet ski slip within the basin of Harveys Lake (HQ-CWF). The project is located at Pole 34 along Lakeside Drive (Harveys Lake, PA Quadrangle, Latitude: 41° 21' 43"; Longitude: -76° 2' 9").

**E66-167. Sugar Hollow Water Services, LLC**, 21 Sugar Hollow Road, Tunkhannock, PA 18657, in Eaton Township, **Wyoming County**, U.S. Army Corps of Engineers, Baltimore District.

To operate and maintain a water intake structure in Bowman's Creek (HQ-CWF, MF) consisting of two 6-inch floating suction strainers, and to maintain an existing stone pad within the floodway of Bowman's Creek having a length of approximately 65 feet. (Eaton, PA Quadrangle, Latitude: 41°30'11.3796"; Longitude: -75°59'4.9416").

The project is located on the west side of State Route 0029 approximately 3.2 miles from the intersection of East Tioga Street (Factoryville, PA Quadrangle Latitude: 41.503161°; Longitude: -75.984706°) in Eaton Township, Wyoming County.

*Southcentral Region: Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ed Muzic, Section Chief, 717.705.4802.*

**E36-975: Hempfield School District**, 200 Church Street, Landisville, Pennsylvania 17538 in East Hempfield Township, **Lancaster County**, US. Army Corps of Engineers Baltimore District.



To install, operate, and maintain a 32-foot by 14-foot steel and wood pedestrian bridge across Swarr Run (CWF, MF) and to partially remove abutments from a former crossing for the purpose of connecting existing cross-country trails. The project is located at 330 Mumma Drive, Landisville (Latitude: 40.083504, Longitude: -76.411910) in East Hempfield Township, Lancaster County. No wetlands will be impacted by this project.

*Southwest Region: Waterways & Wetlands Program, 400 Waterfront Drive, Pittsburgh, PA 15222, Dana Drake, Waterways and Wetlands Program Manager, 412-442-4000.*

**E26-376, Heartland Fabrication, LLC**, 1800 Paul Thomas Blvd.; Brownsville, PA 15417, Luzerne Township and Brownsville Borough, **Fayette County**, Pittsburgh ACOE District.

The applicant proposes to:

1. Operate and maintain an existing mooring area, 400 ft long and 160 ft wide, and conduct maintenance dredging within an 400 ft long by 40 lf wide area within this mooring area along the shore of the Monongahela River (WWF).

2. Operate and maintain existing deploying rails along 151 ft and to perform maintenance dredging associated with these rails within a 151 ft long by 40 ft wide area, along the shore of the same the river.

3. Operate and maintain existing deploying rails along 275 ft and to perform maintenance dredging associated with these rails, within a 200 ft long by 40 ft wide area along the shore of the same river.

4. Operate and maintain an existing mooring area, 440 ft long and 178 ft wide, and conduct maintenance dredging within a 490 ft long and 40 lf wide area within and downstream of this mooring area, along the same river.

5. Operate and maintain an existing stormwater discharge within the floodway of the same river.

6. Construct, operate, and maintain a new mooring area, 250 ft long and 97 ft wide, and to dredge and to perform maintenance dredging within a 250 ft long by 40 ft wide area within this new mooring area, along the shore of the same river.

For the purpose of operating, maintaining and expanding an existing barge maintenance and manufacturing facility along the right descending bank of the Monongahela River at Mile Point 57.7 (California, PA USGS 7.5 minute Topographic Quadrangle N: 3.3 inches; W: 6.2 inches; Latitude: 40° 1' 7.58"; Longitude: -79° 54' 52.34"; Sub-basin 19C) in the Borough of Brownsville and the Township of Luzerne, Fayette County. The project will cumulatively permanently impact 1,596 LF of river. Permanent river impacts will be mitigated for by constructing rock rubble reef fish habitat within a 479 ft long and 56 ft wide area along the shore of the Monongahela River.

**E65-994, Franklin Regional School District**, 4121 Sardis Road, Murrysville, PA 15668, Municipality of Murrysville, **Westmoreland County**, Pittsburgh ACOE District.

The applicant proposes to:

1. Place and maintain fill in approximately 0.15 acre of PEM wetland.

2. Temporarily place fill on either side of an existing culvert over Haymaker Run (HQ-CWF).

For the purpose of constructing an addition to an existing school and a new school. This project will temporarily impact approximately 50 LF of Haymaker Run and permanently impact 0.15 acre of PEM wetland. Mitigation includes the creation of an approximately 0.34 acre wetland. This project is located approximately 800 feet south of the intersection of Sardis Road and Crowfoot Road (Murrysville, PA USGS Topographic Quadrangle; Latitude 40° 27' 20"; Longitude: -79° 39' 53"; USACE: Pittsburgh District Sub-basin 19A), in the Municipality of Murrysville, Westmoreland County.

*Northwest Region: Waterways and Wetlands Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**E42-379, Keating Township**, 760 Route 46, P.O. Box 103, East Smethport, PA 16730. Phase III Sewer Collection System, in Keating Township, **McKean County**, ACOE Pittsburgh District (Smethport, PA Quadrangle N: 41°, 52', 17"; W: 78°, 25', 28").

Applicant proposes to construct Phase II of the Keating Township sewage collection system consisting of approximately 25.4 miles of low pressure plastic sewer pipeline ranging in size from 1.25-inch to 8-inch diameter. Project includes 92 stream crossings, 1 floodway crossing, and 3 wetland crossings. All crossings will be installed by HDD with bore pits to be located outside resource boundaries. No direct impacts to aquatic resources are proposed.

#### ENVIRONMENTAL ASSESSMENT

*Central Office: Jack Rokavec, Chief, P.O. Box 69205, Harrisburg, PA 17106-9205.*

**EA3310-001. Pennsylvania Department of Environmental Protection**, Bureau of Abandoned Mine Reclamation, P.O. Box 69205, Harrisburg, PA 17106-9205. Abandoned Mine Land Reclamation Project, in Snyder Township, **Jefferson County**, Pittsburgh USACE District.

The applicant proposes to backfill an abandoned surface mine, which includes a total of 1,800 linear feet of dangerous highwall. The project will include the backfilling of 0.02 acre of open water and 0.08 acre of wetlands that have developed within the open surface mine pit. (Falls Creek Quadrangle N: 41°13'25.42", W: 78°48'42.35").

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### 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 AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create 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 free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

#### I. NPDES Renewal Permit Actions

*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 &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0060577 (Sewage)	Shohola Falls Trails End 190 Shohola Parkway S Shohola, PA 18458-3143	Pike County Shohola Township	Unnamed Tributary to Shohola Creek (1-D)	Yes
PA0065323 (Sewage)	Jacob A Schray Residence 322 East Laurel Street Bethlehem, PA 18018-2939	Northampton County Bushkill Township	Unnamed Tributary of Bushkill Creek (1-F)	Yes
PA0061506 (Sewage)	Preston Country Market SFTF P.O. Box 2 Preston Park, PA 18455-0002	Wayne County Preston Township	Unnamed Tributary to Shehawken Creek (01A)	Yes

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0087785 SEW	White Deer Run LLC dba Cove Forge Behavioral Health System 202 Cover Forge Road Williamsburg, PA 16693	Woodbury Township, Blair County	To Frankstown Branch Juniata River in Watershed(s) 11-A	Y
PA0088226 SEW	South Woodbury Township Bedford County 125 North Road New Enterprise, PA 16664-9121	South Woodbury Township, Bedford County	Yellow Creek in Watershed(s) 11-D	Y
PA0041581 SEW	Liverpool Borough Municipal Authority PO Box 357 Liverpool, PA 17045-0357	Liverpool Borough, Perry County	Susquehanna River in Watershed(s) 6-C	Y
PA0084182 SEW	Peters Township Municipal Authority PO Box 19 5000 Steele Avenue Lemasters, PA 17231-0019	Peters Township, Franklin County	West Branch Conococheague Creek in Watershed(s) 13-C	N
PA0080519 SEW	Antrim Township PO Box 130 10655 Antrim Church Road Greencastle, PA 17225-0130	Antrim Township, Franklin County	Conococheague Creek in Watershed(s) 13-C	N

*Southwest Regional Office: Clean Water Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Phone: 412.442.4000.*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0216216 (Sewage)	Raccoon Creek WWTP PO Box 389 B Burgettstown, PA 15021-0389	Washington County Burgettstown Borough	Raccoon Creek (19-B)	Yes

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0005622 (Industrial)	Bessemer & Lake Erie RR Ohl Street 85 Ohl Street Greenville, PA 16125-2350	Mercer County Hempfield Township	Shenango River (20-A)	Yes

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

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

**NPDES Permit No. PA0265551**, Sewage, SIC Code 8800, **Patricia Bogovich**, 1702 North Woodland Boulevard # 116167, Deland, FL 32720-1837.

This proposed facility is located in Clarion Township, **Clarion County**.

Description of Proposed Action/Activity: Issuance of an NPDES Permit for a new discharge of treated Sewage.

## **III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law.**

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

**WQM Permit No. 3617407**, Sewerage, **Lancaster Area Sewer Authority**, 130 Centerville Road, Lancaster, PA 17603-4007.

This proposed facility is located in West Hempfield Township, **Lancaster County**.

Description of Proposed Action/Activity:

This permit approves the construction of sewage facilities consisting of: Approximately 145' of 1 1/4" low pressure HDPE pipe; approximately 3,051' of 2" low pressure HDPE pipe; approximately 3,222' of 3" low pressure HDPE pipe; associated cleanouts and isolation valves; 43 grinder pump units; and 1 1/4" HPDE pipe pressure laterals.

**WQM Permit No. 3693401, Amendment A-2**, Sewerage, **Millersville Borough**, 100 Municipal Drive, Millersville, PA 17551.

This proposed facility is located in Millersville Borough, **Lancaster County**.

Description of Proposed Action/Activity: Permit approval for amendments at their treatment plant.

*Southwest Regional Office: Regional Clean Water Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Phone: 412.442.4000.*

**WQM Permit No. WQG01561701 A-1**, Sewage, SIC Code 8811, **Mazzarese Joseph J**, PO Box 337, Jerome, PA 15937.

This existing facility is located in Conemaugh Township, **Somerset County**.

Description of Proposed Action/Activity: The treatment process will consist of a septic/dosing tank, recirculating subsurface sand filter, chlorination tank with chlorine tablet and dichlorination.

**WQM Permit No. 1117403**, Sewage, SIC Code 6515, **Briko LLC**, 110 Fremont Avenue, Portage, PA 15946-1105.

This proposed facility is located in Adams Township, **Cambria County**.

Description of Proposed Action/Activity: construction and operation of a 9,500 gpd extended aeration sewage treatment plant.

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

**WQM Permit No. 1617407**, Sewage, **Patricia Bogovich**, 1702 N Woodland Boulevard # 116167, Deland, FL 32720-1837.

This proposed facility is located in Clarion Township, **Clarion County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

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

The following waiver applications have been approved for a 5-year period. The Department is issuing waivers for the following MS4s instead of NPDES permit coverage.

*Southwest Regional Office: Clean Water Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Phone: 412.442.4000.*

<i>NPDES Waiver No.</i>	<i>Applicant Name &amp; Address</i>	<i>Municipality, County</i>	<i>Receiving Water(s)/Use(s)</i>
PAG136374	Borough of Freeport 414 Market Street Freeport, PA 16229-1122	Freeport Borough, Armstrong	Buffalo Creek and Allegheny River/TSF and WWF
PAG136255	Borough of Rosslyn Farms 200 Rosslyn Road Carnegie, PA 15106-1034	Rosslyn Farms Borough, Allegheny	Unnamed Tributary to Chartiers Creek and Chartiers Creek/WWF
PAG136241	Thornburg Borough 545 Hamilton Road Pittsburgh, PA 15205-1708	Thornburg Borough, Allegheny	Unnamed Tributary to Chartiers Creek and Chartiers Creek/WWF
PAG136237	Borough of Ben Avon Heights 6 Lynton Lane Pittsburgh, PA 15202-1327	Ben Avon Heights Borough, Allegheny	Unnamed Tributary of Spruce Run and Unnamed Tributary of Ohio River/WWF and TSF

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

*Southeast Region: Waterways & Wetlands Program Manager, 2 East Main Street, Norristown, PA 19401. Telephone 484-250-5160.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD150082	"Pondworks" by Buccholtz Associates, Inc. 2169 East High Street Pottstown, PA 19464	Chester	Wallace Township	East Branch Brandywine Creek HQ-TSF-MF
PAD150081	Southdown Properties & General Partner of Pickering Crossing, LP 120 Pennsylvania Avenue Malvern, PA 19355	Chester	Charlestown Township	Unnamed Tributary to Pickering Creek HQ-TSF Cedar Hollow Creek EV

*Northeast Region: Waterways and Wetlands Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.*

*Northampton County Conservation District, 14 Gracedale Ave., Greystone Building, Nazareth, PA 18064-9211.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD480036	Mountain View Drive-In, LLC 172 E Aluta Mill Rd Nazareth, PA 18064	Northampton	Nazareth	Bushkill Creek (HQ-CWF, MF)

*Southcentral Region: Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Nathan Crawford, Section Chief, Telephone 717.705.4802.*

<i>Permit #</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD070003 Issued	Kulp Family Dairy, LLC 1691 Millerstown Road Martinsburg, PA 16662	Blair	North Woodbury Township	UNT Clover Creek (HQ-CWF, MF)
PAD360015 Issued	Eden Farms, LLC 1302 Lancaster Pike Quarryville, PA 17566	Lancaster	Eden Township	Bowery Run (HQ-CWF)
PAD060015 Issued	STMA, LP 415 Ellis Woods Road Pottstown, PA 19465-9323	Berks	Longswamp Township	Toad Creek (HQ-CWF) Little Lehigh Creek (HQ-CWF)

*Northcentral Region: Waterways & Wetlands Program Manager, 208 West Third Street, Williamsport, PA 17701, 570.327.3574.*

*Clinton County Conservation District: 45 Cooperation Lane, Mill Hall, PA 17751, (570) 726-3798.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD180012	Moses B. Stoltzfus 115 Groupe Road Jersey Shore, PA 17740	Clinton	Crawford Twp	Rauchtown Creek (HQ-CWF, MF, CL A Wild Trout)

*Southwest Region: Waterways & Wetlands Program, 400 Waterfront Drive, Pittsburgh, PA 15222, Dana Drake, Waterways and Wetlands Program Manager, 412-442-4000.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD020011	Henry Thorne 894 Blackburn Road Sewickley, PA 15143-1489	Allegheny County	Sewickley Heights Borough	Little Sewickley Creek (HQ-TSF)
PAD630017	Lane Construction Corporation 300 Bilmar Drive Suite 150 Pittsburgh, PA 15205	Washington County	South Strabane Township	Little Chartiers Creek (HQ-WWF)
PAD630028	Washington Area Humane Society P.O. Box 66 Eighty-Four, PA 15330	Washington County	North Strabane Township	UNT to Little Chartiers Creek (HQ-WWF)

*Northwest Region: Waterways & Wetlands Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

*Lawrence County Conservation District, 17137 Route 6, Smethport, PA 16749, 814-887-4001.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD370002	INMETCO 1 Inmetco Drive Ellwood City, PA 16117	Lawrence	Ellwood City Borough	Connoquenessing Creek WWF

## **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 Petroleum Product Contaminated Groundwater 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 Discharges from Hydrostatic Testing of Tanks and Pipelines
PAG-11	General Permit for Discharges from Aquatic Animal Production Facilities
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*

*Waterways & Wetlands Program Manager, 2 East Main Street, Norristown, PA 19401. Telephone 484-250-5160.*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Collingdale Borough Delaware County	PAC230049	910 MacDade Investors, LLC 416 Bethlehem Pike Fort Washington, PA 19034	Hermesprota Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Concord Township Delaware County	PAC230053	J's MVP Hospitality Glen Mills, LLC 50 Applied Bank Boulevard Glen Mills, PA 19342	Webb Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Marple Township Delaware County	PAC230063	Broomall Fire Company 10 North Main Road Broomall, PA 19008-1807	Darby Creek CWF-MF Langford Run CWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
City of Philadelphia Philadelphia County	PAC510061	Philadelphia Housing Authority 3100 Penrose Ferry Road Philadelphia, PA 19145	Delaware River WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Montgomery Township Montgomery County	PAC460198	Clayton Heckler 2312 North Broad Street Colmar, PA 18915	Unnamed Tributary to West Branch Neshaminy Creek WWF- MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Springfield Township Montgomery County	PAC460133	School District of Springfield Township 1901 East Paper Mill Road Oreland, PA 19075	Wissahickon Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Upper Merion Township Montgomery County	PAC460140	Rick Weston 601 Allendale Road King of Prussia, PA 19406	Unnamed Tributary to Trout Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Plymouth Township Montgomery County	PAC460159	John Tallman 1300 Virginia Drive Suite 215 Fort Washington, PA 19034	Plymouth Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Lower Providence Township Montgomery County	PAC460168	George Felici 1061 DeKalb Street Suite 102 Blue Bell, PA 19422	Perkiomen Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Franconia Township Montgomery County	PAC460224	R.E. Pierson Construction Company, Inc. 726 Swedesboro Road Pilesgrove, NJ 08098	Unnamed Tributary to Skippack Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Newtown Township Bucks County	PAC090117	Premier A-2 Newtown, PA LLC 1802 Cedar Street Lewes, DE 19958	Unnamed Tributary to Core Creek CWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900

*Northeast Region: Waterways and Wetlands Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Blakely Borough Lackawanna County	PAC350021	RT 6 Land Development Corp 7 Oakwood Dr Scranton, PA 18504	West Branch Tinklepaugh Creek (CWF, MF)	Lackawanna County Conservation District 570-382-3086
Palmer Twp Tatamy Borough Northampton County	PAC480041	Charles Chrin Real Estate Trust Jim Chrin 400 S Green Wood Ave Easton, PA 18045	Schoeneck Creek (WWF, MF)	Northampton County Conservation District 610-829-6276

*Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, Nathan Crawford, Section Chief, 717.705.4802.*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Franklin Township Adams County Issued	PAC010054	Aubrey E. King III Dynamic Hydra-Pruners 257 High Street Orrtanna, PA 17353	UNT Marsh Creek (CWF)	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325-3404 717.334.0636
East St. Clair Township Bedford County Issued	PAC050018	Ridgetop Orchards, LLC 2953 Valley Road Fishertown, PA 15539	Adams Run (WWF, MF)	Bedford County Conservation District 702 West Pitt Street Suite 4 Bedford, PA 15522 814.623.7900, ext. 4
Hampden Township Cumberland County Issued	PAC210057	PA Department of Transportation 2140 Herr Street Harrisburg, PA 17103	Tributary Conodoguinet Creek (WWF-MF)	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013-9101 717.240.7812
Carlisle Borough Cumberland County Issued	PAC210068	S&A Homes 2121 Old Gatesburg Road State College, PA 16803	UNT Conodoguinet Creek (WWF)	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013-9101 717.240.7812
Susquehanna Township Dauphin County Issued	PAC220094	Joseph Dorbian 131 Stover Drive Carlisle, PA 17013	Susquehanna River (WWF)	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717.921.8100
Jackson Township Lebanon County Issued	PAC380063	Dwayne Hoover 101 South Ramona Road Myerstown, PA 17067	UNT Deep Run (WWF)	Lebanon County Conservation District 2120 Cornwall Road Lebanon, PA 17042-9788 717.277.5275

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

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Granville Twp, Bradford Cnty	PAC080020	Scot Sample Northern Tier Solid Waste Authority Landfill # 2 PO Box 10 Burlington, PA 18814	N. Branch Towanda Creek—CWF	Bradford County Conservation District Stoll Natural Resource Ctr 200 Lake Rd Ste E Towanda, PA 18848 (570) 265-5539, X 6
Wysox Twp, Bradford Cnty	PAC080022	Williams Field Services Company, LLC 2000 Commerce Drive Pittsburgh, PA 15275	Wysox Creek—CWF	Bradford County Conservation District Stoll Natural Resource Ctr 200 Lake Rd Ste E Towanda, PA 18848 (570) 265-5539, X 6
Bellefonte Boro, Centre Cnty	PAC140039	Bellefonte Area School District 318 North Allegheny St Bellefonte, PA 16823	UNT Spring Creek— CWF, MF	Centre County Conservation District 414 Holmes Ave Ste 4 Bellefonte, PA 16823 (814) 355-6817

*Southwest Region: Waterways & Wetlands Program, 400 Waterfront Drive, Pittsburgh, PA 15222, Dana Drake,  
Waterways and Wetlands Program Manager, 412-442-4000.*

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office and Phone No.</i>
City of Pittsburgh	PAC020089	Housing Authority of the City of Pittsburgh 200 Ross Street Ninth Floor Pittsburgh, PA 15219	Allegheny River (WWF)	Allegheny County Conservation District River Walk Corporate Centre 33 Terminal Way Suite 325b Pittsburgh, PA 15219 (412) 241-7645
Glen Osborne Borough; Aleppo Township	PAC020226	Columbia Gas of Pennsylvania 2021 West State Street New Castle, PA 16101	UNT to Ohio River (WWF); Ohio River (WWF)	Allegheny County Conservation District River Walk Corporate Centre 33 Terminal Way Suite 325b Pittsburgh, PA 15219 (412) 241-7645
City of Pittsburgh	PAC020234	Bakery Square 2 Agent, LP 5500 Walnut Street Suite 300 Pittsburgh, PA 15232	UNT to Allegheny River (WWF)	Allegheny County Conservation District River Walk Corporate Centre 33 Terminal Way Suite 325b Pittsburgh, PA 15219 (412) 241-7645
Oakmont Borough	PAC020215	Brenntag Northeast, Inc. 81 West Huller Lane Reading, PA 19605	Allegheny River (WWF)	Allegheny County Conservation District River Walk Corporate Centre 33 Terminal Way Suite 325b Pittsburgh, PA 15219 (412) 241-7645



## NOTICES

2699

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office and Phone No.</i>
Moon Township	PAC020221	Moon Realty, LLC 5408 University Boulevard Coraopolis, PA 15108	Narrow Run (WWF)	Allegheny County Conservation District River Walk Corporate Centre 33 Terminal Way Suite 325b Pittsburgh, PA 15219 (412) 241-7645
Wilkins Township	PAC020225	Wilkins Township 110 Peffer Road Turtle Creek, PA 15145	Sawmill Run (WWF)	Allegheny County Conservation District River Walk Corporate Centre 33 Terminal Way Suite 325b Pittsburgh, PA 15219 (412) 241-7645
Collier Township	PAC020242	CE Acquisitions IV, LP 215 Boyds Run Road Presto, PA 15142	UNT to Chartiers Creek (WWF)	Allegheny County Conservation District River Walk Corporate Centre 33 Terminal Way Suite 325b Pittsburgh, PA 15219 (412) 241-7645
North Fayette Township	PAC020064	Township of North Fayette 400 North Branch Road Oakdale, PA 15051	UNT to Montour Run (TSF)	Allegheny County Conservation District, River Walk Corporate Centre, 33 Terminal Way, Suite 325b Pittsburgh, PA 15219 (412) 241-7645
Oakmont Borough	PAC020222	Sweet Properties Oakmont, LLC 2107 Renton Road Pittsburgh, PA 15239	Allegheny River (WWF)	Allegheny County Conservation District River Walk Corporate Centre 33 Terminal Way Suite 325b Pittsburgh, PA 15219 (412) 241-7645
South Buffalo Township	PAC030009	James E. Helmick, Jr. 135 Horseshoe Drive Freeport, PA 16229	UNT to Buffalo Township	Armstrong County Conservation District Armsdale Administration Building 124 Armsdale Road Suite B-2 Kittanning, PA 16201-3738 (724) 548-3425
Freedom Borough	PAC040033	Freedom Area School District 1702 School Street Freedom, PA 15042	Ohio River (WWF)	Beaver County Conservation District 156 Cowpath Road Aliquippa, PA 15001 (724) 378-1701
Center Township	PAC040035	G & D Medical Properties, LLC P.O. Box 1198 Wexford, PA 15090	UNT to Shafers Run (WWF)	Beaver County Conservation District 156 Cowpath Road Aliquippa, PA 15001 (724) 378-1701
Hopewell Township	PAC040038	Maronda Homes, Inc. 11 Timberglenn Drive Imperial, PA 15126	UNT to Ohio River (WWF)	Beaver County Conservation District 156 Cowpath Road Aliquippa, PA 15001 (724) 378-1701

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office and Phone No.</i>
North Mahoning Township (Indiana County); Young Township (Jefferson County)	PAC320019	James Palaia 12 Raspberry Trail Warren, NJ 07059	North Mahoning (CWF); Canoe Creek (CWF)	Indiana County Conservation District 625 Kolter Drive Suite 8 Indiana, PA 15701 (724) 471-4751
Burrell Township	PAC320022	Sheetz, Inc. 5700 Sixth Avenue Altoona, PA 16602	UNT to Blacklick Creek (CWF)	Indiana County Conservation District 625 Kolter Drive Suite 8 Indiana, PA 15701 (724) 471-4751

*Northwest Region: Waterways & Wetlands Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Hawthorn Borough, Clarion County	PAC160012	Hawthorn Borough P.O. Box 52 3784 Main Street Hawthorn, PA 16230	Redbank Creek CWF	Clarion County Conservation District 217 S 7th Avenue Room 106A Clarion, PA 16214 814-297-7813

*General Permit Type—PAG-03*

<i>Facility Location Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
White Deer Township Union County	PAG034848	S & J Recycling, Inc. 3576 Old Route 15 New Columbia, PA 17856-9369	Unnamed Tributary of West Branch Susquehanna River—10-C	DEP Northcentral Regional Office Clean Water Program 208 W Third Street Suite 101 Williamsport, PA 17701-6448 570.327.3636
Stowe Township Allegheny County	PAG036179	Penn Waste System 149 Nichol Avenue McKees Rocks, PA 15136	Ohio River—20-G WWF	DEP Southwest Regional Office Clean Water Program 400 Waterfront Drive Pittsburgh, PA 15222-4745 412.442.4000
Greenwood Township Crawford County	PAG038363	Environmental Coordination Service & Recycling Inc. 3237 Us Highway 19 Cochranton, PA 16314-3821	Unnamed Tributary of Sandy Creek—16-G	DEP Northwest Regional Office Clean Water Program 230 Chestnut Street, Meadville, PA 16335-3481 814.332.6942

*General Permit Type—PAG-04*

<i>Facility Location Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Conemaugh Township Somerset County	PAG046466 A-1	Joseph J. Mazzaresse PO Box 337 Jerome, PA 15937	Unnamed Tributary of Quemahoning Creek—18-E	DEP Southwest Regional Office Clean Water Program 400 Waterfront Drive Pittsburgh, PA 15222-4745 412.442.4000

*General Permit Type—PAG-8 (SSN)*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Site Name &amp; Location</i>	<i>Contact Office &amp; Phone No.</i>
Conewago Township/ Dauphin County	PAG08	Synagro Central LLC 1605 Dooley Road PO Box B Whiteford, MD 21160	James Max Farm Conewago Township/ Dauphin County	DEP—SCRO— Clean Water Program 909 Elmerton Avenue Harrisburg, PA 17110-8200 717-705-4707
Todd Township and Licking Creek Township/Fulton County	PAG08	SYNAGRO Central, LLC 1605 Dooley Road PO Box B Whiteford, MD 21160	Eric Buterbaush Farm	DEP—SCRO— Clean Water Program 909 Elmerton Avenue Harrisburg, PA 17110-8200 717-705-4707
Dublin Township/ Fulton County	PAG123844, A1	Melvin Bricker North Mountain Gobbler # 2 8310 Fort Mccord Road Chambersburg, PA 17202	Watershed 13-B	DEP—SCRO—CW 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
Hamilton Township/ Franklin County	PAG123801, A1	Melvin Bricker North Mountain Gobbler # 1 8310 Fort Mccord Road Chambersburg, PA 17202	Watershed 13-C	DEP—SCRO—CW 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707

*General Permit Type—PAG-13*

<i>Facility Location Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Pottsville City Schuylkill County	PAG132276	Pottsville City 401 North Centre Street Pottsville, PA 17901-1330	Schuylkill River, Unnamed Tributary to Schuylkill River, and West Branch Schuylkill River— 3-A	DEP Northeast Regional Office Clean Water Program 2 Public Square Wilkes-Barre, PA 18701-1915 570.826.2511
Throop Borough Lackawanna County	PAG132253	Throop Borough 436 Sanderson Street Throop, PA 18512	Lackawanna River (CWF/MF), Eddy Creek (WWF/MF), and an Unnamed Tributary to the Lackawanna River (CWF/MF)—5-A	DEP Northeast Regional Office Clean Water Program 2 Public Square Wilkes-Barre, PA 18701-1915 570.826.2511
Swatara Township/ Dauphin County	PAG133615	Swatara Township Dauphin County 599 Eisenhower Blvd. Harrisburg, PA 17111	UNT Susquehanna River and Susquehanna River/ WWF, CWF and MF	Southcentral Region Clean Water Program 909 Elmerton Avenue Harrisburg, PA 17110 Phone 717-705-4707
Conewago Township/ Adams County	PAG133753	Conewago Township Adams County 541 Oxford Township Hanover, PA 17331	UNT to Plum Creek, UNT South Branch Conewago Creek and South Branch Conewago Creek/ WWF and MF	Southcentral Region Clean Water Program 909 Elmerton Avenue Harrisburg, PA 17110 Phone 717-705-4707
Middletown Borough/ Dauphin County	PAG133645	Middletown Borough Dauphin County 60 West Emaus Street Middletown, PA 17057-1407	Swatara Creek, Susquehanna River, UNT to Swatara Creek/WWF and MF	Southcentral Region Clean Water Program 909 Elmerton Avenue Harrisburg, PA 17110 Phone 717-705-4707
Swissvale Borough Allegheny County	PAG136200	Swissvale Borough 7560 Roslyn Street Pittsburgh, PA 15218-2556	Ninemile Run Unnamed Tributary to Monongahela River Monongahela River 19-A	DEP Southwest Regional Office Clean Water Program 400 Waterfront Drive Pittsburgh, PA 15222-4745 412.442.4000

**STATE CONSERVATION COMMISSION  
NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR NPDES  
PERMITS FOR CAFOs**

The State Conservation Commission has taken the following actions on previously received applications for nutrient management plans under 3 Pa.C.S. Chapter 5, for agricultural operations that have or anticipate submitting applications for new, amended or renewed NPDES permits or 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.

Persons aggrieved by an action may appeal under 3 Pa.C.S. § 517, section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704 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 a right of appeal beyond that permitted by applicable statutes and decision law.

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

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

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

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>AEU's</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Approved or Disapproved</i>
Sunset Family Farms, LLC Kevin Snader 264 Sunset Drive Fredericksburg, PA 17026	Lebanon	154.3	378.2	Poultry	NA	Approved

**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 AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board’s rules of practice and procedure may be obtained from the Board. The appeal form and the Board’s rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create 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 free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**SAFE DRINKING WATER**

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

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

<b>Permit No. 4618501, Public Water Supply.</b>	
Applicant	<b>North Penn Water Authority</b> 300 Forty Foot Road Lansdale, PA 19446
Various	Hatfield Township, Hatfield Borough
County	<b>Montgomery</b>
Type of Facility	PWS
Consulting Engineer	CKS Engineers, Inc. 88 South Main Street Doylestown, PA 18901
Permit to Construct Issued	April 12, 2018

**Operations Permit # 4616531** issued to: **Aqua Pennsylvania, Inc.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010, **PWS ID # 1460073**, Upper Merion Township, **Montgomery County** on April 18, 2018 for the operation of Upgrade of the existing On-site Hypochlorite Generation System at Cabot Well Station facilities approved under construction permit # 4616531.

*Northeast Region: Safe Drinking Water Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.*

**Permit No. 2580023, Operations Permit**, Public Water Supply.

Applicant **Pennsylvania American Water Company**  
800 West Hershey Park Dr.  
Hershey, PA 17033

[Borough or Township] Bridgewater Township

County **Susquehanna**

Type of Facility PWS

Consulting Engineer Mr Bruce Brubaker PE  
Project Manager Engineer  
PAWC  
852 Wesley Dr  
Mechanicsburg, PA 17055

Permit to Operate April 3, 2018  
Issued

**Permit No. 4516510**, Public Water Supply.

Applicant **Tobyhanna Army Depot**  
11 Hap Arnold Blvd  
Tobyhanna, PA 18466

[Township or Borough] Coolbaugh Township,  
**Monroe County**

Responsible Official Thomas J. Widoner  
11 Hap Arnold Blvd  
Tobyhanna, PA 18466

Type of Facility PWS

Consulting Engineer Craig Burt, PE  
Weston Solutions, Inc.  
1400 Weston Way,  
Weston Chester, PA 19380

Permit Issued Date 04/11/2018

**Permit No. 3480055, Operations Permit**, Public Water Supply.

Applicant **Pennsylvania American Water Company**  
800 West Hershey Park Dr.  
Hershey, PA 17033

[Borough or Township] Hamilton Township

County **Monroe**

Type of Facility PWS

Consulting Engineer Mr Daniel Rickard PE  
Sr Project Manager  
Pennsylvania American Water  
Company  
2699 Stafford Ave  
Scranton, PA 18505

Permit to Operate April 16, 2018  
Issued

**Permit No. 2520062, Operations Permit**, Public Water Supply.

Applicant **Pennsylvania American Water Company**  
800 West Hershey Park Dr.  
Hershey, PA 17033

[Borough or Township] Middle Smithfield Township

County **Monroe**

Type of Facility PWS

Consulting Engineer Mr Jeremy Nelson PE

Engineering Project Pennsylvania American Water  
Co  
2699 Stafford Ave  
Scranton, PA 18505

Permit to Operate April 18, 2018  
Issued

**Permit No. 3390349, Operations Permit**, Public Water Supply.

Applicant **Community Baptist Church of Quakertown**  
464 Dorchester Lane  
Perkasie, PA 18944

[Borough or Township] Lower Milford Township

County **Lehigh**

Type of Facility PWS

Consulting Engineer N/A

Permit to Operate 4/19/2018  
Issued

**Permit No. 2450038, Operations Permit**, Public Water Supply.

Applicant **Mr. Richard Dionysius, Jr.**  
White Rock Mobile Home Park  
479 Route 196  
Tobyhanna, PA 18466

[Borough or Township] Coolbaugh Township

County **Monroe**

Type of Facility PWS

Consulting Engineer N/A

Permit to Operate 4/23/2018  
Issued

*Southcentral Region: Safe Drinking Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Permit No. 5017501**, Public Water Supply.

Applicant **Hillside Manor Apartments**

Municipality Oliver Township

County **Perry**

Responsible Official David M. Bomberger  
PO Box 36  
Mexico, PA 17056

Type of Facility The iron/manganese treatment system will be removed. The booster pump on the arsenic treatment system will be removed, and bypasses for each arsenic treatment unit will be installed.

Consulting Engineer Stephen R. Morse, P.E.  
Skelly & Loy, Inc.  
449 Eisenhower Boulevard  
Harrisburg, PA 17111

Permit to Construct 4/18/2018  
Issued

**Permit No. 3617515**, Public Water Supply.

Applicant **Windmill Family Restaurant**  
Municipality Caernarvon Township  
County **Lancaster**  
Responsible Official Larry L. Miller, Water System  
Operator  
2021 Horseshoe Road  
Lancaster, PA 17602

Type of Facility The project consists of  
permitting the existing softening  
and nitrate removal systems,  
replacement of existing corrosion  
control facilities, and upgrades of  
the sodium hypochlorite  
disinfection system to achieve  
4-log treatment of viruses.

Consulting Engineer Daniel S. Hershey, P.E.  
Hershey Engineering, Inc  
703 Woodcrest Avenue  
Lititz, PA 17543

Permit to Construct 4/13/2018  
Issued

**Permit No. 3617519, Minor Amendment**, Public  
Water Supply.

Applicant **Frogtown Café**  
Municipality Martic Township  
County **Lancaster**  
Responsible Official Janie Barton, Owner  
684 Maricsville Road  
PO Box 2  
Pequea, PA 17565

Type of Facility Installation of nitrate removal  
system.

Consulting Engineer Mark L. Homan, P.E.  
Becker Engineering LLC  
111 Millersville Road  
Lancaster, PA 17603

Permit to Construct 4/18/2018  
Issued

**Comprehensive Operation Permit No. 4340008** is-  
sued to: **Mifflintown Municipal Authority (PWS ID  
No. 4340008)**, Walker Township, **Juniata County** on  
4/18/2018 for the operation of facilities approved under  
Construction Permit No. 3417502.

**Transferred Comprehensive Operation Permit No.  
7360006** issued to: **Brookside Mobile Home Park  
(PWS ID No. 7360006)**, Brecknock Township, **Lancaster  
County** on 4/17/2018. Action is for a for the operation of  
facilities previously issued to .

*Northcentral Region: Safe Drinking Water Program  
Manager, 208 West Third Street, Suite 101, Williamsport,  
PA 17701-6448.*

**Permit No. 5517501MA—Construction—Public Wa-  
ter Supply.**

Applicant **Benton (SR 118) DG, LLC**  
Township/Borough Sugarloaf Township  
County **Columbia County**  
Responsible Official Mr. Steven E. Camp  
Benton (SR 118) DG, LLC  
361 Summit Boulevard  
Suite 110  
Birmingham, AL 35243

Type of Facility Public Water  
Supply—Construction

Consulting Engineer Mr. Michael Brunamonti, P.E.  
BCM Engineers/ATC Groups  
SVCS, LLC  
1001 Lackawanna Trail  
Clarks Summit, PA 18411

Permit Issued April 17, 2018

Description of Action Authorizes construction of a new  
transient noncommunity public  
water system for the Benton  
Dollar General Store. This  
approves Well No. 1 as a source  
of supply, the transmission line,  
a hydropneumatic tank, a  
prefilter, an arsenic removal  
system, an ultraviolet  
disinfection system, and the  
distribution system.

**Permit No. 1409501-T1, 1489514-T2, MA-GWR-T1—  
Operation—Public Water Supply.**

Applicant **Nittany Grove Condominium  
Community Association**  
Township/Borough Harris Township  
County **Centre County**  
Responsible Official Mr. Thomas R. Bettel, Executive  
Board President  
Nittany Grove Condominium  
Community Association  
204 Timberwood Trail  
Centre Hall, PA 16828

Type of Facility Public Water Supply-Operation

Consulting Engineer N/A

Permit Issued April 20, 2018

Description of Action Authorizes the transfer of  
ownership of each of the permits:  
1409501-T1, 1489514-T2, &  
MA-GWR-T1, and the operation  
of the facilities named therein.

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

**Permit No. 2688504-A1**, Public Water Supply.

Applicant **The Municipal Authority of  
the Township of Washington**  
1390 Fayette Avenue  
Belle Vernon, PA 15012

[Borough or Township] Fayette City Borough

County **Fayette**  
 Type of Facility Discontinuation of feeding fluoride  
 Consulting Engineer Bankson Engineers, Inc.  
 Suite 200  
 267 Blue Run Road  
 Cheswick, PA 15024  
 Permit to Construct April 19, 2018  
 Issued

**Operations Permit** issued to: **Brighton Township Municipal Authority**, 1300 Brighton Road, Beaver, PA 15009, (PWSID # 5040017) Brighton Township, **Beaver County** on April 12, 2018 for the operation of facilities approved under Construction Permit # 0416501MA.

**Operations Permit** issued to: **Moon Township Municipal Authority**, 1700 Beaver Grade Road, Suite 200, Moon Township, PA 15108, (PWSID # 5020011) Moon Township, **Allegheny County** on April 12, 2018 for the operation of facilities approved under Construction Permit # 0215539.

**Operations Permit** issued to: **West View Water Authority**, 210 Perry Highway, Pittsburgh, PA 15229, (PWSID # 5020043) Neville Township, **Allegheny County** on April 17, 2018 for the operation of facilities approved under Construction Permit # 0 217545MA.

**Operations Permit** issued to: **Creswell Heights Joint Water Authority**, 3961 Jordan Street, South Heights, PA 15081, (PWSID # 5040063) South Heights Borough, **Beaver County** on April 17, 2018 for the operation of facilities approved under Construction Permit # 0416507MA.

**Operations Permit** issued to: **Rayburn Township Joint Municipal Authority**, PO Box 776, Kittanning, PA 16201, (PWSID # 5030020) Rayburn Township, **Armstrong County** on April 17, 2018 for the operation of facilities approved under Construction Permit # 0315505.

**Operations Permit** issued to: **Manor Township Joint Municipal Authority**, 2310 Pleasant View Drive, Ford City, PA 16226, (PWSID # 5030006) Manor Township, **Armstrong County** on April 17, 2018 for the operation of facilities approved under Construction Permit # 0315503.

**Operations Permit** issued to: **Wilksburg-Penn Joint Water Authority**, 2200 Robinson Boulevard, Pittsburgh, PA 15221, (PWSID # 5020056) Penn Hills Borough, **Allegheny County** on April 17, 2018 for the operation of facilities approved under Construction Permit # 0217538.

**Operations Permit** issued to: **Indiana County Municipal Services Authority**, 602 Kolter Drive, Indiana, PA 15701, (PWSID # 5320109) Washington Township, **Allegheny County** on April 17, 2018 for the operation of facilities approved under Construction Permit # 3218504MA.

**Permit No. 0218502MA, Minor Amendment.** Public Water Supply.

Applicant **Coraopolis Water and Sewer Authority**  
 1012 Fifth Avenue  
 Coraopolis, PA 15108

[Borough or Township] Coraopolis Borough

County **Allegheny**  
 Type of Facility Rehabilitation of the final clearwell  
 Consulting Engineer Lennon, Smith, Souleret Engineering, Inc.  
 846 Fourth Avenue  
 Coraopolis, PA 15108  
 Permit to Construct April 19, 2018  
 Issued

**Permit No. 6516501MA-2E, Minor Amendment.** Public Water Supply.

Applicant **Highridge Water Authority**  
 17 Maple Avenue  
 Blairsville, PA 15717

[Borough or Township] Burrell Township

County **Indiana**  
 Type of Facility Hill Drive waterline project  
 Consulting Engineer Gibson-Thomas Engineering Co., Inc.  
 1004 Ligonier Street  
 PO Box 853  
 Latrobe, PA 15650

Permit to Construct April 20, 2018  
 Issued

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

**Permit No. 6430041, Liberty Acres MHP,** Public Water Supply.

Applicant **S.R.F. Enterprises LLC**  
 17 Vickilee Drive  
 Wrightsville, PA 17368

Township or Borough Liberty Township

County **Mercer**  
 Type of Facility Public Water Supply  
 Consulting Engineer John P. Mazich, P.E.  
 Uni-Teck Consulting Engineers, Inc.  
 2007 Cato Avenue  
 State College, PA 16801-2765

Permit to Construct April 19, 2018  
 Issued

**Permit No. 6430054,** Public Water Supply.

Applicant **Aqua Pennsylvania Inc.**  
 665 S. Dock Street  
 Sharon, PA 16146

Township or Borough City of Hermitage

County **Mercer**  
 Type of Facility Public Water Supply  
 Consulting Engineer Nicholas OHallaron, P.E.  
 Entech Engineering  
 400 Rouser Road  
 Coraopolis, PA 15108

Permit to Construct April 23, 2018  
 Issued

### WATER ALLOCATIONS

**Actions taken on applications received under the act of June 24, 1939 (P.L. 842, No. 365) (35 P.S. §§ 631—641) relating to the acquisition of rights to divert waters of the Commonwealth.**

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

**WA-09-959B, Water Allocations**, Warrington Township, 852 Easton Road, Warrington, PA 18976, Warrington Township, **Bucks County**. Granting the right to purchase 2,000,000 gallons per day (gpd), based on peak use, from the North Wales Water Authority (NWWA).

### SEWAGE FACILITIES ACT PLAN APPROVAL

**Plan Approvals Granted Under the Pennsylvania Sewage Facilities Act (35 P.S. § 750.5).**

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

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Swatara Township	68 Supervisors Drive Jonestown, PA 17038	Lebanon

*Plan Description:* Approval is granted for a Special Study for Swatara Township, Lebanon County. The project is known as the Pump Station 3—Forcemain Relocation. The plan provides for relocating the Pump Station 3 Forcemain to allow for the completion of a bridge project. The project is located on Quarry Road. The Department's review of the sewage facilities Special Study has not identified any significant impacts resulting from this proposal. The DEP Code Number for this Special study is D1-38923-ACT and the APS Id is 481887. Any required NPDES Permits or WQM Permits must be obtained in the name of the Northern Lebanon County Authority.

### 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 Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

**300-302 MacDade Boulevard Property**, 300-302 MacDade Boulevard, Collingdale Borough, **Delaware County**. Richard S. Werner, Environmental Consulting, Inc., 2002 Renaissance Boulevard, King of Prussia, PA 19406 on behalf of David D. Waltz, The Bryn Mawr Trust Company, 801 Lancaster Avenue, Bryn Mawr, PA 19010 submitted a Remedial Investigation Report/Risk Assessment Report/Cleanup Plan/Final Report concerning remediation of site groundwater and soil contaminated with diesel fuel, fuel oil No. 2, parameters and other VOCs and TCL. The report is intended to document remediation of the site to meet the Site-Specific Standard.

**Pathan Chemical Site**, 425-447 Moyer Street, City of Philadelphia, **Philadelphia County**. Craig Herr, RT Environmental Services, Inc., 215 Church Road, King of Prussia, PA 19406 on behalf of Barbara Varela, New Kensington Community Development Corporation, 2515 Frankford Avenue, Philadelphia, PA 19125 submitted a Final Report concerning remediation of site soil contaminated with chlorinated solvent. The report is intended to document remediation of the site to meet the Site-Specific Standard.

**3001, 2041, & 3051 Philmont Avenue, 3001, 2041, & 3051 Philmont Avenue**, Lower Moreland Township, **Montgomery County**. Richard S. Werner, Environmental Consulting, Inc., 2002 Renaissance Boulevard, King of Prussia, PA 19406 on behalf of Peter J. Clelland, BT Philmont, LP, 200 Witmer Road, Suite 200, Horsham, PA 19044 submitted a Final Report concerning remediation of site groundwater contaminated with other organics. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Shacklett Realty LP Property**, Cedar Grove Road, Whitmarsh Township, **Montgomery County**. Terence A. O'Reilly, TriState Environmental Management Services, 368 Dunksferry Road, Bensalem, PA 19020 on behalf of Michael Richardson, Toll PA XIV, L.P., 250 Gibraltar Road, Horsham, PA 19044 submitted a Final Report concerning remediation of site soil contaminated with metals, PAHs and organic pesticides. The report is intended to document remediation of the site to meet the Site-Specific Standard.

**Rohm and Haas Chemical LLC Philadelphia Plant**, 500 Richmond Street, City of Philadelphia, **Philadelphia County**. Susan LaBrake, AECOM, 625 West



Ridge Pike, Suite 100, Conshohocken, PA 19428 on behalf of Carl Coker, Rohm and Haas Chemicals LLC, 310 George Patterson Boulevard, Suite 100, Bristol, PA 19007 submitted a Risk Assessment Report/Remedial Investigation Report/Final Report concerning remediation of site soil and groundwater contaminated with VOCs, SVOCs, pesticides, herbicides and metals. The report is intended to document remediation of the site to meet the Site-Specific Standard.

**1750 Woodhaven Drive**, 175 Woodhaven Drive, Bensalem Township, **Bucks County**. Richard S. Werner, Environmental Consulting, Inc., 2002 Renaissance Boulevard, King of Prussia, PA 19406 on behalf of Anthony D. Cino, MNOP, Inc., 301 Oxford Valley Road, Suite 702, Yardley, PA 19067-7713 submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Welsh Residence**, 123 Clearfield Avenue, Lower Providence Township, **Montgomery County**. Richard D. Trimpi, Trimpi Associates, Inc. 1635 Old Plains Road, Pennsburg, PA 18073 on behalf of Jeff Welsh, JMW Real Estate Management LP, 100 West Indian Lane, Norristown, PA 19403 submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**GKS Upper Merion Facility**, 709 Swedeland Road, Upper Merion Township, **Montgomery County**. Lisa Strobbridge, Arcadis, 10 Friends Lane, Newtown, PA 18940 on behalf of John Loeper, GKS Complementary Worker, ARCADIs on behalf of GSK WREF Services, 709 Swedeland Road, UW-2331, King of Prussia, PA 19046 submitted a Final Report concerning remediation of site soil and groundwater contaminated with No. 6 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Sleicher Property**, 400 East Montgomery Avenue, North Wales Borough, **Montgomery County**. Richard D. Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073 on behalf of Ernest David, State Farm Insurance, P.O. Box 106169, Atlanta, GA 30348 submitted a Final Report concerning remediation of site soil contaminated with petroleum. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Rhoda**, 230 South Pennsylvania, Falls Township, **Bucks County**. Ryan Fitzpatrick, Arcadis U.S. Inc., 10 Friends Lane, Suite 200, Newton, PA 18940 on behalf of Mike Shatynski, ISolvary USA, Inc., 504 Carnegie Center, Princeton, NJ 08540 submitted a Final Report concerning remediation of site soil contaminated with No. 4 fuel oil. The report is intended to document remediation of the site to meet the Site-Specific Standard.

**Wawa Food Mkt # 208**, 567 Lancaster Avenue, East Whiteland Township, **Chester County**. Mark Bedle, B&B Diversified Enterprises, P.O. Box 70, Barto, PA 19504 on behalf of Joseph Standen, Wawa Inc., 260 West Baltimore Pike, Wawa, PA 19603 submitted a Final Report concerning remediation of site soil and groundwater contaminated with unleaded gasoline parameters. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Custom Particle Reduction Inc.**, 5189 Stump Road, Plumstead Township, **Bucks County**. Jaclyn Baron, UHL & Associates, Inc, 278 North Union Street, P.O. Box 357, Lambertville, NJ 08530 on behalf of Dennis K. Rice,

Custom Particle Reduction, Inc., 5189 Stump Road, P.O. Box 479, Plumsteadville, PA 18949 submitted a Cleanup Plan/Remedial Investigation Report concerning remediation of site groundwater and soil contaminated with other organics. The report is intended to document remediation of the site to meet the Site-Specific Standard.

**33 Tomlinson Road**, 33 Tomlinson Road, Lower Moreland Township, **Montgomery County**. David Everitt, MEA, Inc., 1365 Ackermanville Road, Bangor, PA 18013 on behalf of Mary Kay Parsek, Indigo Investment Servicing, Inc., 5318 East 2nd Street # 502 submitted a Remedial Investigation Report concerning remediation of site soil and groundwater contaminated with the chlorinated solvent trichloroethene. The report is intended to document remediation of the site to meet the Site-Specific Standard.

**Logue Residence**, 35 Lindbergh Avenue, Maple Township, **Delaware County**. Richard D. Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073 on behalf of Mike DiBartolomeo, ERIE Insurance, 1400 North Providence Road, Media, PA 19063 submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**2413-2429 North Broad Street**, 2413-2429 North Broad Street, City of Philadelphia, **Philadelphia County**. Richard S. Werner, Environmental Consulting, Inc., 2002 Renaissance Boulevard, King of Prussia, PA 19406 on behalf of Janet Steams, Project H.O.M.E. 1845 North 23rd Street, Philadelphia, PA 19121 submitted a Final Report concerning remediation of site soil contaminated with VOCs portion of the PADEP used motor oil parameters in soil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

*Northeast Region: Eric Supey, Environmental Cleanup & Brownfields Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.*

**Former Tigie Street Gulf**, 200A Tigie Street, Dunmore Borough, **Lackawanna County**. LaBella Associates, 1000 Dunham Drive, Suite B, Dunmore, PA 18512, on behalf of Scalse Enterprises, Inc., 200A Tigie Street, Dunmore, PA 18512, submitted a Final Report concerning remediation of soil and groundwater contamination caused by a release from an underground storage tank that contained heating oil. The report is intended to document remediation of the site to meet Site Specific Standards.

**Wolf Property**, 303 South Arch Street, Allentown City, **Lehigh County**. APTIM, 200 Horizon Center Boulevard, Trenton, NJ 08691, on behalf of Petro Oil Company, 6330 Farm Bureau Road, Allentown, PA 18106, submitted a Final Report concerning remediation of soil contaminated with releases of No. 2 Fuel Oil associated with an aboveground storage tank. The report is intended to document remediation of the site to meet Statewide Health Standards.

**Comfort Inn-Clarks Summit**, 811 Northern Boulevard, South Abington Township, **Lackawanna County**. United Environmental, P.O. Box 701, Schuylkill Haven, PA 17972, on behalf of Trudim, Inc., 811 Northern Boulevard, Clarks Summit, PA 18411, submitted a Final Report concerning remediation of soil contamination caused by a release from an underground storage tank that contained heating oil. The report is intended to document remediation of the site to meet Statewide Health Standards.

**Bridge for Housing Opportunities, Inc. Property**, Harding and Oak Streets, Nicholson Borough, **Wyoming County**. LaBella Associates, 1000 Duham Drive, Suite B, Dunmore, PA 18512, on behalf of Bridge for Housing Opportunities, Inc., 133 SJ Bailey Road, Nicholson, PA 18446, submitted a Final Report concerning remediation of soil and groundwater contamination caused by a release from an underground storage tank that contained heating oil. The report is intended to document remediation of the site to meet Statewide Health Standards.

**Varkony Property**, 1711 Independence Court, South Whitehall Township, **Lehigh County**. Marshall Geoscience, Inc., 170 East First Avenue, Colleagueville, PA 19426, on behalf of Pamela Varkony, 203 Wimby Place, Sun City Center, FL 33573, submitted a Final Report concerning remediation of soil contaminated as the result of a release of heating oil from an underground storage tank. The report is intended to document remediation of the site to meet Statewide Health Standards.

**Pole Road Spill Site**, Pole Road, Kline Township, **Schuylkill County**. Advantage Engineers, 435 Independence Avenue, Suite C, Mechanicsburg, PA 17055, on behalf of Talley Petroleum Enterprises, 10046 Allentown Boulevard, Grantville, PA 17028, submitted a Final Report concerning remediation of soil contaminated with diesel fuel because of a truck accident. The report is intended to document remediation of the site to meet Statewide Health Standards.

*Southcentral Region: Environmental Cleanup and Brownfields Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone 717.705.4705.*

**Halifax Village MHP**, 65 South Elmer Avenue, Halifax, PA 17032, Halifax Township, **Dauphin County**. Liberty Environmental, Inc., 480 New Holland Avenue, Suite 8203, Lancaster, PA 17602, on behalf of Halifax Village LLC, P.O. Box 375, Gap, PA 17527, submitted a Final Report concerning site soil contaminated with No. 2 fuel oil. The Report is intended to document remediation of the site to meet the Residential Statewide Health Standard.

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

**Yomis Enterprises DBA Chase Carriers Chemical Spill**, State Route 254 on-ramp at I-80 Westbound, Turbot Township, **Northumberland County**. Northridge Group, Inc., P.O. Box 231, Northumberland, PA, on behalf of Yomis Enterprises DBA Chase Carriers, 5015 S. Christiana, Chicago, IL, 60632, has submitted a Final Report concerning remediation of site soil contaminated with multiple chemicals. The report is intended to document remediation of the site to meet the Statewide Health Standard for non-residential future use.

## 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 Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

**912 South Union Street**, 912 South Union Street, Kennett Square Borough, **Chester County**. Paul White, PG., Brickhouse Environmental, 51 South Franklin Street, West Chester, PA 19382 on behalf of Scott Emerson, Sweetbriar Investment Properties, LP, 1595 Paoli Pike, West Chester, PA 19380 submitted a Final Report concerning the remediation of site soil contaminated with arsenic. The Final Report demonstrated attainment of the Statewide health standard and was approved by the Department on March 19, 2018.

**Sunoco Marcus Hook Refinery AOI-5**, 100 Green Street, Borough of Marcus Hook/Lower Chichester Township, **Delaware County**. Jennifer Menges, Stantec, 1060 Andrew Drive, Suite 140, West Chester, PA 19380 on behalf of Tiffani Doerr, Evergreen Resources Management Operations, 2 Righter Parkway, Suite 200, Wilmington, DE 19803 submitted a Remedial Investigation Report concerning the remediation of site soil and groundwater contaminated with petroleum and lead. The Report was approved by the Department on March 14, 2018.

**University of the Sciences**, 4514-22 Woodland Avenue, City of Philadelphia, **Philadelphia County**. Jeffery T. Bauer, PG, Whitestone Associates, Inc., 1600 Manor Drive, Suite 220, Chalfont, PA 18914 on behalf of Craig Washington, University of the Science in Philadelphia, 4140 Woodland Avenue, Philadelphia, PA 19104 submitted a Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide health standard and was approved by the Department on March 26, 2018.

**Sunoco Inc., Philadelphia Refinery AOI-8**, 3144 Passyunk Avenue, City of Philadelphia, **Philadelphia County**. Jennifer Menges, Stantec Consulting Services, Inc., 1060 Andrew Drive, Suite 140, West Chester, PA 19380 on behalf of Tiffani Doerr, Evergreen Resources Management Operations, 2 Righter Parkway, Suite 200, Wilmington, DE 19803 submitted a Remedial Investigation Report concerning the remediation of site soil and groundwater contaminated with petroleum and lead. The Report was approved by the Department on March 22, 2018.

**PA Turnpike/Parx Casino Fuel Oil**, 2786 Galloway Road, Bensalem Township, **Bucks County**, Mark Schaefer, Stantec Consulting Services, Inc., 1060 Andrew Drive, Suite 140, West Chester, PA 19380 on behalf of Scott Sullivan, Superior Plus Energy Service submitted a Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide health standard and was approved by the Department on March 19, 2018.

**3222-3258 H. Street**, 3222-3258 H. Street, City of Philadelphia, **Philadelphia County**, Angelo Waters, PE, Urban Engineers, Inc., 530 Walnut Street, Philadelphia, PA 19106 on behalf of Susan Post, Esperanza Health Center, 4417 North 6th Street, Philadelphia, PA 19140 submitted a Remedial Investigation Report/Cleanup Plan concerning the remediation of site soil and groundwater contaminated with PAHs and lead. The Report was disapproved by the Department on March 28, 2018.

**St. Laurentius Church**, 1608 East Berks Street, City of Philadelphia, **Philadelphia County**. Christopher Orzechowski, PG, Keating Environmental Management Inc., 1 Bacton Hill Road, North Building, Suite 107, Frazer, PA 19355 on behalf of James Bock, The Archdiocese of Philadelphia, 22 North 17th Street, Philadelphia, PA 19103 submitted a Final Report concerning the remediation of site soil and groundwater contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide health standard and was approved by the Department on March 23, 2018.

*Southcentral Region: Environmental Cleanup and Brownfields Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone 717.705.4705.*

**Domestic Casting Co., LLC**, 275 North Queen Street, Shippensburg, PA 17257, Shippensburg Township, **Cumberland County**. August Mack Environmental, Inc., 941 Wheatland Avenue, Suite 202, Lancaster, PA 17603, on behalf of Cumberland Area Economic Development Corporation, REC DC LLC, 53 West South Street, Suite 1, Carlisle, PA 17013, submitted a Risk Assessment concerning remediation of site soil contaminated with arsenic. The Risk Assessment Report did not demonstrate attainment of the Site-Specific Standard, and was disapproved by the Department on April 16, 2018.

**Flagship Cargo Line MO Spill**, PA Turnpike mm 202.3 Eastbound and 89 Stoney Lane, Newburgh, PA 17240, Hopewell Township, **Cumberland County**. McCutcheon Enterprises, Inc., 250 Park Road, Apollo, PA 15613, on behalf of PA Turnpike Commission, 700 Eisenhower Boulevard, Middletown, PA 17106-7676, and Steven Nehf, 89 Stoney Lane, Newburgh, PA 17240 submitted a Final Report concerning remediation of site soil contaminated with used motor oil. The Final Report demonstrated attainment of the Residential Statewide Health Standard, and was approved by the Department on April 19, 2018.

**Joyce Crouse Property**, 1110 Table Rock Road, Gettysburg, PA 17325, Cumberland Township, **Adams County**. P. Joseph Lehman Consulting Engineers, 117 Olde Farm Office Road, Suite 113, Altoona, PA 16635, on behalf of Joyce Crouse, 1110 Table Rock Road, Gettysburg, PA 17325, submitted a Final Report concerning remediation of site soil and groundwater contaminated with unleaded gasoline. The Final Report did not demonstrate attainment of the Residential Statewide Health Standard, and was disapproved by the Department on April 20, 2018.

**Chad Sener Property**, 1099 Twin Lakes Drive, Harrisburg, PA 17111, Lower Paxton Township, **Dauphin County**. Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073, on behalf of State Farm Insurance, PA Fire Claims, 520 Fellowship Road, Suite E-506, Mt. Laurel, NJ 08054, and Bob Hurford, P.O. Box 106169, Atlanta, GA, submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The Final Report did not demonstrate attainment of the Residential Statewide Standard, and was disapproved by the Department on April 20, 2018.

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

**Lacey Property**, 2790 State Route 642, East Chillisquaque Township, **Northumberland County**. Gary C. Calvert, LLC, P.O. Box 504, Hollidaysburg, PA 16648, on behalf of Kratzer Oil Company, Inc., 150 East Drive, Sunbury, PA 17801, has submitted Final Report concerning remediation of site soil contaminated with heating oil. The report demonstrated attainment of the Statewide Health Standard requirements and was approved by the Department on April 16, 2018.

**Pilot Thomas Logistics**, 120 Choate Circle, Fairfield Township, **Lycoming County**. Juniata Geosciences, LLC, 6972 Willow Brook Road, Alexandria, PA 16611, on behalf of Pilot Thomas Logistics, 200 Viscose Road, Nitro, WV, 25143, has submitted a Final Report concerning remediation of site soil contaminated with antifreeze. The report demonstrated attainment of the Statewide Health Standard requirements and was approved by the Department on April 16, 2018.

**Alta Resources Mac Pad A**, 2804 Slacks Run Road, Cascade Township, **Lycoming County**. Groundwater & Environmental Services, Inc., 440 Creamery Way, Suite 500, Exton, PA 19431, on behalf of Alta Operating, LLC, 33 West Third Street, Suite 300, Williamsport, PA 17701 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with ethanol, methanol, and inorganics. The report demonstrated attainment of the Background and Statewide Health Standard requirements and was approved by the Department on April 16, 2018.

## HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

### Draft Permit Issued under the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003) and Regulations to Operate a Hazardous Waste Treatment, Storage, or Disposal Facility.

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

**PAR000537548. Waste Management of Fairless, LLC**, 1000 New Ford Mill Road, Morrisville PA 19067. A draft permit has been prepared for a Class 2 Permit Modification of the RCRA Hazardous Waste Post-Closure Permit for Borrow Pit-20 (BP-20), a closed hazardous waste land unit located in Falls Township, **Bucks County**. The draft permit would authorize the removal of listed hazardous waste from the disposal unit for off-site treatment and disposal, relocation of non-hazardous waste to the Fairless Landfill, and confirmatory monitoring activities at the site during and after waste removal activities. The public comment period on the draft permit ends 45 days after date of this publication. Copies of the draft permit and fact sheet are available at the Southeast Regional Office. Written comments may be sent to the Southeast Regional Office at the address noted. Draft permit was issued on April 17, 2018.

Persons interested in reviewing the draft permit may contact the Pennsylvania Department of Environmental Protection (“DEP”) Waste Management Program Manager, Southeast Regional Office, 2 East Main Street, Norristown, PA 19401-4915, or by telephone at 484.250.5960. TDD users may contact the DEP through the Pennsylvania AT&T Relay Service, (800) 654.5984.

### DETERMINATION OF APPLICABILITY FOR RESIDUAL WASTE GENERAL PERMITS

#### Determination of Applicability 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: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200.*

**General Permit No. WMGR028SC007I. New Enterprise Stone & Lime Company, Inc.**, Kutztown Asphalt Plant, 210 Hinterleiter Rd., Kutztown, PA 19530 in Maxatawny Township, **Berks County**. The Department of Environmental Protection has issued a Determination of Applicability under General Permit WMGR028 to New Enterprise Stone & Lime Company, Inc. for the beneficial use of baghouse fines and/or scrubber pond precipitates, generated by hot-mix asphalt plants, for use as (i) an aggregate in roadway construction, (ii) a soil additive, (iii) a soil conditioner, or (iv) a component or ingredient in the manufacturing of construction products. This Determination of Applicability was issued on April 23, 2018.

Persons interested in reviewing the general permits may contact John Oren, Permits Section Chief, Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4706. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

**General Permit No. WMGR028SC007J. New Enterprise Stone & Lime Company, Inc.**, Leesport Blacktop

Plant, 167 New Enterprise Drive, Leesport, PA 19533 in Ontelaunee Township, **Berks County**. The Department of Environmental Protection has issued a Determination of Applicability under General Permit WMGR028 to New Enterprise Stone & Lime Company, Inc. for the beneficial use of baghouse fines and/or scrubber pond precipitates, generated by hot-mix asphalt plants, for use as (i) an aggregate in roadway construction, (ii) a soil additive, (iii) a soil conditioner, or (iv) a component or ingredient in the manufacturing of construction products. This Determination of Applicability was issued on April 19, 2018.

Persons interested in reviewing the general permits may contact John Oren, Permits Section Chief, Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4706. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

#### Permit(s) reissued Under the Solid Waste Management Act, the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P.S. §§ 4000.101—4000.1904) and Residual Waste Regulations to Operate Solid Waste Processing or Disposal Area or Site.

*Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Permit No. 300583. Tecumseh Redevelopment, Inc.**, 215 South Front Street, Steelton, PA 17113-2538, Swatara Township and Lower Swatara Townships, **Dauphin County**. A permit to transfer ownership for a closed residual waste landfill from ArcelorMittal Steelton, LLC to Tecumseh Redevelopment, Inc. was issued by the Southcentral Regional Office on April 19, 2018.

Persons interested in reviewing the permit may contact John Oren, P.E., Permits Section Chief, PA DEP Southcentral Regional Office, Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110, phone 717-705-4706. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

#### Application Received Under the Solid Waste Management Act, the Municipal Waste Planning, Recycling and Waste Reduction Act and Regulations to Operate Solid Waste Processing or Disposal Area or Site.

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

**Permit Application No. 300725. Aqua Pennsylvania Inc.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3402. This permit application is for the ten-year renewal to continue operation under Solid Waste Permit No. 300725 at the Neshaminy Falls Residual Waste Landfill, a captive Class III residual waste landfill, located in Middletown Township, **Bucks County**. The application was received by the Southeast Regional Office on January 19, 2018.

Comments concerning the application should be directed to the Pennsylvania Department of Environmental Protection (“DEP”) Waste Management Program Manager, Southeast Regional Office, 2 East Main Street, Norristown, PA 19401-4915. Persons interested in obtaining more information about the general permit application

may contact the Southeast Regional Office by telephone at 484.250.5960. TDD users may contact the DEP through the Pennsylvania AT&T Relay Service, (800) 654.5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

**Permit Application No. 301299. Aqua Pennsylvania Inc.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489. This permit application is for the ten-year renewal to continue operation under Solid Waste Permit No 301299 at the Pickering Creek Residual Waste Landfill, a captive Class III residual waste facility, located at 1011 Valley Forge Road in Schuylkill Township, **Chester County**. The application was received by the Southeast Regional Office on January 19, 2018.

Comments concerning the application should be directed to the Pennsylvania Department of Environmental Protection ("DEP") Waste Management Program Manager, Southeast Regional Office, 2 East Main Street, Norristown, PA 19401-4915. Persons interested in obtaining more information about the general permit application may contact the Southeast Regional Office by telephone at 484.250.5960. TDD users may contact the DEP through the Pennsylvania AT&T Relay Service, (800) 654.5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

---

**Permit Issued Under the Solid Waste Management Act and regulations to Operate Solid Waste Processing or Disposal Area or Site.**

---

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

**Permit I.D. No. 300836. Tecumseh Redevelopment, Inc.**, 4020 Kinross Lakes Parkway, Richfield, OH 44286. Approval for the transfer of control of the closed residual waste landfill site # 4 facility located at Riders Road, Johnstown, PA 15906, East Taylor Township, **Cambria County**, from International Steel Group, Inc. to Tecumseh Redevelopment, Inc was issued by the Regional Office on April 20, 2018.

## AIR QUALITY

---

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

---

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

*Contact: Norman Frederick, P.E., Environmental Engineer Manager—Telephone: 570-826-2409.*

**GP3-66-008: Airport Sand & Gravel Co., Inc.** (500 Swetland Lane, West Wyoming, PA 18644) on April 16, 2018, for the construction and operation of a portable stone crushing plant at the facility located in Nicholson Township, **Wyoming County**.

**GP9-66-008: Airport Sand & Gravel Co., Inc.** (500 Swetland Lane, West Wyoming, PA 18644) on April 16, 2018, for the construction and operation of diesel fired internal combustion engine at the facility located in Nicholson Township, **Wyoming County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110.*

*Contact: Thomas Hanlon, Facilities Permitting Chief, 717-705-4862, or William Weaver, Regional Air Quality Manager, 717-705-4702.*

**GP15-01-03039: Agricultural Commodities, Inc.** (2224 Oxford Road, New Oxford, PA 17350) on April 20, 2018, for an existing feed mill and new wheat cleaning system, under GP15, at the facility located in Tyrone Township, **Adams 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.**

---

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

*Contact: Norman Frederick, P.E., Environmental Engineer Manager—Telephone: 570-826-2409.*

**48-00109A: Silbrico Corp** (4250 E Braden Blvd, Forks Township, PA 18040) On April 19, 2018 for the installation and operation of a perlite processing plant for their facility located in Forks Township, **Northampton County**.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701.*

*Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.*

**08-00010L: Global Tungsten & Powders Corp.** (1 Hawes Street, Towanda, PA 18848) on April 13, 2018, for the construction of a Cameron SC-3.6 cyclone to replace an existing cyclone of the same make and model associated with Calciner # 5 at the Towanda Facility located in Towanda Borough, **Bradford 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.**

---

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401.*

*Contact: James A. Beach, New Source Review Chief—Telephone: 484-250-5920.*

**23-0047G: Evonik Corporation** (1200 West Front St., Chester, PA 19013) On April 18, 2018 to extend the temporary operation period for two new baghouses that replaced the existing baghouses (ID No. 1615 and 1620). The facility is located Chester City, **Delaware County**.

**15-0151: Pacer Industrial** (200 Red Road, Coatesville, PA 19320) On April 13, 2018 to extend the temporary operation of increased depolymerized natural rubber production. The existing grinding wheel manufacturing facility is located in Valley Township, **Chester County**.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701.*

*Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.*

**60-00024A: GAF Keystone, LLC** (2093 Old Route 15, New Columbia, PA 17856) on April 16, 2018, to extend the plan approval expiration date to October 25, 2018 to allow completion of construction and continued operation

of several plastic roofing materials manufacturing lines at its facility in White Deer Township, **Union County**.

**47-309-001: United States Gypsum Company** (86 PPL Road, Danville, PA 17821) extended the authorization an additional 180 days from April 21, 2018 to October 18, 2018, to permit continued operation of the board kiln dryer (Source ID P114) located at their facility in Derry Township, **Montour County** pending issuance of an operating permit for the source. The plan approval has been extended.

**47-00014B: United States Gypsum Company** (86 PPL Road, Danville, PA 17821) extended the authorization an additional 180 days from May 14, 2018 to November 10, 2018, to permit continued operation of the board kiln dryer (Source ID P114) located at their facility in Derry Township, **Montour County** pending issuance of an operating permit for the source. The plan approval has been extended.

**47-00014C: United States Gypsum Company** (86 PPL Road, Danville, PA 17821) extended the authorization an additional 180 days from May 7, 2018 to November 3, 2018, to permit continued operation of the board kiln dryer (Source ID P114) located at their facility in Derry Township, **Montour County** pending issuance of an operating permit for the source. The plan approval has been extended.

**47-00001D: Montour LLC** (PO Box 128, Washingtonville, PA 17884) on April 16, 2018, to extend the authorization to operate the sources pursuant to the plan approval an additional 180 days from April 16, 2018 to October 13, 2018, at the Montour Steam Electric Station located in Derry Township, **Montour County**. The plan approval has been extended.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

*Contact: Alan Binder, P.E., Environmental Engineer Manager—Telephone: 412-442-4168.*

**PA-65-00080A: Duraloy Technologies, Inc.** (120 Bridge Street, Scottsdale, PA 15683-1748) plan approval issuance date effective April 18, 2018, to allow to install and operate one (1) natural gas-fired Thermal Sand Reclamation System equipped with three—30 ppm NO<sub>x</sub> burners, two process burners each rated at 1.0 MMBtu/hr, and one Free Board Combustion System burner rated at 0.75 MMBtu/hr. Emissions are controlled by a baghouse rated at 10,300 ACFM at 250° F at their Scottsdale facility located in Scottsdale Borough, **Westmoreland County**.

#### **Title V Operating Permits Issued 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: Norman Frederick, P.E., Environmental Engineer Manager—Telephone: 570-826-2409.*

**54-00022: Hydro Extrusions** (53 Pottsville Street, Cressona, PA 17929-1217) The Department issued, on 4/24/18, a Title V Operating Permit renewal for operation of an aluminum extrusion facility in Cressona Borough, **Schuylkill County**. The sources on site include boilers, a preheat oven, preheat furnaces, age ovens, casting units, a die cleaning station, in-line fluxers, holding furnaces, melting furnaces, and press furnaces. Control equipment at the facility includes a cyclone collector, dust collector, scrubber, low-NO<sub>x</sub> and oxy-fuel burners. The Title V Operating Permit includes all applicable emission limits,

work practice standards, testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable Federal and State air quality requirements.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701.*

*Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.*

**08-00045: Panda Liberty, LLC** (151 Liberty Lane Towanda, PA 18848) was issued a Title V Operating Permit on April 20, 2018, for operation of their Panda Liberty Power Project facility located in Asylum Township, **Bradford County**. The Title V operating permit contains requirements including monitoring, recordkeeping, and reporting conditions to ensure compliance with applicable Federal and State regulations.

#### **Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.**

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

*Contact: Norman Frederick, P.E., Environmental Engineer Manager—Telephone: 570-826-2409.*

**40-00106: Wyman Gordon PA, LLC** (701 Crestwood Road, Mountaintop, PA 18707-2143) intends to The Department issued, on 4/23/2018, a State-Only (Natural Minor) Operating Permit renewal for operation of an engine parts manufacturing operation located in Wright Township, **Luzerne County**. The sources include a splitter saw controlled by a dust collector and an emergency engine. The permit contains all applicable requirements for emission limitations, work practice standards, testing, monitoring, recordkeeping, and reporting standards used to verify facility compliance with Federal and State air pollution regulations.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

*Contact: Tom Joseph, P.E., Facilities Permitting Chief—Telephone: 412-442-4336.*

**SOOP-63-00983: Columbia Gas Transmission, LLC** (1700 Maccorkle Ave. SE, Charleston, WV 25314-1518) State Only Operating Permit issued on April 20, 2018, for the operation of two (2) natural gas-fired turbines; each rated at 49.7 MMBtu/hr, Model # Centaur 40-4700S and one (1) natural gas-fired Waukesha Emergency generator rated at 440 bhp for their Redd Farm Compressor Station located in Amwell Township, **Washington County**.

*Philadelphia: Air Management Services, 321 University Avenue, Philadelphia, PA 19104-4543, Contact: Edward Wiener, Chief, Source Registration at 215-685-9476.*

The City of Philadelphia, Air Management Services (AMS) has intended to issue a Minor State Only Operating Permit for the following facility:

**OP17-000023: ARIA Health.** (4900 Frankford Ave., Philadelphia, PA 19124) for the operation of a hospital in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include two (2) boilers each at 10.46 million British Thermal Units per hour (MMBtu/hr) that are able to fire natural gas or No. 2 fuel oil, and two (2) diesel-fired emergency generators both at 750 kilowatts (kW). The limit for testing and tuning of the emergency generators has been changed from 30 minutes per week to 100 hours per calendar year.

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

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

**OP18-000001: Southern Graphic Systems** (2781 Roberts Avenue, Philadelphia, PA 19129) for a manufacturing facility of printing plates for the flexographic industry in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include four (4) photo processing units, three (3) dryer/post exposure units, and one (1) distillation still.

---

**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.**

---

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110.*

*Contact: Thomas Hanlon, Facilities Permitting Chief, 717-705-4862, or William Weaver, Regional Air Quality Manager, 717-705-4702.*

**01-03030: Cargill, Inc.** (1892 York Road, Gettysburg, PA 17325-8205) on April 20, 2018, for the feed mill located in Straban Township, **Adams County**. The State-only permit was administratively amended in order to reflect a change of ownership.

**06-05034: Texas Eastern Transmission LP** (PO Box 1642, Houston, TX 77251-1642) on April 19, 2018, for the Bechtelsville natural gas compressor station, located in the Washington Township, **Berks County**. The Title V permit underwent a significant modification to incorporate approval of a Reasonably Available Control Technology 2 (RACT 2) plan to supersede the existing RACT 1 plan for the facility. These RACT changes will be submitted to US EPA for approval and incorporation into Pennsylvania's State Implementation Plan (SIP). Requirements that are not part of the RACT approval will be excluded from the SIP submittal.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701.*

*Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.*

**14-00002: Graymont (PA) Inc.** (375 Graymont Road, Bellefonte, PA 16823) on April 13, 2018, was issued a revised Title V operating permit to incorporate the updated administrative information regarding the address and responsible official information for their Graymont PA Inc/Pleasant Gap, Bellefonte and Con-Lime facility, located in Benner and Spring Townships, **Centre County**. The amended permit contains all applicable

regulatory requirements including monitoring, record-keeping, and reporting conditions to ensure compliance with the applicable requirements.

**41-00010: Andritz, Inc.** (35 Sherman Street, Muncy, PA 17756) on April 20, 2018 issued a modified Title V operating permit to limit the facility-wide emission of volatile organic compounds to less than 50 tons in and 12 consecutive month period for their facility located in Muncy Borough and Muncy Creek Township, **Lycoming County**. The operating permit has been modified.

**53-00004: Dominion Energy Transmission, Inc** (5000 Dominion Boulevard, Glen Allen, VA 23060-3308) was issued a revised Title V operating permit on April 20, 2018, for the significant modification to the Title V operating permit TVOP 53-00004 for the incorporation of Reasonable Available Control Technology (RACT II) requirements pursuant to 25 Pa. Code §§ 129.96—129.100 in accordance with the significant operating permit modification requirements of 25 Pa. Code Section 127.541 at the Harrison Station facility located in Harrison Township, **Potter County**. The revised Title V operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

---

**Operating Permits Denied, Terminated, Suspended or Revoked under the Air Pollution Control Act and 25 Pa. Code §§ 127.431 and 127.461.**

---

**43-00329: White Rock Silica Sand Company** (331 Methodist Road, Greenville, PA 16125-9741) on April 24, 2018, the Department revoked the State Only operating permit for the stone and sand processing facility located in Hempfield Township, **Mercer County**. The 565 kW diesel-fueled generator was removed from the site and it was not replaced. The facility operates on electricity provided by the public utility and potential and actual emissions are below the thresholds which would require an operating permit. The facility is not subject to any Federal regulations of 40 CFR Parts 60 or 63, nor is it subject to any plan approval requirements.

## 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 Issued*

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

**Permit No. 11970201. Maple Coal Company**, 254 Interpower Drive, Colver, PA 15927, permit renewal for reclamation only of a bituminous surface mine in Barr and Blacklick Townships, **Cambria County**, affecting 47.1 acres. Receiving stream: unnamed tributaries to/and Elk Creek classified for the following use: cold water fishes. There are no potable water supply intakes within 10 miles downstream. Application received: January 24, 2018. Permit issued: April 16, 2018.

**Permit No. 56170103 and NPDES No. PA0279552. Mountaineer Mining Corporation**, 1010 Garrett Shortcut Road, Berlin, PA 15530, commencement, operation and restoration of a bituminous surface mine in Shade Township, **Somerset County**, affecting 12.2 acres. Receiving stream: unnamed tributary to Dark Shade Creek classified for the following use: cold water fishes. There are no potable water supply intakes within 10 miles downstream. Application received: August 14, 2017. Permit issued: April 19, 2018.

*New Stanton District Office: 131 Broadview Road, New Stanton, PA 15672, 724-925-5500.*

**63120102 and NPDES Permit No. PA0252239. Amerikohl Mining, Inc.** (1384 State Route 711, Stahlstown, PA 15687). Permit renewal issued for reclamation only to an existing bituminous surface mine, located in Fallowfield and Somerset Townships, **Washington County**, affecting 99.2 acres. Receiving streams: unnamed tributaries to Pigeon Creek. Application received: November 28, 2017. Renewal permit issued: April 17, 2018.

#### *Noncoal Permits Issued*

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

**PAM418018-GP104. William A. Smith**, 5557 Couchtown Road, Blain, PA 17006. General NPDES Permit for stormwater discharges associated with mining activities on Non-Coal Permit No. 50860803 located in Northeast Madison Township, **Perry County**. Receiving stream: unnamed tributary to Bixler Run, classified for the following uses: cold water fishes, Migratory Fishes. There are no potable water supplies located within 10 miles downstream. Notice of Intent for Coverage received: April 2, 2018. Coverage Approved: April 18, 2018.

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

**PAM618022. Three Rivers Aggregates, LLC** (1807 Shenango Road, New Galilee, PA 16141-2241) General NPDES Permit for stormwater discharges associated with mining activities on Surface Mining Permit No. 37030303 in North Beaver Township, **Lawrence County**. Receiving streams: Beaver River. Application received: March 28, 2018. Permit Issued: April 19, 2018.

**PAM618021. Means Brothers** (P.O. Box 131, Punxsutawney, PA 15767) General NPDES Permit for stormwater discharges associated with mining activities on Surface Mining Permit No. 33100801 in Young Township, **Jefferson County**. Receiving streams: Elk Run. Application received: March 28, 2018. Permit Issued: April 19, 2018.

**24070301 and NPDES Permit No. PA0258318. Advanced Disposal Services Greentree Landfill, LLC** (635 Toby Road, Kersey, PA 15846) Transfer of an existing large industrial minerals mine and associated NPDES permit from Marquise Mining Corporation in Fox Township, **Elk County**, affecting 227.0 acres. Receiving

streams: Unnamed tributary to Bear Run. Application received: August 10, 2017. Permit Issued: April 19, 2018.

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

**08010806. Gary Heath & Stephen T. Schmeckenbecher** (1562 Hillside Drive, Wysox, PA 18854). Final bond release for a small industrial minerals surface mine, located in Towanda Township, **Bradford County**. Restoration of 2.0 acres completed. Receiving stream(s): Susquehanna River. Application received: March 26, 2018. Final bond release approved: April 17, 2018.

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

**Permit No. 52060301C4 and NPDES Permit No. PA0224511. Springbrook Enterprises, Inc.**, (504 Well Road, Hawley, PA 18428), renewal of NPDES permit for discharge of treated mine drainage from a quarry operation in Blooming Grove Township, **Pike County**, receiving stream: unnamed tributary to Billings Creek. Application received: February 2, 2018. Renewal issued: April 17, 2018.

**Permit No. 45950301C15 and NPDES Permit No. PA0223506. Bill Barry Excavating, Inc.**, (174 Quarry Lane, Cresco, PA 18326), renewal of NPDES permit for discharge of treated mine drainage from a quarry operation in Barrett Township, **Monroe County**, receiving stream: unnamed tributary to Cranberry Creek. Application received: October 11, 2017. Renewal issued: April 17, 2018.

#### **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 Issued*

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

**10184002. Geokinetics, Inc.** (1500 City West Boulevard, Suite 800, Houston, TX 77042) Blasting activity permit for seismic exploration in **Butler, Allegheny, Armstrong, and Westmoreland Counties**. This blasting activity permit expires on July 31, 2018. Permit Issued: April 17, 2018.

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

**Permit No. 35184104. Explosive Services, Inc.**, (7 Pine Street, Bethany, PA 18431), construction blasting for Valley View Bus Park in Jessup and Archbald Boroughs, **Lackawanna County** with an expiration date of April 12, 2019. Permit issued: April 17, 2018.

**Permit No. 06184101. Maine Drilling & Blasting, Inc.**, (P.O. Box 1140, Gardiner, ME 04345), construction blasting for Sunoco Mariner Pipeline Spread 5 (revised) in South Heidelberg, Heidelberg and Clay Townships, **Berks County** with an expiration date of April 18, 2019. Permit issued: April 20, 2018.

**Permit No. 36184113. J Roy's, Inc.**, (P.O. Box 125, Bowmansville, PA 17507), construction blasting for Glen



at Willow Valley in West Lampeter Township, **Lancaster County** with an expiration date of April 12, 2019. Permit issued: April 20, 2018.

### 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 AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create 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 free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P.S. § 679.302) and The Clean Streams Law 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: Waterway and Wetlands Program Manager, 2 East Main Street, Norristown, PA 19401, Telephone 484-250-5900.*

**E09-1018. The Borough of Newtown**, 23 North State Street, Newtown, PA 18940, The Borough of Newtown, **Bucks County**, ACOE Philadelphia District.

To perform the following water obstruction and encroachment activities associated with the Newtown

Common and Creek Restoration Project within the FEMA 100-year floodway and floodplain of Newtown Creek (WWF-MF) which are:

1. To restore and maintain 135 linear feet of Newtown Creek stream bank within the 100-year floodway. This work includes excavation of existing banks, the installation of riprap toe of slope stabilization within channel, and the placement of coir blocks with compacted fill and live stakes. Impacts are associated with this work. Temporary and permanent impacts associated with the bank rehabilitation result will in 3,584 square feet of temporary and 1,201 square feet permanent floodway impacts.

2. To construct and maintain two (2) stormwater outfalls with rock aprons associated with two (2) stormwater inlets located on West Green Street. This work also includes the removal of concrete debris within the channel resulting in 105 square feet of permanent floodway impact.

3. To construct and maintain a 63-square-foot rain garden and 728 square feet of porous pavers within the floodplain of the Newtown Creek. This work also includes minor grading.

A total of 0.112 acre (4,890 square feet) of disturbance is associated with the floodway and floodplain impacts for the proposed project. The proposed project is located at West Green Street along the East bank of Newtown Creek in the Borough of Newtown (Langhorne, PA USGS Quadrangle—Latitude: 40.230691 N, Longitude: 74.937234 W).

The issuance of this permit also constitutes approval of a Water Quality Certification under Section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

*Southwest Region: Waterways & Wetlands Program, 400 Waterfront Drive, Pittsburgh, PA 15222, Dana Drake, Waterways and Wetlands Program Manager, 412-442-4000.*

**E02-1770, City of Pittsburgh**, 414 Grant Street, Room 301, Pittsburgh, PA 15219-2455, City of Pittsburgh, **Allegheny County**, Pittsburgh ACOE District.

Has been given consent to:

Remove the existing 15.5' single span, 28.5' wide Carnahan Road bridge with a minimum underclearance of 5.58' and a drainage area of 1.25 square mile; and construct and maintain a replacement 72' long, 16' wide box culvert with a minimum underclearance of 6' and depressed 1' on a UNT of Sawmill Run (WWF), and construct and maintain associated stormwater facilities. There will be 102 LF of permanent stream impact and 191 LF of temporary stream impact. Mitigation is provided onsite. These encroachments are located approximately 2.65 miles south of downtown Pittsburgh and adjoins SR 19, Banksville Road (Pittsburgh West PA Quadrangle; Latitude: 40° 24' 25"; Longitude: -80° 2' 4") in the City of Pittsburgh, Allegheny County.

**E02-1776, Edgeworth Real Estate Associates, LLC**, 111 Hazel Lane, Sewickley, PA 15143, Edgeworth Borough, **Allegheny County**, Pittsburgh ACOE District.

Has been given consent to:

Remove a 197' section of 72" corrugated metal pipe culvert on UNT to Ohio River (WWF) and replace with a 212' section of 72" corrugated metal pipe culvert. This project will permanently impact approximately 212 LF of watercourses. Mitigation was not required for the culvert realignment. The project purpose is to develop a commer-

cial site. The proposed project is located near the intersection of Hazel Lane and Ohio River Boulevard (Ambridge, PA USGS Topographic Quadrangle; Latitude: 40° 32' 37"; Longitude: -80° 11' 33"; USACE: Pittsburgh District; Sub-basin 20G), in Edgeworth Borough, Allegheny County.

**E32-522, PennDOT District 10-0**, 2550 Oakland Avenue, Indiana, PA 15701. SR 403 and SR 1012 Bridge Replacements over Dixon Run, in Green Township, **Indiana County**, Pittsburgh ACOE District.

Has been given consent to:

Remove the existing two span, 15.4' and 15.5' opening bridge having an average underclearance of 4.6' carrying SR 403 over Dixon Run (CWF) with a drainage area of 6.62 square miles; construct and maintain a replacement 57.92' wide single 40.6' span SR 403 bridge on the existing alignment and having a minimum underclearance of 4.8' ; remove the existing two span, 32.4' and 32.3' opening bridge having an average underclearance of 2.9' carrying SR 1012 over Dixon Run (CWF) with a drainage area of 6.62 square miles; and construct and maintain a replacement 33.38' wide single 56' span bridge having a minimum underclearance of 7.3' on an alignment located 300' upstream. 906' of permanent and 1,071' of temporary stream impacts will be mitigated on site. The project includes 0.022 acre of permanent de minimis PSS wetland impact, and 0.049 acre of temporary PSS wetland impacts which will be mitigated on site. In addition, restore the existing bridge stream banks and construct and maintain associated stormwater facilities. This project is located in Green Township, Indiana County approximately 3 miles north of Clymer, PA, at the intersection of SR 403 and SR 1012 (Clymer PA Quadrangle; Latitude: 40° 42' 41"; Longitude: -79° 00' 27").

*Northwest Region: Waterways & Wetlands Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**E25-780—DENIED. Jon Gerbracht**, 206 Forest Drive, Erie, PA 16505. Denial of Permit for the construction of Forest Park Pathway Restoration Project, in Millcreek Township, **Erie County**, ACOE Pittsburgh District (Swanville, PA Quadrangle N: 42°, 6', 16.5"; W: -80°, 10', 1.2").

On April 18, 2018, the Department denied the application for a permit to impact wetlands and a tributary to Lake Erie associated with the Forest Park Pathway Restoration Project extending from Clifton Drive to Lake Erie.

**E62-434, National Fuel Gas Supply Company**, 1100 State Street, PO Box 2081, Erie, PA 16512. Line QP Replacement Project Warren, in Tidioute and Limestone Township, **Warren County**, ACOE Pittsburgh District. The proposed project starts at Tidioute Boro, Tidioute, PA Quadrangle N: 41°, 40',55.12"; W: 79°, 24',34.78"and ends at Limestone Township Cobham, PA Quadrangle N: 41°, 37',40.44"; W: 79°,20',7.78".

The project consists of constructing, operating, and maintaining the Line QP Replacement Project consisting of a total of 4.95 miles of 4-inch natural gas pipeline and appurtenant structures with approximately 3.95 miles located in Warren County beginning at 41.682723, -79.405657 (Tidioute PA Quadrangle) in Tidioute Borough and extending south to the Warren/Forest County boundary at 41.626393, -79.362477 Cobham, PA Quadrangle in Tidioute Borough and Limestone Township, Warren County.

The project aquatic resource impacts total 1,760 linear feet of permanent stream impacts (pipe only), 1,766 linear feet of temporary stream impacts, 6.434 acres of temporary floodway impacts, .0484 acre of permanent floodway impacts (pipe only), 0.633 acre of temporary impacts to Palustrine Emergent Wetlands (PEM), 0.044 acre of permanent impact to Palustrine Emergent Wetlands (pipe only). Specific impacts are shown in Appendix 1.

**E62-435, National Fuel Gas Supply Company**, 1100 State Street, PO Box 2081, Erie, PA 16512, in Tidioute Boro, **Warren County**, ACOE Pittsburgh District. The proposed project starts at Tidioute Boro, Tidoute, PA Quadrangle N: 41°,40',55.12"; W: 79°, 24',34.78"and ends at Limestone Township, PA Quadrangle N: 41°,40',48.38"; W: 79°, 24',34.90".

The project consists of removing the existing pipeline and to construct, operate and maintain a 12-inch diameter natural gas pipeline across the Allegheny River (41.6811862, -79.4054027, Tidioute, PA Quadrangle) and McGuire Run (41.6817445, -79.4052993, Tidioute, PA Quadrangle) in Tidioute Borough and Limestone Township, Warren County, as part of the abandonment by sale of Line Q, consisting of a total of approximately 5.44 miles of pipeline beginning at the existing Tidioute South Station and extending south to the Queen Compressor Station. The crossing of the Allegheny and McGuire Run will be accomplished by direct open cut resulting in approximately 1,614 square feet of temporary impact within McGuire Run and associated floodway and 69801 square feet of temporary impact within the Allegheny River and associated floodway.

*District Oil and Gas Operations: Eastern Oil & Gas District, 208 West Third Street, Suite 101, Williamsport, PA.*

**E0829-115: Regency Marcellus Gas Gathering, LLC**, 7000 Stonewood Drive, Suite 351, Wexford, PA 15090, Canton and Leroy Township, **Bradford County**, ACOE Baltimore District.

To construct, operate and maintain:

1. a temporary timber mat bridge impacting 340 square feet of a Palustrine Emergent Wetland (Grover, PA Quadrangle, Latitude: 41°35'23", Longitude: -76°48'12");
2. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 1,021 square feet of a Palustrine Emergent Wetland (EV) (Grover, PA Quadrangle, Latitude: 41°35'28", Longitude: -76°48'11");
3. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 84 linear feet of an unnamed tributary to Schrader Creek (EV, MF) (Grover, PA Quadrangle, Latitude: 41°35'30", Longitude: -76°48'07");
4. a 24-inch diameter natural gas line and a 16-inch waterline impacting 1,878 square feet of a Palustrine Emergent Wetland (Grover, PA Quadrangle, Latitude: 41°35'36", Longitude: -76°47'58");
5. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 1,095 square feet of a Palustrine Emergent Wetland (Grover, PA Quadrangle, Latitude: 41°35'37", Longitude: -76°47'53");
6. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 469 square feet of a Palustrine Emergent Wetland (Grover, PA Quadrangle, Latitude: 41°35'35", Longitude: -76°47'25");

7. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 631 square feet of a Palustrine Emergent Wetland (Grover, PA Quadrangle, Latitude: 41°35'29", Longitude: -76°47'10");

8. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 1,001 square feet of a Palustrine Emergent Wetland (Grover, PA Quadrangle, Latitude: 41°35'29", Longitude: -76°47'09");

9. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 62 linear feet of an unnamed tributary to Schrader Creek (EV, MF) (Grover, PA Quadrangle, Latitude: 41°35'30", Longitude: -76°47'04");

10. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 115 linear feet of an unnamed tributary to Schrader Creek (EV, MF) (Grover, PA Quadrangle, Latitude: 41°35'31", Longitude: -76°47'02");

11. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 75 linear feet of an unnamed tributary to Schrader Creek (EV, MF) (Grover, PA Quadrangle, Latitude: 41°35'39", Longitude: -76°46'53");

12. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 68 linear feet of an unnamed tributary to Schrader Creek (EV, MF) and impacting 237 square feet of an adjacent Palustrine Emergent Wetland (EV) (Grover, PA Quadrangle, Latitude: 41°35'41", Longitude: -76°46'49");

13. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 581 square feet of a Palustrine Forested Wetland (Grover, PA Quadrangle, Latitude: 41°35'46", Longitude: -76°46'39");

14. a temporary timber mat bridge impacting 913 square feet of a Palustrine Emergent Wetland (Grover, PA Quadrangle, Latitude: 41°35'47", Longitude: -76°46'40");

15. a 24-inch diameter natural gas line, a 16-inch and a temporary timber mat bridge impacting 83 linear feet of Lye Run (EV, MF) (Grover, PA Quadrangle, Latitude: 41°49'32", Longitude: -76°33'44");

16. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 16 linear feet of an unnamed tributary to Lye Run (EV, MF) and impacting 428 square feet of an adjacent Palustrine Emergent Wetland (Grover, PA Quadrangle, Latitude: 41°36'00", Longitude: -76°46'17");

17. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 71 square feet of a Palustrine Emergent Wetland (Grover, PA Quadrangle, Latitude: 41°36'02", Longitude: -76°46'18");

18. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 160 linear feet of an unnamed tributary to Lye Run (EV, MF) (Grover, PA Quadrangle, Latitude: 41°36'03", Longitude: -76°46'18");

19. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 1,128 square feet of a Palustrine Emergent Wetland (Grover, PA Quadrangle, Latitude: 41°36'04", Longitude: -76°46'18");

20. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 2,186 square feet of a Palustrine Emergent Wetland (Grover, PA Quadrangle, Latitude: 41°36'06", Longitude: -76°46'16");

21. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 83 linear feet of an unnamed tributary to Lye Run (EV, MF) (Grover, PA Quadrangle, Latitude: 41°36'07", Longitude: -76°46'15");

22. a temporary timber mat bridge impacting 831 square feet of a Palustrine Emergent Wetland and impacting 237 square feet of a Palustrine Forested Wetland (Grover, PA Quadrangle, Latitude: 41°36'07", Longitude: -76°46'12");

23. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 77 linear feet of an unnamed tributary to Lye Run (EV, MF) and impacting 558 square feet of an adjacent Palustrine Emergent Wetland (Grover, PA Quadrangle, Latitude: 41°36'12", Longitude: -76°45'56");

24. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 72 linear feet of an unnamed tributary to Pine Swamp Run (EV, MF) and impacting 448 square feet of an adjacent Palustrine Emergent Wetland (Grover, PA Quadrangle, Latitude: 41°36'16", Longitude: -76°45'53");

25. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 70 linear feet of an unnamed tributary to Pine Swamp Run (EV, MF) (Grover, PA Quadrangle, Latitude: 41°36'17", Longitude: -76°45'52");

26. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 70 linear feet of an unnamed tributary to Pine Swamp Run (EV, MF) and impacting 411 square feet of an adjacent Palustrine Emergent Wetland (Grover, PA Quadrangle, Latitude: 41°36'20", Longitude: -76°45'51");

27. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 82 linear feet of an unnamed tributary to Pine Swamp Run (EV, MF) and impacting 452 square feet of an adjacent Palustrine Emergent Wetland (Grover, PA Quadrangle, Latitude: 41°36'23", Longitude: -76°45'49");

28. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 2,711 square feet of a Palustrine Emergent Wetland (Grover, PA Quadrangle, Latitude: 41°36'24", Longitude: -76°45'49");

29. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 4,697 square feet of a Palustrine Emergent Wetland (Grover, PA Quadrangle, Latitude: 41°36'26", Longitude: -76°45'48");

30. a 24-inch diameter natural gas line and a 16-inch waterline impacting 421 square feet of a Palustrine Emergent Wetland (Grover, PA Quadrangle, Latitude: 41°36'28", Longitude: -76°45'47");

31. a 24-inch diameter natural gas line and a 16-inch waterline impacting 2,823 square feet of a Palustrine Emergent Wetland (Grover, PA Quadrangle, Latitude: 41°36'29", Longitude: -76°45'45");

32. a temporary timber mat bridge impacting 200 square feet of a Palustrine Emergent Wetland (Grover, PA Quadrangle, Latitude: 41°36'27", Longitude: -76°45'39");

33. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 139 linear feet of an unnamed tributary to Pine Swamp Run (EV, MF) (Grover, PA Quadrangle, Latitude: 41°36'23", Longitude: -76°45'33");

34. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 72 linear feet to Pine Swamp Run (EV, MF) (Grover, PA Quadrangle, Latitude: 41°36'12", Longitude: -76°45'18");

35. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 1,740 square feet of a Palustrine Emergent Wetland (Grover, PA Quadrangle, Latitude: 41°36'12", Longitude: -76°45'17");

36. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 135 linear feet of an unnamed tributary to Pine Swamp Run (EV, MF) (Shunk, PA Quadrangle, Latitude: 41°36'25", Longitude: -76°44'52");

37. a temporary timber mat bridge impacting 185 square feet of a Palustrine Emergent Wetland (Shunk, PA Quadrangle, Latitude: 41°36'29", Longitude: -76°44'49");

38. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 113 linear feet of an unnamed tributary to Pine Swamp Run (EV, MF) (Shunk, PA Quadrangle, Latitude: 41°36'33", Longitude: -76°44'48");

39. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 1,046 square feet of a Palustrine Forested Wetland (Shunk, PA Quadrangle, Latitude: 41°36'48", Longitude: -76°44'43");

40. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 67 linear feet of an unnamed tributary to Pine Swamp Run (EV, MF) (Shunk, PA Quadrangle, Latitude: 41°36'52", Longitude: -76°44'42");

41. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 22 linear feet of an unnamed tributary to Pine Swamp Run (EV, MF) and impacting 342 square feet of an adjacent Palustrine Forested Wetland (Shunk, PA Quadrangle, Latitude: 41°36'48", Longitude: -76°44'43");

42. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 373 square feet of a Palustrine Forested Wetland (Shunk, PA Quadrangle, Latitude: 41°36'58", Longitude: -76°44'40");

43. a temporary timber mat bridge impacting 101 square feet of a Palustrine Forested Wetland (Shunk, PA Quadrangle, Latitude: 41°36'59", Longitude: -76°44'39");

44. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 5,313 square feet of a Palustrine Forested Wetland (Shunk, PA Quadrangle, Latitude: 41°36'59", Longitude: -76°44'37");

45. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 445 square feet of a Palustrine Emergent Wetland (Shunk, PA Quadrangle, Latitude: 41°36'58", Longitude: -76°44'27");

46. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 74 linear feet of an unnamed tributary to Rollinson Run

(EV, MF) (Shunk, PA Quadrangle, Latitude: 41°37'01", Longitude: -76°44'21");

47. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 142 linear feet of an unnamed tributary to Rollinson Run (EV, MF) (Shunk, PA Quadrangle, Latitude: 41°36'56", Longitude: -76°43'52");

48. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 87 linear feet of an unnamed tributary to Rollinson Run (EV, MF) (Shunk, PA Quadrangle, Latitude: 41°36'55", Longitude: -76°43'52");

49. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 741 square feet of a Palustrine Scrub-Shrub Wetland (Shunk, PA Quadrangle, Latitude: 41°36'55", Longitude: -76°43'51");

50. a temporary timber mat bridge impacting 646 square feet of a Palustrine Forested Wetland (Shunk, PA Quadrangle, Latitude: 41°36'54", Longitude: -76°43'51");

51. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 94 linear feet of an unnamed tributary to Rollinson Run (EV, MF) and impacting 168 square feet of an adjacent Palustrine Scrub-Shrub Wetland (Shunk, PA Quadrangle, Latitude: 41°37'03", Longitude: -76°43'27");

52. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 5,733 square feet of a Palustrine Emergent Wetland and impacting 3,328 square feet of a Palustrine Scrub-Shrub Wetland (Shunk, PA Quadrangle, Latitude: 41°37'05", Longitude: -76°43'24");

53. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 322 square feet of a Palustrine Emergent Wetland (Shunk, PA Quadrangle, Latitude: 41°37'06", Longitude: -76°43'18");

54. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 97 square feet of a Palustrine Emergent Wetland (Shunk, PA Quadrangle, Latitude: 41°37'27", Longitude: -76°42'53");

55. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 89 square feet of a Palustrine Emergent Wetland (Shunk, PA Quadrangle, Latitude: 41°37'45", Longitude: -76°42'53");

56. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 49 linear feet of Little Schrader Creek (EV, MF) (Shunk, PA Quadrangle, Latitude: 41°37'46", Longitude: -76°42'53");

57. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 107 linear feet of Swamp Run (EV, MF) and impacting 167 square feet of an adjacent Palustrine Scrub-Shrub Wetland (Shunk, PA Quadrangle, Latitude: 41°38'16", Longitude: -76°42'23");

58. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting 82 linear feet of an unnamed tributary to Turnip Patch Run (EV, MF) (Shunk, PA Quadrangle, Latitude: 41°39'15", Longitude: -76°41'20");

59. a 24-inch diameter natural gas line, a 16-inch waterline and a temporary timber mat bridge impacting

76 linear feet of McCraney Run (EV, MF) (Shunk, PA Quadrangle, Latitude: 41°39'23", Longitude: -76°40'54");

The project will result in 2,402 linear feet or 16,264 square feet of temporary stream impacts and 32,670 square feet (0.75 acre) of temporary PEM, 4,404 square feet (0.10 acre) of PSS and 9,233 square feet (0.21 acre) of permanent PFO wetland impacts all for the purpose of installing a natural gas pipeline with associated access roadways for Marcellus shale development in Canton and Leroy Township, Bradford County. This project is associated with permit application number E5729-090.

**E5729-090: Regency Marcellus Gas Gathering, LLC**, 7000 Stonewood Drive, Suite 351, Wexford, PA 15090, Fox Township, Sullivan County, ACOE Baltimore District.

To construct, operate and maintain:

1. a 12' permanent access road with a 24" steel culvert impacting 14 linear feet of an unnamed tributary to Schrader Creek (EV,MF) and impacting 28 square feet of a Palustrine Forested Wetland (Grover, PA Quadrangle, Latitude: 41°35'13", Longitude: -76°47'41");

2. a 14' permanent access road with a 60" x 24" box culvert with wing walls impacting 43 linear feet of an unnamed tributary to Schrader Creek (EV,MF) and impacting 98 square feet of a Palustrine Emergent Wetland (Grover, PA Quadrangle, Latitude: 41°35'07", Longitude: -76°48'08");

3. a 12' permanent access road impacting 10 linear feet of an unnamed tributary to Schrader Creek (EV,MF) (Grover, PA Quadrangle, Latitude: 41°35'08", Longitude: -76°48'15");

4. a 24-inch diameter natural gas line, a 12-inch waterline and a temporary timber mat bridge impacting 512 square feet of a Palustrine Emergent Wetland (Grover, PA Quadrangle, Latitude: 41°35'18", Longitude: -76°48'21");

5. a temporary timber mat bridge impacting 1,680 square feet of a Palustrine Emergent Wetland (Grover, PA Quadrangle, Latitude: 41°35'18", Longitude: -76°48'19");

6. a temporary timber mat bridge impacting 1,666 square feet of a Palustrine Emergent Wetland (EV) (Grover, PA Quadrangle, Latitude: 41°35'18", Longitude: -76°48'21");

The project will result in 624 linear feet or 16,117 square feet of temporary stream impacts and 3,920 square feet (0.09 acre) of temporary PEM and 131 square feet (0.003 acre) of permanent PEM wetland impacts all for the purpose of installing a natural gas pipeline with associated access roadways for Marcellus shale development in Fox Township, Sullivan County. This project is associated with permit application number E0829-115.

#### 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 AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin* unless the appropri-

ate 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 free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

*Southwest District: Oil & Gas Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222.*

ESCGP-2 # ESX11-125-0107 Renewal  
Applicant Name Range Resources—Appalachia, LLC  
Contact Person Karl Matz  
Address 3000 Town Center Boulevard  
City, State, Zip Canonsburg, PA 15317  
County Washington County  
Township(s) Amwell Township  
Receiving Stream(s) and Classification(s) UNT to Redd Run (TSF)

ESCGP-2 # ESX17-129-0020  
Applicant Name Huntley & Huntley Energy Exploration, LLC  
Contact Person Jennifer Hoffman  
Address 2660 Monroeville Boulevard  
City, State, Zip Monroeville, PA 15146  
County Westmoreland County  
Township(s) Allegheny Township & Upper Burrell Township

Receiving Stream(s) and Classification(s) UNTs 1&2 to Tributary 42911 to Pine Run (WWF), UNT 1 to Tributary 42916 to Pine Run (WWF), Pine Run (WWF), Kiskiminetas River (WWF), UNTs 1 to 6 to Tributary 42392 to Little Pucketa Creek (TSF), Tributary 45526 to Chartiers Run (TSF), UNT1 to Tributary 42545 to Chartiers Run (TSF), UNT1 to Chartiers Run (WWF), Tributary 42544 to Chartiers Run (TSF), & Chartiers Run (TSF)

ESCGP-2 # ESX18-007-0001  
Applicant Name ETC Northeast Field Services, LLC  
Contact Person Tom Glisson  
Address 6051 Wallace Road Ext, 3rd Floor  
City, State, Zip Wexford, PA 15090  
County Beaver County & Butler County  
Township(s) New Sewickley Township (Beaver Cnty) & Jackson Twp (Butler Cnty)  
Receiving Stream(s) and Classification(s) Tributary 34822 to Brush Creek (WWF), Tributary 34819 to Brush Creek (WWF), & Brush Creek (WWF)

ESCGP-2 # ESX18-125-0013  
Applicant Name MarkWest Liberty Midstream & Resources LLC  
Contact Person Rick Lowry  
Address 4600 J. Barry Court, Suite 500  
City, State, Zip Canonsburg, PA 15317  
County Washington County  
Township(s) Morris Township & South Franklin Township  
Receiving Stream(s) and Classification(s) UNTs to Fork of Bane Creek (TSF), UNTs to Pleasant Valley Run (TSF), Pleasant Valley Run (TSF), Southfork Tenmile Creek (TSF), & Tenmile Creek (TSF)

ESCGP-2 # ESX18-059-0004  
 Applicant Name EQT Production Company  
 Contact Person Todd Klaner  
 Address 2200 Energy Drive  
 City, State, Zip Canonsburg, PA 15317  
 County Greene County  
 Township(s) Wayne Township  
 Receiving Stream(s) and Classification(s) UNT to  
 Dunkard Creek (WWF), UNT to Sharp Run (WWF) &  
 and Sharp Run (WWF)

ESCGP-2 # ESX18-059-0003  
 Applicant Name EQT Production Company  
 Contact Person Todd Klaner  
 Address 2200 Energy Drive  
 City, State, Zip Canonsburg, PA 15317  
 County Greene County  
 Township(s) Wayne Township  
 Receiving Stream(s) and Classification(s) UNT to  
 Dunkard Creek (WWF), UNT to Sharp Run (WWF) &  
 and UNT to Rudolph Run (WWF)

ESCGP-2 # ESX18-059-0009  
 Applicant Name CNX Gas Company, LLC  
 Contact Person Adam White  
 Address 1000 Consol Energy Drive  
 City, State, Zip Canonsburg, PA 15317  
 County Greene County  
 Township(s) Richhill Township  
 Receiving Stream(s) and Classification(s) UNTs to  
 Dunkard Fork (WWF)

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

ESCGP-2 # ESG29-117-18-0003  
 Applicant Name Seneca Resources Corporation  
 Contact Person Doug Kepler  
 Address 5800 Corporate Drive, Suite 300  
 City, State, Zip Pittsburgh, PA 15237  
 County Tioga  
 Township(s) Bloss Township & Borough of Blossburg  
 Receiving Stream(s) and Classification(s) Boone Run  
 (CWF)

ESCGP-2 # ESX29-015-18-0001  
 Applicant Name Chief Oil & Gas LLC  
 Contact Person Jeffrey Deegan  
 Address 1720 Sycamore Road  
 City, State, Zip Montoursville, PA 17754  
 County Bradford  
 Township(s) Asylum  
 Receiving Stream(s) and Classification(s) UNT to Ben-  
 netts Creek (WWF, MF)  
 Secondary—Bennetts Creek

ESCGP-2 # ESX13-115-0092(01)  
 Applicant Name Chief Oil & Gas LLC  
 Contact Person Jeffrey Deegan  
 Address 1720 Sycamore Road  
 City, State, Zip Montoursville, PA 17754  
 County Susquehanna  
 Township(s) Lenox  
 Receiving Stream(s) and Classification(s) UNT to Tower  
 Branch (CWF-MF)

ESCGP-2 # ESG29-081-18-0009  
 Applicant Name ARD Operating LLC  
 Contact Person Stephen Barondeau  
 Address 33 West Third Street, Suite 300  
 City, State, Zip Williamsport, PA 17701  
 County Lycoming

Township(s) Cogan House  
 Receiving Stream(s) and Classification(s) Wendel Run  
 (HQ-CWF), UNT to Larrys Creek (EV)  
 Secondary—Larrys Creek (EV)

ESCGP-2 # ESG29-015-17-0024  
 Applicant Name Regency Marcellus Gas Gathering LLC  
 Contact Person Tom Glisson  
 Address 101 West Third Street  
 City, State, Zip Williamsport, PA 17701  
 County Bradford & Sullivan  
 Township(s) Canton & Leroy Townships (Bradford  
 County), Fox Township (Sullivan County)  
 Receiving Stream(s) and Classification(s) UNT Schrader  
 Creek, Schrader Creek, Lye Run, UNT Lye Run, UNT  
 Pine Swamp Run, Pine Swamp Run, UNT Rollinson  
 Run, Rollinson Run, UNT Little Schrader Creek, March  
 Run, UNT Marsh Run, Swamp Run, UNT Swamp Run,  
 Turnip Patch Run, UNT Turnip Patch Run, McCraney  
 Run, UNT McCraney Run (EV)  
 Secondary—Towanda Creek

ESCGP-2 # ESX29-115-18-0026  
 Applicant Name Williams Field Services Company LLC  
 Contact Person Matt Anderson  
 Address 310 State Route 29 North  
 City, State, Zip Tunkhannock, PA 18657  
 County Susquehanna  
 Township(s) Lathrop  
 Receiving Stream(s) and Classification(s) UNT to Horton  
 Creek (CWF, MF)

ESCGP-2 # ESX29-117-17-0004(01)  
 Applicant Name SWEPI LP  
 Contact Person Jason Shoemaker  
 Address 150 N. Dairy Ashford, E1296-E  
 City, State, Zip Houston, TX 77079  
 County Tioga  
 Township(s) Chatham  
 Receiving Stream(s) and Classification(s) Crooked Creek  
 (WWF)

ESCGP-2 # ESX12-115-0185(02)  
 Applicant Name Chief Oil & Gas LLC  
 Contact Person Jeffrey Deegan  
 Address 1720 Sycamore Road  
 City, State, Zip Montoursville, PA 17754  
 County Susquehanna  
 Township(s) Auburn  
 Receiving Stream(s) and Classification(s) UNT to White  
 Creek (CWF, MF) and UNT to Riley Creek (CWF, MF)

ESCGP-2 # ESG29-117-18-0005  
 Applicant Name Seneca Resources Corporation  
 Contact Person Doug Kepler  
 Address 5800 Corporate Drive, Suite 300  
 City, State, Zip Pittsburgh, PA 15237  
 County Tioga  
 Township(s) Bloss  
 Receiving Stream(s) and Classification(s) Johnson Creek  
 (CWF)

---

## SPECIAL NOTICES

---

### Notice of Request for Proposals for Municipal Solid Waste Disposal Capacity

In accordance with Act 101 and Section 272 of the Pennsylvania Solid Waste Rules and Regulations (as amended), Lackawanna County is seeking waste disposal capacity for municipal solid waste (MSW) for 10 years. Lackawanna County is hereby soliciting responses to qualify facilities to provide processing/disposal capacity for County-generated MSW, to begin on or after August 1, 2018.

Copies of Lackawanna County’s Facility Qualification Request (FQR) may be obtained from Lackawanna County Solid Waste Management Authority’s engineer, Guzek Associates, Inc., 401 Davis Street, Clarks Summit, PA 18411; (570) 586-9700, fax (570) 586-6728. All responses must be made on the Submittal Form and in accordance with the Instructions to Respondents provided in the FQR. The Respondent must submit the original and three copies to the previously listed address, Attention Joseph Guzek, PE by 3:30 p.m. on May 30, 2018. Qualified facilities will be notified once all applications have been reviewed by the Lackawanna County Solid Waste Advisory Committee.

Lackawanna County reserves the right to reject any or all responses and to waive any informalities in the solicitation process.

**Solicitation of Interest for Municipal Waste Disposal Capacity and Optional Integrated Waste and Recycling Program Support**

Westmoreland County, in Western Pennsylvania, is updating its County Municipal Waste Management Plan

in accordance with the provisions of Pennsylvania Act 101 of 1988, the Municipal Waste Planning, Recycling and Waste Reduction Act. As required in the Act, the County has prepared a Solicitation of Interest (SOI) for the purpose of obtaining 10 year commitments, beginning on January 1, 2021, and continuing through December 30, 2030, for disposal capacity for the municipal waste (MSW) generated within Westmoreland County during that period. The waste facilities to be considered in the County Plan Update must be permitted and fully available for use prior to January 1, 2021. SOI Respondents are also asked to consider supporting the sustainability of integrated waste and recycling programs in Westmoreland County. Transfer Stations wishing to be included in the Westmoreland County Solid Waste Management Plan, who handle MSW from Westmoreland County, should also request submission requirements from Ashley N. Duncan, whose information follows. To obtain a hard copy or electronic copy of the SOI, e-mail Ashley N. Duncan, PE, at aduncan@bartonandloguidice.com. Submittals are due no later than 4 p.m. on Friday, June 1, 2018.

---

**Chapter 102, Erosion and Sediment Control General Permit for Earth Disturbance Associated with Oil and Gas Exploration, Production, Processing or Treatment Operations or Transmission Facilities (ESCGP-2), Notice of Intent (NOI) under Technical Review for Transcontinental Gas Pipe Line Company, LLC’s Northeast Supply Enhancement Project—Quarryville Loop**

The Department of Environmental Protection (Department) provides notice that the Chapter 102, Erosion and Sediment Control General Permit for Earth Disturbance Associated with Oil and Gas Exploration, Production, Processing or Treatment Operations or Transmission Facilities (ESCGP-2), Notice of Intent (NOI) is currently under technical review for Transcontinental Gas Pipe Line Company, LLC’s Northeast Supply Enhancement Project—Quarryville Loop, including the associated valve sites, access roads and other ancillary earth disturbance activities.

This authorization of coverage is required for earth disturbance activities associated with oil and gas exploration, production, processing or treatment operations or transmission facilities when earth disturbance is 5 acres or greater. Review of this application is being coordinated by the Southcentral Regional Office and with the Lancaster County Conservation District.

The ESCGP2 application under review is as follows:

*ESCGP2*

<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
ESG3617801(1)	Transcontinental Gas Pipe Line Company, LLC 2800 Post Oak Boulevard Level 11 Houston, TX 77056	Lancaster	Drumore Township East Drumore Township Eden Township	Wissler Run (HQ-WWF, MF) Fishing Creek (HQ-CWF, MF) Exceptional Value Wetlands UNT to Fishing Creek (HQ-CWF, MF) UNT to Conowingo Creek (HQ-CWF, MF) Conowingo Creek (HQ-CWF, MF) UNT to Conowingo Creek (HQ-CWF, MF) UNT to Conowingo Creek (HQ-CWF, MF) Stewart Run (HQ-CWF, MF) UNT to Stewart Run (HQ-CWF, MF) UNT to Stewart Run (HQ-CWF, MF) UNT to Bowery Run (HQ-CWF, MF)

More detailed information regarding the ESCGP-2 NOI related to this proposed project is available in the Department regional office. Contact the Department Southcentral Region File Review Coordinator at (717) 705-4732 to request a file review of this ESCGP-2 NOI. The Department will accept written comments on this ESCGP-2 NOI through June 4, 2018. Comments on the NOI can be e-mailed or sent by postal mail to the Department of Environmental Protection, Southcentral Regional Office, Waterways and Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110, ra-epww-scro@pa.gov.

**Chapter 102, Erosion and Sediment Control General Permit for Earth Disturbance Associated with Oil and Gas Exploration, Production, Processing or Treatment Operations or Transmission Facilities (ESCGP-2), Notice of Intent (NOI) under Technical Review for Transcontinental Gas Pipe Line Company, LLC 's Northeast Supply Enhancement Project—Compressor Station 200 Modifications**

The Department of Environmental Protection (Department) provides notice that the Chapter 102, Erosion and Sediment Control General Permit for Earth Disturbance Associated with Oil and Gas Exploration, Production, Processing or Treatment Operations or Transmission Facilities (ESCGP-2), Notice of Intent (NOI) is currently under technical review for Transcontinental Gas Pipe Line Company, LLC 's Northeast Supply Enhancement Project—Compressor Station 200 Modifications, including ancillary earth disturbance activities.

This authorization of coverage is required for earth disturbance activities associated with oil and gas exploration, production, processing or treatment operations or transmission facilities when earth disturbance is 5 acres or greater. Review of this application is being coordinated by the Southeast Regional Office and with the Chester County Conservation District.

The ESCGP2 application under review is as follows:

<i>ESCGP2 Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
ESG00029170005	Transcontinental Gas Pipe Line Company, LLC 2800 Post Oak Boulevard Level 11 Houston, TX 77056	Chester	East Whiteland Township	Valley Creek (EV-CWF, MF)

More detailed information regarding the ESCGP-2 NOI related to this proposed project is available in the Department regional office. Contact the Department Southeast Region File Review Coordinator at (484) 250-5910 to request a file review of this ESCGP-2 NOI. The Department will accept written comments on this ESCGP-2 NOI through June 5, 2018. Comments on the NOI can be e-mailed or sent by postal mail to the Department of Environmental Protection, Southeast Regional Office, Waterways and Wetlands Program, 2 East Main Street, Norristown, PA 19401, ra-epww-sero@pa.gov.

[Pa.B. Doc. No. 18-690. Filed for public inspection May 4, 2018, 9:00 a.m.]

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Proposed Annual Monitoring Network Plan for Allegheny County**

Part 58 of 40 CFR (relating to ambient air quality surveillance) requires state and local air pollution control agencies to adopt and submit to the United States Environmental Protection Agency (EPA) Regional Administrator an Annual Monitoring Network Plan (AMNP) by July 1, 2018. The AMNP provides for the establishment and maintenance of an air quality surveillance system that consists of a network of monitoring stations. A proposed AMNP must be made available for public inspection and comment for at least 30 days prior to submission to the EPA.

The Allegheny County Health Department (ACHD) is the local air pollution control agency for Allegheny County. Allegheny County has an air monitoring network of 14 air monitoring stations that house instruments that measure ambient levels of air pollutants.

The proposed AMNP is available for public inspection on the ACHD air quality web site at <http://www.achd.net/air/index.php>. For further information, contact Darrell Stern, Air Monitoring Section Manager, at (412) 578-8143.

Written comments on the proposed AMNP should be sent to Darrell Stern, Air Monitoring Section Manager, Allegheny County Health Department, 301 39th Street,

Building 7, Pittsburgh, PA 15201 or [darrell.stern@alleghenycounty.us](mailto:darrell.stern@alleghenycounty.us). Use "2019 Air Monitoring Network Plan" as the subject line in written communication. Only written or e-mailed comments will be accepted. Comments received by facsimile will not be accepted. Persons wishing to file comments on the proposed AMNP must submit comments by June 5, 2018.

PATRICK McDONNELL,  
*Secretary*

[Pa.B. Doc. No. 18-691. Filed for public inspection May 4, 2018, 9:00 a.m.]

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Proposed Annual Monitoring Network Plan for Philadelphia**

Part 58 of 40 CFR (relating to ambient air quality surveillance) requires state and local air pollution control agencies to adopt and submit to the United States Environmental Protection Agency (EPA) Regional Administrator an Annual Monitoring Network Plan (AMNP) by July 1, 2018. The AMNP provides for the establishment and maintenance of an air quality surveillance system that consists of a network of monitoring stations. A



proposed AMNP must be made available for public inspection and comment for at least 30 days prior to submission to the EPA.

Air Management Services is the local air pollution control agency for the City of Philadelphia (City) under the Department of Public Health. The City has an air monitoring network of 11 air monitoring stations that house instruments that measure ambient levels of air pollutants.

The proposed AMNP is available for public inspection on the City's web site at <http://www.phila.gov/health/airmanagement/PublicMeetings.html> and at Air Management Services, 321 University Avenue, 2nd Floor, Philadelphia, PA 19104, during normal business hours. For further information contact Ramesh Mahadevan, Engineering Supervisor of Program Services, at (215) 685-9436.

Written comments on the proposed AMNP should be sent to Ramesh Mahadevan, Engineering Supervisor of Program Services, Air Management Services, 321 University Avenue, 2nd Floor, Philadelphia, PA 19104 or [ramesh.mahadevan@phila.gov](mailto:ramesh.mahadevan@phila.gov). Use "2018 Air Monitoring Network Plan" as the subject line in written communication. Only written and e-mailed comments will be accepted. Comments received by facsimile will not be accepted. Persons wishing to file comments on the proposed AMNP must submit comments by June 4, 2018.

PATRICK McDONNELL,  
*Secretary*

[Pa.B. Doc. No. 18-692. Filed for public inspection May 4, 2018, 9:00 a.m.]

## DEPARTMENT OF HUMAN SERVICES

### Additional Class of Disproportionate Share Payments

The Department of Human Services (Department) is announcing its intent to allocate funds for Fiscal Year (FY) 2017-2018 disproportionate share hospital (DSH) payments for qualifying Medical Assistance (MA) enrolled acute care general hospitals to promote access to acute care services for MA eligible persons in less urban areas of this Commonwealth. The Department does not intend to otherwise change the qualifying criteria or payment methodology for these payments.

All payment limitations are still applicable, including those limitations that the Commonwealth may not exceed its aggregate annual DSH allotment and that no hospital may receive DSH payments in excess of its hospital-specific limit.

#### *Fiscal Impact*

The FY 2017-2018 impact, as a result of the funding allocation for these payments, is \$0.623 million (\$0.300 million in State general funds and \$0.323 million in Federal funds) upon approval by the Centers for Medicare & Medicaid Services.

#### *Public Comment*

Interested persons are invited to submit written comments regarding this notice to the Department of Human Services, Office of Medical Assistance Programs, c/o Regu-

lations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120. The Department will review and consider comments received within 30 days in determining the final payment methodology for these payments.

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

TERESA D. MILLER,  
*Secretary*

**Fiscal Note:** 14-NOT-1227. (1) General Fund; (2) Implementing Year 2017-18 is \$300,000; (3) 1st Succeeding Year 2018-19 through 5th Succeeding Year 2022-23 are \$0; (4) 2016-17 Program—\$0; 2015-16 Program—\$0; 2014-15 Program—\$0; (7) Health Program Assistance and Services; (8) recommends adoption. Funds have been included in the budget to cover this increase.

[Pa.B. Doc. No. 18-693. Filed for public inspection May 4, 2018, 9:00 a.m.]

## DEPARTMENT OF HUMAN SERVICES

### Additional Class of Disproportionate Share Payments for Burn Centers

The Department of Human Services (Department) is providing final notice of its funding allocation for Fiscal Year (FY) 2017-2018 disproportionate share hospital payments to qualifying Medical Assistance enrolled acute care general hospital burn centers. The Department is not otherwise changing the qualifying criteria or payment methodology for these payments.

The Department published notice of its intent to allocate funding for these payments at 47 Pa.B. 7771 (December 23, 2017). The Department received no public comments during the 30-day comment period and will implement the change as described in the notice of intent.

#### *Fiscal Impact*

The FY 2017-2018 impact, as a result of the funding allocation for these payments, is \$7.850 million (\$3.782 million in State general funds and \$4.068 million in Federal funds).

TERESA D. MILLER,  
*Secretary*

**Fiscal Note:** 14-NOT-1228. (1) General Fund; (2) Implementing Year 2017-18 is \$3,782,000; (3) 1st Succeeding Year 2018-19 through 5th Succeeding Year 2022-23 are \$0; (4) 2016-17 Program—\$3,782,000; 2015-16 Program—\$3,782,000; 2014-15 Program—\$3,782,000; (7) Medical Assistance—Hospital-Based Burn Centers; (8) recommends adoption. Funds have been included in the budget to cover this increase.

[Pa.B. Doc. No. 18-694. Filed for public inspection May 4, 2018, 9:00 a.m.]

## DEPARTMENT OF HUMAN SERVICES

### Disproportionate Share Hospital Payments for Obstetrical and Neonatal Services

The Department of Human Services (Department) is providing final notice of its funding allocation for Fiscal Year (FY) 2017-2018 disproportionate share hospital payments to qualifying Medical Assistance enrolled acute care general hospitals providing obstetrical and neonatal services. The Department is not otherwise changing the qualifying criteria or payment methodology for these payments.

The Department published notice of its intent to allocate funding for these payments at 47 Pa.B. 7773 (December 23, 2017). The Department received no comments during the 30-day comment period and will implement the change as described in the notice of intent.

#### *Fiscal Impact*

The FY 2017-2018 impact, as a result of these payments, is \$13.867 million (\$6.681 million in State general funds and \$7.186 million in Federal funds).

TERESA D. MILLER,  
*Secretary*

**Fiscal Note:** 14-NOT-1229. (1) General Fund; (2) Implementing Year 2017-18 is \$6,681,000; (3) 1st Succeeding Year 2018-19 through 5th Succeeding Year 2022-23 are \$0; (4) 2016-17 Program—\$3,681,000; 2015-16 Program—\$3,681,000; 2014-15 Program—\$3,681,000; (7) Medical Assistance—Obstetric and Neonatal Services; (8) recommends adoption. Funds have been included in the budget to cover this increase.

[Pa.B. Doc. No. 18-695. Filed for public inspection May 4, 2018, 9:00 a.m.]

## DEPARTMENT OF HUMAN SERVICES

### Payment for Nursing Facility Services Provided by Nonpublic Nursing Facilities Located in a County of the Eighth Class; Nonpublic Nursing Facility Supplementation Payment for Fiscal Year 2017-2018

This announcement provides advance notice that the Department of Human Services (Department) intends to continue to make an additional payment to certain nonpublic nursing facilities in a county of the eighth class in Fiscal Year (FY) 2017-2018 to ensure access to necessary nursing home care in that county.

#### *Proposed Payment*

The Department will make a nonpublic nursing facility supplementation payment to each qualified nonpublic

nursing facility. To qualify, a nonpublic nursing facility must be located in a county of the eighth class, have more than 119 beds and a Medicaid acuity of 1.02 as of August 1, 2017. The number of beds will be the number of licensed beds as of August 1, 2017, and the Medicaid acuity will be determined using the Case Mix Index Report for the August 1, 2017, Picture Date in accordance with 55 Pa. Code § 1187.33 (relating to resident data and picture date reporting requirements).

The Department will calculate each qualified nonpublic nursing facility's supplementation payment for FY 2017-2018 by multiplying the supplementation per diem by the number of paid Medical Assistance (MA) facility and therapeutic leave days for the prior fiscal year. The supplementation per diem will be calculated by dividing the total funds available by the total number of paid MA facility and therapeutic leave days for the prior fiscal year for qualifying facilities.

This public notice supersedes the notice published at 48 Pa.B. 953 (February 10, 2018), and provides the revised payment methodology that will be used to make an additional payment to certain nonpublic nursing facilities in a county of the eighth class in FY 2017-2018.

The Department will submit a State Plan Amendment (SPA) to the Centers for Medicare & Medicaid Services (CMS). If CMS approves the SPA, the total funds will consist of both State and Federal funding. The Department will use its best efforts to process this supplementation payment within 30 days of the date it receives notice from CMS.

#### *Fiscal Impact*

This change will result in a cost of \$10.378 million (\$5.000 million in State funds) for FY 2017-2018.

#### *Public Comment*

Interested persons are invited to submit written comments regarding the nonpublic nursing facility supplementation payment to the Department of Human Services, Office of Long-Term Living, Bureau of Policy and Regulatory Management, Attention: Marilyn Yocum, P.O. Box 8025, Harrisburg, PA 17105-8025. Comments received within 30 days will be reviewed and considered for any subsequent revision of the notice.

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

TERESA D. MILLER,  
*Secretary*

**Fiscal Note:** 14-NOT-1226. (1) General Fund; (2) Implementing Year 2017-18 is \$5,000,000; (3) 1st Succeeding Year 2018-19 through 5th Succeeding Year 2022-23 are \$0; (4) 2016-17 Program—\$1,082,000,000; 2015-16 Program—\$968,083,000; 2014-15 Program—\$810,545,000; (7) MA—Long-Term Care; (8) recommends adoption. Funds have been included in the budget to cover this increase.

[Pa.B. Doc. No. 18-696. Filed for public inspection May 4, 2018, 9:00 a.m.]

## FISH AND BOAT COMMISSION

### Classification of Wild Trout Streams; Proposed Additions and Revisions; July 2018

Under 58 Pa. Code § 57.11 (relating to listing of wild trout streams), it is the policy of the Fish and Boat Commission (Commission) to accurately identify and classify stream sections supporting naturally reproducing populations of trout as wild trout streams. The Commission's Fisheries Management Division maintains the list of wild trout streams. The Executive Director, with the approval of the Commission, will from time to time publish the list of wild trout streams in the *Pennsylvania Bulletin*. The listing of a stream section as a wild trout stream is a biological designation that does not determine how it is managed. The Commission relies upon many factors in determining the appropriate management of streams.

At the next Commission meeting on July 9 and 10, 2018, the Commission will consider changes to its list of wild trout streams. Specifically, the Commission will consider the addition of the following streams or portions of streams to the list:

<i>County of Mouth</i>	<i>Stream Name</i>	<i>Section Limits</i>	<i>Tributary to</i>	<i>Mouth Lat/Lon</i>
Cambria	Little Brubaker Run	Headwaters to UNT at RM 1.54	Brubaker Run	40.706651 78.694125
Cambria	Rock Run	Headwaters to Mouth	Chest Creek	40.713405 78.681093
Cambria	UNT to Beaverdam Run (RM 0.56)	Headwaters to Mouth	Beaverdam Run	40.713489 78.533421
Cambria	Wyerough Run	Headwaters to Mouth	Glendale Lake	40.680921 78.582846
Cameron	Hart Run	Headwaters to Mouth	West Creek	41.482460 78.317917
Cameron	Horning Hollow Run	Headwaters to Mouth	West Creek	41.477402 78.323318
Cameron	Towner Run	Headwaters to Mouth	West Creek	41.493300 78.278350
Cameron	UNT to West Creek (RM 9.56)	Headwaters to Mouth	West Creek	41.483503 78.391421
Cameron	Woodrock Run	Headwaters to Mouth	First Fork Sinnemahoning Creek	41.401378 78.022878
Carbon	UNT to Beltzville Lake (RM 9.32)	Headwaters to Mouth	Beltzville Lake	40.872046 75.605776
Carbon	UNT to Beltzville Lake (RM 10.52)	Headwaters to Mouth	Beltzville Lake	40.878980 75.582034
Carbon	UNT to Beltzville Lake (RM 13.62)	Headwaters to Mouth	Beltzville Lake	40.886948 75.538325
Carbon	UNT to Borger Creek (RM 1.89)	Headwaters to Mouth	Borger Creek	40.857093 75.502520
Carbon	UNT to Hawk Run (RM 0.32)	Headwaters to Mouth	Hawk Run	41.010118 75.633585
Carbon	UNT to White Oak Run (RM 0.28)	Headwaters to Mouth	White Oak Run	40.892121 75.616367
Carbon	UNT to Wild Creek Reservoir (RM 1.98)	Headwaters to Mouth	Wild Creek Reservoir	40.903621 75.570621
Carbon	UNT to Wild Creek Reservoir (RM 3.22)	Headwaters to Mouth	Wild Creek Reservoir	40.911480 75.561516
Centre	Roup Run	Headwaters to Mouth	Moshannon Creek	40.781677 78.343477
Clearfield	Clear Run	Headwaters to Mouth	Sandy Lick Creek	41.130592 78.779835
Clearfield	UNT to Ashcraft Run (RM 1.26)	Headwaters to Mouth	Ashcraft Run	40.748865 78.692481
Clearfield	UNT to Chest Creek (RM 4.18)	Headwaters to Mouth	Chest Creek	40.840053 78.687224
Clearfield	UNT to Clearfield Creek (RM 14.89)	Headwaters to Mouth	Clearfield Creek	40.922138 78.436429

<i>County of Mouth</i>	<i>Stream Name</i>	<i>Section Limits</i>	<i>Tributary to</i>	<i>Mouth Lat / Lon</i>
Clearfield	UNT to Little Clearfield Creek (RM 5.62)	Headwaters to Mouth	Little Clearfield Creek	40.928910 78.469338
Clearfield	UNT to Mosquito Creek (RM 0.51)	Headwaters to Mouth	Mosquito Creek	41.123062 78.114074
Clearfield	UNT to Slab Run (RM 0.65)	Headwaters to Mouth	Slab Run	41.143549 78.780905
Clinton	Green Run	Headwaters to Mouth	Goodman Hollow Run	41.299950 77.627960
Clinton	Grove Run	Headwaters to Mouth	West Branch Susquehanna River	41.216027 77.962168
Clinton	Upper Stimpson Run	Headwaters to Mouth	Sinnemahoning Creek	41.259705 77.915546
Elk	Seeley Hollow Run	Headwaters to Mouth	West Creek	41.485250 78.429590
Forest	Coalbed Run	Headwaters to Mouth	The Branch	41.562077 79.168262
Forest	UNT to Salmon Creek (RM 10.90)	Headwaters to Mouth	Salmon Creek	41.466130 79.150040
Forest	UNT to Salmon Creek (RM 12.49)	Headwaters to Mouth	Salmon Creek	41.480690 79.136820
Forest	UNT to Salmon Creek (RM 13.26)	Headwaters to Mouth	Salmon Creek	41.489500 79.135500
Forest	UNT to Salmon Creek (RM 14.61; Right)	Headwaters to Mouth	Salmon Creek	41.502818 79.123965
Forest	UNT to The Branch (RM 1.75)	Headwaters to Mouth	The Branch	41.545176 79.224708
Forest	UNT to The Branch (RM 2.26)	Headwaters to Mouth	The Branch	41.544744 79.216415
Forest	UNT to The Branch (RM 3.71)	Headwaters to Mouth	The Branch	41.556482 79.200287
Forest	Watson Branch	Headwaters to Mouth	Spring Creek	41.539751 79.027914
Indiana	Pine Run	Headwaters to Mouth	Rairigh Run	40.781040 78.928402
Lackawanna	UNT to Silver Creek (RM 0.92)	Headwaters to Mouth	Silver Creek	41.234860 75.540203
Lackawanna	UNT to West Branch Wallenpaupack Creek (RM 10.30)	Headwaters to Mouth	West Branch Wallenpaupack Creek	41.411193 75.457718
Lackawanna	UNT to West Branch Wallenpaupack Creek (RM 12.52)	Headwaters to Mouth	West Branch Wallenpaupack Creek	41.434068 75.478045
Luzerne	Snider Run	Headwaters to Mouth	Meadow Run	41.214703 75.719499
Luzerne	UNT to Nescopeck Creek (RM 2.47)	Headwaters to Mouth	Nescopeck Creek	41.027778 76.214444
Luzerne	UNT to Nescopeck Creek (RM 12.53)	Headwaters to Mouth	Nescopeck Creek	41.003772 76.134876
Luzerne	White House Run	Headwaters to Mouth	Lehigh River	41.129624 75.662707
Lycoming	UNT (RM 0.30) to UNT to Loyalsock Creek (RM 9.53)	Headwaters to Mouth	UNT to Loyalsock Creek (RM 9.53)	41.348380 76.924100
Lycoming	UNT (RM 3.80) to UNT to Antes Creek (RM 4.78)	Headwaters to Sink	UNT to Antes Creek (RM 4.78)	41.145052 77.148106
Lycoming	UNT to Roaring Run (RM 6.79)	Headwaters to Mouth	Roaring Run	41.534917 77.058618

<i>County of Mouth</i>	<i>Stream Name</i>	<i>Section Limits</i>	<i>Tributary to</i>	<i>Mouth Lat / Lon</i>
Lycoming	UNT to Rock Run (RM 6.96)	Headwaters to Mouth	Rock Run	41.545563 76.856020
McKean	Diegel Hollow Run	Headwaters to Mouth	Potato Creek	41.868080 78.430508
McKean	Lafferty Run	Headwaters to Mouth	Kendall Creek	41.956619 78.606291
McKean	UNT to Bradford City Number Three Reservoir (RM 4.08)	Headwaters to Mouth	Bradford City Number Three Reservoir	41.955561 78.743590
McKean	UNT to East Branch Tunungwant Creek (RM 10.14)	Headwaters to Mouth	East Branch Tunungwant Creek	41.833317 78.642234
Monroe	UNT to Brodhead Creek (RM 11.81)	Headwaters to Mouth	Brodhead Creek	41.068578 75.219993
Monroe	UNT to Middle Branch Brodhead Creek (RM 1.26)	Headwaters to Mouth	Middle Branch Brodhead Creek	41.209158 75.269168
Monroe	UNT to Pocono Creek (RM 10.43)	Outflow of Highwood Lake to Mouth	Pocono Creek	41.035201 75.306348
Monroe	UNT to Princess Run (RM 1.41)	Headwaters to Mouth	Princess Run	40.865846 75.442590
Monroe	UNT to Tobyhanna Creek (RM 17.07)	Headwaters to Mouth	Tobyhanna Creek	41.160465 75.461253
Monroe	UNT to Wolf Run (RM 1.06)	Headwaters to Mouth	Wolf Run	41.191855 75.558291
Northampton	UNT to Hokendauqua Creek (RM 12.18)	Headwaters to Mouth	Hokendauqua Creek	40.773389 75.459231
Northampton	UNT to Monocacy Creek (RM 11.35)	Headwaters to Mouth	Monocacy Creek	40.735106 75.399875
Pike	Dark Hollow Run	Headwaters to Mouth	Mud Pond	41.273794 75.186678
Pike	Grassy Brook	Headwaters to Mouth	Shohola Creek	41.421456 74.973279
Pike	Spackmans Creek	Headwaters to Mouth	Delaware River	41.168056 74.899722
Pike	UNT (RM 0.07) to UNT to Delaware River (RM 161.31)	Outflow of Sunny Hill Lake to Mouth	UNT to Delaware River (RM 161.31)	41.151162 74.911562
Pike	UNT to Balliard Creek (RM 0.84)	Headwaters to Mouth	Balliard Creek	41.420463 74.990220
Pike	UNT to Bridge Creek (RM 2.73)	Headwaters to Mouth	Bridge Creek	41.291355 75.262461
Pike	UNT to Delaware River (RM 161.31)	Outflow Sunset Lake to Mouth	Delaware River	41.150948 74.911209
Pike	UNT to Little Bush Kill (RM 5.49)	Headwaters to Mouth	Little Bush Kill	41.155905 75.011246
Pike	UNT to Mud Pond Run (RM 2.50)	Headwaters to Mouth	Mud Pond Run	41.270781 75.175463
Pike	UNT to Saw Creek (RM 4.62)	Headwaters to Mouth	Saw Creek	41.141023 75.053127
Pike	UNT to Toms Creek (RM 0.76)	Headwaters to Mouth	Toms Creek	41.129128 74.958481
Pike	UNT to Toms Creek (RM 1.99)	Headwaters to Mouth	Toms Creek	41.142822 74.962453
Pike	UNT to Wallenpaupack Creek (RM 19.96)	Outflow of Lake at RM 1.47 to Mouth	Wallenpaupack Creek	41.336508 75.318321

<i>County of Mouth</i>	<i>Stream Name</i>	<i>Section Limits</i>	<i>Tributary to</i>	<i>Mouth Lat / Lon</i>
Pike	UNT to York Creek (RM 0.83)	Headwaters to Mouth	York Creek	41.354052 75.068527
Pike	Wilson Creek	Outflow Wilson Creek Lake to Mouth	Wynoska Lake	41.286126 75.248132
Potter	Fish Basket Hollow Run	Headwaters to Mouth	First Fork Sinnemahoning Creek	41.552197 78.035449
Sullivan	Floodwood Creek	Headwaters to Inflow of Pond at RM 1.56	Loyalsock Creek	41.450801 76.436617
Sullivan	Mill Creek (Dushore)	Headwaters to Mouth	Little Loyalsock Creek	41.508720 76.488205
Sullivan	UNT to Ellis Creek (RM 1.25)	Headwaters to Mouth	Ellis Creek	41.434237 76.371638
Sullivan	UNT to Floodwood Creek (RM 1.34)	Headwaters to Mouth	Floodwood Creek	41.432890 76.437110
Sullivan	UNT to Little Loyalsock Creek (RM 11.17)	Headwaters to Mouth	Little Loyalsock Creek	41.510300 76.450500
Sullivan	UNT to Little Loyalsock Creek (RM 8.27)	Headwaters to Mouth	Little Loyalsock Creek	41.509580 76.492100
Sullivan	UNT to Loyalsock Creek (RM 51.98)	Headwaters to Mouth	Loyalsock Creek	41.451680 76.415600
Sullivan	UNT to Loyalsock Creek (RM 59.13)	Headwaters to Mouth	Loyalsock Creek	41.451460 76.302700
Sullivan	UNT to Loyalsock Creek (RM 59.45)	Headwaters to Mouth	Loyalsock Creek	41.449220 76.298300
Sullivan	Wampole Run	Headwaters to Mouth	Little Loyalsock Creek	41.504561 76.458924
Tioga	UNT to Fall Brook (RM 2.48)	Headwaters to Mouth	Fall Brook	41.685560 76.986200
Warren	Dunn Run	Headwaters to Mouth	Allegheny River	41.633335 79.402916
Wayne	Rocky Run	Headwaters to Mouth	Swamp Brook	41.506676 75.156294
Wayne	UNT (RM 0.60) to UNT to Holbert Creek (RM 3.31)	Headwaters to Mouth	UNT to Holbert Creek (RM 3.31)	41.594436 75.220532
Wayne	UNT to Lackawaxen River (RM 20.23)	Headwaters to Mouth	Lackawaxen River	41.515891 75.206857
Wayne	UNT to Little Equinunk Creek (RM 3.70)	Outflow Price Pond to Mouth	Little Equinunk Creek	41.812202 75.163535
Wayne	UNT to Little Equinunk Creek (RM 6.50)	Headwaters to Mouth	Little Equinunk Creek	41.780979 75.176685
Wayne	UNT to Middle Creek (RM 13.12)	Headwaters to Mouth	Middle Creek	41.502710 75.351124
Wayne	UNT to Middle Creek (RM 14.55)	Outflow Lower Pond to Mouth	Middle Creek	41.504180 75.368275
Wayne	UNT to Wallenpaupack Creek (RM 14.39)	Outflow Waynewood Lake to Mouth	Wallenpaupack Creek	41.375240 75.339739
Wayne	Weston Brook	Headwaters to Mouth	Delaware River	41.861859 75.190226

The Commission also will consider the following revisions to the section limits of the stream on the list:

<i>County of Mouth</i>	<i>Stream Name</i>	<i>Current Limits</i>	<i>Revised Limits</i>	<i>Tributary to</i>	<i>Mouth Lat / Lon</i>
Lycoming	Larrys Creek	Wendell Run to Mouth	Headwaters to Mouth	West Branch Susquehanna River	41.216944 77.220000

Persons with comments, objections or suggestions concerning the classification of the streams listed may submit them in writing to the Executive Director, Fish and Boat Commission, P.O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at [www.fishandboat.com/regcomments](http://www.fishandboat.com/regcomments). If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

JOHN A. ARWAY,  
Executive Director

[Pa.B. Doc. No. 18-697. Filed for public inspection May 4, 2018, 9:00 a.m.]

## FISH AND BOAT COMMISSION

### Proposed Changes to List of Class A Wild Trout Waters; July 2018

The Fish and Boat Commission (Commission) is considering changes to its list of Class A Wild Trout Streams. Under 58 Pa. Code § 57.8a (relating to Class A wild trout streams), it is the Commission's policy to manage self-sustaining Class A wild trout populations as a renewable natural resource to conserve that resource and the angling it provides. Class A wild trout populations represent the best of this Commonwealth's naturally reproducing trout fisheries. With rare exceptions, the Commission manages these stream sections solely for the perpetuation of the wild trout fishery with no stocking.

Criteria developed for Class A Wild Trout fisheries are species specific. Wild Trout Biomass Class Criteria include provisions for:

(i) *Wild Brook Trout Fisheries*

(A) Total brook trout biomass of at least 30 kg/ha (26.7 lbs/acre).

(B) Total biomass of brook trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(C) Brook trout biomass must comprise at least 75% of the total trout biomass.

(ii) *Wild Brown Trout Fisheries*

(A) Total brown trout biomass of at least 40 kg/ha (35.6 lbs/acre).

(B) Total biomass of brown trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(C) Brown trout biomass must comprise at least 75% of the total trout biomass.

(iii) *Mixed Wild Brook and Brown Trout Fisheries*

(A) Combined brook and brown trout biomass of at least 40 kg/ha (35.6 lbs/acre).

(B) Total biomass of brook trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(C) Total biomass of brown trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(D) Brook trout biomass must comprise less than 75% of the total trout biomass.

(E) Brown trout biomass must comprise less than 75% of the total trout biomass.

(iv) *Wild Rainbow Trout Fisheries*

Total biomass of rainbow trout less than 15 cm (5.9 inches) in total length of at least 2.0 kg/ha (1.78 lbs/acre).

(v) *Mixed Wild Brook and Rainbow Trout Fisheries*

(A) Combined brook and rainbow trout biomass of at least 40 kg/ha (35.6 lbs/acre).

(B) Total biomass of brook trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(C) Total biomass of rainbow trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(D) Brook trout biomass shall comprise less than 75% of the total trout biomass.

(E) Rainbow trout biomass shall comprise less than 75% of the total trout biomass.

(vi) *Mixed Wild Brown and Rainbow Trout Fisheries*

(A) Combined brown and rainbow trout biomass of at least 40 kg/ha (35.6 lbs/acre).

(B) Total biomass of brown trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(C) Total biomass of rainbow trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(D) Brown trout biomass shall comprise less than 75% of the total trout biomass.

(E) Rainbow trout biomass shall comprise less than 75% of the total trout biomass.

During recent surveys, Commission staff documented the following stream sections to have Class A wild trout populations. The Commission intends to consider adding these waters to its list of Class A Wild Trout Streams at its meeting on July 9 and 10, 2018.

<i>County</i>	<i>Stream</i>	<i>Section</i>	<i>Limits</i>	<i>Tributary to</i>	<i>Mouth Lat / Lon</i>	<i>Brook Trout (kg / ha)</i>	<i>Brown Trout (kg / ha)</i>	<i>Rainbow Trout (kg / ha)</i>	<i>Length (miles)</i>	<i>Survey Year</i>
Centre	UNT to Railroad Creek (RM 0.87)	01	Headwaters to Mouth	Railroad Creek	40.984836 77.292759	56.43	—	—	0.72	2017
Jefferson	UNT (RM 0.04) to UNT to North Fork Redbank Creek (RM 10.15)	01	Headwaters to Mouth	UNT to North Fork Redbank Creek (RM 10.15)	41.248748 79.016788	60.93	—	—	0.71	2017
Lycoming	Larrys Creek	01	Headwaters to Covered Bridge on T-784	West Branch Susquehanna River	41.216944 77.220000	4.71	50.42	—	7.03	2017
Lycoming	Larrys Creek	02	Covered bridge on T-784 to first SR 973 bridge upstream of Salladasburg	West Branch Susquehanna River	41.216944 77.220000	11.56	75.16	—	8.09	2017
Union	Penns Creek	05	500 meters downstream of Cherry Run to the downstream end of the island at RM 37.26 near the end of Jolly Grove Lane	Susquehanna River	40.750000 76.857780	—	44.71	—	3.80	2017



Persons with comments, objections or suggestions concerning the additions are invited to submit comments in writing to the Executive Director, Fish and Boat Commission, P.O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments also may be submitted electronically by completing the form at [www.fishandboat.com/regcomments](http://www.fishandboat.com/regcomments). If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

JOHN A. ARWAY,  
*Executive Director*

[Pa.B. Doc. No. 18-698. Filed for public inspection May 4, 2018, 9:00 a.m.]

## HEALTH CARE COST CONTAINMENT COUNCIL

### Meeting Scheduled

The Health Care Cost Containment Council (Council) has scheduled the following meeting: Thursday, May 10, 2018—Council meeting at 10 a.m.

The meeting will be held at 225 Market Street, Suite 400, Harrisburg, PA 17101. The public is invited to attend. Persons who need accommodation due to a disability who wish to attend, should contact Reneé Greenawalt at (717) 232-6787 at least 24 hours in advance so that arrangements can be made.

JOE MARTIN,  
*Executive Director*

[Pa.B. Doc. No. 18-699. Filed for public inspection May 4, 2018, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Action Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10 a.m., Thursday, April 19, 2018, and announced the following:

*Action Taken—Regulation Approved:*

State Board of Physical Therapy # 16A-6517: Post-Act 38 Revisions (amends 49 Pa. Code Chapter 40)

Environmental Quality Board # 7-522: Handling and Use of Explosives (amends 25 Pa. Code Chapters 210 and 211)

### Approval Order

Public Meeting Held  
April 19, 2018

*Commissioners Voting:* George D. Bedwick, Chairperson; John F. Mizner, Esq., Vice Chairperson; W. Russell Faber; Murray Ufberg, Esq.; Dennis A. Watson, Esq.

*State Board of Physical Therapy  
Post-Act 38 Revisions  
Regulation No. 16A-6517 (# 3148)*

On April 15, 2016, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Physical Therapy (Board). This rulemaking amends 49 Pa. Code Chapter 40. The proposed regulation was published in the May 14, 2016 *Pennsylvania Bulletin* with a public comment period ending on June 13, 2016. The final-form regulation was submitted to the Commission on March 8, 2018.

This rulemaking makes several technical corrections and clarity edits to Subchapters A (relating to Physical Therapists) and Subchapter C (relating to Physical Therapist Assistants) of Chapter 40 (State Board of Physical Therapy) to make consistent with Act 38 of 2008.

We have determined this regulation is consistent with the statutory authority of the Board (63 P.S. §§ 1303(a), 1304(a), 1306, 1307.2, 1309.1(j) and 1311(a)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

### Approval Order

Public Meeting Held  
April 19, 2018

*Commissioners Voting:* George D. Bedwick, Chairperson; John F. Mizner, Esq., Vice Chairperson; W. Russell Faber; Murray Ufberg, Esq.; Dennis A. Watson, Esq.

*Environmental Quality Board  
Handling and Use of Explosives  
Regulation No. 7-522 (# 3138)*

On February 17, 2016, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Environmental Quality Board (Board). This rulemaking amends 25 Pa. Code Chapters 210 and 211. The proposed regulation was published in the February 27, 2016 *Pennsylvania Bulletin* with a public comment period ending March 28, 2016. The final-form regulation was submitted to the Commission on March 16, 2018.

This final regulation amends regulations to address the use of explosives for seismic exploration, update explosives use requirements and eliminate antiquated requirements.

We have determined this regulation is consistent with the statutory authority of the Board (52 P.S. §§ 1396.4b and 3311(e); 71 P.S. §§ 751-22 and 751-35; 73 P.S. §§ 157, 161, 166, and 167) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

GEORGE D. BEDWICK,  
*Chairperson*

[Pa.B. Doc. No. 18-700. Filed for public inspection May 4, 2018, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P.S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b).

The Commission has issued comments on the following proposed regulations. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
16A-4312	State Board of Chiropractic Chiropractic Specialties 48 Pa.B. 1177 (February 24, 2018)	3/26/18	4/25/18
16A-4626	State Board of Dentistry Child Abuse Reporting Requirements 48 Pa.B. 1179 (February 24, 2018)	3/26/18	4/25/18
7-530	Environmental Quality Board Administration of the Storage Tank and Spill Prevention Program 48 Pa.B. 1101 (February 24, 2018)	3/26/18	4/25/18

### State Board of Chiropractic Regulation # 16A-4312 (IRRC # 3197)

#### Chiropractic Specialties

April 25, 2018

We submit for your consideration the following comments on the proposed rulemaking published in the February 24, 2018 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the State Board of Chiropractic (Board) to respond to all comments received from us or any other source.

#### 1. Scope of Practice.—Consistency with statute; Protection of the public health, safety and welfare.

This regulation addresses advertising of specialties. In the Preamble, the Board states:

The Board is aware that a chiropractor might obtain a “certification” that does not truly reflect genuine advanced knowledge, training or skill, but instead is rather easily obtained. Unfortunately, the public, not knowing what certifications are meaningful, may be confused or deceived by the advertising of these credentials. . . . Because § 5.31(c)(5) already specifically addresses the advertising of chiropractic specialties, it appears appropriate to amend that provision to create a brighter line rule in the advertising of professional credentials.

This proposed regulation deletes the definition of “Chiropractic specialty” and amends a subparagraph on pro-

fessional advertising requirements. However, the Board’s regulation does not comprehensively address practice relating to specialty certifications that do not meet the existing definition of “Chiropractic specialty.”

The Chiropractic Practice Act (Act) establishes that it is a violation for a chiropractor to hold “himself out as a specialist unless he possesses a post graduate certification in that specialty.” Violations relating to specialties are serious offenses that potentially result in revocation of a license, fines and imprisonment. See 63 P.S. §§ 625.506(a)(17) and 625.702(12). Relating to specialties, the Act does not define the key terms “specialist,” “specialty” or “post graduate certification.” Under 63 P.S. § 625.302(3) of the Act, the Board has the power and duty “to promulgate, adopt and enforce in the manner provided by law, the rules and regulations necessary to carry out this Act.” We believe it is in the best interests of the public, licensed chiropractors and the Board to establish in regulation what the terms “specialist,” “specialty” and “post graduate certification” mean and to clearly establish when a violation of the Act occurs.

The Act and the Board’s regulation are much more prescriptive and clear relating to adjunctive procedures and certification. The Act defines “adjunctive procedures” at 63 P.S. § 625.102 and addresses certification to use them at 63 P.S. § 625.304, including requirements to pass an examination on the use of adjunctive procedures and to complete 100 hours of study in the use of adjunctive procedures, as approved by the Board. Under its existing regulation in 49 Pa. Code Chapter 5, the Board specifies certification to use adjunctive procedures (§ 5.14) and includes on the list of unprofessional conduct practicing

or advertising adjunctive procedures without a certificate to use adjunctive procedures issued by the Board (§ 5.81(1)(xiv)). Shouldn't the practice of a specialty warrant similar provisions in regulation?

Upon review of the Act and the proposed regulation, we question how the regulation adequately protects the public from a chiropractor practicing a specialty based on attaining what the Board considers to be invalid training to qualify as a specialist. The Act specifies serious penalties for practicing a specialty without proper certification, but we believe delegates authority to the Board to establish in regulation the details of a proper certification to carry out the Act. Therefore, the Board's regulation should establish what a specialty is, how a chiropractor can qualify as a specialist and what constitutes a violation in practice and professional advertising.

Given that these subject areas were not included in the proposed regulation, and therefore there was no opportunity for public comment on these issues, we recommend that the Board withdraw this regulation. We further recommend that the Board draft a new proposed regulation in consultation with the regulated community that comprehensively addresses specialty practices, patient safety and advertising.

If the Board does not withdraw the regulation, we submit the following comments on the proposed regulation.

**2. Existing specialty certifications.—Economic impact; Reasonableness.**

In the Regulatory Analysis Form (RAF), the Board repeatedly states it does not expect this rulemaking will have any financial, economic or social impact. However, the regulation limits specialties to those endorsed by the American Board of Chiropractic Specialties (ABCS). Public commentators said they hold valid specialty certifications that were earned from organizations other than ABCS and meet the same criteria as ABCS. The proposed regulation would exclude them from advertising their specialties. Therefore, we question how the regulation would not impact these individuals and why this impact was not included in the RAF responses.

**3. Section 5.1. Definitions.—Consistency with statute; Need; Clarity.**

The Board proposes to delete the definition of "Chiropractic specialty." The Preamble explains that this definition is unnecessary. We disagree for two reasons. First, the term "specialty" is used several times in the statute, but is not defined in the statute. See 63 P.S. §§ 625.506(a)(17) and 625.702(12). Therefore, the Board should establish in regulation its interpretation of this term. Second, since this term is used in existing Subsection 5.31(a), deleting the term from the definitions would make Subsection 5.31(a) unclear. We recommend maintaining this term in the regulation, with amendments as needed to address the issues raised by commentators as noted below.

**4. Section 5.31. Professional advertising.—Economic impact; Reasonableness.**

Paragraph (c)(5) is proposed to be amended to rely on "certification or diplomate status in that specialty from a board recognized by the American Board of Chiropractic Specialties." In the Preamble, the Board lists numerous specialties recognized by ABCS. The Board further explains that these specialty boards require passing a certification examination after a full-time residency of at

least three years or a part-time residency of more than 300 hours of education and clinical practice.

We received ten public comments that were submitted during the public comment period either representing chiropractic associations or individual chiropractors. All of these comments oppose limiting advertisement of specialties to those recognized by ABCS. Generally, these comments outline many other certifications and diplomate programs they believe should qualify for specialty certification. Several are concerned that certifications earned in the past would be negated by the proposed regulation. The Pennsylvania Chiropractic Association (PCA) does not support the proposed regulation and believes it will confuse the public. The International Chiropractors Association (ICA) does not support the proposed regulation and objects to the "arbitrary and unwarranted exclusion" of ICA certifications. Both PCA and ICA recommend that the Board draft and submit a revised proposed regulation.

While the Board provided details of the numerous certifications available under ABCS, it did not explain why it chose to only accept ABCS certifications or why other certifications should be excluded. The public commentators state there are other certifications that are equivalent and should be acceptable. We are concerned that the regulation, as written, would impose a hardship on chiropractors who may currently hold valid specialty certifications. We recommend that the Board meet with the commentators to gain a better understanding of their existing specialty certifications, as well as programs other than ABCS that offer valid specialty certifications. We also recommend that the Board work with the regulated community to draft and submit a revised proposed regulation that addresses the issues raised by commentators.

**State Board of Dentistry Regulation # 16A-4626  
(IRRC # 3198)**

**Child Abuse Reporting Requirements**

**April 25, 2018**

We submit for your consideration the following comments on the proposed rulemaking published in the February 24, 2018 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (Act) (71 P.S. § 745.5b). Section 5.1(a) of the Act (71 P.S. § 745.5a(a)) directs the State Board of Dentistry (Board) to respond to all comments received from us or any other source.

**1. Section 33.1. Definitions.—Clarity and lack of ambiguity.**

*Perpetrator*

The term perpetrator is being deleted because the Board says it is no longer used in the regulations. However, the term perpetrator is part of the proposed definition of serious physical neglect as taken directly from the Child Protective Services Law (CPSL). The Board should either keep the defined term perpetrator in the final regulation or revise the definition of serious physical neglect not to include the use of perpetrator.

*Child abuse*

The Board is amending the definition of child abuse to comport with amendments made to the CPSL. However, we note that the proposed definition varies from the CPSL. Specifically, Section 6303(b.1)(8)(ii) of the CPSL states, "unreasonably restraining or confining a child, based on consideration of the method, location or the duration of the restraint or confinement" whereas the equivalent definition in Clause (viii)(B) only states "un-

reasonably restraining or confining a child.” 23 Pa.C.S. § 6303(b.1)(8). Similarly, the phrase “provided that the violation is being investigated by law enforcement” was not carried over from Section 6303(b.1)(8)(vi) of the CPSL to Clause (viii)(F) in the proposed regulation. Additionally, we note that Section 6303(b.1)(8)(vii)(D) of the CPSL is not included at all in the proposed regulation. In response to Regulatory Analysis Form Question # 10, the Board states that the regulation is needed because “licensees will further benefit from regulations that are consistent with the CPSL, as amended, to avoid confusion as to their responsibilities in this area.” Since the Board is amending the regulation for consistency with the CPSL, we ask the Board to explain why these portions of the CPSL aren’t carried over in the final regulation. Additionally, where the Board is amending the final regulation to comport with the CPSL, the Board should ensure that the final regulation is consistent with the CPSL.

**2. Section 33.401. Credit-hour requirements.—  
Conforms to the intention of the General Assembly.**

Subsection (h) requires all licensees and certificateholders to complete two of the required hours of continuing education in approved courses on child abuse recognition and reporting as set forth in Section 33.256 (relating to child abuse recognition and reporting—mandatory training requirement). Section 122(j) of The Dental Law (Law) states that the Board shall have the powers and duties “to suspend or revoke the license or certificate of such persons as fail, refuse or neglect to renew biennially, comply with the requirements of subsection (j.2), or pay the appropriate fee.” 63 P.S. § 122(j). Section 122(j.2)(2) addresses credit hours requirements that “shall be satisfactorily completed in accordance with board regulations as a precedent to biennial renewal of a license or certification. . . .” In other words, the Law requires completion of the required hours of continuing education in approved courses on child abuse recognition and reporting before a license or certificate can be renewed.

Our concern is that the proposed regulation does not provide direct notice that if the continuing education requirement for child abuse recognition and reporting is not met, a license or certificate cannot be renewed. Direct and clear notice in the wording of the regulation will benefit both the Board and regulated community in obtaining compliance. Clear notice can also avoid the expense of the Board taking action against a licensee or certificateholder and the potential loss of income for the licensee. Therefore, while the intent and actions of the Board may be not to renew, we recommend that clear notice be provided in the final regulation that the Board will not renew a license or certificate if the licensee or certificateholder fails to complete the continuing education required by the Law.

**Environmental Quality Board Regulation # 7-530  
(IRRC # 3199)**

**Administration of the Storage Tank and Spill  
Prevention Program**

**April 25, 2018**

We submit for your consideration the following comments on the proposed rulemaking published in the February 24, 2018 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Environmental Quality Board (EQB) to respond to all comments received from us or any other source.

**1. Need; Fiscal impact.**

This comprehensive proposed rulemaking amends numerous sections of 25 Pa. Code Chapter 245, relating to the administration of the storage tank and spill prevention program. Many of the changes are driven by 2015 amendments to the U.S. Environmental Protection Agency’s (EPA) regulations for underground storage tanks (USTs). As explained by EQB, Chapter 245 must be updated to be no less stringent than the revised federal requirements so the Department of Environmental Protection (DEP) can apply for revised state program approval from EPA.

Commentators have expressed their general support for EQB’s effort to align Chapter 245 with the revised federal requirements. However, concerns have been raised about new notification, reporting and paperwork requirements. Amendments to existing forms and the addition of new forms have also been identified as an area of concern. It is unclear to the commentators if the additional regulatory burdens imposed by the proposed amendments will produce additional environmental benefits. In addition, commentators believe that EQB has not properly quantified the costs associated with the new notification, reporting and paperwork requirements.

As EQB moves forward with this regulatory proposal, we ask that it work with the regulated community to gain an understanding of the potential costs associated with the new regulatory requirements that are being imposed. When the final-form regulation is submitted to this Commission, we request that EQB include an explanation of how the additional regulatory requirements will assist DEP with its mission of protecting the environment. We also ask EQB to quantify the costs associated with complying with the new or revised requirements.

**Subchapter A. GENERAL PROVISIONS**

**2. Section 245.1. Definitions.—Statutory authority;  
Consistency with the intent of the General Assembly;  
Reasonableness; Implementation procedures;  
Clarity.**

*Release and Reportable release*

EQB proposes to amend the definition of “release” and to delete the definition of “reportable release.” These amendments have generated interest from the regulated community. They believe the changes will require the reporting of every spill into emergency and secondary containment structures as a “release” and argue that a spill into a secure containment area is not necessarily a threat to the environment. They contend that the revisions would trigger new reporting, corrective action and other obligations that are not necessary for the protection of human health or the environment. In addition, commentators contend that these amendments conflict with the statutory definition of “release” found in Section 103 the Storage Tank and Spill Prevention Act (35 P.S. § 6021.103) and the intention of the General Assembly.

We have several questions about these amendments and the issues raised by commentators. First, are these amendments needed to align Chapter 245 with EPA amendments to its UST regulations? Second, why does EQB believe the amendments being proposed are consistent with the statutory definition of “release” and the intention of the General Assembly? Third, what is the need for the changes? Are the existing requirements allowing spills to reach the environment and causing harm? Finally, will the amendments require additional reporting and corrective action for spills into emergency and secondary containment structures? If yes, what are

the differences between existing requirements and the new requirements? We will review EQB's responses to these questions in determining whether the rulemaking is in the public interest.

#### *Underground storage tank*

EQB is proposing to amend this definition by deleting two exclusions and modifying other exclusions. Commentators are concerned that the deletion of existing Paragraphs (xiii) and (xviii) and the replacement of those exclusions with partial exclusions in § 245.302(c)(2) and (3) would create inconsistencies between Chapter 245 and federal regulations for nuclear-related storage tanks. We ask EQB to explain why the changes being proposed are needed and how they are consistent with and not more stringent than the federal regulation on this subject matter.

Another concern relates to the amended exclusion for wastewater treatment tanks found under renumbered Paragraph (xiii). The new language being added will limit exclusions to wastewater tank systems that are part of a water treatment facility under certain sections of Clean Water Act. Similar to above, we ask EQB why the changes to this paragraph are needed and how it is consistent with federal regulations.

#### **Subchapter B. CERTIFICATION PROGRAM FOR INSTALLERS AND INSPECTORS OF STORAGE TANKS AND STORAGE TANK FACILITIES**

##### **3. Section 245.132. Standards of performance.—Reasonableness; Implementation procedures; Clarity.**

This section establishes standards of performance for certified companies, certified installers and certified inspectors. Amendments to Subsections (a)(4) and (6) would require those parties to report to DEP the observance of a regulated substance in a containment structure or facility. A commentator states that such a release is not necessarily a threat to the environment. We ask EQB to explain the need for and reasonableness of the new language being added to these subsections.

#### **Subchapter D. CORRECTIVE ACTION PROCESS FOR OWNERS AND OPERATORS OF STORAGE TANKS AND STORAGE TANK FACILITIES AND OTHER RESPONSIBLE PARTIES**

##### **4. Section 245.302. Scope.—Clarity.**

EQB is adding the phrase "suspected release investigation" to § 245.301, relating to purpose. For consistency we suggest the term "suspected release" be added to this section of the regulation.

##### **5. Section 245.304. Investigation of suspected releases.—Implementation procedures; Clarity.**

This section requires owners or operators of tank systems and facilities to investigate suspected releases of regulated substances. Subsection (a) specifies what constitutes an indication of a release. Subsection (a)(6) is being amended to include the discovery of "damage" to a storage tank system. A commentator believes this addition is vague, and as an example, asks if chipped paint would be considered damage. We ask EQB to explain how it will implement this provision in the Preamble to the final-form regulation and clarify Subsection (a)(6) accordingly in the final-form regulation.

##### **6. Section 245.305. Reporting releases.—Reasonableness.**

This section specifies procedures to be followed after the confirmation of a release. New Subsection (i) identi-

fies types of releases that do not need to be reported to DEP. Commentators believe the exemptions are narrow and do not properly consider the actual threat to the environment. Why did EQB adopt this approach, which relies on reportable quantities, compared to an approach that would allow the owner or operator of a storage tank system or storage tank facility to evaluate the actual threat to the environment? EQB should explain the reasonableness of this approach in the Preamble to the final-form regulation.

#### **Subchapter E. TECHNICAL STANDARDS FOR UNDERGROUND STORAGE TANKS**

##### **7. Section 245.403. Applicability.—Reasonableness; Implementation procedures.**

Under Subsection (d), EQB is adding a requirement that UST systems that were previously excluded from registration with DEP be registered within 30 days of the effective date of this rulemaking. A commentator has stated that it may be difficult to obtain the necessary information to register a tank in that time period and has suggested 60 days as an alternative. We ask EQB to address the reasonableness of the proposed 30-day time period compared to the 60-day time period suggested by the commentator.

##### **8. Section 245.433. Compatibility.—Reasonableness; Implementation procedures; Clarity.**

This section requires owners or operators to use USTs that are made or lined with material that is compatible with the substance being stored. We have two concerns. First, new Subsection (b) will require an owner or operator of a UST storing alternative fuel blends or biodiesel or biodiesel blended fuel to provide certain information to DEP. A commentator notes that the term "alternative fuel blends" is not defined and also asks if DEP will consider all diesel fuel to be biodiesel fuel. To improve the clarity of the regulation, we ask EQB to define the term "alternative fuel blends." We also ask EQB to clarify whether all diesel fuel would be considered biodiesel fuel.

Second, a commentator believes the new requirements found in Subsection (c) are more stringent than the federal requirements found at 40 CFR § 280.32(b) because the federal requirements only apply to USTs containing greater than 10% ethanol and 20% biodiesel fuel. They note it will be difficult to produce the required documentation for older UST systems, and this could lead to the decommissioning of tanks. We note that Subsection (c) only requires the submittal of the information to demonstrate compatibility upon the request of DEP. How will DEP implement this provision? Under what circumstance would DEP require the information? Would it apply to all USTs? If Subsection (c) is more stringent than the federal requirement, what is the need for it? We ask EQB to address these questions in the Preamble to the final-form rulemaking.

##### **9. Section 245.445. Methods of release detection for piping.—Implementation procedures.**

Proposed amendments to Subsection (1)(iii) impose new requirements for unattended UST systems using pressurized piping installed on or before November 10, 2007. A commentator has requested that the implementation of this provision be delayed one or two years for existing UST systems. How will DEP implement this provision? Would a one or two year grace period, as requested, pose an immediate harm or threat to the environment? We ask EQB to consider this suggestion as it develops the final-form regulation.

**Subchapter F. TECHNICAL STANDARDS FOR ABOVEGROUND STORAGE TANKS AND FACILITIES**

**10. Section 245.512. Facility operations and spill response plan.—Implementation procedures; Clarity.**

This section is being amended to require Spill Prevention Response Plan revisions to be submitted to DEP within 120 days of any necessary updates to the plan. Would the owner or operator of an aboveground storage tank (AST) facility have to submit the entire plan or just revisions to DEP? This should be clarified in the final-form regulation.

In addition, a commentator has requested that the 120 day mandate be extended to 180 days. This requirement also appears in § 245.603, relating to general storage tank facility requirements. If extending the time frame for submitted revisions would not pose a harm or threat to the environment, we ask DEP to provide the regulated community this additional time for compliance.

**11. Section 245.514. Security.—Reasonableness; Implementation procedures.**

EQB is codifying a best management practice that requires owners and operators of certain AST facilities to maintain a written log book. Commentators have asked if the log book they currently maintain as part of their existing best management practice would satisfy the requirement of this section. They also ask if the log book can be in an electronic format and then printed as needed. Similar concerns have been expressed with § 245.603. We ask EQB to explain how this provision will be implemented and to implement the least burdensome alternative for the regulated community while ensuring the proper protection of the environment.

**12. Section 245.516. Recordkeeping requirements.—Reasonableness.**

Under Subsection (c)(15) owners and operators of ASTs will be required to keep documentation of investigations of suspected releases. A commentator has asked what the rationale for this new requirement is if the investigation finds that no release occurred. Similar language can be found under § 245.615(b)(7). In the Preamble to the final-form regulation, we ask EQB to explain why it needs this information.

**13. Section 245.531. General corrosion and deterioration requirements.—Implementation procedures; Fiscal impact; Clarity.**

This existing section requires AST systems to be protected from corrosion and deterioration. EQB explains that proposed amendments are intended to clarify existing requirements. Commentators are concerned that the proposed amendments will impose new, potentially costly requirements. Specifically, they are concerned with new language that would require tank bottoms not adequately protected from corrosion and deterioration to be replaced immediately instead of at the next “out of service” inspection. They also ask if corrosion protection for tanks on concrete pads is needed. We ask EQB to explain if the amendments being proposed are new requirements, and if so, to explain the need for the revisions. If the requirements are new, we ask EQB to quantify the costs associated with the amendments.

**Subchapter G. SIMPLIFIED PROGRAM FOR SMALL ABOVEGROUND STORAGE TANKS**

**14. Section 245.612. Performance and design standards.—Reasonableness; Implementation procedures.**

Subsection (d)(1) is being amended to require permanently installed spill protection equipment at the tank fill point. A commentator notes that they use temporary spill buckets and believe the amendment is a new requirement that would be costly and provide little environmental benefit. We ask EQB to explain how DEP administers the existing regulation and if the proposed amendment will require the regulated community to change their procedures related to spill buckets. If the requirements are new, we ask EQB to quantify the costs and to consider a window of time for the regulated community to come into compliance with the new standard.

GEORGE D. BEDWICK,  
*Chairperson*

[Pa.B. Doc. No. 18-701. Filed for public inspection May 4, 2018, 9:00 a.m.]

## INSURANCE DEPARTMENT

**Review Procedure Hearings; Cancellation or Refusal of Insurance**

The following insured has requested a hearing as authorized by the act of June 17, 1998 (P.L. 464, No. 68) (Act 68) in connection with the termination of the insured’s automobile insurance policy. The hearing will be held in accordance with the requirements of Act 68; 2 Pa.C.S. §§ 501—508, 561—588 and 701—704 (relating to Administrative Agency Law); 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 as follows. Failure by the appellant to appear at the scheduled hearing may result in dismissal with prejudice.

The hearing will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102.

Appeal of Edgar O. Barrientos; Donegal Mutual Insurance Company; File No. 18-176-222551; Doc. No. P18-04-009; May 31, 2018, 9:30 a.m.

Following the hearing and receipt of the stenographic transcript, the Insurance Commissioner (Commissioner) will issue a written order resolving the factual issues presented at a 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 Joseph Korman, (717) 787-4429, jkorman@pa.gov.

JESSICA K. ALTMAN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 18-702. Filed for public inspection May 4, 2018, 9:00 a.m.]

## JOINT COMMITTEE ON DOCUMENTS

### Department of Transportation Publication 282— Review of Classification of Section 2.2; Extension of Time

Under section 7.1 of the Regulatory Review Act (71 P.S. § 745.7a) and 1 Pa. Code § 315.2 (relating to review of an unpublished document), the Joint Committee on Documents (Joint Committee) met on December 14, 2017, and ordered that section 2.2 of Department of Transportation Publication 282 should be promulgated as a regulation. See 47 Pa.B. 7809 (December 23, 2017).

Under 1 Pa. Code § 31.15 (relating to extensions of time), the Joint Committee met on April 26, 2018, and approved the following order in a 9-1-1 (yes; no; abstain) vote.

#### ORDER 3 Extension of Time

Pursuant to 1 Pa Code § 31.15, the Joint Committee on Documents extends the time period for promulgation of regulations under the order of the Joint Committee on Documents dated December 14, 2017, by 90 days and requires promulgation and final publication of the statement published by the Department of Transportation in section 2.2 of the *Highway Occupancy Permit Operations Manual* (Publication 282, July 2017) in the *Pennsylvania Bulletin* by September 8, 2018.

VINCENT C. DeLIBERATO, Jr.,  
Chairperson

[Pa.B. Doc. No. 18-703. Filed for public inspection May 4, 2018, 9:00 a.m.]

## MILK MARKETING BOARD

### Dairy Market Issues; Public Hearing

The Milk Marketing Board (Board) will conduct a public hearing on May 16, 2018, at 9 a.m. in the Monongahela Room, Pennsylvania State Farm Show Complex, 2300 North Cameron Street, Harrisburg, PA.

The purpose of the public hearing is to solicit and consider suggestions for statutory changes to the Milk Marketing Law (31 P.S. §§ 700j-101—700j-1302), as requested by the Department of Agriculture (Department) in its petition filed with the Board on April 5, 2018.

Pre-registration is required to speak. Interested persons who wish to offer testimony or comments shall provide to the Board by 12 p.m. on May 11, 2018, notification of their wish to participate. Notice may be submitted either electronically at ra-pmmb@pa.gov or by filing at the Milk Marketing Board, Room 110, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110. To be on the agenda to speak, testimony or comments must be provided to the Board in written form by 12 p.m. on May 11, 2018. This will be a listening session with no examination or cross examination by interested parties.

A copy of the Department's petition and other related material is on the Board's web site at <http://www.mmb.pa.gov/Public%20Hearings/Pages/default.aspx>.

TIM MOYER,  
Secretary

[Pa.B. Doc. No. 18-704. Filed for public inspection May 4, 2018, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Electric Generation Supplier License Cancellations of Companies with an Expired Financial Security or Insufficient Financial Security Amount

Public Meeting held  
April 19, 2018

*Commissioners Present:* Gladys M. Brown, Chairperson; Andrew G. Place, Vice Chairperson; Norman J. Kennard; David W. Sweet; John F. Coleman, Jr.

*Electric Generation Supplier License Cancellations of Companies with an Expired Financial Security or Insufficient Financial Security Amount; M-2018-2640827*

#### Tentative Order

*By the Commission:*

The Commission's regulations at 52 Pa. Code § 54.40(a) state that an Electric Generation Supplier (EGS) license will not be issued or remain in force until the licensee furnishes a bond or other security approved by the Commission. In addition, 52 Pa. Code § 54.40(d) states that the maintenance of an EGS license is contingent on the licensee providing proof to the Commission that a bond or other approved security in the amount directed by the Commission has been obtained.

Each EGS must file an original bond, letter of credit, continuation certificate, amendment, or other approved financial instrument with Rosemary Chiavetta, Secretary, Pennsylvania Public Utility Commission, 400 North Street, Harrisburg, PA 17120 prior to the EGS's current security expiration date. Each financial instrument must be an original document that displays a "wet" signature or digital signature, preferable in blue ink, and displays a "raised seal" or original notary stamp. The name of the principal on the original financial instrument must match exactly with the name that appears on the EGS's license issued by the Commission.

Failure to file before the financial security's expiration date may cause Commission staff to initiate a formal proceeding that may lead to the following: cancellation of each company's electric supplier license, removal of each company's information from the Commission's website and notification to all electric distribution companies, in which each company is licensed to do business, of the cancellation of the license.

As of April 10, 2018, each EGS listed in the Supplier Table below has not provided proof to the Commission that it has a bond or other approved security in the amount directed by the Commission, to replace its expired bond as noted in the table below.

*Supplier Table—List of Electric Generation Suppliers*

<i>Docket Number</i>	<i>Company Name</i>	<i>Financial Security Expiration Date</i>	<i>Commission Approved Amount</i>
A-2010-2186267	BRADLEY R. LEWIS	3/22/18	Yes
A-2014-2422519	BROKER ONLINE EXCHANGE, LLC	4/1/18	Yes
A-2014-2424396	COMVERGE, INC.	3/25/18	Yes
A-110055*	CONSOLIDATED EDISON SOLUTIONS, INC.	4/1/18	Yes
A-2013-2393598	CROSSLINK ADVISORS, LLC	4/4/18	Yes
A-2014-2425963	ENERGY CHOICE SOLUTIONS, LLC	3/10/18	Yes
A-2012-2293653	INCITE ENERGY, LLC	3/15/18	Yes
A-2013-2353775*	LAND O'LAKES, INC.	3/8/18	Yes
A-2016-2538668*	LIFEENERGY, LLC	4/4/18	No
A-2016-2552583	REGIONAL RESOURCES ENERGY GROUP, LLC	3/9/18	Yes
A-110157*	SOUTH JERSEY ENERGY COMPANY	4/5/18	No
A-2011-2272097	SOUTHEAST ENERGY CONSULTANTS, LLC	3/10/18	Yes

\*Taking title to electricity

As part of its EGS license validation procedures, the Commission's Bureau of Technical Utility Services sent a 90-day Security Renewal Notice Letter to each entity in the Supplier Table above stating that original documentation of a bond, or other approved security, must be filed within 30 days prior to each entity's security expiration date. None of the companies listed in the Supplier Table provided the required documentation.

Based on the above facts, we tentatively conclude that the EGSs listed in the Supplier Table are not in compliance with 52 Pa. Code § 54.40(a) and (d) and therefore it is appropriate to initiate the cancellation process for each EGS license of each company listed in the Supplier Table, without the necessity of a formal complaint, as being in the public interest; *Therefore,*

*It Is Ordered That:*

1. Cancellation of the Electric Generation Supplier Licenses of each company listed in the Supplier Table is hereby tentatively approved as being in the public interest.

2. The Secretary serve a copy of this Tentative Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Bureau of Investigation & Enforcement, Department of Revenue—Bureau of Corporation Taxes, all electric distribution companies, all of the Electric Generation Suppliers in the Supplier Table and also cause a copy of this Tentative Order to be published in the *Pennsylvania Bulletin* with a 30-day comment period.

3. Absent the filing of adverse public comment or the filing of an approved security within 30 days after publication in the *Pennsylvania Bulletin*, the Bureau of Technical Utility Services shall prepare a Final Order for entry by the Secretary.

4. Upon entry of the Final Order described in Ordering Paragraph No. 3 above, each company listed in the Supplier Table will be stricken from all active utility lists maintained by the Commission's Bureau of Technical Utility Services and the Assessment Section of the Bureau of Administration, removed from the Commission's

website, and notifications be sent to all electric distribution companies in which the Electric Generation Suppliers are licensed to do business.

5. Upon entry of the Final Order described in Ordering Paragraph No. 3, each electric distribution company in which the Electric Generation Suppliers are licensed to do business, shall return the customers of the Electric Generation Suppliers to default service.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 18-705. Filed for public inspection May 4, 2018, 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. Protests may only be filed in the event that there is evidence that the applicant lacks fitness. Protests based on endangering or impairing operations of an existing carrier will not be honored. 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 May 21, 2018. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.



**Applications of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of persons as described under each application.**

**A-2018-2647437. Yatesville Bus Company, Inc.** (1095 Pittston By-Pass, Jenkins Township, PA 18640) in group and party service, in vehicles seating 11 to 15 passengers, including the driver, from points in the County of Luzerne, to points in Pennsylvania, and return. *Attorney:* Kenneth A. Olsen, 33 Philhower Road, Lebanon, NJ 08833.

**A-2018-3001200. Hope Connect, LLC** (148 East Street Road, Feasterville, Bucks County, PA 19053) in paratransit service, from points in the City and County of Philadelphia, to points in Pennsylvania, and return. *Attorney:* David P. Temple, Esquire, Gallagher & Turchi, PC, 1600 Market Street, Suite 1320, Philadelphia, PA 19103.

**A-2018-3001203. Right Lane Motors, LLC** (333 Scott Road, South Abington Township, Lackawanna County, PA 18411) in group and party service, in vehicles seating 11 to 15 passengers, including the driver, between points in the Counties of Berks, Bradford, Bucks, Carbon, Chester, Columbia, Dauphin, Delaware, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Monroe, Montgomery, Montour, Northampton, Northumberland, Pike, Schuylkill, Sullivan, Susquehanna, Wayne, Wyoming and York.

**A-2018-3001241. Bethlehem Township Volunteer Fire Company** (1919 8th Street, Bethlehem, Northampton County, PA 18020) in paratransit service, from points in the Counties of Lehigh, Monroe and Northampton, to points in Pennsylvania, and return. *Attorney:* Christina M. Mellott, 5010 East Trindle Road, Suite 202, Mechanicsburg, PA 17050.

**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-2018-3001302. Lower Kiski Ambulance Services, Inc.** (P.O. Box 397, Leechburg, Armstrong County, PA 15656) persons in paratransit service between points in the Counties of Allegheny, Armstrong, Butler and Westmoreland.

**Application of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as contract carriers for the transportation of persons as described under the application.**

**A-2017-2619982. HoneyBee Transportation, LLC** (601 Walnut Street, 12th Floor, Philadelphia, Philadelphia County, PA 19147) limited to those under 18 years of age, for Trolley Express Philly, Inc., d/b/a ShuttleBee, between points in Philadelphia County; excluding areas under the jurisdiction of the Philadelphia Parking Authority. *Attorney:* Christine Soares, Esquire, Suite 300, Liberty View, 457 Haddonfield Road, Cherry Hill, NJ 08002.

**Application of the following for the approval of the transfer of stock as described under the application.**

**A-2018-3001209. Infinity Limousine, Inc.** (2619 Leiszs Bridge Road, Leesport, Berks County, PA 19533) 1,000 shares of the capital stock of Infinity Limousine, Inc. held by Robert James Muir to Mahmood A. Majid

and Nuzhet Majid. *Attorney:* Barbara Kern Dietrich, Esquire, Law Office of Barbara Kern Dietrich, LLC, 22 Hilgert Avenue, Reading, PA 19607.

**Application of the following for the approval of the right and privilege to discontinue/abandon operating as common carriers by motor vehicle and for cancellation of the certificate of public convenience as described under the application.**

**A-2018-3001243. GE Hoover Transportation, LLC** (97 Owens Road, Punxsutawney, PA 15767) persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the Counties of Armstrong, Clearfield, Elk, Indiana, Jefferson and Westmoreland, to points in Pennsylvania, and return.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 18-706. Filed for public inspection May 4, 2018, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Service of Notice of Motor Carrier Formal Complaints

Formal complaints have been issued by the Pennsylvania Public Utility Commission. Answers must be filed in accordance with 52 Pa. Code (relating to public utilities). Answers are due May 21, 2018, and must be made with the Secretary, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265, with a copy to the First Deputy Chief Prosecutor, Pennsylvania Public Utility Commission.

### Pennsylvania Public Utility Commission; Bureau of Investigation and Enforcement v. Black Tie Limousine Services, Inc.; Docket No. C-2018-3000163 COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Investigation and Enforcement and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Investigation and Enforcement hereby represents as follows:

1. That all authority issued to Black Tie Limousine Services, Inc., (respondent) is under suspension effective February 16, 2018 for failure to maintain evidence of insurance on file with this Commission.
2. That respondent maintains a principal place of business at 102 Browning Lane, Building B, Cherry Hill, NJ 08003.
3. That respondent was issued a Certificate of Public Convenience by this Commission on August 06, 2003, at A-00118861.
4. That respondent has failed to maintain evidence of Liability insurance on file with this Commission. The

Bureau of Investigation and Enforcement's proposed civil penalty for this violation is \$500 and cancellation of the Certificate of Public Convenience.

5. That respondent, by failing to maintain evidence of insurance on file with this Commission, violated 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

Wherefore, unless respondent pays the penalty of \$500 or files an answer in compliance with the attached notice and/or causes its insurer to file evidence of insurance with this Commission within twenty (20) days of the date of service of this Complaint, the Bureau of Investigation and Enforcement will request that the Commission issue an Order which (1) cancels the Certificate of Public Convenience held by respondent at A-00118861 for failure to maintain evidence of current insurance on file with the Commission, (2) fines Respondent the sum of five hundred dollars (\$500.00) for the illegal activity described in this Complaint, (3) orders such other remedy as the Commission may deem to be appropriate, which may include the suspension of a vehicle registration and (4) imposes an additional fine on the respondent should cancellation occur.

Respectfully submitted,  
David W. Loucks, Chief  
Motor Carrier Enforcement  
Bureau of Investigation and Enforcement  
P.O. Box 3265  
Harrisburg, PA 17105-3265

#### VERIFICATION

I, David W. Loucks, Chief, Motor Carrier Enforcement, Bureau of Investigation and Enforcement, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 3/6/2018

David W. Loucks, Chief  
Motor Carrier Enforcement  
Bureau of Investigation and Enforcement

#### NOTICE

A. You must file an Answer within 20 days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial Letter. See 52 Pa. Code § 1.56(a). The Answer must raise all factual and legal arguments that you wish to claim in your defense, include the docket number of this Complaint, and be verified. You may file your Answer by mailing an original to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Or, you may eFile your Answer using the Commission's website at [www.puc.pa.gov](http://www.puc.pa.gov). The link to eFiling is located under the Filing & Resources tab on the homepage. If your Answer is 250 pages or less, you are not required to file a paper copy. If your Answer exceeds 250 pages, you must file a paper copy with the Secretary's Bureau.

Additionally, a copy should either be mailed to:

Michael L. Swindler, Deputy Chief Prosecutor  
Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Or, emailed to Mr. Swindler at: RA-PCCmplntResp@pa.gov

B. If you fail to answer this Complaint within 20 days, the Bureau of Investigation and Enforcement will request that the Commission issue an Order imposing the penalty.

C. You may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations and by paying the fine proposed in this Complaint by certified check or money order within twenty (20) days of the date of service of this Complaint. Accord certificates of insurance and faxed form Es and Hs are unacceptable as evidence of insurance.

The proof of insurance must be filed with the:

Compliance Office, Bureau of Technical Utility Services  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Payment of the fine must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of the evidence of insurance from your insurer, and upon receipt of your payment, the Complaint proceeding shall be closed.

D. If you file an Answer which either admits or fails to deny the allegations of the Complaint, the Bureau of Investigation and Enforcement will request the Commission to issue an Order imposing the penalty set forth in this Complaint.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The Judge is not bound by the penalty set forth in the Complaint, and may impose additional and/or alternative penalties as appropriate.

F. If you are a corporation, you must be represented by legal counsel. 52 Pa. Code § 1.21.

Alternative formats of this material are available for persons with disabilities by contacting the Commission's ADA Coordinator at 717-787-8714. Do not call this number if you have questions as to why you received this complaint. For those questions you may call 717-783-3847.

ROSEMARY CHIAVETTA,  
Secretary

[Pa.B. Doc. No. 18-707. Filed for public inspection May 4, 2018, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Wastewater Service

**A-2018-3001367. Aqua Pennsylvania Wastewater, Inc.** Application of Aqua Pennsylvania Wastewater, Inc. for approval to begin to offer, render, furnish and supply wastewater service to the public in an additional portion of Worcester Township, Montgomery County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities) on or before May 21, 2018. 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. 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.pa.gov](http://www.puc.pa.gov) and at the applicant's business address.

*Applicant:* Aqua Pennsylvania Wastewater, Inc.

*Through and By Counsel:* Thomas T. Niesen, Esq., Thomas, Niesen and Thomas, LLC, 212 Locust Street, Suite 302, Harrisburg, PA 17101

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 18-708. Filed for public inspection May 4, 2018, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Water Service

**A-2018-3001363. Pennsylvania American Water Company.** Application of Pennsylvania American Water Company for approval of the right to offer, render, furnish and supply water service to the public in an additional portion of Lower Pottsgrove Township, Montgomery County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities) on or before May 21, 2018. 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. 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.pa.gov](http://www.puc.pa.gov) and at the applicant's business address.

*Applicant:* Pennsylvania American Water Company

*Through and By Counsel:* Brian A. Ardire, Esquire, Pennsylvania American Water Company, 800 West Hersheypark Drive, Hershey, PA 17033

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 18-709. Filed for public inspection May 4, 2018, 9:00 a.m.]

## STATE BOARD OF MEDICINE

### Bureau of Professional and Occupational Affairs v. Joseph Paul Cotropia, MD; Doc. No. 2255-49-15

On March 12, 2018, Joseph Paul Cotropia, MD, Pennsylvania license No. MD038208E, of Houston, TX, was revoked based on his license being disciplined by the proper licensing authority of another state.

Individuals may obtain a copy of the final order by writing to Wesley J. Rish, Board Counsel, State Board of Medicine, P.O. Box 69523, Harrisburg, PA 17106-9521.

This final order represents the final State Board of Medicine (Board) decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of their petition for review. The Board contact for receiving service of appeals is the previously-named Board counsel.

KEITH E. LOISELLE,  
*Chairperson*

[Pa.B. Doc. No. 18-710. Filed for public inspection May 4, 2018, 9:00 a.m.]

## STATE BOARD OF NURSING

### Bureau of Professional and Occupational Affairs v. Ramie Beth Kantner, LPN; File No. 14-51-06151; Doc. No. 1184-51-15

On January 23, 2018, Ramie Beth Kantner, LPN, license No. PN269947, last known of Schuylkill Haven, Schuylkill County, had her practical nursing license indefinitely suspended for a minimum of 18 months, with 6 months of the suspension actively served and the remainder stayed in favor of probation under the terms of the State Board of Nursing (Board) order, based on engaging in unprofessional conduct and abandoning her patient.

Individuals may obtain a copy of the adjudication by writing to Judith Pachter Schulder, Board Counsel, State Board of Nursing, P.O. Box 69523, Harrisburg, PA 17106-9523.

This order represents the final Board decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of their petition for review. The Board contact for receiving service of appeals is the previously-named Board counsel.

LINDA L. KMETZ, PhD, RN,  
*Chairperson*

[Pa.B. Doc. No. 18-711. Filed for public inspection May 4, 2018, 9:00 a.m.]

## STATE BOARD OF NURSING

**Bureau of Professional and Occupational Affairs v. Adebayo Omotayd Onigbinde, RN; File No. 18-51-03155; Doc. No. 0729-51-18**

On April 6, 2018, Adebayo Omotayd Onigbinde, RN, Pennsylvania license No. RN601286, last known of Wilmington, DE, had her registered nurse license suspended until the civil penalty assessed to her is paid in full, based on her failure to comply with a previous State Board of Nursing (Board) order.

Individuals may obtain a copy of the adjudication by writing to Judith Pachter Schulder, Board Counsel, State Board of Nursing, P.O. Box 69523, Harrisburg, PA 17106-9523.

This order represents the final Board decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of their petition for review. The Board contact for receiving service of appeals is the previously-named Board counsel.

LINDA L. KMETZ, PhD, RN,  
*Chairperson*

[Pa.B. Doc. No. 18-712. Filed for public inspection May 4, 2018, 9:00 a.m.]

## STATE BOARD OF NURSING

**Bureau of Professional and Occupational Affairs v. Shane Sackett, LPN; File No. 15-51-14364; Doc. No. 1491-51-2017**

On March 16, 2018, Shane Sackett, LPN, Pennsylvania license No. PN291124, last known of Waverly, NY, was indefinitely suspended and was assessed a \$350 cost of investigation fee based on being addicted to alcohol, hallucinogenic, narcotic drugs or other drugs which tend to impair judgment or coordination.

Individuals may obtain a copy of the adjudication by writing to Ariel E. O'Malley, Board Counsel, State Board of Nursing, P.O. Box 69523, Harrisburg, PA 17106-9523.

This order represents the final State Board of Nursing (Board) decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of their petition for review. The Board contact for receiving service of appeals is the previously-named Board counsel.

LINDA L. KMETZ, PhD, RN,  
*Chairperson*

[Pa.B. Doc. No. 18-714. Filed for public inspection May 4, 2018, 9:00 a.m.]

## STATE BOARD OF NURSING

**Bureau of Professional and Occupational Affairs v. Brooke Lynn Rosenthal, LPN; File No. 17-51-00242; Doc. No. 1965-51-17**

On January 29, 2018, Brooke Lynn Rosenthal, LPN, license No. PN303080, last known of York, York County, had her practical nurse license automatically suspended based on her felony conviction under The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §§ 780-101—780-144).

Individuals may obtain a copy of the adjudication by writing to Judith Pachter Schulder, Board Counsel, State Board of Nursing, P.O. Box 69523, Harrisburg, PA 17106-9523.

This order represents the final State Board of Nursing (Board) decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of their petition for review. The Board contact for receiving service of appeals is the previously-named Board counsel.

LINDA L. KMETZ, PhD, RN,  
*Chairperson*

[Pa.B. Doc. No. 18-713. Filed for public inspection May 4, 2018, 9:00 a.m.]

## STATE BOARD OF NURSING

**Bureau of Professional and Occupational Affairs v. Mary Jane Steiner, LPN; File No. 14-51-11307; Doc. No. 2292-51-2015**

On March 15, 2018, Mary Jane Steiner, LPN, license No. RN342987L, last known of Altoona, Blair County, was revoked and was assessed a \$500 civil penalty based on receiving disciplinary action by the proper licensing authority of another state and failing to report it to the State Board of Nursing (Board).

Individuals may obtain a copy of the adjudication by writing to Ariel E. O'Malley, Board Counsel, State Board of Nursing, P.O. Box 69523, Harrisburg, PA 17106-9523.

This order represents the final Board decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of their petition for review. The Board contact for receiving service of appeals is the previously-named Board counsel.

LINDA L. KMETZ, PhD, RN,  
*Chairperson*

[Pa.B. Doc. No. 18-715. Filed for public inspection May 4, 2018, 9:00 a.m.]

## SUSQUEHANNA RIVER BASIN COMMISSION

### Projects Approved for Consumptive Uses of Water

The Susquehanna River Basin Commission (Commission) approved by rule the following lists of projects from March 1, 2018, through March 31, 2018.

For further information contact Jason E. Oyler, General Counsel, (717) 238-0423, Ext. 1312, joyler@srbc.net. Regular mail inquiries may be sent to the Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110-1788.

#### *Supplementary Information*

This notice lists the projects, described as follows, receiving approval for the consumptive use of water under the Commission's approval by rule process in 18 CFR 806.22(e) and (f) (relating to standards for consumptive uses of water) for the time period previously specified:

#### *Approvals by Rule Issued Under 18 CFR 806.22(f)*

1. SWN Production Company, LLC, Pad ID: Marichini-Zingieser (Pad 9), ABR-201303012.R1, Herrick Township, Bradford County, PA; Consumptive Use of Up to 4.9990 mgd; Approval Date: March 5, 2018.

2. Repsol Oil & Gas USA, LLC, Pad ID: MONRO (03 142) G, ABR-201803001, Columbia Township, Bradford County, PA; Consumptive Use of Up to 6.0000 mgd; Approval Date: March 12, 2018.

3. SWN Production Company, LLC, Pad ID: TI-20 Fall Creek B, ABR-201803002, Liberty Township, Tioga County, PA; Consumptive Use of Up to 4.9990 mgd; Approval Date: March 20, 2018.

4. SWN Production Company, LLC, Pad ID: TI-17 Hoffman, ABR-201803003, Liberty Township, Tioga County, PA; Consumptive Use of Up to 4.9990 mgd; Approval Date: March 20, 2018.

5. SWN Production Company, LLC, Pad ID: TI-23 Camp Woodhouse, ABR-201803004, Morris Township, Tioga County, PA; Consumptive Use of Up to 4.9990 mgd; Approval Date: March 20, 2018.

6. SWN Production Company, LLC, Pad ID: TI-25 Long Run Timber A, ABR-201803005, Morris Township, Tioga County, PA; Consumptive Use of Up to 4.9990 mgd; Approval Date: March 20, 2018.

7. Pennsylvania General Energy Company, LLC, Pad ID: COP Tract 322 Pad C, ABR-201304006.R1, Cummings Township, Lycoming County, PA; Consumptive Use of Up to 4.5000 mgd; Approval Date: March 21, 2018.

8. Pennsylvania General Energy Company, LLC, Pad ID: SGL75 PAD B, ABR-201308004.R1, McHenry Township, Lycoming County, PA; Consumptive Use of Up to 4.5000 mgd; Approval Date: March 21, 2018.

9. Cabot Oil & Gas Corporation, Pad ID: MolnarM P1, ABR-201303007.R1, Brooklyn and Lathrop Townships, Susquehanna County, PA; Consumptive Use of Up to 5.0000 mgd; Approval Date: March 22, 2018.

10. Cabot Oil & Gas Corporation, Pad ID: CastrogiovanniaA P3, ABR-201303011.R1, Bridgewater Township,

Susquehanna County, PA; Consumptive Use of Up to 5.0000 mgd; Approval Date: March 22, 2018.

11. Cabot Oil & Gas Corporation, Pad ID: CarpenettiR P1, ABR-201303014.R1, Lathrop Township, Susquehanna County, PA; Consumptive Use of Up to 5.0000 mgd; Approval Date: March 22, 2018.

12. Cabot Oil & Gas Corporation, Pad ID: PritchardD P1, ABR-201304005.R1, Hartford Township, Susquehanna County, PA; Consumptive Use of Up to 5.0000 mgd; Approval Date: March 22, 2018.

13. SWN Production Company, LLC, Pad ID: FLICKS RUN EAST PAD, ABR-201302003.R1, Cogan House Township, Lycoming County, PA; Consumptive Use of Up to 4.9990 mgd; Approval Date: March 23, 2018.

14. SWN Production Company, LLC, Pad ID: DRANN PAD, ABR-201303006.R1, New Milford and Great Bend Townships, Susquehanna County, PA; Consumptive Use of Up to 4.9990 mgd; Approval Date: March 27, 2018.

15. Chief Oil & Gas, LLC, Pad ID: Lathrop Farm Trust B Drilling Pad, ABR-201309009.R1, Auburn Township, Susquehanna County, PA; Consumptive Use of Up to 2.0000 mgd; Approval Date: March 27, 2018.

16. JKLM Energy, LLC, Pad ID: Headwaters 146, ABR-201803006, Ulysses Township, Potter County, PA; Consumptive Use of Up to 3.2000 mgd; Approval Date: March 27, 2018.

17. Chief Oil & Gas, LLC, Pad ID: SGL 36 Drilling Pad, ABR-201803007, Overton Township, Bradford County, PA; Consumptive Use of Up to 2.5000 mgd; Approval Date: March 27, 2018.

18. SWN Production Company, LLC, Pad ID: McMahon (VW Pad), ABR-201304003.R1, Stevens Township, Bradford County, PA; Consumptive Use of Up to 4.9990 mgd; Approval Date: March 30, 2018.

*Authority:* Pub.L. No. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806—808

*Dated:* April 20, 2018

ANDREW D. DEHOFF,  
*Executive Director*

[Pa.B. Doc. No. 18-716. Filed for public inspection May 4, 2018, 9:00 a.m.]

## SUSQUEHANNA RIVER BASIN COMMISSION

### Projects Approved for Minor Modifications

The Susquehanna River Basin Commission lists the minor modification approved for previously approved projects from March 1, 2018, through March 31, 2018.

For further information contact Jason E. Oyler, General Counsel, (717) 238-0423, Ext. 1312, fax (717) 238-2436, joyler@srbc.net. Regular mail inquiries may be sent to the Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110-1788.

#### *Supplementary Information*

This notice lists previously approved projects, receiving approval of minor modifications, described as follows,

under 18 CFR 806.18 (relating to approval modifications) for the time period previously specified:

*Minor Modifications Issued Under 18 CFR 806.18*

1. Panda Hummel Station, LLC, Docket No. 20081222-4, Shamokin Dam Borough and Monroe Township, Snyder County, PA; approval to add Shamokin Dam Borough public water supply as an additional source of water for consumptive use; Approval Date: March 1, 2018.

2. Sugar Hollow Water Services, LLC (Bowman Creek), Docket No. 20140612-1, Eaton Township, Wyoming County, PA; approval to changes in the authorized water uses; Approval Date: March 30, 2018.

3. Sugar Hollow Water Services, LLC (Martins Creek), Docket No. 20150304-1, Hop Bottom Borough, Susquehanna County, PA; approval to changes in the authorized water uses; Approval Date: March 30, 2018.

4. Sugar Hollow Water Services, LLC (Susquehanna River), Docket No. 20151204-1, Eaton Township, Wyoming County, PA; approval to changes in the authorized water uses; Approval Date: March 30, 2018.

*Authority:* Pub.L. No. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806—808

*Dated:* April 20, 2018

ANDREW D. DEHOFF,  
*Executive Director*

[Pa.B. Doc. No. 18-717. Filed for public inspection May 4, 2018, 9:00 a.m.]

## SUSQUEHANNA RIVER BASIN COMMISSION

### Projects Rescinded for Consumptive Uses of Water

The Susquehanna River Basin Commission (Commission) has rescinded the following projects from March 1, 2018, through March 31, 2018.

For further information contact Jason E. Oyler, General Counsel, (717) 238-0423, Ext. 1312, fax (717) 238-2436, joyler@srbc.net. Regular mail inquiries may be sent to the Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110-1788.

*Supplementary Information*

This notice lists the projects, described as follows, being rescinded for the consumptive use of water under the Commission's approval by rule process in 18 CFR 806.22(e) and (f) (relating to standards for consumptive uses of water) for the time period previously specified:

*Rescinded ABR Issued*

1. Pennsylvania General Energy Company, LLC, Pad ID: SGL75 PAD C, ABR-201308005, McHenry Township, Lycoming County, PA; Rescind Date: March 1, 2018.

2. Pennsylvania General Energy Company, LLC, Pad ID: SGL75 PAD D, ABR-201308006, Pine Township, Lycoming County, PA; Rescind Date: March 1, 2018.

*Authority:* Pub.L. No. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806—808

*Dated:* April 20, 2018

ANDREW D. DEHOFF,  
*Executive Director*

[Pa.B. Doc. No. 18-718. Filed for public inspection May 4, 2018, 9:00 a.m.]



