

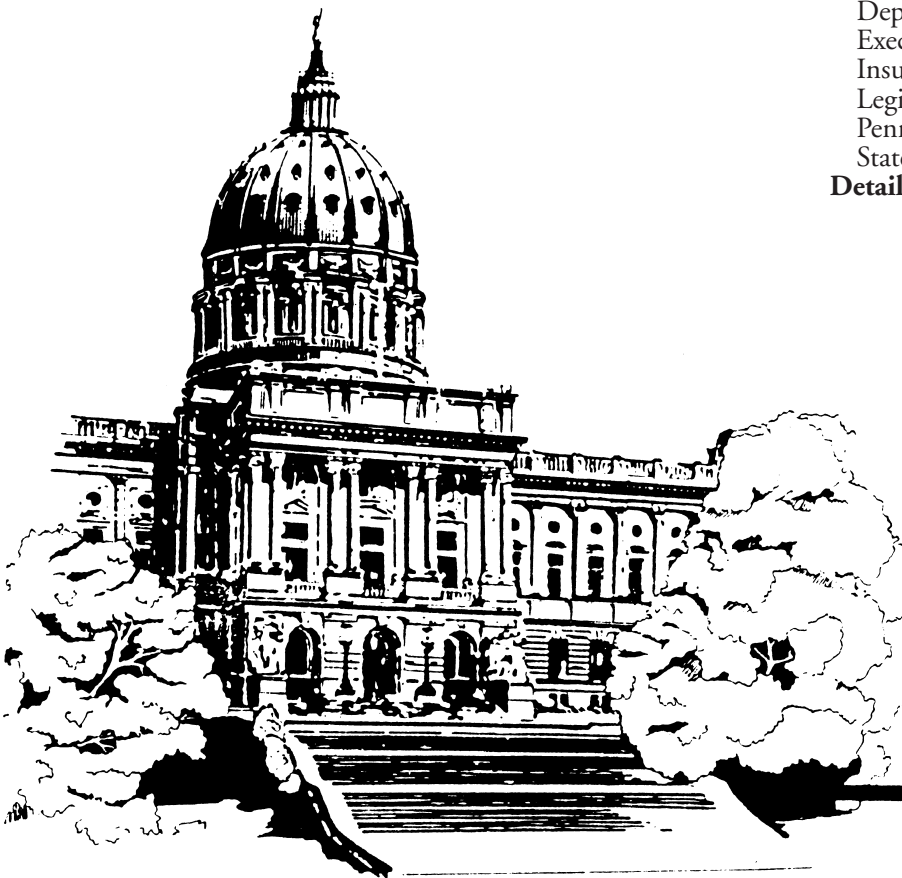
PENNSYLVANIA BULLETIN

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Agencies in this issue

The Governor
The General Assembly
The Courts
Department of Banking and Securities
Department of Conservation and Natural Resources
Department of Environmental Protection
Department of Health
Executive Board
Insurance Department
Legislative Reference Bureau
Pennsylvania Public Utility Commission
State Board of Nursing

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

No. 518, January 2018

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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.

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.

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.

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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).

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List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2018.

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THE GOVERNOR

GOVERNOR'S OFFICE

Proclamation of Disaster Emergency

January 10, 2018

Whereas, the opioid crisis is of such magnitude or severity that emergency action is necessary to protect the health, safety, and welfare of affected citizens in Pennsylvania;

Whereas, the opioid crisis is a public health emergency in Pennsylvania contributing to addiction, overdose emergencies, and deaths; and

Whereas, the opioid crisis includes heroin and prescription pain medications, such as morphine, codeine, methadone, oxycodone, hydrocodone, fentanyl, and hydromorphone; and

Whereas, Pennsylvania's opioid crisis impacts all areas of the state—including urban, suburban, and rural communities and all ages including both young people and older Pennsylvanians—and is unprejudiced in its reach and devastation; and

Whereas, the deaths because of overdose are preventable and the effective treatment of opioid use disorders can reduce the risk of overdose; and

Whereas, the Drug Enforcement Agency reports the total number of fatal drug overdoses in Pennsylvania in 2016 was 4,642, a 37% increase from 2015 and those deaths increasingly are the result of fentanyl and other synthetic opioid compounds; and

Whereas, Pennsylvania's rate of drug overdose is 36.5 per 100,000 which is significantly higher than the national average of 16.3 per 100,000; and

Whereas, the Prescription Drug Monitoring Program reports the number of emergency department visits related to an opioid overdose have increased by 82% from the third quarter of 2016 to the third quarter of 2017;

Whereas, the Governor and the Acting Secretary of Health have reasonable cause to believe that disease, illness, and health conditions, including death, are being caused by the opioid crisis;

Whereas, it is necessary to make Naloxone more widely available to treat narcotic overdose in emergency situations;

Whereas, it is necessary to expand access to treatment facilities, as well as treatment options across the commonwealth; and

Whereas, it is necessary to temporarily reduce regulatory burdens, in accordance with federal and state law, to ensure that individuals receive needed treatment without delay.

Now Therefore, pursuant to the provisions of section 7301(c) of the Emergency Management Services Code, 35 Pa.C.S. § 7101 et seq., I do hereby proclaim the existence of a disaster emergency in the Commonwealth of Pennsylvania.

Further, I direct the establishment of an Opioid Unified Coordination Group that shall utilize the National Incident Management System (NIMS) to provide a consistent framework and approach to enable government to work together to prepare for, prevent, respond to, recover from, and mitigate the effects of the opioid crisis in Pennsylvania. The Opioid Unified Coordination Group shall consist of the heads of the following commonwealth agencies, or their designee, and such other executive branch agencies as the Governor may designate:

- (a) The Department of Health
- (b) The Department of Human Services
- (c) The Department of Drug and Alcohol Programs
- (d) The Pennsylvania Emergency Management Agency

- (e) The Pennsylvania Commission on Crime and Delinquency
- (f) The Pennsylvania State Police

Further, the Opioid Unified Coordination Group shall establish a Public Health Emergency Command Center (Command Center) that will operate within the Commonwealth Response Coordination Center (CRCC) located at the Pennsylvania Emergency Management Agency.

Further, during the period of this emergency, recognizing the need for urgent and expeditious action, pursuant to 35 Pa.C.S. § 7301(f), I do hereby authorize the suspension of relevant regulatory statutes that agencies under my jurisdiction are authorized by law to administer or enforce as may be necessary to respond to the opioid crisis. Any regulatory statute that agencies under my jurisdiction desire to be suspended must be reviewed by the Governor's Office of General Counsel, and filed with the Opioid Unified Coordination Group.

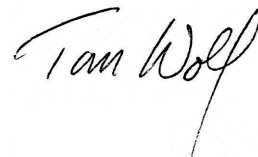
In Addition, if any administrative order, rule or regulation relating to the opioid crisis is inconsistent with the requirements of this Proclamation, or any rule, regulation, plan, or administrative order issued pursuant hereto, or if strict compliance with such provisions would prevent, hinder, or delay necessary action to cope with the emergency, then such provision is hereby rescinded for the duration of this Proclamation.

Still Further, pursuant to 35 Pa.C.S. § 7301(b), all agencies under my jurisdiction are authorized, ordered, and directed to issue, amend, and rescind such rules, regulations, orders, and plans as necessary to carry out their respective responsibilities and functions pursuant to this Proclamation, to issue, amend, and rescind such rules and regulations or orders under their respective statutory authorities as may be reasonably necessary to assist in responding to this opioid crisis.

Further, all commonwealth agencies purchasing supplies or services in response to this emergency are authorized to utilize the emergency procurement procedures set forth in section 516 of the Commonwealth Procurement Code, 62 Pa.C.S. § 516. This Proclamation shall serve as the written determination of the basis for the emergency under section 516.

Still Further, I hereby urge the governing bodies and executive officers of all political subdivisions that may be affected by this emergency event to act as necessary to meet the current exigencies as legally authorized under this proclamation.

Given under my hand and the Seal of the Governor, at the City of Harrisburg, this tenth day of January two thousand eighteen, the year of the commonwealth the two hundred forty-second.



Governor

[Pa.B. Doc. No. 18-90. Filed for public inspection January 19, 2018, 9:00 a.m.]

THE GENERAL ASSEMBLY

COMMISSION ON SENTENCING

2018 Public Meeting Schedule

The Commission on Sentencing (Commission) announces that the following dates have been selected for public meetings in 2018:

Wednesday, March 7, 2018	6:30 p.m.	Dinner Meeting Harrisburg Hilton and Towers Hotel Harrisburg, PA
Thursday, March 8, 2018	9 a.m. 11 a.m.	Policy Committee Meeting Quarterly Commission Meeting Pennsylvania Judicial Center Harrisburg, PA
Wednesday, June 13, 2018	6:30 p.m.	Dinner Meeting Harrisburg Hilton and Towers Hotel Harrisburg, PA
Thursday, June 14, 2018	9 a.m. 11 a.m.	Policy Committee Meeting Quarterly Commission Meeting Pennsylvania Judicial Center Harrisburg, PA
Wednesday, September 5, 2018	1 p.m.	Annual Planning Session Commission Office 204 East Calder Way, 4th Floor State College, PA
Thursday, September 6, 2018	9 a.m. 11 a.m.	Policy Committee Meeting Quarterly Commission Meeting Commission Office 204 East Calder Way, 4th Floor State College, PA
Wednesday, December 5, 2018	6:30 p.m.	Dinner Meeting Harrisburg Hilton and Towers Hotel Harrisburg, PA
Thursday, December 6, 2018	9 a.m. 11 a.m.	Policy Committee Meeting Quarterly Commission Meeting Pennsylvania Judicial Center Harrisburg, PA

Meetings are open to the public. Questions regarding the Commission meetings should be directed to Mark H. Bergstrom, Executive Director, (814) 863-4368, mhb105@psu.edu.

MARK H. BERGSTROM,
Executive Director

[Pa.B. Doc. No. 18-91. Filed for public inspection January 19, 2018, 9:00 a.m.]

THE COURTS

Title 210—APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CHS. 1, 5, 7, 9, 11, 13, 15, 17, 19,
21, 25 AND 27]

Order Adopting Rule 127 and Amending Rules 123, 531, 552, 752, 910, 911, 1115, 1116, 1123, 1312, 1314, 1513, 1516, 1571, 1573, 1703, 1732, 1770, 1781, 1931, 1952, 2111, 2112, 2113, 2152, 2156, 2171, 2544, 2545 and 2751 of the Rules of Appellate Procedure; No. 273 Appellate Procedural Rules Doc.

Order

Per Curiam

And Now, this 5th day of January, 2018, upon the recommendation of the Appellate Court Procedural Rules Committee; the proposal having been published before adoption at 47 Pa.B. 4622 (August 12, 2017):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rule of Appellate Procedure 127 is adopted and Pennsylvania Rules of Appellate Procedure 123, 531, 552, 752, 910, 911, 1115, 1116, 1123, 1312, 1314, 1513, 1516, 1571, 1573, 1703, 1732, 1770, 1781, 1931, 1952, 2111, 2112, 2113, 2152, 2156, 2171, 2544, 2545, and 2751 are amended in the following form.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective January 6, 2018.

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE I. PRELIMINARY PROVISIONS

CHAPTER 1. GENERAL PROVISIONS

DOCUMENTS GENERALLY

Rule 123. Application for Relief.

(a) *Contents of applications for relief.*—Unless another form is elsewhere prescribed by these rules, an application for an order or other relief shall be made by filing a written application for such order or relief with proof of service on all other parties. The application shall contain or be accompanied by any matter required by a specific provision of these rules governing such an application, shall state with particularity the grounds on which it is based, and shall set forth the order or relief sought. If an application is supported by briefs, verified statements, or other papers, they shall be served and filed with the application. An application may be made in the alternative and [**pray for**] **seek** such alternative relief or action by the court as may be appropriate. All grounds for relief demanded shall be stated in the application and failure to state a ground shall constitute a waiver thereof. Except as otherwise prescribed by these rules, a request for more than one type of relief may be combined in the same application.

(b) *Answer.*—Any party may file an answer to an application within 14 days after service of the application, but applications under Chapter 17 (effect of appeals; supersedeas and stays), or for delay in remand of the record, may be acted upon after reasonable notice, unless the exigency of the case is such as to impel the court to dispense with such notice. The court may shorten or extend the time for answering any application. Answers shall be deemed filed on the date of mailing if first class, express, or priority United States Postal Service mail is utilized.

(c) *Speaking applications.*—An application or answer which sets forth facts which do not already appear of record shall be verified by some person having knowledge of the facts, except that the court, upon presentation of such an application or answer without a verified statement, may defer action pending the filing of a verified statement or it may in its discretion act upon it in the absence of a verified statement if the interests of justice so require.

(d) *Oral argument.*—Unless otherwise ordered by the court, oral argument will not be permitted on any application.

(e) *Power of single judge to entertain applications.*—In addition to the authority expressly conferred by these rules or by law or rule of court, a single judge of an appellate court may entertain and may grant or deny any request for relief which under these rules may properly be sought by application, except that an appellate court may provide by order or rule of court that any application or class of applications must be acted upon by the court. The action of a single judge may be reviewed by the court except for actions of a single judge under [**Rule**] **Pa.R.A.P.** 3102(c)(2) (relating to quorum in Commonwealth Court in any election matter).

(f) Certificate of compliance with Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.—An application or answer filed under this Rule shall contain the certificate of compliance required by Pa.R.A.P. 127.

Official Note: The 1997 amendment precludes review by the Commonwealth Court of actions of a single judge in election matters.

Editor's Note: The following rule is added and printed in regular type to enhance readability.)

Rule 127. Confidential Information and Confidential Documents. Certification.

(a) Unless public access is otherwise constrained by applicable authority, any attorney or any unrepresented party who files a document pursuant to these rules shall comply with the requirements of Sections 7.0 and 8.0 of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* ("Public Access Policy"). In accordance with the Policy, the filing shall include a certification of compliance with the Policy and, as necessary, a Confidential Information Form, unless otherwise specified by rule or order of court, or a Confidential Document Form.

(b) Unless an appellate court orders otherwise, case records or documents that are sealed by a court, government unit, or other tribunal shall remain sealed on appeal.

Official Note: Paragraph (a)—“Applicable authority” includes but is not limited to statute, procedural rule, or court order. *The Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* (“Public Access Policy”) can be found at <http://www.pacourts.us/public-records>. Sections 7.0(D) and 8.0(D) of the Public Access Policy provide that the certification shall be in substantially the following form:

I certify that this filing complies with the provisions of the *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.

Appropriate forms can be found at <http://www.pacourts.us/public-records>. Pursuant to Section 7.0(C) of the Policy, a court may adopt a rule or order that permits, in lieu of a Confidential Information Form, the filing of a document in two versions, that is, a “Redacted Version” and an “Unredacted Version.” For certification of the Reproduced Record and Supplemental Reproduced Record in compliance with the Public Access Policy, see Pa.R.A.P. 2152, 2156, 2171, and accompanying notes.

Paragraph (b)—Once a document is sealed, it shall remain sealed on appeal unless the appellate court orders, either *sua sponte* or on application, that the case record or document be opened.

CHAPTER 5. PERSONS WHO MAY TAKE OR PARTICIPATE IN APPEALS

AMICUS CURIAE

Rule 531. Participation by *Amicus curiae*.

(a) *General*.—An *amicus curiae* is a non-party interested in the questions involved in any matter pending in an appellate court.

(b) *Briefs*

(1) *Amicus curiae Briefs Authorized*.—An *amicus curiae* may file a brief (i) during merits briefing; (ii) in support of or against a petition for allowance of appeal, if the *amicus curiae* participated in the underlying proceeding as to which the petition for allowance of appeal seeks review; or (iii) by leave of court. An *amicus curiae* does not need to support the position of any party in its brief.

(2) *Content*.—An *amicus curiae* brief must contain a statement of the interest of *amicus curiae*. The statement of interest shall disclose the identity of any person or entity other than the *amicus curiae*, its members, or counsel who (i) paid in whole or in part for the preparation of the *amicus curiae* brief or (ii) authored in whole or in part the *amicus curiae* brief. It does not need to contain a Statement of the Case and does not need to address jurisdiction or the order or other determinations in question. **An *amicus curiae* brief shall contain the certificate of compliance required by Pa.R.A.P. 127.**

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FORMA PAUPERIS

Rule 552. Application to [Lower] Trial Court for Leave to Appeal *In Forma Pauperis*.

(a) *General rule*.—A party who is not eligible to file a verified statement under [Rule] Pa.R.A.P. 551 (continuation of in forma pauperis status for purposes of appeal) may apply to the [lower] trial court for leave to proceed on appeal *in forma pauperis*. The application may be filed before or after the taking of the appeal, but

if filed before the taking of the appeal, the application shall not extend the time for the taking of the appeal.

(b) *Accompanying verified statement*.—Except as prescribed in [Subdivision] paragraph (d) of this rule, the application shall be accompanied by a verified statement substantially conforming to the requirements of [Rule] Pa.R.A.P. 561 (form of IFP verified statement) showing in detail the inability of the party to pay the fees and costs provided for in Chapter 27 (fees and costs in appellate courts and on appeal).

(c) *No filing fee required*.—The clerk of the [lower] trial court shall file an application under this rule without the payment of any filing fee.

(d) *Automatic approval in certain cases*.—If the applicant is represented by counsel who certifies on the application or by separate document that the applicant is indigent and that such counsel is providing free legal service to the applicant, the clerk of the [lower] trial court shall forthwith enter an order granting the application. The clerk may accept and act on an application under this [subdivision] paragraph without an accompanying verified statement by the party.

(e) *Consideration and action by the court*.—Except as prescribed in [Subdivision] paragraph (d) of this rule, the application and verified statement shall be submitted to the court, which shall enter its order thereon within 20 days from the date of the filing of the application. If the application is denied, in whole or in part, the court shall briefly state its reasons.

(f) Certificate of compliance with Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.—An application filed under this Rule shall contain the certificate of compliance required by Pa.R.A.P. 127.

Official Note: Extends the substance of former Supreme Court Rule 61(b) (part) and 61(c) (part) to the Superior and Commonwealth Courts and provides for action by the clerk in lieu of the court. It is anticipated that an application under this rule ordinarily would be acted upon prior to the docketing of the appeal in the appellate court and the transmission of the record.

Relief from requirements for posting a supersedeas bond in civil matters must be sought under [Rule] Pa.R.A.P. 1732 (application for stay or injunction pending appeal) and relief from bail requirements in criminal matters must be sought as prescribed by [Rule] Pa.R.A.P. 1762 (release in criminal matters), but under [Rule] Pa.R.A.P. 123 (applications for relief) and applications under [Rule] Pa.R.A.P. 552 (or 553) and [ther] other rules may be combined into a single document.

CHAPTER 7. COURTS TO WHICH APPEALS SHALL BE TAKEN

TRANSFERS OF CASES

Rule 752. Transfers Between Superior and Commonwealth Courts.

* * * * *

(b) *Content of application; answer*.—The application shall contain a statement of the facts necessary to an understanding of the same or related questions of fact, law, or discretion; a statement of the questions themselves; and a statement of the reasons why joint consider-

ation of the appeals would be desirable. The application shall be served on all other parties to all appeals or other matters involved, and shall include or have annexed thereto a copy of each order from which any appeals involved were taken and any findings of fact, conclusions of law, and opinions relating thereto. Any other party to any appeal or other matter involved may file an answer in opposition in accordance with [Rule] Pa.R.A.P. 123(b). **An application or answer filed under this Rule shall contain the certificate of compliance required by Pa.R.A.P. 127.** The application and answer shall be submitted without oral argument unless otherwise ordered.

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ARTICLE II. APPELLATE PROCEDURE

CHAPTER 9. APPEALS FROM LOWER COURTS

Rule 910. Jurisdictional Statement. Content. Form.

(a) *General rule.*—The jurisdictional statement required by [Rule] Pa.R.A.P. 909 shall contain the following in the order set forth:

(1) A reference to the official and unofficial reports of the opinions delivered in the courts below, if any, and if reported, the citation thereto. Any unreported opinions shall be appended to the jurisdictional statement;

(2) A statement of the basis, either by Act of Assembly or general rule, for the jurisdiction of the Supreme Court or the cases believed to sustain that jurisdiction;

(3) The text of the order in question, or the portions thereof sought to be reviewed, and the date of its entry in the court. The order may be appended to the statement;

(4) A concise statement of the procedural history of the case; and

(5) The questions presented for review, expressed in the terms and the circumstances of the case but without unnecessary detail. The statement of questions presented will be deemed to include every subsidiary question fairly comprised therein. Only the questions set forth in the statement, or fairly comprised therein will ordinarily be considered by the Court.

(b) *Matters of form.*—The jurisdictional statement need not be set forth in numbered paragraphs in the manner of a pleading. It shall be as short as possible and shall not exceed 1000 words, excluding the appendix.

(c) *Certificate of compliance.*

(1) *Word count.*—A jurisdictional statement that does not exceed five pages when produced on a word processor or typewriter shall be deemed to meet the requirements of [subdivision] paragraph (b) of this rule. In all other cases, the attorney or the unrepresented filing party shall include a certification that the statement complies with the word count limits. The certificate may be based on the word count of the word processing system used to prepare the statement.

(2) *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.*—A jurisdictional statement shall contain the certificate of compliance required by Pa.R.A.P. 127.

(d) *Nonconforming statements.*—The Prothonotary of the Supreme Court shall not accept for filing any statement that does not comply with this rule. [He shall return it] **The Prothonotary shall return the statement** to the appellant, and inform all parties in which

respect the statement does not comply with the rule. The prompt filing and service of a new and correct statement within seven days after return by the Prothonotary shall constitute a timely filing of the jurisdictional statement.

Rule 911. Answer to Jurisdictional Statement. Content. Form.

(a) *General rule.*—An answer to a jurisdictional statement shall set forth any procedural, substantive, or other argument or ground why the order appealed from is not reviewable as of right and why the Supreme Court should not grant an appeal by allowance. The answer need not be set forth in numbered paragraphs in the manner of a pleading and shall not exceed 1000 words.

(b) *Certificate of compliance.*

(1) *Word count.*—An answer to a jurisdictional statement that does not exceed five pages when produced on a word processor or typewriter shall be deemed to meet the requirements of [subdivision] paragraph (a) of this rule. In all other cases, the attorney or the unrepresented filing party shall include a certification that the answer complies with the word count limits. The certificate may be based on the word count of the word processing system used to prepare the answer.

(2) *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.*—An answer to a jurisdictional statement shall contain the certificate of compliance required by Pa.R.A.P. 127.

Official Note: The Supreme Court has, in a number of cases, determined that a party has no right of appeal, but has treated the notice of appeal as a petition for allowance of appeal and granted review. See *Gossman v. Lower Chanceford Tp. Bd. of Supervisors*, [503 Pa. 392,] 469 A.2d 996 (Pa. 1983); *Xpress Truck Lines, Inc. v. Pennsylvania Liquor Control Board*, [503 Pa. 399,] 469 A.2d 1000 (Pa. 1983); *O'Brien v. State Employment Retirement Board*, [503 Pa. 414,] 469 A.2d 1008 (Pa. 1983). See also Pa.R.A.P. 1102. Accordingly, a party opposing a jurisdictional statement shall set forth why the order appealed from is not reviewable on direct appeal and why the Court should not grant an appeal by allowance.

CHAPTER 11. APPEALS FROM COMMONWEALTH COURT AND SUPERIOR COURT

PETITION FOR ALLOWANCE OF APPEAL

Rule 1115. Content of the Petition for Allowance of Appeal.

(a) *General rule.*—The petition for allowance of appeal need not be set forth in numbered paragraphs in the manner of a pleading, and shall contain the following (which shall, insofar as practicable, be set forth in the order stated):

[1.] (1) A reference to the official and unofficial reports of the opinions delivered in the courts below, if any, and if reported. Any such opinions shall be appended as provided in item 6 of paragraph (a) of this rule.

[2.] (2) The text of the order in question, or the portions thereof sought to be reviewed, and the date of its entry in the appellate court below. If the order is voluminous, it may, if more convenient, be appended to the petition.

[3.] (3) The questions presented for review, expressed in the terms and circumstances of the case but without unnecessary detail. The statement of questions presented will be deemed to include every subsidiary question fairly

comprised therein. Only the questions set forth in the petition, or fairly comprised therein, will ordinarily be considered by the court in the event an appeal is allowed.

[4.] (4) A concise statement of the case containing the facts material to a consideration of the questions presented.

[5.] (5) A concise statement of the reasons relied upon for allowance of an appeal. See Pa.R.A.P. 1114.

[6.] (6) There shall be appended to the petition a copy of any opinions delivered relating to the order sought to be reviewed, as well as all opinions of government units, trial courts, or [lower] intermediate appellate courts in the case, and, if reference thereto is necessary to ascertain the grounds of the order, opinions in companion cases. If an application for reargument was filed in the Superior Court or Commonwealth Court, there also shall be appended to the petition a copy of any order granting or denying the application for reargument. If whatever is required by this paragraph to be appended to the petition is voluminous, it may, if more convenient, be separately presented.

[7.] (7) There shall be appended to the petition the verbatim texts of the pertinent provisions of constitutional provisions, statutes, ordinances, regulations, or other similar enactments which the case involves, and the citation to the volume and page where they are published, including the official edition, if any.

(8) The certificate of compliance required by Pa.R.A.P. 127.

(b) *Caption and parties.*—All parties to the proceeding in the intermediate appellate court [below] shall be deemed parties in the Supreme Court, unless the petitioner shall notify the Prothonotary of the Supreme Court of the belief of the petitioner that one or more of the parties below have no interest in the outcome of the petition. A copy of such notice shall be served on all parties to the matter in the [lower] intermediate appellate court, and a party noted as no longer interested may remain a party in the Supreme Court by filing a notice that he has an interest in the petition with the Prothonotary of the Supreme Court. All parties in the Supreme Court other than petitioner shall be named as respondents, but respondents who support the position of the petitioner shall meet the time schedule for filing papers which is provided in this chapter for the petitioner, except that any response by such respondents to the petition shall be filed as promptly as possible after receipt of the petition.

* * * * *

Rule 1116. Answer to the Petition for Allowance of Appeal.

(a) *General rule.*—Except as otherwise prescribed by this rule, within 14 days after service of a petition for allowance of appeal an adverse party may file an answer. The answer shall be deemed filed on the date of mailing if first class, express, or priority United States Postal Service mail is utilized. The answer need not be set forth in numbered paragraphs in the manner of a pleading, shall set forth any procedural, substantive or other argument or ground why the order involved should not be reviewed by the Supreme Court, and shall comply with Pa.R.A.P. 1115(a).7. No separate motion to dismiss a petition for allowance of appeal will be received. A party entitled to file an answer under this rule who does not intend to do so shall, within the time fixed by these rules

for filing an answer, file a letter stating that an answer to the petition for allowance of appeal will not be filed. The failure to file an answer will not be construed as concurrence in the request for allowance of appeal.

(b) *Children's fast track appeals.*—In a children's fast track appeal, within 10 days after service of a petition for allowance of appeal, an adverse party may file an answer.

(c) *Length.*—An answer to a petition for allowance of appeal shall not exceed 9,000 words. An answer that does not exceed 20 pages when produced by a word processor or typewriter shall be deemed to meet the 9,000 word limit. In all other cases, the attorney or the unrepresented filing party shall include a certification that the answer complies with the word count limit. The certificate may be based on the word count of the word processing system used to prepare the answer.

(d) *Supplementary matter.*—The cover of the answer, pages containing the table of contents, table of citations, proof of service, signature block, and anything appended to the answer shall not count against the word count limitations of this rule.

(e) Certificate of compliance with Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.—An answer to a petition for allowance of appeal shall contain the certificate of compliance required by Pa.R.A.P. 127.

Official Note: This rule and Pa.R.A.P. 1115 contemplate that the petition and answer will address themselves to the heart of the issue, such as whether the Supreme Court ought to exercise its discretion to allow an appeal, without the need to comply with the formalistic pattern of numbered averments in the petition and correspondingly numbered admissions and denials in the response. While such a formalistic format is appropriate when factual issues are being framed in a trial court (as in the petition for review under Chapter 15) such a format interferes with the clear narrative exposition necessary to outline succinctly the case for the Supreme Court in the allocatur context.

Rule 1123. Denial of Appeal; Reconsideration.

(a) *Denial.* If the petition for allowance of appeal is denied the Prothonotary of the Supreme Court shall immediately give written notice in person or by first class mail of the entry of the order denying the appeal to each party who has appeared in the Supreme Court. After the expiration of the time allowed by [Subdivision] paragraph (b) of this rule for the filing of an application for reconsideration of denial of a petition for allowance of appeal, if no application for reconsideration is filed, the Prothonotary of the Supreme Court shall notify the prothonotary of the appellate court below of the denial of the petition.

(b) *Reconsideration.* Applications for reconsideration of denial of allowance of appeal are not favored and will be considered only in the most extraordinary circumstances. An application for reconsideration of denial of a petition for allowance of appeal shall be filed with the Prothonotary of the Supreme Court within fourteen days after entry of the order denying the petition for allowance of appeal. In a children's fast track appeal, the application for reconsideration of denial of a petition for allowance of appeal shall be filed with the Prothonotary of the Supreme Court within 7 days after entry of the order denying the petition for allowance of appeal. Any application filed under this [subdivision must] paragraph must comport with the following:

(1) Briefly and distinctly state grounds which are confined to intervening circumstances of substantial or controlling effect.

(2) Be supported by a certificate of counsel to the effect that it is presented in good faith and not for delay. Counsel must also certify that the application is restricted to the grounds specified [**in Paragraph (1) of this subdivision**] **under subparagraph (b)(1)**.

(3) Contain the certificate of compliance required by Pa.R.A.P. 127.

No answer to an application for reconsideration will be received unless requested by the Supreme Court. Second or subsequent applications for reconsideration, and applications for reconsideration which are out of time under this rule, will not be received.

(c) *Manner of filing.* If the application for reconsideration is transmitted to the prothonotary of the appellate court by means of first class, express, or priority United States Postal Service mail, the application shall be deemed received by the prothonotary for the purposes of [**Rule**] Pa.R.A.P. 121(a) (filing) on the date deposited in the United States mail as shown on a United States Postal Service Form 3817 Certificate of Mailing, or other similar United States Postal Service form from which the date of deposit can be verified. The certificate of mailing or other similar Postal Service form from which the date of deposit can be verified shall be cancelled by the Postal Service, shall show the docket number of the matter in the court in which reconsideration is sought, and shall be enclosed with the application or separately mailed to the prothonotary. Upon actual receipt of the application, the prothonotary shall immediately stamp it with the date of actual receipt. That date, or the date of earlier deposit in the United States mail as prescribed in this [**subdivision**] **paragraph**, shall constitute the date when application was sought, which date shall be shown on the docket.

CHAPTER 13. INTERLOCUTORY APPEALS BY PERMISSION

Rule 1312. Content of the Petition for Permission to Appeal.

(a) *General rule.*—The petition for permission to appeal need not be set forth in numbered paragraphs in the manner of a pleading, and shall contain the following (which shall, insofar as practicable, be set forth in the order stated):

(1) A statement of the basis for the jurisdiction of the appellate court.

(2) The text of the order in question, or the portions thereof sought to be reviewed (including the statement by the [**lower**] **trial** court or other government unit that the order involves a controlling question of law as to which there is a substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the matter), and the date of its entry in the **trial** court or other government unit [**below**]. If the order is voluminous, it may, if more convenient, be appended to the petition.

(3) A concise statement of the case containing the facts necessary to an understanding of the controlling questions of law determined by the order of the [**lower**] **trial** court or other government unit.

(4) The controlling questions of law presented for review, expressed in the terms and circumstances of the case but without unnecessary detail. The statement of questions presented will be deemed to include every subsidiary question fairly comprised therein. Only the questions set forth in the petition, or fairly comprised therein, will ordinarily be considered by the court in the event permission to appeal is granted.

(5) A concise statement of the reasons why a substantial ground exists for a difference of opinion on the questions and why an immediate appeal may materially advance the termination of the matter.

(6) There shall be appended to the petition a copy of any opinions delivered relating to the order sought to be reviewed, as well as all opinions of [**lower**] **trial** courts or other government units in the case, and, if reference thereto is necessary to ascertain the grounds of the order, opinions in companion cases. If whatever is required by this paragraph to be appended to the petition is voluminous, it may, if more convenient, be separately presented.

(7) There shall be appended to the petition the verbatim texts of the pertinent provisions of constitutional provisions, statutes, ordinances, regulations, or other similar enactments which the case involves, and the citation to the volume and page where they are published, including the official edition, if any.

(8) The certificate of compliance required by Pa.R.A.P. 127.

(b) *Caption and parties.*—All parties to the proceeding in the [**lower**] **trial** court or other government unit other than petitioner shall be named as respondents, but respondents who support the position of the petitioner shall meet the time schedule for filing papers which is prescribed in this chapter for the petitioner, except that any response by such respondents to the petition shall be filed as promptly as possible after receipt of the petition.

(c) *No supporting brief.*—All contentions in support of a petition for permission to appeal shall be set forth in the body of the petition as prescribed [**by Paragraph (a)(5) of this rule**] **under subparagraph (a)(5)**. Neither the briefs below nor any separate brief in support of a petition for permission to appeal will be received, and the prothonotary of the appellate court will refuse to file any petition for permission to appeal to which is annexed or appended any brief below or supporting brief.

(d) *Essential requisites of petition.*—The failure of a petitioner to present with accuracy, brevity, and clearness whatever is essential to a ready and adequate understanding of the points requiring consideration will be a sufficient reason for denying the petition.

(e) *Multiple petitioners.*—Where permitted by [**Rule**] Pa.R.A.P. 512 (joint appeals) a single petition for permission to appeal may be filed.

Official Note: Based on former Commonwealth Court Rule 114. [**Subdivision**] **subparagraph** (a)(2) of this rule makes clear that the order of the tribunal below must contain a statement that the order involves a controlling question of law as to which there is a difference of opinion.

Interlocutory appeals as of right may be taken by filing a notice of appeal under Chapter 9 [**appeals from lower courts**], rather than by petition under this rule. See [**Rule 311 (interlocutory appeals as of right)**] Pa.R.A.P. 311.

Rule 1314. Answer to the Petition for Permission to Appeal.

Within 14 days after service of a petition for permission to appeal an adverse party may file an answer. The answer shall be deemed filed on the date of mailing if first class, express, or priority United States Postal Service mail is utilized. The answer need not be set forth in numbered paragraphs in the manner of a pleading, shall set forth any procedural, substantive, or other argument or ground why the interlocutory order involved should not be reviewed by the appellate court, and shall comply with [Rule] Pa.R.A.P. 1312(a)(7) (content of petition for permission to appeal). **An answer to a petition for permission to appeal shall contain the certificate of compliance required by Pa.R.A.P. 127.** No separate motion to dismiss a petition for permission to appeal will be received. A party entitled to file an answer under this rule who does not intend to do so shall, within the time fixed by these rules for filing an answer, file a letter stating that an answer to the petition for permission to appeal will not be filed. The failure to file an answer will not be construed as concurrence in the request for permission to appeal.

CHAPTER 15. JUDICIAL REVIEW OF GOVERNMENTAL DETERMINATIONS
PETITION FOR REVIEW

Rule 1513. Petition for Review.

(a) *Caption and parties on appeal.*—In an appellate jurisdiction petition for review, the aggrieved party or person shall be named as the petitioner and, unless the government unit is disinterested, the government unit and no one else shall be named as the respondent. If the government unit is disinterested, all real parties in interest, and not the government unit, shall be named as respondents.

(b) *Caption and parties in original jurisdiction actions.*—The government unit and any other indispensable party shall be named as respondents. Where a public act or duty is required to be performed by a government unit, it is sufficient to name the government unit, and not its individual members, as respondent.

(c) *Form.*—Any petition for review shall be divided into consecutively numbered paragraphs. Each paragraph shall contain, as nearly as possible, a single allegation of fact or other statement. When petitioner seeks review of an order refusing to certify an interlocutory order for immediate appeal, numbered paragraphs need not be used.

(d) *Content of appellate jurisdiction petition for review.*—An appellate jurisdiction petition for review shall contain **the following**:

[1.] (1) a statement of the basis for the jurisdiction of the court;

[2.] (2) the name of the party or person seeking review;

[3.] (3) the name of the government unit that made the order or other determination sought to be reviewed;

[4.] (4) reference to the order or other determination sought to be reviewed, including the date the order or other determination was entered;

[5.] (5) a general statement of the objections to the order or other determination, but the omission of an issue

from the statement shall not be the basis for a finding of waiver if the court is able to address the issue based on the certified record;

[6.] (6) a short statement of the relief sought; [and]

[7.] (7) a copy of the order or other determination to be reviewed, which shall be attached to the petition for review as an exhibit[.]; and

(8) the certificate of compliance required by Pa.R.A.P. 127.

No notice to plead or verification is necessary.

Where there were other parties to the proceedings conducted by the government unit, and such parties are not named in the caption of the petition for review, the petition for review shall also contain a notice to participate, which shall provide substantially as follows:

If you intend to participate in this proceeding in the (Supreme, Superior or Commonwealth, as appropriate) Court, you must serve and file a notice of intervention under Pa.R.A.P. 1531 of the Pennsylvania Rules of Appellate Procedure within 30 days.

(e) *Content of original jurisdiction petition for review.*—A petition for review addressed to an appellate court's original jurisdiction shall contain **the following**:

[1.] (1) a statement of the basis for the jurisdiction of the court;

[2.] (2) the name of the person or party seeking relief;

[3.] (3) the name of the government unit whose action or inaction is in issue and any other indispensable party;

[4.] (4) a general statement of the material facts upon which the cause of action is based;

[5.] (5) a short statement of the relief sought; [and]

[6.] (6) a notice to plead and verification either by oath or affirmation or by verified statement[.]; and

(7) the certificate of compliance required by Pa.R.A.P. 127.

(f) *Alternative objections.*—Objections to a determination of a government unit and the related relief sought may be stated in the alternative, and relief of several different types may be requested.

Official Note: The 2004 amendments to this rule clarify what must be included in a petition for review addressed to an appellate court's appellate jurisdiction and what must be included in a petition for review addressed to an appellate court's original jurisdiction. Where it is not readily apparent whether a "determination" (defined in Pa.R.A.P. 102 as "[a] ction or inaction by a government unit") is reviewable in the court's appellate or original jurisdiction, compliance with the requirements of paragraphs (d) and (e) is appropriate.

Paragraphs (a) and (b) reflect the provisions of Pa.R.A.P. 501, Pa.R.A.P. 503, Section 702 of the Administrative Agency Law, 2 Pa.C.S. § 702 (Appeals), and Pa.R.C.P. [No.] 1094 (regarding parties defendant in mandamus actions).

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Rule 1516. Other Pleadings Allowed.

(a) *Appellate jurisdiction petitions for review.*—No answer or other pleading to an appellate jurisdiction peti-

tion for review is authorized, unless the petition for review is filed pursuant to the [**Notes to Rules**] **notes to Pa.R.A.P.** 341 or 1311 (seeking review of a trial court or other government unit's refusal to certify an interlocutory order for immediate appeal), [**Rule**] **Pa.R.A.P.** 1573 (review of orders finding an assertion of double jeopardy frivolous), [**Rule**] **Pa.R.A.P.** 1762 (regarding release in criminal matters), [**Rule**] **Pa.R.A.P.** 1770 (regarding placement in juvenile delinquency matters), [**Rule**] **Pa.R.A.P.** 3321 (regarding appeals from decisions of the Legislative Reapportionment Commission) or [**Rule**] **Pa.R.A.P.** 3331 (regarding review of special prosecutions and investigations). Where an answer is authorized, the time for filing an answer shall be as stated in [**Rule 123**](b) [**Pa.R.A.P. 123**](b), and the answer shall contain the certificate of compliance required by **Pa.R.A.P. 127**.

(b) *Original jurisdiction petitions for review.*—Where an action is commenced by filing a petition for review addressed to the appellate court's original jurisdiction, the pleadings are limited to the petition for review, an answer thereto, a reply if the answer contains new matter or a counterclaim, a counter-reply if the reply to a counterclaim contains new matter, a preliminary objection, and an answer thereto. **A pleading shall contain the certificate of compliance required by Pa.R.A.P. 127.** Every pleading filed after an original jurisdiction petition for review shall be filed within 30 days after service of the preceding pleading, but no pleading need be filed unless the preceding pleading is endorsed with a notice to plead.

Official Note: The 2004, 2012, and 2013 amendments made clear that, with limited exceptions, no answer or other pleading to a petition for review addressed to an appellate court's appellate jurisdiction is proper. With regard to original jurisdiction proceedings, practice is patterned after Rules of Civil Procedure 1017(a) (Pleadings Allowed) and 1026 (Time for Filing, Notice to Plead). The ten additional days in which to file a subsequent pleading are in recognition of the time required for agency coordination where the Commonwealth is a party. See [**Rule**] **Pa.R.A.P.** 1762(b)(2) regarding bail applications. See [**Rule**] **Pa.R.A.P.** 1770 regarding placement in juvenile delinquency matters.

REVIEW OF DETERMINATIONS OF THE BOARD OF FINANCE AND REVENUE

Rule 1571. Determinations of the Board of Finance and Revenue.

(a) *General rule.*—Review of a determination of the Board of Finance and Revenue shall be governed by this chapter and ancillary provisions of these rules, except as otherwise prescribed by this rule.

(b) *Time for petitioning for review.*—A petition for review of a determination of the Board of Finance and Revenue shall be filed:

(1) Within 30 days after entry of an order of the Board which does not expressly state that it is interlocutory in nature.

(2) Within 30 days after entry of an order of the Board adopting a determination by the Department of Revenue or other government unit made at the direction of the Board respecting any matter pending before the Board.

(3) Where the Board is required by statute to act finally on any matter pending before it within a specified

period after the matter is filed with the Board and has not done so, at any time between:

(i) the expiration of such specified period; and

(ii) 30 days after service of actual notice by the Board stating that it has failed to act within such period.

(c) *Form.*—The petition for review shall contain a statement of the basis for the jurisdiction of the court; the name of the party seeking review; a statement that the Board of Finance and Revenue made the determination sought to be reviewed; reference to the order or other determination sought to be reviewed; and a general statement of the objections to the order or other determination. The petition for review need not be verified and shall not contain or have endorsed upon it notice to plead. A petition for review of a taxpayer or similar party shall name the "Commonwealth of Pennsylvania" as respondent and a petition for review filed by the Commonwealth of Pennsylvania shall name all real parties in interest before the Board as respondents. **The petition for review shall contain the certificate of compliance required by Pa.R.A.P. 127.**

(d) *Service.*—In the case of a petition for review by a taxpayer or similar party, a copy of the petition shall be served on the Board of Finance and Revenue and on the Attorney General **by the petitioner** in accordance with [**Rule**] **Pa.R.A.P.** 1514(c). All other parties before the Board shall be served as prescribed by [**Rule**] **Pa.R.A.P.** 121(b) (service of all papers required).

(e) *Answer.*—An answer may not be filed to a petition for review of a determination of the Board of Finance and Revenue. The Commonwealth may raise any question on review, although no cross petition for review has been filed by it, and may introduce any facts in support of its position if 20 days written notice is given to the petitioner prior to trial of the intention of raising such new questions or presenting new facts.

(f) *Record.*—No record shall be certified to the court by the Board of Finance and Revenue. After the filing of the petition for review, the parties shall take appropriate steps to prepare and file a stipulation of such facts as may be agreed to and to identify the issues of fact, if any, which remain to be tried. See Rule 1542 (evidentiary hearing).

(g) *Oral argument.*—Except as otherwise ordered by the court on its own motion or on application of any party, after the record is closed, the matter may be listed for argument before or submission to the court.

(h) *Scope of review.*—[**Rule**] **Pa.R.A.P.** 1551(a) (appellate jurisdiction petitions for review) shall be applicable to review of a determination of the Board of Finance and Revenue except that:

(1) A question will be heard and considered by the court if it was raised at any stage of the proceedings below and thereafter preserved.

(2) To the extent provided by the applicable law, the questions raised by the petition for review shall be determined on the record made before the court. See [**Subdivision**] **paragraph** (f) of this rule.

(i) *Exceptions.*—Any party may file exceptions to an initial determination by the court under this rule within 30 days after the entry of the order to which exception is taken. Such timely exceptions shall have the effect, for the purposes of [**Rule**] **Pa.R.A.P.** 1701(b)(3) (authority of [**lower**] a **trial** court or agency after appeal) of an order expressly granting reconsideration of the determi-

nation previously entered by the court. Issues not raised on exceptions are waived and cannot be raised on appeal.

Official Note: [Subdivision] Paragraph (b) represents an exercise of the power conferred by 42 Pa.C.S. § 5105(a) (right to appellate review) to define final orders by general rule. The following statutes expressly require the Board of Finance and Revenue to act within six months in certain cases:

Section 1103 of The Fiscal Code [(72 P.S. § 1103)], **Act of April 9, 1929 (P.L. 343), 72 P.S. § 1103.**

[**Act of December 5, 1933, (Sp. session 1933-34), (P.L. 38, No. 6, known as the Spirituous and Vinous Liquor Tax Law, § 5 (47 P.S. § 749).**

Act of January 14, 1952 (1951 P.L. 1965, No. 550), known as the Fuel Use Tax Act, § 7 (72 P.S. § 2614.7).

Sections 234 (sales and use tax), 341 (personal income tax), and 2005 (malt beverage tax), Act of March 4, 1971 (P.L. 6, No. 2), known as The Tax Reform Code of 1971 (72 P.S. §§ 7234, 7341, 9005).]

Section 2005 (malt beverage tax) of The Tax Reform Code of 1971, Act of March 4, 1971 (P.L. 6), 72 P.S. § 9005.

The following statute requires the Board of Finance and Revenue to act within twelve months in certain tax refund matters:

Section 3003.5 of the Tax Reform Code of 1971, Act of March 4, 1971 [, **P.L. 6 , No. 2, 72 P.S. § 10003.5. Section 3003.5 was added by Section 41 of the Act of June 16, 1994, P.L. 279, No. 48] (P.L. 6), **72 P.S. § 10003.5.****

The following statutes are covered by Section 1103 of The Fiscal Code [(petition to Board of Finance and Revenue for review)]:

[**Sections 809 (various insurance taxes) and 1001 (miscellaneous settlements, e.g., under the act of May 17, 1921 (P.L. 789, No. 285), known as The Insurance Department Act of 1921, § 212 (40 P.S. § 50) (retaliatory insurance taxes) of The Fiscal Code (72 P.S. §§ 809 and 1001).**

Act of June 22, 1931 (P.L. 694, No. 255) § 4 (72 P.S. § 2186) (motor carriers-trackless trolley carriers).

Act of June 22, 1935 (P.L. 414, No. 182), known as the State Personal Property Tax Act, § 18(b) (72 P.S. § 3250-11a(b)) (corporate loans tax). See Act of April 25, 1929 (P.L. 669, No. 288), § 1.

Act of May 23, 1945 (P.L. 893, No. 360), known as the Co-operative Agricultural Association Corporate Net Income Tax Act, § 6 (72 P.S. § 3420-26).

Act of January 24, 1966 (P.L. (1965) 1509, No. 531), § 11 (40 P.S. § 1006.11) (surplus lines tax).]

Sections 809 (various insurance taxes) and 1001 (miscellaneous settlements, for example, under Section 212 of The Insurance Department Act of 1921, Act of May 17, 1921 (P.L. 789), 40 P.S. § 50) of the Fiscal Code, Act of April 9, 1929 (P.L. 343), (72 P.S. §§ 809 and 1001).

Section 6 of the Co-operative Agricultural Association Corporate Net Income Tax Act, Act of May 23, 1945 (P.L. 893), 72 P.S. § 3420-21, et seq.

Sections 407 (corporate net income tax), 603 (capital stock—franchise tax), 702 (bank **and trust company**

shares tax), 802 (title insurance [**and trust**] companies shares tax), 904 (insurance premiums tax), 1102 ([**utilities**] gross receipts tax), 1111-C (realty transfer tax), and 1503 (mutual thrift institutions tax) of the Tax Reform Code of 1971, **Act of March 4, 1971 (P.L. 6), [() 72 P.S. §§ 7407, 7603, 7702, 7802, 7904, 8102, 8111-C, and 8503[)]**.

75 Pa.C.S. § 9616(f) (motor carriers road tax).

The basis of jurisdiction of the court under this rule will ordinarily be 42 Pa.C.S. § 763 (direct appeals from government agencies). [**Subdivision] Paragraph** (c) is not intended to change the practice in connection with the review of orders of the Board of Finance and Revenue insofar as the amount of detail in the pleadings is concerned. What is required is that the petitioner raise every legal issue in the petition for review which the petitioner wishes the court to consider. The legal issues raised need only be specific enough to apprise the respondent of the legal issues being contested (e.g. "valuation," "manufacturing," "sale for resale," etc.). *See generally House of Pasta, Inc. v. Commonwealth, [37 Pa. Cmwlth. Ct. 317,] 390 A.2d 341 (Pa. Cmwlth. 1978).*

[**Subdivision] Paragraph** (e) is based on Section 1104(e) of The Fiscal Code, which was suspended absolutely by these rules, and subsequently repealed.

[**Subdivision] Paragraph** (f) is based on 2 Pa.C.S. § 501(b)(1) (scope of subchapter) and 2 Pa.C.S. § 701(b)(1) (scope of subchapter), which exclude tax matters from the on-the-record review requirements of 2 Pa.C.S. § 704 (disposition of appeal).

[**Subdivision] Paragraph** (h) is based on Section 1104(d) of The Fiscal Code, which was suspended absolutely by these rules and subsequently repealed, and is intended as a continuation of the prior law, except, of course, that the separate specification of objections has been abolished by these rules.

[**Subdivision] Paragraph** (i) is intended to make clear that the failure to file exceptions will result in waiver by a petitioner of any issues previously presented to the Commonwealth Court.

See also [Rule] Pa.R.A.P. 1782 (security on review in tax matters).

REVIEW OF DETERMINATIONS BY A COURT OF COMMON PLEAS THAT A CLAIM OF DOUBLE JEOPARDY IS FRIVOLOUS

Rule 1573. Review of Orders in Which the Court Finds an Assertion of Double Jeopardy Frivolous.

(a) *General rule.*—Any party seeking review of a frivolousness determination by a court of common pleas under Pennsylvania Rule of Criminal Procedure 587 shall file a petition for review in the appellate court having jurisdiction over the matter. Review of a frivolousness determination under Pennsylvania Rule of Criminal Procedure 587 shall be governed by this chapter and ancillary provisions of these rules, except as otherwise prescribed by this rule. The time for filing is provided for in Pa.R.A.P. 1512(a)(1).

(b) *Contents.*—The contents of the petition for review are not governed by Pa.R.A.P. 1513. Instead, the petition for review need not be set forth in numbered paragraphs in the manner of a pleading, and shall contain the following (which shall, insofar as practicable, be set forth in the order stated):

[(i)] (1) A statement of the basis for the jurisdiction of the appellate court.

[(ii)] (2) The text of the order in question, and the date of its entry in the trial court. If the order is voluminous, it may, if more convenient, be appended to the petition.

[(iii)] (3) A concise statement of the case containing the facts necessary to an understanding of the frivolousness issue(s) presented.

[(iv)] (4) The question(s) presented, expressed in the terms and circumstances of the case but without unnecessary detail.

[(v)] (5) A concise statement of the reasons why the trial court erred in its determination of frivolousness.

[(vi)] (6) There shall be appended to the petition a copy of any opinions relating to the order sought to be reviewed, including findings of fact and conclusions of law in support of the frivolousness determination, as well as a copy of any transcripts or other record documents necessary to the appellate court's review.

[(vii)] (7) There shall be appended to the petition the verbatim texts of the pertinent provisions of constitutional provisions, statutes, ordinances, regulations, or other similar enactments which the case involves.

[(viii)] (8) There shall be appended to the petition any briefs filed in the trial court in support of the motion to dismiss.

(9) The certificate of compliance required by Pa.R.A.P. 127.

(c) *Caption and parties.*—The parties in the trial court shall be named as parties in the appellate court. If there are multiple defendants but the order for which review is sought adjudicates the motion of only a single defendant, only that defendant may file a petition for review.

(d) *No supporting brief.*—All contentions in support of a petition shall be set forth in the body of the petition as prescribed by subparagraph (b)(v) of this rule. No separate brief in support of the petition for review will be received, and the prothonotary of the appellate court will refuse to file any petition for review to which is annexed or appended any brief other than the briefs filed in the trial court.

(e) *Essential requisites of petition.*—The failure of a petitioner to present with accuracy, brevity, and clearness whatever is essential to a ready and adequate understanding of the points requiring consideration will be a sufficient reason for denying the petition.

(f) *Effect of filing petition.*—The filing of a petition for review shall not automatically stay the proceedings before the trial court. A petitioner may file an application for a stay in the trial or appellate court pending the determination of the petition for review, or the trial or appellate court may issue a stay *sua sponte*.

(g) *Answer to petition for review.*—If the Commonwealth does not intend to file an answer under this rule, it shall, within the time fixed by these rules for filing an answer, file a letter stating that it does not intend to file an answer to the petition for review. The failure to file an answer will not be construed as concurrence in the petition for review. The appellate court may, however, direct the Commonwealth to file an answer. **An answer to a petition for review shall contain the certificate of compliance required by Pa.R.A.P. 127.**

(h) Pa.R.A.P. 1531—1571 do not apply to petitions for review filed under this rule. Pa.R.A.P. 1514 does apply, except that no copy of the petition needs to be served upon the Attorney General.

(i) *Grant of petition for review and transmission of record.*—If the petition for review is granted, the prothonotary of the appellate court shall immediately give written notice of the entry of the order to the clerk of the trial court and to each party who has appeared in the appellate court. The grant of the petition for review shall operate as a stay of all trial court proceedings. The clerk of the trial court shall docket the notice in the same manner as a notice of appeal and shall mail that notice to all parties to the trial court proceeding. The certified record shall be transmitted and filed in accordance with Chapter 19 (preparation and transmission of the record and related matters). The times fixed by those provisions for transmitting the record shall run from the date of the entry of the order granting the petition for review. No party needs to file a separate notice of appeal.

(j) *Denial of petition for review.*—If the petition for review is denied, the prothonotary of the appellate court shall immediately give written notice of the order to the clerk of the trial court and to each party who has appeared in the appellate court.

Official Note: The trial court's determination and the procedure for determining a motion to dismiss on double jeopardy grounds is set forth in Pa.R.Crim.P. 587. If a trial court denies such a motion without expressly finding that the motion is frivolous, the order is immediately appealable by means of a notice of appeal under Pa.R.A.P. 313. If, however, the trial court finds the motion to be frivolous, appellate review can be secured only if the appellate court grants a petition for review. See *Commonwealth v. Ori*, 22 A.3d 1021 (Pa. 2011); *Commonwealth v. Brady*, [510 Pa. 336,] 508 A.2d 286 (Pa. 1986). If the Superior Court does not grant the petition for review, the defendant may file a petition for allowance of appeal with the Supreme Court.

Where the petition for review of the determination of frivolousness is granted, the grant automatically initiates a separate appeal on the merits from the order denying the pretrial motion seeking dismissal of criminal charges on double jeopardy grounds.

A party may seek (or a court may *sua sponte* issue) a stay of the trial court proceedings pending review of the frivolousness determination. Otherwise, the trial court may proceed while the petition for review is pending. See Pa.R.A.P. 1701(d). Where the petition for review of the determination of frivolousness is granted, the grant automatically stays further proceedings in the trial courts.

**CHAPTER 17. EFFECT OF APPEALS;
SUPERSEDEAS AND STAYS
IN GENERAL**

Rule 1703. Contents of Application for Stay.

In addition to the requirements set forth in [**Rule**] Pa.R.A.P. 123 (Application for Relief), an application for stay pursuant to this chapter shall set forth the procedural posture of the case, including the result of any application for relief in any court below or federal court, the specific rule under which a stay or supersedeas is sought, grounds for relief, and, if expedited relief is sought, the nature of the emergency. The application shall also identify and set forth the procedural posture of all related proceedings. **The application shall contain the certificate of compliance required by Pa.R.A.P. 127.**

STAY OR INJUNCTION IN CIVIL MATTERS

Rule 1732. Application for Stay or Injunction Pending Appeal.

(a) *Application to [lower] trial court.*—Application for a stay of an order of a [lower] trial court pending appeal, or for approval of or modification of the terms of any supersedeas, or for an order suspending, modifying, restoring, or granting an injunction during the pendency of an appeal, or for relief in the nature of peremptory mandamus, must ordinarily be made in the first instance to the [lower] trial court, except where a prior order under this chapter has been entered in the matter by the appellate court or a judge thereof.

(b) *Contents of application for stay.*—An application for stay of an order of a [lower] trial court pending appeal, or for approval of or modification of the terms of any supersedeas, or for an order suspending, modifying, restoring, or granting an injunction during the pendency of an appeal, or for relief in the nature of peremptory mandamus, may be made to the appellate court or to a judge thereof, but the application shall show that application to the [lower] trial court for the relief sought is not practicable, or that the [lower] trial court has denied an application, or has failed to afford the relief which the applicant requested, with the reasons given by the [lower] trial court for its action. The application shall also show the reasons for the relief requested and the facts relied upon, and if the facts are subject to dispute the application shall be supported by sworn or verified statements or copies thereof. With the application shall be filed such parts of the record as are relevant. Where practicable, the application should be accompanied by the briefs, if any, used in the [lower] trial court. **The application shall contain the certificate of compliance required by Pa.R.A.P. 127.**

(c) *Number of copies.*—Seven copies of applications under this rule in the Supreme Court or the Superior Court, and three copies of applications under this rule in the Commonwealth Court, shall be filed with the original.

Official Note: The subject matter of this rule was covered by former Supreme Court Rule 62, former Superior Court Rule 53, and former Commonwealth Court Rule 112. The flat seven day period for answer of former Supreme Court Rule 62 (which presumably was principally directed at allocatur practice) has been omitted in favor of the more flexible provisions of [Rule] Pa.R.A.P. 123(b).

REVIEW OF DISPOSITIONAL ORDER FOR OUT OF HOME PLACEMENT IN JUVENILE DELINQUENCY MATTERS

Rule 1770. Review of Out of Home Placement in Juvenile Delinquency Matters.

(a) *General rule.*—If a court under the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.*, enters an order after an adjudication of delinquency of a juvenile pursuant to Rules of Juvenile Court Procedure 409(A)(2) and 515, which places the juvenile in an out of home overnight placement in any agency or institution that shall provide care, treatment, supervision, or rehabilitation of the juvenile (“Out of Home Placement”), the juvenile may seek review of that order pursuant to a petition for review under Chapter 15 (judicial review of governmental determinations). The petition shall be filed within ten days of the said order.

(b) *Content.*—A petition for review under subdivision (a) shall contain **the following**:

[(i)] (1) a specific description of any determinations made by the juvenile court;

[(ii)] (2) the matters complained of;

[(iii)] (3) a concise statement of the reasons why the juvenile court abused its discretion in ordering the Out of Home Placement;

[(iv)] (4) the proposed terms and conditions of an alternative disposition for the juvenile; and

[(v)] (5) a request that the official court reporter for the juvenile court transcribe the notes of testimony as required by [subdivision] paragraph (g) of this Rule.

Any order(s) and opinion(s) relating to the Out of Home Placement and the transcript of the juvenile court’s findings shall be attached as appendices. The petition shall be supported by a certificate of counsel to the effect that it is presented in good faith and not for delay. **The petition shall contain the certificate of compliance required by Pa.R.A.P. 127.**

(c) *Objection to specific agency or institution, or underlying adjudication of delinquency, is not permitted.*

(1) A petition for review under [subdivision] paragraph (a) shall not challenge the specific agency or specific institution that is the site of the Out of Home Placement and instead shall be limited to the Out of Home Placement itself.

(2) A petition for review under [subdivision] paragraph (a) shall not challenge the underlying adjudication of delinquency.

(d) *Answer.*—Any answer shall be filed within ten days of service of the petition, and no other pleading is authorized. **Any answer shall contain the certificate of compliance required by Pa.R.A.P. 127.** [Rule] Pa.R.A.P. 1517 (applicable rules of pleading) and [Rule] Pa.R.A.P. 1531 (intervention) through 1551 (scope of review) shall not be applicable to a petition for review filed under [subdivision] paragraph (a).

(e) *Service.*—A copy of the petition for review and any answer thereto shall be served on the judge of the juvenile court and the official court reporter for the juvenile court. All parties in the juvenile court shall be served in accordance with [Rule] Pa.R.A.P. 121(b) (service of all papers required). The Attorney General of Pennsylvania need not be served in accordance with [Rule] Pa.R.A.P. 1514(c) (service), unless the Attorney General is a party in the juvenile court.

(f) *Opinion of juvenile court.*—Upon receipt of a copy of a petition for review under [subdivision] paragraph (a), if the judge who made the disposition of the Out of Home Placement did not state the reasons for such placement on the record at the time of disposition pursuant to Rule of Juvenile Court Procedure 512 (D), the judge shall file of record a brief statement of the reasons for the determination or where in the record such reasons may be found, within five days of service of the petition for review.

(g) *Transcription of Notes of Testimony.*—Upon receipt of a copy of a petition for review under [subdivision] paragraph (a), the court reporter shall transcribe the notes of testimony and deliver the transcript to the juvenile court within five business days. If the transcript is not prepared and delivered in a timely fashion, the juvenile court shall order the court reporter to transcribe

the notes and deliver the notes to the juvenile court, and may impose sanctions for violation of such an order. If the juvenile is proceeding *in forma pauperis*, the juvenile shall not be charged for the cost of the transcript. Chapter 19 of the Rules of Appellate Procedure shall not otherwise apply to petitions for review filed under this Rule.

(h) *Non-waiver of objection to placement.*—A failure to seek review under this rule of the Out of Home Placement shall not constitute a waiver of the juvenile's right to seek review of the placement in a notice of appeal filed by the juvenile from a disposition after an adjudication of delinquency.

Official Note: This Rule provides a mechanism for the expedited review of an order of Out of Home Placement entered pursuant to Rule of Juvenile Court Procedure 515. Rule of Juvenile Court Procedure 512(D) requires the judge who made the disposition of an Out of Home Placement to place the reasons for an Out of Home Placement on the record at the time of the disposition, and [subdivision] paragraph (f) of this Rule is only applicable in the exceptional circumstance where the judge who made the disposition of an Out of Home Placement fails to comply with Rule of Juvenile Court Procedure 512(D). The Juvenile Act, 42 Pa.C.S. § 6352, sets forth the considerations for a dispositional order following an adjudication of delinquency and the alternatives for disposition. The standard for review of a dispositional order is an abuse of discretion. See *In the Interest of A.D.*, 771 A.2d 45 (Pa. Super. 2001) (*en banc*).

STAY PENDING ACTION ON PETITION FOR REVIEW

Rule 1781. Stay Pending Action on Petition for Review.

(a) *Application to government unit.*—Application for a stay or supersedeas of an order or other determination of any government unit pending review in an appellate court on petition for review shall ordinarily be made in the first instance to the government unit.

(b) *Contents of application for stay or supersedeas.*—An application for stay or supersedeas of an order or other determination of a government unit, or for an order granting an injunction pending review, or for relief in the nature of peremptory mandamus, may be made to the appellate court or to a judge thereof, but the application shall show that application to the government unit for the relief sought is not practicable, or that application has been made to the government unit and denied, with the reasons given by it for the denial, or that the action of the government unit did not afford the relief which the applicant had requested. The application shall also show the reasons for the relief requested and the facts relied upon, and if the facts are subject to dispute the application shall be supported by sworn or verified statements or copies thereof. With the application shall be filed such parts, if any, of the record as are relevant to the relief sought. **The application shall contain the certificate of compliance required by Pa.R.A.P. 127.**

(c) *Notice and action by court.*—Upon such notice to the government unit as is required by [Rule] Pa.R.A.P. 123 (applications for relief) the appellate court, or a judge thereof, may grant an order of stay or supersedeas, including the grant of an injunction pending review or relief in the nature of peremptory mandamus, upon such terms and conditions, including the filing of security, as the court or the judge thereof may prescribe. Where a

statute requires that security be filed as a condition to obtaining a supersedeas, the court shall require adequate security.

CHAPTER 19. PREPARATION AND TRANSMISSION OF RECORD AND RELATED MATTERS

RECORD ON APPEAL FROM LOWER COURT

Rule 1931. Transmission of the Record.

(a) *Time for transmission.*

(1) *General rule.*—Except as otherwise prescribed by this rule, the record on appeal, including the transcript and exhibits necessary for the determination of the appeal, shall be transmitted to the appellate court within 60 days after the filing of the notice of appeal. If an appeal has been allowed or if permission to appeal has been granted, the record shall be transmitted as provided by [Rule] Pa.R.A.P. 1122 (allowance of appeal and transmission of record) or by [Rule] Pa.R.A.P. 1322 (permission to appeal and transmission of record), as the case may be. The appellate court may shorten or extend the time prescribed by this [subdivision] paragraph for a class or classes of cases.

(2) *Children's fast track appeals.*—In a children's fast track appeal, the record on appeal, including the transcript and exhibits necessary for the determination of the appeal, shall be transmitted to the appellate court within 30 days after the filing of the notice of appeal. If an appeal has been allowed or if permission to appeal has been granted, the record shall be transmitted as provided by [Rule] Pa.R.A.P. 1122 (allowance of appeal and transmission of record) or by [Rule] Pa.R.A.P. 1322 (permission to appeal and transmission of record), as the case may be.

(b) *Duty of [lower] trial court.*—After a notice of appeal has been filed the judge who entered the order appealed from shall comply with [Rule] Pa.R.A.P. 1925 (opinion in support of order), shall cause the official court reporter to comply with [Rule] Pa.R.A.P. 1922 (transcription of notes of testimony) or shall otherwise settle a statement of the evidence or proceedings as prescribed by this chapter, and shall take any other action necessary to enable the clerk to assemble and transmit the record as prescribed by this rule.

(c) *Duty of clerk to transmit the record.*—When the record is complete for purposes of the appeal, the clerk of the lower court shall transmit it to the prothonotary of the appellate court. The clerk of the lower court shall number the documents comprising the record and shall transmit with the record a list of the documents correspondingly numbered and identified with sufficient specificity to allow the parties on appeal to identify each document and **whether it is marked as confidential, so as to determine whether the record on appeal is complete. Any Confidential Information Forms and the "Unredacted Version" of any pleadings, documents, or other legal papers where a "Redacted Version" was also filed shall be separated either physically or electronically and transmitted to the appellate court. Whatever is confidential shall be labeled as such. If any case records or documents were sealed in the lower court, the list of documents comprising the record shall specifically identify such records or documents as having been sealed in the lower court.** Documents of unusual bulk or weight and physical exhibits other than documents

shall not be transmitted by the clerk unless he or she is directed to do so by a party or by the prothonotary of the appellate court. A party must make advance arrangements with the clerk for the transportation and receipt of exhibits of unusual bulk or weight. Transmission of the record is effected when the clerk of the lower court mails or otherwise forwards the record to the prothonotary of the appellate court. The clerk of the lower court shall indicate, by endorsement on the face of the record or otherwise, the date upon which the record is transmitted to the appellate court.

(d) *Service of the list of record documents.*—The clerk of the lower court shall, at the time of the transmittal of the record to the appellate court, mail a copy of the list of record documents to all counsel of record, or if unrepresented by counsel, to the parties at the address they have provided to the clerk. The clerk shall note on the docket the giving of such notice.

(e) *Multiple appeals.*—Where more than one appeal is taken from the same order, it shall be sufficient to transmit a single record, without duplication.

(f) *Inconsistency between list of record documents and documents actually transmitted.*—If the clerk of the lower court fails to transmit to the appellate court all of the documents identified in the list of record documents, such failure shall be deemed a breakdown in processes of the court. Any omission shall be corrected promptly pursuant to [**Rule**] **Pa.R.A.P.** 1926 (correction or modification of the record) and shall not be the basis for any penalty against a party.

Official Note: [**Rule**] **Pa.R.A.P.** 1926 (correction or modification of the record) provides the means to resolve any disagreement between the parties as to what should be included in the record on appeal.

RECORD ON PETITION FOR REVIEW OF ORDERS OF GOVERNMENT UNITS OTHER THAN COURTS

Rule 1952. Filing of Record in Response to Petition for Review.

(a) *Time and notice.*—Where under the applicable law the question raised by a petition for review may be determined in whole or in part upon the record before the government unit, the government unit shall file the record with the prothonotary of the court named in the petition for review within 40 days after service upon it of the petition. The court may shorten or extend the time prescribed in this [**subdivision**] **paragraph**. The prothonotary shall give notice to all parties of the date on which the record is filed.

(b) *Certificate of record.*—The government unit shall certify the contents of the record and a list of all documents, transcripts of testimony, exhibits and other material comprising the record. The government unit shall (1) arrange the documents to be certified in chronological order, (2) number them, and (3) affix to the right or bottom edge of the first page of each document a tab showing the number of that document. These shall be bound and shall contain a table of contents identifying each document in the record. **If any documents or case records were maintained as confidential in the government unit, the list of documents that comprise the record shall specifically identify such documents or the entire record as having been maintained as confidential, and the government unit shall either physically or electronically separate such documents.** The certificate shall be made by the head, chairman, deputy, or secretary of the govern-

ment unit. The government unit may file the entire record or such parts thereof as the parties may designate by stipulation filed with the government unit. The original papers in the government unit or certified copies thereof may be filed.

Instead of filing the record or designated parts thereof, the government unit may file a certified list of all documents, transcripts of testimony, exhibits, and other material comprising the record, or a certified list of such parts thereof as the parties may designate, adequately describing each, and the filing of the certified list shall constitute filing of the record. **If any documents or case records were maintained as confidential in the government unit, the list of documents that comprise the record shall specifically identify such documents or the entire record as having been maintained as confidential.** The parties may stipulate that neither the record nor a certified list be filed with the court. The stipulation shall be filed with the prothonotary of the court, and the date of its filing shall be deemed the date on which the record is filed. If a certified list is filed, or if the parties designate only parts of the record for filing or stipulate that neither the record nor a certified list be filed, the government unit shall retain the record or parts thereof. Upon request of the court or the request of a party, the record or any part thereof thus retained shall be transmitted to the court notwithstanding any prior stipulation. All parts of the record retained by the government unit shall be a part of the record on review for all purposes.

(c) *Notice to counsel of contents of certified record.*—At the time of transmission of the record to the appellate court, the government unit shall send a copy of the list of the contents of the certified record to all counsel of record, or, if a party is unrepresented by counsel, to that party at the address provided to the government unit.

Official Note: The addition of [**subdivision**] **paragraph** (c) in 2012 requires government units other than courts to notify counsel of the contents of the certified record. This is an extension of the requirement in [**Rule**] **Pa.R.A.P.** 1931 (transmission of the record) that trial courts give such notice.

CHAPTER 21. BRIEFS AND REPRODUCED RECORD

CONTENT OF BRIEFS

Rule 2111. Brief of the Appellant.

(a) *General rule.*—The brief of the appellant, except as otherwise prescribed by these rules, shall consist of the following matters, separately and distinctly entitled and in the following order:

- (1) Statement of jurisdiction.
- (2) Order or other determination in question.
- (3) Statement of both the scope of review and the standard of review.
- (4) Statement of the questions involved.
- (5) Statement of the case.
- (6) Summary of argument.
- (7) Statement of the reasons to allow an appeal to challenge the discretionary aspects of a sentence, if applicable.
- (8) Argument for appellant.
- (9) A short conclusion stating the precise relief sought.

(10) The opinions and pleadings specified in [**Subdivisions**] **paragraphs** (b) and (c) of this rule.

(11) In the Superior Court, a copy of the statement of errors complained of on appeal, filed with the trial court pursuant to [**Rule**] **Pa.R.A.P.** 1925(b), or an averment that no order requiring a statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(b) was entered.

(12) The certificates of compliance required by Pa.R.A.P. 127 and 2135(d).

(b) *Opinions below.*—There shall be appended to the brief a copy of any opinions delivered by any [**court**] **trial court, intermediate appellate court,** or other government unit [**below**] relating to the order or other determination under review, if pertinent to the questions involved. If an opinion has been reported, that fact and the appropriate citation shall also be set forth.

(c) *Pleadings.*—When pursuant to [**Rule**] **Pa.R.A.P.** 2151(c) (original hearing cases) the parties are not required to reproduce the record, and the questions presented involve an issue raised by the pleadings, a copy of the relevant pleadings in the case shall be appended to the brief.

(d) *Brief of the Appellant.*—In the Superior Court, there shall be appended to the brief of the appellant a copy of the statement of errors complained of on appeal, filed with the trial court pursuant to Pa.R.A.P. 1925(b). If the trial court has not entered an order directing the filing of such a statement, the brief shall contain an averment that no order to file a statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(b) was entered by the trial court.

Official Note: The 1999 amendment requires a statement of the scope and standard of review. “Scope of review’ refers to ‘the confines within which an appellate court must conduct its examination.’ (Citation omitted.) In other words, it refers to the matters (or ‘what’) the appellate court is allowed to examine. In contrast, ‘standard of review’ refers to the manner in which (or ‘how’) that examination is conducted.” *Morrison v. Commonwealth, Dept. of Public Welfare*, [**538 Pa. 122, 131**,] 646 A.2d 565, 570 (**Pa.** 1994). This amendment incorporates the prior practice of the Superior Court pursuant to Pa.R.A.P. 3518 which required such statements. Accordingly, [**Rule**] **Pa.R.A.P.** 3518 has been rescinded and its requirement is now subsumed under paragraph (a)(2) of this Rule.

Pa.R.A.P. 2119(f) requires a separate statement of reasons that an appellate court should allow an appeal to challenge the discretionary aspects of a sentence. The 2008 amendments recognize that, while Pa.R.A.P. 2119(f) does not apply to all appeals, an appellant must include the reasons for allowance of appeal as a separate enumerated section immediately before the Argument section if he or she desires to challenge the discretionary aspects of a sentence.

Rule 2112. Brief of the Appellee.

The brief of the appellee, except as otherwise prescribed by these rules, need contain only a summary of argument and the complete argument for appellee, and may also include counter-statements of any of the matters required in the appellant’s brief as stated in Pa.R.A.P. 2111(a). Unless the appellee does so, or the brief of the appellee otherwise challenges the matters set forth in the appellant’s brief, it will be assumed the appellee is satisfied with them, or with such parts of them as remain

unchallenged. **The brief of the appellee shall contain the certificates of compliance required by Pa.R.A.P. 127 and 2135(d).**

Official Note: See Pa.R.A.P. 2111 and 2114—2119.

Rule 2113. Reply Brief.

(a) *General rule.*—In accordance with [**Rule**] **Pa.R.A.P.** 2185(a) (time for serving and filing briefs), the appellant may file a brief in reply to matters raised by appellee’s brief or in any *amicus curiae* brief and not previously addressed in appellant’s brief. If the appellee has cross appealed, the appellee may file a similarly limited reply brief. **A reply brief shall contain the certificates of compliance required by Pa.R.A.P. 127 and 2135(d).**

(b) *Response to draft or plan.*—A reply brief may be filed as prescribed in [**Rule**] **Pa.R.A.P.** 2134 (drafts or plans).

(c) *Other briefs.*—No further briefs may be filed except with leave of court.

Official Note: An appellant now has a general right to file a reply brief. The scope of the reply brief is limited, however, in that such brief may only address matters raised by appellee and not previously addressed in appellant’s brief. No subsequent brief may be filed unless authorized by the court.

The length of a reply brief is set by [**Rule**] **Pa.R.A.P.** 2135 (length of briefs). The due date for a reply brief is found in [**Rule**] **Pa.R.A.P.** 2185(a) (service and filing of briefs).

Where there are cross appeals, the deemed or designated appellee may file a similarly limited reply brief addressing issues in the cross appeal. *See also* [**Rule**] **Pa.R.A.P.** 2136 (briefs in cases involving cross appeals).

The 2011 amendment to [**subdivision**] **paragraph** (a) authorized an appellant to address in a reply brief matters raised in *amicus curiae* briefs. Before the 2011 amendment, the rule permitted the appellant to address in its reply brief only matters raised in the appellee’s brief. The 2011 amendment did not change the requirement that the reply brief must not address matters previously addressed in the appellant’s principal brief.

CONTENT OF REPRODUCED RECORD

Rule 2152. Content and Effect of Reproduced Record.

(a) *General rule.*—The reproduced record shall contain **the following:**

(1) The relevant docket entries and any relevant related matter (*see* [**Rule**] **Pa.R.A.P.** 2153 (docket entries and related matter)).

(2) Any relevant portions of the pleadings, charge or findings (*see* [**Rule**] **Pa.R.A.P.** 2175(b) (order and opinions) which provides for a cross reference note only to orders and opinions reproduced as part of the brief of appellant).

(3) Any other parts of the record to which the parties wish to direct the particular attention of the appellate court.

(4) The certificate of compliance required by Pa.R.A.P. 127.

(b) *Immaterial formal matters.*—Immaterial formal matters (captions, subscriptions, acknowledgments, etc.) shall be omitted.

(c) *Effect of reproduction of record.*—The fact that parts of the record are not included in the reproduced record shall not prevent the parties or the appellate court from relying on such parts.

(d) “Confidential Information” and “Confidential Documents”, as those terms are defined in the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts, shall appear in the reproduced record in the same manner and format as they do in the original record.

Official Note: The general rule has long been that evidence which has no relation to or connection with the questions involved must not be reproduced. See former Supreme Court Rule 44, former Superior Court Rule 36 and former Commonwealth Court Rule 88. See also, e.g., *Shapiro v. Malarkey*, [278 Pa. 78, 84, 122 Atl. 341, 342, 29 A.L.R. 1358 (1923)] 122 A. 341, 342 (Pa. 1923); *Sims v. Pennsylvania R.R. Co.*, [279 Pa. 111, 117, 123 Atl.] 123 A. 676, 679 (Pa. 1924).

See [Rule] Pa.R.A.P. 2189 for procedure in cases involving the death penalty.

The Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts (“Public Access Policy”) does not apply retroactively to pleadings, documents, or other legal papers filed prior to the effective date of the Public Access Policy. Reproduced records may therefore contain pleadings, documents, or legal papers that do not comply with the Public Access Policy if they were originally filed prior to the effective date of the Public Access Policy.

Rule 2156. Supplemental Reproduced Record.

When, because of exceptional circumstances, the parties are not able to cooperate on the preparation of the reproduced record as a single document, the appellee may, in lieu of proceeding as otherwise provided in this chapter, prepare, serve [**and file a Supplemental Reproduced Record**], and file a supplemental reproduced record setting forth the portions of the record designated by the appellee. **A supplemental reproduced record shall contain the certificate of compliance required by Pa.R.A.P. 127. “Confidential Information” and “Confidential Documents”, as those terms are defined in the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts, shall appear in the reproduced record in the same manner and format as they do in the original record.**

Official Note: Former Supreme Court Rules 36, 38 and 57, former Superior Court Rules 28, 30, and 47 and former Commonwealth Court Rules 32A, 82, and 84 all inferentially recognized that a supplemental record might be prepared by the appellee, but the former rules were silent on the occasion for such a filing. The preparation of a single reproduced record has obvious advantages, especially where one party designates one portion of the testimony, and the other party designates immediately following testimony on the same subject. However, because of emergent circumstances or otherwise, agreement on the mechanics of a joint printing effort may collapse, without affording sufficient time for the filing and determination of an application for enforcement of the usual procedures. In that case an appellee may directly present the relevant portions of the record to the appellate court.

As the division of the reproduced record into two separate documents will ordinarily render the record less intelligible to the court and the parties, the preparation of a supplemental reproduced record is not favored and the appellate court may suppress a supplemental record which has been separately reproduced without good cause.

The Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts (“Public Access Policy”) does not apply retroactively to pleadings, documents, or other legal papers filed prior to the effective date of the Public Access Policy. Supplemental reproduced records may therefore contain pleadings, documents, or legal papers that do not comply with the Public Access Policy if they were originally filed prior to the effective date of the Public Access Policy.

FORM OF BRIEFS AND REPRODUCED RECORD

Rule 2171. Method of Reproduction. Separate Brief and Record.

(a) *General Rule.*—Briefs and reproduced records may be reproduced by any duplicating or copying process which produces a clear black image on white paper. Briefs and records shall comply with the requirements of [Rule] Pa.R.A.P. 124 and shall be firmly bound at the left margin.

(b) *Separate brief and record.*—In all cases the reproduced record may be bound separately, and must be if it and the brief together contain more than 100 pages or if the reproduced record contains “Confidential Information” or “Confidential Documents”, as those terms are defined in the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* (“Public Access Policy”), in any pleadings, documents, or legal papers originally filed after the effective date of the Public Access Policy.

Official Note: See Rule 124 (form of papers; number of copies) for general provisions on quality, size and format of papers (including briefs and reproduced records) filed in Pennsylvania courts.

CHAPTER 25. POST-SUBMISSION PROCEEDINGS

APPLICATION FOR REARGUMENT

Rule 2544. Contents of Application for Reargument.

(a) *General rule.*—The application for reargument need not be set forth in numbered paragraphs in the manner of a pleading, and shall contain the following (which shall, insofar as practicable, be set forth in the order stated):

(1) A reference to the order in question, or the portions thereof sought to be reargued, and the date of its entry in the appellate court. If the order is voluminous, it may, if more convenient, be appended to the application.

(2) A specification with particularity of the points of law or fact supposed to have been overlooked or misapprehended by the court.

(3) A concise statement of the reasons relied upon for allowance of reargument. See [Rule] Pa.R.A.P. 2543 (considerations governing allowance of reargument).

(4) There shall be appended to the application a copy of any opinions delivered relating to the order with respect to which reargument is sought, and, if reference thereto is necessary to ascertain the grounds of the application for reargument, slip opinions in related cases. If whatever

is required by this paragraph to be appended to the application is voluminous, it may, if more convenient, be separately presented.

(b) *No supporting brief.*—All contentions in support of an application for reargument shall be set forth in the body of the application as prescribed by paragraph (a)(3) of this rule. No separate brief in support of an application for reargument will be received, and the prothonotary of the appellate court will refuse to file any application for reargument to which is annexed or appended any supporting brief.

(c) *Length.*—Except by permission of the court, an application for reargument shall not exceed 3,000 words, exclusive of pages containing table of contents, table of citations and any addendum containing opinions, etc., or any other similar supplementary matter provided for by this rule.

(d) *Certificate of compliance.* [—]

(1) *Word count.*—An application for reargument that does not exceed 8 pages when produced on a word processor or typewriter shall be deemed to meet the limitation in [**subdivision**] **paragraph** (c) of this rule. In all other cases, the attorney or unrepresented filing party shall include a certification that the application for reargument complies with the word count limits. The certificate may be based on the word count of the word processing system used to prepare the application for reargument.

(2) Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.—An application for reargument shall contain the certificate of compliance required by Pa.R.A.P. 127.

(e) *Essential requisites of application.*—The failure of an applicant to present with accuracy, brevity, and clearness whatever is essential to a ready and adequate understanding of the points requiring reconsideration will be a sufficient reason for denying the application.

(f) *Multiple applicants.*—Where permitted by [**Rule**] **Pa.R.A.P.** 512 (joint appeals) a single application for reargument may be filed.

Rule 2545. Answer to Application for Reargument.

(a) *General rule.*—Except as otherwise prescribed by this rule, within 14 days after service of an application for reargument, an adverse party may file an answer. The answer shall be deemed filed on the date of mailing if first class, express, or priority United States Postal Service mail is utilized. The answer need not be set forth in numbered paragraphs in the manner of a pleading. The answer shall set forth any procedural, substantive or other argument or ground why the court should not grant reargument. **The answer shall contain the certificate of compliance required by Pa.R.A.P. 127.** No separate motion to dismiss an application for reargument will be received. A party entitled to file an answer under this rule who does not intend to do so shall, within the time fixed by these rules for filing an answer, file a letter stating that an answer to the application for reargument will not be filed. The failure to file an answer will not be construed as concurrence in the request for reargument.

(b) *Children's fast track appeals.*—In a children's fast track appeal, within 7 days after service of an application for reargument, an adverse party may file an answer. The answer shall be deemed filed on the date of mailing if first class, express, or priority United States Postal Service mail is utilized. The answer need not be set forth

in numbered paragraphs in the manner of a pleading. The answer shall set forth any procedural, substantive or other argument or ground why the court should not grant reargument. **The answer shall contain the certificate of compliance required by Pa.R.A.P. 127.** No separate motion to dismiss an application for reargument will be received. A party entitled to file an answer under this rule who does not intend to do so shall, within the time fixed by these rules for filing an answer, file a letter stating that an answer to the application for reargument will not be filed. The failure to file an answer will not be construed as concurrence in the request for reargument.

CHAPTER 27. FEES AND COSTS IN APPELLATE COURTS AND ON APPEAL

COSTS

Rule 2751. Applications for Further Costs and Damages.

An application for further costs and damages must be made before the record is remanded, unless the appellate court, for cause shown, shall otherwise direct. Such an application must set forth specifically the reasons why it should be granted, and shall be accompanied by the opinion of the court and the briefs used therein. **An application for further costs and damages shall contain the certificate of compliance required by Pa.R.A.P. 127.**

Official Note: Based on former Supreme Court Rule 65 and former Superior Court Rule 56, and makes no change in substance.

[Pa.B. Doc. No. 18-92. Filed for public inspection January 19, 2018, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 200, 1000 AND 2020]

Order Adopting Rule 205.6 and Amending Rules 229.2, 240, 1018 and 2028 of the Rules of Civil Procedure; No. 675 Civil Procedural Rules Doc.

Order

Per Curiam

And Now, this 5th day of January, 2018, upon the recommendation of the Civil Procedural Rules Committee; the proposal having been published for public comment at 47 Pa.B. 4662 (August 12, 2017):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 205.6 of the Pennsylvania Rules of Civil Procedure is adopted and Rules 229.2, 240, 1018, and 2028 of the Pennsylvania Rules of Civil Procedure are 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 January 6, 2018.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

(Editor's Note: The following rule is added and printed in regular type to enhance readability.)

Rule 205.6. Confidential Information and Confidential Documents. Certification.

Unless public access is otherwise constrained by applicable authority, any attorney, or any party if unrepresented, who files a document pursuant to these rules with the prothonotary's office shall comply with the requirements of Sections 7.0 and 8.0 of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts (Policy) including a certification of compliance with the Policy and, as necessary, a Confidential Information Form, unless otherwise specified by rule or order of court, or a Confidential Document Form in accordance with the Policy.

Official Note: Applicable authority includes but is not limited to statute, procedural rule or court order. The Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts (Policy) can be found on the website of the Supreme Court of Pennsylvania at http://www.pacourts.us/public-records. Sections 7.0(D) and 8.0(D) of the Policy provide that the certification shall be in substantially the following form:

I certify that this filing complies with the provisions of the 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.

The Confidential Information Form and the Confidential Document Form can be found at http://www.pacourts.us/public-records. In lieu of the Confidential Information Form, Section 7.0(C) of the Policy provides for a court to adopt a rule or order permitting the filing of a document in two versions, a "Redacted Version" and an "Unredacted Version."

Rule 229.2. Petition to Transfer Structured Settlement Payment Rights.

* * * * *

(f) The Payee's Affidavit in Support of Petition shall be substantially in the following form:

(Caption)

Payee's Affidavit in Support of
Petition to Transfer Structured Settlement Rights

I, _____, the payee, verify that the statements below are true and correct:

* * * * *

3. Minor children and other dependents:

[Names] Initials of minor children, names of other dependents, ages, and places of residence:

* * * * *

Official Note: The form of order does not preclude a court from adding additional language to the order as deemed appropriate in the individual circumstances of a case.

The filings required by this rule are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. See Rule 205.6.

Rule 240. In Forma Pauperis.

(a) This rule shall apply to all civil actions and proceedings except actions pursuant to the Protection From Abuse Act and Protection of Victims of Sexual Violence or Intimidation Act.

Official Note: The term "all civil actions and proceedings" includes all domestic relations actions except those brought pursuant to the Protection From Abuse Act, [which are governed by] 23 Pa.C.S. § 6106, and Protection of Victims of Sexual Violence or Intimidation Act, 42 Pa.C.S. §§ 62A01-62A20.

* * * * *

(h) The affidavit in support of a petition for leave to proceed in forma pauperis shall be substantially in the following form:

(Caption)

* * * * *

3. I represent that the information below relating to my ability to pay the fees and costs is true and correct:

* * * * *

(g) Persons dependent upon you for support

(Wife) (Husband) Name: _____

Children, if any:

[Name] Initials: _____

* * * * *

(j)(1) If, simultaneous with the commencement of an action or proceeding or the taking of an appeal, a party has filed a petition for leave to proceed in forma pauperis, the court prior to acting upon the petition may dismiss the action proceeding or appeal if the allegation of poverty is untrue or if it is satisfied that the action, proceeding or appeal is frivolous.

Official Note: A frivolous action or proceeding has been defined as one that "lacks an arguable basis either in law or in fact." Neitzke v. Williams, 490 U.S. 319, 109 S.Ct. 1827, 104 L.Ed.2d 338 (1989).

(2) If the petitioner commences the action by writ of summons, the court shall not act on the petition for leave to proceed in forma pauperis until the complaint is filed. If the complaint has not been filed within ninety days of the filing of the petition, the court may dismiss the action pursuant to subdivision (j)(1).

Official Note: The filings required by this rule are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. See Rule 205.6.

CHAPTER 1000. ACTIONS

Subchapter A. CIVIL ACTION

PLEADINGS

Rule 1018. Caption.

Every pleading shall contain a caption setting forth the name of the court, the number of the action and the name

of the pleading. The caption of a complaint shall set forth the form of the action and the names of all the parties, but in other pleadings it is sufficient to state the name of the first party on each side in the complaint with an appropriate indication of other parties.

Official Note: Civil Actions and proceedings shall be captioned “Court of Common Pleas of _____ County—Civil Action” or other appropriate form of action.

The caption of all legal papers filed in a medical professional liability action must contain the designation “Civil Action—Medical Professional Liability Action.” See Rule 1042.16.

The caption of all legal papers filed in a civil action by and against a minor must designate the minor by the initials of his or her first and last name. See Rule 2028.

CHAPTER 2020. MINORS AS PARTIES

Rule 2028. Actions By and Against Minors. Averments in Plaintiff’s Pleading.

(a) An action in which a minor is plaintiff shall be entitled “A, a Minor, by B, Guardian,” against the party defendant. **The minor shall be designated by the initials of his or her first and last name.**

Official Note: Under the above rule the representative of a minor plaintiff is termed a “guardian” regardless of whether under prior practice he or she would be termed a legal guardian or a next friend.

(b) The initial pleading filed in behalf of a minor plaintiff shall state the name and address of his or her guardian and the guardian’s relationship, if any, to the subject matter of the action or to any of the parties thereto. In case the person selected as guardian is a guardian appointed by any court of competent jurisdiction or by a will duly probated, the initial pleading shall contain a reference to the record of the appointment.

(c) An action in which a minor is the defendant shall be commenced against the minor [**by name**] in the manner in which a like action is commenced against an adult. **The minor shall be designated by the initials of his or her first and last name.**

Official Note: An action against a minor is begun in the same manner as an action against an adult, although by Rule 2034[, *infra*,] as under prior practice, the subsequent appointment of a guardian to represent the minor is essential to the rendition of a valid judgment against the minor.

Official Note: The filings required by this rule are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. See Rule 205.6.

EXPLANATORY COMMENT

On January 6, 2017, the Supreme Court of Pennsylvania adopted the *Public Access Policy: Case Records of the Appellate and Trial Courts* (Policy), which will become effective January 6, 2018. To provide guidance to practitioners regarding the Policy, new Rule 205.6 has been adopted and provides that absent any applicable authority that constrains public access, all civil filings must comply with the Policy. Of particular importance are the requirements of Sections 7.0 and 8.0 of the Policy governing confidential information and confidential documents. In addition, the rule provides that all practitioners and unrepresented parties must certify that a filing is compliant with the Policy.

Conforming amendments have been made to Rule 229.2 governing the petition to transfer structured settlement payment rights, Rule 240 governing the petition to proceed *in forma pauperis*, Rule 1018 governing captions, and Rule 2028 governing the naming and caption of minor children’s names in actions by and against a minor. Section 7.0(A)(5) of the Policy prohibits the disclosure of the names of minor children in a filing unless the minor is charged as a defendant in a criminal matter. Both Rule 229.2 and Rule 240 require the filing of an affidavit in support of the petition. The form affidavit currently requires the disclosure of the full names of any minor children of the petitioner. See Rule 229.2(f) and 240(h). The amendment requires a petitioner to provide the initials only of any minor children. For Rule 2028, the amended rule requires that minor’s initials only be provided in the caption. A cross-reference to Rule 2028 has been added to the note to Rule 1018. In addition, a note cross-referencing new Rule 205.6 has been added to Rules 229.2, 240, and 2028. Stylistic amendments to Rule 240 have also been made.

*By the Civil Procedural
Rules Committee*

DAVID L. KWASS,
Chair

[Pa.B. Doc. No. 18-93. Filed for public inspection January 12, 2018, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 1900, 1910, 1915, 1920, 1930
AND 1950]

Order Amending Rules 1901.3, 1901.6, 1905,
1910.4, 1910.7, 1910.11, 1910.27, 1915.3,
1915.4-4, 1915.7, 1915.15, 1915.17, 1915.18,
1920.13, 1920.15, 1920.31, 1920.33, 1920.75,
1930.1, 1930.6, 1953 and 1959 of the Rules of
Civil Procedure; No. 674 Civil Procedural Rules
Doc.

Order

Per Curiam

And Now, this 5th day of January, 2018, upon the recommendation of the Domestic Relations Procedural Rules Committee; the proposal having been published for public comment in the *Pennsylvania Bulletin*, 47 Pa.B. 4664 (August 12, 2017):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 1901.3, 1901.6, 1905, 1910.4, 1910.7, 1910.11, 1910.27, 1915.3, 1915.4-4, 1915.7, 1915.15, 1915.17, 1915.18, 1920.13, 1920.15, 1920.31, 1920.33, 1920.75, 1930.1, 1930.6, 1953, and 1959 of the Pennsylvania Rules of Civil Procedure are 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 January 6, 2018.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1900. ACTIONS PURSUANT TO THE PROTECTION FROM ABUSE ACT

Rule 1901.3. Commencement of Action.

* * * * *

(d) The master for emergency relief shall follow the procedures set forth in the Pennsylvania Rules of Civil Procedure Governing Actions and [proceedings before magisterial district judges] Proceedings Before Magisterial District Judges for emergency relief under the Protection From Abuse Act.

[Explanatory Comment—2006

New subdivision (c) reflects the 2005 amendments to the Protection From Abuse Act which prohibits charging fees or costs against the plaintiff. 23 Pa.C.S.A. § 6106(b). The 2005 amendments to 23 Pa.C.S.A. § 6110(e) of the Protection From Abuse Act authorize the use of masters for emergency relief which is reflected in new subdivision (d).]

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.

Rule 1901.6. [No responsive pleading required.] Responsive Pleading Not Required.

[No pleading need be filed in response] The defendant is not required to file an answer or other responsive pleading to the petition or the certified order, and all averments not admitted shall be deemed denied.

Official Note: For procedures as to the time and manner of hearings and issuance of orders, see 23 [Pa.C.S.A.] Pa.C.S. § 6107. For provisions as to the scope of relief available, see 23 [Pa.C.S.A.] Pa.C.S. § 6108. For provisions as to contempt for violation of an order, see 23 [Pa.C.S.A.] Pa.C.S. § 6114.

See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.

Rule 1905. Forms for Use in PFA Actions. Notice and Hearing. Petition. Temporary Protection Order. Final Protection Order.

* * * * *

(b) The petition in an action filed pursuant to the Act shall be substantially in the following form, but the first page (paragraphs 1 through 4), following the Notice of Hearing and Order, [must] shall be exactly as set forth in this rule:

* * * * *

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents

containing confidential information that are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.

(c) The Temporary Order of Court, or any continued, amended, or modified Temporary Order of Court, entered pursuant to the Act shall be substantially in the following form, but the first page [must] shall be exactly as set forth in this rule:

* * * * *

CHAPTER 1910. ACTIONS FOR SUPPORT

Rule 1910.4. Commencement of Action. Fee.

(a) An action shall be commenced by filing a complaint with the domestic relations section of the court of common pleas.

Official Note: For the form of the complaint, see [Rule] Pa.R.C.P. No. 1910.27(a).

See Pa.R.C.P. No. 1930.1(b). To the extent this rule applies to actions not governed by other legal authority regarding confidentiality of information and documents in support actions or that attorneys or unrepresented parties file support-related confidential information and documents in non-support actions (e.g., divorce, custody), the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts shall apply.

Section 961 of the Judicial Code, 42 Pa.C.S. § 961, provides that each court of common pleas shall have a domestic relations section.

(b) No filing fee shall be required in advance.

Rule 1910.7. [No] Pleading by Defendant Not Required. Question of Jurisdiction or Venue or Statute of Limitations in Paternity.

(a) [No] An answer or other responsive pleading by the defendant shall not be required, but if the defendant elects to file a pleading, the domestic relations office conference required by the order of court shall not be delayed.

Official Note: See Pa.R.C.P. No. 1930.1(b). To the extent this rule applies to actions not governed by other legal authority regarding confidentiality of information and documents in support actions or that attorneys or unrepresented parties file support-related confidential information and documents in non-support actions (e.g., divorce, custody), the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts shall apply.

(b) If defendant raises a question of jurisdiction or venue or in paternity cases the defense of the statute of limitations, the court shall promptly dispose of the question and may, in an appropriate case, stay the domestic relations office conference.

Rule 1910.11. Office Conference. Subsequent Proceedings. Order.

* * * * *

(c) At the conference, the parties shall furnish to the officer true copies of their most recent federal income tax returns, their pay stubs for the preceding six months, verification of child care expenses, and proof of medical coverage [which] that they may have or have available to them. In addition, [they] the parties shall provide

copies of their Income Statements and Expense Statements in the forms required by [Rule 1910.27(c), completed as set forth below] Pa.R.C.P. No. 1910.27(c) and completed as set forth in (1) and (2) of this subdivision.

Official Note: See Pa.R.C.P. No. 1930.1(b). To the extent this rule applies to actions not governed by other legal authority regarding confidentiality of information and documents in support actions or that attorneys or unrepresented parties file support-related confidential information and documents in non-support actions (e.g., divorce, custody), the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts shall apply.

(1) For cases which can be determined according to the guideline formula, the Income Statement must be completed and the Expense Statement at Rule 1910.27(c)(2)(A) should be completed if a party is claiming unusual needs and unusual fixed expenses that may warrant a deviation from the guideline amount of support pursuant to Rule 1910.16-5 or seeks apportionment of expenses pursuant to Rule 1910.16-6. In a support case that can be decided according to the guidelines, even if the support claim is raised in a divorce complaint, no expense form is needed unless a party claims unusual needs or unusual fixed expenses or seeks apportionment of expenses pursuant to Rule 1910.16-6. However, in the divorce action, the Expense Statement at Rule 1910.27(c)(2)(B) may be required.

* * * * *

Rule 1910.27. Form of Complaint. Order. Income Statements and Expense Statements. Health Insurance Coverage Information Form. Form of Support Order. Form Petition for Modification. Petition for Recovery of Support Overpayment.

(a) The complaint in an action for support shall be substantially in the following form:

* * * * *

NOTICE

Guidelines for child and spousal support, and for alimony pendente lite have been prepared by the Court of Common Pleas and are available for inspection in the office of Domestic Relations Section,

(Address)

Official Note: See Pa.R.C.P. No. 1930.1(b). To the extent this rule applies to actions not governed by other legal authority regarding confidentiality of information and documents in support actions or that attorneys or unrepresented parties file support-related confidential information and documents in non-support actions (e.g., divorce, custody), the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts shall apply.

(b) The order to be attached at the front of the complaint [set forth] in subdivision (a) shall be [in] substantially in the following form:

* * * * *

(c) The Income Statements and Expense Statements to be attached to the order in subdivision (b) shall be [in] substantially in the following form:

(1) *Income [Statement] Statements.* This form must be filled out in all cases.

Official Note: See Pa.R.C.P. No. 1930.1(b). To the extent this rule applies to actions not governed by other legal authority regarding confidentiality of information and documents in support actions or that attorneys or unrepresented parties file support-related confidential information and documents in non-support actions (e.g., divorce, custody), the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts shall apply.

* * * * *

(2) *Expense Statements.* An Expense Statement is not required in cases [which] that can be determined pursuant to the guidelines unless a party avers unusual needs and expenses that may warrant a deviation from the guideline amount of support pursuant to [Rule] Pa.R.C.P. No. 1910.16-5 or seeks an apportionment of expenses pursuant to [Rule] Pa.R.C.P. No. 1910.16-6. [(See Rule 1910.11(c)(1)).] See Pa.R.C.P. No. 1910.11(c)(1). Child support is calculated under the guidelines based upon the monthly net incomes of the parties, with additional amounts ordered as necessary to provide for child care expenses, health insurance premiums, unreimbursed medical expenses, mortgage payments, and other needs, contingent upon the obligor's ability to pay. The Expense Statement in subparagraph (A) [below] shall be utilized if a party is claiming that he or she has unusual needs and unusual fixed expenses that may warrant deviation or adjustment in a case determined under the guidelines. In child support, spousal support, and alimony *pendente lite* cases calculated pursuant to [Rule] Pa.R.C.P. No. 1910.16-3.1 and in divorce cases involving claims for alimony [or], counsel fees, or costs and expenses pursuant to [Rule] Pa.R.C.P. No. 1920.31(a), the parties [must] shall complete the Expense Statement in subparagraph (B) [below].

Official Note: See Pa.R.C.P. No. 1930.1(b). To the extent this rule applies to actions not governed by other legal authority regarding confidentiality of information and documents in support actions or that attorneys or unrepresented parties file support-related confidential information and documents in non-support actions (e.g., divorce, custody), the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts shall apply.

(A) *Guidelines Expense Statement.* If the combined monthly net income of the parties is \$30,000 or less, it is not necessary to complete this form unless a party is claiming unusual needs and expenses that may warrant a deviation from the guideline amount of support pursuant to Rule 1910.16-5 or seeks an apportionment of expenses pursuant to Rule 1910.16-6. At the conference, each party must provide receipts or other verification of expenses claimed on this statement. The Guidelines Expense Statement shall be substantially in the following form.

* * * * *

CHAPTER 1915. ACTIONS FOR CUSTODY OF MINOR CHILDREN

Rule 1915.3. Commencement of Action. Complaint. Order.

(a) Except as provided by subdivision (c), an action shall be commenced by filing a verified complaint substantially in the form provided by [Rule] Pa.R.C.P. No. 1915.15(a).

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.

(b) An order shall be attached to the complaint directing the defendant to appear at a time and place specified. The order shall be substantially in the form provided by Rule 1915.15(b).

* * * * *

Rule 1915.4-4. Pre-Trial Procedures.

* * * * *

(b) Not later than five days prior to the pre-trial conference, each party shall file a pre-trial statement with the prothonotary's office and serve a copy upon the court and the other party or counsel of record. The pre-trial statement shall include the following matters, together with any additional information required by special order of the court:

* * * * *

In addition to the above items included in the pre-trial statement, any reports of experts and other proposed exhibits shall be included as part of the pre-trial statement served upon the other party or opposing counsel, but not included with the pre-trial statement served upon the court.

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.

(c) If a party fails to file a pre-trial statement or otherwise comply with the requirements of subdivision (b), the court may make an appropriate order under Pa.R.C.P. No. 4019(c)(2) and (4) governing sanctions.

* * * * *

Rule 1915.7. Consent Order.

If an agreement for custody is reached and the parties desire a consent order to be entered, they shall note their agreement upon the record or shall submit to the court a proposed order bearing the written consent of the parties or their counsel.

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.

Rule 1915.15. Form of Complaint. Caption. Order. Petition to Modify a Custody Order.

(a) The complaint in an action for custody shall be [in] substantially in the following form:

* * * * *

Official Note: The form of complaint is appropriate [where] if there is one plaintiff and one defendant and [where] if the custody of one child is sought, or [where] if the custody of several children is sought and the information required by paragraphs 3 to 7 is identical for all of the children. [Where] If there are multiple parties, the complaint should be appropriately adapted to accommodate them. [Where] If the custody of several children is sought and the information required is not identical for all of the children, the complaint should contain a separate paragraph for each child.

See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.

(b) A petition to modify a custody order shall be [in] substantially in the following form:

* * * * *

I verify that the statements made in this petition are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date _____ Petitioner _____

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.

(c) The order to be attached at the front of the complaint or petition for modification shall be [in] substantially in the following form:

* * * * *

Rule 1915.17. Relocation. Notice and Counter-Affidavit.

* * * * *

(i) The notice of proposed relocation shall be substantially in the following form:

* * * * *

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.

(j) The counter-affidavit that must be served with the relocation notice shall be substantially in the following form as set forth [at] in 23 Pa.C.S. § 5337(d):

* * * * *

I verify that the statements made in this counter-affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

(Date) (Signature)

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.

Rule 1915.18. Form of Order Directing Expert Examination and Report.

The order of court directing expert evaluation in a custody matter pursuant to [Rule] Pa.R.C.P. No. 1915.8 shall be [in] substantially in the following form:

* * * * *

CHAPTER 1920. ACTIONS OF DIVORCE OR FOR ANNULMENT OF MARRIAGE

Rule 1920.13. Pleading More Than One Cause of Action. Alternative Pleading.

* * * * *

(c) The court may order alimony pendente lite, reasonable counsel fees, costs and expenses pending final disposition of any claim.

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.

Rule 1920.15. Counterclaim. Subsequent Petition.

* * * * *

Official Note: See [Rule] Pa.R.C.P. No. 1920.31, which requires the joinder of certain related claims under penalty of waiver. A claim for alimony must be raised before the entry of a final decree of divorce or annulment.

See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.

Rule 1920.31. Joinder of Related Claims. Child and Spousal Support. Alimony. Alimony *Pendente Lite*. Counsel Fees. **Costs and Expenses.**

(a)(1) [When either] **If a** party has raised a claim for alimony [or], counsel fees, **or** costs and expenses, [each party] **the parties** shall file a true copy of the most recent federal income tax return, pay stubs for the preceding six months, a completed Income Statement in the form required [at Rule] **by Pa.R.C.P. No. 1910.27(c)(1)**, and a completed Expense Statement in the form required by [Rule] **Pa.R.C.P. No. 1910.27(c)(2)(B)**. A party may not file a motion for the appointment of a master or a request for court action regarding alimony, alimony *pendente lite* [**or counsel fees, cost**], **counsel fees, or costs** and expenses until at least 30 days following the filing of that party's tax returns, Income Statement, and Expense Statement. The other party shall file the tax returns, Income Statement, and Expense Statement within 20 days of service of the moving party's documents. If a claim for child support, spousal support, or alimony *pendente lite* is raised in a divorce complaint, [**no expense form is**] **an Expense Statement is not** needed in a support action that can be decided pursuant to the support guidelines unless a party claims unusual needs or unusual fixed expenses [or], seeks deviation pursuant to [Rule] **Pa.R.C.P. No. 1910.16-5**, or apportionment of expenses pursuant to [Rule] **Pa.R.C.P. No. 1910.16-6**.

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.

(2) If a party fails to file the documents as required by subdivision (a)(1), the court on motion may make an appropriate order under Rule 4019 governing sanctions.

* * * * *

Rule 1920.33. Joinder of Related Claims. Equitable Division. Enforcement.

(a) If a pleading or petition raises a claim for equitable division of marital property under Section 3502 of the Divorce Code, the parties shall file and serve on the other party an inventory, which shall include the information in subdivisions (1) through (3) and shall be substantially in the form set forth in Pa.R.C.P. No. 1920.75. Within 20 days of service of the moving party's inventory, the non-moving party shall file an inventory. A party may not file a motion for the appointment of a master or a request for court action regarding equitable division until at least 30 days following the filing of that party's inventory.

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.

The inventory shall set forth as of the date of separation:

* * * * *

(b) Within the time required by order of court or written directive of the master or, if none, at least 60

days before the scheduled hearing on the claim for equitable division, the parties shall file and serve upon the other party a pre-trial statement. The pre-trial statement shall include the following matters, together with any additional information required by special order of the court:

* * * * *

(10) a proposed resolution of the economic issues raised in the pleadings.

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the Public Access Policy of the Unified

Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.

(c) If a party fails to file either an inventory, as required by subdivision (a), or a pre-trial statement, as required by subdivision (b), the court may make an appropriate order under Pa.R.C.P. No. 4019(c) governing sanctions.

* * * * *

Rule 1920.75. Form of Inventory.

The inventory required by [Rule] Pa.R.C.P. No. 1920.33(a) shall be substantially in the following form:

* * * * *

LIABILITIES

<i>Item Number</i>	<i>Description of Property</i>	<i>Names of All Creditors</i>	<i>Names of All Debtors</i>	<i>Estimated Value at Date of Separation</i>
--------------------	--------------------------------	-------------------------------	-----------------------------	--

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.

CHAPTER 1930. RULES RELATING TO DOMESTIC RELATIONS MATTERS GENERALLY

Rule 1930.1. [Form of Pleadings.] Form of Caption. **Confidential Information and Confidential Documents. Certification.**

(a) The form of the caption in all domestic relations matters shall be substantially [as follows] **in the following form:**

In the Court of Common Pleas of _____ County, Pennsylvania

A. Litigant,)	
	Plaintiff)	
vs.)	No. [of 19] (Docket number)
B. Litigant,)	
	Defendant)	

(Title of Pleading)

Official Note: As domestic relations matters are no longer quasi-criminal, the phrase “Commonwealth ex rel.” shall not be used in the caption of any domestic relations matter.

(b) Unless public access is otherwise constrained by applicable authority, any attorney, or any party if unrepresented, who files a document pursuant to these rules with the prothonotary’s office shall comply with the requirements of Sections 7.0 and 8.0 of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts (Policy) including a certification of compliance with the Policy and, as necessary, a Confidential Information Form, unless otherwise specified by rule or order of court, or a Confidential Document Form in accordance with the Policy.

Official Note: Applicable authority includes but is not limited to statute, procedural rule, or court order. The Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts (Policy) can be found on the website of the Supreme Court of Pennsylvania at <http://www.pacourts.us/public-records>. Sections 7.0(D) and 8.0(D) of the Policy provide that the certification shall be in substantially the following form:

I certify that this filing complies with the provisions of the 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.

The Confidential Information Form and the Confidential Document Form can be found at <http://www.pacourts.us/public-records>. In lieu of the Confidential Information Form, Section 7.0(C) of the Policy provides for a court to adopt a rule or order permitting the filing of a document in two versions, a “Redacted Version” and an “Unredacted Version.”

Rule 1930.6. Paternity Actions. **Scope. Venue. Commencement of Action.**

(a) [**Scope.**] This rule shall govern the procedure by which a putative father may initiate a civil action to establish paternity and seek genetic testing. Such an action shall not be permitted if an order already has been entered as to the paternity, custody, or support of the child, or if a support or custody action to which the putative father is a party is pending.

(b) [**Venue.**] An action may be brought only in the county in which the defendant or the child(ren) reside.

(c) [**Commencement of Action.**] An action shall be [**initiated**] **commenced** by filing a verified complaint

to establish paternity and for genetic testing substantially in the form set forth in subdivision (1) [below]. The complaint shall have as its first page the Notice of Hearing and Order set forth in subdivision (2) [below].

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.

(1) The complaint filed in a civil action to establish paternity shall be substantially in the following form:

* * * * *

CHAPTER 1950. ACTIONS PURSUANT TO THE PROTECTION OF VICTIMS OF SEXUAL VIOLENCE OR INTIMIDATION ACT

Rule 1953. Commencement of Action.

* * * * *

(c) Any fees associated with this action shall not be charged to the plaintiff.

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.

Rule 1959. Forms for Use in Protection of Victims of Sexual Violence or Intimidation Actions. Notice and Hearing. Petition. Temporary Protection Order. Final Protection Order.

* * * * *

(b) The petition in an action filed pursuant to the Act shall be identical in content to the following form:

* * * * *

VERIFICATION

I verify that the statements made in this petition are true and correct to the best of my knowledge. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Signature

Date

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.

(c) The Temporary Order of Court, or any continued, amended or modified Temporary Order of Court, entered pursuant to the Act shall be identical in content to the following form:

* * * * *

[Pa.B. Doc. No. 18-94. Filed for public inspection January 19, 2018, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART II. ORPHANS' COURT RULES

[231 PA. CODE PART II]

Order Adopting Rule 1.99 and Amending the Notes to Rules 2.1, 2.4, 2.7, 2.8, 2.10, 3.3—3.6, 3.9—3.11, 3.14, 7.2—7.4 and 8.2 of the Orphans' Court Rules; No. 758 Supreme Court Rules Doc.

Order

Per Curiam

And Now, this 5th day of January, 2018, upon the recommendation of the Orphans' Court Procedural Rules Committee, the proposal having been published for public comment at 47 Pa.B. 4671 (August 12, 2017):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 1.99 of the Pennsylvania Orphans' Court Rules is adopted in the following form, and that the Notes to Rules 2.1, 2.4, 2.7, 2.8, 2.10, 3.3—3.6, 3.9—3.11, 3.14, 7.2—7.4, and 8.2 of the Pennsylvania Orphans' Court Rules are 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 January 6, 2018.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART II. ORPHANS' COURT RULES

CHAPTER I. PRELIMINARY RULES

(Editor's Note: The following rule is added and printed in regular type to enhance readability.)

Rule 1.99. Confidential Information and Confidential Documents. Certification.

Unless public access is otherwise constrained by applicable authority, any attorney, or any party if unrepresented, who files a legal paper pursuant to these rules with the clerk shall comply with the requirements of Sections 7.0 and 8.0 of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts (Policy) including a certification of compliance with the Policy and, as necessary, a Confidential Information Form, unless otherwise specified by rule or order of court, or a Confidential Document Form, in accordance with the Policy.

Note: Applicable authority includes but is not limited to statute, procedural rule, or court order. The Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts (Policy) can be found on the website of the Supreme Court of Pennsylvania at <http://www.pacourts.us/public-records>. Sections 7.0(D) and 8.0(D) of the Policy provide that the certification shall be in substantially the following form:

I certify that this filing complies with the provisions of the 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.

The Confidential Information Form and the Confidential Document Form can be found at <http://www.pacourts.us/public-records>. In lieu of the Confidential Information

Form, Section 7.0(C) of the Policy provides for a court to adopt a rule or order permitting the filing of a document in two versions, a "Redacted Version" and an "Unredacted Version."

CHAPTER II. ACCOUNTS, OBJECTIONS AND DISTRIBUTIONS

Rule 2.1. Form of Account.

* * * * *

Note: Rule 2.1 is substantively similar to former Rule 6.1 and Rule 12.15, except that certain subparagraphs have been reordered and Rule 12.15 and its Official Note have become subparagraph (d).

The filings required by this rule are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. See Rule 1.99.

Explanatory Comment: Piggy-backed Accounts and limited Accounts are permitted pursuant to 20 Pa.C.S. §§ 762, 3501.2, and 7799.1.

Rule 2.4. Petition for Adjudication/Statement of Proposed Distribution; Virtual Representation.

* * * * *

Note: Although substantially modified, Rule 2.4 is derived from former Rule 6.9. One modification is to require averments for virtual representation under 20 Pa.C.S. § 751(6) generally and representation in "trust matters" pursuant to 20 Pa.C.S. § 7721 *et seq.* Another substantial modification is the addition of subparagraph (e) that requires counsel to sign the petition for adjudication/statement of distribution attesting that the submitted petition for adjudication/statement of distribution accurately replicates the Model Form and subjects counsel to rules and sanctions as provided in Pa.R.C.P. Nos. 1023.1 through 1023.4. (See Rule 3.12.)

The filings required by this rule are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. See Rule 1.99.

Explanatory Comment: The Supreme Court has adopted form petitions for adjudication/statements of proposed distribution of a decedent's estate, trust, guardian of an incapacitated person's estate, guardian of a minor's estate, and the estate of a principal stated by an agent under a power of attorney. These form petitions for adjudication/statements of proposed distribution are the exclusive forms for adjudicating an Account, and consequently, the local court and clerk must accept these statewide forms and may not accept or allow any other forms previously permitted under local rules. The exclusive statewide form petitions for adjudication/statements of proposed distribution appear in the Appendix and are available electronically at www.pacourts.us/forms under the For-the-Public category.

Cover sheets or checklists may be required by local rule as permitted by Rule 1.8(c).

Rule 2.7. Objections to Accounts or Petitions for Adjudication/Statements of Proposed Distribution.

* * * * *

Note: Although substantially modified, Rule 2.7 is derived from former Rule 6.10.

The filings required by this rule are subject to the Public Access Policy of the Unified Judicial

System of Pennsylvania: Case Records of the Appellate and Trial Courts. See Rule 1.99.

Explanatory Comment: If the notice received by the objector has a service list appended to it setting forth the name and address of each interested party who received the notice under Rule 2.5, the objector must mail his or her objections to every name and address appearing on the service list.

Rule 2.8. Pleadings Allowed After Objections are Filed.

* * * * *

Note: Rule 2.8 has no counterpart in former Orphans' Court Rules.

The filings required by this rule are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. See Rule 1.99.

Explanatory Comment: Preliminary objections to objections are limited in the grounds that may be raised. Insufficient specificity, failure to conform to law, and the inclusion of scandalous or impertinent matter, *inter alia*, are not properly raised as preliminary objections to objections. (*Cf.* Rule 3.9 and Pa.R.C.P. No. 1028).

Rule 2.10. Foreign Heirs and Unknown Distributees.

* * * * *

Note: With only minor modifications, Rule 2.10 is substantively similar to former Rules 13.2 and 13.3. Former Rule 13.1 has been deleted.

The filings required by this rule are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. See Rule 1.99.

CHAPTER III. PETITION PRACTICE AND PLEADING

Part A. Petition Practice

Rule 3.3. Contents of All Pleadings; General and Specific Averments.

* * * * *

Note: Rule 3.3 has no counterpart in former Orphans' Court Rules, but is derived from Pa.R.C.P. No. 206.1(c) and Pa.R.C.P. No. 1019.

The filings required by this rule are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. See Rule 1.99.

Rule 3.4. Form of Petition; Exhibits; Consents; Signing and Verification.

* * * * *

Note: Rule 3.4 is based upon former Rule 3.3 and Rule 3.4, but has been modified to require averments for virtual representation under 20 Pa.C.S. § 751(6) generally and representation in "trust matters" pursuant to 20 Pa.C.S. § 7721 *et seq.* Another modification is the addition of subparagraph (d) that requires petitioner's counsel to sign the petition, or all of the petitioners to sign the petition, if unrepresented, thereby subjecting these signatories to rules and sanctions as provided in Pa.R.C.P. Nos. 1023.1 through 1023.4. (See Rule 3.12.)

The filings required by this rule are subject to the Public Access Policy of the Unified Judicial

System of Pennsylvania: Case Records of the Appellate and Trial Courts. See Rule 1.99.

Rule 3.5. Mode of Proceeding on Petition.

* * * * *

Note: Subparagraphs (a) and (b) of Rule 3.5 are derived from former Rule 3.5. The final sentence of subparagraph (a)(2) is identical to former Rule 3.7(h)(1); it merely has been relocated to this section. Subparagraphs (c) and (d) of this Rule have no counterpart in former Orphans' Court Rules.

The filings required by this rule are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. See Rule 1.99.

Explanatory Comment: Personal jurisdiction is conferred by statute in certain circumstances. See e.g., 20 Pa.C.S. § 7712. A sheriff does not need to serve the citation issued by the clerk; instead, any adult person may serve the citation and file the proof of service in accordance with subparagraph (a)(7) of this Rule 3.5. See 20 Pa.C.S. § 765. If a citation is not being issued with the petition, then the petition must be endorsed with a notice to plead. See Rule 3.5(b) and Pa.R.C.P. No. 1026. The court, by local rule or by order in a particular matter, may establish a procedure for rules to show cause as provided in Pa.R.C.P. No. 206.4 *et seq.*

Part B. Responsive Pleadings

Rule 3.6. Pleadings Allowed After Petition.

* * * * *

Note: Rule 3.6 has no counterpart in former Orphans' Court Rules, but is based, in part, on Pa.R.C.P. No. 1017.

The filings required by this rule are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. See Rule 1.99.

Explanatory Comment: Any interested party may file a new petition bringing a new issue or dispute before the court or seeking alternative relief in the same trust or estate. Motions are permitted in Orphans' Court Division, and this Rule 3.6 does not prohibit or limit motions practice.

Rule 3.9. Preliminary Objections.

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Note: Rule 3.9 has no counterpart in former Orphans' Court Rules, but is derived from Pa.R.C.P. No. 1028.

The filings required by this rule are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. See Rule 1.99.

Explanatory Comment: Preliminary objections raising an issue under subparagraphs (b)(2), (b)(3), (b)(4), and in some instances (b)(1), may be determined from the facts of record so that further evidence is not required. In such situations, the court may summarily decide preliminary objections prior to the filing of an answer.

* * * * *

Rule 3.10. Denials; Effect of Failure to Deny.

* * * * *

Note: Rule 3.10 has no counterpart in former Orphans' Court Rules, but is derived from Pa.R.C.P. No. 1029.

The filings required by this rule are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. See Rule 1.99.

Explanatory Comment: Reliance on subparagraph (c) does not excuse a failure to admit or deny a factual allegation when it is clear that the respondent must know whether a particular allegation is true or false. Cf. *Cercone v. Cercone*, 386 A.2d 1, 4 (Pa. Super. 1978).

Rule 3.11. Answer with New Matter.

* * * * *

Note: Rule 3.11 has no counterpart in former Orphans' Court Rules, but is derived from Pa.R.C.P. No. 1030.

The filings required by this rule are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. See Rule 1.99.

Part C. Pleadings in General

Rule 3.14. Amendment.

* * * * *

Note: Rule 3.14 has no counterpart in former Orphans' Court Rules, but is derived from Pa.R.C.P. No. 1033.

The filings required by this rule are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. See Rule 1.99.

Explanatory Comment: Rule 3.9(d)(1) provides for amending a pleading after the filing of preliminary objections.

CHAPTER VII. RULES RELATING TO PRE-HEARING AND HEARING PROCEDURE

Rule 7.2. Motion for Judgment on the Pleadings.

* * * * *

Note: Rule 7.2 has no counterpart in former Orphans' Court Rules, but is derived from Pa.R.C.P. No. 1034.

The filings required by this rule are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. See Rule 1.99.

Explanatory Comment: The Official Note to Pa.R.C.P. No. 1034 is fully incorporated by reference herein, except that the court may, but is not required to, promulgate local rules governing the procedure for these motions.

Rule 7.3. Motion for Summary Judgment.

* * * * *

Note: Rule 7.3 has no counterpart in former Orphans' Court Rules, but is derived from Pa.R.C.P. No. 1035.1 *et seq.*

The filings required by this rule are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. See Rule 1.99.

Explanatory Comment: The Notes, Official Note and Explanatory Comments to Pa.R.C.P. No. 1035.1 *et seq.* are incorporated by reference herein, except that the court may, but is not required to, promulgate local rules governing the procedure for these motions.

Rule 7.4. Injunctions.

* * * * *

Note: Rule 7.4 has no counterpart in former Orphans' Court Rules, but is derived from Pa.R.C.P. No. 1531.

The filings required by this rule are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. See Rule 1.99.

Explanatory Comment: With the repeal of 20 Pa.C.S. § 772, the propriety of and procedure for obtaining an injunction in an Orphans' Court matter was uncertain. This Rule clarifies that an injunction may be requested and issued in this court. The procedure for requesting the issuance of an injunction shall conform to the practice set forth in Pa.R.C.P. No. 1531. The Notes and Explanatory Comments to Pa.R.C.P. No. 1531 are fully incorporated by reference herein.

CHAPTER VIII. RECONSIDERATION

Rule 8.2. Motions for Reconsideration

* * * * *

(c) Motions for reconsideration are not permitted to any order in involuntary termination or adoption matters under the Adoption Act, 23 Pa.C.S. § 2101 *et seq.*

Note: **The filings required by this rule are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. See Rule 1.99.**

Explanatory Comment: The period for filing an appeal is not tolled by the filing of a motion for reconsideration unless the court grants the motion for reconsideration prior to the expiration of the appeal period. See Pa.R.A.P. 1701(b)(3). Interlocutory orders may be reconsidered anytime during the pendency of the proceeding. See *Key Automotive Equip. Specialists, Inc. v. Abernethy*, 636 A.2d 1126, 1128 (Pa. Super. 1994); 42 Pa.C.S. § 5505.

ORPHANS' COURT PROCEDURAL RULES COMMITTEE REPORT

Adoption of New Rule 1.99 and Amendment of the Notes to Rules 2.1, 2.4, 2.7, 2.8, 2.10, 3.3—3.6, 3.9—3.11, 3.14, 7.2—7.4, and 8.2 of the Pennsylvania Orphans' Court Rules

The Orphans' Court Procedural Rules Committee ("Committee") recommended the adoption of New Rule 1.99 and amendment of the Notes to Rules 2.1, 2.4, 2.7, 2.8, 2.10, 3.3—3.6, 3.9—3.11, 3.14, 7.2—7.4, and 8.2 of the Pennsylvania Orphans' Court Rules ("Rules"). These rule changes will facilitate the implementation of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* ("Policy").

The Supreme Court adopted the Policy on January 6, 2017, and it takes effect on January 6, 2018. The Policy generally provides that "[a]ll case records shall be open to the public in accordance with this policy", subject to certain exceptions for information and documents designated confidential. In response to the Court's adoption of the policy, the Committee undertook a review of the Rules to determine what new rules and/or amendments would be needed to implement the Policy. The Committee proposed a new rule, Rule 1.99, which provides that, absent any applicable authority that constrains public access, an attorney or unrepresented party filing a legal paper with the clerk must comply with Sections 7.0 and 8.0 of the Policy. The Note to proposed Rule 1.99 cites the authority for the treatment of confidential information and confi-

dential documents, provides information regarding the certification of compliance, and states that redaction of confidential information may be permitted by local rule.

The Committee also recommended the amendment of the Notes to Rules 2.1, 2.4, 2.7, 2.8, 2.10, 3.3—3.6, 3.9—3.11, 3.14, 7.2—7.4 and 8.2 to add a cross-reference to Rule 1.99. The cross-reference to Rule 1.99 in the Note to these rules will serve as a reminder to practitioners and unrepresented parties to comply with the Policy. Rules 2.1, 2.4, 2.7, 2.8, 3.3—3.6, 3.9—3.11 and 3.14 identify the required content of a filing. Filings made pursuant to Rules 7.2—7.4 and 8.2 could contain information or exhibits that are subject to the Policy.

[Pa.B. Doc. No. 18-95. Filed for public inspection January 19, 2018, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART II. ORPHANS' COURT RULES

[231 PA. CODE PART II]

Proposed Amendment of the Index and Appendix of Orphans' Court and Register of Wills Forms

The Orphans' Court Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the amendment of the Index and Appendix of Orphans' Court and Register of Wills Forms, removing the Estate Information Sheet, Form RW-01, for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor be officially adopted by the Supreme Court. Additions to the text of the proposal are bolded and underlined; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

Orphans' Court Procedural Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
FAX: 717-231-9526
orphanscourtproceduralrules@pacourts.us

All communications in reference to the proposal should be received by March 23, 2018. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

*By the Orphans' Court
Procedural Rules Committee*

WAYNE M. PECHT, Esq.,
Chair

REPORT

Proposed Amendment of the Index and Appendix of Orphans' Court and Register of Wills Forms

Removal of Estate Information Sheet From Forms' Appendix

The Orphans' Court Procedural Rules Committee ("Committee") is planning to propose to the Supreme Court of Pennsylvania the removal of the Estate Information Sheet, Form RW-01, from the Index and Appendix of Orphans' Court and Register of Wills Forms.

The Estate Information Sheet, RW-01¹, appears in the Appendix of Orphans' Court and Register of Wills Forms as well as on the website of the Unified Judicial System ("UJS"). This form was not adopted by the Supreme Court; rather, it was promulgated and is updated by the Pennsylvania Department of Revenue. Although not a Supreme Court form, the Estate Information Sheet was maintained with the Register of Will Forms in the Appendix and on the UJS website for public convenience.

The Department of Revenue revised the Estate Information Sheet in November 2015. Rather than continuing to update the form in response to changes by the Department of Revenue, the Committee plans to recommend the removal of the Estate Information Sheet from the Appendix and UJS website, and, instead, direct the public to the Department of Revenue website. This change will ensure that practitioners and the public are directed to the most current version of the form as made available by the agency responsible for its promulgation and updates.

Annex A

**TITLE 231. RULES OF CIVIL PROCEDURE
PART II. ORPHANS' COURT RULES**

INDEX TO APPENDIX

ORPHANS' COURT AND REGISTER OF
WILLS FORMS
ADOPTED BY SUPREME COURT
PURSUANT TO Pa. O.C. Rule 1.8

Available as Fill-in Forms on Website
of Administrative Office of Pennsylvania Courts
<http://www.pacourts.us/Forms/OrphansCourtForms.htm>

Orphans' Court and Administration Forms

* * * * *

D. *Register of Wills Forms*

- 1. Estate Information Sheet [RW-01] ***

[(Not adopted by Supreme Court; form promulgated by Department of Revenue and maintained with Register of Wills forms for convenience)]

*** The Estate Information Sheet is not a form adopted by the Supreme Court. It is available on the Department of Revenue website (www.revenue.pa.gov), and is no longer maintained with the Register of Wills Forms.

- 2. Petition for Grant of Letters RW-02

* * * * *

[Pa.B. Doc. No. 18-96. Filed for public inspection January 19, 2018, 9:00 a.m.]

¹The current Estate Information Sheet is Department of Revenue form number REV-346 EX (11-15).

**Title 234—RULES OF
CRIMINAL PROCEDURE**

[234 PA. CODE CHS. 1 AND 5]

Order Adopting New Rule 113.1, Amending Rules 560 and 575 and Revising the Comment to Rule 578 of the Rules of Criminal Procedure; No. 500 Criminal Procedural Rules Doc.

Order

Per Curiam

And Now, this 5th day of January, 2018, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been published before adoption at 47 Pa.B. 4674 (August 12, 2017), and a Final Report to be published with this *Order*:

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rule of Criminal Procedure 113.1 is adopted, Rules of Criminal Procedure 560 and 575 are amended and the Comment to Pennsylvania Rule of Criminal Procedure 578 is revised, in the following form.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective January 6, 2018.

Annex A

**TITLE 234. RULES OF CRIMINAL PROCEDURE
CHAPTER 1. SCOPE OF RULES, CONSTRUCTION
AND DEFINITIONS, LOCAL RULES**

PART A. Business of the Courts

(*Editor's Note:* The following rule is added and printed in regular type to enhance readability.)

Rule 113.1. Confidential Information and Confidential Documents. Certification.

Unless public access is otherwise constrained by applicable authority, any attorney, or any party if unrepresented, or any affiant who files a document pursuant to these rules with the clerk of court's office shall comply with the requirements of Sections 7.0 and 8.0 of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* (Policy). In accordance with the Policy, the filing shall include a certification of compliance with the Policy and, as necessary, a Confidential Information Form, unless otherwise specified by rule or order of court, or a Confidential Document Form. Nothing in this rule applies to any document filed with a magisterial district judge.

Comment

"Applicable authority," as used in this rule, includes but is not limited to statute, procedural rule, or court order. The *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* (Policy) can be found on the website of the Supreme Court of Pennsylvania at: <http://www.pacourts.us/public-records>. The Policy is applicable to all filings by the parties or an affiant in any criminal court case.

Sections 7.0(D) and 8.0(D) of the Policy provide that the certification shall be in substantially the following form:

I certify that this filing complies with the provisions of the *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.

Filings may require further precautions, such as placing certain types of information in a "Confidential Information Form." The Confidential Information Form and the Confidential Document Form can be found at: <http://www.pacourts.us/public-records/public-records-forms>. In lieu of the Confidential Information Form, Section 7.0(C) of the Policy provides for a court to adopt a rule or order permitting the filing of a document in two versions, a "Redacted Version" and an "Unredacted Version."

In addition to the restrictions above, a filing party should be cognizant of the potential impact that inclusion of personal information may have on an individual's privacy rights and security. Therefore, inclusion of such information should be done only when necessary or required to effectuate the purpose of the filing. Consideration of the use of sealing or protective orders also should be given if inclusion of such information is necessary.

While the Policy is not applicable to orders or other documents filed by a court, judges should give consideration to the privacy interests addressed by the Policy when drafting an order that might include information considered confidential under the Policy.

Official Note: New Rule 113.1 adopted January 5, 2018, effective January 6, 2018.

Committee Explanatory Reports:

Final Report explaining the provisions of the new rule published with the Court's Order at 48 Pa.B. 490 (January 20, 2018).

CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

PART F. Procedures Following a Case Held for Court

Rule 560. Information: Filing, Contents, Function.

* * * * *

(B) The information shall be signed by the attorney for the Commonwealth and shall be valid and sufficient in law if it contains:

* * * * *

(5) a plain and concise statement of the essential elements of the offense substantially the same as or cognate to the offense alleged in the complaint; **[and]**

(6) a concluding statement that "all of which is against the Act of Assembly and the peace and dignity of the Commonwealth[.]"; **and**

(7) a certification that the information complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts regarding confidential information and documents.

(C) The information shall contain the official or customary citation of the statute and section thereof, or other provision of law that the defendant is alleged therein to have violated; but the omission of or error in such citation shall not affect the validity or sufficiency of the information.

(D) In all court cases tried on an information, the issues at trial shall be defined by such information.

Comment

* * * * *

In any case in which there are summary offenses joined with the misdemeanor, felony, or murder charges that are held for court, the attorney for the Commonwealth must include the summary offenses in the information. *See Commonwealth v. Hoffman*, [406 Pa. Super. 583,] 594 A.2d 772 (**Pa. Super.** 1991).

See Rule 113.1 regarding the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts and the requirements regarding filings and documents that contain confidential information.

When there is an omission or error of the type referred to in paragraph (C), the information should be amended pursuant to Rule 564.

* * * * *

Official Note: Rule 225 adopted February 15, 1974, effective immediately; Comment revised January 28, 1983, effective July 1, 1983; amended August 14, 1995, effective January 1, 1996; renumbered Rule 560 and amended March 1, 2000, effective April 1, 2001; Comment revised April 23, 2004, effective immediately; Comment revised August 24, 2004, effective August 1, 2005; Comment revised March 9, 2006, effective September 1, 2006; amended June 21, 2012, effective in 180 days; **amended January 5, 2018, effective January 6, 2018.**

Committee Explanatory Reports:

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Final Report explaining the June 21, 2012 amendments to paragraph (A) concerning indicting grand juries published with the Court's Order at 42 Pa.B. 4153 (July 7, 2012).

Final Report explaining the January 5, 2018 amendment regarding the Court's public access policy published with the Court's Order at 48 Pa.B. 490 (January 20, 2018).

PART G(1). Motion Procedures

Rule 575. Motions and Answers.

(A) MOTIONS

(1) All motions shall be in writing, except as permitted by the court or when made in open court during a trial or hearing.

(2) A written motion shall comply with the following requirements:

(a) The motion shall be signed by the person or attorney making the motion. The signature of an attorney shall constitute a certification that the attorney has read the motion, that to the best of the attorney's knowledge, information, and belief there is good ground to support the motion, and that it is not interposed for delay. **The motion also shall contain a certification that the motion complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts regarding confidential information and documents.**

* * * * *

(B) ANSWERS

* * * * *

(3) A written answer shall comply with the following requirements:

(a) The answer shall be signed by the person or attorney making the answer. The signature of an attorney shall constitute a certification that the attorney has read the answer, that to the best of the attorney's knowledge, information, and belief there is good ground to support the answer, and that it is not interposed for delay. **The answer also shall contain a certification that the answer complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts regarding confidential information and documents.**

* * * * *

Comment

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Paragraph (B)(1) changes prior practice by providing that the failure to answer a motion in a criminal case never constitutes an admission. Although this prohibition applies in all cases, even those in which an answer has been ordered in a specific case or is required by the rules, the judge would have discretion to impose other appropriate sanctions if a party fails to file an answer ordered by the judge or required by the rules.

See Rule 113.1 regarding the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts and the requirements regarding filings and documents that contain confidential information.

Paragraph (C), added in 2006, sets forth the format requirements for all motions, answers, and briefs filed in criminal cases. These new format requirements are substantially the same as the format requirements in Pennsylvania Rule of Appellate Procedure 124(a) and Pennsylvania Rule of Civil Procedure 204.1.

The format requirements in paragraph (C) are not intended to apply to pre-printed and computer-generated forms prepared by the Administrative Office of Pennsylvania Courts; to charging documents; to documents routinely used by court-related agencies; or to documents routinely prepared or utilized by the courts.

Pro se defendants may submit handwritten documents that comply with the other requirements in paragraph (C) and are clearly readable.

Paragraph (D), titled "Unified Practice," was added in 2004 to emphasize that local rules must not be inconsistent with the statewide rules. Although this prohibition on local rules that are inconsistent with the statewide rules applies to all criminal rules through Rule 105 (Local Rules) and Pa.R.J.A. No. 103(d), the reference to the specific prohibitions is included because these types of local rules have been identified by practitioners as creating significant impediments to the statewide practice of law within the unified judicial system. See [**the first paragraph of the Rule 105 Comment**] Pa.R.J.A. No. 103(d)(1). The term "local rule" includes every rule, regulation, directive, policy, custom, usage, form or order of general application. See [**Rule 105(A)**] Pa.R.J.A. No. 103(d)(1).

The prohibition on local rules mandating cover sheets was added because cover sheets are no longer necessary with the addition of the Rule 576(B)(1) requirement that the court administrator be served a copy of all motions and answers.

Although paragraph (D) precludes local rules that require a proposed order be included with a motion, a party should consider whether to include a proposed order. Proposed orders may aid the court by defining the relief requested in the motion or answer.

Official Note: Former Rule 9020 adopted October 21, 1983, effective January 1, 1984; renumbered Rule 574 and amended March 1, 2000, effective April 1, 2001; rescinded March 3, 2004, effective July 1, 2004. Former Rule 9021 adopted October 21, 1983, effective January 1, 1984; renumbered Rule 575 and amended March 1, 2000, effective April 1, 2001; Rules 574 and 575 combined as Rule 575 and amended March 3, 2004, effective July 1, 2004; amended July 7, 2006, effective February 1, 2007; **amended January 5, 2018, effective January 6, 2018.**

Committee Explanatory Reports:

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Final Report explaining the July 7, 2006 addition of the format requirements in paragraph (C) published with the Court's Order at 36 Pa.B. 3808 (July 22, 2006).

Final Report explaining the January 5, 2018 amendment regarding the Court's public access policy published with the Court's Order at 48 Pa.B. 490 (January 20, 2018).

Rule 578. Omnibus Pretrial Motion for Relief.

* * * * *

Comment

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See Pa.R.E. 702 and 703 regarding the admissibility of scientific or expert testimony. Pa.R.E. 702 codifies Pennsylvania's adherence to the test to determine the admissibility of expert evidence first established in *Frye v. United States*, 293 F. 1013 (D.C. Cir. 1923) and adopted by the Pennsylvania Supreme Court in *Commonwealth v. Topa*, 369 A.2d 1277 (Pa. 1977). Given the potential complexity when the admissibility of such evidence is challenged, such challenges should be raised in advance of trial as part of the omnibus pretrial motion if possible. However, nothing in this rule precludes such challenges from being raised in a motion *in limine* when circumstances necessitate it.

All motions filed pursuant to this rule are public records. However, in addition to restrictions placed by law and rule on the disclosure of confidential information, the motions are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts and may require further precautions, such as placing certain types of information in a "Confidential Information Form" or providing both a redacted and unredacted version of the filing. See Rule 113.1.

See Rule 113.1 regarding the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts and the requirements regarding filings and documents that contain confidential information.

See Rule 556.4 for challenges to the array of an indicting grand jury and for motions to dismiss an information filed after a grand jury indicts a defendant.

Official Note: Formerly Rule 304, adopted June 30, 1964, effective January 1, 1965; amended and renumbered Rule 306 June 29, 1977 and November 22, 1977, effective as to cases in which the indictment or information is filed on or after January 1, 1978; amended October

21, 1983, effective January 1, 1984; Comment revised October 25, 1990, effective January 1, 1991; Comment revised August 12, 1993, effective September 1, 1993; renumbered Rule 578 and Comment revised March 1, 2000, effective April 1, 2001; Comment revised June 21, 2012, effective in 180 days; Comment revised July 31, 2012, effective November 1, 2012; Comment revised September 21, 2017, effective January 1, 2018; **Comment revised January 5, 2018, effective January 6, 2018.**

Committee Explanatory Reports:

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Final Report explaining the September 21, 2017 Comment revision regarding pretrial challenges to the admissibility of expert evidence published with the Court's Order at 47 Pa.B. 6173 (October 7, 2017).

Final Report explaining the January 5, 2018 Comment revisions regarding the Court's public access policy published with the Court's Order at 48 Pa.B. 490 (January 20, 2018).

FINAL REPORT¹

New Rule 113.1; Amendments to Pa.Rs.Crim.P. 560 and 575; Revision of the Comment to Pa.R.Crim.P. 578

Public Access Policy

On January 5, 2018, effective January 6, 2018, upon the recommendation of the Criminal Procedural Rules Committee, the Court adopted new Rule 113.1 (Confidential Information and Confidential Documents. Certification), amended Rules 560 (Information: Filing, Contents, Function) and 575 (Motions and Answers), and revised the *Comment* to Rule 578 (Omnibus Pretrial Motion for Relief) to provide correlative rule changes to assist in implementing the Court's new *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* (hereafter "the new Policy").

These rule changes are the product of the Committee's examination resulting from a directive sent by the Court to all of the Rules Committees to consider correlative rule changes to implement the new Policy. The new Policy provides that trial and appellate court case records generally are publicly accessible but contains provisions that restrict certain types of information from being included in filings. This restricted information includes personal and financial information such as Social Security numbers, financial account numbers, driver license numbers, SID numbers, minors' personal information, victims' address and contact information, etc. This restricted information is prohibited by the new Policy from being included in filings unless it is contained in a "Confidential Information Form" or provided in both a redacted and unredacted version of the filing. Under the new Policy, the burden of ensuring that the confidential information or documents are filed in the proper manner rests with the filer and the court or record custodian will not review or redact the filings. The new Policy recognizes that public access may also be restricted by a sealing or protective order or "by federal law, state law, or state court rule. . . ."

Given the importance of the new Policy and the need for those working in the criminal justice system to comply with its provisions, the Committee concluded that it would be beneficial to have a specific rule referencing the

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

policy. This rule has been numbered "Rule 113.1," so that it falls after Rule 113 (Criminal Case File and Docket Entries) since both rules deal with provisions applicable to all case records. The new rule alerts filing parties to the requirements of the new Policy, in particular, the provisions regarding the inclusion of confidential information.

Due to the fact that the new Policy reflects a strong commitment to public access to most filings, the Committee also believes that filers should be more attuned to this accessibility and should limit the inclusion of personal information where possible. Therefore, the Comment to Rule 113.1 would contain an admonition that personal information should be included in a filing only where necessary and consideration given to the use of confidential information forms or sealing orders.

The Committee also noted that the restrictions on inclusion of confidential information contained in the Policy did not apply to filings by the courts but only to those made by the parties. The Committee believes that courts should comply voluntarily with similar restrictions on the inclusion of confidential information in court documents and so aspirational language is included in the Comment to Rule 113.1 that a court should be careful about including such information in its filings.

Another area of concern was the requirement that a certification of compliance with the Policy be included in most filings. The Committee concluded that filers should be alerted to this requirement and its import. The rules that contain "contents" provisions for documents filed by the parties will now contain a cross-reference to the new Policy and the certification requirement in particular. These cross-references are included in Rules 560 (Information: Filing, Contents, Function) and 575 (Motions and Answers). These rules contain the most clearly defined contents provisions as well as are some of the most significant filing rules for documents filed in the courts of common pleas. A similar cross-reference also has been added to Rule 578 (Omnibus Pretrial Motion for Relief). While not a content rule, it does represent a significant number of the filing in criminal cases at the common pleas level.

[Pa.B. Doc. No. 18-97. Filed for public inspection January 19, 2018, 9:00 a.m.]

**Title 234—RULES OF
CRIMINAL PROCEDURE**

[234 PA. CODE CH. 1]

**Order Amending Rules 140, 141 and 142 of the
Rules of Criminal Procedure; No. 499 Criminal
Procedural Rules Doc.**

Order

Per Curiam

And Now, this 2nd day of January, 2018, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having not been published before adoption pursuant to Pa.R.J.A. 103(a)(3) in the interests of justice and efficient administration, and a Final Report to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rules of Criminal Procedure 140, 141, and 142 are amended, in the following form.

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

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE CHAPTER 1. SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES

PART D. Procedures Implementing 42 Pa.C.S. §§ 4137, 4138, and 4139: Criminal Contempt Powers of District Justices, Judges of the Pittsburgh Magistrates Court, and Judges of the Traffic Court of Philadelphia

Rule 140. Contempt Proceedings Before Magisterial District Judges and Pittsburgh Magistrates Court Judges [, and Philadelphia Traffic Court Judges].

(A) CONTEMPT IN THE PRESENCE OF THE COURT

[1.] (1) An issuing authority may summarily hold an individual in contempt for misbehavior in the presence of the court that obstructs the administration of justice, and, after affording the individual an opportunity to be heard, may impose a punishment of a fine of not more than \$100 or imprisonment for not more than 30 days or both.

[2.] (2) The issuing authority shall orally advise the contemnor of the right to appeal within 30 days for a trial *de novo* in the court of common pleas, and that:

[a.] (a) any punishment shall be automatically stayed for a period of 30 days from the date of the imposition of the punishment;

[b.] (b) if the contemnor files an appeal within the 30-day period, the stay will remain in effect pending disposition of the appeal;

[c.] (c) when the punishment is imprisonment, the contemnor has the right to assistance of counsel for the purpose of the *de novo* hearing in the court of common pleas, and, if the contemnor is without financial resources or otherwise unable to employ counsel, counsel will be assigned as provided in Rule 122;

[d.] (d) the contemnor must appear in the court of common pleas for the *de novo* hearing or the appeal may be dismissed; and

[e.] (e) unless a notice of appeal is filed within the 30-day period, on the date specified by the issuing authority, the contemnor must:

[(1)] (i) pay any fine imposed; and

[(2)] (ii) appear before the issuing authority for execution of any punishment of imprisonment.

[3.] (3) The issuing authority shall issue a written order of contempt, in which the issuing authority shall:

[a.] (a) set forth the facts of the case that constitute the contempt;

[b.] (b) certify that the issuing authority saw or heard the conduct constituting the contempt, and that the contempt was committed in the actual presence of the issuing authority;

[c.] (c) set forth the punishment imposed, and the date on which the contemnor is to pay any fine or to appear for the execution of any punishment of imprisonment; and

[d.] (d) set forth the information specified in paragraph [(A)2] (A)(2).

[4.] (4) The order of contempt shall be signed by the issuing authority, and a copy shall be given to the contemnor.

(B) CONTEMPT NOT IN THE PRESENCE OF THE COURT

[1.] (1) INSTITUTION OF PROCEEDINGS

[a.] (a) An issuing authority may institute contempt proceedings by either

[(1)] (i) giving written notice to the alleged contemnor of the time, date, and place of the contempt hearing, or

[(2)] (ii) when deemed appropriate by the issuing authority, issuing an attachment by means of a warrant,

whenever a person is alleged to have [(i)] (a) failed to obey a subpoena issued by the issuing authority; [(ii)] (b) failed to comply with an order of the issuing authority directing a defendant to pay fines and costs in accordance with an installment payment order; [(iii)] (c) failed to comply with an order of an issuing authority directing a defendant to compensate a victim; or [(iv)] (d) failed to comply with an order of an issuing authority in any case in which the issuing authority is by statute given the power to find the person in contempt.

[b.] (b) If the proceedings are instituted by notice, the notice shall:

[(1)] (i) specify the acts or omissions and the essential facts constituting the contempt charged;

[(2)] (ii) advise what the punishment may be for a finding of contempt in the case;

[(3)] (iii) if, in the event of a finding of contempt, there is a likelihood that the punishment will be imprisonment, advise the alleged contemnor of the right to the assistance of counsel and that counsel will be assigned pursuant to Rule 122 if the alleged contemnor is without financial resources or is otherwise unable to employ counsel; and

[(4)] (iv) advise the alleged contemnor that failure to appear at the hearing may result in the issuance of a bench warrant.

[c.] (c) The notice shall be served in person or by both first class and certified mail, return receipt requested.

[2.] (2) HEARING

[a.] (a) The hearing shall be conducted in open court, and the alleged contemnor shall be given a reasonable opportunity to defend.

[b.] (b) At the conclusion of the hearing:

[(1)] (i) The issuing authority in open court shall announce the decision, and, upon a finding of contempt, impose punishment, if any.

[(2)] (ii) If the issuing authority finds contempt and imposes punishment, the issuing authority shall orally advise the contemnor of the right to appeal within 30 days for a trial *de novo* in the court of common pleas, and that:

(a) any punishment shall be automatically stayed for a period of 30 days from the date of the imposition of the punishment;

(b) if the contemnor files an appeal within the 30-day period, the stay will remain in effect until disposition of the appeal;

(c) when the punishment is imprisonment, that the contemnor has the right to assistance of counsel for the purpose of the *de novo* hearing in the court of common pleas and, if the contemnor is without financial resources or otherwise unable to employ counsel, that counsel will be assigned as provided in Rule 122;

(d) the contemnor must appear in the court of common pleas for the *de novo* hearing or the appeal may be dismissed; and

(e) unless a notice of appeal is filed within the 30-day period, on the date specified by the issuing authority, the contemnor must:

(i) pay any fine imposed; and

(ii) appear before the issuing authority for execution of any punishment of imprisonment.

[(3)] (iii) If the issuing authority finds contempt and imposes punishment, the issuing authority shall issue a written order of contempt setting forth:

(a) the facts of the case that constitute the contempt;

(b) the punishment imposed, and the date on which the contemnor is to pay any fine or to appear for the execution of any punishment of imprisonment; and

(c) the information specified in paragraph [(B)2.b(2)] (B)(2)(b)(ii).

[(4)] (iv) The order of contempt shall be signed by the issuing authority, and a copy given to the contemnor.

[(5)] (v) Whether or not the issuing authority finds an individual in contempt for failure to comply with an order to pay restitution or to pay fines and costs, the issuing authority may alter or amend the order. If the issuing authority alters or amends the order, the issuing authority shall:

(a) issue a written order setting forth the amendments and the reasons for the amendments, make the order a part of the transcript, and give a copy of the order to the defendant; and

(b) advise the defendant that the defendant has 30 days within which to file a notice of appeal of the altered or amended order pursuant to Rule 141.

c. The issuing authority shall not hold a contempt hearing in the absence of the alleged contemnor. If the alleged contemnor fails to appear for the contempt hearing, the issuing authority may continue the hearing and issue a bench warrant.

[3.] (3) PUNISHMENT

Punishment for contempt may not exceed the limits set forth as follows:

[a.] (a) Whenever a person is found to have failed to obey a subpoena issued by the issuing authority, punishment may be a fine of not more than \$100. Failure to pay the fine within a reasonable time may result in imprisonment for not more than 10 days.

[b.] (b) Whenever a person is found to have failed to comply with an order of the issuing authority directing a defendant to pay fines and costs in accordance with an

installment payment order, punishment may be imprisonment for not more than 90 days.

[c.] (c) Whenever a person is found to have failed to comply with an order of an issuing authority directing a defendant to compensate a victim, punishment may be a fine of not more than \$100 or imprisonment for not more than 30 days, or both.

Comment

This rule sets forth the procedures to implement 42 Pa.C.S. §§ 4137[, 4138, and 4139] and 4138 concerning contempt powers of the minor judiciary, as well as any other statutes subsequently enacted that would provide for findings of contempt by the minor judiciary. It is not intended to supplant the procedures set forth in 23 Pa.C.S. § 6110 *et seq.* concerning violations of protection from abuse orders.

The scope of the contempt powers of magisterial district judges[,] and Pittsburgh Magistrates Court judges[, and Philadelphia Traffic Court judges] is governed by 42 Pa.C.S. §§ 4137[, 4138, and 4139] and 4138 respectively. Therefore, as used in this rule, "issuing authority" refers only to magisterial district judges[,] and Pittsburgh Magistrates Court judges[, and Philadelphia Traffic Court judges] when acting within the scope of their contempt powers. However, 42 Pa.C.S. §§ 4137(c)[, 4138(c) , and 4139(c)] and 4138(c) contain limitations upon the punishment that a minor court may impose for contempt. Such statutory limitations were held to be unconstitutional in *Commonwealth v. McMullen*, [599 Pa. 435,] 961 A.2d 842 (Pa. 2008).

By Orders dated November 29, 2004, 34 Pa.B. 6507 (December 11, 2004) and February 25, 2005, 35 Pa.B. 1662 (March 12, 2005), the Pennsylvania Supreme Court created an administrative judicial unit referred to as the Pittsburgh Municipal Court and assigned all matters within the jurisdiction of the Pittsburgh Magistrates Court to the Pittsburgh Municipal Court. As a result of these orders, the Pittsburgh Magistrates Court is no longer staffed while the Pittsburgh Municipal Court is staffed by Allegheny County magisterial district judges assigned on a rotating basis. The terminology is retained in these rules because the Pittsburgh Magistrates Court, which is created by statute, has not been disestablished by the statute.

[Pursuant to Act 17 of 2013, P.L. 55, No. 17 (June 19, 2013), the jurisdiction and functions of the Philadelphia Traffic Court were transferred to the Philadelphia Municipal Court Traffic Division. The terminology is retained in these rules because the Philadelphia Traffic Court, which is created by the Pennsylvania Constitution, has not been disestablished by constitutional amendment. Hearing officers of the Philadelphia Municipal Court Traffic Division do not have contempt powers of Philadelphia Traffic Court judges under 42 Pa.C.S. § 4139.]

This rule was amended in 2018 to remove references to Philadelphia Traffic Court judges after that Court was abolished by an amendment to Article 5, Section 6, of the Pennsylvania Constitution.

All contempt proceedings under this rule are to be entered on the issuing authority's miscellaneous docket, and a separate docket transcript for the contempt proceeding is to be prepared. If an appeal is taken, the

issuing authority is required to forward the transcript and the contempt order to the clerk of courts. *See* Rule 141.

Paragraph (A) sets forth the procedures for handling contempt proceedings when the misbehavior is committed in the presence of the court and is obstructing the administration of justice. *See* 42 Pa.C.S. §§ 4137(a)(1) [, **4138(a)(1), and 4139(a)(1)**] and **4138(a)(1)**. This type of contempt is commonly referred to as “direct” or “summary” contempt. The issuing authority may immediately impose punishment without a formal hearing because prompt action is necessary to maintain or restore order in the courtroom and to protect the authority and dignity of the court. Although immediate action is permitted in these cases, the alleged contemnor is ordinarily given an opportunity to be heard before the imposition of punishment. *See Commonwealth v. Stevenson*, [**482 Pa. 76,**] 393 A.2d 386 (**Pa.** 1978).

Customarily, individuals are not held in summary contempt for misbehavior before the court without prior oral warning by the presiding judicial officer.

Paragraph (B) provides the procedures for instituting and conducting proceedings in all other cases of alleged contemptuous conduct subject to the minor judiciary’s statutory contempt powers, which are commonly referred to as “indirect criminal contempt” proceedings.

For purposes of this rule, the phrase “failed to obey a subpoena issued by the issuing authority” in paragraph (B)(1)(a) is intended to include the failure to obey any other lawful process ordering the person to appear before an issuing authority.

Pursuant to 42 Pa.C.S. §§ 4137(a)(2), (3), and (4), and 4138(a)(2) and (3), [**and 4139(a)(2) and (3)**] only issuing authorities have the power to impose punishment for contempt of court for failure to comply with an order directing a defendant to compensate a victim. *See* paragraph [**(B)1.a**] **(B)(1)(a)**.

“Indirect criminal contempt” proceedings must be instituted either by serving the alleged contemnor with a notice of the contempt hearing, or by issuing an attachment in the form of a warrant. The alleged contemnor must be afforded the same due process protections that are normally provided in criminal proceedings, including notice of the charges, an opportunity to be heard and to present a defense, and counsel. *See, e.g., Codispoti v. Pennsylvania*, 418 U.S. 506 (1974), and *Bloom v. Illinois*, 391 U.S. 194 (1968).

When a warrant is executed under this rule, the alleged contemnor should be taken without unreasonable delay before the proper issuing authority.

Although 42 Pa.C.S. §§ 4137(a)(4) [, **4138(a)(3), and 4139(a)(3)**] and **4138(a)(3)** permit an issuing authority to impose summary punishments for indirect criminal contempt when a defendant fails to comply with an order of the issuing authority directing the defendant to pay fines and costs in accordance with an installment payment order, nothing in this rule is intended to preclude an issuing authority from proceeding pursuant to Rule 456 (Default Procedures: Restitution, Fines, and Costs).

No defendant may be sentenced to imprisonment if the right to counsel was not afforded at the contempt hearing. *See Alabama v. Shelton*, 535 U.S. 654 (2002), *Scott v. Illinois*, 440 U.S. 367 (1979), and *Argersinger v. Hamlin*, 407 U.S. 25 (1972). *Also see* Rule 454 concerning counsel in summary cases. The Supreme Court in *Commonwealth*

v. Abrams, [**461 Pa. 327,**] 336 A.2d 308 (**Pa.** 1975), held that the right to counsel applies in cases of criminal contempt. *See also Commonwealth v. Crawford*, [**466 Pa. 269,**] 352 A.2d 52 (**Pa.** 1976).

For the assignment of counsel, follow the Rule 122 procedures for summary cases.

For waiver of counsel, follow the Rule 121 procedures for proceedings before an issuing authority.

For the procedures for taking, perfecting, and handling an appeal from an order entered pursuant to this rule, see Rule 141.

If a contemnor defaults in the payment of a fine imposed as punishment for contempt pursuant to this rule, the matter is to proceed as provided in Rule 142.

See Chapter 5 Part C concerning bail before a contempt hearing. *See* 42 Pa.C.S. § 4137(e) concerning a magisterial district judge’s authority to set bail after an adjudication of contempt.

Paragraphs [**(A)2.e and (B)2.b(2)(e)**] **(A)(2)(e) and (B)(2)(b)(2)(e)** require the issuing authority to set a date for the contemnor to pay any fine or to appear for execution of any punishment of imprisonment. This date should be at least 35 days from the date of the contempt proceeding to allow for the expiration of the 30-day automatic stay period and the 5-day period within which the clerk of courts is to serve a copy of the notice of appeal on the issuing authority. *See* Rule 141.

Paragraph [**(B)2.b(5)**] **(B)(2)(b)(5)** requires that the case be reviewed at the conclusion of a contempt hearing to determine whether the restitution order or the fines and costs installment order should be altered or amended, rather than scheduling another hearing. This review should be conducted whether or not the issuing authority finds an individual in contempt for failure to comply with an order to pay restitution, or whether or not the issuing authority finds an individual in contempt for failure to comply with an installment order to pay fines and costs. For the authority to alter or amend a restitution order, see 18 Pa.C.S. § 1106(c)(3).

Official Note: Rule 30 adopted October 1, 1997, effective October 1, 1998; renumbered Rule 140 and amended March 1, 2000, effective April 1, 2001; Comment revised March 26, 2004, effective July 1, 2004; amended March 1, 2012, effective July 1, 2012; Comment revised May 7, 2014, effective immediately; **amended January 2, 2018, effective April 1, 2018.**

Committee Explanatory Reports:

Final Report explaining the provisions of new Rule 30 published with the Court’s Order at 27 Pa.B. 5405 (October 18, 1997).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court’s Order at 30 Pa.B. 1478 (March 18, 2000).

Final Report explaining the March 26, 2004 Comment revision concerning right to counsel published with the Court’s Order at 34 Pa.B. 1931 (April 10, 2004).

Final Report explaining the March 1, 2012 amendments concerning limitations on punishment for contempt published with the Court’s Order at 42 Pa.B. 1367 (March 17, 2012).

Final Report explaining the May 7, 2014 Comment revision concerning the transfer of the Philadelphia Traf-

fic Court functions to the Philadelphia Municipal Court published with the Court's Order at 44 Pa.B. 3065 (May 24, 2014).

Final Report explaining the January 2, 2018 amendment concerning the abolition of the Philadelphia Traffic Court published with the Court's Order at 48 Pa.B. 495 (January 20, 2018).

Rule 141. Appeals from Contempt Adjudications by Magisterial District Judges and Pittsburgh Magistrates Court Judges[, and Philadelphia Traffic Court Judges].

(A) An appeal authorized by 42 Pa.C.S. §§ 4137(d)[, **4138(d), or 4139(d)**] and 4138(d) of the action of an issuing authority in a contempt proceeding shall be perfected by filing a notice of appeal within 30 days after the action of the issuing authority with the clerk of courts and by appearing in the court of common pleas for the *de novo* hearing.

* * * * *

Comment

This rule provides the procedures for taking an appeal from a finding of contempt by a magisterial district judge[,] or a Pittsburgh Magistrates Court judge[, or a Philadelphia Traffic Court judge].

As used in this rule, "issuing authority" refers only to magisterial district judges[,] and Pittsburgh Magistrates Court judges[, and Philadelphia Traffic Court judges] when acting within the scope of their contempt powers. *See* 42 Pa.C.S. §§ 4137[, **4138, and 4139**] and 4138.

By Orders dated November 29, 2004, 34 Pa.B. 6507 (December 11, 2004) and February 25, 2005, 35 Pa.B. 1662 (March 12, 2005), the Pennsylvania Supreme Court created an administrative judicial unit referred to as the Pittsburgh Municipal Court and assigned all matters within the jurisdiction of the Pittsburgh Magistrates Court to the Pittsburgh Municipal Court. As a result of these orders, the Pittsburgh Magistrates Court is no longer staffed while the Pittsburgh Municipal Court is staffed by Allegheny County magisterial district judges assigned on a rotating basis. The terminology is retained in these rules because the Pittsburgh Magistrates Court, which is created by statute, has not been disestablished by the statute.

[Pursuant to Act 17 of 2013, P.L. 55, No. 17 (June 19, 2013), the jurisdiction and functions of the Philadelphia Traffic Court were transferred to the Philadelphia Municipal Court Traffic Division. The terminology is retained in these rules because the Philadelphia Traffic Court, which is created by the Pennsylvania Constitution, has not been disestablished by constitutional amendment. Hearing officers of the Philadelphia Municipal Court Traffic Division do not have contempt powers of Philadelphia Traffic Court judges under 42 Pa.C.S. § 4139.]

This rule was amended in 2018 to remove references to Philadelphia Traffic Court judges after that Court was abolished by an amendment to Article 5, Section 6, of the Pennsylvania Constitution.

As the Pennsylvania Supreme Court stated in *Commonwealth v. McMullen*, [**599 Pa. 435,**] 961 A.2d 842 (Pa. 2008), legislative limitations on a court's power to sentence for contempt are unconstitutional.

Pursuant to paragraph (B), any punishment imposed for contempt will be automatically stayed for 30 days from the date of the imposition of the punishment, during which time a notice of appeal may be filed with the clerk of courts. To the extent that 42 Pa.C.S. §§ 4137(d)[, **4138(d), and 4139(d)**] and 4138(d) are inconsistent with this rule, they are suspended by Rule 1101 (Suspension of Acts of Assembly).

If no notice of appeal is filed within the 30-day period following imposition of the punishment, Rule 140 requires the issuing authority to direct the contemnor on a date certain to pay any fine imposed or to appear for execution of any punishment of imprisonment.

See 42 Pa.C.S. § 4137(e) concerning the imposition of bail as a condition of release by a magisterial district judge.

The procedures set forth in Rule 462 (Trial *De Novo*) for a trial *de novo* on a summary case should be followed when a contempt adjudication is appealed to the common pleas court.

No defendant may be sentenced to imprisonment if the right to counsel was not afforded at the *de novo* contempt hearing. *See Alabama v. Shelton*, 535 U.S. 654 (2002), *Scott v. Illinois*, 440 U.S. 367 (1979), and *Argersinger v. Hamlin*, 407 U.S. 25 (1972).

Paragraph (F) makes it clear that the judge assigned to conduct the *de novo* hearing may dismiss an appeal of the action of an issuing authority in a contempt proceeding when the judge determines that the appellant is absent without cause from the *de novo* hearing. If the appeal is dismissed, the judge should enter judgment and order execution of any punishment imposed by the issuing authority.

Once punishment for a contempt adjudication is imposed, paragraph (F)(1) makes it clear that the case is to remain in the court of common pleas for execution of the sentence and collection of any fine and costs, and the case may not be returned to the issuing authority.

Official Note: Rule 31 adopted October 1, 1997, effective October 1, 1998; renumbered Rule 141 and Comment revised March 1, 2000, effective April 1, 2001; amended February 28, 2003, effective July 1, 2003; Comment revised March 26, 2004, effective July 1, 2004; amended March 1, 2012, effective July 1, 2012; Comment revised May 7, 2014, effective immediately; **amended January 2, 2018, effective April 1, 2018.**

Committee Explanatory Reports:

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Final Report explaining the May 7, 2014 Comment revision concerning the transfer of the Philadelphia Traffic Court functions to the Philadelphia Municipal Court published with the Court's Order at 44 Pa.B. 3065 (May 24, 2014).

Final Report explaining the January 2, 2018 amendment concerning the abolition of the Philadelphia Traffic Court published with the Court's Order at 48 Pa.B. 495 (January 20, 2018).

Rule 142. Procedures Governing Defaults in Payment of Fine Imposed as Punishment for Contempt.

* * * * *

Comment

This rule provides the procedures governing defaults in the payment of fines imposed as punishment for contempt in proceedings before magisterial district judges[,] **and** Pittsburgh Magistrates Court judges[, **and Philadelphia Traffic Court judges**]. See Rule 140(A)(1) and (B)(3).

As used in this rule, “issuing authority” refers only to magisterial district judges[,] **and** Pittsburgh Magistrates Court judges[, **and Philadelphia Traffic Court judges**] when acting within the scope of their contempt powers. See 42 Pa.C.S. §§ 4137[, 4138, and 4139] **and 4138.**

By Orders dated November 29, 2004, 34 Pa.B. 6507 (December 11, 2004) and February 25, 2005, 35 Pa.B. 1662 (March 12, 2005), the Pennsylvania Supreme Court created an administrative judicial unit referred to as the Pittsburgh Municipal Court and assigned all matters within the jurisdiction of the Pittsburgh Magistrates Court to the Pittsburgh Municipal Court. As a result of these orders, the Pittsburgh Magistrates Court is no longer staffed while the Pittsburgh Municipal Court is staffed by Allegheny County magisterial district judges assigned on a rotating basis. The terminology is retained in these rules because the Pittsburgh Magistrates Court, which is created by statute, has not been disestablished by the statute.

[Pursuant to Act 17 of 2013, P.L. 55, No. 17 (June 19, 2013), the jurisdiction and functions of the Philadelphia Traffic Court were transferred to the Philadelphia Municipal Court Traffic Division. The terminology is retained in these rules because the Philadelphia Traffic Court, which is created by the Pennsylvania Constitution, has not been disestablished by constitutional amendment. Hearing officers of the Philadelphia Municipal Court Traffic Division do not have contempt powers of Philadelphia Traffic Court judges under 42 Pa.C.S. § 4139.]

This rule was amended in 2018 to remove references to Philadelphia Traffic Court judges after that Court was abolished by an amendment to Article 5, Section 6, of the Pennsylvania Constitution.

For contempt procedures generally, see Rule 140.

As the Pennsylvania Supreme Court stated in *Commonwealth v. McMullen*, [599 Pa. 435,] 961 A.2d 842 (Pa. 2008), legislative limitations on a court’s power to sentence for contempt are unconstitutional.

When a contemnor defaults on a payment of a fine, paragraph (A) requires the issuing authority to notify the contemnor of the default, and to provide the contemnor with an opportunity to either pay the amount due or appear within a 10-day period to explain why the contemnor should not be imprisoned for nonpayment. If the contemnor fails to pay or appear, the issuing authority must issue a bench warrant for the arrest of the contemnor.

If the hearing on the default cannot be held immediately, the issuing authority may set bail as provided in Chapter 5 Part C.

This rule contemplates that when there has been an appeal pursuant to paragraph (C), the case would return to the issuing authority who presided at the default hearing for completion of the collection process.

Official Note: Rule 32 adopted October 1, 1997, effective October 1, 1998; renumbered Rule 142 and amended March 1, 2000, effective April 1, 2001; amended March 3, 2004, effective July 1, 2004; amended March 1, 2012 effective July 1, 2012; Comment revised May 7, 2014, effective immediately; **amended January 2, 2018, effective April 1, 2018.**

Committee Explanatory Reports:

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Final Report explaining the May 7, 2014 Comment revision concerning the transfer of the Philadelphia Traffic Court functions to the Philadelphia Municipal Court published with the Court’s Order at 44 Pa.B. 3065 (May 24, 2014).

Final Report explaining the January 2, 2018 amendment concerning the abolition of the Philadelphia Traffic Court published with the Court’s Order at 48 Pa.B. 495 (January 20, 2018).

FINAL REPORT¹

Amendments to Pa.R.Crim.P. 140, 141, and 142

Technical Corrections Related to the Abolition of the Philadelphia Traffic Court

On January 2, 2018, effective April 1, 2018, upon the recommendation of the Criminal Procedural Rules Committee, the Court amended Rules 140 (Contempt Proceedings Before Magisterial District Judges and Pittsburgh Magistrates Court Judges, and Philadelphia Traffic Court Judges), 141 (Appeals from Contempt Adjudications by Magisterial District Judges and Pittsburgh Magistrates Court Judges, and Philadelphia Traffic Court Judges), and 142 (Procedures Governing Defaults in Payment of Fine Imposed as Punishment for Contempt) to correct the references to the Philadelphia Traffic Court to reflect the abolition of that court and the transfer of its function to the Traffic Court Division of the Philadelphia Municipal Court.

The Philadelphia Traffic Court was abolished with the process beginning in 2013 with the passage of Act 17 of 2013. The Act transferred the functions and responsibilities of the Traffic Court to the Traffic Division of the Philadelphia Municipal Court. Shortly after the passage of the Act, the Committee developed a number of rule changes to reflect this transfer. These changes were adopted by the Court on May 7, 2014, effective immediately upon adoption.

Most of the amendments changed references to the “Traffic Court” to the “Traffic Division of the Municipal Court.” However, Rules 140-142 that provide the procedures for contempt proceedings by the minor judiciary were treated somewhat differently. A paragraph was added to the Comment in each of these rules stating:

Pursuant to Act 17 of 2013, P.L. 55, No. 17 (June 19, 2013), the jurisdiction and functions of the Philadelphia Traffic Court were transferred to the Philadelphia Municipal Court Traffic Division. The terminology is retained in these rules because the Philadelphia Traffic Court, which is created by the Pennsylvania Constitution, has not been disestab-

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

lished by constitutional amendment. Hearing officers of the Philadelphia Municipal Court Traffic Division do not have contempt powers of Philadelphia Traffic Court judges under 42 Pa.C.S. § 4139.

This was consistent with existing provisions in these Comments retaining reference to Pittsburgh Magistrate Court judges. Even though the function of the Pittsburgh Magistrate Court has been transferred to the Pittsburgh Municipal Court that has been staffed entirely by magisterial district judges for some time, statutes referencing Pittsburgh Magistrate Court judges remain, particularly 42 Pa.C.S. § 4138 that defines the contempt powers of these judges. Therefore, the Committee had decided to retain the references to Philadelphia Traffic Court judges in Rules 140—142 because they still were authorized by the Pennsylvania Constitution and Act 17 permitted those non-convicted sitting Traffic Court judges to continue to serve until they completed their current terms or until the Constitution had been amended. *See* 42 Pa.C.S. § 1321.

In April 2016, a referendum to amend Article V, Section 6 of the Pennsylvania Constitution formally abolishing the Traffic Court was passed and references to the Traffic Court have been removed from the Constitution. As a result, the Committee deemed it appropriate to modify these rules to reflect that change.

Therefore, the remaining references to the Traffic Court contained in Rules 140—142 are removed and the Comment language revised to state the reason for this removal. Additionally, references in the rules to 42 Pa.C.S. § 4139 are being removed. Section 4139 defines the contempt powers of the Traffic Court judges. Even though that statute has not been repealed, it refers to the powers of an office that no longer exists. Finally, the format of the numeration of paragraphs in Rule 140 has been changed to make it consistent with that in the other rules.

[Pa.B. Doc. No. 18-98. Filed for public inspection January 19, 2018, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CH. 4]

Proposed Amendment of Pa.Rs.Crim.P. 403, 407, 408, 409, 411, 412, 413, 414, 422, 423, 424, 454, 456 and 470

The Criminal Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the amendment of Rules 403 (Contents of Citation), Rule 407 (Pleas in Response to Citation), 408 (Not Guilty Pleas—Notice of Trial), 409 (Guilty Pleas), 411 (Procedures Following Filing of Citation—Issuance of Summons), 412 (Pleas in Response to Summons), 413 (Not Guilty Pleas—Notice of Trial), 414 (Guilty Pleas), 422 (Pleas in Response to Citation), 423 (Not Guilty Pleas—Notice of Trial), 424 (Guilty Pleas), 454 (Trial in Summary Cases), 456 (Default Procedures: Restitution, Fines, and Costs), 470 (Procedures Related to License Suspension after Failure to Respond to Citation or Summons or Failure to Pay Fine and Costs) for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the

Pennsylvania Bulletin for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded and underlined; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

Jeffrey M. Wasileski, Counsel
Supreme Court of Pennsylvania
Criminal Procedural Rules Committee
601 Commonwealth Avenue, Suite 6200
Harrisburg, PA 17106-2635
fax: (717) 231-9521
e-mail: criminalrules@pacourts.us

All communications in reference to the proposal should be received by no later than Friday, February 23, 2018. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

*By the Criminal Procedural
Rules Committee*

BRIAN W. PERRY,
Chair

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE CHAPTER 4. PROCEDURES IN SUMMARY CASES PART B. Citation Procedures

Rule 403. Contents of Citation.

* * * * *

(B) The copy delivered to the defendant shall also contain a notice to the defendant:

(1) that the original copy of the citation will be filed before the issuing authority of the magisterial district designated in the citation, the address and number of which shall be contained in the citation; and

(2) that the defendant shall, within [10] 30 days after issuance of the citation:

(a) plead not guilty by:

(i) notifying the proper issuing authority in writing of the plea [**and forwarding as collateral for appearance at trial an amount equal to the fine and costs specified in the citation, plus any additional fee required by law. If the amount is not specified, the defendant shall forward the sum of \$50 as collateral for appearance at trial; or**], providing a current mailing address and telephone number, and

(a) forwarding as collateral for appearance at trial an amount equal to the fine and costs specified in the citation, plus any additional fee required by law, or

(b) forwarding as collateral for appearance at trial the sum of \$50 if the fine and costs are not specific on the citation, or

(c) certifying in writing that they do not have the financial means to deposit the amount of collateral specified in the citation, or \$50 when no amount is specified; or

(ii) appearing before the proper issuing authority, entering the plea, and depositing such collateral for appearance at trial as the issuing authority shall require[. **If the defendant cannot afford to pay the collateral specified in the citation or the \$50, the defendant must appear before the issuing authority to enter a plea]**; or

(b) plead guilty by:

(i) notifying the proper issuing authority in writing of the plea and forwarding an amount equal to the fine and costs when specified in the statute or ordinance, the amount of which shall be set forth in the citation; or

(ii) appearing before the proper issuing authority for the entry of the plea and imposition of sentence, when the fine and costs are not specified in the citation, **or when a payment plan is necessary**, or when required to appear pursuant to Rule 409(B)(3), 414(B)(3), or 424(B)(3); or

* * * * *

Official Note: Previous rule, originally numbered Rule 133(a) and Rule 133(b), adopted January 31, 1970, effective May 1, 1970; renumbered Rule 53(a) and 53(b) September 18, 1973, effective January 1, 1974; amended January 23, 1975, effective September 1, 1975; Comment revised January 28, 1983, effective July 1, 1983; rescinded July 12, 1985, effective January 1, 1986, and not replaced in these rules. Present Rule 53 adopted July 12, 1985, effective January 1, 1986. The January 1, 1986 effective dates all are extended to July 1, 1986; amended February 1, 1989, effective as to cases instituted on or after July 1, 1989; amended January 31, 1991, effective July 1, 1991; amended June 3, 1993, effective as to new citations printed on or after July 1, 1994; amended July 25, 1994, effective January 1, 1995; renumbered Rule 403 and Comment revised March 1, 2000, effective April 1, 2001; amended March 3, 2000, effective July 1, 2000; Comment revised February 6, 2003, effective July 1, 2003; amended August 7, 2003, effective July 1, 2004; amended January 26, 2007, effective February 1, 2008; **amended _____, 2018, effective _____, 2018.**

Committee Explanatory Reports:

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Final Report explaining the January 26, 2007 amendments to paragraph (B)(2)(b)(ii) and revisions to the Comment published with the Court's Order at 37 Pa.B. 752 (February 17, 2007).

Report explaining the proposed amendments regarding responses in writing asserting an inability to pay published for comment at 48 Pa.B. 505 (January 20, 2018).

PART B(1). Procedures When Citation Is Issued to Defendant

Rule 407. Pleas in Response to Citation.

Within [10] 30 days after issuance of a citation, the defendant shall notify the issuing authority by mail or in person that the defendant either pleads not guilty or pleads guilty.

* * * * *

Official Note: Previous Rule 57 adopted September 18, 1973, effective January 1, 1974; title of rule amended January 23, 1975, effective September 1, 1975; rescinded

July 12, 1985, effective January 1, 1986, and replaced by present Rules 411-414 and 421-424. Present Rule 57 adopted July 12, 1985, effective January 1, 1986. The January 1, 1986 effective dates all are extended to July 1, 1986; amended February 1, 1989, effective as to cases instituted on or after July 1, 1989; renumbered Rule 407 and amended March 1, 2000, effective April 1, 2001; **amended _____, 2018, effective _____, 2018.**

Committee Explanatory Reports:

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

Report explaining the proposed amendments increasing the period to respond to 30 days published for comment at 48 Pa.B. 505 (January 20, 2018).

Rule 408. Not Guilty Pleas—Notice of Trial.

(A) A defendant may plead not guilty by:

(1) appearing before the issuing authority, entering the plea, and depositing such collateral for appearance at trial as the issuing authority shall require; or

(2) notifying the issuing authority in writing of the plea, **providing a current mailing address and telephone number**, and

(a) forwarding as collateral for appearance at trial an amount equal to the fine and costs specified in the citation, plus any additional fee required by law[. **If]**;

(b) **if** the fine and costs are not specified, [**the defendant shall forward**] **forwarding** the sum of \$50 as collateral for appearance at trial[.] **; or**

(c) **certifying that the defendant does not have the financial means to deposit the amount of the collateral specified in the citation or the \$50 when no amount is specified.**

(B) The issuing authority, upon receiving a plea of not guilty, shall:

* * * * *

Comment

[**It is intended that the defendant will appear in person before the issuing authority to plead not guilty when the defendant cannot afford to deposit the amount of collateral specified in the citation or the \$50 when no amount is specified. A plea entered by mail must be accompanied by the full amount of collateral. See Rule 452.**] All checks deposited as collateral shall be made payable to the magisterial district number set forth on the citation.

When fixing the date and hour for trial, the issuing authority should determine whether the trial must be delayed because the defendant's criminal record must be ascertained prior to trial as specifically required by statute for purposes of grading the offense charged.

Paragraph (B)(3) was amended in 2016 to clarify that collateral may be forfeited for the payment of restitution as well as for the fine and costs that have been assessed by an issuing authority. See 18 Pa.C.S. § 1106(d) for the authority of a magisterial district judge to impose restitution on a defendant.

Official Note: Previous Rule 58, adopted September 18, 1973, effective January 1, 1974; amended to correct printing error June 28, 1976, effective immediately; rescinded July 12, 1985, effective January 1, 1986, and not replaced in the present rules. Present Rule 58 adopted

July 12, 1985, effective January 1, 1986. The January 1, 1986 effective dates all are extended to July 1, 1986; amended January 31, 1991, effective July 1, 1991; renumbered Rule 408 and amended March 1, 2000, effective April 1, 2001; amended June 10, 2016, effective August 1, 2016; **amended** , 2018, **effective** , 2018.

Committee Explanatory Reports:

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Final Report explaining the June 10, 2016 amendments clarifying that forfeited collateral may be applied to restitution published with the Court's Order at 46 Pa.B. 3235 (June 25, 2016).

Report explaining the proposed amendments regarding responses by mail when the defendant is unable to post collateral published for comment at 48 Pa.B. 505 (January 20, 2018).

Rule 409. Guilty Pleas.

(A) A defendant may plead guilty by:

(1) notifying the issuing authority in writing of the plea and forwarding to the issuing authority an amount equal to the fine and costs specified in the citation; or

(2) appearing before the issuing authority for the entry of the plea and imposition of sentence when:

(a) the fine and costs are not specified in the citation; **[or]**

(b) after receipt of notice that a guilty plea by mail has not been accepted by the issuing authority pursuant to paragraph (B)(3) [.]; **or**

(c) **the defendant is without the financial means immediately to pay the fine and costs specified in the citation.**

(B) When the defendant pleads guilty pursuant to paragraph (A)(1):

(1) The defendant **[must] shall** sign the guilty plea acknowledging that the plea is entered voluntarily and understandingly. **The defendant shall provide confirmation of a current mailing address and telephone number.**

* * * * *

(C) When the defendant is required to personally appear before the issuing authority to plead guilty pursuant to paragraph (A)(2), the issuing authority shall:

* * * * *

(5) provide for installment payments when a defendant who is sentenced to pay a fine and costs is without the financial means immediately to pay **[the fine and costs] the full amount of the fine, costs, and restitution. The issuing authority may delay imposing sentence pending confirmation of the defendant's ability to pay.**

Comment

The rule **[was amended in 2007 to make it clear (1)] makes it clear** that a defendant may not enter a guilty plea by mail **(1)** to an offense that carries a mandatory sentence of imprisonment, **[and (2) in] or (2) when the defendant is without the financial means immediately to pay the fine and costs. In** those cases in which the offense carries a possible sentence of imprisonment, the issuing authority has the discretion whether or not to accept a guilty plea submitted by mail.

Nothing in this rule is intended to require that an issuing authority should proceed as provided in paragraph (C) when the defendant returns the written guilty plea and the fine and costs in person to the issuing authority's office pursuant to paragraphs (A)(1) and (B). The issuing authority's staff should record receipt of the plea and monies in the same manner as those received by mail.

Paragraph (C)(4) was added in 2007 to permit an issuing authority to delay imposition of sentence in order to investigate a defendant's eligibility for intermediate punishment. For example, under 42 Pa.C.S. § 9763 and § 9804, defendants may be sentenced to intermediate punishment for certain offenses, including summary violations of 75 Pa.C.S. § 1543(b) (driving while license is under a DUI-related suspension) but only if they meet certain eligibility requirements, such as undergoing a drug and alcohol assessment. Often this information will not be available to the issuing authority at the time of sentencing, especially when the defendant appears personally to enter a guilty plea.

In determining whether a defendant is without the financial means immediately to pay the fine, costs, and restitution, the issuing authority must consider the defendant's financial situation. Some factors that should be considered in this determination include, but are not limited to:

(1) the defendant's current employment status, including current salary and gross income from this year and previous recent years, if any, from the current employer(s) or previous employer(s);

(2) income from other sources such as interest, dividends, pension and annuities, social security benefits, support payments, disability payments, unemployment compensation and supplemental benefits, workers' compensation, public assistance;

(3) the value of all property owned, including money available in cash, or bank accounts, real estate (including home), and other significant property such as motor vehicles;

(4) debts and obligations including mortgages, rent, loans; court assessments, and any other miscellaneous recurring expenses;

(5) other contributions to household support from spouse, parents, children, or others; and

(6) all persons dependent upon the defendant for support and the defendant's actual contribution to that support

The issuing authority may require the defendant to present documents or other evidence to verify the defendant's financial situation.

When the defendant was under 18 years of age at the time of the offense and is charged with a summary offense that would otherwise carry a mandatory sentence of imprisonment as prescribed by statute, the issuing authority is required to conduct the summary trial but may not sentence the defendant to a term of imprisonment. See 42 Pa.C.S. §§ 6302 and 6303 and 75 Pa.C.S. § 6303(b).

* * * * *

Official Note: Previous Rule 59 adopted September 18, 1973, effective January 1, 1974; rescinded July 12, 1985, effective January 1, 1986, and replaced by present Rule 75. Present Rule 59 adopted July 12, 1985, effective January 1, 1986; amended September 23, 1985, effective January 1, 1986. The January 1, 1986 effective dates are

all extended to July 1, 1986; amended May 28, 1987, effective July 1, 1987; amended January 31, 1991, effective July 1, 1991; renumbered Rule 409 and amended March 1, 2000, effective April 1, 2001; Comment revised August 7, 2003, effective July 1, 2004; amended January 26, 2007, effective February 1, 2008; Comment revised July 17, 2013, effective August 17, 2013; Comment revised March 9, 2016, effective July 1, 2016; **amended _____, 2018, effective _____, 2018.**

Committee Explanatory Reports:

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Final Report explaining the March 9, 2016 Comment revision concerning the Rule 454 restitution procedures published with the Court's Order at 46 Pa.B. 1532 (March 26, 2016).

Report explaining the proposed amendments regarding inability to pay published for comment at 48 Pa.B. 505 (January 20, 2018).

PART B(2). Procedures When Citation Filed

Rule 411. Procedures Following Filing of Citation—Issuance of Summons.

(A) Upon the filing of the citation, including receipt of electronically transmitted citation or parking violation information, the issuing authority shall issue a summons commanding the defendant to respond within [10] 30 days of receipt of the summons, unless the issuing authority has reasonable grounds to believe that the defendant will not obey a summons in which case an arrest warrant shall be issued. The summons shall be served as provided in these rules.

* * * * *

Official Note: Previous Rule 117, adopted June 30, 1964, effective January 1, 1965; suspended effective May 1, 1970; revised January 31, 1970, effective May 1, 1970; renumbered and amended to apply only to summary cases September 18, 1973, effective January 1, 1974; amended April 26, 1979, effective July 1, 1979; amended January 28, 1983, effective July 1, 1983; rescinded July 12, 1985, effective January 1, 1986, and replaced by present Rule 431. Present Rule 61 adopted July 12, 1985, effective January 1, 1986. The January 1, 1986 effective dates all are extended to July 1, 1986; amended July 17, 1996, effective January 1, 1997; renumbered Rule 411 and Comment revised March 1, 2000, effective April 1, 2001; amended _____, 2003, effective 2003; **amended _____, 2018, effective _____, 2018.**

Committee Explanatory Reports:

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Final Report explaining the February 6, 2003 amendments concerning electronic transmission of citation and parking violation information published with the Court's Order at 33 Pa.B. 969 (February, 22, 2003).

Report explaining the proposed amendments increasing the period to respond to 30 days published for comment at 48 Pa.B. 505 (January 20, 2018).

Rule 412. Pleas in Response to Summons.

Within [10] 30 days after receipt of a summons, the defendant shall notify the issuing authority by mail or in person that the defendant either pleads not guilty or pleads guilty.

* * * * *

Official Note: Previous rule, originally numbered Rule 118 and 118(b), adopted June 30, 1964, effective January

1, 1965; suspended effective May 1, 1970; revised January 31, 1970, effective May 1, 1970; renumbered as Rule 62 and amended to apply only to summary cases September 18, 1973, effective January 1, 1974; amended April 26, 1979, effective July 1, 1979; amended April 24, 1981, effective July 1, 1981; amended January 28, 1983, effective July 1, 1983; rescinded July 12, 1985, effective January 1, 1986, and replaced by present Rule 441. Present Rule 62 adopted July 12, 1985, effective January 1, 1986. The January 1, 1986 effective dates all are extended to July 1, 1986; amended February 1, 1989, effective as to cases instituted on or after July 1, 1989; renumbered Rule 412 and amended March 1, 2000, effective April 1, 2001; **amended _____, 2018, effective _____, 2018.**

Committee Explanatory Reports:

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Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

Report explaining the proposed amendments increasing the period to respond to 30 days published for comment at 48 Pa.B. 505 (January 20, 2018).

Rule 413. Not Guilty Pleas—Notice of Trial.

(A) A defendant may plead not guilty by:

(1) appearing before the issuing authority, entering the plea, and depositing such collateral for appearance at trial as the issuing authority shall require; or

(2) notifying the issuing authority in writing of the plea, **providing a current mailing address and telephone number,** and

(a) forwarding as collateral for appearance at trial an amount equal to the fine and costs specified in the citation, plus any additional fee required by law[. If];

(b) **if** the fine and costs are not specified, [**the defendant shall forward**] **forwarding** the sum of \$50 as collateral for appearance at trial[.] ; **or**

(c) **certifying that the defendant does not have the financial means to deposit the amount of the collateral specified in the citation or the \$50 when no amount is specified.**

(B) The issuing authority, upon receiving a plea of not guilty, shall:

* * * * *

Comment

[It is intended that the defendant will appear in person before the issuing authority to plead not guilty when the defendant cannot afford to deposit the amount of collateral specified in the citation or the \$50 when no amount is specified. A plea entered by mail must be accompanied by the full amount of collateral. See Rule 452.] All checks deposited as collateral shall be made payable to the magisterial district number set forth on the citation.

When fixing the date and hour for trial, the issuing authority should determine whether the trial must be delayed because the defendant's criminal record must be ascertained prior to trial as specifically required by statute for purposes of grading the offense charged.

Paragraph (B)(3) was amended in 2016 to clarify that collateral may be forfeited for the payment of restitution as well as for the fine and costs that have been assessed

by an issuing authority. See 18 Pa.C.S. § 1106(d) for the authority of a magisterial district judge to impose restitution on a defendant.

Official Note: Previous rule, originally numbered Rules 141 and 142, adopted January 31, 1970, effective May 1, 1970; combined, and renumbered Rule 63, and amended September 18, 1973, effective January 1, 1974; amended April 26, 1979, effective July 1, 1979; rescinded July 12, 1985, effective January 1, 1986, and replaced by present Rule 454. Present Rule 63 adopted July 12, 1985, effective January 1, 1986. The January 1, 1986 effective dates all are extended to July 1, 1986; amended January 31, 1991, effective July 1, 1991; renumbered Rule 413 and amended March 1, 2000, effective April 1, 2001; amended June 10, 2016, effective August 1, 2016; **amended _____, 2018, effective _____, 2018.**

Committee Explanatory Reports:

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Final Report explaining the June 10, 2016 amendments clarifying that forfeited collateral may be applied to restitution published with the Court’s Order at 46 Pa.B. 3235 (June 26, 2016).

Report explaining the proposed amendments regarding responses by mail when the defendant is unable to post collateral published for comment at 48 Pa.B. 505 (January 20, 2018).

Rule 414. Guilty Pleas.

(A) A defendant may plead guilty by:

(1) notifying the issuing authority in writing of the plea and forwarding to the issuing authority an amount equal to the fine and costs specified in the summons; or

(2) appearing before the issuing authority for the entry of the plea and imposition of sentence when:

(a) the fine and costs are not specified in the citation; **[or]**

(b) after receipt of notice that a guilty plea by mail has not been accepted by the issuing authority pursuant to paragraph (B)(3) [.]; **or**

(c) the defendant is without the financial means immediately to pay the fine and costs specified in the citation.

(B) When the defendant pleads guilty pursuant to paragraph (A)(1):

(1) The defendant **[must] shall** sign the guilty plea acknowledging that the plea is entered voluntarily and understandingly. **The defendant shall provide confirmation of a current mailing address and telephone number.**

* * * * *

(C) When the defendant is required to personally appear before the issuing authority to plead guilty pursuant to paragraph (A)(2) the issuing authority shall:

* * * * *

(5) provide for installment payments when a defendant who is sentenced to pay a fine and costs is without the financial means immediately to pay **[the fine and costs] the full amount of the fine, costs, and restitution. The issuing authority may delay imposing sentence pending confirmation of the defendant’s ability to pay.**

Comment

The rule **[was amended in 2007 to make it clear (1)] makes it clear** that a defendant may not enter a guilty plea by mail **(1)** to an offense that carries a mandatory sentence of imprisonment, **[and (2) in] or (2) when the defendant is without the financial means immediately to pay the fine and costs. In** those cases in which the offense carries a possible sentence of imprisonment, the issuing authority has the discretion whether or not to accept a guilty plea submitted by mail.

Nothing in this rule is intended to require that an issuing authority should proceed as provided in paragraph (C) when the defendant returns the written guilty plea and the fine and costs in person to the issuing authority’s office pursuant to paragraphs (A)(1) and (B). The issuing authority’s staff should record receipt of the plea and monies in the same manner as those received by mail.

Paragraph (C)(4) was added in 2007 to permit an issuing authority to delay imposition of sentence in order to investigate a defendant’s eligibility for intermediate punishment. For example, under 42 Pa.C.S. § 9763 and §9804, defendants may be sentenced to intermediate punishment for certain offenses, including summary violations of 75 Pa.C.S. § 1543(b) (driving while license is under a DUI-related suspension) but only if they meet certain eligibility requirements, such as undergoing a drug and alcohol assessment. Often this information will not be available to the issuing authority at the time of sentencing, especially when the defendant appears personally to enter a guilty plea.

In determining whether a defendant is without the financial means immediately to pay the fine and costs, the issuing authority must consider the defendant’s financial situation. Some factors that should be considered in this determination include, but are not limited to:

(1) the defendant’s current employment status, including current salary and gross income from this year and previous recent years, if any, from the current employer(s) or previous employer(s);

(2) income from other sources such as interest, dividends, pension and annuities, social security benefits, support payments, disability payments, unemployment compensation and supplemental benefits, workers’ compensation, public assistance;

(3) the value of all property owned, including money available in cash, or bank accounts, real estate (including home), and other significant property such as motor vehicles;

(4) debts and obligations including mortgages, rent, loans; court assessments, and any other miscellaneous recurring expenses;

(5) other contributions to household support from spouse, parents, children, or others; and

(6) all persons dependent upon the defendant for support and the defendant’s actual contribution to that support

The issuing authority may require the defendant to present documents or other evidence to verify the defendant’s financial situation.

When the defendant was under 18 years of age at the time of the offense and is charged with a summary offense that would otherwise carry a mandatory sentence

of imprisonment as prescribed by statute, the issuing authority is required to conduct the summary trial but may not sentence the defendant to a term of imprisonment. See 42 Pa.C.S. §§ 6302 and 6303 and 75 Pa.C.S. § 6303(b).

* * * * *

Official Note: Previous rule, originally numbered Rule 136, adopted January 31, 1970, effective May 1, 1970; renumbered Rule 64 September 18, 1973, effective January 1, 1974; rescinded July 12, 1985, effective January 1, 1986, and replaced by present Rule 84. Present Rule 64 adopted July 12, 1985, effective January 1, 1986; amended September 23, 1985, effective January 1, 1986. The January 1, 1986 effective dates all are extended to July 1, 1986; amended May 28, 1987, effective July 1, 1987; amended January 31, 1991, effective July 1, 1991; renumbered Rule 414 and amended March 1, 2000, effective April 1, 2001; Comment revised August 7, 2003, effective July 1, 2004; amended January 26, 2007, effective February 1, 2008; Comment revised July 17, 2013, effective August 17, 2013; Comment revised March 9, 2016, effective July 1, 2016; **amended** , **2018, effective** , **2018**.

Committee Explanatory Reports:

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Final Report explaining the March 9, 2016 Comment revision concerning the Rule 454 restitution procedures published with the Court's Order at 46 Pa.B. 1532 (March 26, 2016).

Report explaining the proposed amendments regarding inability to pay published for comment at 48 Pa.B. 505 (January 20, 2018).

PART C. Procedures in Summary Cases When Complaint Filed

Rule 422. Pleas in Response to Summons.

Within [10] 30 days after receipt of a summons, the defendant shall notify the issuing authority by mail or in person that the defendant either pleads not guilty or pleads guilty.

* * * * *

Official Note: Previous Rule 67, adopted September 18, 1973, effective January 1, 1974; amended May 26, 1977, effective July 1, 1977; amended April 26, 1979, effective July 1, 1979; Comment revised April 24, 1981, effective July 1, 1981; Comment revised January 28, 1983, effective July 1, 1983; rescinded July 12, 1985, effective January 1, 1986, and replaced by present Rules 460, 461, and 462. Present Rule 67 adopted July 12, 1985, effective January 1, 1986. The January 1, 1986 effective dates all are extended to July 1, 1986; amended February 1, 1989, effective as to cases instituted on or after July 1, 1989; renumbered Rule 422 and amended March 1, 2000, effective April 1, 2001; **amended** , **2018, effective** , **2018**.

Committee Explanatory Reports:

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

Report explaining the proposed amendments increasing the period to respond to 30 days published for comment at 48 Pa.B. 505 (January 20, 2018).

Rule 423. Not Guilty Pleas—Notice of Trial.

(A) A defendant may plead not guilty by:

(1) appearing before the issuing authority, entering the plea, and depositing such collateral for appearance at trial as the issuing authority shall require; or

(2) notifying the issuing authority in writing of the plea, **providing a current mailing address and telephone number**, and

(a) forwarding as collateral for appearance at trial an amount equal to the fine and costs specified in the citation, plus any additional fee required by law[. If];

(b) if the fine and costs are not specified, [**the defendant shall forward**] **forwarding** the sum of \$50 as collateral for appearance at trial[.]; or

(c) **certifying that the defendant does not have the financial means to deposit the amount of the collateral specified in the citation or the \$50 when no amount is specified.**

(B) The issuing authority, upon receiving a plea of not guilty, shall:

* * * * *

Comment

[It is intended that the defendant will appear in person before the issuing authority to plead not guilty when the defendant cannot afford to deposit the amount of collateral specified in the citation or the \$50 when no amount is specified. A plea entered by mail must be accompanied by the full amount of collateral. See Rule 452.] All checks deposited as collateral shall be made payable to the magisterial district number set forth on the citation.

When fixing the date and hour for trial, the issuing authority should determine whether the trial must be delayed because the defendant's criminal record must be ascertained prior to trial as specifically required by statute for purposes of grading the offenses charged.

Paragraph (B)(3) was amended in 2016 to clarify that collateral may be forfeited for the payment of restitution as well as for the fine and costs that have been assessed by an issuing authority. See 18 Pa.C.S. § 1106(d) for the authority of a magisterial district judge to impose restitution on a defendant.

Official Note: Previous Rule 68 adopted September 18, 1973, effective January 1, 1974; rescinded July 12, 1985, effective January 1, 1986, and not replaced in the present rules. Present Rule 68 adopted July 12, 1985, effective January 1, 1986. The January 1, 1986 effective dates all are extended to July 1, 1986; amended January 31, 1991, effective July 1, 1991; renumbered Rule 423 and amended March 1, 2000, effective April 1, 2001; amended June 10, 2016, effective August 1, 2016; **amended** , **2018, effective** , **2018**.

Committee Explanatory Reports:

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Final Report explaining the June 10, 2016 amendments clarifying that forfeited collateral may be applied to restitution published with the Court's Order at 46 Pa.B. 3235 (June 26, 2016).

Report explaining the proposed amendments regarding responses by mail when the defendant is unable to post collateral published for comment at 48 Pa.B. 505 (January 20, 2018).

Rule 424. Guilty Pleas.

(A) A defendant may plead guilty by:

(1) notifying the issuing authority in writing of the plea and forwarding to the issuing authority an amount equal to the fine and costs specified in the summons; or

(2) appearing before the issuing authority for the entry of the plea and imposition of sentence when:

(a) the fine and costs are not specified in the citation; [or]

(b) after receipt of notice that a guilty plea by mail has not been accepted by the issuing authority pursuant to paragraph (B)(3)[.]; or

(c) the defendant is without the financial means immediately to pay the fine and costs specified in the citation.

(B) When the defendant pleads guilty pursuant to paragraph (A)(1):

(1) The defendant [**must**] **shall** sign the guilty plea acknowledging that the plea is entered voluntarily and understandingly. The defendant shall provide confirmation of a current mailing address and telephone number.

* * * * *

(C) When the defendant is required to personally appear before the issuing authority to plead guilty pursuant to paragraph (A)(2), the issuing authority shall:

* * * * *

(5) provide for installment payments when a defendant who is sentenced to pay a fine and costs is without the financial means immediately to pay [**the fine and costs**] **the full amount of the fine, costs, and restitution.** The issuing authority may delay imposing sentence pending confirmation of the defendant's ability to pay.

Comment

The rule [**was amended in 2007 to make it clear (1)] makes it clear** that a defendant may not enter a guilty plea by mail (1) to an offense that carries a mandatory sentence of imprisonment, [**and (2) in] or (2) when the defendant is without the financial means immediately to pay the fine and costs.** In those cases in which the offense carries a possible sentence of imprisonment, the issuing authority has the discretion whether or not to accept a guilty plea submitted by mail.

Nothing in this rule is intended to require that an issuing authority should proceed as provided in paragraph (C) when the defendant returns the written guilty plea and the fine and costs in person to the issuing authority's office pursuant to paragraphs (A)(1) and (B). The issuing authority's staff should record receipt of the plea and monies in the same manner as those received by mail.

Paragraph (C)(4) was added in 2007 to permit an issuing authority to delay imposition of sentence in order to investigate a defendant's eligibility for intermediate punishment. For example, under 42 Pa.C.S. § 9763 and § 9804, defendants may be sentenced to intermediate punishment for certain offenses, including summary violations of 75 Pa.C.S. § 1543(b) (driving while license is under a DUI-related suspension) but only if they meet

certain eligibility requirements, such as undergoing a drug and alcohol assessment. Often this information will not be available to the issuing authority at the time of sentencing, especially when the defendant appears personally to enter a guilty plea.

In determining whether a defendant is without the financial means immediately to pay the fine and costs, the issuing authority must consider the defendant's financial situation. Some factors that should be considered in this determination include, but are not limited to:

(1) the defendant's current employment status, including current salary and gross income from this year and previous recent years, if any, from the current employer(s) or previous employer(s);

(2) income from other sources such as interest, dividends, pension and annuities, social security benefits, support payments, disability payments, unemployment compensation and supplemental benefits, workers' compensation, public assistance;

(3) the value of all property owned, including money available in cash, or bank accounts, real estate (including home), and other significant property such as motor vehicles;

(4) debts and obligations including mortgages, rent, loans; court assessments, and any other miscellaneous recurring expenses;

(5) other contributions to household support from spouse, parents, children, or others; and

(6) all persons dependent upon the defendant for support and the defendant's actual contribution to that support

The issuing authority may require the defendant to present documents or other evidence to verify the defendant's financial situation.

When the defendant was under 18 years of age at the time of the offense and is charged with a summary offense that would otherwise carry a mandatory sentence of imprisonment as prescribed by statute, the issuing authority is required to conduct the summary trial but may not sentence the defendant to a term of imprisonment. See 42 Pa.C.S. §§ 6302 and 6303 and 75 Pa.C.S. § 6303(b).

* * * * *

Official Note: Previous rule, originally numbered Rule 140, adopted January 31, 1970, effective May 1, 1970; renumbered Rule 69 September 18, 1973, effective January 1, 1974; Comment revised January 28, 1983, effective July 1, 1983; rescinded July 12, 1985, effective January 1, 1986, and not replaced in these rules. Present Rule 69 adopted July 12, 1985, effective January 1, 1986; amended September 23, 1985, effective January 1, 1986. The January 1, 1986 effective dates are all extended to July 1, 1986; amended May 28, 1987, effective July 1, 1987; amended January 31, 1991, effective July 1, 1991; renumbered Rule 424 and amended March 1, 2000, effective April 1, 2001; Comment revised August 7, 2003, effective July 1, 2004; amended January 26, 2007, effective February 1, 2008; Comment revised July 17, 2013, effective August 17, 2013; Comment revised March 9, 2016, effective July 1, 2016; **amended** , **2018, effective** , **2018.**

Committee Explanatory Reports:

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Final Report explaining the March 9, 2016 Comment revision concerning the Rule 454 restitution procedures published with the Court's Order at 46 Pa.B. 1532 (March 26, 2016).

Report explaining the proposed amendments regarding inability to pay published for comment at 48 Pa.B. 505 (January 20, 2018).

PART E. General Procedures in Summary Cases

Rule 454. Trial in Summary Cases.

* * * * *

(D) The verdict and sentence, if any, shall be announced in open court immediately upon the conclusion of the trial, except as provided in paragraph (E).

(E) In determining the amount of the discretionary fine, if any, or discretionary costs, if any, that is to be imposed and the payment schedule, if any, the issuing authority shall consider the defendant's ability to pay. The issuing authority may delay imposing sentence pending confirmation of the defendant's ability to pay.

[(E)] (F) If the defendant may be sentenced to intermediate punishment, the issuing authority may delay imposing sentence pending confirmation of the defendant's eligibility for intermediate punishment.

[(F)] (G) At the time of sentencing, the issuing authority shall:

(1) if the defendant's sentence includes restitution, a fine, or costs, state:

* * * * *

(c) the date on which payment is due.

If the defendant is without the financial means to pay the amount in a single remittance, the issuing authority [may] **shall** provide for installment payments and shall state the date on which each installment is due **and shall advise the defendant of the procedures in Rule 456 in the event of any default in payment.**

* * * * *

Comment

* * * * *

Paragraph [(F)(2)(b)] (G)(2)(b) is included in the rule in light of *North v. Russell*, 427 U.S. 328 (1976). For the procedures for taking, perfecting, and handling an appeal, see Rules 460, 461, and 462.

* * * * *

Under paragraph [(F)(2)(a)] (G)(2)(a), the issuing authority should explain to the defendant that if an appeal is filed, any sentence, including imprisonment, fines, or restitution, will be stayed.

When setting the specific date for the defendant to appear for execution of a sentence of imprisonment pursuant to paragraph [(F)(3)] (G)(3), the issuing authority should set the earliest possible date for sentencing after the appeal period expires.

* * * * *

Certain costs are mandatory and must be imposed. See, e.g., Section 1101 of the Crime Victims Act, 18 P.S. § 11.1101.

In determining whether a defendant has the financial means to pay, the issuing authority must consider the defendant's financial situation. Some factors that should be considered in this determination include, but are not limited to:

(1) the defendant's current employment status, including current salary and gross income from this year and previous recent years, if any, from the current employer(s) or previous employer(s);

(2) income from other sources such as interest, dividends, pension and annuities, social security benefits, support payments, disability payments, unemployment compensation and supplemental benefits, workers' compensation, public assistance;

(3) the value of all property owned, including money available in cash, or bank accounts, real estate (including home), and other significant property such as motor vehicles;

(4) debts and obligations including mortgages, rent, loans; court assessments, and any other miscellaneous recurring expenses;

(5) other contributions to household support from spouse, parents, children, or others; and

(6) all persons dependent upon the defendant for support and the defendant's actual contribution to that support.

The issuing authority may require the defendant to present documents or other evidence to verify the defendant's financial situation.

Paragraph [(E)] (F) permits an issuing authority to delay imposing sentence in summary cases in order to investigate a defendant's eligibility for intermediate punishment. For example, under 42 Pa.C.S. § 9763 and § 9804, defendants may be sentenced to intermediate punishment for certain offenses, including summary violations of 75 Pa.C.S. § 1543(b) (driving while license is under a DUI-related suspension) but only if they meet certain eligibility requirements, such as undergoing a drug and alcohol assessment. Often this information will not be available to the issuing authority at the time of sentencing.

* * * * *

Official Note: Rule 83 adopted July 12, 1985, effective January 1, 1986; amended September 23, 1985, effective January 1, 1986; January 1, 1986 effective dates extended to July 1, 1986; amended February 2, 1989, effective March 1, 1989; amended October 28, 1994, effective as to cases instituted on or after January 1, 1995; Comment revised April 18, 1997, effective July 1, 1997; amended October 1, 1997, effective October 1, 1998; Comment revised February 13, 1998, effective July 1, 1998; renumbered Rule 454 and Comment revised March 1, 2000, effective April 1, 2001; amended February 28, 2003, effective July 1, 2003; Comment revised August 7, 2003, effective July 1, 2004; amended March 26, 2004, effective July 1, 2004; amended January 26, 2007, effective February 1, 2008; Comment revised July 17, 2013, effective August 17, 2013; amended March 9, 2016, effective July 1, 2016; **amended** , 2018, **effective** , 2018.

Committee Explanatory Reports:

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Final Report explaining the March 9, 2016 amendments to paragraph (F) concerning required elements of the sentence published with the Court's Order at 46 Pa.B. 3235 (March 26, 2016).

Report explaining the proposed amendments related to determining the defendant’s ability to pay case assessments published for comment at 48 Pa.B. 505 (January 20, 2018).

Rule 456. Default Procedures: Restitution, Fines, and Costs.

* * * * *

(D) When a defendant appears pursuant to the notice in paragraph (B) or pursuant to an arrest warrant issued for failure to respond to the notice as provided in paragraph (C):

* * * * *

(3) At the conclusion of the hearing, the issuing authority shall:

* * * * *

(c) if a sentence of imprisonment has been imposed, state in writing the reason(s) why a sentence of imprisonment was deemed appropriate and the facts that support a determination that the defendant has the ability to pay as ordered, and direct the defendant to appear for the execution of sentence on a date certain unless the defendant files a notice of appeal within the 30-day period; and

* * * * *

Comment

* * * * *

Pursuant to paragraph (C), the issuing authority must conduct a default hearing when a defendant responds to the 10-day notice as provided in paragraph (B), or when the defendant is arrested for failing to respond to the 10-day notice. If the default hearing cannot be held immediately, the issuing authority may set collateral as provided in Rule 523. However, the issuing authority should only set monetary collateral when he or she has determined that less restrictive conditions of release will not be effective in ensuring the defendant’s appearance.

In determining whether a defendant has the financial means to pay, the issuing authority must consider the defendant’s financial situation. Some factors that should be considered in this determination include, but are not limited to:

(1) the defendant’s current employment status, including current salary and gross income from this year and previous recent years, if any, from the current employer(s) or previous employer(s);

(2) income from other sources such as interest, dividends, pension and annuities, social security benefits, support payments, disability payments, unemployment compensation and supplemental benefits, workers’ compensation, public assistance;

(3) the value of all property owned, including money available in cash, or bank accounts, real estate (including home), and other significant property such as motor vehicles;

(4) debts and obligations including mortgages, rent, loans; court assessments, and any other miscellaneous recurring expenses;

(5) other contributions to household support from spouse, parents, children, or others; and

(6) all persons dependent upon the defendant for support and the defendant’s actual contribution to that support.

The issuing authority may require the defendant to present documents or other evidence to verify the defendant’s financial situation.

Under paragraph (D)(1), when the issuing authority determines that a defendant is able to pay as ordered, the issuing authority may, as provided by law, impose imprisonment or other sanctions. In addition, delinquent restitution, fines, or court costs may be turned over to a private collection agency. *See* 42 Pa.C.S. §§ 9730(b)(2) and 9730.1(a).

When a defendant is in default of an installment payment, the issuing authority on his or her own motion or at the request of the defendant or the attorney for the Commonwealth must schedule a rehearing to determine the cause of the default. Before an issuing authority may impose a sentence of imprisonment as provided by law for nonpayment of restitution, fines, or costs, a hearing or rehearing must be held whenever a defendant alleges that his or her ability to pay has been diminished. *See* 42 Pa.C.S. § 9730(b). No defendant may be sentenced to imprisonment or probation if the right to counsel was not afforded [at trial] at the default hearing. *See Rule 122(A)(1) (“Counsel shall be appointed. . . in all summary cases, for all defendants who are without financial resources or who are otherwise unable to employ counsel when there is a likelihood that imprisonment will be imposed. . .”).* *See Alabama v. Shelton*, 535 U.S. 654 (2002) and *Scott v. Illinois*, 440 U.S. 367 (1979). *See also Commonwealth v. Farmer*, 466 A.2d 677 (Pa. Super. 1983) (Whenever there is a likelihood in a proceeding that imprisonment will be imposed, counsel must be assigned) and (*Commonwealth v. Spontarelli*, 791 A.2d 1254 (Pa. Cmmw. 2002) (defendant is entitled to appointed counsel when tried for violation of municipal ordinance that permits imprisonment upon default of payment of the fine). *See also [Rules 121 and 122] Rule 121* (dealing with [appearance or] waiver of counsel).

* * * * *

Official Note: Adopted July 12, 1985, effective January 1, 1986; amended September 23, 1985, effective January 1, 1986; January 1, 1986 effective dates extended to July 1, 1986; Comment revised February 1, 1989, effective July 1, 1989; rescinded October 1, 1997, effective October 1, 1998. New Rule 85 adopted October 1, 1997, effective October 1, 1998; amended July 2, 1999, effective August 1, 1999; renumbered Rule 456 and amended March 1, 2000, effective April 1, 2001; Comment revised August 7, 2003, effective July 1, 2004; amended March 3, 2004, effective July 1, 2004; Comment revised April 1, 2005, effective October 1, 2005; Comment revised September 21, 2012, effective November 1, 2012; Comment revised January 17, 2013, effective May 1, 2013; amended April 10, 2015, effective July 10, 2015; **amended _____, 2018, effective _____, 2018.**

Committee Explanatory Reports:

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Final Report explaining the April 10, 2015 amendments concerning the setting of collateral published with the Court’s Order at 45 Pa.B. 2040 (April 25, 2015).

Report explaining the proposed amendment concerning factors to be considered when determining a defendant's ability to pay published for comment at 48 Pa.B. 505 (January 20, 2018).

**PART G. Special Procedures in Summary Cases
Under the Vehicle Code**

Rule 470. Procedures Related to License Suspension After Failure to Respond to Citation or Summons or Failure to Pay Fine and Costs.

(A) When a defendant fails to comply with the [10-day] **30-day** response period set forth in Rules 407, 412, [422, and 456,] **and 422, or when a defendant defaults on the payment of fines and costs, or restitution as ordered,** the issuing authority shall notify the defendant in writing that, pursuant to Section 1533 of the Vehicle Code, the defendant's license will be suspended if, **within 15 days of the date of the notice,** the defendant fails to respond to the citation or summons or fails to pay all fines and costs imposed or enter into an agreement to make installment payments for the fines and costs [**within 15 days of the date of the notice**] .

* * * * *

Comment

This rule was adopted in 1993, and amended in 2011, to implement the notice requirements of 75 Pa.C.S. § 1533 and to insure uniform, prompt transmissions to the Department of Transportation. It does not change the other procedural requirements contained in the summary case rules generally. *See, e.g.,* paragraph (B)(1)(a) of Rule 430 (Issuance of Warrant) and Rule 456 (Default Procedures: Restitution, Fines, and Costs). **This rule was amended in 2018 to clarify that, in cases involving default on the payment of fines and costs, or restitution, the 15-day notice of the license suspension may be sent at the time of default and not subsequent to the expiration of the 10-day bench warrant notice under Rules 430(B)(3)(b) and 456(B).**

* * * * *

Official Note: Previous Rule 91, formerly Rule 140, adopted January 31, 1970, effective May 1, 1970; renumbered Rule 69 September 18, 1973, effective January 1, 1974; Comment revised January 28, 1983, effective July 1, 1983; rescinded July 12, 1985, effective January 1, 1986. The January 1, 1986 effective date is extended to July 1, 1986. Readopted and renumbered Rule 91 February 1, 1989, effective July 1, 1989; rescinded June 3, 1993, effective July 1, 1993, and replaced by new Rule 92. New Rule 91 adopted June 3, 1993, effective July 1, 1993; renumbered Rule 470 and amended March 1, 2000, effective April 1, 2001; amended February 18, 2011, effective March 18, 2011; **amended** , 2018, **effective** , 2018.

Committee Explanatory Reports:

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Final Report explaining the February 18, 2011 amendments to paragraphs (A) and (D) adding failure to pay fines and costs published with the Court's Order at 41 Pa.B. 1167 (March 5, 2011).

Report explaining the proposed amendments to paragraphs (A) regarding the timing of the notice

of suspension for failure to pay fines and costs published for comment at 48 Pa.B. 505 (January 20, 2018).

REPORT

Proposed Amendment of Pa.Rs.Crim.P. 403, 407, 408, 409, 411, 412, 413, 414, 422, 423, 424, 454, 456, and 470

Incarceration of the Indigent for Failure to Pay in Summary Cases

Background

The Committee has been studying issues related to the incarceration of defendants for failure to pay case assessments in summary cases when there is a question regarding their ability to pay. The Committee's efforts were prompted by a March 14, 2016 letter from the Civil Rights Division of the U.S. Department of Justice to state courts nationwide. This letter raised constitutional concerns regarding the imposition and methods of enforcement of case assessments on the poor in non-felony matters. Shortly thereafter, the Committee received communications from representatives of the American Civil Liberties Union ("ACLU") who made a number of suggested rule changes related to these issues. The suggestions addressed two perceived problems: (1) the absence of an explicit mechanism for reducing or waiving fees and costs for those who cannot pay; and (2) the lack of guidance provided to MDJs as to how to evaluate a defendant's ability to pay.

The Committee concluded that legislative action was the more appropriate means of addressing the first problem; the Committee agreed that rule changes could be formulated to address the second problem. The Committee has developed a series of rule changes that fall into three main areas:

- (1) increasing the amount of time a defendant has to respond to a citation from the current 10 days to 30 days;
- (2) permitting a defendant who wishes to plead not guilty but who cannot afford to post collateral to assert the inability to pay when responding in writing to the citation;
- (3) provide guidance to the issuing authority regarding the factors to be considered when assessing a defendant's ability to pay at time of sentencing and default.

Proposed Rule Changes

With regard to increasing the response time to a citation to 30 days, the Committee concluded that this would allow for additional time for a defendant to obtain the necessary funds for payment of the assessments in the citation. This may result in fewer numbers of not guilty pleas. This increase to the time to respond to the citation to 30 days would be included in Rule 403. Similar changes also would be made to Rules 407, 411, 412 and 422.

The Committee had received the suggestion from the ACLU to remove the requirement to post collateral for not guilty pleas entered by mail. The Committee noted that there are a significant number of summary cases in which a not guilty plea had been entered by mail and the defendant failed to appear. Under current practice, these resulted in a guilty finding with forfeiture of the collateral to pay the assessed fines. Completely eliminating the collateral requirement likely would result in a large increase in the number of arrest warrants having to be issued in these cases with the associated costs to the

defendant for these warrants. However, the Committee also considered it strange that collateral is required in all summary cases while bail is not required in the often more serious court cases that are initiated by summons.

As an intermediate step, the Committee agreed to an alternative that would still require the posting of collateral in most cases but would permit a defendant to assert in his or her response to the citation that they do not have the financial means to post the collateral. This is contained in new paragraph (A)(3) in Rule 408. Language regarding the requirement to appear personally when unable to deposit collateral would be removed from the Comment to Rule 408. Similar changes also would be repeated in Rules 413 and 423.

Associated with this proposal would be the requirement that defendants would have to provide a current mailing address and telephone number in their response to the citation. The Committee concluded that this requirement should also be included with any written response to a citation. It is therefore included in Rules 408, 409, 413, 414, 423, and 424.

The Committee also concluded there was merit in providing more guidance to the MDJs in assessing a defendant's ability to pay. The Committee developed language to provide that guidance derived from several sources including the IFP application contained in Pennsylvania Rule of Civil Procedure 240. This language would be included in the Comments to Rule 454 (Trial in Summary Cases) and Rule 456 (Default Procedures: Restitution, Fines, and Costs). Among the elements included in consideration would be a defendant's financial assets and obligations, including recurring expenses and actual contribution to support of dependents. A statement also would be included indicating that the issuing authority may require the defendant to produce documentation regarding his or her ability to pay.

Additionally, language would be added to the text of Rule 454 that would require the judge to consider a defendant's ability to pay in determining the amount of fine and discretionary costs when sentencing the defendant. This would be added as a new paragraph (E) to Rule 454. Language also would be added to current Rule 454(F) that requires the defendant be advised of the opportunity to seek a modification of the payment plan in the event of default, referencing the procedures in Rule 456.

The Committee also is proposing to add language to Rule 454 to permit the MDJ to delay sentencing to have time for the defendant to present proof of financial ability in the same way that current paragraph (E) provides for a delay for determination of eligibility for intermediate punishment. This would consist of a second sentence to new paragraph (E).

The Committee rejected the inclusion of some specific standard for the inability to pay, such as an income at a certain percentage of the Federal Poverty Level, as was suggested by the ACLU. They believed that the circumstances of each case will differ and should be examined individually. However, the Committee thought it might be helpful if the MDJ had to explain his or her rationale for finding an ability to pay in writing when the defendant was to be incarcerated for failure to pay. This provision would be included in Rule 456(D)(3)(c).

Although implied, the Committee noted that the rules do not specifically state that a defendant who wishes to

plead guilty but cannot afford to pay the full case assessments must appear before the MDJ for the establishment of a payment plan. Rule 409 (Guilty Pleas) would be amended to specifically provide that a defendant who desires to plead guilty but cannot afford to pay the entire fine and costs must appear for sentencing before the MDJ and the establishment of a payment plan as provided in Rule 409(C)(5). Additionally, since the MDJ may impose sentence when the defendant appears to enter the guilty plea because he or she can't afford to pay the fine in single payment, the same language regarding delay in sentencing and determining a defendant's ability to pay that is proposed for Rules 454 and 456 would be added to Rule 409 and its Comment. Similar amendments would also be made to the other summary case guilty plea rules, Rules 414 and 424.

Rule 470 License Suspension

During the discussion of changes to these summary case procedures, the Committee examined a subsidiary issue related to Rule 470, which provides the procedures for license suspension in failure to respond and failure to pay situations. Rule 470 was adopted, as Rule 91, in 1993 to provide procedures to implement Section 1533 of the Motor Vehicle Code, 75 Pa.C.S. § 1533. Section 1533 originally provided that a defendant who fails to respond to a citation or summons shall have his or her driver's license suspended but subsequently was amended in 1994 to add the failure to pay case assessment to the categories of cases for which license suspension was authorized. The statute requires that notice of impending license suspension be served on the defendant at least 15 days before the suspension becomes effective.

Rule 470 originally provided that the license suspension notice could be sent out if the defendant failed to respond to a citation or summons within 10 days of issuance or receipt after which, as provided in Rule 430(B), a bench warrant may be issued. Rule 470 was amended in 2011 to add failure to pay as one of the grounds for which license suspension was authorized. Rule 456 provides that, once a defendant is in default, notice shall be sent that the defendant has 10 days to pay or appear before the issuing authority to explain the non-payment or else a bench warrant will be issued. The amendments added failure-to-pay to the existing procedures for failure-to-respond situation. As a result, under the current rule, when the defendant is in default, there is a 10-day notice that a bench warrant will be issued. At the expiration of that 10-day notice, the bench warrant would be issued and the 15-day notice of license suspension would be sent, effectively providing 25 days after the default before the license suspension becomes effective.

Prior to the 2011 amendments, it was the practice in failure-to-pay cases to issue the 10-day notice of bench warrant and the notice of license suspension simultaneously. The suggestion was made to the Committee to change Rule 470 to permit the service of the suspension notice with the 10-day notice. Sending the defendant's notice of license suspension prior to issuing a bench warrant, in many cases, encourages a response or payment from the defendant before incurring additional monetary charges to the defendant that would arise with the issuance of a warrant. The Committee concluded that the original practice should be permitted. Therefore, paragraph (A) of Rule 470 would be amended to remove

the linkage between the notice of license suspension and the bench warrant notice in default cases. Comment language would describe this further.

[Pa.B. Doc. No. 18-99. Filed for public inspection January 19, 2018, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CH. 5]

Proposed New Pa.R.Crim.P. 556.13, Proposed Amendment of Pa.R.Crim.P. 556.11 and Proposed Revision of the Comment to Pa.R.Crim.P. 502, 513, 516, 517 and 518

The Criminal Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the adoption of new Rule 556.13 (Procedures Following Execution of Warrant of Arrest Issued Following Indictment), the amendment of Rule 556.11 (Proceedings When Case Presented to Grand Jury) and the revision of the Comment to Rules 502 (Instituting Proceedings in Court Cases), 513 (Requirements for Issuance; Dissemination of Arrest Warrant Information), Rule 516 (Procedure in Court Cases When Warrant of Arrest is Executed Within Judicial District of Issuance), 517 (Procedure in Court Cases When Warrant of Arrest is Executed Outside Judicial District of Issuance), and 518 (Using Advanced Communication Technology in Court Cases When Warrant of Arrest is Executed Outside Judicial District of Issuance) for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded and underlined; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

Jeffrey M. Wasileski, Counsel
Supreme Court of Pennsylvania
Criminal Procedural Rules Committee
601 Commonwealth Avenue, Suite 6200
Harrisburg, PA 17106-2635
fax: (717) 231-9521
e-mail: criminalrules@pacourts.us

All communications in reference to the proposal should be received by no later than Friday, February 23, 2018. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Criminal Procedural Rules Committee

BRIAN W. PERRY,
Chair

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

PART B. Instituting Proceedings

Rule 502. Instituting Proceedings in Court Cases.

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Comment

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There are only a few exceptions to this rule regarding the instituting of criminal proceedings in court cases. There are, for example, special proceedings involving a coroner or medical examiner. *See Commonwealth v. Lopinson*, 427 Pa. 552, 234 A.2d 552 (1967), and *Commonwealth v. Smouse*, 406 Pa.Super. 369, 594 A.2d 666 (1995).

See Rules 556.11 and 556.13 for the procedures for the filing of a complaint following the issuance of an indictment.

Whenever a misdemeanor, felony, or murder is charged, even if the summary offense is also charged in the same complaint, the case should proceed as a court case under Chapter 5. *See Commonwealth v. Cauffman*, 541 Pa. 299, 662 A.2d 1050 (1995), and *Commonwealth v. Campana*, 455 Pa. 622, 304 A.2d 432 (1973), vacated and remanded, 414 U.S. 808 (1973), on remand, 454 Pa. 233, 314 A.2d 854 (1974). In judicial districts in which there is a traffic court established pursuant to 42 Pa.C.S. §§ 1301-1342, when a summary motor vehicle offense within the jurisdiction of the traffic court arises in the same criminal episode as another summary offense or a misdemeanor, felony, or murder offense, see 42 Pa.C.S. § 1302 and *Commonwealth v. Masterson*, 275 Pa.Super. 166, 418 A.2d 664 (1980).

* * * * *

Official Note: Original Rule 102(1), (2), and (3), adopted June 30, 1964, effective January 1, 1965; suspended January 31, 1970, effective May 1, 1970. New Rule 102 adopted January 31, 1970, effective May 1, 1970; renumbered Rule 101, and made applicable to court cases only, September 18, 1973, effective January 1, 1974; Comment revised February 15, 1974, effective immediately; amended June 30, 1975, effective September 1, 1975; Comment amended January 4, 1979, effective January 9, 1979; paragraph (1) amended October 22, 1981, effective January 1, 1982; Comment revised July 12, 1985, effective January 1, 1986; January 1, 1986 effective date extended to July 1, 1986; Comment revised January 31, 1991, effective July 1, 1991; Comment revised August 12, 1993, effective September 1, 1993; amended August 9, 1994, effective January 1, 1995; Comment revised January 16, 1996, effective immediately; renumbered Rule 502 and amended March 1, 2000, effective April 1, 2001; amended March 9, 2006, effective September 1, 2006; Comment revised September 21, 2012, effective November 1, 2012; **Comment revised , 2018, effective , 2018.**

Committee Explanatory Reports:

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Final Report explaining the September 21, 2012 revising the second paragraph of the Comment to correct a typographical error published with the Court's Order at 42 Pa.B. (, 2012).

Report explaining the proposed revision of the Comment regarding complaint procedures subsequent to indictment published comment at 48 Pa.B. 510 (January 20, 2018).

PART B(3). Arrest Procedures in Court Cases

(a) Arrest Warrants

Rule 513. Requirements for Issuance; Dissemination of Arrest Warrant Information.

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Comment

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ISSUANCE OF ARREST WARRANTS

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This rule carries over to the arrest warrant the requirement that the evidence presented to the issuing authority be reduced to writing and sworn to, and that only the writing is subsequently admissible to establish that there was probable cause. In these respects, the procedure is similar to that applicable to search warrants. See Rule 203. For a discussion of the requirement of probable cause for the issuance of an arrest warrant, see *Commonwealth v. Flowers*, [24 Pa.Super. 198,] 369 A.2d 362 (Pa. Super. 1976).

* * * * *

Under Rule 540, the defendant receives a copy of the warrant and supporting affidavit at the time of the preliminary arraignment.

See Rule 556.11 for the procedures for the issuance of an arrest warrant by the supervising judge of an indicting grand jury following indictment of an individual not previously arrested.

DELAY IN DISSEMINATION OF ARREST WARRANT INFORMATION

* * * * *

Official Note: Rule 119 adopted April 26, 1979, effective as to arrest warrants issued on or after July 1, 1979; Comment revised August 9, 1994, effective January 1, 1995; renumbered Rule 513 and amended March 1, 2000, effective April 1, 2001; amended May 10, 2002, effective September 1, 2002; amended December 23, 2013, effective March 1, 2014; **Comment revised , 2018, effective , 2018.**

Committee Explanatory Reports:

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Final Report explaining the December 23, 2013 amendments providing procedures for delay in dissemination and sealing of arrest warrant information published with the Court's Order at 41 Pa.B. (, 2013).

Report explaining the Comment revision cross-referencing post-indictment arrest warrant procedures in Rule 556.11 published for comment at 48 Pa.B. 510 (January 20, 2018).

Rule 516. Procedure in Court Cases When Warrant of Arrest is Executed Within Judicial District of Issuance.

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Comment

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This rule permits a defendant to be transported to an advanced communication technology site that is located

outside the judicial district of arrest for preliminary arraignment. The arresting officer should determine which site is the most convenient to the place of arrest without regard to the boundary of any magisterial district or judicial district.

See Rule 556.13 for procedures following execution of an arrest warrant issued after indictment pursuant to Rule 556.11(E).

Official Note: Original Rule 116 adopted June 30, 1964, effective January 1, 1965; suspended January 31, 1970, effective May 1, 1970. New Rule 116 adopted January 31, 1970, effective May 1, 1970; renumbered Rule 122 September 18, 1973, effective January 1, 1974; amended January 28, 1983, effective July 1, 1983; Comment revised July 12, 1985, effective January 1, 1986, effective date extended to July 1, 1986; renumbered Rule 123 and Comment revised August 9, 1994, effective January 1, 1995; renumbered Rule 516 and Comment revised March 1, 2000, effective April 1, 2001; amended May 10, 2002, effective September 1, 2002; **Comment revised , 2018, effective , 2018.**

Committee Explanatory Reports:

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Final Report explaining the May 10, 2002 amendments concerning advanced communication technology published with the Court's Order at 32 Pa.B. ().

Report explaining the proposed Comment revisions regarding post-indictment arrest warrants published for comment at 48 Pa.B. 510 (January 20, 2018).

Rule 517. Procedure in Court Cases When Warrant of Arrest is Executed Outside Judicial District of Issuance.

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Comment

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Section 8953 of the Judicial Code, 42 Pa.C.S. § 8953, provides for the execution of warrants of arrest beyond the territorial limits of the police officer's primary jurisdiction. See also *Commonwealth v. Mason*, [507 Pa. 396,] 490 A.2d 421 (Pa. 1985).

Paragraph (E) originally used the term "alias warrant" to describe the type of warrant issued when a defendant is arrested outside the judicial district of issuance, is released on bond by a magisterial district judge in the judicial district of arrest conditioned on the defendant's appearance at a preliminary arraignment in the judicial district of issuance, and then fails to appear. Because the term "alias warrant" is an archaic term that refers to the reissuance of a warrant when the original purpose of the warrant has not been achieved, and the warrant issued in paragraph (E) is issued for the failure to appear as contemplated by Rule 536(A)(1)(b), paragraph (E) was amended in 2005 by changing the terminology to "bench warrant."

For purposes of this rule, if a defendant is arrested pursuant to an arrest warrant issued following indictment pursuant to Rule 556.11(E), the issuing authority in the county of issuance is the supervising judge of the grand jury in that county or the president judge's designee. See Rule 556.13.

Official Note: Original Rule 117 adopted June 30, 1964, effective January 1, 1965; suspended January 31, 1970, effective May 1, 1970. New Rule 117 adopted

January 31, 1970, effective May 1, 1970; renumbered Rule 123 September 18, 1973, effective January 1, 1974; amended January 28, 1983, effective July 1, 1983; renumbered Rule 124 and amended August 9, 1994, effective January 1, 1995; amended December 27, 1994, effective April 1, 1995; renumbered Rule 517 and amended March 1, 2000, effective April 1, 2001; Comment revised May 10, 2002, effective September 1, 2002; amended October 19, 2005, effective February 1, 2006; **Comment revised _____, 2018, effective _____, 2018.**

Committee Explanatory Reports:

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Final Report explaining the October 19, 2005 amendments to paragraph (E) changing “alias warrant” to “bench warrant” published with the Court’s Order at 35 Pa.B. (_____, 2005).

Report explaining the proposed Comment revisions regarding post-indictment arrest warrants published for comment at 48 Pa.B. 510 (January 20, 2018).

Rule 518. Using Advanced Communication Technology in Court Cases When Warrant of Arrest is Executed Outside Judicial District of Issuance.

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Comment

* * * * *

This rule permits a defendant to be transported to an advanced communication technology site that is located outside the judicial district of arrest. The arresting officer should determine which site is the most convenient to the place of arrest without regard to the boundary of any magisterial district or judicial district.

For purposes of this rule, if a defendant is arrested pursuant to an arrest warrant issued following indictment pursuant to Rule 556.11(E), the issuing authority in the county of issuance is the supervising judge of the grand jury in that county or the president judge’s designee. See Rule 556.13.

Official Note: New Rule 518 adopted May 10, 2002, effective September 1, 2002; **Comment revised _____, 2018, effective _____, 2018.**

Committee Explanatory Reports:

Final Report explaining the May 10, 2002 adoption of new Rule 518 published with the Court’s Order at 32 Pa.B. (_____).

Report explaining the proposed Comment revisions regarding post-indictment arrest warrants published for comment at 48 Pa.B. 510 (January 20, 2018).

PART E. Indicting Grand Jury

Rule 556.11. Proceedings When Case Presented to Grand Jury.

(A) A grand jury has the authority to:

(1) inquire into violations of criminal law through subpoenaing witnesses and documents; and

(2) based upon evidence it has received, including hearsay evidence as permitted by law, or upon a presentment issued by an investigating grand jury, if the grand jury finds the evidence establishes a *prima facie* case that (1) an offense has been committed and (2) the defendant has committed it, indict defendant for an offense under the criminal laws of the Commonwealth of Pennsylvania; or

(3) based upon evidence it has received, including hearsay evidence as permitted by law, or upon a presentment issued by an investigating grand jury, if the grand jury finds the evidence establishes a *prima facie* case that (1) an offense has been committed and (2) the person other than the defendant in the matter originally presented to the indicting grand jury has committed it, indict the individual for an offense under the criminal laws of the Commonwealth of Pennsylvania; or

[(3)] (4) decline to indict.

(B) After a grand jury has considered the evidence presented, the grand jury shall vote whether to indict the defendant **or the person other than the defendant who has been identified as having committed an offense as provided in paragraph (A)(3).** The affirmative vote of at least 12 grand jurors is required to indict.

(C) In cases in which the grand jury votes to indict, an indictment shall be prepared setting forth the offenses on which the grand jury has voted to indict. The indictment shall be signed by the grand jury foreperson, or deputy foreperson if the foreperson is unavailable, and returned to the supervising judge.

(D) Upon receipt of the indictment, the supervising judge shall:

(1) provide a copy of the indictment to the Commonwealth authorizing the attorney to prepare an information pursuant to Rule 560; and

(2) forward the indictment to the clerk of courts [, or issue an arrest warrant, if the subject of the indictment has not been arrested on the charges contained in the indictment] .

(E) If the subject of the indictment has not been arrested on the charge contained in the indictment, upon receipt of a copy of the indictment, the attorney for the Commonwealth shall file a complaint with the clerk of courts of the judicial district in which the indicting grand jury sits, and shall request the supervising judge issue an arrest warrant.

(1) The indictment shall be used in lieu of the affidavit of probable cause.

(2) The supervising judge shall issue an arrest warrant.

[(E)] (F) At the request of the attorney for the Commonwealth, the supervising judge shall order the indictment to be sealed.

[(F)] (G) In cases in which the grand jury does not vote to indict, the foreperson promptly and in writing shall so report to the supervising judge who immediately shall dismiss the complaint and shall notify the clerk of courts of the dismissal.

Comment

* * * * *

Concerning hearsay evidence before the indicting grand jury, see *Commonwealth v. Dessus*, 423 Pa. 177, 224 A.2d 188 (1966).

This rule was amended in 2018 to clarify that a defendant who has not been previously charged may be indicted. A case must be properly before the grand jury as provided in Rule 556.2. If during the

course of that grand jury proceeding, it is determined that a prima facie case exists that an offense has been committed by an individual who is not the defendant in the case that was originally presented to the indicting grand jury, that individual may be indicted. Thereafter, the attorney for the Commonwealth shall file a complaint and a request that an arrest warrant be issued as provided in paragraph (E). See Rule 556.13 for the procedures following the execution of an arrest warrant issued following indictment.

In cases in which the grand jury has declined to indict and the complaint has been dismissed, the attorney for the Commonwealth may reinstate the charges as provided in Rule 544.

Official Note: New Rule 556.11 adopted June 21, 2012, effective in 180 days; amended _____, 2018, effective _____, 2018.

Committee Explanatory Reports:

Final Report explaining the new rule published with the Court's Order at 42 Pa.B. _____ (_____, 2012).

Report explaining the proposed amendment regarding the issuance of indictment of non-defendants published for comment at 48 Pa.B. 510 (January 20, 2018).

(Editor's Note: The following rule is proposed to be added and printed in regular type to enhance readability.)

Rule 556.13. Procedures Following Execution of Warrant of Arrest Issued Following Indictment.

(A) When a defendant has been arrested within the judicial district where the warrant of arrest has been issued by the supervising judge of an indicting grand jury following the receipt of the indictment as provided in Rule 556.11(E), the defendant shall be afforded a preliminary arraignment by the supervising judge or another judge designated by the president judge without unnecessary delay.

(B) When a defendant has been arrested outside of the judicial district where the warrant of arrest has been issued by the supervising judge of an indicting grand jury following the receipt of the indictment as provided in Rule 556.11(E), the case shall proceed as provided in Rules 517 and 518 and this rule.

(C) Following the preliminary arraignment provided pursuant to paragraph (A) and (B), the case shall proceed in the court of common pleas pursuant to Rules 560 and 571.

Comment

This rule provides the procedures following the arrest of a defendant pursuant to a warrant issued by the supervising judge of an indicting grand jury. The defendant must be provided a preliminary arraignment in a timely manner following arrest. Because a case that had been submitted to the indicting grand jury is transferred to the court of common pleas, the preliminary arraignment must be held before the supervising judge or another judge of the common pleas designated by the president judge.

An indictment by a grand jury is a *prima facie* determination made in lieu of a preliminary hearing in cases where witness intimidation has occurred, is occurring, or will occur. Therefore, following indictment, the case is in same status as a case that has been held for

court. The next steps following the preliminary arraignment in these situations would be the filing of the criminal information as provided in Rule 560 and the arraignment as provided in Rule 571.

Official Note: New Rule 556.13 adopted _____, 2018, effective _____, 2018.

Committee Explanatory Reports:

Report explaining proposed new Rule 556.13 providing procedures following the execution of arrest warrants issued by the supervising judge of an investigating grand jury published for comment at 48 Pa.B. 510 (January 20, 2018).

REPORT

Proposed New Rule 556.13; Proposed Amendment of Pa.R.Crim.P. 556.11; Proposed Revision of the Comment to Pa.Rs.Crim.P. 502, 513, 516, 517, and 518

Post-Indictment Arrest Warrant Procedures

The Committee was recently presented with a question from Allegheny County regarding the provision in Rule 556.11(D)(2) that allows for issuance of an arrest warrant for an individual who has not previously been arrested for the charges contained in the indictment. Specifically, it is not clear how such an individual would be formally charged or what procedures for post-indictment arrests should be followed.

Rule 556.11(D)(2) was included when the grand jury indictment procedures were revived in 2012. The idea for this type of warrant came up in the context of a case before the indicting grand jury where the evidence indicates that another individual was involved in the criminal activity and there was sufficient evidence being presented to the grand jury that would allow this new individual to be indicted as a co-defendant even though he or she hadn't been arrested. As noted in the Committee's Final Report from that time:

Paragraph (D)(2) requires the supervising judge to forward a copy of the indictment to the clerk of courts, or to issue an arrest warrant if the subject of the indictment has not been arrested on the charges contained in the indictment. The arrest provision was included because, although infrequent, there are times when the indicting grand jury hears evidence that reveals there is another individual who has not been charged but who is involved in the criminal activity that is the subject of the indicting grand jury. The Committee majority agreed the rule should provide a procedure to address this situation so the case would not "fall through the cracks." 42 Pa.B. 4140 (July 7, 2012).

It appears that more detailed procedures regarding these types of warrants were not included given that the number of cases that may be presented to an indicting grand jury, *i.e.* those that involve witness intimidation concerns, were anticipated to be relatively few and that the situations where new individuals would be identified during the grand jury proceedings would be even rarer. However, in light of the inquiry presented, the Committee decided that these procedures needed to be further defined.

The Committee agreed that an indictment could be issued against a previously uncharged defendant if a case has been properly determined to be before an indicting grand jury due to the possibility of witness intimidation

and the grand jury had determined that there was evidence against that uncharged defendant. The Committee recognized that this method of initiating a case currently was not recognized by the rules. In particular, there was a question as how the case should be initiated and whether the indictment might be used as a charging document in lieu of a criminal complaint.

The Committee concluded that the method for initiating a case for a defendant who had not been previously charged but was indicted by grand jury should be, as in other criminal case, by means of a criminal complaint. However, since the grand jury procedure takes the place of a preliminary hearing, procedures following the preliminary arraignment after the warrant had been executed would differ from other criminal cases. The Committee agreed that the procedures should provide for: (a) the filing of a criminal complaint prior to the issuance of the arrest warrant by the supervising judge of the grand jury; and (b) procedures following the arrest of such a defendant including preliminary arraignment before the supervising judge or president judge's designee. Thereafter, the case would proceed to the filing of the information and formal arraignment.

In the proposal, Rule 556.11 (Proceedings when Case Presented to Grand Jury) would be amended by adding a new paragraph (A)(3) that specifically authorizes the grand jury to indict an individual who was not previously charged in the case that is before the grand jury. The provision that permits the issuance of an arrest warrant in current paragraph (D)(2) would be placed in a new paragraph (E) and would set out the procedures to be followed when such an individual is indicted. Once the attorney for the Commonwealth receives a copy of the indictment, he or she must file a complaint with the clerk of courts in the county where the grand jury sits. A request for an arrest warrant must then be presented to the supervising judge, using the indictment as the affidavit of probable cause. The supervising judge then must issue the warrant. Comment language would be added to provide some additional information.

New Rule 556.13 would provide the procedures following the arrest of this new defendant with receiving a preliminary arraignment before the supervising judge or another common pleas judge designated by the president judge. Following preliminary arraignment, the case would proceed as provided in Rule 560, with the filing of the information, and Rule 571, with formal arraignment.

Since these procedures require the filing of a complaint, no new provisions would need to be added to Rule 502 (Instituting Proceedings in Court Cases) but a cross-reference to the new procedures in Rules 556.11 and 556.13 would be added to the Comment. Similarly, a cross-reference to these procedures would be added to Rule 513 (Requirements for Issuance; Dissemination of Arrest Warrant Information). Additionally, cross-references to the post-execution procedures would be added to Rule 516 (Procedure in Court Cases When Warrant of Arrest is Executed Within Judicial District of Issuance), 517 (Procedure in Court Cases When Warrant of Arrest is Executed Outside Judicial District of Issuance), and 518 (Using Advanced Communication Technology in Court Cases When Warrant of Arrest is Executed Outside Judicial District of Issuance).

[Pa.B. Doc. No. 18-100. Filed for public inspection January 19, 2018, 9:00 a.m.]

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CH. 200]

Order Amending Rule 206 of the Rules of Civil Procedure Before Magisterial District Judges; No. 417 Magisterial Rules Doc.

Order

Per Curiam

And Now, this 5th day of January, 2018, upon the recommendation of the Minor Court Rules Committee, the proposal having been published for public comment at 47 Pa.B. 4682 (August 12, 2017):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 206 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 January 6, 2018.

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 200. RULES OF CONSTRUCTION; GENERAL PROVISIONS

Rule 206. Costs; Proceedings [**in**] *In Forma Pauperis*.

A. Except as otherwise provided by law, the costs for filing and service of the complaint shall be paid at the time of filing.

B. Except as otherwise provided by [**subdivision**] **paragraph** C of this rule, the prevailing party in magisterial district [**judge**] **court** proceedings shall be entitled to recover taxable costs from the unsuccessful party. Such costs shall consist of all filing, personal service, witness, and execution costs authorized by Act of Assembly or general rule and paid by the prevailing party.

C. Taxable costs on appeal or *certiorari* shall be paid by the unsuccessful party, and a plaintiff who appeals shall be considered an unsuccessful party if he or she does not obtain on appeal a judgment more favorable than that obtained in the magisterial district [**judge**] **court** proceeding. A defendant who prevails on *certiorari* proceedings brought by the defendant or who obtains a favorable judgment upon appeal by either party shall not be liable for costs incurred by the plaintiff in the preceding magisterial district [**judge**] **court** proceeding and may recover taxable costs in that proceeding from the plaintiff. A plaintiff who is unsuccessful in the magisterial district [**judge**] **court** proceeding may recover taxable costs in that proceeding from the defendant if the plaintiff is successful on appeal, and in that event the defendant may not recover costs in the magisterial district [**judge**] **court** proceeding from the plaintiff.

D. This rule shall apply to all civil actions and proceedings except actions pursuant to the Protection [**from**] **From** Abuse Act or 42 Pa.C.S. §§ 62A01—62A20.

Official Note: "Execution" costs include those for executing an order for possession. The items constituting

taxable costs in appeal or *certiorari* proceedings will be governed by law or general rule applicable in the court of common pleas.

Under [subdivision] paragraph B, “personal service...costs” refers only to personal service since mail costs are to be borne by the plaintiff in all cases in accordance with Section 1725.1 of the Judicial Code, 42 Pa.C.S. § 1725.1.

This rule does not provide for the assessment of filing costs against an unsuccessful plaintiff who has been permitted to proceed *in forma pauperis* and who remains indigent. See *Brady v. Ford*, [451 Pa. Super. 363,] 679 A.2d 837 (Pa. Super. 1996).

For special provisions governing actions pursuant to the Protection From Abuse Act, see Sections 6106(b) and (c) of the Domestic Relations Code, 23 Pa.C.S. §§ 6106(b) and (c). For special provisions governing actions seeking relief for victims of sexual violence or intimidation, see 42 Pa.C.S. §§ 62A01—62A20.

E. Proceedings [In Forma Pauperis] *in forma pauperis*

[(i)] (1) A party who is without financial resources to pay the costs of litigation shall be entitled to proceed *in forma pauperis*.

[(ii)] (2) Except as provided by subparagraph [(iii)] (3), the party shall file a petition and affidavit in the form prescribed by subparagraph [(vi)] (6). The petition may not be filed prior to the commencement of the action, which action shall be accepted in the first instance, without the payment of filing costs.

Except as prescribed by subparagraph [(iii), the Magisterial District Judge] (3), the magisterial district judge shall act promptly upon the petition and shall enter a determination within five days from the date of the filing of the petition. If the petition is denied, in whole or in part, the [Magisterial District Judge] magisterial district judge shall briefly state the reasons therefor. The unsuccessful petitioner may proceed no further so long as such costs remain unpaid.

[(iii)] (3) If the party is represented by an attorney, the [Magisterial District Judge] magisterial district judge shall allow the party to proceed *in forma pauperis* upon the filing of a *praecipe* [which] that contains a certification by the attorney that the attorney is providing free legal service to the party and believes the party is unable to pay the costs.

[(iv)] (4) A party permitted to proceed *in forma pauperis* shall not be required to pay any costs imposed or authorized by Act of Assembly or general rule which are payable to any court or any public officer or employee.

The magisterial district judge shall inform a party permitted to proceed *in forma pauperis* of the option to serve the complaint by mail in the manner permitted by these rules.

A party permitted to proceed *in forma pauperis* has a continuing obligation to inform the court of improvement in the party’s financial circumstances which will enable the party to pay costs.

[(v)] (5) If there is a monetary recovery by judgment or settlement in favor of the party permitted to proceed *in forma pauperis*, the exonerated costs shall be taxed as costs and paid to the [Magisterial District Judge] magisterial district judge by the party paying the

monetary recovery. In no event shall the exonerated costs be paid to the indigent party.

[(vi)] (6) The petition for leave to proceed *in forma pauperis* and affidavit shall be substantially in the following form:

[Caption]
Petition

I hereby request that I be permitted to proceed *in forma pauperis* (without payment of the filing and service costs). In support of this I state the following:

1. I am the plaintiff in the above matter and because of my financial condition am unable to pay the costs for filing and service of this action.

2. I am unable to obtain funds from anyone, including my family and associates, to pay the costs of litigation.

3. I represent that the information below relating to my ability to pay the costs is true and correct:

(a) Name: _____

Address: _____

(b) Employment _____

[My present employer is: _____]

If you are presently employed, state

Employer: _____

Address: _____

Salary or wages per month: _____

Type of work: _____ [;

or I am presently unemployed.]

If you are presently unemployed, state

The date of my last employment was: _____

Salary or wages per month: _____

Type of work: _____

(c) Other income that I have received within the past twelve months

Business or profession: _____

Other self-employment: _____

Interest: _____

Dividends: _____

Pension and annuities: _____

Social security benefits: _____

Support payments: _____

Disability payments: _____

Unemployment compensation and supplemental benefits: _____

[Workman’s] Workers’ compensation: _____

Public assistance: _____

Other: _____

(d) Other contributions to household support

[(Wife) (Husband)] Spouse Name: _____

My [(Wife) (Husband)] Spouse is employed: _____

Employer: _____

Salary or wages per month: _____

Type of work: _____

Contributions from children: _____

Contributions from parents: _____

Other contributions: _____

(e) Property owned

Cash: _____

Checking account: _____

[**Saving**] **Savings** account: _____

Certificates of deposit: _____

Real estate (including home): _____

Motor vehicle: Make _____, Year _____

Cost _____, Amount owed \$ _____

Stocks; bonds: _____

Other: _____

(f) Debts and obligations

Mortgage: _____

Rent: _____

Loans: _____

Other: _____

(g) Persons dependent upon me for support

[**(Wife) (Husband)**] **Spouse** Name: _____**Ages of Minor** Children, if any: _____[**Name:** _____ **Age****Name:** _____ **Age****Name:** _____ **Age**]

Other persons:

Name: _____

Relationship: _____

4. I understand that I have a continuing obligation to inform the Court of improvement in my financial circumstances which would permit me to pay the costs incurred herein.

5. I verify that the statements made in this petition are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. [**Sec.**] § 4904, relating to unsworn falsification to authorities.

Date: _____

Petitioner _____

Action by the Magisterial District Judge: _____

Date: _____ Magisterial District Judge: _____

Official Note: This Rule substantially follows Pa.R.C.P. No. 240. Under subparagraph [**E(iv)**] **E(4)**, “any costs” includes all filing, service, witness, and execution costs.

FINAL REPORT¹

Recommendation 1-2017, Minor Court Rules Committee

Amendment of Pa.R.C.P.M.D.J. No. 206

Petition to Proceed *In Forma Pauperis*

I. Introduction

The Minor Court Rules Committee (“Committee”) recommended amendments to Rule 206 of the Pennsylvania Rules of Civil Procedure before Magisterial District Judges (“Rules”). The amendments eliminate the requirement that the petitioner provide the names of children for whom he or she provides support, and instead provide just the ages of such dependent children.

¹ 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.

II. Background and Discussion

On January 6, 2017, the Supreme Court of Pennsylvania adopted the *Public Access Policy: Case Records of the Appellate and Trial Courts* (“Policy”), which will become effective January 6, 2018. Although the Policy does not apply to the records filed with and maintained by the magisterial district courts, the Committee recognized the important policy considerations set forth therein, particularly as the Policy relates to the confidentiality of minors’ names and dates of birth. See Policy, Section 7.0A(5).

The Committee noted that Pa.R.C.P.M.D.J. No. 206E, which prescribes the content of the *in forma pauperis* petition, requires the disclosure of the names and ages of children dependent upon the petitioner for support. The Committee discussed this requirement in light of the new Policy, and was unable to find a compelling reason for requiring the disclosure of children’s names on the petition. The Committee agreed to recommend the elimination of that requirement, and, instead, only require the listing of dependent children’s ages in the petition.

III. Rule Changes

The Committee recommended deleting the reference to children’s names in the body of the *in forma pauperis* petition. See Pa.R.C.P.M.D.J. No. 206E(vi). The Committee also recommended minor stylistic changes throughout Rule 206.

[Pa.B. Doc. No. 18-101. Filed for public inspection January 19, 2018, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CUMBERLAND COUNTY

Rules of the Court of Common Pleas; Public Access

Order of Court

And Now, this 4th day of January, 2018, it is hereby Ordered and Decreed, that effective thirty (30) days after publication in the *Pennsylvania Bulletin*, the Cumberland County Court of Common Pleas adopts local rule 205.6:

Pursuant to Section 7 of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts, persons who file documents that contain confidential information as defined by the Policy shall use and file a Confidential Information Form in order to comply with the Policy. The form shall be available in each filing office as well as on the court administration website at www.ccpa.net/1960/Local-Rules.

The Cumberland County District Court Administrator is Ordered and Directed to do the following:

1. File one (1) copy to the Administrative Office of Pennsylvania Courts via email to adminrules@pacourts.us.

2. File two (2) paper copies and one (1) electronic copy in a Microsoft Word format only to bulletin@palrb.us with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. Publish these Rules on the Cumberland County Court website at www.ccpa.net.

4. Incorporation of the local rule into the set of local rules on www.ccpa.net within thirty (30) days after the publication of the local rule in the *Pennsylvania Bulletin*.

5. File one (1) copy of the local rule in the appropriate filing office for public inspection and copying.

6. Forward one (1) copy to the *Cumberland Law Journal*.

By the Court

EDWARD E. GUIDO,
President Judge

[Pa.B. Doc. No. 18-102. Filed for public inspection January 19, 2018, 9:00 a.m.]

**DISCIPLINARY BOARD OF
THE SUPREME COURT**

Notice of Disbarment

Notice is hereby given that by Order of the Supreme Court of Pennsylvania dated January 5, 2018, Catherine Eyaal Abbey is disbarred from the practice of law in this Commonwealth to be effective February 4, 2018. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

JULIA FRANKSTON-MORRIS, Esq.,
Secretary

[Pa.B. Doc. No. 18-103. Filed for public inspection January 19, 2018, 9:00 a.m.]

SUPREME COURT

**Schedule of Holidays for Year 2019 for Staffs of
the Appellate Courts and the Administrative Office
of Pennsylvania Courts; No. 493 Judicial
Administration Doc.**

Order

Per Curiam:

And Now, this 5th day of January, 2018, it is hereby ordered that the following paid holidays for calendar year 2019 will be observed on the dates specified below by all employees of the appellate courts and the Administrative Office of Pennsylvania Courts:

January 01, 2019	New Year's Day
January 21, 2019	Martin Luther King, Jr. Day
February 18, 2019	Presidents' Day
April 19, 2019	Good Friday

May 27, 2019	Memorial Day
July 04, 2019	Independence Day
September 02, 2019	Labor Day
October 14, 2019	Columbus Day
November 05, 2019	Election Day**
November 11, 2019	Veterans' Day
November 28, 2019	Thanksgiving Day
November 29, 2019	Day after Thanksgiving
December 25, 2019	Christmas Day
**AOPC only; Appellate courts will be open.	

[Pa.B. Doc. No. 18-104. Filed for public inspection January 19, 2018, 9:00 a.m.]

SUPREME COURT

**Sessions of the Supreme Court of Pennsylvania
for the Year 2019; No. 494 Judicial Administration
Doc.**

Order

Per Curiam:

And Now, this 5th day of January, 2018, it is ordered that the argument/administrative sessions of the Supreme Court of Pennsylvania shall be held in the year 2019 as follows:

Philadelphia (Administrative Session)	February 5th
Philadelphia	March 4th through March 8th
Harrisburg (Administrative Session)	March 26th
Pittsburgh	April 8th through April 12th
Harrisburg	May 13th through May 17th
Pittsburgh (Administrative Session)	June 4th
Philadelphia	September 9th through September 13th
Pittsburgh	October 15th through October 18th
Harrisburg	November 18th through November 22nd

Additional argument/administrative sessions may be scheduled as the Court deems necessary.

[Pa.B. Doc. No. 18-105. Filed for public inspection January 19, 2018, 9:00 a.m.]

PROPOSED RULEMAKING

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

[17 PA. CODE CH. 53]

Snowmobile and All-Terrain Vehicle Grants

The Department of Conservation and Natural Resources (Department) proposes to add Chapter 53 (relating to snowmobile and all-terrain vehicle grants) to read as set forth in Annex A.

A. *Effective Date*

This proposed rulemaking will go into effect upon final-form publication in the *Pennsylvania Bulletin*.

B. *Contact Persons*

For further information, contact Alex MacDonald, Chief, Trails, Greenways and Statewide Planning Section, Bureau of Recreation and Conservation, Department of Conservation and Natural Resources, Rachel Carson State Office Building, 400 Market St., 5th Floor, P.O. Box 8475, Harrisburg, PA 17105-8475, (717) 772-4586, almacdonal@pa.gov; or Stephen Ekema-Agbaw, Assistant Counsel, Office of Chief Counsel, Department of Conservation and Natural Resources, Rachel Carson State Office Building, 400 Market St., 7th Floor, P.O. Box 8767, Harrisburg, PA 17105-8767, (717) 772-4171, sekema@pa.gov.

C. *Statutory Authority*

Section 313 of the Conservation and Natural Resources Act (71 P.S. § 1340.313) and 75 Pa.C.S. § 7704 (relating to rules and regulations) authorize the Department to promulgate regulations. This proposed rulemaking is mandated by 75 Pa.C.S. § 7706(b.1) (relating to restricted accounts), as added by the act of July 20, 2016 (P.L. 837, No. 97) (Act 97).

D. *Purpose and Background*

The purpose of this proposed rulemaking is to comply with 75 Pa.C.S. § 7706(b.1). The intent of 75 Pa.C.S. § 7706(b.1) is to ensure the equitable distribution of snowmobile and all-terrain vehicle (ATV) funds to the snowmobile or ATV user groups who generated the funds.

Previously, funds generated by both user groups were placed into a single restricted account and could be spent on either snowmobile or ATV riding without consideration for which user groups generated the funds. However, as ATV ridership has grown in recent years, ATV user groups have asked the General Assembly to acknowledge their needs and develop more riding opportunities in this Commonwealth. Thus, Act 97 ensures that ATV funds are directed towards the needs of ATV user groups.

Two restricted accounts for snowmobile and ATV funds are created under Act 97—the ATV Management Restricted Account and the Snowmobile Management Restricted Account. Under Act 97, all moneys generated from ATV activities may only be deposited in the ATV Management Restricted Account and used for ATV projects. Similarly, all moneys generated from snowmobile activities may only be deposited in the Snowmobile Management Restricted Account and used for snowmobile projects. These restricted accounts ensure that moneys generated from ATV activities do not go towards snowmobile activities and vice versa.

Additionally, Act 97 mandates that the Department promulgate regulations to create a program granting money from the restricted accounts for snowmobile and ATV activities. The Department proposes to add Chapter 53 to comply with the mandate in Act 97.

E. *Summary of Regulatory Requirements*

Chapter 53, Subchapter A (relating to general provisions) defines terms used in Chapter 53, states the Department's authority and establishes the criteria for grant applicants to apply and be selected for a grant. Chapter 53, Subchapters B and C (relating to all-terrain vehicle grants; and snowmobile grants) establish the types of applicants and projects eligible for funding.

Chapter 53 codifies the Department's grant program for snowmobile and ATV activities. The program funds grant projects for the planning, acquisition, rehabilitation or development of snowmobile and ATV trails. The program also funds grant projects for equipment, training and educational activities related to snowmobile and ATV use. Municipalities, for-profit organizations and nonprofit organizations are eligible for funding under this program.

F. *Benefits, Costs and Compliance*

Benefits

This proposed rulemaking will benefit grant applicants by affording them the opportunity to apply for grant awards twice a year and by ensuring that ATV moneys are used for ATV projects and snowmobile moneys are used for snowmobile projects.

Compliance costs

This proposed rulemaking will not impose additional compliance costs.

Paperwork requirements

There are no additional paperwork requirements associated with this proposed rulemaking. Grant applicants are already required to complete a grant application to apply for funds. This proposed rulemaking codifies the application process.

G. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on January 9, 2018, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House Environmental Resources and Energy Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The Regulatory Review Act specifies detailed procedures for review prior to final publication of the rulemaking by the Department, the General Assembly and the Governor.

H. *Public Comments*

Interested persons are invited to submit comments, suggestions or objections regarding this proposed rulemaking to Alex MacDonald, Chief, Trails, Greenways and Statewide Planning Section, Bureau of Recreation and

Conservation, Department of Conservation and Natural Resources, Rachel Carson State Office Building, 400 Market St., 5th Floor, P.O. Box 8475, Harrisburg, PA 17105-8475. Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Department within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

Comments may be submitted by e-mail to the Department at BRCRegulations@pa.gov and must also be received by the Department within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Use "Chapter 53 proposed rulemaking" as the subject line. A return name and United States Postal Service mailing address must be included in each transmission.

CINDY ADAMS DUNN,
Secretary

Fiscal Note: 7B-9. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 17. CONSERVATION AND NATURAL RESOURCES

PART I. DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Subpart E. OUTDOOR RECREATION

CHAPTER 53. SNOWMOBILE AND ALL-TERRAIN VEHICLE GRANTS

Subchap.

- A. GENERAL PROVISIONS
- B. ALL-TERRAIN VEHICLE GRANTS
- C. SNOWMOBILE GRANTS

Subchapter A. GENERAL PROVISIONS

Sec.

- 53.1. Definitions.
- 53.2. Authority.
- 53.3. Application procedure.
- 53.4. Grant selection process and criteria.
- 53.5. Funding levels.

§ 53.1. Definitions.

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

ATV—An all-terrain vehicle as defined in section 7706(e) of the Vehicle Code (relating to restricted accounts).

ATV Management Restricted Account—A restricted revenue account for funds that may only be used for ATV related activities, or activities related to joint-use trails, as required under section 7706(a)(2) of the Vehicle Code.

Acquisition—The purchase or lease of land or buildings for snowmobile or ATV activities, or both.

Development—Construction, alteration or renovation required for and compatible with the physical improvement of land.

Joint-use trail—A trail that may be used by snowmobiles and ATVs.

Land—Real property, including improvements thereon, rights-of-way, water, riparian and other rights, easements, privileges and any other physical property or rights of interest of any kind or description relating to or connected with real property.

Maintenance—Recurring upkeep needed on a regular basis on snowmobile, ATV or joint-use trails, trail related facilities and equipment.

Municipality—A county, city, borough, incorporated town, township or an official agency created by the foregoing units of government under the laws of the Commonwealth.

Nonprofit organization—An organization that is exempt from income tax under section 501 of the Internal Revenue Code (26 U.S.C.A. § 501).

Project—A proposal to acquire or develop land, research the feasibility of acquiring or developing land, prepare or perform right-of-way lease agreements, purchase or lease equipment, or conduct educational or training programs relating to snowmobile or ATV activities, or both.

Rehabilitation—The improvement or restoration, excluding routine maintenance, of existing snowmobile, ATV or joint-use trails.

Snowmobile—The term as defined in section 7702 of the Vehicle Code (relating to definitions).

Snowmobile Management Restricted Account—A restricted revenue account for funds that may only be used for snowmobile related activities, or activities related to joint-use trails, as required under section 7706(a)(2) of the Vehicle Code.

Vehicle Code—75 Pa.C.S. §§ 101—9701.

§ 53.2. Authority.

This chapter is adopted under section 7706(b.1) of the Vehicle Code (relating to restricted accounts) and applies to municipalities, for-profit organizations and nonprofit organizations seeking grants under this chapter.

§ 53.3. Application procedure.

(a) Grant applicants may apply for grants under this chapter by submitting an application through the Department's online grant portal on the Department's web site.

(b) By completing, signing and submitting a grant application to the Department, the grant applicant will be deemed to have certified to the Department that it shall be legally bound by the terms, conditions and provisions of the grant.

(c) There will be two grant rounds annually during which the Department will accept grant applications. The first grant round will open on the first business day in January and close on the last business day in March. The second grant round will open on the first business day in August and close on the last business day in October.

§ 53.4. Grant selection process and criteria.

(a) Following the closing date of each grant round, the Department will consider properly filed applications for approval and award.

(b) If the Department determines that an application is incomplete and that additional information is necessary, the grant applicant shall provide that additional information to allow for further consideration of the application.

(c) In reviewing an application, the Department will give priority to all of the following criteria:

- (1) The anticipated benefits of the project.
- (2) The local and regional impact of the project.
- (3) The estimated cost of the project.
- (4) The availability of matching funds for the project.
- (5) Cost sharing by the grant applicant and other entities.

(6) The results of similar types of projects that have already been completed.

(7) The results of previous projects completed by the grant applicant.

(8) The Department's priorities for motorized recreational trails.

(d) The Department will complete its review and approval of properly filed applications prior to the opening of the following grant round.

§ 53.5. Funding levels.

Grants under this chapter may cover part or all of the cost of an eligible project.

Subchapter B. ALL-TERRAIN VEHICLE GRANTS

Sec.
53.11. ATV Management Restricted Account.
53.12. Eligibility.

§ 53.11. ATV Management Restricted Account.

(a) The Department may only award grants for ATV projects under this subchapter.

(b) The Department may only fund grants with money from the ATV Management Restricted Account under this subchapter.

(c) Joint-use trail projects are considered ATV projects under this subchapter.

§ 53.12. Eligibility.

(a) The Department may award grants to the following groups and organizations:

- (1) For-profit organizations.
- (2) Nonprofit organizations.
- (3) Municipalities.

(b) The Department may award grants for the following project costs on lands not owned by the Commonwealth:

- (1) Plans, specifications and engineering surveys.
- (2) Fees and costs related to the preparation or performance of right-of-way lease agreements.
- (3) Land acquisition.
- (4) Construction, maintenance and rehabilitation of trails and other facilities for ATVs.

(c) The Department may award grants for the maintenance, rehabilitation or construction of ATV trails on lands owned by the Commonwealth.

(d) The Department may award grants for equipment, training and educational activities relating to ATV use.

Subchapter C. SNOWMOBILE GRANTS

Sec.
53.21. Snowmobile Management Restricted Account.
53.22. Eligibility.

§ 53.21. Snowmobile Management Restricted Account.

(a) The Department may only award grants for snowmobile projects under this subchapter.

(b) The Department may only fund grants with money from the Snowmobile Management Restricted Account under this subchapter.

(c) Joint-use trail projects are considered snowmobile projects under this subchapter.

§ 53.22. Eligibility.

(a) The Department may award grants to the following groups and organizations:

- (1) For-profit organizations.
- (2) Nonprofit organizations.
- (3) Municipalities.

(b) The Department may award grants for the following project costs on lands not owned by the Commonwealth:

- (1) Plans, specifications and engineering surveys.
- (2) Fees and costs related to the preparation or performance of right-of-way lease agreements.
- (3) Land acquisition.
- (4) Construction, maintenance and rehabilitation of trails and other facilities for snowmobiles.

(c) The Department may award grants for the maintenance, rehabilitation or construction of snowmobile trails on lands owned by the Commonwealth.

(d) The Department may award grants for equipment, training and educational activities relating to snowmobile use.

[Pa.B. Doc. No. 18-106. Filed for public inspection January 19, 2018, 9:00 a.m.]

INSURANCE DEPARTMENT

[31 PA. CODE CH. 89]

Medicare Supplement Insurance Minimum Standards

The Insurance Department (Department) proposes to amend Chapter 89, Subchapter K (relating to Medicare supplement insurance minimum standards) to read as set forth in Annex A. The rulemaking is proposed under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P.S. §§ 66, 186, 411 and 412), sections 5 and 9 of the Medicare Supplement Insurance Act (40 P.S. § 3105 and § 3109) and section 314 of the Accident and Health Filing Reform Act (40 P.S. § 3801.314).

Purpose

Chapter 89, Subchapter K sets forth minimum standards for Medicare supplement insurance (Medigap) policies, as well as other requirements that pertain to the sale of Medigap policies, such as limitations on rating practices, requirements to file certain forms, the establishment of open enrollment periods and standards for marketing. Many of these standards are based in large part on Federal requirements. Because Medigap serves as a supplement to Medicare (a program administered exclusively by the Federal government), Medigap is also heavily Federally regulated. The Federal government develops standardized Medigap plans and determines which benefits must be included in each standardized plan type. Only standardized Medigap plans may be sold.

Chapter 89, Subchapter K was amended in 1992 and detailed the minimum benefits that needed to be included in each standardized Medigap plan at that time as required under the Federal Omnibus Budget Reconciliation Act of 1990 (Omnibus Act). In Omnibus Act, the Federal government delineated these standards and, in-

stead of promulgating its own Federal regulation, charged the National Association of Insurance Commissioners (NAIC) with developing a model regulation to be adopted by the states to implement those requirements. See the Omnibus Act (codified as section 1882(p) of the Social Security Act (42 U.S.C.A. § 1395ss(p))).

States currently enjoy primary regulatory authority over the Medigap industry so long as they adopt regulations that are substantially similar to those established by the NAIC to carry out the intent of Congress. See section 1882(a)(2)(A) of the Social Security Act. If a state fails to promulgate a regulation that adopts the changes periodically made by the NAIC to its model regulation in response to new or changed Federal requirements, that state will lose its regulatory authority. See section 1882(b)(2) of the Social Security Act.

In 2015, Congress passed the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) (Pub.L. No. 114-10), which mandated certain changes to the benefit structure of the permissible standardized benefit plans for Medigap policies. Again, as in 1992, the NAIC developed amendments that reflect those changes and published the August 29, 2016, amendments to NAIC Model Regulation No. 651.

In this case, the Commonwealth has until January 1, 2020, to adopt the changes to the model regulation. The NAIC recommended that, to provide adequate time for implementation, states seek to amend their regulations prior to December 31, 2017. The changes mandated by Federal law will go into effect regardless of regulatory action by the Commonwealth, and insurers providing Medigap policies will have to comply with new standardized benefit requirements even if this proposed rulemaking is not adopted.

The purpose of this proposed rulemaking is to update the Commonwealth's requirements for Medigap plans in accordance with changes made to NAIC Model Regulation No. 651. In addition to updating the Commonwealth's Medigap regulations to comply with Federal requirements, this proposed rulemaking also establishes an open enrollment period for certain individuals retroactively enrolled in Medicare Part B, and disallows certain attained age rating practices.

A copy of the copyrighted NAIC model regulation was provided to the House Insurance Committee, the Senate Banking and Insurance Committee, the Independent Regulatory Review Commission (IRRC), the Governor's Office of Policy and Planning, the Governor's Office of General Counsel and the Attorney General to assist in their analysis of this proposed rulemaking. Copies of NAIC model regulations are available to the general public by contacting the NAIC.

Explanation of Proposed Regulatory Requirements

Proposed amendments to § 89.772 (relating to definitions) add the term "2020 Standardized Medicare supplement benefit plan" to promote readability of proposed § 89.777c (relating to Standard Medicare supplement benefit plans for 2020 Standardized Medicare supplement benefit plans issued or delivered to individuals newly eligible for Medicare on or after January 1, 2020) and to maintain consistency with previous amendments to Chapter 89, Subchapter K.

Proposed amendments to § 89.777b(f)(7) (relating to Standard Medicare supplement benefit plans for 2010 Standardized Medicare supplement benefit plan policies

or certificates issued or delivered on or after June 1, 2010) allow individuals who were eligible for Medicare Part B prior to January 1, 2020, to enroll in a newly redesignated high deductible Plan G. Proposed amendments to subsection (f)(8)(iii) reflect an editorial change made by the NAIC to the previous model. This section is being retained for transitional purposes.

Proposed § 89.777c specifies standards for policies effective on or after January 1, 2020. Specifically, this section will: prohibit the sale of Medicare Part B deductible plans to individuals who became eligible for Medicare Part B on or after January 1, 2020; redesignate standardized benefit plans C, F and high deductible plan F as standardized benefit plans D, G and high deductible plan G, respectively; and prohibit the sale of standardized Medigap plans C, F and high deductible plan F to individuals who became eligible for Medicare Part B on or after January 1, 2020.

Proposed amendments to § 89.778 (relating to open enrollment) reformat subsection (a). Proposed subsection (a)(1)(ii) prohibits an insurer from denying enrollment in a Medigap plan to an individual who is retroactively determined to be eligible for Medicare Part B by the Social Security Administration solely because of the retroactive eligibility determination. This proposed prohibition would extend for the period of time ending 6 months after the date of the retroactive eligibility determination.

Proposed § 89.781(g) (relating to filing and approval of policies and certificates and premium rates) prohibits the practice referred to as "ladle rating," when, for each year of age attained by an enrollee, the rate decreases until the insured reaches an age at which rates begin to increase significantly each year as age increases. This prohibition was contemplated in the 2008 version of NAIC Model Regulation No. 651, which encouraged states to assess the necessity of a regulatory intervention with respect to attained age rating.

Proposed amendments to § 89.783 (relating to required disclosure provisions) delete outdated language pertaining to disclosures required under subsection (d)(5) in accordance with editorial changes made by the NAIC to the 2008 version of NAIC Model Regulation No. 651. Subsection (d)(6) is proposed to be amended to note the addition of the availability of an Outline of Coverage for Plan N. These proposed amendments also update references to the Department's web site in subsections (d)(6) and (f) to reflect the current URL.

External Comments

The Department circulated pre-exposure drafts of the proposed rulemaking to representatives from the Insurance Federation of Pennsylvania, the Pennsylvania Association of Mutual Insurance Companies, insurance agents and brokers, Highmark, Independence Blue Cross and Capital Blue Cross. No comments were received.

Affected Parties

This proposed rulemaking applies to insurers licensed to transact accident and health business in this Commonwealth. Specifically, this proposed rulemaking applies to those insurers offering Medigap policies.

Fiscal Impact

State government

There will not be a material increase in cost to the Department as a result of this proposed rulemaking.

General public

This proposed rulemaking will not impose costs and will not have a fiscal impact upon the general public.

Political subdivisions

This proposed rulemaking will not impose additional costs on political subdivisions.

Private sector

The insurance industry will likely not incur additional costs associated with complying with this proposed rulemaking.

Paperwork

This proposed rulemaking will not impose additional paperwork on the Department, as no filing is required to be made by insurers. To the extent that insurers would need to update policy forms or enrollee literature, this proposed rulemaking may impose additional paperwork on insurers.

Effective Date

This proposed rulemaking will become effective upon final-form publication in the *Pennsylvania Bulletin*. Although this proposed rulemaking will be effective upon final-form publication, the benefit standards established by MACRA apply to all policies or certificates issued or delivered on or after January 1, 2020.

Sunset Date

The Department continues to monitor the effectiveness of regulations on a triennial basis. Therefore, a sunset date has not been assigned.

Contact Person

Questions or comments regarding this proposed rulemaking may be addressed in writing to Bridget Burke, Regulatory Coordinator, Insurance Department, 1341 Strawberry Square, Harrisburg, PA 17120, fax (717) 772-1969, bburke@pa.gov within 30 days following the publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on January 9, 2018, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to IRRC and to the Chairpersons of the House Insurance Committee and the Senate Banking and Insurance Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The Regulatory Review Act specifies detailed procedures for review prior to final publication of the rulemaking by the Department, the General Assembly and the Governor.

JESSICA K. ALTMAN,
Acting Insurance Commissioner

Fiscal Note: 11-256. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 31. INSURANCE

PART IV. LIFE INSURANCE

CHAPTER 89. APPROVAL OF LIFE, ACCIDENT AND HEALTH INSURANCE

Subchapter K. MEDICARE SUPPLEMENT INSURANCE MINIMUM STANDARDS

§ 89.772. Definitions.

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

* * * * *

2010 Standardized Medicare supplement benefit plan—A group or individual policy of Medicare supplement insurance issued on or after June 1, 2010.

2020 Standardized Medicare supplement benefit plan—A group or individual policy or certificate of Medicare supplement insurance issued or delivered on or after January 1, 2020.

Applicant—

* * * * *

§ 89.777b. Standard Medicare supplement benefit plans for 2010 Standardized Medicare supplement benefit plan policies or certificates issued or delivered on or after June 1, 2010.

* * * * *

(f) The make up of 2010 Standardized Medicare supplement benefit plans shall be as follows:

* * * * *

(7) Standardized Medicare supplement benefit Plan G shall include only the following: the basic (core) benefit as defined in § 89.776a(2), plus 100% of the Medicare Part A deductible, skilled nursing facility care, 100% of the Medicare Part B excess charges, and medically necessary emergency care in a foreign county as defined in § 89.776a(3)(i), (iii), (v) and (vi). **Effective January 1, 2020, a standardized benefit plan redesignated as high deductible Plan G under § 89.777c(b)(2)(iv) (relating to Standard Medicare supplement benefit plans for 2020 Standardized Medicare supplement benefit plans issued or delivered to individuals ready eligible for Medicare on or after January 1, 2020) may be offered to an individual who was eligible for Medicare prior to January 1, 2020.**

(8) Standardized Medicare supplement Plan K shall include only the following:

(i) *Part A hospital coinsurance, day 61 through day 90.* Coverage of 100% of the Part A hospital coinsurance amount for each day used from day 61 through day 90 in any Medicare benefit period.

(ii) *Part A hospital coinsurance, day 91 through day 150.* Coverage of 100% of the Part A hospital coinsurance amount for each Medicare lifetime inpatient reserve day used from day 91 through day 150 in any Medicare benefit period.

(iii) *Part A hospitalization after [150 days] lifetime reserve days are exhausted.* On exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of 100% of the Medicare Part A eligible expenses for hospitalization paid at the appli-

cable prospective payment system rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional 365 days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for any balance.

* * * * *

(Editor's Note: The following section is proposed to be added and printed in regular type to enhance readability.)

§ 89.777c. Standard Medicare supplement benefit plans for 2020 Standardized Medicare supplement benefit plans issued or delivered to individuals newly eligible for Medicare on or after January 1, 2020.

(a) *Applicability.*

(1) Except as provided in subsection (d), this section applies to a 2020 Standardized Medicare supplement plan issued or delivered to an individual newly eligible for Medicare on or after January 1, 2020, by reason of:

(i) Attainment of 65 years of age on or after January 1, 2020.

(ii) Entitlement to Medicare Part A benefits under section 226(b) or 226A of the Social Security Act (42 U.S.C.A. §§ 426(b) and 426-1) on or after January 1, 2020.

(iii) Entitlement to benefits under section 226(a) of the Social Security Act on or after January 1, 2020.

(2) Benefit plan standards applicable to a Medicare supplement policy and plan policy or certificate issued or delivered to individuals eligible for Medicare before January 1, 2020, remain subject to § 89.777b (relating to Standard Medicare supplement benefit plans for 2010 Standardized Medicare supplement benefit plan policies or certificates issued or delivered on or after June 1, 2010).

(b) *Benefit requirements.* A 2020 Standardized Medicare supplement benefit plan that is advertised, solicited, delivered or issued for delivery in this Commonwealth to an individual newly eligible for Medicare as set forth in subsection (a)(1):

(1) May not provide coverage of the Medicare Part B deductible.

(2) Must meet the standards and requirements of § 89.777b except that:

(i) Standardized Medicare supplement benefit Plan C is redesignated as Plan D and must provide the benefits in § 89.777b(f)(3) but may not provide coverage for any portion of the Medicare Part B deductible.

(ii) Standardized Medicare supplement benefit Plan F is redesignated as Plan G and must provide the benefits in § 89.777b(f)(5) but may not provide coverage for any portion of the Medicare Part B deductible.

(iii) Standardized Medicare supplement benefit Plans C, F and high deductible Plan F may not be offered to individuals newly eligible for Medicare on or after January 1, 2020.

(iv) Standardized Medicare supplement benefit high deductible Plan F is redesignated as high deductible Plan G and must provide the benefits in § 89.777b(f)(6) but may not provide coverage for any portion of the Medicare Part B deductible. The Medicare Part B deductible paid by a beneficiary enrolled in a Standardized Medicare supplement benefit high deductible Plan F plan shall be

considered an out-of-pocket expense for purposes of meeting the annual high deductible.

(v) For purposes of this section, the references to Plans C and F in § 89.777b(b)(2) are deemed to be references to Plans D and G, respectively.

(c) *Guaranteed issue for eligible persons.* For purposes of § 89.790(e) (relating to guaranteed issued for eligible persons), in the case of an individual newly eligible for Medicare on or after January 1, 2020, any reference to a standardized Medicare supplement benefit policy classified as Plan C, F or high deductible Plan F is deemed to be a reference to a standardized Medicare supplement benefit Plan D, G or high deductible Plan G, respectively, that meets the requirements of this subsection and subsection (d).

(d) *Offer of redesignated plans to individuals other than those newly eligible.* On or after January 1, 2020, a standardized Medicare supplement benefit plan described in subsection (b)(2)(iv) may be offered to an individual who was eligible for Medicare prior to January 1, 2020, under § 89.777b(f)(7).

§ 89.778. Open enrollment.

(a) Prohibitions regarding denial, issuance and pricing of Medicare supplement policies or certificates.

(1) An issuer may not deny or condition the issuance or effectiveness of a Medicare supplement policy or certificate available for sale in this Commonwealth, nor discriminate in the pricing of a policy or certificate because of the health status, claims experience, receipt of health care or medical condition of an applicant in the case of an application for a policy or certificate that is submitted prior to or during the 6-month period beginning with the first day of the first month in which [**an**] **either of the following occurs:**

(i) **An individual enrolled for benefits under Medicare Part B.**

(ii) **An applicant who is retroactively enrolled in Medicare Part B due to a retroactive eligibility decision made by the Social Security Administration received notice of retroactive eligibility to enroll.**

(2) Each Medicare supplement policy and certificate currently available from an issuer shall be made available to applicants who qualify under this subsection without regard to age. In the case of group policies, an issuer may condition issuance on whether an applicant is a member or is eligible for membership in the insured group.

(b) **Exclusion of benefits based on a pre-existing condition prohibited.** If an applicant qualifies under subsection (a) and submits an application during the time period referenced in subsection (a) and, as of the date of application, has had a continuous period of creditable coverage of at least 6 months, the issuer may not exclude benefits based on a preexisting condition.

(c) **Reduction of the period of a pre-existing condition exclusion.** If the applicant qualifies under subsection (a) and submits an application during the time period referenced in subsection (a) and, as of the date of application, has had a continuous period of creditable coverage that is less than 6 months, the issuer shall reduce the period of any preexisting condition exclusion by the aggregate of the period of creditable coverage applicable to the applicant as of the enrollment date. The HHS Secretary shall specify the manner of the reduction under this subsection.

(d) ***Prevention of the exclusion of benefits under a policy.*** Except as provided in subsections (b) and (c) and §§ 89.789 and 89.790 (relating to prohibition against preexisting conditions, waiting periods, elimination periods and probationary periods in replacement policies or certificates; and [**guarantee**] **guaranteed** issue for eligible persons), subsection (a) will not be construed as preventing the exclusion of benefits under a policy, during the first 6 months, based on a preexisting condition for which the policyholder or certificateholder received treatment or was otherwise diagnosed during the 6 months before it became effective.

§ 89.781. Filing and approval of policies and certificates and premium rates.

* * * * *

(f) *Combination of forms.*

(1) Except as provided in paragraph (2), the experience of all policy forms or certificate forms of the same type in a standard Medicare supplement benefit plan shall be combined for purposes of the refund or credit calculation prescribed in § 89.780 (relating to loss ratio standards and refund or credit of premium).

(2) Forms assumed under an assumption reinsurance agreement may not be combined with the experience of other forms for purposes of the refund or credit calculation.

(g) *Attained age rating.* An issuer may not present for filing or approval a rate structure for a Medicare supplement policy or certificate issued or delivered after _____ (Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.) based upon a structure or methodology with any grouping of attained ages greater than 1 year. The rate for successive ages may not decrease as age increases.

§ 89.783. Required disclosure provisions.

* * * * *

(d) *Outline of coverage requirements for Medicare supplement policies.*

* * * * *

(5) The following items [**shall**] **must** be included in the outline of coverage in the order required in this paragraph:

PREMIUM INFORMATION
(Boldface Type)

We (insert issuer's name) can only raise your premium if we raise the premium for all policies like yours in this

Commonwealth. (If the premium is based on the increasing age of the insured, include information specifying when premiums will change.)

[DISCLOSURES
(Boldface Type)

Use this outline to compare benefits and premiums among policies.

This outline shows benefits and premiums of policies sold for effective dates on or after June 1, 2010. Policies sold for effective dates prior to June 1, 2010, have different benefits and premiums. Plans E, H, I and J are no longer available for sale. (This paragraph may not appear after June 1, 2011.)]

READ YOUR POLICY VERY CAREFULLY
(Boldface Type)

* * * * *

(6) The cover page and the accompanying charts for Plan A to Plan [**L**] **N** of the Outlines of Coverage are available upon request from the Department in printed and electronic formats. In addition, notice will be published, in the *Pennsylvania Bulletin*, of the availability of the amended outlines when revisions are made available to the Department by the United States Department of Health and Human Services as published in the *Federal Register*. The Outlines of Coverages will be made available on the Department's web site at [**http://www.ins.state.pa.us**] **www.insurance.pa.gov**.

* * * * *

(f) *Availability of forms.* Applicable forms relating to Instructions for Use of the Disclosure Statements for Health Insurance Policies Sold to Medicare Beneficiaries that Duplicate Medicare, Refund Calculations and Reporting of Duplicate Medicare Policies for Medicare Supplement Chapter 89 are available upon request from the Department in printed and electronic formats. In addition, notice will be published, in the *Pennsylvania Bulletin*, of the availability of amended Medicare Supplement forms when revisions are made. These Medicare Supplement forms will be made available on the Department's web site at [**http://www.insurance.state.pa.us**] **www.insurance.pa.gov**.

[Pa.B. Doc. No. 18-107. Filed for public inspection January 19, 2018, 9:00 a.m.]

STATEMENTS OF POLICY

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Department of Conservation and Natural Resources

The Executive Board approved a reorganization of the Department of Conservation and Natural Resources effective January 3, 2018.

The organization chart at 48 Pa.B. 523 (January 20, 2018) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of *Code*).

(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of Pennsylvania Code) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)

[Pa.B. Doc. No. 18-108. Filed for public inspection January 19, 2018, 9:00 a.m.]

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Department of Revenue

The Executive Board approved a reorganization of the Department of Revenue effective January 3, 2018.

The organization chart at 48 Pa.B. 524 (January 20, 2018) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of *Code*).

(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of Pennsylvania Code) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)

[Pa.B. Doc. No. 18-109. Filed for public inspection January 19, 2018, 9:00 a.m.]

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Liquor Control Board

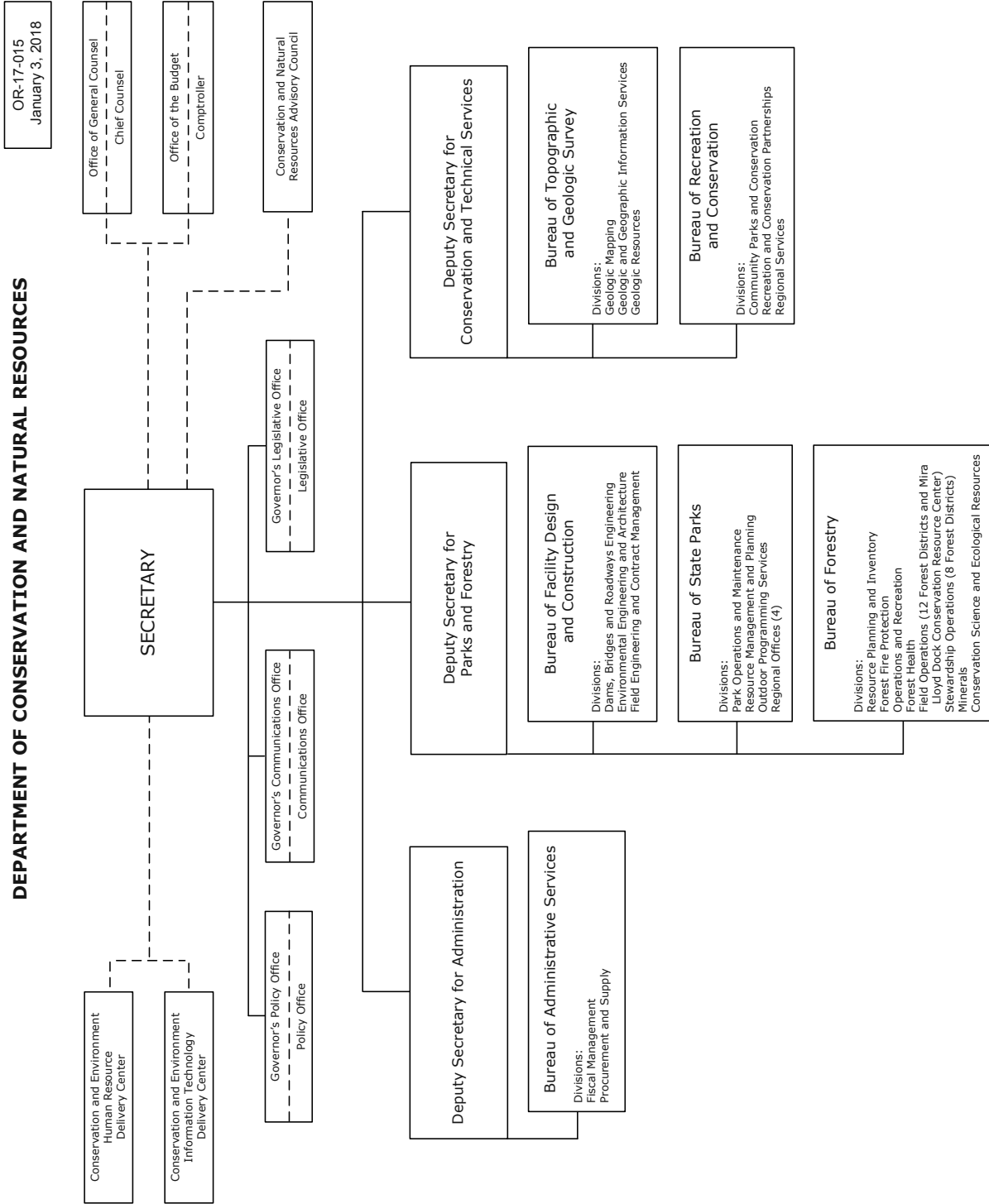
The Executive Board approved a reorganization of the Liquor Control Board effective January 3, 2018.

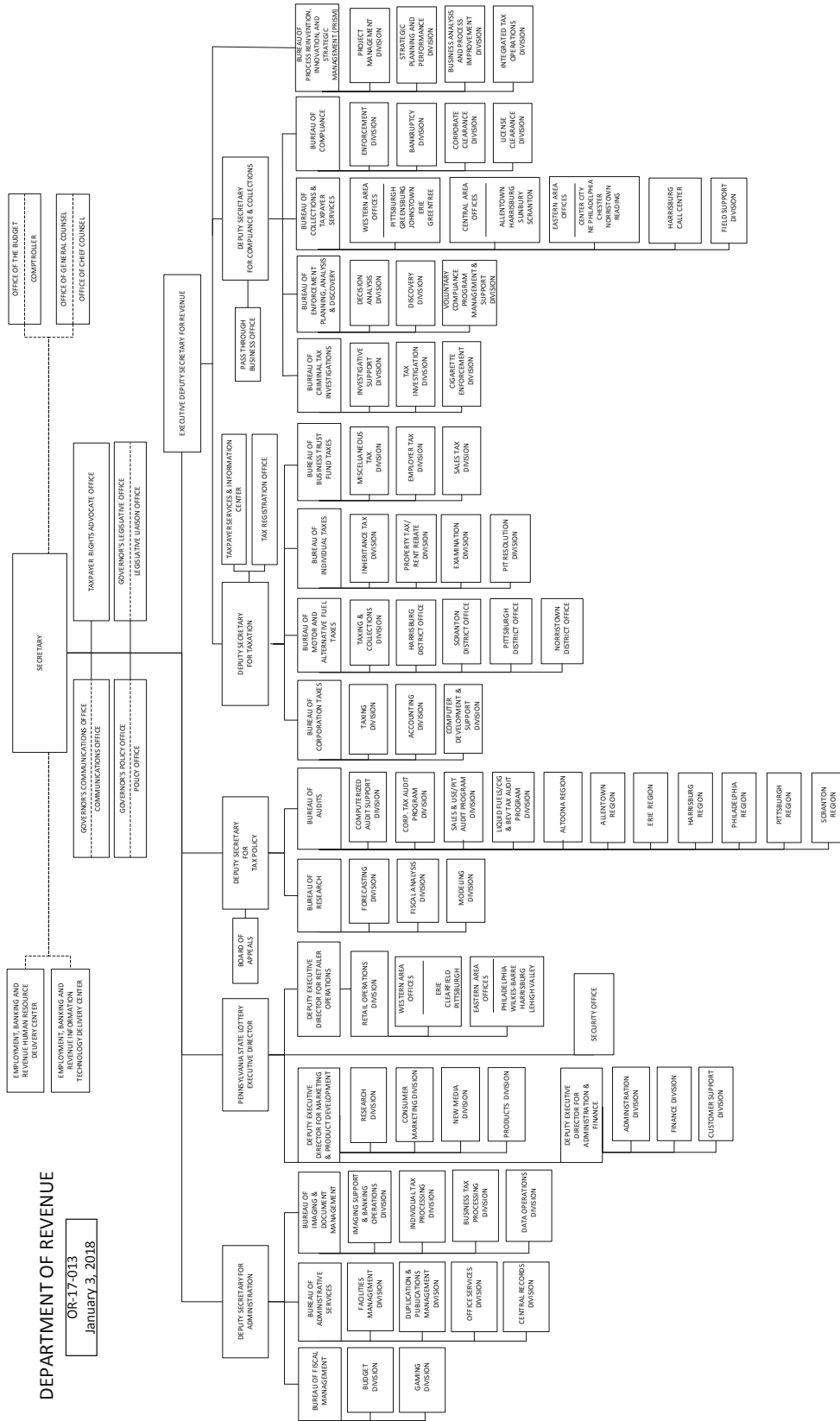
The organization chart at 48 Pa.B. 525 (January 20, 2018) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of *Code*).

(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of Pennsylvania Code) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)

[Pa.B. Doc. No. 18-110. Filed for public inspection January 19, 2018, 9:00 a.m.]

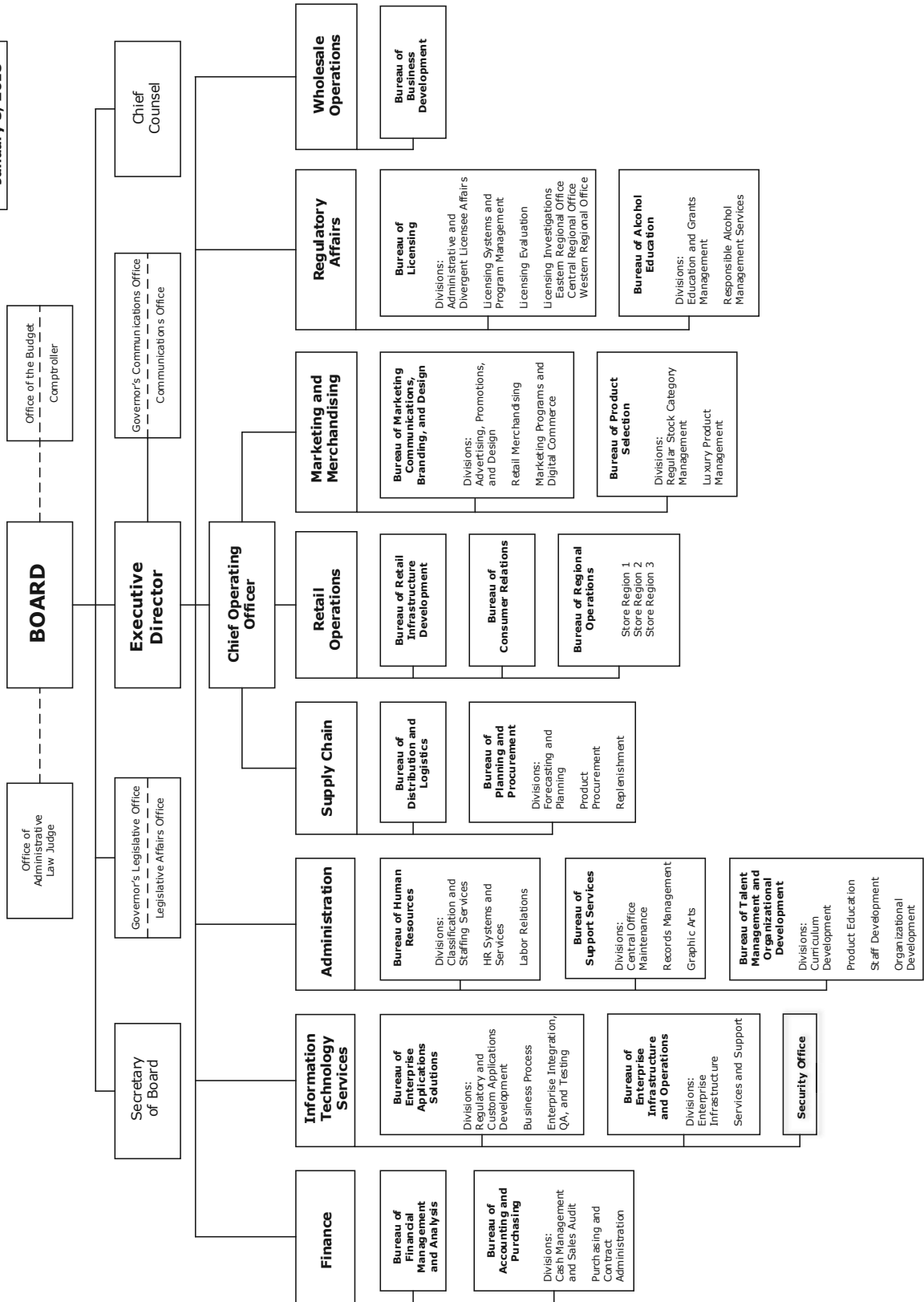
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES





LIQUOR CONTROL BOARD

OR-17-014
January 3, 2018



NOTICES

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 January 9, 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>
1-8-2018	Mid Penn Bancorp, Inc. Millersburg Dauphin County	Effective
	Application for approval to acquire 100% of Lawrence Keister & Company, Scottdale, and thereby indirectly acquire 100% of The Scottdale Bank & Trust Co., Scottdale.	

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
1-8-2018	Mid Penn Bank Millersburg Dauphin County	Effective
	Merger of The Scottdale Bank & Trust Co., Scottdale, with and into Mid Penn Bank, Millersburg.	
	All branch offices of The Scottdale Bank & Trust Company will become branch offices of Mid Penn Bank including the former main office of The Scottdale Bank & Trust Company located at:	
		150 Pittsburgh Street Scottdale Westmoreland County

Branch Applications

De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
12-28-2017	Meridian Bank Malvern Chester County	1760 Market Street Philadelphia Philadelphia County	Opened
1-2-2018	Landmark Community Bank Pittston Luzerne County	1000 Wyoming Avenue Wyoming Luzerne County	Opened
1-4-2018	Republic First Bank Philadelphia Philadelphia County	525 Route 73 North Marlton Burlington County, NJ	Approved

Branch Relocations

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
1-4-2018	Wayne Bank Honesdale Wayne County	<i>To:</i> 56 Stewart Avenue Roscoe Sullivan County, NY	Approved
		<i>From:</i> 43 Stewart Avenue Roscoe Sullivan County, NY	

Branch Discontinuances

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
12-29-2017	ESSA Bank & Trust Stroudsburg Monroe County	1070 North Ninth Street Stroudsburg Monroe County	Closed
12-29-2017	Northwest Bank Warren Warren County	4545 Transit Road Williamsville Erie County, NY	Closed

CREDIT UNIONS**Branch Applications****Branch Relocations**

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
1-3-2018	Armco Credit Union Butler Butler County	<i>To:</i> 106 Petrolia Street Karns City Butler County <i>From:</i> 112 Petrolia Street Karns City Butler County	Filed

The Department's web site at www.dobs.pa.gov includes public notices for more recently filed applications.

ROBIN L. WIESSMANN,
Secretary

[Pa.B. Doc. No. 18-111. Filed for public inspection January 19, 2018, 9:00 a.m.]

DEPARTMENT OF BANKING AND SECURITIES

Maximum Lawful Rate of Interest for Residential Mortgages for the Month of February 2018

The Department of Banking and Securities (Department), under the authority in section 301 of the act of January 30, 1974 (P.L. 13, No. 6) (41 P.S. § 301), determines that the maximum lawful rate of interest for residential mortgages for the month of February 2018, is 5%.

The interest rate limitations under the Commonwealth's usury statute were pre-empted to a great extent by Federal law, the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub.L. No. 96-221). Further pre-emption was instituted with the signing of Pub.L. No. 96-399, which overrode State interest rate

limitations on any individual who finances the sale or exchange of residential real property which such individual owns and which such individual occupies or has occupied as his principal residence.

Each month the Department is required by State law to compute and announce the ceiling rate on residential mortgages in this Commonwealth. This maximum rate is determined by adding 2.50 percentage points to the yield rate on long-term government bonds as published by the Federal Reserve Board or the United States Treasury, or both. The latest yield rate on long-term government securities is 2.59 to which was added 2.50 percentage points for a total of 5.09 that by law is rounded off to the nearest quarter at 5%.

ROBIN L. WIESSMANN,
Secretary

[Pa.B. Doc. No. 18-112. Filed for public inspection January 19, 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
Section VI	NPDES	Individual Permit Stormwater Construction
Section VII	NPDES	NOI for Coverage under NPDES General Permits

For NPDES renewal applications in Section I, the Department of Environmental Protection (Department) has made a tentative determination to reissue these permits for 5 years subject to effluent limitations and monitoring and reporting requirements in their current permits, with appropriate and necessary updated requirements to reflect new and changed regulations and other requirements.

For applications for new NPDES permits and renewal applications with major changes in Section II, as well as applications for MS4 Individual Permits and Individual Stormwater Construction Permits in Sections IV and VI, the Department, based upon preliminary reviews, has made tentative determinations of proposed effluent limitations and other terms and conditions for the permit applications. In accordance with 25 Pa. Code § 92a.32(d), the proposed discharge of stormwater associated with construction activities will be managed in accordance with the requirements of 25 Pa. Code Chapter 102. These determinations are published as proposed actions for comments prior to taking final actions.

Unless indicated otherwise, the United States Environmental Protection Agency (EPA) Region III Administrator has waived the right to review or object to proposed NPDES permit actions under the waiver provision in 40 CFR 123.24(d).

Persons wishing to comment on NPDES applications are invited to submit statements to the contact office noted before the application within 30 days from the date of this public notice. Persons wishing to comment on WQM permit applications are invited to submit statements to the office noted before the application within 15 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the applications. A comment submittal should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests for public hearings on applications. A public hearing may be held if the responsible office considers the public response significant. If a hearing is scheduled, a notice of the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. The Department will postpone its final determination until after a public hearing is held.

Persons with a disability who require an auxiliary aid, service, including TDD users, or other accommodations to seek additional information should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

I. NPDES Renewal Applications.

Northeast Region: Clean Water Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915. Phone: 570-826-2511.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0044997 (Sewage)	Mount Pocono Municipal Authority WWTP 1478 Pocono Boulevard Mount Pocono, PA 18344	Monroe County Mount Pocono Borough	Forest Hills Run (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 & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0262005— Sew	John & Linda Leffel 391 Franklin Drive Bechtelsville, PA 19505	Berks County/ Colebrookdale Twp	UNT Ironstone Creek	Y

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

Southcentral Region: Clean Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone: 717-705-4707.

Application No. PA0260185, Concentrated Animal Feeding Operation (CAFO), **Barry Christopher L (Barry Farms CAFO)**, 230 Obie Road, Newmanstown, PA 17074.

Christopher L Barry has submitted an application for an Individual NPDES permit for a renewal of a CAFO known as Barry Farms CAFO, located in Heidelberg Township, **Lebanon County**.

The CAFO is situated near Unnamed Tributary of Hammer Creek in Watershed 7-J, which is classified for Cold Water Fishes and Migratory Fishes. The CAFO is designed to maintain an animal population of approximately 915.30 animal equivalent units (AEUs) consisting of 5,040 wean to finish swine, 307 beef cattle, and 3 horses. Manure is stored in three underbarn manure storages beneath each swine barn. The cow manure is stored in a round concrete tank. A release or

discharge to waters of the Commonwealth under normal operating conditions is not expected. Normal operating conditions are defined as conditions below a 100-year, 24-hour storm event.

The Department has conducted administrative and technical reviews of the application. Based on the preliminary review and application of lawful standards and regulations, the Department has made a tentative determination to issue an NPDES permit for the operation subject to the terms and conditions and monitoring and reporting requirements specified in the permit.

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 717-705-4732.

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

Application No. PA0266582, Concentrated Animal Feeding Operation (CAFO), **Kauffman David (David Kauffman Farm CAFO)**, 12050 Greenwood Road, Huntingdon, PA 16652.

Kauffman David has submitted an application for an Individual NPDES permit for a new CAFO known as David Kauffman Farm CAFO, located in Jackson Township, **Huntingdon County**.

The CAFO is situated near Unnamed Tributary to Standing Stone Creek in Watershed 11-B, which is classified for High Quality—Cold Water and Migratory Fish. The CAFO will be designed to maintain an animal population of approximately 718.43 animal equivalent units (AEUs) consisting of 4,800 grow to finish swine and 16 beef cows. Manure from the swine will be contained in an underbarn liquid manure storage. Beef manure will be maintained in the barn yard. Prior to operation of the manure storage facilities, the design engineer will be required to submit certification that the facilities were constructed in accordance with appropriate PA Technical Guide Standards. A release or discharge to waters of the Commonwealth under normal operating conditions is not expected. Normal operating conditions are defined as conditions below a 100-year, 24-hour storm event.

The Department has conducted administrative and technical reviews of the application. Based on the preliminary review and application of lawful standards and regulations, the Department has made a tentative determination to issue an NPDES permit for the operation subject to the terms and conditions and monitoring and reporting requirements specified in the permit.

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 717-705-4732.

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

Application No. PA0266418, Concentrated Animal Feeding Operation (CAFO), **Trout Brothers LLC (Trout Brothers Farm)**, 508 Red Rock Road, Loysville, PA 17047-6100.

Trout Brothers LLC has submitted an application for an Individual NPDES permit for a new CAFO known as Trout Brothers Farm, located in Jackson Township, **Perry County**.

The CAFO is situated near Sherman Creek in Watershed 7-A, which is classified for High Quality Waters—Cold Water Fishes. The CAFO is designed to maintain an animal population of approximately 1,222.75 animal equivalent units (AEUs) consisting of 640 mature dairy cows, 380 heifers, and 130 calves. Manure is stored in a 3-stage lagoon system. Solid calf manure is stacked in a calf manure area. A release or discharge to waters of the Commonwealth under normal operating conditions is not expected. Normal operating conditions are defined as conditions below a 100-year, 24-hour storm event.

The Department has conducted administrative and technical reviews of the application. Based on the preliminary review and application of lawful standards and regulations, the Department has made a tentative determination to issue an NPDES permit for the operation subject to the terms and conditions and monitoring and reporting requirements specified in the permit.

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 717-705-4732.

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

PA0083879, Industrial, SIC Code 4953, **WSI Sandy Run Landfill LLC**, 995 Landfill Road, Hopewell, PA 16650-8653. Facility Name: Sandy Run Landfill. This existing facility is located in Broad Top Township, **Bedford County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated Industrial Waste.

The receiving stream(s), Unnamed Tributary to Sandy Run and Sandy Run, is located in State Water Plan watershed 11-D and is classified for Migratory Fishes and 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 0.0125 MGD.—Limits.

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	Instant. Maximum
Flow (MGD)	Report	Report	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>Daily Maximum</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
pH (S.U.)	XXX	XXX	6.0	XXX	9.0 Max	XXX
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	Report	Report	XXX	32.0	135.0	170
Total Suspended Solids	Report	Report	XXX	27.0	88.0	110
Total Dissolved Solids	Report	XXX	XXX	Report	XXX	XXX
Total Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Ammonia-Nitrogen	Report	Report	XXX	4.9	10.0	12.5
Total Phosphorus	Report	Report	XXX	2.0	4.0	5
Aluminum, Total	XXX	XXX	XXX	Report	XXX	XXX
Boron, Total	XXX	XXX	XXX	Report	XXX	XXX
Cobalt, Total	XXX	XXX	XXX	Report	XXX	XXX
Iron, Dissolved	XXX	XXX	XXX	Report	XXX	XXX
Iron, Total	XXX	XXX	XXX	Report	XXX	XXX
Manganese, Total	XXX	XXX	XXX	Report	XXX	XXX
Sulfate, Total	XXX	XXX	XXX	Report	XXX	XXX
Zinc, Total	Report	Report	XXX	0.11	0.20	0.25
Phenol	Report	Report	XXX	0.015	0.026	0.032
a-Terpineol	Report	Report	XXX	0.016	0.033	0.04
Benzoic Acid	Report	Report	XXX	0.071	0.12	0.15
Chloride	XXX	XXX	XXX	Report	XXX	XXX
Bromide	XXX	XXX	XXX	Report	XXX	XXX
p-Cresol	Report	Report	XXX	0.014	0.025	0.031

The proposed effluent limits for Outfalls 002 and 003 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>Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
Leachate Discharge	XXX	Daily Max XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Outfalls 004, 005, 006, 007, 008 and 009 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>Daily Maximum</i>	<i>Maximum</i>	
pH (S.U.)	XXX	XXX	XXX	Report	XXX	XXX
Chemical Oxygen Demand (COD)	XXX	XXX	XXX	Report	XXX	XXX
Total Suspended Solids	XXX	XXX	XXX	Report	XXX	XXX
Nitrate-Nitrite as N	XXX	XXX	XXX	Report	XXX	XXX
Ammonia-Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Phosphorus	XXX	XXX	XXX	Report	XXX	XXX
Iron, Total	XXX	XXX	XXX	Report	XXX	XXX

In addition, the permit contains the following major special conditions:

- To implement Best Management Practices and requirements applicable to stormwater outfalls
- Management of Landfill Leachate discharge

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 717-705-4732.

The EPA Waiver is not in effect.

PA0008281, Industrial, SIC Code 4911, **Brunner Island LLC**, 835 Hamilton Street, Allentown, PA 18101. Facility Name: Brunner Island. This existing facility is located in East Manchester Township, **York County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated Industrial Waste.

The receiving stream(s), Hartman Run, Susquehanna River, Conewago Creek, is located in State Water Plan watershed 7-G, 7-H, and 7-F and is classified for Migratory Fishes and 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 795 MGD.

<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>Daily Maximum</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
Flow (MGD)	Report	Report	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>Daily Maximum</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Residual Oxidants	XXX	XXX	XXX	0.2	XXX	0.5
Temperature (°F)	XXX	XXX	Report	Report	XXX	110
Intake	XXX	XXX	Avg Mo	Daily Max	Report	XXX
Hourly Temperature Change (°F)	XXX	XXX	XXX	Report	Report	XXX
Instream Monitoring	XXX	XXX	XXX	XXX	XXX	2.0
Heat Rejection Rate (MBTUs/day)						
Dec 1 - Feb 28	XXX	167,040	XXX	XXX	XXX	XXX
Mar 1 - Apr 30, Nov 1 - 30	XXX	91,870	XXX	XXX	XXX	XXX
May 1 - 31, Oct 1 - 31	XXX	83,520	XXX	XXX	XXX	XXX
Jun 1 - Sep 30	XXX	75,170	XXX	XXX	XXX	XXX
Trihalomethanes, Total	XXX	XXX	XXX	Report	Report	XXX

The proposed effluent limits for Outfall 002 are based on a design flow of 2 MGD.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Average Monthly</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>		<i>Daily Maximum</i>	<i>Daily Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Suspended Solids	XXX	XXX	30.0	50.0	XXX	50.0
Oil and Grease	XXX	XXX	15.0	20.0	XXX	30.0
Aluminum, Total	XXX	XXX	XXX	XXX	Report	XXX
Arsenic, Total	XXX	XXX	XXX	XXX	Report	XXX
Boron, Total	XXX	XXX	XXX	XXX	Report	XXX
Cadmium, Total	XXX	XXX	XXX	XXX	Report	XXX
Chromium, Total	XXX	XXX	XXX	XXX	Report	XXX
Copper, Total	XXX	XXX	XXX	XXX	Report	XXX
Iron, Total	XXX	XXX	XXX	XXX	Report	XXX
Lead, Total	XXX	XXX	XXX	XXX	Report	XXX
Manganese, Total	XXX	XXX	XXX	XXX	Report	XXX
Mercury, Total	XXX	XXX	XXX	XXX	Report	XXX
Molybdenum, Total	XXX	XXX	XXX	XXX	Report	XXX
Nickel, Total	XXX	XXX	XXX	XXX	Report	XXX
Selenium, Total	XXX	XXX	XXX	XXX	Report	XXX
Zinc, Total	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Outfall 003 are based on a design flow of 0.032 MGD.

<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>Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.5	XXX	1.63
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	XXX	XXX	XXX	25	XXX	50
Total Suspended Solids	XXX	XXX	XXX	30	XXX	60
Fecal Coliform (CFU/100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2,000	XXX	10,000
May 1 - Sep 30	XXX	XXX	XXX	200	XXX	1,000
Ammonia-Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Phosphorus	XXX	XXX	XXX	2.0	XXX	4.0

The proposed effluent limits for Outfall 004 are based on a design flow of 5.0 MGD.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Average Monthly</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>		<i>Daily Maximum</i>	<i>Daily Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
			Min			

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Average Monthly</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>		<i>Daily Maximum</i>	<i>Daily Maximum</i>	
Total Suspended Solids	XXX	XXX	30.0	50.0	XXX	50.0
Oil and Grease	XXX	XXX	15.0	20.0	XXX	30.0
Aluminum, Total	XXX	XXX	XXX	XXX	Report	XXX
Arsenic, Total	XXX	XXX	XXX	XXX	Report	XXX
Boron, Total	XXX	XXX	XXX	XXX	Report	XXX
Cadmium, Total	XXX	XXX	XXX	XXX	Report	XXX
Chromium, Total	XXX	XXX	XXX	XXX	Report	XXX
Copper, Total	XXX	XXX	XXX	XXX	Report	XXX
Iron, Total	XXX	XXX	XXX	XXX	Report	XXX
Lead, Total	XXX	XXX	XXX	XXX	Report	XXX
Manganese, Total	XXX	XXX	XXX	XXX	Report	XXX
Mercury, Total	XXX	XXX	XXX	XXX	Report	XXX
Molybdenum, Total	XXX	XXX	XXX	XXX	Report	XXX
Nickel, Total	XXX	XXX	XXX	XXX	Report	XXX
Selenium, Total	XXX	XXX	XXX	XXX	Report	XXX
Zinc, Total	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Outfall 005 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>	
Aluminum, Total	XXX	XXX	XXX	XXX	Report	XXX
Arsenic, Total	XXX	XXX	XXX	XXX	Report	XXX
Boron, Total	XXX	XXX	XXX	XXX	Report	XXX
Cadmium, Total	XXX	XXX	XXX	XXX	Report	XXX
Chromium, Total	XXX	XXX	XXX	XXX	Report	XXX
Copper, Total	XXX	XXX	XXX	XXX	Report	XXX
Iron, Total	XXX	XXX	XXX	XXX	Report	XXX
Lead, Total	XXX	XXX	XXX	XXX	Report	XXX
Manganese, Total	XXX	XXX	XXX	XXX	Report	XXX
Mercury, Total	XXX	XXX	XXX	XXX	Report	XXX
Molybdenum, Total	XXX	XXX	XXX	XXX	Report	XXX
Nickel, Total	XXX	XXX	XXX	XXX	Report	XXX
Selenium, Total	XXX	XXX	XXX	XXX	Report	XXX
Zinc, Total	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Outfall 007 are based on a design flow of 0.52 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>Daily Maximum</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Suspended Solids	130	434	XXX	30	100	100
Total Dissolved Solids	XXX	XXX	XXX	Report	Report	XXX
Oil and Grease	65	86.7	15	20	XXX	30
			Avg Mo	Daily Max		
Aluminum, Total	XXX	XXX	XXX	Report	Report	XXX
Antimony, Total	XXX	XXX	XXX	Report	Report	XXX
Arsenic, Total	XXX	XXX	XXX	Report	Report	XXX
Boron, Total	XXX	XXX	XXX	Report	Report	XXX
Cadmium, Total	XXX	XXX	XXX	Report	Report	XXX
Chromium, Total	XXX	XXX	XXX	Report	Report	XXX
Copper, Total	XXX	XXX	XXX	Report	Report	XXX
Fluoride, Total	XXX	XXX	XXX	Report	Report	XXX
Iron, Total	XXX	XXX	XXX	Report	Report	XXX
Lead, Total	XXX	XXX	XXX	Report	Report	XXX
Manganese, Total	XXX	XXX	XXX	Report	Report	XXX
Mercury, Total	XXX	XXX	XXX	Report	Report	XXX
Molybdenum, Total	XXX	XXX	XXX	Report	Report	XXX
Nickel, Total	XXX	XXX	XXX	Report	Report	XXX
Selenium, Total	XXX	XXX	XXX	Report	Report	XXX
Sulfate, Total	XXX	XXX	XXX	Report	Report	XXX
Thallium, Total	XXX	XXX	XXX	Report	Report	XXX
Zinc, Total	XXX	XXX	XXX	Report	Report	XXX
Chloride	XXX	XXX	XXX	Report	Report	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>Daily Maximum</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
Bromide	XXX	XXX	XXX	Report	Report	XXX

The proposed monitoring requirements and, where appropriate, effluent limits for implementation of the Chesapeake Bay Tributary Strategy are as follows for Outfall 007.—Final Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Monthly</i>	<i>Annual</i>		<i>Monthly Average</i>	<i>Maximum</i>	
Ammonia—N	Report	Report	XXX	Report	XXX	XXX
Kjeldahl—N	Report	XXX	XXX	Report	XXX	XXX
Nitrate-Nitrite as N	Report	XXX	XXX	Report	XXX	XXX
Total Nitrogen	Report	Report	XXX	Report	XXX	XXX
Total Nitrogen (Intake)	Report	XXX	XXX	Report	XXX	XXX
Total Phosphorus	Report	Report	XXX	Report	XXX	XXX
Total Phosphorus (Intake)	Report	XXX	XXX	Report	XXX	XXX
Net Total Nitrogen	Report	0	XXX	XXX	XXX	XXX
Net Total Phosphorus	Report	0	XXX	XXX	XXX	XXX

* This permit contains conditions which authorize the permittee to apply nutrient reduction credits to meet the Net Total Nitrogen and the Net Total Phosphorus effluent mass limits, under the Department's Chapter 96 regulations. The condition includes the requirement to report the application of these credits in Supplemental Discharge Monitoring Reports (DMRs) submitted to the Department.

The proposed effluent limits for Outfall 008 are based on a design flow of 5.5 MGD.

<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>Daily Maximum</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Suspended Solids	1,376	2,294	XXX	30	50	50
Oil and Grease	688	917	15	20	XXX	30
			Avg Mo	Daily Max		
Aluminum, Total	XXX	Report	XXX	XXX	Report	XXX
Arsenic, Total	XXX	Report	XXX	XXX	Report	XXX
Boron, Total	XXX	Report	XXX	XXX	Report	XXX
Cadmium, Total	XXX	Report	XXX	XXX	Report	XXX
Copper, Total	XXX	Report	XXX	XXX	Report	XXX
Iron, Total	XXX	Report	XXX	XXX	Report	XXX
Lead, Total	XXX	Report	XXX	XXX	Report	XXX
Manganese, Total	XXX	Report	XXX	XXX	Report	XXX
Mercury, Total	XXX	Report	XXX	XXX	Report	XXX
Molybdenum, Total	XXX	Report	XXX	XXX	Report	XXX
Nickel, Total	XXX	Report	XXX	XXX	Report	XXX
Selenium, Total	XXX	Report	XXX	XXX	Report	XXX
Zinc, Total	XXX	Report	XXX	XXX	Report	XXX

The proposed effluent limits for Outfall 801 are based on a design flow of ____ MGD.

<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>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
		Daily Max				
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Suspended Solids	XXX	XXX	XXX	30	100	XXX
Oil and Grease	XXX	XXX	15	20	XXX	30
			Avg Mo	Daily Max		
Copper, Total	XXX	XXX	XXX	1.0	1.0	XXX
Iron, Total	XXX	XXX	XXX	1.0	1.0	XXX

The proposed effluent limits for Stormwater Outfalls 006, 013, 014, 015 and 026 are based on a design flow of 0 MGD.

<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>	
Flow (MGD)	XXX	Report	XXX	XXX	XXX	XXX
		Daily Max				
pH (S.U.)	XXX	XXX	XXX	XXX	Report	XXX

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Average Weekly		Average Monthly	Daily Maximum	
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
Arsenic, Total	XXX	XXX	XXX	XXX	Report	XXX
Boron, Total	XXX	XXX	XXX	XXX	Report	XXX
Cadmium, Total	XXX	XXX	XXX	XXX	Report	XXX
Chromium, Total	XXX	XXX	XXX	XXX	Report	XXX
Copper, Total	XXX	XXX	XXX	XXX	Report	XXX
Iron, Total	XXX	XXX	XXX	XXX	Report	XXX
Lead, Total	XXX	XXX	XXX	XXX	Report	XXX
Manganese, Total	XXX	XXX	XXX	XXX	Report	XXX
Mercury, Total	XXX	XXX	XXX	XXX	Report	XXX
Molybdenum, Total	XXX	XXX	XXX	XXX	Report	XXX
Nickel, Total	XXX	XXX	XXX	XXX	Report	XXX
Selenium, Total	XXX	XXX	XXX	XXX	Report	XXX
Zinc, Total	XXX	XXX	XXX	XXX	Report	XXX

In addition, the permit contains the following major special conditions:

- Clean Water Act Section 316(a) Thermal Effluent Limits requirement
- Chemical Additive Usage condition
- Chlorine minimization
- Requirements applicable to Stormwater Outfalls
- Cooling Water Intake Structure requirements
- Additional Reporting Requirement

• Effective December 31, 2021, there shall be no discharge of pollutants in bottom ash transport water except where bottom ash transport water is used in an FGD scrubber. Bottom ash transport water generated prior to December 31, 2021 may be discharged if the limitations at 40 CFR 423.12(b)(4) are met.

• Starting December 31, 2023, flue gas desulfurization (FGD) wastewater generated by the permittee shall not be discharged to surface waters unless the wastewater is treated to achieve the effluent limitation guidelines (ELGs) for Best Available Technology (BAT) at 40 CFR 423.13(g)(1)(i).

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 717-705-4732.

The EPA Waiver is not in effect.

III. WQM Industrial Waste and Sewerage Applications under The Clean Streams Law.

Southcentral Region: Clean Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone: 717-705-4707.

WQM Permit No. 0617406, Sewerage, **Sorin and Ina Danciu**, 3501 New Holland Rd., Mohnton, PA 19540.

This proposed facility is located in Cumru Township, **Berks County**.

Description of Proposed Action/Activity: Seeking permit approval for the construction/operation of a single residence sewage treatment system to serve their single-family residence.

WQM Permit No. 3617409, Sewerage, **Richard and Priscilla Roeting**, 252 Cider Press Road, Manheim, PA 17545.

This proposed facility is located in Rapho Township, **Lancaster County**.

Description of Proposed Action/Activity: Seeking permit approval for the construction/operation of a single residence sewage treatment system to serve their single-family residence.

WQM Permit No. 2191201 A-1, IW, Advanced Disposal, **Cumberland County Landfill**, 620 Newville Rd., Newburg, PA 17240.

This proposed facility is located in Hopewell & Newton Townships, **Cumberland County**.

Description of Proposed Action/Activity: (Project Description). Seeking approval/amendment on the construction/expansion of a Water Quality Management permit.

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

WQM Permit No. 6218401, Sewage, **Vernon Jacquell**, 4651 Golden Road, McKean, PA 16426.

This proposed facility is located in Eldred Township, **Warren County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

WQM Permit No. 1018401, Sewage, **Theresa Ortiz-Palsa**, 243 Wagner Road, Evans City, PA 16033.

This proposed facility is located in Forward Township, **Butler County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

WQM Permit No. 2518401, Sewage, **Robert Koch**, 9271 Station Road, Erie, PA 19510.

This proposed facility is located in Greenfield Township, **Erie County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

WQM Permit No. 4318401, Sewage, **Clyde Roberts**, 1289 Mercer Grove City Road, Mercer, PA 16137-6243.

This proposed facility is located in Findley Township, **Mercer County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

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 & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD150054	North Bacton Hill Road Partners, LLC 26 North Bacton Hill Road Malvern, PA 19355	Chester	East Whiteland Township	Valley Creek EV
PAD150056	Theodore H. Wentz, III and Susan Wentz 3702 Liseter Gardens Newtown Square, PA 19073-1430	Chester	Willistown Township	Unnamed Tributary to Crum Creek EV
PAI014616001	PENNDOT 6-0 7000 Geerdes Boulevard King of Prussia, PA 19406	Montgomery	Whitpain Township	East Branch of Stony Creek TSF-MF Tributary 0096 of Stony Creek TSF-MF Central Branch Stony Creek TSF-MF Unnamed Tributary to Central Branch Stony Creek TSF-MF

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 & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD390049	PPL Elect. Util. Corp. 2 N 9th St, GENN4 Allentown, PA 18101	Lehigh	Lower Milford Twp, Salisbury Twp, Upper Saucon Twp, Lower Saucon Twp	Hosensack Creek (CWF, MF), Hosensack Creek (HQ-CWF, MF), Saucon Creek (CWF, MF), Saucon Creek (HQ-CWF, MF), UNT Tributary to Saucon Creek (CWF, MF), Black River (CWF, MF), UNT to Trout Creek (HQ-CWF, MF), Trout Creek (HQ-CWF, MF), Lehigh River (WWF, MF)
PAD390057	Jaindl Land Co 3150 Coffeetown Rd Orefield, PA 18069	Lehigh	Lower Macungie Twp	Little Lehigh Creek (HQ-CWF, MF)

Luzerne Conservation District, 325 Smiths Pond Road, Shavertown, PA 18708.

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAD400010	Crestwood School Dist. Joseph Gorham 281 S Mtn Blvd Mtn Top, PA 18707	Luzerne	Wright Twp	Bow Creek (HQ-CWF, MF)

VII. List of NOIs for NPDES and/or Other General Permit Types.

PAG-12 CAFOs

CAFO Notices of Intent Received.

Southcentral Region: Clean Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Telephone: 717-705-4707.

NPDES Permit No. PAG123870, CAFO, Peachy Marlin J, 328 Coffe Run Road, Reedsville, PA 17084.

This proposed facility is located in Brown Township, **Mifflin County**.

Description of size and scope of proposed operation/activity: Swine (Grow-Finish), Dairy (Cow, Heifer, Calves), Beef (Steer, Calves): 889.46 AEUs.

The receiving stream, Unnamed Tributary to Coffee Run and Coffee Run, is in watershed 12-A and classified for: Cold Water Fishes and Migratory Fishes.

The proposed effluent limits for the operation/activity include: Except for the chronic or catastrophic rainfall events defined as over the 25-year/24-hour rain storms, the CAFO general permit is a non-discharge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with the Pennsylvania Nutrient Management Act and the Clean Stream Law constitutes compliance with the state narrative water quality standards.

MS4 PAG-13 Notices of Intent Received.

Northeast Regional Office: Clean Water Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915. Phone: 570.826.2511.

NPDES Permit No.	Applicant Name & Address	Municipality, County	Waiver Application Submitted (Y/N)	Pollutant Reduction Plan Submitted (Y/N)
PAG132267	Waverly Township PO Box 8 Tunkhannock, PA 18657-0008	Waverly Township Lackawanna County	N	Y
PAG132302	Beaver Meadows Borough Carbon County PO Box 215 Beaver Meadows, PA 18216-0215	Beaver Meadows Borough Carbon County	Y	N
PAG132320	Port Clinton Borough P.O. Box 246 Port Clinton, PA 19549	Port Clinton Borough Schuylkill County	Y	N
PAG132297	Pringle Borough 89 Evans Street Pringle, PA 18704	Pringle Borough Luzerne County	N	Y
PAG132272	Wilkes-Barre City 40 East Market Street Wilkes-Barre, PA 18711	Wilkes-Barre City Luzerne County	N	Y
PAG132219	Wilkes-Barre Township 150 Watson Street Wilkes-Barre Twp., PA 18702	Wilkes-Barre Township Luzerne County	N	Y
PAG132220	Plymouth Borough 162 W. Shawnee Avenue Plymouth, PA 18651	Plymouth Borough Luzerne County	N	Y
PAG132217	Edwardsville Borough 470 Main Street Edwardsville, PA 18704	Edwardsville Borough Luzerne County	N	Y

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>Municipality, County</i>	<i>Waiver Application Submitted (Y/N)</i>	<i>Pollutant Reduction Plan Submitted (Y/N)</i>
PAG132224	Ashley Borough 149 Cemetery Street Ashley, PA 18706	Ashley Borough Luzerne County	N	Y
PAI132275	Pittston Township 421 Broad Street Pittston Township, PA 18640	Pittston Township Luzerne County	N	Y
PAG132251	West Wyoming Borough 464 W. 8th Street West Wyoming, PA 18644	West Wyoming Borough Luzerne County	N	Y
PAG132245	Wyoming Borough 277 Wyoming Avenue Wyoming, PA 18644	Wyoming Borough Luzerne County	N	Y
PAG132266	Yatesville Borough 33 Pittston Avenue Yatesville, PA 18640	Yatesville Borough Luzerne County	N	Y
PAG132221	Pittston City 35 Broad Street Pittston, PA 18640	Pittston City Luzerne County	N	Y
PAG132265	West Pittston Borough 555 Exeter Avenue West Pittston, PA 18643	West Pittston Borough Luzerne County	N	Y
PAG132229	Jenkins Township 46 1/2 Main Street Jenkins Township, PA 18640	Jenkins Township Luzerne County	N	Y
PAG132277	Hughestown Borough 42 Center Street Hughestown, PA 18640	Hughestown Borough Luzerne County	N	Y
PAG132243	Exeter Borough 1101 Wyoming Avenue Exeter, PA 18643	Exeter Borough Luzerne County	N	Y
PAG132206	Duryea Borough 315 Main Street Duryea, PA 18642	Duryea Borough Luzerne County	N	Y
PAG132225	Forty Fort Borough 1271 Wyoming Avenue Forty Fort, PA 18704-2215	Forty Fort Borough Luzerne County	N	Y
PAG132223	Sugar Notch Borough 742 Main Street Sugar Notch, PA 18706	Sugar Notch Borough Luzerne County	N	Y
PAG132207	Clarks Summit Borough 304 S. State Street Clarks Summit, PA 18411-1543	Clarks Summit Borough Lackawanna County	N	Y
PAG132205	Taylor Borough 122 Union Street Taylor, PA 18617	Taylor Borough Lackawanna County	N	Y
PAG132212	Slatington Borough 125 S. Walnut Street Slatington, PA 18080	Slatington Borough Lehigh County	N	N
PAG132316	Glenburn Township P.O. Box 694 Dalton, PA 18414	Glenburn Township Lackawanna County	Y	Y
PAG132298	Glendon Borough 24 Franklin Street Glendon, PA 18042	Glendon Borough Northampton County	Y	N
PAG132255	Lower Mount Bethel Township P.O. Box 257 Martins Creek, PA 18063	Lower Mount Bethel Township Northampton County	Y	N

NOTICES

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>Municipality, County</i>	<i>Waiver Application Submitted (Y/N)</i>	<i>Pollutant Reduction Plan Submitted (Y/N)</i>
PAG132303	Upper Mount Bethel Township 387 Ye Olde Highway Mount Bethel, PA 18343	Upper Mount Bethel Township Northampton County	Y	N
PAG132317	Washington Township 7951 Center Street Emerald, PA 18080	Washington Township Lehigh County	N	Y
PAG132213	Coopersburg Borough 5 N. Main Street Coopersburg, PA 18036	Coopersburg Borough Lehigh County	N	Y
PAG132237	Northampton Borough 1401 Laubach Avenue Northampton, PA 18067	Northampton Borough Northampton County	N	Y
PAG132263	Pen Argyl Borough 11 North Robinson Avenue Pen Argyl, PA 18072	Pen Argyl Borough Northampton County	Y	Y
PAG132242	Swoyersville Borough 675 Main Street Swoyersville, PA 18704	Swoyersville Borough Luzerne County	N	Y

Southcentral Region: Clean Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Telephone: 717-705-4707.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>Municipality/County</i>	<i>Waiver Application Submitted (Y/N)</i>	<i>Pollutant Reduction Plan Submitted (Y/N)</i>
PAG133640	Manheim Borough Lancaster County 15 E High Street Manheim, PA 17545-1505	Manheim Borough Lancaster County	N	Y
PAG133711	Lower Allen Township Cumberland County 2233 Gettysburg Road Camp Hill, PA 17011	Lower Allen Township Cumberland County	N	Y
PAG133585	Duncansville Borough Blair County PO Box 308 Duncansville, PA 16635-0308	Duncansville Borough Blair County	N	Y
PAG133715	Strasburg Borough Lancaster County 145 Precision Avenue Strasburg, PA 17579-9608	Strasburg Borough Lancaster County	N	Y
PAG133610	Adamstown Borough Berks & Lancaster County 3000 N Reading Road Adamstown, PA 19501-0546	Adamstown Borough Lancaster County	Y	N
PAG133569	Earl Township Lancaster County 517 N Railroad Avenue New Holland, PA 17557-9758	Earl Township Lancaster County	N	Y
PAG133682	Union Township Lebanon County 3111 State Route 72 Jonestown, PA 17038-8741	Union Township Lebanon County	Y	N
PAG133746	Millcreek Township Lebanon County 81 E Alumni Ave Newmanstown, PA 17073	Millcreek Township Lebanon County	N	N

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>Municipality/County</i>	<i>Waiver Application Submitted (Y/N)</i>	<i>Pollutant Reduction Plan Submitted (Y/N)</i>
PAG133757	Butler Township Adams County 2379 Table Rock Road Biglerville, PA 17307	Butler Township Adams County	Y	N
PAG133737	Abbottstown Borough Adams County 241 High Street Abbottstown, PA 17307	Abbottstown Borough Adams County	Y	N
PAG133520	Lower Heidelberg Township Berks County 720 Brownsville Road Sinking Spring, PA 19608-9727	Lower Heidelberg Township Berks County	N	Y
PAG133747	Berwick Township Adams County 85 Municipal Road Hanover, PA 17331	Berwick Township Adams County	Y	N

**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>
Mercer Vu Farms, Inc. 12275 Mt. Pleasant Road Mercersburg, PA 17236	Franklin	2,603.5	2,917.18	Dairy	NA	Renewal
Murmac Farms, LLC 2336 Zion Road Bellefonte, PA 16823	Centre	1,137	2,723.5	Dairy	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. Com-

ments 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. 4617521, Public Water Supply.

Applicant	North Penn Water Authority 300 Forty Foot Road Lansdale, PA 19446
Township	Various
County	Montgomery
Responsible Official	Daniel Preston 300 Forty Foot Road Lansdale, PA 19446
Type of Facility	PWS
Consulting Engineer	Daniel Preston 300 Forty Foot Road Lansdale, PA 19446
Application Received Date	December 14, 2017
Description of Action	Installation of phosphate chemical feed equipment for corrosion control at four well stations.

Northeast Region: Safe Drinking Water Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Application No. 4017511, Public Water Supply.

Applicant	Mercy Center Nursing Unit, Inc. 301 Lake Street, Box 370 Dallas, PA 18612
Municipality	Dallas Township
County	Luzerne

Responsible Official	Terrance P. Navin Director of Maintenance
Type of Facility	Public Water Supply
Consulting Engineer	Martin J. Gilligan, P.E. 52 Westminster Drive Dallas, PA 18612
Application Received Date	December 26, 2017
Description of Action	This application proposes the addition of softening treatment to the existing public water system, utilizing cation exchange softening units.

Northcentral Region: Safe Drinking Water Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.

Application No. 0818501, Construction—Public Water Supply.

Applicant	Towanda Municipal Authority
Township/Borough	Towanda Borough
County	Bradford County
Responsible Official	Mr. Kyle Lane Borough Manager 724 Main Street Towanda, PA 18848
Type of Facility	Public Water Supply
Consulting Engineer	Mr. Brian D. Shura, P.E. 1731 N. Juniata Street Hollidaysburg, PA 16648
Application Received Date	01/02/2018
Description of Action	Authorizes the development of three new source water wells, installation of raw and treated water transmission lines, construction of a new water treatment facility consisting of a 0.95 MGD microfiltration system and a 1.38 MGD disinfection system. The 2 TMA existing wells & the existing disinfection building will be decommissioned following completion and startup of the new sources & treatment facility.

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)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a site-specific standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the following site, proposed for remediation to a site-specific standard or as a special industrial area, the municipality, within which the site is located, may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified as follows. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the environmental cleanup program manager in the Department regional office listed before the notice. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

Southeast Region: Environmental Cleanup & Brownfields Program Manager, 2 East Main Street, Norristown, PA 19401.

Beneficial Bank, 2514 Aramingo Avenue, City of Philadelphia, **Philadelphia County**. Robert Ehlenberger, P.G., Langan Engineering and Environmental Services, Inc., 2700 Kelly Road, Warrington, PA 18976 on behalf of Beneficial Bank c/o Robert Krimetz, Beneficial Bank, 1818 Market Street, Philadelphia, PA 19103 submitted a Notice of Intent to Remediate. Beneficial Bank has indicated that proposed remediation measures will be in accordance with methodologies approved by PADEP. The Notice of Intent to Remediate was published in the *Philadelphia Daily News* on December 7, 2017.

Regency Apartments, 313 Iven Avenue, Radnor Township, **Delaware County**. Richard S. Werner, Environmental Consulting, Inc., 2002 Renaissance Boulevard, Suite 110, King of Prussia, PA 19406 on behalf Patrick Barton, Apartment Management LLC, 116 North

Swarthmore Avenue, Suite 1, Ridley Park, PA 19078 submitted a Notice of Intent to Remediate. Petroleum contaminated soil was encountered during the removal of two fuel oil no. 2 heating oil tanks. The future use of the subject property will continue to be a residential apartment building. The Notice of Intent to Remediate was published in the *Main Line Suburban Life* on December 10, 2017.

Venice Island, 1 Leverington Avenue, City of Philadelphia, **Philadelphia County**. George Guzdek, PG., Bison Environmental, LLC, 89 Jennifer Lane, Burlington, NJ 08016 on behalf of Jane Smith, Venice Island Realty Partners c/o Lubert-Adler Management, Cira Centre-28th Floor, 2929 Arch Street, Philadelphia, PA 19104 submitted a Notice of Intent to Remediate. Site soil has been found to be impacted by historic fill constituents including certain metals and polynuclear aromatic hydrocarbons. The proposed future use of the property will be residential. The Notice of Intent to Remediate was published in the *Roxborough Review* on November 29, 2017.

Santoro Residence, 6178 Carversville Road, Solebury Township, **Bucks County**. Eric White, PG., PARS Environmental, Inc., 500 Horizon Drive, Robbinsville, NJ 08691 on behalf of Joseph Santoro, 6176 Carversville Road, Doylestown, PA 18913 submitted a Notice of Intent to Remediate. Soil and groundwater has been contaminated with the release of benzene, 1,2,4-Trimethylbenzene, 1,3,5-Trimethylbenzene and naphthalene from and underground storage tank. The future use of the property is assumed as residential. The Notice of Intent to Remediate was published in the *Intelligencer* on November 30, 2017.

2283 Huntingdon Pike, 2283 Huntingdon Pike, Lower Moreland Township, **Montgomery County**. Richard S. Werner, Environmental Consulting, Inc., 2002 Renaissance Boulevard, Suite 110, King of Prussia, PA 19406 on behalf of Dorothy Liebold, Alfred P. Liebold Associates, Family LP, 495 Lawrence Road, Huntingdon Valley, PA 19006 submitted a Notice of Intent to Remediate. The identified contaminants to be remediated consists of unleaded gasoline and leaded gasoline parameters in soil and groundwater. The proposed future use of the property will be non-residential. The Notice of Intent to Remediate was published in the *Public Spirit* on December 10, 2017.

Medical Products Laboratories Inc., 9990 Global Road, City of Philadelphia, **Philadelphia County**. Terry Harris, Boucher & James, Inc., 1456 Ferry Road, Building 500, Doylestown, PA 18901 on behalf of Elliott Stone, Medical Products Laboratories, Inc., 9990 Global Road, Philadelphia, PA 19115 submitted a Notice of Intent to Remediate. Soil and groundwater have been found to be contaminated with fuel oil due to a leak from a former underground storage tank. The site is a medical products engineering and manufacturing facility. No change in site use is proposed. The Notice of Intent to Remediate was published in the *Courier Times* on November 16, 2017.

Edgmont Country Club, 5180 West Chester Pike, Edgmont Township, **Delaware County**. Michael Shaw, GZA GeoEnvironmental, Inc., 1515 Market Street, Suite 945, Philadelphia, PA 19102 on behalf of Jonathan Grebow, AG-RW Edgmont Owner LLC, a Delaware Limited Liability Company, 25A Hanover Road, Suite 310, Florham Park, NJ 07932 submitted a Notice of Intent to Remediate. Soil impact consists of elevated concentrations of arsenic, mercury, cadmium and/or chlordane. After remediation, the golf course is intended to be redeveloped and used as residential. The Notice of Intent to Remediate was published in the *Daily Times* and *Sunday Times* on November 15, 2017.

Eddystone Generating Station, 1 Industrial Highway, Eddystone Borough, **Delaware County**. Christopher Milone, Brown and Caldwell, 535 Route 38, East, Suite 355, Cherry Hill, NJ 08002 submitted a Notice of Intent to Remediate. Soil and groundwater were impacted with the contamination of petroleum hydrocarbons. The site is currently and will continue to be used as a power generating facility and fuel transfer terminal. The Notice of Intent to Remediate was published in the *Delaware Daily Times* and *Sunday Times* on November 8, 2017.

Northeast Region: Environmental Cleanup & Brownfields Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.

750 South Delaware Drive, 750 South Delaware Drive, Upper Mount Bethel Township, **Northampton County**. MEA Inc., 1365 Ackermanville Rd., Bangor, PA 18013, on behalf of Nationstar Mortgage DBA Mr. Cooper, 2501 South Highway 121 Business, Lewisville, TX 75067, submitted a Notice of Intent to Remediate. Soil contamination was due to aboveground heating oil tanks located on the property. Future use of the site will be residential. The Notice of Intent to Remediate was published in *The Express Times* on November 24, 2017.

Southcentral Region: Environmental Cleanup and Brownfields Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone 717.705.4705.

NGK Metals—Temple, 150 Tuckerton Road, Reading, PA 19612, Muhlenberg Township, **Berks County**. HDR Engineering, Inc., 1720 Spillman Drive, Suite 280, Bethlehem, PA 18015, on behalf of NGK Metals, 917 US Highway 11 South Sweetwater, TN 37874, submitted a Notice of Intent to Remediate site soil and groundwater contaminated with Inorganics, VOCs and SVOCs from historical industrial operations. The site will be remediated to the Site-Specific Standard. Future use of the site is non-residential. The Notice of Intent to Remediate was published in *The Reading Eagle* on December 20, 2017.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Lucas Trucking Corp. at I-80 MM 226.5 Diesel Release Cleanup, Valley Township, **Montour County**. Northridge Group, Inc., P.O. Box 231, Northumberland, PA 17857, on behalf of Lucas Trucking Corp., 9657 N. Route 220 Highway, Jersey Shore, PA 17740, has submitted a Notice of Intent to Remediate site soil contaminated with diesel fuel and motor oil. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was published in *The Daily Item* on December 19, 2017.

Southwest Region: Environmental Cleanup & Brownfield Development Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Former Jeannette Glass Plant Site, Bullitt Ave. & South 2nd St, City of Jeanette, **Westmoreland County**. KU Resources, Inc., 22 South Linden Street, Duquesne, PA 15110 on behalf of Westmoreland County Industrial Development Corp., 5th Floor, Suite 520, 40 North Pennsylvania Avenue, Greensburg, PA 15601 has submitted a Notice of Intent to Remediate the site where elevated concentrations of hazardous constituents including petroleum products, arsenic, lead and PCBs from historic use have impacted soil and groundwater. Notice of the intent to remediate was published in the *Westmoreland Tribune Review* on March 22, 2017.

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.

OPERATING PERMITS

Intent to Issue Title V Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110.

Contact: Thomas Hanlon, Facilities Permitting Chief, 717-705-4862, Virendra Trivedi, New Source Review Chief, 717-705-4863, or William Weaver, Regional Air Quality Manager, 717-705-4702.

34-05002: Approval of a Reasonably Available Control Technology 2 (RACT 2) plan to partially supersede the existing RACT 1 plan for the **Texas Eastern Transmission LP**, Perulack facility, located in the Lack Township, **Juniata County**, as a significant modification to their Title V operating permit.

In accordance with 25 Pa. Code §§ 129.91–129.100, the Department has made a preliminary determination to approve a RACT 2 plan to partially supersede the existing RACT 1 plan, to be submitted as part of the State Implementation Plan (SIP) for the Texas Eastern Transmission LP, Perulack natural gas compressor station.

The proposed SIP revision does not adopt any new regulations. It incorporates the provisions and requirements contained in the RACT 2 approval, and the RACT 1 plan partial supersedure 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 2 plan and RACT 1 plan partial supersedure, if approved by DEP, will be issued as a significant modification to the facility's Title V operating permit (34-05002). The relevant RACT 2 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 2 approval will be excluded from the SIP submittal.

The following is a summary of the proposed RACT 2 requirements for this facility that will be submitted to the EPA as part of the SIP:

RACT 2 Case-by-Case Requirements for Source 037 (to replace in their entirety the current RACT 1 requirements for the affected source)

Source ID 037—GE Turbine (31404):

(a) The permittee shall not permit emissions of NO_x from Source 037 in excess of the following. These emission limits apply at all times, including startup and shutdown periods.

- (1) 120 ppm_{dv} corrected to 15 percent oxygen, and
- (2) 329 tpy on a 12-month running total.

(b) Once in each 5-year calendar period, the permittee shall conduct on Source 037 a Department-approved emissions source test for NO_x (as NO₂) emissions that meets the requirements of Chapter 139, Subchapter A (relating to sampling and testing methods and procedures). The test shall be conducted prior to expiration of this permit, or during the applicable heating season

determined by the Department. During the four years of each permit cycle when a full source test is not required, the permittee shall annually conduct a compliance verification of NO_x emissions for Source 037. Results from source tests or portable analyzer tests shall be submitted to DEP no later than 60 calendar days after completion of the on-site testing portion of the emission test program. Test results for NO_x shall be reported as follows: (1) ppm_{dv} as measured; (2) ppm_{dv} corrected to 15 percent oxygen; (3) lb/hr; (4) lb/MMBtu of heat input. All test results shall be retained by the permittee at the test location and provided annually with emission statements and at other times as requested by the Department.

(c) The permittee shall maintain comprehensive and accurate records of the following for Source 037:

(1) The number of operating hours on both a monthly and 12-month rolling basis.

(2) The amount of fuel consumed on both a monthly and 12-month rolling basis.

(d) The permittee shall maintain records including sufficient data and calculations to demonstrate that the RACT emission limitations for nitrogen oxides are met for Source 037.

(e) All records required by this source group shall be retained by the permittee for 5 years and made available to the Department upon request.

(f) The permittee will maintain and operate Source 037 in accordance with the manufacturer's specifications and with good operating practices. The permittee shall follow a routine and preventive maintenance schedule. This includes inspection of the combustion system and hot gas path on an annual basis.

(g) Source 037 shall be permanently shut down by no later than January 1, 2024.

RACT 1 Partial Supersedure:

(a) Condition No. 7 of RACT Operating Permit No. 34-2002 shall be superseded by the RACT 2 requirements for the sources at this facility upon issuance of this permit. All the other conditions of RACT Operating Permit No. 34-2002 except Conditions 5(c), 6(a) and 15, shall be superseded by the RACT 2 requirements for this facility upon approval of such supersedure as a SIP revision. The above Condition 6(a) shall be superseded by the more stringent presumptive RACT requirement for this facility on 1/1/20. Conditions 5(c) and 16 of RACT Operating Permit No. 34-2002 shall not be superseded by the RACT 2 requirements for this facility.

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 Viren Trivedi, Environmental Engineering Manager, Air Quality Program, 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 RACT 2 condition, including the permit number and a concise statement regarding the relevancy of the information or objections to issuance of the RACT 2 approval.

Public hearing. A public hearing will be held on February 22, 2018, at 10:00 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 Viren Trivedi at 717-705-4863. Speakers must pre-register in order to testify at the hearing. The last day to pre-register to speak at the hearing will be February 15, 2017.

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, 909 Elmerton Avenue, Harrisburg, PA 17110. Appointments for scheduling a review may be made by calling Viren Trivedi at 717-705-4863 or make accommodation through the Pennsylvania AT&T Relay Service at 1800-654-5984 (TDD).

22-05010: Approval of a Reasonably Available Control Technology 2 (RACT 2) plan to supersede the existing RACT I plan for the **Texas Eastern Transmission LP**, Grantville facility, located in the East Hanover Township, **Dauphin County**, as a significant modification to their Title V operating permit.

In accordance with 25 Pa. Code §§ 129.91–129.100, the Department has made a preliminary determination to approve a RACT 2 plan, and to have it supersede the existing RACT 1 plan, to be submitted as part of the State Implementation Plan (SIP) for the Texas Eastern Transmission LP, Grantville natural gas compressor station.

The proposed SIP revision does not adopt any new regulations. It incorporates the provisions and requirements contained in the RACT 2 approval, and the RACT 1 plan supersedure 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 2 plan and RACT 1 plan supersedure, if approved by DEP, will be issued as a significant modification to the facility's Title V operating permit (22-05010). The relevant RACT 2 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 2 approval will be excluded from the SIP submittal.

The following is a summary of the proposed RACT 2 requirements for this facility that will be submitted to the EPA as part of the SIP:

RACT 2 Case-by-Case Requirements (to replace in their entirety the current RACT 1 requirements for the facility).

Source ID 031—GE Turbine 4 (31704), Source 033—West Turbine 2 (31702) and Source ID 034—West Turbine 3 (31703).

(a) The permittee shall not permit emissions of NO_x from the gas turbines in excess of the following. These emission limits apply at all times, including startup and shutdown periods.

(1) Sources 033 and 034 Westinghouse W-52 (31702 and 31703) turbines.

(i) 116 ppm_{dv} each corrected to 15 percent oxygen.
 (ii) 107 tpy each on a 12-month running total.
 (2) Source 031 General Electric Frame 5 MS 5001 LMD (31704) turbine.

(i) 120 ppm_{dv} corrected to 15 percent oxygen.
 (ii) 411 tpy on a 12-month running total.

(b) For Source IDs 033 & 034, the fuel consumption for each turbine shall not exceed 491.3 million standard cubic feet (MMSCF) of natural gas during any consecutive 12-month period.

(c) For Source ID 031, the fuel consumption for the turbine shall not exceed 1,822.5 million standard cubic feet (MMSCF) of natural gas during any consecutive 12-month period.

(d) For Source IDs 031, 033 & 034, the permittee shall not operate each turbine more than 8,000 hours during any consecutive 12-month period.

(e) Once in each 5-year calendar period, the permittee shall conduct, on each of the sources in this group, a Department approved emissions source test for NO_x (as NO₂) emissions that meets the requirements of Chapter 139, Subchapter A (relating to sampling and testing methods and procedures). The test shall be conducted prior to expiration of this permit, or during the applicable heating season determined by the Department. During the four years of each permit cycle when a full source test is not required, the permittee shall annually conduct a portable analyzer compliance verification of NO_x emissions for each source in this group. Results from source tests or portable analyzer tests shall be submitted to DEP no later 60 calendar days after completion of the on-site testing portion of the emission test program. Test results for NO_x shall be reported as follows: (1) ppm_{dv} as measured; (2) ppm_{dv} corrected to 15 percent oxygen; (3) lb/hr; (4) lb/MMBtu of heat input. All test results shall be retained by the permittee at the test location and provided annually with emission statements and at other times as requested by the Department.

(f) The permittee shall maintain comprehensive and accurate records of the following for each source in this group:

(1) The number of operating hours on both a monthly and 12-month rolling basis.

(2) The amount of fuel consumed on both a monthly and 12-month rolling basis.

(g) The permittee shall maintain records including sufficient data and calculations to demonstrate that the RACT emission limitations for nitrogen oxides are met for each source in this group.

(h) All records required by this source group shall be retained by the permittee for 5 years and made available to the Department upon request.

(i) The permittee will maintain and operate each of the sources in this group in accordance with the manufacturer's specifications and with good operating practices. The permittee shall follow a routine and preventive maintenance schedule. This includes inspection of the combustion system and hot gas path on an annual basis.

(j) Source ID 031 shall be permanently shut down by no later than January 1, 2024.

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 Program, 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 RACT 2 condition, including the permit number and a concise statement regarding the relevancy of the information or objections to issuance of the RACT 2 approval.

Public hearing. A public hearing will be held on February 27, 2018, at 10:00 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 February 20, 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, 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).

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) for initial issuance of the Title V operating permit for their 829 mega-watt Panda Liberty Power Project located in Asylum Township, **Bradford County**. The facility is currently operating under Plan Approvals 08-00045A and 08-00045B as well as Title IV Acid Rain Permit TIVOP 08-00045. The facility's sources include two approximately 2,980 MMBtu/hr (HHV) and 2,685 MMBtu/hr (LHV) Siemens SGT6-8000H lean premix DLN natural-gas-fired combustion turbines and steam turbines configured in a single shaft alignment and drive one common electric generator. Each unit will be equipped with approximately 164 MMBtu/hr (HHV) and 148 MMBtu/hr (LHV) natural-gas-fired duct burners and heat-recovery-steam-generators. Additionally, there are also one 12.72 MMBtu/hr natural-gas-fired fuel heater, one 1,472 brake-horsepower diesel-fired emergency generator, one 460 brake-horsepower diesel-fired fire water pump, two diesel fuel storage tanks, two 15,000-gallon lube oil storage tanks, and one 15,000-gallon aqueous ammonia storage tank.

The facility has potential annual emissions of 173.66 tons of carbon monoxide, 202.36 tons of nitrogen oxides, 26.80 tons of sulfur oxides, 107.40 tons of particulate

matter including particulate matter less than 10 microns in size, 107.40 tons of particulate matter less than 2.5 microns in size, 60.20 tons of volatile organic compounds, 10.40 tons of hazardous air pollutants, and 2,777,179 tons of greenhouse gases. The emission limits, throughput limitations and work practice standards along with testing, monitoring, record keeping 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 Prevention of Significant Deterioration (PSD) of Air Quality regulations of 40 CFR 52.21, the Nonattainment New Source Review (NNSR) regulations of 25 Pa. Code §§ 127.201—27.218, the Best Available Technology (BAT) requirements of 25 Pa. Code §§ 127.1 and 127.12, 40 CFR Part 64, 40 CFR Part 60 Subpart IIII, 40 CFR Part 60 Subpart KKKK, 40 CFR Part 63 Subpart ZZZZ, 40 CFR Parts 72—78, 40 CFR Parts 96 and 97, 40 CFR Part 98, and 25 Pa. Code Chapters 121—145. 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.

Intent to Issue Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110.

Contact: Thomas Hanlon, Facilities Permitting Chief, 717-705-4862, Virendra Trivedi, New Source Review Chief, 717-705-4863, or William Weaver, Regional Air Quality Manager, 717-705-4702.

36-05147: Wenger Feeds, LLC/Mt. Joy Mill (230 S. Market Street, Mount Joy, PA 17552) for operation of an animal feed mill manufacturing facility in Mount Joy Borough, **Lancaster County**. The facility potential emissions are 5.65 tons of CO, 9.14 tons of NO_x, 34.73 tons of PM₁₀, 32.68 tons of SO_x, and 0.46 ton of VOC. 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 40 CFR Part 63, Subpart JJJJJJ—National Emissions Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers Area Sources, and 40 CFR Part 63 Subpart DDDDDDD—National Emission Standards for Hazardous Air Pollutants for Area Sources: Prepared Feeds Manufacturing.

06-03080: FM Browns Sons, Inc. (118 W. Main Street, Fleetwood, PA 19522), to issue a state only operating permit renewal for Fleetwood Plant in Fleetwood Borough, **Berks County**. The facility's potential PM₁₀ emissions are 20 tpy. 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 for Sources derived from 25 Pa. Code Chapters 123 and 127 for restrictions, monitoring, recordkeeping, and reporting.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701.

Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.

59-00017: Waupaca Foundry, Inc. (18986 Route 287, Tioga, PA 16946) to issue a renewal State Only (Synthetic Minor) Operating Permit for the Lawrenceville Plant located in Lawrence Township, **Tioga County**. The facility is currently operating under State Only (Synthetic Minor) Operating Permit 59-00017. This renewal will also incorporate the terms and conditions of Plan Approval 59-00017F. The facility's main sources include two electric induction furnaces, two molten metal pouring, molding and cooling lines, various sand mold shakeout equipment, two sand mold forming operations, one burn off oven, various storage silos, combustion sources, two emergency generators, degreasers and a chemical coating operation. The facility has potential emissions of 35.42 TPY of CO; 43.08 TPY of NO_x; 0.24 TPY of SO_x; 99.90 TPY of PM/PM₁₀; <50 TPY of VOCs; <10 TPY individual HAPs; <25 TPY combined HAPs; 50,231 TPY GHGs.

The facility is subject to 40 CFR Part 63, Subpart ZZZZZ—NESHAPs for Iron and Steel Foundries Area Sources. Both emergency generators are subject to 40 CFR Part 63, Subpart ZZZZ—NESHAPs for Stationary Reciprocating Internal Combustion Engines. One emergency generator is subject to 40 CFR Part 60, Subpart JJJJ—Standards of Performance for Stationary Spark Ignition Internal Combustion Engines. The chemical coating operation is subject to Title 25 Pa. Code § 129.52d—control of VOC emissions from miscellaneous metal parts surface coating processes. The emission limits and work practice standards along with testing, monitoring, record keeping 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 Title 25 Pa. Code Chapters 121—145, as well as 40 CFR Parts 60 and 63. 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.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.

Contact: Matt Williams, Facilities Permitting Chief—Telephone: 814-332-6131.

33-00116: MacDonald & Owen Lumber Co. (11424 Route 36, Brookville, PA 15825-8656), the Department intends to issue the renewal of the State-Only Operating Permit of a kiln-drying lumber facility located in Rose Township, **Jefferson County**. Permitted sources at the facility are wood-fired boilers, a natural gas-fired boiler, wood-drying kilns, grinder operations, and planing operations. With PTEs of 40.24, 25.34, 22.72, 4.22, and 1.23 TPY for CO, NO_x, PM, VOC, and SO_x, respectively, the facility is Natural Minor. The wood-fired boilers are subject to 40 CFR 63 Subpart JJJJJJ pertaining to National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers Area Sources. Deactivated in 2010 and removed from the operating permit in 2013, the natural gas-fired boiler, exempt from plan approval pursuant to 25 Pa. Code § 127.14(a)(3), was reactivated in 2015. In this renewal, changes in the operating permit include the incorporation

of the reactivated natural gas-fired boiler and the update of 40 CFR 63 Subpart JJJJJJ provisions.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P.S. §§ 3301—3326); The Clean Streams Law (35 P.S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P.S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P.S. §§ 1406.1—1406.20a). Mining activity permits issued in response to such applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P.S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department. A copy of the application is available for inspection at the district mining office indicated before each application. Notices of requests for 401 Water Quality Certifications are included in individual application notices, as noted.

Written comments or objections, or requests for an informal conference, or a public hearing, as applicable, on a mining permit application and request for Section 401 water quality certification application may be submitted by any person or any officer or head of any Federal, state or local government agency or authority to the Department at the address of the district mining office indicated before each application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Written comments or objections regarding a mining permit application should contain the name, address and telephone number of persons submitting comments or objections, application number and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based.

A request for an informal conference or a public hearing, as applicable, on a mining permit application, as provided by 25 Pa. Code § 77.123 or § 86.34, must contain the name, address and telephone number of the requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

When an NPDES number is listed, the mining activity permit application was accompanied by an application for an individual NPDES permit. A separate notice will be provided after the draft NPDES permit is prepared.

Coal Applications Received

California District Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100.

63831302 and NPDES No. PA0213608. The Washington County Coal Company (formerly Eighty-Four Mining Company), (46226 National Road, St. Clairsville, OH 43950). To renew the permit for the Washington County Mine (formerly Mine No. 84) in Somerset, Amwell, North Bethlehem, West Bethlehem, South Strabane Townships, **Washington County** and related

NPDES. No additional discharges. The application was considered administratively complete on January 4, 2018. Application received April 7, 2017.

Noncoal Applications Received

Effluent Limits—The following effluent limits will apply to NPDES permits issued in conjunction with a noncoal mining permit:

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. 5074SM1 and NPDES No. PA0122629, New Enterprise Stone & Lime Co., Inc., 3912 Brumbaugh Road, New Enterprise, PA 16664, commencement, operation and restoration of a small noncoal (industrial minerals) operation to add additional acreage and depth expansion to existing quarry operations in Guilford Township, **Franklin County**, affecting 321.0 acres. Receiving stream: unnamed tributary to Conococheague Creek classified for the following use: warm water fishes. There are no potable water supply intakes within 10 miles downstream. Application received: December 28, 2017.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

Permit No. 58100303C and NPDES Permit No. PA0225819. Popple Construction, Inc., (215 East Saylor Avenue, Wilkes-Barre, PA 18702), NPDES Permit for discharge of treated mine drainage (to replace expired NPDES Permit No. PA0224871) from a quarry operation in Rush Township, **Susquehanna County** affecting 158.0 acres, receiving stream: North Branch Wyalusing Creek, classified for the following uses: cold water and migratory fishes. Application received: September 28, 2017.

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:

Parameter	30-Day Average	Daily Maximum	Instantaneous Maximum
Iron (Total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
Manganese (Total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0; less than 9.0	

*The parameter is applicable at all times.

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

New Stanton District Office: 131 Broadview Road, New Stanton, PA 15672, 724-925-5500.

NPDES No. PA0201421 (Mining permit no. 03950105), Allegheny Mineral Corp., P.O. Box 1022, Kittanning, PA 16201, renewal NPDES permit for a bituminous surface mine in West Franklin Township, **Armstrong County**, affecting 439 acres. Receiving stream: UNT to Buffalo Creek, classified for the following use: HQ-TSF. Application received: September 16, 2016.

Unless otherwise noted for a specific outfall, the proposed effluent limits for all outfalls in this permit are the BAT limits described above for coal mining activities.

The following treated wastewater outfalls discharge to unnamed tributary to Buffalo Creek:

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>	<i>Type</i>
005	N	Mine Drainage Treatment

The proposed effluent limits for the previously listed outfalls are as follows:

<i>Outfalls: Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Iron (mg/l)	3.0	6.0	7.0
Manganese (mg/l)	2.0	4.0	5.0
Aluminum (mg/l)	2.0	4.0	5.0
Total Suspended Solids (mg/l)	35	70	90
Osmotic Pressure (mOsm/kg)	50	50	50

Sulfates (mg/L) Monitor & Report

pH (S.U.): Must be between 6.0 and 9.0 standard units at all times.

Alkalinity must exceed acidity at all times.

Noncoal NPDES Draft Permits

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

NPDES Permit No. PA0595748 on Surface Mining Permit No. 7775SM8. Dyer Quarry, Inc., (P.O. Box 188, Birdsboro, PA 19508), renewal of an NPDES Permit for a diabase quarry operation in Robeson Township, **Berks County**, affecting 310 acres. Receiving streams: Indian Corn Creek and Seidel Creek, classified for the following uses: cold water and warm water fishes. Application received: September 18, 2017.

Unless otherwise noted for a specific outfall, the proposed effluent limits for all outfalls in this permit are BAT limits described above for noncoal mining activities.

The following outfalls discharge to Indian Corn Creek and Seidel Creek.

<i>Outfall No.</i>	<i>New Outfall Y/N</i>	<i>Type</i>
A	No (Indian Corn Creek)	Pit Sump Discharge
B	No (Indian Corn Creek)	Process Water/Stormwater
C	No (Indian Corn Creek)	Stormwater
D	No (Indian Corn Creek)	Stormwater
E	No (Indian Corn Creek)	Stormwater
G	No (Seidel Creek)	Stormwater
H	No (Seidel Creek)	Stormwater
I	No (Indian Corn Creek)	Stormwater
L	No (Indian Corn Creek)	Stormwater
P	No (Indian Corn Creek)	Stormwater

The proposed effluent limits for the previously listed outfall are as follows:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
pH ¹ (S.U.)	6.0			9.0
Discharge A		0.288 MGD	1.296 MGD	
Discharges B, C, D, E, G, H, I, L, P	0.001 MGD			
Total Suspended Solids		35.0	70.0	90.0

¹ The parameter is applicable 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.

E46-1160. BT Dreshertown LP, 200 Witmer Road, Suite 200, Horsham, PA 19044-2213, Upper Dublin Township, **Montgomery County**, ACOE Philadelphia District.

To impact approximately 0.203 acre of wetland associated with the construction of a 114-single family home subdivision and associated roads, utilities, and stormwater facilities requirements.

The site is located near the intersection of Dreshertown Road and Welsh Road (Ambler, PA USGS map; lat: 40.15633; Long: -75.1510833).

E46-1157. Wissahickon Valley Watershed Association, 12 Morris Road, Ambler, PA 19002-5405, Lower Gwynedd Township, **Montgomery County**; ACOE Philadelphia District.

To perform the below listed water obstruction and encroachment activities associated with the Green Ribbon Trail/Wissahickon Creek Stepping Stone Crossing Project. To construct 13 poured in place concrete stepping stones in Wissahickon Creek. The proposed project will have 5 linear feet of permanent waterway impact and 0.0 linear feet of temporary waterway impact. The project also proposes 400 square feet of permanent floodway impact are proposed.

The site is approximately at the intersection of SR 73 (Skiptack Pike) and SR 202, along the Wissahickon Creek just upstream of the creek flowing under Route 202, approximately 0.44 mile northeast of Township Line Road. (Lansdale Lat. 40° 11' 15"; Long. 75° 16' 10").

Northeast Region: Waterways and Wetlands Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915, Telephone 570-826-2511.

E35-470. Lackawanna Heritage Valley Authority, 213 South 7th Avenue, Scranton, PA 18505, in Dickson City Borough, **Lackawanna County**, U.S. Army Corps of Engineers, Baltimore District.

To construct and maintain a paved walking and biking trail along the existing railroad and within the floodplain of the Lackawanna River. The proposed walking/biking

trail will be approximately 1 mile in length and will consist of a 12-foot wide bituminous paved section with a 2-foot shoulder on one side and a 6-foot shoulder side path on the other side. Fencing and tree planting along the trail will be installed at selected locations. The project begins at Railroad Street and ends at the corner of Main Street and West Lackawanna Avenue (Olyphant, PA Quadrangle, Latitude: 41°27'56"; Longitude: -75°36'37"), Dickson City Borough, Lackawanna County, U.S. Army Corps of Engineers, Baltimore District.

Northcentral Region: Waterways & Wetlands Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636.

E57-136. DCNR, Rachel Carson State Office Building, P.O. Box 8451, Harrisburg, PA 17105-8451, Hillsgrove Township, **Sullivan County**, U.S. Army Corps of Engineers, Baltimore District.

DCNR is proposing to repair roadways, construct a new bridge adjacent to the existing bridge, channel bank stabilization and channel cleaning to remove sediment deposits due to the stream realignment caused by the October 2016 flood event in Hillsgrove Township, Sullivan County within Loyalsock State Forest. The south approach of Big Hollow Road was washed out and the alignment of Mill Creek was shifted to the south of the existing structure. A new structure will be built adjacent to the existing structure and will span the aligned Mill Creek. The existing structure was undamaged during the flood event and will be left in place as a flood relief structure. The proposed structure will be a pre-stressed concrete spread box beam bridge on reinforced concrete abutments and reinforced concrete spread footings. R-7 rock will be placed along the abutments and wingwalls as a scour preventative measure. The flood repairs will include removing sediment deposits upstream and downstream of the existing structure and placing rootwad and uprooted tree deflectors to stabilize the severely eroded upstream channel bank.

The project is located at Quadrangle, Latitude: 41° 28' 11.2193", Longitude: -76° 44' 24.1179".

Southwest Region: Waterways & Wetlands Program, 400 Waterfront Drive, Pittsburgh, PA 15222, Dana Drake, Waterways and Wetlands Program Manager, 412-442-4000.

E02-1773, Shell Pipeline Company, LP, 150 North Dairy Ashford, Houston, TX 77079, Findlay Township and North Fayette Township, **Allegheny County**, ACOE Pittsburgh District.

The applicant is proposing to:

1. Construct and maintain three (3) 12" ethane pipe crossings under unnamed tributaries (UNT) to Little Raccoon Run (WWF);
2. Construct and maintain a 52 foot 12" ethane pipe crossing under Potato Garden Run (WWF) and an additional twenty-one (21) crossings under UNT to Potato Garden Run (WWF);
3. Construct and maintain four (4) 12" ethane pipe crossings under UNT to Raredon Run (WWF);

For the purpose of constructing an ethane pipeline from facilities in Ohio and Pennsylvania, to a chemical plant in Pennsylvania. The project will cumulatively result in 1,943 LF of permanent impacts to various watercourses, 978 LF of temporary impacts to various watercourses, 0.58 acre of permanent impact to PEM wetlands, 0.01 acre of permanent impact to PSS wetlands, 0.41 acre of

temporary impact to PEM wetlands and 0.46 acre of temporary impact to PSS wetlands. Mitigation will include restoring the disturbed area back to its original condition and elevation and stabilizing the disturbed area. In Allegheny County, this project enters Allegheny County approximately 3,150 feet south-southeast of the intersection of Old Steubenville Pike and State Route 980 (Quadrangle: Clinton, PA), Latitude 40° 25' 7.42"; Longitude: -80° 17' 16.45"), and exits Allegheny County approximately 3,400 feet south-southwest of the intersection of Hookstown Grade Road and Campmeeting Road (Quadrangle: Aliquippa, PA), Latitude 40° 30' 44.29"; Longitude: -80° 18' 39.20"). This project is located in Findlay and North Fayette Townships, Allegheny County. This application is for an 11.6 mile portion of a multi-state and multi-county pipeline project, 59.6 miles of pipeline will be constructed in the State of Pennsylvania. This portion of the project is located in Allegheny County (DEP File Number E02-1773), Beaver County (DEP File Number E04-369) and Washington County (DEP File Number E63-710).

E03-472, Plenary Walsh Keystone Partners, 2000 Cliff Mine Road, Park West Two, 3rd Floor, Pittsburgh, PA 15275, Rural Valley Borough, **Armstrong County**, ACOE Pittsburgh District.

The applicant is proposing to:

1. Remove an existing 133' long by 31'-9" wide, three span, steel I-beam bridge over Cowanshannock Creek (WWF);
2. Construct and maintain a replacement, 140' long by 35'-9" prestressed concrete, spread box beam bridge;
3. Construct and maintain rock slope protection in the floodway on the upstream and downstream side of the aforementioned structure and associated improvements to the guiderails and approach roads;
4. Relocate 116 linear feet of an existing unnamed tributary to Cowanshannock Creek (WWF), and to construct and maintain new relocated channel;
5. Relocate 61 linear feet of Cowanshannock Creek (WWF), and to construct and maintain new relocated channel;
6. Permanently place and maintain fill in 0.044 acre of PEM Wetland (Wetlands 1, 2 & 4);
7. Permanently place and maintain fill in 0.008 acre of PEM Wetland (Wetlands 3);
8. Temporarily impact 0.284 acre of PEM Wetlands during construction. (Wetlands 1, 2 & 4);
9. Temporarily impact 0.010 acre of PSS Wetlands during construction. (Wetland 3);

For the purpose of replacing the existing structurally deficient structure over Cowanshannock Creek (WWF). The project is located at State Route 2001, Segment P50 0.1 mile from the intersection between State Route 2001 and State Route 0050, in Rural Valley, PA 16249. (Rural Valley USGS Topographic Quadrangle, Latitude: 40°29'46.78"; Longitude: -79°18'54.46"; Sub-basin: 20-E; Pittsburgh Corps District).

E04-369, Shell Pipeline Company, LP, 150 North Dairy Ashford, Houston, TX 77079, Greene Township, Independence Township, Potter Township and Raccoon Townships, **Beaver County**, ACOE Pittsburgh District.

The applicant is proposing to:

1. Construct and maintain four (4) ethane pipe crossings under unnamed tributaries (UNT) to North Fork Tomlinson Run (WWF);
2. Construct and maintain a 44-foot ethane pipe crossing under Mill Creek (WWF) and eight (8) ethane pipe crossings under UNT to Mill Creek (TSF);
3. Construct and maintain a 72-foot ethane pipe crossing under Peggs Run (WWF) and three (3) ethane pipe crossings under UNT to Peggs Run (WWF);
4. Construct and maintain three (3) ethane pipe crossings under UNT to Haden Run (WWF);
5. Construct and maintain a 50-foot ethane pipe crossing under Service Creek (WWF) and thirteen (13) ethane pipe crossings under UNT to Service Creek (HQ-CWF);
6. Construct and maintain two (2) ethane pipe crossings under Gums Run (WWF) and eight (8) ethane pipe crossings under UNT to Gums Run (WWF);
7. Construct and maintain two (2) ethane pipe crossings under Raccoon Creek (WWF) and twenty (20) ethane pipe crossings under UNT to Raccoon Creek (WWF);
8. Construct and maintain a 65-foot ethane pipe crossing under Fishpot Run (WWF) and five (5) ethane pipe crossings under UNT to Fishpot Run (WWF);
9. Construct and maintain ten (10) ethane pipe crossings under UNT to Frames Run (WWF);
10. Construct and maintain twenty-three (23) ethane pipe crossings under unnamed wetlands;

For the purposes of construction of an ethane pipeline from facilities in Ohio and Pennsylvania to a chemical plant in Pennsylvania. The project will cumulatively result in 4,453 LF of permanent impacts to various watercourses, 3,259 LF of temporary impacts to various watercourses, 0.07 acre of permanent impact to open waters, 0.04 acre of temporary impact to open waters, 1.07 acre of permanent impacts to PEM wetlands, 1.54 acre of temporary impacts to PEM wetlands, 0.06 acre of permanent impacts to PSS wetlands, 0.02 acre of permanent impacts to PSS wetland, 0.05 acre of permanent impacts to PFO wetlands, and 0.11 acre of permanent impacts to PFO wetland. In Beaver County, this project enters Beaver County approximately 1,910 feet northwest of the intersection of Stewart Run Road and Snyder Road (Quadrangle: East Liverpool South, PA, Latitude: 40° 34' 57.77"; Longitude: -80° 31' 5.57") and leaves Beaver County approximately 950 feet south-southwest of the intersection of Hookstown Grade Road and Potts Hollow Road (Quadrangle: Aliquippa, PA, Latitude: 40° 30' 59.91"; Longitude: -80° 18' 24.70"), with a connection to the Monaca Pipeline approximately 845 feet northeast of the intersection of Frankfort Road and Old Frankfort Road (Quadrangle: Beaver, PA, Latitude: 40° 39' 26.39"; Longitude: -80° 20' 25.37"). This project is located in Greene, Independence, Potter and Raccoon Townships, Beaver County. This application is for a 30 mile portion of a multi-state and multi-county pipeline project, 59.6 miles of pipeline will be constructed in the state of Pennsylvania. This portion of the project is located in Allegheny County (DEP File Number E02-1773), Beaver County (DEP File Number E04-369) and Washington County (DEP File Number E63-710).

E63-710, Shell Pipeline Company, LP, 150 North Dairy Ashford, Houston, TX 77079, Chartiers Township, Mount Pleasant Township, and Robinson Townships, Washington County, ACOE Pittsburgh District.

The applicant proposes to:

1. Construct and maintain two (2) 12" ethane pipe crossings under Westland Run (WWF) and an additional nine (9) 12" ethane pipe crossings under UNT to Wetland Run (WWF);
2. Construct and maintain a 38-foot 12" ethane pipe crossing under Millers Run (WWF) and an additional nine (9) 12" ethane pipe crossings under UNT to Millers Run (WWF);
3. Construct and maintain a 10-foot 12" ethane pipe crossing under Robinson Run (WWF) and an additional five (5) 12" ethane pipe crossings under UNT to Millers Run (WWF);
4. Construct and maintain six (6) 12" ethane pipe crossings under UNT to Little Raccoon Run (WWF);

For the purposes of construction of an ethane pipeline from facilities in Ohio and Pennsylvania to a chemical plant in Pennsylvania. The project will cumulatively result in 2,057 LF of permanent impacts to various watercourses, 1,166 LF of temporary impacts to various watercourses, 0.02 acre of permanent impact to open waters, 0.01 acre of temporary impact to open waters, 0.76 acre of permanent impacts to PEM wetlands, 0.69 acre of temporary impacts to PEM wetlands, 0.06 acre of permanent impacts to PSS wetland, and 0.05 acre of permanent impacts to PFO wetlands. In Beaver County, this project enters Beaver County approximately 3,150 feet south-southeast of the intersection of Old Steubenville Pike and State Route 980 (Quadrangle: Clinton, PA, Latitude: 40° 25' 7.42"; Longitude: -80° 17' 16.45"), with a connection to the Houston Plant approximately 1,500 feet north-northwest of the intersection of Western Avenue and Ullom Road (Quadrangle: Midway, PA, Latitude: 40° 15' 48.69"; Longitude: -80° 15' 50.54"). This project is located in Chartiers, Mount Pleasant and Robinson Townships, Washington County. This application is for an 18 mile portion of a multi-state and multi-county pipeline project, 59.6 miles of pipeline will be constructed in the state of Pennsylvania. This portion of the project is located in Allegheny County (DEP File Number E02-1773), Beaver County (DEP File Number E04-369) and Washington County (DEP File Number E63-710).

District Oil & Gas Operations: Eastern Oil & Gas District, 208 West Third Street, Suite 101, Williamsport, PA 17701.

E4129-116: Pennsylvania General Energy Company, LLC, 120 Market Street, Warren, PA 16365, Plunketts Creek & Upper Fairfield Townships, **Lycoming County**, ACOE Baltimore District.

To construct, operate, and maintain:

- 1) An 8-inch gas pipeline, a 6-inch water pipeline, and a 4-inch fiber conduit impacting 67 linear feet of an unnamed tributary to Kaiser Hollow (EV) (Huntersville, PA Quadrangle 41°19'31"N 76°52'01"W);
- 2) An 8-inch gas pipeline, a 6-inch water pipeline, a 4-inch fiber conduit, and a timber mat bridge impacting 40 linear feet of Kaiser Hollow (EV) (Huntersville, PA Quadrangle 41°19'43"N 76°51'50"W);
- 3) A 24-inch culvert impacting 28 linear feet of an unnamed tributary to Kaiser Hollow (EV) (Huntersville, PA Quadrangle 41°20'07"N 76°51'31"W);
- 4) An 8-inch gas pipeline, a 6-inch water pipeline, a 4-inch fiber conduit, and a timber mat bridge impacting

275 square feet of palustrine emergent (PEM) wetland (Huntersville, PA Quadrangle 41°20'29"N 76°50'57"W).

The project will result in a total of 135 linear feet of stream impacts and 0.01 acre of wetland impacts all for the purpose of installing natural gas pipeline, water pipeline, fiber conduit, and temporary access roadway for Marcellus well development.

ENVIRONMENTAL ASSESSMENTS

Northwest Region: Waterways and Wetlands Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

EA25-054, Willow Farm, LLC, 110 Saffron Lane, Greensburg, PA 15601. Willow Farm Wetland and Wildlife Enhancement Project, in Franklin Township, **Erie County**, ACOE Pittsburgh District (Albion and Edinboro North, PA Quadrangles N: 41°, 54', 23"; W: 80°, 15', 07").

Applicant proposes to increase wildlife habitat diversity by enhancing vegetative and hydrologic diversity via the creation of 2 seasonal wetlands in upland areas and

degraded, existing wetlands, as well as increasing the amount and quality of shoreline habitat in an existing pond by creating a peninsula and an island. The wetland enhancement areas will result in permanent impact to 1.64 acre of wetland due to the construction of berms, and the pond shoreline enhancement will result in permanent impact to 0.64 acre of the existing pond. The overall restoration project is anticipated to enhance 3.1 acres of existing, degraded PEM wetland, create 2.56 acres of new wetland area, create 750 linear feet of shoreline in the existing pond, restore/enhance hydrology to 3 acres of partially drained PFO wetland, enhance 8 acres of PFO wetland by adding woody plant diversity, enhance 3 acres of existing PEM wetland with shrub plantings, and enhance 4 acres of riparian area along the existing pond and its tributary through vegetation planting and management. This project is being reviewed as a restoration plan to qualify for waiver of permit requirements under 25 Pa. Code § 105.12(a)(16).

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 & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0031071-A1 (Sewage)	Northeast American Diocese of the Malankara Orthodox Syrian Church—Holy Transfiguration Retreat Center WWTP 1000 Seminary Road Dalton, PA 18414	Lackawanna County Dalton Borough	Unnamed Tributary to Ackerly Creek (04F)	Yes
PA0061344 (Industrial)	Westwood Generation LLC 490 W Main Street Tremont, PA 17981-1716	Schuylkill County Frailey Township	Lower Rausch Creek (7-D)	Yes
PA0061182 (Sewage)	Big Boulder Ski Area PO Box 707 Blakeslee, PA 18610-0707	Carbon County Kidder Township	Unnamed Tributary to Tunkhannock Creek (2-A)	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 & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0082643 SEW	Flatbush Golf Course 940 Littlestown Rd Littlestown, PA 17340-9441	Union Township, Adams County	UNT to South Branch Conewago Creek in Watershed(s) 7-F	Y
PA0026280 SEW	Borough of Lewistown 2 E 3rd Street Lewistown, PA 17044-1701	Lewistown Borough, Mifflin County	Juniata River in Watershed(s) 12-A	N
PA0036790 SEW	Paradise Mobile Home Park, Inc. PO Box 37 Marysville, PA 17053-0037	Wheatfield Township, Perry County	UNT to Dark Run in Watershed(s) 7-A	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0223000 (Sewage)	Kalyumet Campground 8630 Miola Road Lucinda, PA 16235-3920	Clarion County Highland Township	Callihan Run (17-B)	Yes
PA0091189 (Sewage)	Slippery Rock Campground 1150 W Park Road Slippery Rock, PA 16057-4118	Butler County Worth Township	Slippery Rock Creek (20-C)	Yes
PA0028398 (Sewage)	Whitehall Village PO Box 927 Fairview, PA 16415-0927	Erie County Fairview Township	Unnamed Tributary to Trout Run (15-A)	Yes
PA0046337 (Sewage)	Colonial Village Subdivision PO Box 88 9231 Edinboro Road McKean, PA 16426-0088	Erie County McKean Township	Unnamed Tributary to Walnut Creek (15-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. PA0265292, Sewage, SIC Code 8800, **Dora Sefton**, 211 Rachel Drive, Saxonburg, PA 16056.

This proposed facility is located in Summit Township, **Butler County**.

Description of Proposed Action/Activity: Issuance of an NPDES Permit for a new discharge of treated Sewage.

NPDES Permit No. PA0265438, Sewage, SIC Code 8800, **Tracey Brown**, 4796 State Route 8, Titusville, PA 16354.

This proposed facility is located in Cherrytree Township, **Venango County**.

Description of Proposed Action/Activity: Issuance of an NPDES Permit for a new discharge of treated Sewage.

NPDES Permit No. PA0265411, Sewage, SIC Code 4952, 8800, **Robert D. Adams**, 12940 Cherry Hill Road, Albion, PA 16401.

This proposed facility is located in Conneaut Township, **Erie 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

Northeast Region: Clean Water Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915. Phone: 570-826-2511.

WQM Permit No. 4817403, Sewage, SIC Code 4952, **Williams Township Northampton County**, 655 Cider Press Road, Easton, PA 18042.

This proposed facility is located in Williams Township, **Northampton County**.

Description of Proposed Action/Activity: To refurbish the Cedar Park Pump Station (formerly Lehigh Valley Stadium) to service the Morgan Hill Development.

WQM Permit No. 4017406, Sewage, SIC Code 4952, **PA DCNR**, Bureau of Facility Design, Perkasie, PA 18944-2065.

This proposed facility is located in Fairmount Township, **Luzerne County**.

Description of Proposed Action/Activity: The project is for the replacement of existing pump station # 3 with a duplex-submersible packaged pump station.

WQM Permit No. 4005402 A-1, Sewage, SIC Code 4952, **Salem Township Luzerne County**, 38 Bomboy Lane, Berwick, PA 18603-6513.

This existing facility is located in Salem Township, **Luzerne County**.

Description of Proposed Action/Activity: Modifications to an existing sewage conveyance system to install a low-pressure force main along Route 11 and a gravity extension to serve 2 properties off Stone Church Road.

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

WQM Permit No. 1017405, Sewage, **Dora Sefton**, 211 Rachel Drive, Saxonburg, PA 16056.

This proposed facility is located in Summit Township, **Butler County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

WQM Permit No. 6117403, Sewage, **Tracey Brown**, 4796 State Route 8, Titusville, PA 16354.

This proposed facility is located in Cherrytree Township, **Venango County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

WQM Permit No. 2517412, Sewage, **Robert D. Adams**, 12940 Cherry Hill Road, Albion, PA 16401.

This proposed facility is located in Conneaut Township, **Erie 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 MS4s listed below in lieu of NPDES permit coverage.

South Central Regional Office: Clean Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200. Phone: 717.705.4800.

NPDES

<i>Waiver No.</i>	<i>Applicant Name & Address</i>	<i>Municipality, County</i>	<i>Receiving Water(s)/Use(s)</i>
PAG133672	York Haven Borough York County 2 N Pennsylvania Avenue York Haven, PA 17370-0169	York Haven Borough, York	Conewago Creek and Unnamed Tributary of Susquehanna River/WWF and MF
PAG133669	Loganville Borough York County PO Box 88 Loganville, PA 17342-0088	Loganville Borough, York	Unnamed Tributary to East Branch Codorus Creek/CWF and MF
PAG133524	Richmond Township Berks County 11 Kehl Drive Fleetwood, PA 19522-9285	Richmond Township, Berks	Unnamed Tributary to Willow Creek/CWF and MF
PAG133721	Windsor Township Berks County 730 Monument Road Hamburg, PA 19526	Windsor Township, Berks	Unnamed Tributary to Schuylkill River/WWF and MF
PAG133719	Straban Township Adams County 1745 Granite Station Road Gettysburg, PA 17325	Straban Township, Adams	Unnamed Tributary to Swift Run, Unnamed Tributary of Rock Creek, White Run, and Rock Creek/WWF and MF

NPDES

<i>Waiver No.</i>	<i>Applicant Name & Address</i>	<i>Municipality, County</i>	<i>Receiving Water(s)/Use(s)</i>
PAG133755	Tulpehocken Township Berks County 22 Rehrersburg Road Rehersburg, PA 19550	Tulpehocken Township, Berks	Unnamed Tributary of Little Swatara Creek/CWF and MF
PAG133720	Centerport Borough Berks County 110 Callowhill Street Centerport, PA 19516	Centerport Borough, Berks	Irish Creek and Plum Creek/WWF and MF
PAG133741	New Oxford Borough Adams County 124 North Peters Street New Oxford, PA 17350	New Oxford Borough, Adams	Unnamed Tributary to South Branch Conewago Creek/WWF and MF
PAG133738	Rockland Township Berks County 41 Deysher Road Fleetwood, PA 19522	Rockland Township, Berks	Unnamed Tributary to Bieber Creek and Unnamed Tributary to Furnace Creek/EV, CWF, and MF

The following waiver applications have been approved for a 5-year period. The Department is issuing waivers for the MS4s listed below in lieu of NPDES permit coverage.

North Central Regional Office: Clean Water Program Manager, 208 W Third Street, Suite 101, Williamsport, PA 17701-6448. Phone: 570.327.3636.

NPDES

<i>Waiver No.</i>	<i>Applicant Name & Address</i>	<i>Municipality, County</i>	<i>Receiving Water(s)/Use(s)</i>
PAG134822	Main Township Columbia County 345 Church Road Bloomsburg, PA 17815-6800	Main Township, Columbia	Susquehanna River/WWF and MF
PAG134832	South Centre Township Columbia County 6260 4th Street Bloomsburg, PA 17815-8731	South Centre Township, Columbia	Susquehanna River/WWF and MF
PAG134814	Woodward Township Lycoming County 4910 S Route 220 Highway Suite 1 Linden, PA 17744-7853	Woodward Township, Lycoming	Unnamed Tributary to West Branch Susquehanna River, Pine Run, Quenshukeny Run, and Daugherty Run/WWF and MF
PAG134826	Orangeville Borough Columbia County PO Box 176 Orangeville, PA 17859	Orangeville Borough, Columbia	Fishing Creek/TSF and MF
PAG134821	Montour Township Columbia County 195 Rupert Drive Bloomsburg, PA 17815-9627	Montour Township, Columbia County	Montour Run/CWF and MF
PAG134818	North Centre Township Columbia County 1059 State Route 93 Berwick, PA 18603-5101	North Centre Township, Columbia	Unnamed Tributary to Susquehanna River and West Branch Briar Creek/CWF and MF
PAG134823	Orange Township Columbia County 2028 State Route 487 Orangeville, PA 17859-9029	Orange Township, Columbia	Fishing Creek/WWF and MF
PAG134829	Upper Fairfield Township Lycoming County 4090 Route 87 Highway Montoursville, PA 17754-7719	Upper Fairfield Township, Lycoming	Mill Creek/TSF and MF
PAG134828	Susquehanna Township Lycoming County 91 E Village Drive Williamsport, PA 17702-8665	Susquehanna Township, Lycoming	Bender Run/CWF and MF

VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions

Northeast Region: Waterways and Wetlands Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Carbon County Conservation District, 5664 Interchange Road, Lehigh, PA 18235.

NPDES

<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD130007	Lehighon (SR 209) DG, LLC c/o Steven Camp, Manager 361 Summit Blvd Ste 110 Birmingham, AL 35243	Carbon	Towamensing Twp	UNT to Pohopoco Creek (CWF, MF) UNT to Hunter Creek (HQ-CWF, MF)

Lehigh County Conservation District, 4184 Dorney Park Road, Suite 105, Allentown, PA 18401.

NPDES

<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD390034	TIM Schadler Seipsville Village, LLC 1793 Folk Rd Fogelsville, PA 18051	Lehigh	Weisenberg Twp	Hassen Creek (HQ-CWF, MF)

Monroe County Conservation District, 8050 Running Valley Road, Stroudsburg, PA 18347.

NPDES

<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD450030	Douglas & Colette Belanger 133 Nicoll Ln Henryville, PA 18332-7842	Monroe	Pocono Twp	UNT to Cranberry Creek (HQ-CWF, MF)

Northampton County Conservation District, 14 Gracedale Ave., Greystone Building, Nazareth, PA 18064-9211.

NPDES

<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD480023	Tatamy Farms, LP c/o Mr Tom Maloney PO Box 9 Center Valley, PA 18034	Northampton	Tatamy Borough	Bushkill Creek (HQ-CWF, MF)

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges from Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges from Small Flow Treatment Facilities
PAG-5	General Permit for Discharges from 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**Northeast Region: Waterways and Wetlands Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Plains Twp, Luzerne Cty	PAC400044	Mericle 800 Baltimore, LLC Stephen Maakestad 100 Baltimore Dr Wilkes-Barre, PA 18702	UNT to Deep Creek (CWF, MF) UNT to Laurel Run (CWF, MF)	Luzerne County Conservation District 570-674-7991
Upper Nazareth Twp, Northampton Cty	PAC480032	Morningstar Senior Living, LLC 175 W North St Nazareth, PA 18064	Shoeneck Creek (WWF, MF)	Northampton County Conservation District 610-829-6276
Allen Twp, Northampton Cty Hanover Twp, Lehigh Cty	PAC480019	Rockefeller Group Development Corp 92 Headquarters Plaza Morristown, NJ 07960	Catasauqua Creek (CWF, MF)	Northampton County Conservation District 610-829-6276

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

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Wayne Twp, Clinton Cnty	PAC180003	Wayne Township Landfill Phase II PO Box 209 264 Landfill Lane McElhattan, PA 17748	UNT to West Branch Susquehanna River	Clinton County Conservation District 45 Cooperation Ln Mill Hall, PA 17751 (570) 726-3798
Ralpho Twp, Northumberland Cnty	PAC490021	Northumberland County Airport Authority—Tree & Ground Obstruction Removal 1387 Airport Road PO Box 94 Paxinos, PA 17860	Trib # 18624 to Millers Creek (CWF, MF)	Northumberland County Conservation District 441 Plum Creek Rd Sunbury, PA 17801 (570) 286-7114 Ext. 4

General Permit Type—PAG-3

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Dickinson Township, Cumberland County	PAG033572	Amazon.Com DEDC, LLC PO Box 80842 Seattle, WA 98108-0842	Alexanders Spring Creek in Watershed 7-B	DEP—SCRO— Clean Water Program 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
Mount Joy Township, Lancaster County	PAG033568	Saia Motor Freight Line LLC 11465 Johns Creek Parkway Suite 400 Johns Creek, GA 30097	Chiques Creek in Watershed 7-G	DEP—SCRO— Clean Water Program 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
South Middleton Township, Cumberland County	PAG033571	Amazon.Com DEDC, LLC NA ENV Dept. PO Box 80842 Seattle, WA 98108-0842	Alexanders Spring Creek Watershed 7-B	DEP—SCRO— Clean Water Program 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
Fairview Township, York County	PAG033573	Amazon.Com DEDC, LLC NA ENV Dept. PO Box 80842 Seattle, WA 98108-0842	Fishing Creek in Watershed 7-E	DEP—SCRO— Clean Water Program 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707

General Permit Type—PAG-12

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Peters Township, Franklin County	PAG123861	Stoners Hijos Hill Inc. 7678 Oeling Road Mercersburg, PA 17236	Watershed 13-C	DEP—SCRO—CW 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
Tilden Township, Berks County	PAG123863	Randy Reppert 119 Mill Road Hamburg, PA 19526	Watershed 3-B	DEP—SCRO—CW 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707

General Permit Type—PAG-13

<i>Facility Location & Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Slatington Borough Lehigh County	PAG132212	Slatington Borough 125 S. Walnut Street Slatington, PA 18080	Trout Creek (CWF/MF), Unnamed Tributaries to Trout Creek (CWF/MF), Lehigh River (TSF/MF), and Unnamed Tributary to Lehigh River (CWF/MF)—2-C	DEP North East Regional Office Clean Water Program 2 Public Square Wilkes-Barre, PA 18701-1915 570.826.2511
Walnutport Borough Northampton County	PAG132238	Walnutport Borough 417 Lincoln Avenue Walnutport, PA 18088	Lehigh River—2-C (TSF/MF)	DEP North East Regional Office Clean Water Program 2 Public Square Wilkes-Barre, PA 18701-1915 570.826.2511
Palmerton Borough Carbon County	PAG132284	Palmerton Borough 443 Delaware Avenue Palmerton, PA 18071-1908	Lehigh River and Aquashicola Creek—2-B (TSF/MF)	DEP North East Regional Office Clean Water Program 2 Public Square Wilkes-Barre, PA 18701-1915 570.826.2511

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.

**CAFO NMP
PUBLIC NOTICE SPREADSHEET—ACTIONS (Approval/Disapproval)**

<i>Agricultural Operation (Name and Address)</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units (AEUs)</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Approved or Disapproval</i>
Melvin Weaver 359 Timber Road Beavertown, PA 17813	Snyder	95.7 for Manure Application	334.98	Swine & Beef (Sow)	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.

Permit No. 4617519, Public Water Supply.

Applicant	Aqua Pennsylvania, Inc. 762 West Lancaster Avenue Bryn Mawr, PA 19010
Township	Springfield
County	Montgomery
Type of Facility	PWS
Consulting Engineer	Gannett Fleming, Inc. P.O. Box 1963 Harrisburg, PA 17105
Permit to Construct Issued	December 21, 2017

Permit No. 0917524, Public Water Supply.

Applicant	Delaware Valley University 700 East Butler Avenue Doylestown, PA 18901
Township	Doylestown
County	Bucks
Type of Facility	PWS
Consulting Engineer	Boucher & James Fountainville Professional Building 500 1456 Ferry Road Doylestown, PA 18901
Permit to Construct Issued	December 27, 2017

Operations Permit # 0915511 issued to: **North Wales Water Authority**, 144 Park Avenue, Chalfont, PA 18914-0317, **PWS ID # 1460048**, Chalfont Borough, **Bucks County**, December 21, 2017 for the operation of New Bar Screens, Stop Gates, and Automatic Cleaning System at the North Branch Neshaminy Creek Intake facilities approved under construction permit # 0915511.

Operations Permit # 4615518 issued to: **Audubon Water Company**, 2650 Eisenhower Drive, Norristown, PA 19403, **PWS ID # 1460055**, Lower Providence Township, **Montgomery County** on December 21, 2017 for the operation of the 200,000 Gallon Level Road Tank Following Interior Repainting approved under construction permit # 4615518.

Northeast Region: Safe Drinking Water Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Application No. 3540069, Public Water Supply.

Applicant	Aqua PA, Inc. 1 Aqua Way White Haven, PA 18661
[Township or Borough]	Deer Lake Borough, Schuylkill County
Responsible Official	Patrick R. Burke, PE Aqua PA, Inc. 204 E. Sunbury Street Shamokin, PA 17872
Type of Facility	PWS
Consulting Engineer	Jonathan Morris, PE GHD 1240 North Mountain Road Harrisburg, PA 17112 (717) 541-0622
Operation Permit Issue Date	12/19/2017

Permit No. 2520037, Operation Permit, Public Water Supply.

Applicant **Aqua Pennsylvania, Inc.**
(Fawn Lake Water System)
1775 North Main Street
Honesdale, PA 18431

Municipality Lackawaxen Township

County **Pike**

Type of Facility PWS

Consulting Engineer Daniel John Hopkins, P.E.
Entech Engineering, Inc.
201 Penn Street, Suite 3
PO Box 32
Reading, PA 19601

Permit to Operate Issued December 22, 2017

Northcentral Region: Safe Drinking Water Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.

Permit No. 5317502MA—Construction—Public Water Supply.

Applicant **Genesee Township Water Authority**

Township/Borough Genesee Township

County **Potter County**

Responsible Official Mr. Donald Reed Jr., Chairman
Genesee Township Water Authority
P.O. Box 3
Genesee, PA 16933

Type of Facility Public Water Supply

Consulting Engineer Mr. Timothy K. Steed
Hunt Engineers, Architects,
Surveyors
Airport Corporate Park
100 Hunt Center
Horseheads, NY 14845-1019

Permit Issued January 3, 2018

Description of Action Authorizes construction of a new 138,000-gallon, glass-lined, steel water storage tank and temporary piping that includes a temporary chlorine injection point to connect Hickox Well No. 2 (identified as existing Well # 1 in application for tank construction) to the inlet pipe to new water storage tank.

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

Transfer of Operation Permit issued to **Mims Realty LLC, A Porter Realty, LLC, PWSID No. 6370022**, New Beaver Borough, **Lawrence County** on January 4, 2018. Action is for change in ownership; the potable water supplier will do business as Green Meadows Mobile Home Park. The new permit number is 3787503-T2.

Cancellation of Permit issued to **Mims Realty LLC, A Porter Realty, LLC, PWSID No. 6370022**, New Beaver Borough, **Lawrence County** on January 4, 2018. This action represents the cancellation of Permit Number

3787503-T2 issued January 4, 2018. This action is a result of Green Meadows Mobile Home Park no longer being a Public Water Supply.

Operation Permit issued to **Erie City Water Authority, PWSID No. 6250028**, City of Erie, **Erie County**. Permit Number 7223-T1-MA5 issued January 5, 2018 for the operation of the Chestnut Street Water Treatment Plant. This permit is issued in response to an operation inspection conducted by the Department of Environmental Protection personnel on January 5, 2018.

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.

2201 East Auburn Street, 201 East Auburn Street, City of Philadelphia, PA 19134, **Philadelphia County**. James Manuel, REPSG, Inc., 6901 Kingsessing Avenue, Suite 201, Philadelphia, PA 19142 on behalf of Nora Lichtash, Community Justice Land Trust, 100 West Oxford Street, Philadelphia, PA 19122 submitted a Final

Report concerning remediation of site soil and groundwater contaminated with arsenic, heating oil compounds and PAHs. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Giordano Residence, 135 Ivy Hill Road, Bristol Township, **Bucks County**. Gregory Buzen, SSG-BARCO, Inc., 122 Walters Avenue, Ewing, NJ 08638 on behalf of Grace Giordano, 135 Ivy Hill Road, Levittown, PA 19057 submitted a Final Report concerning remediation of site soil and groundwater contaminated with no. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Dreshertown Plaza, 1424 Dreshertown Plaza, Upper Dublin Township, **Montgomery County**. Craig Herr, PG., RT Environmental Services, Inc., 215 West Church Road, King of Prussia, PA 19406-3207 on behalf Jim Bladel, Dreshertown Plaza, LP, 1301 Lancaster Avenue, Berwyn, PA 19312 submitted a Risk Assessment/Remedial Investigation Report/Cleanup Plan concerning remediation of site soil and groundwater contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Bruner Residence, 3434 Little Road, Upper Frederick Township, **Montgomery County**. Richard D. Trimpi, Trimpi Associates Inc., 1635 Old Plains Road, Pennsburg, PA 18073 on behalf of Brian Matarese, State Farm Insurance Company, PA Fire Claims, PO Box 106169, Atlanta, GA 30348-6169 submitted a Final Report concerning remediation of site soil and groundwater contaminated with no. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

5960 Upland Way Properties, 5960 Upland Way, City of Philadelphia, **Philadelphia County**. Michael D. Latanze, Penn E&R, Inc., 2755 Bergey Road, Hatfield, PA 19440 on behalf of William Camp, 5960 Upland Way, LP, 123 East Lancaster Avenue, Ardmore, PA 19003 submitted a Final Report concerning remediation of site soil and groundwater contaminated with inorganics. The report is intended to document remediation of the site to meet the Site-Specific.

Fort Washington MGP Site, 432 Pennsylvania Avenue, Whitemarsh Township, **Montgomery County**. Brendan Moran, Kleinfelder, Inc., 180 Sheree Boulevard, Suite 3800, Exton, PA 19341 on behalf of Peter Farrand, Sr., PECO Energy Company, 2301 Market Street, S7-2, Philadelphia, PA 19103 submitted a Final Report concerning remediation of site soil contaminated with PAHs. The report is intended to document remediation of the site to meet the Statewide Health Standard.

ANC, 1400 Byberry Road, Lower Moreland Township, **Montgomery County**. Mark Fortna, DelVal Soil & Environmental Consultants, Inc., 4050 Skyron Drive, Doylestown, PA 18902 on behalf of Michael A. Downs, PE, Toll Brothers, Inc., 250 Gibraltar Road, Horsham, PA 19044 submitted a Remedial Investigation Report concerning remediation of site soil contaminated with PAHs. The report is intended to document remediation of the site to meet the Site-Specific Standard.

2728 South Front Street, 2728 South Front Street, City of Philadelphia, **Philadelphia County**. Michael A. Christie, PG, Penn Environmental & Remediation, Inc., 2755 Bergey Road, Hatfield, PA 19440 submitted a Remedial Investigation Report/Cleanup Plan/Final Report concerning remediation of site soil contaminated with metals. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Northeast Region: Environmental Cleanup & Brownfields Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.

750 South Delaware Drive, 750 South Delaware Drive, Upper Mount Bethel Township, **Northampton County**. MEA Inc., 1365 Ackermanville Rd., Bangor, PA 18013, on behalf of Nationstar Mortgage dba Mr. Cooper, 2501 South Highway 121 Business, Lewisville, TX 75067, has submitted a Final Report concerning remediation of site soils contaminated with # 2 fuel oil. The report is intended to document remediation of the site to meet residential Statewide Health Standards.

Peterson Property, 181 West Central Avenue, East Bangor Borough, **Northampton County**. MEA, Inc., 1365 Ackermanville Road, Bangor, PA 18013, on behalf of Griffin Bros. Fuel, 989 Pennsylvania Avenue, Pen Argyl, PA 18072, submitted a Final Report concerning remediation of site soils contaminated with # 2 fuel oil. The report is intended to document remediation of the site to meet residential Statewide Health Standards.

Southcentral Region: Environmental Cleanup and Brownfields Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone 717.705.4705.

Brookside Mobile Home Park, 51 Manny Drive, Lower Swatara Township, **Dauphin County**. BL Companies, 4242 Carlisle Pike, Camp Hill, PA 17011, on behalf of Brookside Mobile Home Park, Inc., 1201 Eisenhower Boulevard, Middletown, PA 17057, submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil from an aboveground storage tank. The report is intended to document remediation of the site to meet the Residential Statewide Health Standard.

FR&S Industrial Waste Site, Red Lane & Lincoln Road, Birdsboro, PA 19508, Exeter Township, **Berks County**. BAI Group, 341 10th Avenue, Suite 103, Royersford, PA 19468, on behalf of Wood Nursery Corporation, Exeter Associates Incorporated, Buddies Nursery, Inc., P.O. Box 264, Birdsboro, PA 19508, submitted a Risk Assessment and Final Report concerning remediation of site soil contaminated with VOCs, SVOCs, PAHs, PCBs, Pesticides and Inorganics. The report is intended to document remediation of the site to meet the Residential/Nonresidential Statewide Health and Site Specific Standards.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Range Resources Gulf 40 H Release Cleanup, 570 Water Trough Road, Snow Shoe Township, **Centre County**. Mountain Research, LLC, 825 25th Street, Altoona, PA 16601, on behalf of Range Resources—Appalachia, LLC, Northern Marcellus Shale Division, 80 Health Drive, Lock Haven, PA 17745, has submitted a Final Report concerning remediation of site soil contaminated with produced water. The report is intended to document remediation of the site to meet the Statewide Health Standard requirements.

JW's Auto Transport I-80 at MM 15W, Muncy Creek Township, **Lycoming County**. Northridge Group, Inc., P.O. Box 231, Northumberland, PA 17857, on behalf of JW's Auto Transport, 3631 Checkered Tavern Road, Lockport, NY 14094, has submitted a Final Report concerning remediation of the site soil contaminated with used motor oil. The report is intended to document remediation of the site to meet the Statewide Health Standard requirements.

Lucas Trucking Corp. I-80 MM 226.5 Diesel Release Cleanup, Valley Township, **Montour County**.

Northridge Group, Inc., P.O. Box 231, Northumberland, PA 17857, on behalf of Lucas Trucking Corp., 9657 N. Route 220 Highway, Jersey Shore, PA 17740, has submitted a Final Report concerning remediation of site soil contaminated with diesel fuel and motor oil. The report is intended to document remediation of the site to meet the Statewide Health Standard requirements.

Southwest Region: Environmental Cleanup & Brownfield Development Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Former Jeannette Glass Plant Site, Bullitt Ave. & South 2nd St, City of Jeanette, Westmoreland County. KU Resources, Inc., 22 South Linden Street, Duquesne, PA 15110 on behalf of Westmoreland County Industrial Development Corp., 5th Floor, Suite 520, 40 North Pennsylvania Avenue, Greensburg, PA 15601 has submitted a Remedial Investigation Report, Risk Assessment Report and Cleanup Plan for the site where elevated concentrations of hazardous constituents including petroleum products, arsenic, lead and PCBs from historic use have impacted soil and groundwater. Notice of these report submittals were published in the Westmoreland Tribune Review on November 6, 2017.

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 & Brownfields Program Manager, 2 East Main Street, Norristown, PA 19401.

2728 South Front Street, 2728 South Front Street, City of Philadelphia, Philadelphia County. Michael A. Christie, G., Penn Environmental & Remediation, Inc., 2755 Bergey Road, Hatfield, PA 19440 on behalf of Bill Roundtree, Wright Partners, 20 South Olive Street, Suite 203, Media, PA 19063 submitted a Remedial Investigation/Cleanup Plan/Final Report concerning the remediation of site soil contaminated with metals. The Report was approved by the Department on December 18, 2017.

Philmont Business Center, 301, 3041, and 3051 Philmont Avenue, Lower Moreland Township, Montgomery County. Richard S. Werner, Environmental Consulting, Inc., 202 Renaissance Boulevard, Suite 110, King of Prussia, PA 19406 on behalf of Peter Clelland, BT Philmont, LP, 200 Witmer Road, Suite 200, Horsham, PA 19044 submitted a Final Report concerning the remediation of site groundwater contaminated with no. 2 fuel oil. The Final Report did not demonstrate attainment of the Statewide health standard and was disapproved by the Department on December 20, 2017.

Robert Clemente Middle School, 3921-3961 North Fifth Street, City of Philadelphia, Philadelphia County. James Manuel, REPSG, Inc., 6901 Kingsessing Avenue, Suite 201, Philadelphia, PA 19142 on behalf of Walter Toliver, Esperanza, 4261 North 5th Street, Philadelphia, PA 19104 submitted a Remedial Investigation Report/Cleanup Plan concerning the remediation of site soil and groundwater contaminated with inorganics. The Report was disapproved by the Department on December 11, 2017.

Quaker Car Wash, 71 South West End Boulevard, Borough of Quakertown, Bucks County. Brenda MacPhail-Kellog, REPSG, Inc., 6901 Kingsessing Avenue, Second Floor, Philadelphia, PA 19132 on behalf of Joshua Lee, Noah Bank, 2337 Lemonie Avenue, Second Floor, Fort Lee, NJ 07024 submitted a Remedial Investigation Report/Cleanup Plan concerning the remediation of site soil and groundwater contaminated with VOCs and lead. The Report was disapproved by the Department on December 6, 2017.

GlaxoSmithKline, 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 WREK Services, 709 Swedeland Road, UW-2331, King of Prussia, PA 19046 submitted a Final Report concerning the remediation of site soil and groundwater contaminated with no. 6 fuel

oil. The Final Report demonstrated attainment of the Statewide health standard and was approved by the Department on December 18, 2017.

Brandywine Mills, 1731, 1737 & 1751 Wilmington Pike, Chadds Ford Township/Concord Township, **Delaware County**. Richard S. Werner, Environmental Consulting Inc., 2002 Renaissance Boulevard, Suite 110, King of Prussia, PA 19406, behalf of Thomas W. Phillips, 898 Crum Creek Road, Springfield, PA 19064 submitted a Final Report concerning the remediation of site soil and groundwater contaminated with chlorinated solvents. The Final Report demonstrated attainment of the Statewide health standard and was approved by the Department on December 6, 2017.

First Blue Bell Cleaner Service, 1734 Dekalb Pike, Whitpain Township, **Montgomery County**. Kimberly (Walsh) Hunsberger, GHD Services Inc, 135 Raritan Center Parkway, Suite 5, Edison, NJ 08837 on behalf of Robert Carson, Regency Blue Bell, L.P. c/o Levin Management Corporation, 975 US Highway 22 West, North Plainfield, NJ 07060 submitted a Cleanup Plan/Remedial Investigation Report concerning the remediation of site soil and groundwater contaminated with PCE and TCE. The Report was approved by the Department on December 12, 2017.

33 Tomlinson Road, 33 Tomlinson Road, Lower Moreland Township, **Montgomery County**. David Everitt, MA Inc., 1365 Ackermnaville Road, Bangor, PA 18013 on behalf of Mary Kay Parsek, Indigo Investment Servicing, Inc., 5318 East 2nd Street # 502, Long Beach, CA 90803 submitted a Remedial Investigation Report concerning the remediation of site soil and groundwater contaminated with the chlorinated solvent trichloroethene. The Report was approved by the Department on December 13, 2017.

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 DeBartolomer, ERIE Insurance, 1400 North Providence Road, Media, PA 19063 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 December 4, 2017.

J&J Development Company II, 1116 Horsham Road, Horsham Township, **Montgomery County**. Phil Gray, Jr., Compliance Management International, 1350 Welsh Road, Suite 200, North Wales, PA 19454 on behalf of John Pileggi, Jr, J&J Development, Company II, 3470 Limekiln Pike, Chalfont, PA 18914 submitted a Remedial Investigation/Final Report concerning the remediation of site soil and groundwater contaminated with chlorinated solvents. The Report was disapproved by the Department on December 11, 2017.

Sitewide BP Trainer Refinery, 4101 Post Road, Boroughs of Trainer and Marcus Hook, **Delaware County**. Matthew Torell, Monroe Energy, LLC, 4101 Post Road, Trainer, PA 19061 on behalf of Sasa Jazic, Remediation Management Service Corporation, 150 West Warrenville Road, Mail Code 200-IE, Naperville, IL 60563 submitted a Cleanup Plan/Remedial Investigation Report concerning the remediation of site soil contaminated with petroleum hydrocarbon. The Report was approved by the Department on December 22, 2017.

Bartman's Mile (former CSX Transportation Inc.) 1627 South 49th Street, City of Philadelphia, **Philadel-**

phia County. Kevin McKeever Langan, 2700 Kelly Road, Warrington, PA 18978 on behalf of Daniel Harkins, City of Philadelphia, One Parkway Building, 11th Floor, 1515 Arch Street, Philadelphia, PA 19102 submitted a Remedial Investigation Report/Risk Assessment Report/Final Report concerning the remediation of site soil contaminated with other organics. The Report was approved by the Department on December 19, 2017.

Unique Auto Service, 245 South Main Street, Sellersville Borough, **Bucks County**. Joseph E. LaPann, Keith Valley Environmental, Inc., P.O. Box 5376, Deptford, NJ 08096 on behalf of Joseph and Dawn Eberle, 520 Shunk Hollow Road, Chalfont, PA 18914 submitted a Cleanup Plan/Remedial Investigation Report concerning the remediation of site soil and groundwater contaminated with gasoline-related compounds. The Report was disapproved by the Department on December 26, 2017.

Berwyn Shopping Center, 500 Lancaster Avenue, Easttown Township, **Chester County**. Theresa Susco, Berwyn Center, LP, 725 Conshohocken State Road, Bala Cynwyd, PA 19004 on submitted a Remedial Investigation/Risk Assessment Report concerning the remediation of site soil and groundwater contaminated with chlorinated solvents. The Report was approved by the Department on December 21, 2017.

Townhouses at Evensburg, Germantown Pike & River Road, Lower Providence Township, **Montgomery County**. Walter H. Hungarter, III, RT Environmental Services, Inc., 215 West Church Road, King of Prussia, PA 19406 on behalf of Christopher Canavan, Prospect Acquisitions, LP & Stoneridge Acquisitions, LP, 404 Sunnyside Pike, Suite 200, North Wales, PA 19454 submitted a Final Report concerning the remediation of site soil and groundwater contaminated with metals and chlorinated solvents. The Final Report demonstrated attainment of the site-specific standard and was approved by the Department on December 1, 2017.

Wawa Food Market No. 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, PA 19603 submitted a Final Report concerning the remediation of site soil and groundwater contaminated with unleaded gasoline. The Final Report demonstrated attainment of the Statewide health standard and was approved by the Department on December 19, 2017.

100 Barren Hill Road, 100 Barren Hill Road, Whitmarsh Township, **Montgomery County**. David Farrington, Brickhouse Environmental, 51 South Franklin Street, West Chester, PA 19382 on behalf of Phillip Zuzelo, Estate of Marlynn C. Zuzelo, P.O. Box 450, Conshohocken, PA 19428 submitted a Remedial Investigation Report/Cleanup Plan concerning the remediation of site soil and groundwater contaminants with VOCs and PAHs contaminates. The Report was approved by the Department on December 18, 2017.

Northeast Region: Eric Supey, Environmental Cleanup & Brownfields Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Pease Range Unit 62 Well Pad, 7077 State Route 492, **Susquehanna County**. Resource Environmental Management, 50 Maple Street, Montrose, PA 18801, on behalf of SWN Production Company, LLC, 1000 Energy Drive, Spring, TX 77389, has submitted a Final Report concerning remediation of site soils contaminated with brine. The report documented remediation of the site to

meet Statewide Health Standards and was approved by the Department on January 4, 2018.

Gulf Oil Limited Partnership, 2451 Main Street, Whitehall Township, **Lehigh County**. Groundwater & Environmental Services, Inc., 440 Creamery Way, Suite 500, Exton, PA 19341, on behalf of Gulf Oil Limited Partnership, 2451 Main Street, Whitehall, PA 18052, submitted a Site-Specific Remedial Investigation Report, Risk Assessment, and Cleanup Plan concerning remediation of site soils and groundwater contaminated with toluene, ethylbenzene, total xylenes, methyl tertiary butyl ether, isopropylbenzene, benzene, naphthalene, 1,2,4-trimethylbenzene and 1,3,5-trimethylbenzene. The report was intended to document remediation of the site to meet the Site-Specific Standard, but was disapproved by the Department on April 1, 2016.

City Auto Mart, State & Highland Avenue, Clark Summit Borough, **Lackawanna County**, TTL Associates, Inc., 1915 North 12th Street, Toledo, Ohio 43608, has submitted a Remedial Investigation Report and a Cleanup Plan on behalf of Denis Lello, City Auto Mart, concerning the remediation contamination from three underground storage tanks previously containing gasoline that were abandoned in place. The applicant proposes to remediate the site to meet Site Specific Standards for soil and groundwater, and the reports were approved by the Department on March 28, 2014.

Southcentral Region: Environmental Cleanup and Brownfields Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone 717.705.4705.

1300 Marshall Avenue, 1300 Marshall Avenue, Lancaster, PA 17601, Lancaster City, **Lancaster County**. Reliance Environmental, Inc., 235 North Duke Street, Lancaster, PA 17602, on behalf of Caretti Masonry, Inc., 24590 Industrial Park Road, P.O. Box 331, Camp Hill, PA 17001-0331, and Brook Farms Development III, LLC, 259 Brook Farms Road, Lancaster, PA 17601, submitted a Final Report concerning remediation of site soil contaminated with hydraulic fluid. The Final Report demonstrated attainment of the Residential Statewide Health Standard, and was approved by the Department on January 3, 2018.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

United Authority Transportation Cleanup I-80 at MM 189E, Greene Township, **Clinton County**. Northridge Group, Inc., P.O. Box 231, Northumberland, PA 17857, on behalf of United Authority Transportation, dba UA Transportation, 245 Shadowbend Drive, Wheeling, IL 60090, has submitted a Final Report concerning site soil contaminated with diesel fuel and antifreeze. The report demonstrated attainment of the Statewide Health Standard requirements and was approved by the Department on January 2, 2018.

NEMF—180 MM 227 WB, Valley Township, **Montour County**. Northridge Group, Inc., P.O. Box 231, Northumberland, PA 17857, on behalf of NEMF World Transport, 2800 Appleton Street, Camp Hill, PA 17011, has submitted a Final Report concerning remediation of site soil contaminated with used motor oil. The report demonstrated attainment of the Statewide Health Standard requirements and was approved by the Department on January 4, 2018.

Strohecker Trucking—Upper Road, East Cameron Township, **Northumberland County**. Northridge Group, Inc., P.O. Box 231, Northumberland, PA 17857, on behalf of Strohecker Trucking, 162 School Road, Dalmatia, PA

17017, has submitted a Final Report concerning remediation of site soil contaminated with diesel fuel and motor oil. The report demonstrated attainment of the Statewide Health Standard requirements and was approved by the Department on January 3, 2018.

National Fuel Gas Midstream Wharton Compressor Station, Wharton Township, **Potter County**. Environmental Remediation & Recovery, Inc., 4250 Route 6N, Edinboro, PA 16412, on behalf of National Fuel Gas Supply Corporation, P.O. Box 2081, 1100 State Street, Erie, PA 16512, has submitted a Remedial Investigation report and Risk Assessment Report concerning remediation of site soil and groundwater contaminated with organics. The reports demonstrated attainment of the Site-Specific Standard requirements and were approved by the Department on December 20, 2017.

R.W. Bird Trucking, Inc. Cleanup US Route 15N near SR 304, Union Township, **Union County**. Northridge Group, P.O. Box 231, Northumberland, PA 17857, on behalf of R.W. Bird Trucking, Inc., 701 East College Avenue, Pleasant Gap, PA 16823, has submitted a Final Report concerning remediation of site soil contaminated with motor oil. The report demonstrated attainment of the Statewide Health Standard requirements and was approved by the Department on January 5, 2018.

HAZARDOUS WASTE TRANSPORTER LICENSE

Actions on applications for Hazardous Waste Transporter License received under the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003) and regulations to transport hazardous waste.

Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, PO Box 69170, Harrisburg, PA 17106-9170.

Hazardous Waste Transporter License Reissued

Ecology Services, Inc., 9135 Guilford Road, Columbia, MD 21046. License No. PA-AH 0789. Effective Jan 05, 2018.

Enviroserve, J.V. Limited Partnership, 4600 Brookpark Road, Cleveland, OH 44134. License No. PA-AH 0456. Effective Jan 05, 2018.

Renewal Applications Received

Ecology Services, Inc., 9135 Guilford Road, Columbia, MD 21046. License No. PA-AH 0789. Effective Jan 05, 2018.

Enviroserve, J.V. Limited Partnership, 4600 Brookpark Road, Cleveland, OH 44134. License No. PA-AH 0456. Effective Jan 05, 2018.

REGULATED MEDICAL AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSES

Actions on applications for Regulated Medical and Chemotherapeutic Waste Transporter License received under the Solid Waste Management Act and the act of June 28, 1988 (P.L. 525, No. 93) and regulations to transport regulated medical and chemotherapeutic waste.

Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, PO Box 69170, Harrisburg, PA 17106-9170.

Regulated Medical and Chemotherapeutic Waste Transporter License Issued

Maverick Medical Waste Services, LLC, 12 E. Greenbrook Rd., North Caldwell, NJ 07006. License No. PA-HC 0274. Effective Jan 03, 2018.

RESIDUAL WASTE GENERAL PERMITS

Permit(s) Issued 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 for a General Permit to Operate Residual Waste Processing Facilities and the Beneficial Use of Residual Waste other than Coal Ash.

Northwest Regional Office: 230 Chestnut Street, Meadville, PA 16335.

General Permit Application No. WMGR039, Program I.D. WMGR028NWD01, G & H Oil, 20545 Route 6, Warren, PA 16365. On December 24, 2017, the Department renewed coverage under General Permit WMGR039 to provide for an additional ten years of operations for G & H Oil. The Determination of Applicability (DOA) under WMGR039 authorizes the operation of transfer facilities and rail transloading facilities for the processing of waste oil (including waste oil mixed with waste in accordance with 25 Pa. Code, § 298.10(b)(2)(ii) or (iii)), waste oil/water mixtures, and asphalt condensate from the manufacture of shingles prior to beneficial use. The renewal application was received in the Regional Office on August 3, 2017 and deemed administratively complete on August 9, 2017.

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.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110.

Contact: Thomas Hanlon, Facilities Permitting Chief, 717-705-4862, Virendra Trivedi, New Source Review Chief, 717-705-4863, or William Weaver, Regional Air Quality Manager, 717-705-4702.

GP13-67-05121: York Materials Group, LLC (950 Smile Way, York, PA 17404) on January 4, 2018 for the existing Roosevelt Avenue Batch Asphalt Plant under GP13, in West Manchester Township, **York County**. The general permit authorization was renewed.

GP1-01-05022A: Knouse Foods Cooperative, Inc. (800 Peach Glen Idaville Road, Peach Glen, PA 17375) on January 4, 2018, for a new NG/# 2 oil-fired boiler, 31.2 MMBtu/hr, under GP1, at the fruit processing facility located in Hamiltonban Township, **Adams County**.

GP3-21-03127: TMT Gravel & Contracting, Inc. (8792 Route 549, Millerton, PA 16936) on December 28, 2017, for portable nonmetallic mineral processing equipment, under GP3, at the Exeter Properties Group Warehouse site, in Penn Township, **Cumberland County**.

GP11-21-03127: TMT Gravel & Contracting, Inc. (8792 Route 549, Millerton, PA 16936) December 28, 2017, for four non-road engines, under GP11, to power portable nonmetallic mineral processing equipment, at the Exeter Properties Group Warehouse site, in Penn Township, **Cumberland County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Contact: Alan Binder, P.E., Environmental Engineer Manager—Telephone: 412-442-4168.

GP11-04-00745A: Giant Eagle, Inc. (2500 Lovi Road, Freedom, PA 15042) on January 3, 2018, to authorize the installation and operation of three (3) nonroad, diesel-fired generator engines to provide temporary power during their anhydrous ammonia unit re-insulation project at their Fresh Food Manufacturing Company located in New Sewickley Township, **Beaver County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.

Contact: David Balog, New Source Review Chief—Telephone: 814-332-6328.

GP14-20-315A: Warren Funeral Home (544 Chestnut St, Meadville, PA 16335) on January 3, 2018, for the authority to construct and operate a human crematory (BAQ-GPS/GP14) located at their facility in the City of Meadville, **Crawford County**.

GP3-37-332F: Amerikohl Aggregates, Inc. (1384 State Route 711, Stahlstown, PA 15687) on January 3, 2018, for the authority to install an additional 600 tph capacity Metso ST620 Vibratory screen and associated conveyors (BAQ-GPS/GP3) located at their facility in Wayne Township, **Lawrence County**.

GP11-37-332K: Amerikohl Aggregates, Inc. (1384 State Route 711, Stahlstown, PA 15687) on January 3, 2018, for the authority to install a 173 bhp Caterpillar model C6.6 generator engine (BAQ-GPS/GP11) located at their facility in Wayne Township, **Lawrence 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.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401.

Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.

46-0297: Prudential Insurance Company of America (2101 Welsh Road, Dresher, PA 19025) On January 8, 2018 a plan approval to modify/operate four (4) existing diesel-fired generator engines to provide standby emergency power in Upper Dublin Township, **Montgomery County**.

09-0004A: Oliver Healthcare Packaging (905 Pennsylvania Boulevard, Feasterville, PA 19053) On January 8, 2019, for the installation of a new flexographic, two-color printing press with rotary screen at an existing facility located in Southampton Township, **Bucks County**.

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.

39-00006E: American Craft Brewery LLC (7880 Penn Drive, Breinigsville, PA 18031) issued on December 27, 2017 to increase production capacity, to provide additional brewing, blending, packaging flexibility and several changes to simplify recordkeeping at the facility located in Upper Macungie Twp., **Lehigh County**.

40-00134B: LGS PA, LLC (1335 Oak Hill Road, Mountaintop, PA 18707) issued on January 3, 2018 for the operation of cargo trailer manufacturing equipment at the facility in Wright Township, **Luzerne County**.

58-00001A: Tennessee Gas Pipeline Co. LLC (1101 Louisiana Street, Houston, TX 77002) on January 4, 2018 to authorize the increase in the sub-zero operating hours and start-up/shut-down event associated with three existing Solar Centaur 40 turbines at Compressor Station 321, located in Clifford Township, **Susquehanna County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110.

Contact: Thomas Hanlon, Facilities Permitting Chief, 717-705-4862, Virendra Trivedi, New Source Review Chief, 717-705-4863, or William Weaver, Regional Air Quality Manager, 717-705-4702.

36-03209A: Bareville Woodcraft Co. (70 Farmland Road, Leola, PA 17540) on January 2, 2018, for the installation of a 4.97 MMBtu/hr wood fired boiler at the wood working facility located in Upper Leacock Township, **Lancaster County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Contact: Alan Binder, P.E., Environmental Engineer Manager—Telephone: 412-442-4168.

30-00239A: Omnis Bailey, LLC (3757 State St., Suite 2A, Santa Barbara, CA 93105) On January 3, 2018, the Department of Environmental Protection (Department) issued Air Quality Plan Approval # PA-30-00239A to allow the construction and initial temporary operation of four (4) clean carbon fuel (CCF) pellet processing lines each equipped with a natural gas and/or micro carbon fuel (MCF) pulse jet combustion unit rated at 33.0 MMBtu/hr, three (3) MCF processors each equipped with a natural gas and/or MCF pulse jet combustion unit rated at 4.0 MMBtu/hr, coal waste frothers/collectors, conveyor belt transfer points, and approximately eighteen (18) low vapor pressure hydrocarbon liquid storage tanks with a capacity of 8,000 gallons each at the Omnis Bailey Refining Plant located in Richhill Township, **Greene County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.

Contact: David Balog, New Source Review Chief—Telephone: 814-332-6328.

37-317C: Ellwood Mill Products (712 Moravia St., New Castle, PA 16101), on December 27, 2017 issued a Plan Approval for the installation of a natural gas-fired box forge furnace in the City of New Castle, **Lawrence County**. This is a State Only facility.

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.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701.

Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.

41-00025C: Lycoming County Resource Management Services (PO Box 187, Montgomery, PA 17752) on December 22, 2017, to extend the authorization an additional 180 days to July 1, 2018 in order to continue the compliance demonstration evaluation and permit opera-

tion pending issuance of an operating permit for the facility. Plan Approval 41-00025C for the construction of Fields 11 and 12 at the landfill in Brady Township, **Lycoming County** has been extended.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.

Contact: David Balog, New Source Review Chief—Telephone: 814-332-6328.

24-009H: Domtar Paper Company, LLC (100 Center Street, Johnsonburg, PA 15845) on December 28, 2017, effective December 31, 2017, has issued a plan approval extension for the conversion of two (2) existing 297 MMBtu/hr capacity coal-fired boilers (with natural gas and # 2 fuel oil backup) to natural gas-fired boilers (with # 2 fuel oil backup) in Johnsonburg Borough, **Elk County**. This is a Title V facility.

37-023F: NRG Power Midwest LP—New Castle Plant (2189 State Route 168 South, West Pittsburgh, PA 16160) on December 31, 2017, effective December 31, 2017, will issue a plan approval extension for the gas addition project for the 3 existing coal fired boilers at their facility in **Lawrence County**. This will expire on June 30, 2018. This is a Title V facility.

43-373A: Ellwood Crankshaft & Machine Company (2575 Freedland Road, Hermitage, PA 16148) on December 28, 2017, effective December 31, 2017, has issued a plan approval extension for the construction of a crankshaft manufacturing facility consisting of horizontal multi-directional hot forging, heat treatment, and machining in Sharon City, **Mercer County**.

Title V Operating Permits Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401.

Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.

15-00091: McAvoy Vitrified Brick Company (75 McAvoy Lane, PO Box 428, Phoenixville, PA 19460) On January 2, 2018, a renewal of the Title V Operating Permit located in Schuylkill Township, **Chester County**.

ORIS Number 3161: Exelon Generation Company, Eddystone Generating Station (1 Industrial Highway, Eddystone, PA 19022) On January 8, 2018, located in Eddystone Borough, **Delaware County**. The acid rain permit establishes SO_x and NO_x allowances for Units # 3 and 4.

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.

48-00006: NRG REMA, LLC, Portland Generating Station (121 Champion Way, Canonsburg, PA 15317-5817). On January 3, 2018, the Department issued a renewal of the Title V Operating Permit for the electric transmission and utilities facility in Upper Mount Bethel Township, **Northampton 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 sources consist of combustion turbines and emergency generators. The Title V Operating Permit includes emission restrictions, work practice standards and testing, monitoring, recordkeeping, and reporting

requirements to ensure compliance with all applicable Federal and State air quality regulations.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.

Contact: David Balog, New Source Review Chief—Telephone: 814-332-6328.

42-00004: American Refining Group, Inc. (ARG) (77 North Kendall Avenue, Bradford, PA 16701). The Department on January 4, 2018, issued a renewal of the Title V Permit to operate the refinery located in Bradford City, **McKean County**. The facility's major emission sources include boilers, process heaters, a reformer, tanks, equipment leaks of VOC, gasoline loading rack, waste water separators, degreasers, emergency fire water pumps, and emergency generators. The controls include the Lo-Cat Absorber unit and Chemical Oxidizer Unit, and two flares. The facility is a major stationary source as defined in Title I, Part D of the Clean Air Act Amendments due to its potential to emit sulfur oxides, nitrogen oxides, volatile organic compounds, and hazardous air pollutants. The facility is therefore subject to the Title V Operating Permit requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. The actual emissions reported by the facility for 2016 were 59.39 TPY CO, 220.98 TPY NO_x, 5.17 TPY PM₁₀, 0.72 TPY PM_{2.5}, 277.62 TPY SO_x, and 177.24 TPY VOC.

The permit contains the Standards of Performance for New Stationary Sources (NSPS) for National Emission Standards for Hazardous Air Pollutants (NESHAP) for the Refinery Sector Rule. The permit contains the applicable Federal and State requirements to ensure compliance with the Air Pollution Control Act. The permit incorporates the requirements of Plan Approval 42-004J and the RACT 2 presumptive requirements (Sections 129.96, 129.97 and 129.100).

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104.

Contact: Edward Wiener, Chief—Telephone: 215-685-9426.

V14-020: Cardone Industries (5501 Whitaker Ave, Philadelphia, PA 19124 and 5660 Rising Sun Avenue, Philadelphia, PA 19120) for the operation of a automotive parts re-manufacturing facility in the City of Philadelphia, **Philadelphia County**. The Title V facility's air emissions' sources include: five (5) spraybooths, fifty-nine (59) natural gas combustion units each less than 5 MMBtu/hr, five (5) burn out ovens firing natural gas or propane, one (1) 500 kw diesel emergency generator, eight (8) shot blasting units and three (3) dust collectors.

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.

64-00007: Hanson Aggregates Pennsylvania LLC, Lake Ariel Quarry (7660 Imperial Way, Allentown, PA 18195). On January 2, 2018, the Department issued a renewal State-Only Natural Minor Permit for the Sandstone, Crushed and Broken Quarrying facility located in Lake Township, **Wayne County**. The main sources at this facility consist of crushers, screens, conveyors, and feeders. The control devices consist of a water suppression system and water trucks. The sources are considered

minor emission sources of nitrogen oxide (NO_x), sulfur oxides (SO_x), carbon monoxide (CO), total suspended particulate (TSP) and VOC's. The operating permit contains 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.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110.

Contact: Thomas Hanlon, Facilities Permitting Chief, 717-705-4862, Virendra Trivedi, New Source Review Chief, 717-705-4863, or William Weaver, Regional Air Quality Manager, 717-705-4702.

67-03165: Evergreen On Lincoln (654 Lincoln Drive, York, PA 17404) on January 3, 2018, for the human crematory at the facility located in York City, **York County**. The State-only permit was renewed.

36-03040: Wenger Feeds LLC (101 West Harrisburg Avenue, Rheems, PA 17570) on January 3, 2018, for the feed mill located in Mount Joy Township, **Lancaster County**. The State-only permit was renewed.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.

Contact: Matt Williams, Facilities Permitting Chief at Telephone: 814-332-6940.

20-00262: Generant Co., Inc. (18254 Technology Drive, Meadville, PA 16335-8380), the Department on January 3, 2018, issued a renewal of a Natural Minor Permit to operate a valve and pipe fittings manufacturing facility in the City of Meadville, **Crawford County**. The facility's emitting sources include a passivation and brass bright dip line, and a degreaser unit. The potential emissions of alkaline and nitric acid fumes are 16.13 tons per year. The emissions are controlled by a packed tower scrubber. The permit contains the requirements of the previous plan approval, emission restrictions, recordkeeping, work practice, and additional requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act.

43-00290: Sharon Coating, LLC (277 N Sharpsville Ave, Sharon, PA 16146). On January 3, 2018, the Department issued a State Only Synthetic Minor Operating Permit for the steel coil manufacturing facility located in the City of Sharon, **Mercer County**. The facility's primary emission sources include three (3) natural gas-fired annealing furnaces, two (2) emergency diesel generators, miscellaneous natural gas usage, and two (2) parts washers. The potential emissions of the primary pollutants from the facility after permit limitations are as follows: PM₁₀ and PM_{2.5}: 3.83 TPY, NO_x: 95 TPY, SO_x: 0.69 TPY, CO: 45 TPY, and VOC: 4.89 TPY. The facility is a synthetic minor and has taken an emission restriction so as not to exceed 95 tons per year of NO_x emissions and 45 tons per year of CO emissions. The emergency diesel generators are subject to 40 CFR Part 63, Subpart ZZZZ, NESHAP for stationary RICE. The renewal permit contains emission restrictions, recordkeeping, work practices, and additional requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act.

43-00354: Terralinks, Inc. (478 Beaver Road, West Pittsburgh, PA 16160), the Department on January 3, 2018, issued a renewal of the State Only Operating Permit for the sand processing facility in Jackson Township, **Mercer County**. The primary sources at the facility are a fluidized bed dryer and truck traffic and loading and unloading of trucks. Particulate matter emissions

from the dryer are controlled by a cyclone and a baghouse. The facility is a Natural Minor. Potential emissions are as follows: TSP 9.6 tpy; PM₁₀ 5.9 tpy; PM_{2.5} 5.1 tpy; NO_x 1 tpy; SO_x less than 1 tpy; CO 1 tpy; VOC less than 1 tpy; and HAPs less than 1 tpy. The permit contains emission restrictions, recordkeeping, work practice, and additional requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act.

Philadelphia: Air Management Services, 321 University Avenue, Philadelphia, PA 19104-4543, Contact: Edward Wiener, Chief, Source Registration at 215-685-9476.

OP17-000058: Household Metals Inc (645 E Erie Ave, Philadelphia, PA 19134) for operation of a metal forming machine tools facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include two (2) JBI spray booths rated at 8,000 cfm and 5,000 cfm; four (4) Binks spray booths rated at 8,000 cfm, 7,000 cfm, 6,500 cfm, and 5,000 cfm; one (1) natural gas fired Maxon PL Washer rated at 1,000,000 Btu/hr; one (1) natural gas fired Gehn Rich Batch Oven rated at 500,000 Btu/hr; one (1) natural gas fired ACE Burnoff Oven with afterburner rated at 64 SCF; one (1) natural gas fired Vulcan Catalytic oven rated at 250,000 Btu/hr; and one (1) natural gas fired Chicago Advance Curing oven rated at 500,000 Btu/hr.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401.

Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.

Date	Source	PM ₁₀ (tons)	SO _x (tons)	NO _x (tons)	VOC (tons)	CO (tons)
1-4-18	# 2 Fuel Oil Emergency Generator	0.02	0.13	0.57	0.04	0.31
Total Reported Increases		0.02	0.13	0.57	0.04	0.31
Allowable		0.6 ton/source 3 tons/facility	1.6 ton/source 8 tons/facility	1 ton/source 5 tons/facility	1 ton/source 5 tons/facility	4 tons/source 20 tons/facility

Operating Permits Denied, Terminated, Suspended or Revoked under the Air Pollution Control Act and 25 Pa. Code §§ 127.431 and 127.461.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701.

Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.

GP5-12-062: EQT Gathering, LLC (4500 Brooktree Road, Suite 103, Wexford, PA 15090) on December 28, 2017, terminated the General Plan Approval/General Operating Permit—Natural Gas, Coal Bed Methane or GOB Gas Production or Recovery Facilities (BAQ-GPA/GP-5) at the Whipoorwill Interconnect Station located in Shippen Township, **Cameron County** due to the determination that individual sources at the facility emit air contaminants below their respective plan approval exemption

09-00152: Gelest Inc. (11 Steel Rd E, Morrisville, PA 19067) On January 8, 2018 for the administrative amendment to the State-Only Operating Permit in Falls Township, **Bucks County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110.

Contact: Thomas Hanlon, Facilities Permitting Chief, 717-705-4862, Virendra Trivedi, New Source Review Chief, 717-705-4863, or William Weaver, Regional Air Quality Manager, 717-705-4702.

01-03012: International Paper Co. (136 E. York Street, PO Box 808, Biglerville, PA 17307-0808) on January 3, 2018, for the corrugated cardboard manufacturing facility located in Biglerville Borough, **Adams County**. The State-only permit was administratively amended in order to reflect a change of ownership.

De Minimis Emissions Increases Authorized under 25 Pa. Code § 127.449.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.

Contact: Dave Balog, New Source Review Chief or Matt Williams, Facilities Permitting Chief—Telephone: 814-332-6340.

25-00688: UPMC Hamot (201 State Street, Erie, PA 16550) for its facility located in Erie City, **Erie County**. The De minimis emission increase is for the proposed construction of a Caterpillar model 3512C HD ATAAC 2,347 bhp emergency generator for the Patient Care Tower. In addition, this source is exempt from plan approval as it complies with 25 Pa. Code § 127.14(a)(8). The Department hereby approves the De minimis emission increase. The following table is a list of the De minimis emission increases as required by 25 Pa. Code § 127.449(i). This list includes the De minimis emission increases since the Operating Permit issuance on April 11, 2017.

thresholds and the facility overall emits air contaminants below the respective operating permit exemption thresholds pursuant to 25 Pa. Code § 127.14. EQT Gathering is required to maintain monthly records to demonstrate that their actual emissions remain below exemption thresholds. The facility remains subject to all applicable air quality regulations specified in 25 Pa. Code Chapters 121–145.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.

Contact: David Balog, New Source Review Chief—Telephone: 814-332-6328.

10-00023: Mercer Lime Company (560 Branchton Road, Slippery Rock, PA 16057-3216) on January 5, 2018, the permit was revoked for the facility located in Slippery Rock Township, **Butler County**. This Title V Operating

Permit was revoked because the sources were permanently shut down and will not be started back up.

62-00093: Torpedo Specialty Wire (7065 Route 27, Pittsfield, PA 16340-9802) on January 3, 2018, the permit was revoked for the facility located in Pittsfield Township, **Warren County**. This State Operating Permit was revoked because the sources were permanently decommissioned.

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. 56130107 and NPDES No. PA0269484. Coal Loaders, Inc., 210 East Main Street, P.O. Box 556, Ligonier, PA 15658, transfer of an existing bituminous surface and auger mine from Rosebud Mining Co., located in Jenner Township, **Somerset County**, affecting 312.1 acres. Receiving streams: unnamed tributary to/and Two Mile Run classified for the following use: cold water fishes. The first downstream potable water supply intake from the point of discharge is the Quemahoning Reservoir for the Cambria-Somerset authority. Application received: August 1, 2017. Permit issued: January 4, 2018.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.

17060113 and NPDES PA0256471. Black Cat Coal, LLC, (446 WM Cemetery Road, Curwensville, PA 16833). Permit renewal for reclamation only of a bituminous surface coal and auger mine located in Brady Township, **Clearfield County** affecting 60.9 acres. Receiving stream(s): Unnamed Tributary to Stump Creek, Stump Creek, and Unnamed Tributary to Limestone Creek classified for the following use(s): CWF. There are no potable water supply intakes within 10 miles downstream. Application received: October 23, 2017. Permit issued: January 3, 2018.

Noncoal Permits Issued

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.

PAM417037-GP104. William O'Donnell Excavating, 20236 Mountain Road, Doylesburg, PA 17219. General NPDES Permit for stormwater discharges associated with mining activities on Non-Coal Permit No. 28000802 located in Fannett Township, **Franklin County**. Receiving

stream: Unnamed Tributary to Doylestown Stream classified for the following uses: cold water fishes and migratory fishes. There are no potable water supplies located within 10 miles downstream. Notice of Intent for Coverage received: December 4, 2017. Coverage Approved January 3, 2018.

PAM417038-GP104. Rick Eichelberger, Inc., 1381 Flowers Lane, Marysville, PA 17053. General NPDES Permit for stormwater discharges associated with mining activities on Non-Coal Permit No. 50010801 located in Rye and Penn Townships, **Perry County**. Receiving stream: Unnamed Tributary to Fishing Creek classified for the following uses: cold water fishes and migratory fishes. There are no potable water supplies located within 10 miles downstream. Notice of Intent for Coverage received: December 7, 2017. Coverage Approved January 3, 2018.

PAM417040-GP104. David H. Martin Excavating, Inc., 4961 Cumberland Highway, Chambersburg, PA 17202. General NPDES Permit for stormwater discharges associated with mining activities on Non-Coal Permit No. SNC # 28042801 located in Hamilton Township, **Franklin County**. Receiving stream: Unnamed Tributary to Rocky Spring Branch of Back Creek, a tributary to Conococheague Creek classified for the following uses: TSF. There are no potable water supplies located within 10 miles downstream. Notice of Intent for Coverage received: December 15, 2017. Coverage Approved January 4, 2018.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.

55970802. Scott E. Garrison Excavating (646 Back Mountain Road, Beavertown, PA 17813). Final bond release for small industrial minerals surface mine located in Adams Township, **Snyder County**. Restoration of 3.0 acres completed. Receiving stream(s): North Branch of Middle Creek. Application received: December 13, 2017. Final bond release approved: January 5, 2018.

New Stanton District Office: 131 Broadview Road, New Stanton, PA 15672, 724-925-5500.

03122001 and NPDES Permit No. PA0252417. Allegheny Mineral Corporation, P.O. Box 1002, Kittanning, PA 16201. Revision application to add 7.5 surface acres to an existing bituminous surface mine, located in West Franklin Township, Armstrong County, and Winfield and Clearfield Townships, **Butler County** affecting 1,528.2 acres. Receiving streams: Unnamed tributaries to Buffalo Creek and Long Run, Buffalo Creek and Long Run, classified for the following use: HQ-TSF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received: March 8, 2017. Permit revision issued: January 5, 2018.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

Permit No. 4873SM8C3 and NPDES Permit No. PA0594644. Kinsley Construction, Inc., (P.O. Box 2886, York, PA 17405), renewal of NPDES permit for discharge of treated mine drainage in West Manchester Township, **York County**, receiving stream: unnamed tributary of Codorus Creek. Application received: March 22, 2016. Renewal issued: January 2, 2018.

Permit No. 06010301T and NPDES Permit No. PA0224146. New Enterprise Stone & Lime Co., Inc., (P.O. Box 77, New Enterprise, PA 16664), transfer of an existing quarry and NPDES Permit for discharge of treated mine drainage in Maxatawny Township, **Berks**

County affecting 38.4 acres, receiving stream: Maiden Creek. Application received: April 19, 2017. Transfer issued: January 2, 2018.

Permit No. PAM117052. Sahara Sand of Falls, Inc., (355 Newbold Road, Fairless Hills, PA 19030), General NPDES Stormwater Permit for stormwater discharges associated with mining activities on Surface Mining Permit No. 5476SM5 in Falls Township, **Bucks County**, receiving stream: Crosswicks—Neshaminy Watershed. Application received: November 11, 2017. Permit issued: January 3, 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

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

Permit No. 09174110. Brubacher Excavating, Inc., (825 Reading Road, Bowmansville, PA 17507), construction blasting for Twin Lakes in Richland Township, **Bucks County** with an expiration date of December 20, 2018. Permit issued: December 29, 2017.

Permit No. 54174109. Wampum Hardware Company, (130 Weston Road, Grove City, PA 16127), construction blasting for the Brads Landfill in Blythe Township, **Schuylkill County** with an expiration date of December 31, 2018. Permit issued: January 2, 2018.

Permit No. 19174105. Maine Drilling & Blasting, Inc., (P.O. Box 1140, Gardiner, ME 04345), construction blasting for Atlantic Sunrise Compressor Station in Sugarloaf Township, **Columbia County** with an expiration date of December 18, 2018. Permit issued: January 3, 2018.

Permit No. 22174106. Maine Drilling & Blasting, Inc., (P.O. Box 1140, Gardiner, ME 04345), construction blasting for Chambers Pointe Phase 3 in Swatara Township, **Dauphin County** with an expiration date of December 29, 2018. Permit issued: January 3, 2018.

Permit No. 46174125. American Rock Mechanics, Inc., (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for Willow Grove YMCA in Upper Moreland Township, **Montgomery County** with an expiration date of December 29, 2018. Permit issued: January 3, 2018.

Permit No. 67174121. Newville Construction Services, Inc., (408 Mohawk Road, Newville, PA 17241), construction blasting for Stonewick in Penn Township, **York County** with an expiration date of December 31, 2018. Permit issued: January 3, 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

Northcentral Region: Waterways & Wetlands Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636.

E41-687. Borough of Muncy, 14 North Washington Street, Muncy, PA 17756. Green Street Park Improvements in Borough of Muncy, **Lycoming County**, ACOE Baltimore District (Muncy, PA Quadrangles N:41° 12' 30.3" W: -76° 47' 2.5").

Borough of Muncy has applied for a Individual—Joint Permit to construct, operate and maintain park facilities along Glade Run in Borough of Muncy—Lycoming County. The permit includes access and safety improvements, ADA improvements, installation of a new picnic shelter, parking area maintenance and replacement of playground equipment.

There are no stream or wetland impacts being proposed. Project floodway impacts shall include and be limited to a total of 39704 square feet of permanent floodway impacts.

FLOODWAY IMPACT TABLE:

Resource Name	Municipality	Activity	Listed Trout	Impact Length Temp. (LF)	Impact Area Temp. (SF)	Impact Length Perm. (LF)	Impact Area Perm. (SF)	Lat. Long.
Glade Run	Muncy Borough	Park Enhancements	None	0	0		39,704	41.20750 76.78389
TOTAL					0		39,704	

District Oil and Gas Operations: Eastern Oil & Gas District, 208 West Third Street, Suite 101, Williamsport, PA.

E5829-125: Oakland Township, Susquehanna Gathering Company, LLC, 1429 Oliver Road, New Milford, PA 18334-7516; Oakland Township, **Susquehanna County**, ACOE Baltimore District.

To construct, operate, and maintain:

1) a temporary timber mat bridge crossing impacting 756 square feet (0.02 acre) of palustrine emergent wetland (PEM) (Oakland, PA Quadrangle; Latitude: 41° 58' 21"N, Longitude: 75° 37' 31"W).

2) a 16-inch diameter steel natural gas pipeline and timber mat bridge crossing impacting 3,391 square feet (0.08 acre) of palustrine forested wetland (PFO) and 25,731 square feet (0.59 acre) of palustrine emergent wetland (PEM) (Oakland, PA Quadrangle; Latitude: 41° 58' 36"N, Longitude: 75° 38' 13"W).

3) a 16-inch diameter steel natural gas pipeline and timber mat bridge crossing impacting 57 lineal feet of an unnamed tributary to Hilborn Creek (CWF-MF) (Oakland, PA Quadrangle; Latitude: 41° 58' 35"N, Longitude: 75° 38' 15"W).

The 19 to CPF1 Pipeline project consists of constructing a 16-inch diameter steel natural gas pipeline approximately 1.5 mile long in Oakland Township, Susquehanna County. The project will result in 57 lineal feet of temporary stream impacts, 25,731 square feet (0.59 acre) of temporary wetlands impacts, and 3,391 square feet (0.08 acre) of permanent wetlands impacts to provide safe reliable conveyance of Marcellus Shale natural gas to market.

E5329-014: JKLM Energy, LLC, 2200 Georgetown Drive, Suite 500, Sewickley, PA 15143. Ulysses Township, **Potter County**, ACOE Baltimore District.

To construct, operate and maintain the Headwaters Well Pad 146, which includes one 12-inch natural gas pipeline, with the following impacts:

1. 40.0 linear feet of Cushing Hollow (HQ, CWF) and 329 square feet of permanent impacts to Exceptional Value (EV) Palustrine Emergent (PEM) Wetlands via a boring (West Pike, PA Quadrangle, Latitude: N41° 51' 04.08", Longitude: W77° 44' 11.14").

The project will result in 40.0 linear feet of stream impacts, and 329 square feet (0.01 acre) of permanent EV PEM wetland impacts all for the purpose of installing a natural gas gathering line for Marcellus shale development.

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 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.

Northwest Region: Oil and Gas Program Manager, 230 Chestnut St., Meadville, PA 16335.

ESCGP-2 # ESX11-031-0028—Radaker Pad and 8 MG Impoundment—Renewal
Applicant Northeast Natural Energy LLC
Contact Ms. Hollie Medley
Address 707 Virginia Street, Suite 1200
City Charleston State WV Zip Code 25301
County Clarion Township(s) Porter & Madison
Receiving Stream(s) and Classification(s) UNT to Fiddlers Run CWF/Redbank Creek

Eastern Region: Oil & Gas Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

ESCGP-2 # ESX29-115-17-0036
Applicant Name SWN Production Co LLC
Contact Person Nicki Atkinson
Address 917 SR 92 N
City, State, Zip Tunkhannock, PA 18657
County Susquehanna
Township(s) New Milford
Receiving Stream(s) and Classification(s) UNT to Martins Ck (CWF-MF) and UNT to E Branch Martins Ck (CWF-MF)

ESCGP-2 # ESX29-081-17-0045
Applicant Name Chief Oil & Gas LLC
Contact Person Jeffrey Deegan
Address 1720 Sycamore Rd
City, State, Zip Montoursville, PA 17754
County Bradford & Lycoming
Township(s) Canton & McNett
Receiving Stream(s) and Classification(s) UNT to Towanda Ck (CWF)
Secondary—Towanda Ck (CWF)

ESCGP-2 # ESX29-115-17-0041
 Applicant Name Susquehanna Gathering Co 1 LLC
 Contact Person Paul Corrigan
 Address 333 Technology Dr, Suite 255
 City, State, Zip Canonsburg, PA 15317
 County Susquehanna
 Township(s) Harford
 Receiving Stream(s) and Classification(s) E Branch Martins Ck (CWF-MF)

ESCGP-2 # ESG29-081-17-0039
 Applicant Name Range Resources—Appalachia LLC
 Contact Person Karl Matz
 Address 3000 Town Center Blvd
 City, State, Zip Canonsburg, PA 15317
 County Lycoming
 Township(s) Cogan House
 Receiving Stream(s) and Classification(s) Roaring Run (EV)
 Secondary—Larrys Ck (EV)

ESCGP-2 # ESG29-117-17-0048
 Applicant Name HEP Tioga Gathering LLC
 Contact Person Jim Townsley
 Address 37 Fox Chase Dr
 City, State, Zip San Antonio, TX 78256

County Tioga
 Township(s) Liberty
 Receiving Stream(s) and Classification(s) Zimmerman Ck (HQ-CWF)

ESCGP-2 # ESG29-081-17-0051
 Applicant Name ARD Operating LLC
 Contact Person Stephen Barondeau
 Address 33 W Third St, Suite 300
 City, State, Zip Williamsport, PA 17701
 County Lycoming
 Township(s) Cascade
 Receiving Stream(s) and Classification(s) Salt Run (EV)
 Secondary—Wallis Run (EV)

ESCGP-2 # ESG29-081-17-0052
 Applicant Name ARD Operating LLC
 Contact Person Stephen Barondeau
 Address 33 W Third St, Suite 300
 City, State, Zip Williamsport, PA 17701
 County Lycoming
 Township(s) McHenry
 Receiving Stream(s) and Classification(s) Browns Run (HQ-CWF); McClure Run (HQ-CWF)
 Secondary—Pine Ck (EV)

STORAGE TANKS SITE-SPECIFIC INSTALLATION PERMITS

The following Storage Tank Site-Specific Installation Permits, under the authority of the Storage Tank Spill Prevention Act (35 P.S. §§ 6021.304, 6021.504, 6021.1101—6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C, have been issued by the Bureau of Environmental Cleanup and Brownfields, Director, PO Box 8763, Harrisburg, PA 17105-8763.

SSIP

<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
18-01-003	Sunoco Retail LLC 3801 West Chester Pike Newtown Square, PA 19073 Attn: Kathleen McCaney	Adams	Hamiltonban Township	2 field-constructed USTs storing petroleum products	5,000 gallons total
18-15-007	Sunoco Retail LLC 3801 West Chester Pike Newtown Square, PA 19073 Attn: Kathleen McCaney	Chester	East Brandywine Township	1 field-constructed UST storing petroleum products	12,000 gallons
18-05-001	Sunoco Retail LLC 3801 West Chester Pike Newtown Square, PA 19073 Attn: Kathleen McCaney	Bedford	Bedford Township	1 field-constructed UST storing petroleum products	12,000 gallons

SPECIAL NOTICES

Air Quality; Notice of Proposed Revision to the State Implementation Plan for Oxides of Nitrogen, Volatile Organic Compounds, Notice of Public Hearing, and Notice of Intent to Issue Revised Air Quality Operating Permit 47-00001

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701.

Contact: Muhammad Q. Zaman, Program Manager, (570) 327-3648.

Approval of a Reasonably Available Control Technology (RACT II) plan for **Montour, LLC** located in Derry Township, **Montour County**.

In accordance with 25 Pa. Code §§ 129.96—129.100, the Department of Environmental Protection (Department) has made a preliminary determination to approve a

RACT II plan and an amendment to the State Implementation Plan (SIP) for the Montour Steam Electric Station (SES) owned and operated by Montour, LLC in Derry Township, Montour County.

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 amendments to the RACT II determination, if finally approved, will be incorporated into a revised operating permit (47-00001) for the facility. The relevant RACT II requirements will be submitted to the United States Environmental Protection Agency (EPA) as a revision to Pennsylvania's State Implementation Plan and will remain in effect until replaced pursuant to 40

CFR 51 and approval by the EPA. Requirements that are not part of the RACT II determination will be excluded from the SIP submittal.

The following is a summary of the proposed amendments to the RACT II determination for this operation that will be submitted to the EPA as a SIP revision:

<i>Source</i>	<i>RACT II Requirement</i>
Utility Boilers (Source IDs 031 and 032)	The utility boilers at the Montour SES facility shall comply with an alternative NO _x RACT limit by averaging their emissions with those from the utility boilers at the Brunner Island SES located in East Manchester Twp., York County. Compliance with the alternative NO _x RACT emissions limit of the averaging plan shall be determined by comparing daily the sum of actual emissions from all the sources included in the plan to the alternative NO _x RACT emissions limit using a 30-day rolling average.
Utility Boilers (Source IDs 031 and 032)	The permittee shall utilize Department certified CEMS to calculate actual emission when determining compliance with the NO _x RACT averaging plan.
Utility Boilers (Source IDs 031 and 032)	The permittee shall utilize Department certified fuel flow monitors to calculate actual heat input when determining compliance with the NO _x RACT averaging plan.
Utility Boilers (Source IDs 031 and 032)	The permittee shall continuously monitor the SCR inlet temperature for each boiler, in order to determine the applicable RACT2 NO _x emission limitation for coal corresponding to the current SCR inlet temperature. The permittee shall use a NO _x emission rate of 0.12 lb of NO _x per MMBtu of coal heat input to determine allowable NO _x emissions from a boiler during any hour in which the SCR inlet temperature transitions across the 600°F threshold.
Utility Boilers (Source IDs 031 and 032)	The permittee shall keep records necessary to demonstrate compliance with the NO _x RACT averaging plan on a rolling 30 operating day basis.

<i>Source</i>	<i>RACT II Requirement</i>
Utility Boilers (Source IDs 031 and 032)	The alternative NO _x RACT emissions limit of the system-wide averaging plan shall be calculated through a weighted average of the amount of heat input provided to the boilers by each fuel multiplied by the presumptive RACT emission limit for that fuel.
Utility Boilers (Source IDs 031 and 032)	The permittee shall submit quarterly RACT system-wide NO _x emissions averaging reports demonstrating compliance with the system-wide NO _x emissions limit.
Utility Boilers (Source IDs 031 and 032)	The permittee shall not use emission averaging plan for the demonstration of compliance with NO _x RACT emission limitations if the Department determines at any time each of the air contamination sources participating in the averaging plan can meet the presumptive NO _x RACT emission limitations.

Public hearing. A public hearing will be held if requested by February 21, 2018, to accept oral comments on the proposed operating permit revision and the proposed SIP revision. The hearing will be held, if requested, on February 28, 2018, at 10 a.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448. To request a hearing, to register to speak at a hearing, or to inquire if a hearing will be held, contact Megan Lehman at (570) 327-3659. The last day to preregister to speak at a hearing, if one is held, will be February 21, 2018.

Please note that any updates made to any aspect of the hearing, including whether or not a hearing will be held, will be posted online at <http://www.dep.pa.gov/About/Regional/North-central-Regional-Office/Pages/default.aspx>.

Contact Megan Lehman at (570) 327-3659 or monitor the Department's web site to determine if a hearing will be held.

Persons wishing to present testimony at the hearing should contact Megan Lehman at (570) 327-3659 at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony will be limited to a maximum of 10 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, if it is held, may submit three copies of a written statement and exhibits within 10 days thereafter to Muhammad Q. Zaman, Environmental Program Manager, Department of Environmental Protection, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.

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 Muhammad Q. Zaman, Environmental Program Manager, Department of Environmental Protection, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448. A 30-day comment period from January 20, 2018, 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.

All pertinent documents are available for public review between 8 a.m. and 4 p.m. at the Department of Environmental Protection, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448. Appointments for scheduling a review may be made by calling the Department at (570) 327-0550.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so should contact Megan Lehman at (570) 327-3659 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

CAFO Special Notice

South Central Regional Office: Regional Clean Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200. Phone: (717) 705-4800.

NPDES Permit No. PAG123697, CAFO, Nathan Ebersole, 44 Kline Road, Shippensburg, PA 17257-9679.

The notice in the *Pennsylvania Bulletin* on December 23, 2017, indicating that the Commonwealth of Pennsylvania, Department of Environmental Protection (Department) had issued NPDES Permit No. PAG123697 was published in error. The Department is publishing this notice to inform the public that the Department has not acted on this permit application.

Chapter 105 Water Obstruction and Encroachment Permit Application and 401 Water Quality Certification Request

California District Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100.

CDO-009. Robindale Energy Services, Inc., P.O. Box 228, Armagh, PA 15920. Unnamed Tributary 44463 to Blacklick Creek, Brush Valley Township, **Indiana County**, Pittsburgh ACOE District (New Florence, PA Quadrangle, UNT 44463 Blacklick Creek project area centroid latitude 40° 29' 31.63" N, Longitude 79° 01' 04.91" W). The applicant proposes the enhancement of 4,061 linear feet of stream and creation of 5.69 acres of wetlands to mitigate impacts associated with the expansion of the Dilltown Facility coal refuse disposal area located in Brush Valley Township, Indiana County.

This is a Chapter 105 Water Obstruction and Encroachment permit application and 401 Water Quality Certification request.

In conjunction with this approval, the Department is granting 401 Water Quality Certification certifying that the approved activities will comply with the applicable provision of sections 301—303, 306 and 307 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341) and will not violate applicable Federal and State water quality standards.

Application Received: November 3, 2015
Permit Issued: January 2, 2018

[Pa.B. Doc. No. 18-113. Filed for public inspection January 19, 2018, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Availability of Technical Guidance

Technical guidance documents are available on the Department of Environmental Protection's (Department) web site at <http://www.elibrary.dep.state.pa.us/dsweb/HomePage>. The "Technical Guidance Final Documents" heading is the link to a menu of the various Department bureaus where each bureau's final technical guidance documents are posted. The "Technical Guidance Draft Documents" heading is the link to the Department's draft technical guidance documents.

Ordering Paper Copies of Department Technical Guidance

The Department encourages the use of the Internet to view and download technical guidance documents. When this option is not available, persons can order a paper copy of any of the Department's draft or final technical guidance documents by contacting the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

Changes to Technical Guidance Documents

Following is the current list of recent changes. Persons who have questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

Draft Technical Guidance Document: New Guidance

DEP ID: 393-2129-001. Title: Revised Total Coliform Rule Guidance. **Description:** On September 24, 2016, the Department finalized the Revised Total Coliform Rule, which amended 25 Pa. Code Chapter 109 (relating to safe drinking water) by requiring public water systems that are vulnerable to microbial contamination to perform assessments to identify sanitary defects and subsequently take action to correct them. This technical guidance will clarify coliform monitoring requirements, explain new start-up procedure requirements for seasonal public water systems, and describe the Revised Total Coliform Rule assessment process and provide examples of sanitary defects.

Written Comments: Interested persons may submit written comments on this Draft Technical Guidance Document through February 20, 2018. Comments submitted by facsimile will not be accepted. All comments, including comments submitted by e-mail must include the originator's name and address. Commentators are encouraged to submit comments through the Department's eComment system at www.ahs.dep.pa.gov/eComment or by e-mail to ecomment@pa.gov. Written comments should be submitted to Technical Guidance Coordinator, Policy Office, 400 Market Street, Harrisburg, PA 17101.

Contact: Questions should be directed to Jeff Allgyer at (717) 772-4015 or jallgyer@pa.gov.

Effective Date: Upon publication of notice as final in the *Pennsylvania Bulletin*.

Rescission of Technical Guidance

DEP ID: 263-0900-015. *Title:* Implementation of Act 16. *Description:* This guidance identifies the changes to the Storage Tank and Spill Prevention Act (act) (35 P.S. §§ 6021.101—6021.2104) as amended by the act of June 26, 1995 (P.L. 79, No. 16) (Act 16). Chapter 245 of 25 Pa. Code (relating to administration of the Storage Tank and Spill Prevention Program), which was promulgated under the act, was revised on October 10, 1997, to reflect the changes to the act resulting from the passage of Act 16. This guidance document is obsolete.

Contact: Questions regarding this action should be directed to E. Alex Eckman, (717) 772-5827, eeckman@pa.gov.

Effective Date: January 20, 2018

DEP ID: 263-0900-016. *Title:* Implementation of Act 34. *Description:* This guidance identifies the changes to the act as amended by the act of May 10, 1996 (P.L. 171, No. 34) (Act 34). Chapter 245 of 25 Pa. Code, which was promulgated under the act, was revised on October 10, 1997, to reflect the changes to the act resulting from the passage of Act 34. This guidance document is obsolete.

Contact: Questions regarding this action should be directed to E. Alex Eckman, (717) 772-5827, eeckman@pa.gov.

Effective Date: January 20, 2018

PATRICK McDONNELL,
Secretary

[Pa.B. Doc. No. 18-114. Filed for public inspection January 19, 2018, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Draft National Pollutant Discharge Elimination System General Permit for Operation of Concentrated Animal Feeding Operations (PAG-12)

The Department of Environmental Protection (Department) is announcing the availability of a draft National Pollutant Discharge Elimination System (NPDES) General Permit for Operation of Concentrated Animal Feeding Operations (PAG-12). To access the draft General Permit and related documents visit www.elibrary.dep.state.pa.us (select "Permit and Authorization Packages," then "Clean Water," then "PAG-12 NPDES General Permit (Draft)").

The PAG-12 General Permit is intended to provide NPDES permit coverage to persons operating concentrated animal feeding operations (CAFO) within this Commonwealth in satisfaction of State and Federal NPDES permit requirements, as established in 25 Pa. Code Chapter 92a (relating to National Pollutant Discharge Elimination System permitting, monitoring and compliance), where CAFOs meet the eligibility requirements of the PAG-12 General Permit.

The following significant changes are proposed for the PAG-12 General Permit and related documents:

- The Notice of Intent (NOI) form and CAFO Annual Report form have been updated to address information requirements related to the United States Environmental Protection Agency's (EPA) NPDES Electronic Reporting Rule (eReporting Rule). In addition, instructions have been developed to help permittees understand how to complete the CAFO Annual Report.
- The General Permit would require the submission of CAFO Annual Reports to the Department electronically upon receipt of written notification from the Department to implement eReporting Rule requirements.
- An NOI fee of \$500 each year the CAFO operates under the PAG-12 General Permit.
- The reporting period for the CAFO Annual Report would be changed from a calendar year to a "crop year" (that is, October 1—September 30).
- Permittees with leak detection systems would need to collect a sample of drainage, if any, and analyze the sample for ammonia-nitrogen at a minimum frequency of once per year, and implement corrective action if the concentration of ammonia-nitrogen exceeds a threshold.
- Permittees with earthen manure storage facilities would need to complete an annual inspection of the facilities and submit the results to the Department on a form supplied by the Department.

Other changes are described in the draft fact sheet for the PAG-12 General Permit.

Written Comments: Interested persons are invited to submit written comments regarding the Draft PAG-12 General Permit and associated documents through February 20, 2018. Comments submitted by facsimile will not be accepted. Comments, including comments submitted by e-mail, must include the originator's name and address. Commentators are encouraged to submit comments using the Department's online eComment system at www.ahs.dep.pa.gov/eComment. Written comments should be submitted by e-mail to ecomment@pa.gov or by mail to the Department of Environmental Protection, Policy Office, Rachel Carson State Office Building, P.O. Box 2063, Harrisburg, PA 17105-2063.

Written comments submitted during the 30-day comment period will be retained by the Department and considered in finalizing the PAG-12 General Permit. The Department will provide an opportunity for any interested person or group of persons, any affected State, any affected interstate agency, the EPA or any interested agency to request or petition for a public hearing with respect to the proposed PAG-12 General Permit. The request or petition for public hearing, which must be filed within the 30-day period allowed for filing of written comments, must indicate the interest of the party filing the request and the reasons why a hearing is warranted. A hearing will be held if there is significant public interest.

PATRICK McDONNELL,
Secretary

[Pa.B. Doc. No. 18-115. Filed for public inspection January 19, 2018, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Planning Grant Awards under Section 901 of the Municipal Waste Planning, Recycling and Waste Reduction Act, Act 101 of 1988

The Department of Environmental Protection hereby announces the following grants to Lehigh County and Mercer County under section 901 of the Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101) (53 P.S. § 4000.901) and section 208 of the Small Business and Household Pollution Prevention Program Act (35 P.S. § 6029.208).

Planning grants are awarded to counties for 80% of approved costs for preparing municipal waste management plans as required by Act 101 for carrying out related studies, surveys, investigations, inquiries, research and analysis, including those related to siting, environmental mediation, education programs on pollution prevention and household hazardous waste (HHW) and providing technical assistance to small businesses for pollution prevention. Grants may be awarded for feasibility studies and project development for municipal waste processing or disposal facilities, except for facilities for the combustion of municipal waste that are not proposed to be operated for the recovery of energy. All grant awards are predicated on the receipt of recycling fees required by sections 701 and 702 of Act 101 (53 P.S. §§ 4000.701 and 4000.702) and the availability of funds in the Recycling Fund.

Inquiries regarding the grant offerings should be directed to Mark Vottero, Department of Environmental Protection, Bureau of Waste Management, Division of Waste Minimization and Planning, P.O. Box 8472, Harrisburg, PA 17105-8472 at (717) 772-5719 or mvottero@pa.gov.

Act 101, Section 901 Planning Grant

<i>Region</i>	<i>County</i>	<i>Applicant</i>	<i>Project</i>	<i>Grant</i>
Northeast	Lehigh	Lehigh County	HHW Education	\$37,252
Northwest	Mercer	Mercer County	Planning	\$64,337

PATRICK McDONNELL,
Secretary

[Pa.B. Doc. No. 18-116. Filed for public inspection January 19, 2018, 9:00 a.m.]

DEPARTMENT OF HEALTH

Ambulatory Surgical Facilities; Requests for Exceptions

The following ambulatory surgical facilities (ASF) have filed requests for exception under 28 Pa. Code § 51.33 (relating to requests for exceptions) with the Department of Health (Department), which has authority to license ASFs under the Health Care Facilities Act (35 P.S. §§ 448.101—448.904b). The following requests for exceptions relate to regulations governing ASF licensure in 28 Pa. Code Chapters 51 and 551—571 (relating to general information; and ambulatory surgical facilities), with the exception of 28 Pa. Code § 571.1 (relating to minimum standards). Exception requests related to 28 Pa. Code § 571.1 are listed separately in this notice.

<i>Facility Name</i>	<i>Regulation</i>
Indiana Ambulatory Surgical Associates, LLC	28 Pa. Code § 553.1 (relating to principle) 28 Pa. Code § 555.1 (relating to principle) 28 Pa. Code § 557.1 (relating to policy) 28 Pa. Code § 567.2 (relating to committee responsibilities)
LVHN Fairgrounds Surgical Center	28 Pa. Code § 553.2 (relating to ownership) 28 Pa. Code § 553.3 (relating to governing body responsibilities) 28 Pa. Code § 553.4 (relating to other functions) 28 Pa. Code § 555.1 28 Pa. Code § 555.2 (relating to medical staff membership) 28 Pa. Code § 555.3 (relating to requirements for membership and privileges) 28 Pa. Code § 555.4 (relating to clinical activities and duties of physician assistants and certified registered nurse practitioners) 28 Pa. Code § 563.1 (relating to principle) 28 Pa. Code § 563.2 (relating to organization and staffing)

<i>Facility Name</i>	<i>Regulation</i>
LVHN Surgical Center-Tilghman	28 Pa. Code § 553.2 28 Pa. Code § 553.3 28 Pa. Code § 553.4 28 Pa. Code § 555.1 28 Pa. Code § 555.2 28 Pa. Code § 555.3 28 Pa. Code § 555.4 28 Pa. Code § 563.1 28 Pa. Code § 563.2
St. Luke's Anderson Ambulatory Surgery Center	28 Pa. Code § 553.1 28 Pa. Code § 567.2 28 Pa. Code § 567.3 (relating to policies and procedures)
Valley Ambulatory Surgical Center, LLC	28 Pa. Code § 551.21(d)(2) (relating to criteria for ambulatory surgery)

The following ASF is requesting exceptions under 28 Pa. Code § 571.1. Requests for exceptions under this section relate to minimum standards that ASFs must comply with under the *Guidelines for Design and Construction of Hospitals and Outpatient Facilities (Guidelines)*. The following list includes the citation to the section under the *Guidelines* to which the ASF is seeking exceptions, as well as the publication year of the applicable *Guidelines*.

<i>Facility Name</i>	<i>Guidelines Section</i>	<i>Relating to</i>	<i>Publication Year</i>
Colonoscopy Center, Lansdale	3.7-3.6.14.1	In the operating room, a clinical sink. . .	2014
	3.7-3.6.14.2	In the recovery area, a toilet. . .	2014
	3.9-3.6.15.1	In the procedure area, a clinical sink. . .	2014
	3.9-3.6.15.2	In the recovery area, a toilet. . .	2014

All previously listed requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@pa.gov. Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the previously listed address. Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, or for speech and/or hearing-impaired persons, call the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

RACHEL L. LEVINE, MD,
Acting Secretary

[Pa.B. Doc. No. 18-117. Filed for public inspection January 19, 2018, 9:00 a.m.]

DEPARTMENT OF HEALTH

Hospitals; Requests for Exceptions

The following hospitals have filed requests for exceptions under 28 Pa. Code § 51.33 (relating to requests for exceptions) with the Department of Health (Department), which has authority to license hospitals under the Health Care Facilities Act (35 P.S. §§ 448.101—448.904b). The following requests for exceptions relate to regulations governing hospital licensure in 28 Pa. Code Chapters 51 and 101—158 (relating to general information; and general and special hospitals), with the exception of 28 Pa. Code § 153.1 (relating to minimum standards). Exception requests related to 28 Pa. Code § 153.1 are listed separately in this notice.

<i>Facility Name</i>	<i>Regulation</i>
St. Luke's Hospital Monroe Campus	28 Pa. Code § 105.1 (relating to principle)
Holy Spirit Hospital	28 Pa. Code § 107.26(b)(3) (relating to additional committees)
Eagleville Hospital	28 Pa. Code § 107.61 (relating to written orders)
J C Blair Memorial Hospital	28 Pa. Code § 138.17 (relating to PTCA) 28 Pa. Code § 138.18 (relating to EPS studies)

The following hospitals are requesting exceptions under 28 Pa. Code § 153.1. Requests for exceptions under this section relate to minimum standards that hospitals must comply with under the *Guidelines for Design and Construction of Hospitals and Outpatient Facilities (Guidelines)*. The following list includes the citation to the section under the *Guidelines* that the hospital is seeking an exception, as well as the publication year of the applicable *Guidelines*.

<i>Facility Name</i>	<i>Guidelines Section</i>	<i>Relating to</i>	<i>Publication Year</i>
Suburban Community Hospital	2.2-2.2.6.13	Examination rooms (support areas for medical/nursing units)	2014
UPMC Presbyterian Shadyside	2.1-2.4.3.2(1)	Space requirements (seclusion rooms)	2014

All previously listed requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@pa.gov. Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the previously listed address. Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, for speech and/or hearing impaired persons V/TT (717) 783-6154, or for speech and/or hearing impaired persons, call the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

RACHEL L. LEVINE, MD,
Acting Secretary

[Pa.B. Doc. No. 18-118. Filed for public inspection January 19, 2018, 9:00 a.m.]

INSURANCE DEPARTMENT

Application for Designation as a Certified Reinsurer

Canada Life International Re DAC has applied for designation as a certified reinsurer in this Commonwealth. The application was received on January 9, 2018, and was made under section 319.1(a) of The Insurance Company Law of 1921 (40 P.S. § 442.1(a)) and 31 Pa. Code § 161.3a (relating to requirements for certified reinsurers).

Persons who wish to comment on the application are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party; identification of the application to which the statement is addressed; and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Kimberly A. Rankin, Director, Bureau of Company Licensing and Financial Analysis, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, krankin@pa.gov. Comments received will be forwarded to the applicant for appropriate response.

JESSICA K. ALTMAN,
Acting Insurance Commissioner

[Pa.B. Doc. No. 18-119. Filed for public inspection January 19, 2018, 9:00 a.m.]

INSURANCE DEPARTMENT

Lincoln National Life Insurance Company (SERFF # TRST-131168803); Rate Increase Filing for Several Individual LTC Forms

Lincoln National Life Insurance Company is requesting approval to increase the premium 30% on 91 policyhold-

ers of forms HL-2500AA (8/90), HL-2525AA (8/90), HL-2550AA (8/90), HL-2950PA (5/94) and HL-2950PAFR (2/95).

Unless formal administrative action is taken prior to April 4, 2018, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) web site at www.insurance.pa.gov (hover the cursor over the "Consumers" tab, then select "Long Term Care Rate Filings").

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's Harrisburg office.

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlaverty@pa.gov within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JESSICA K. ALTMAN,
Acting Insurance Commissioner

[Pa.B. Doc. No. 18-120. Filed for public inspection January 19, 2018, 9:00 a.m.]

INSURANCE DEPARTMENT

Notice Concerning Proper Notice of Cancellation; Notice -2018-01

January 09, 2018

Subject: Notice of Cancellation Requirements for Policies Covering Owner-Occupied Residential Property or Personal Property of Individuals

To: All Property and Casualty Insurance Companies doing business in the Commonwealth of Pennsylvania

From: Seth A. Mendelsohn, Executive Deputy Insurance Commissioner

It has come to the attention of the Pennsylvania Insurance Department ("Department") that some property and casualty insurance companies in this Commonwealth have been using notices to cancel insurance policies covering owner-occupied residential property or personal property that do not comply with the requirements of Section 5 of the Act of July 22, 1974, P.L. 589, No. 205, 40 P.S. § 1171.5, ("Act 205") or the requirements contained in the Department's regulations (31 Pa. Code §§ 59.1 et. seq.). This notice is intended to remind insurers of the necessity of complying with both Act 205 and the Department's regulations.

Section 5 of Act 205 sets forth requirements for cancellation notices for policies covering owner-occupied residential property or personal property. The notice must:

- Be approved as to form by the Insurance Commissioner prior to use.
 - State the date, not less than 30 days after the date of delivery or mailing, on which such cancellation or refusal to renew shall become effective.
 - State the specific reason or reasons of the insurer for cancellation or refusal to renew.
 - Advise the insured of his right to request, in writing, within ten days of the receipt of the notice of cancellation or intention not to renew, that the Insurance Commissioner review the action of the insurer.
 - Advise the insured of his possible eligibility for insurance under the Act of July 31, 1968 (P.L. 738, No. 233), known as "The Pennsylvania Fair Plan Act," or the Pennsylvania Assigned Risk Plan.
 - Advise the insured in a form commonly understandable of the provisions of subparagraphs (ii), (iii) and (iv) of this paragraph as they limit permissible time and reasons for cancellation.
 - Advise the insured of the procedures to be followed in prosecuting an appeal.
- 40 P.S. § 1171.5(a)(9).

In addition, 31 Pa. Code § 59.6 provides requirements for the contents of a notice of cancellation. Specifically, section 59.6 provides that:

- The form shall be clearly labeled: "Notice of Cancellation or Refusal to Renew."
- The form shall be given to the insured in duplicate.
- The date, not less than 30 days after the date of delivery or mailing, on which such cancellation or refusal to renew is to become effective shall be clearly indicated.
- Space must be provided for the insurer to provide the specific reason or reasons for the cancellation or refusal to renew.
- The reasons given for cancellation or refusal to renew shall be clear and complete. If the reason is a material misrepresentation, fraudulent statement, omission or concealment of fact material to the acceptance of the risk, or to the hazard assumed by the company, made by the insured, the insurer shall specify what statements, omissions or concealments it relied on for its action.
- If the reason is a substantial change or increase in the hazard, the insurer shall specify the changes or increased hazards it relied on for its actions. If the reason is the failure to pay a premium, the insurer shall specify the amount due, and the date when it was due.
- The form shall include that advice that the insured has a right to request review of the insurer's action as

provided in § 59.7 (relating to appeal procedure), within ten days of receipt of the notice. In so doing, the notice shall include:

- o Advice that review may be requested by signing a copy of the form in a space provided and sending it to one of the regional offices of the Insurance Department.
 - o The addresses of the four regional offices of the Insurance Department.
 - The form shall include advice to the insured that he or she may be eligible for insurance under the Pennsylvania Fair Plan Act or the Pennsylvania Auto Insurance Plan.
 - Each provision of the notice shall be set forth in clear and understandable terms. To assure adequate notice, the form label shall be set at the top of the form in roman type no smaller than 14 point modern type, all capitals. The remainder of the notice shall be set in roman type no smaller than ten point modern type, two points leaded.
- 31 Pa. Code § 59.6.

Appendix A to Chapter 59, as referenced in 31 Pa. Code § 59.6(10), provides a recommended form of a notice that would meet the requirements of this section. The label of "Appendix A" is titled "Notice of Cancellation or Non-Renewal". Thus, an insurer may label a cancellation notice either "Notice of Cancellation or Refusal to Renew" or "Notice of Cancellation or Non-Renewal". Finally, while section 59.6 and "Appendix A" reference the Department's regional offices in Pittsburgh, Philadelphia and Erie, the Department reminds insurers that these offices have been closed. As such, insurers may disregard the references to the regional offices and include the following address as stated in 41 Pa.B. 4181:

Insurance Department, Bureau of Consumer Services
1209 Strawberry Square
Harrisburg, PA 17120
Toll Free: (877) 881-6388
Fax: (717) 787-8585

The address change will also be revised in the *Pennsylvania Code* accordingly. Any questions regarding this notice may be directed to Seth A. Mendelsohn, Executive Deputy Insurance Commissioner at 717-787-0872 or smendelsohn@pa.gov.

JESSICA K. ALTMAN,
Acting Insurance Commissioner

[Pa.B. Doc. No. 18-121. Filed for public inspection January 19, 2018, 9:00 a.m.]

LEGISLATIVE REFERENCE BUREAU

Documents Filed But Not Published

The Legislative Reference Bureau (Bureau) accepted the following documents during the preceding calendar month for filing without publication under 1 Pa. Code § 3.13(b) (relating to contents of *Bulletin*). The Bureau will continue to publish on a monthly basis either a summary table identifying the documents accepted during the preceding calendar month under this subsection or a statement that no documents have been received. For questions concerning or copies of documents filed, but not published, call (717) 783-1530.

Governor's Office

Management Directive No. 205.15—Membership in Associations, Organizations, or Societies, Amended December 11, 2017.

Administrative Circular No. 17-14—Holiday Trees and Decorations in Commonwealth-Owned or Leased Buildings, Dated December 1, 2017.

LAURA CAMPBELL,
Director
Pennsylvania Code and Bulletin

[Pa.B. Doc. No. 18-122. Filed for public inspection January 19, 2018, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Future Sale or Acquisition of Property

A-2018-2641199. PPL Electric Utilities Corporation. Application of PPL Electric Utilities Corporation for approval of the future sale or acquisition of property under a multiutility agreement known as the RESTORE Agreement.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities) on or before February 5, 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 and at the applicant's business address.

Applicant: PPL Electric Utilities Corporation

Through and By Counsel: David B. MacGregor, Esquire, Devin T. Ryan, Esquire, Post & Schell, PC, 17 North Second Street, 12th Floor, Harrisburg, PA 17101-1601; Kimberly A. Klock, Esquire, Amy E. Hirakis, Esquire, PPL Services Corporation, Office of General Counsel, Two North Ninth Street, Allentown, PA 18101

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 18-123. Filed for public inspection January 19, 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 (Commission). Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate

whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by February 5, 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.

Application of the following for approval to begin operating as a broker for transportation of persons as described under the application.

A-2017-2640069. Conestoga Tours, LLC (1619 Manheim Pike, Lancaster, Lancaster County, PA 17601) for a brokerage license evidencing the Commission's approval of the right and privilege to operate as a broker, to arrange for the transportation of persons between points in Pennsylvania.

Applications of the following for the approval of the right and privilege to discontinue/abandon operating as common carriers by motor vehicle and for cancellation of the certificate of public convenience as described under each application.

A-2017-2639929. Richard L. Fisher (1122 Georgetown Road, P.O. Box 42, Bart, PA 17503) for the discontinuance of service and cancellation of its certificate, as a common carrier, by motor vehicle, at A-00122743, authorizing the transportation of persons, in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Lancaster, to points in Pennsylvania, and return.

A-2018-2640952. Ruth Diane Sitlinger, t/a Twilight Limousine Service (103 West Market Street, P.O. Box 459, Gratz, Dauphin County, PA 17030) discontinuance of service and cancellation of its certificate, to transport, as a common carrier, by motor vehicle, persons, in limousine service, between points in Pennsylvania; excluding areas under the jurisdiction of the Philadelphia Parking Authority.

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 18-124. Filed for public inspection January 19, 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 February 5, 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. Bassel S.
Darwich, t/a BD Trucking;
Docket No. C-2017-2634499**

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 Bassel S. Darwich, t/a BD Trucking, (respondent) is under suspension effective November 04, 2017 for failure to maintain evidence of insurance on file with this Commission.

2. That respondent maintains a principal place of business at 108 Falling Water Court, Bushkill, PA 18324.

3. That respondent was issued a Certificate of Public Convenience by this Commission on August 12, 2016, at A-8918991.

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-8918991 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: 11/21/2017

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. 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.

**Pennsylvania Public Utility Commission; Bureau of
Investigation and Enforcement v. Wellspring
Environmental Services, LLC;
Docket No. C-2017-2638051**

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 Wellspring Environmental Services, LLC, (respondent) is under suspension effective October 05, 2017 for failure to maintain evidence of insurance on file with this Commission.

2. That respondent maintains a principal place of business at 101 Firemans Rd # 2, Frackville, PA 17931-2337.

3. That respondent was issued a Certificate of Public Convenience by this Commission on August 23, 2012, at A-8914796.

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-8914796 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: 12/19/2017

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. 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 regula-

tions 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.

**Pennsylvania Public Utility Commission; Bureau of
Investigation and Enforcement v. AEJA Partners,
LLC, t/a You Move Me; Docket No. C-2017-2638646**

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 AEJA Partners, LLC, t/a You Move Me, (respondent) is under suspension effective December 08, 2017 for failure to maintain evidence of insurance on file with this Commission.

2. That respondent maintains a principal place of business at 806 E Main Street, Norristown, PA 19401.

3. That respondent was issued a Certificate of Public Convenience by this Commission on January 13, 2015, at A-8915791.

4. That respondent has failed to maintain evidence of both Liability insurance and Cargo 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-8915791 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: 12/19/2017

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. 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. 18-125. Filed for public inspection January 19, 2018, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Telecommunications Services

A-2017-2636803. Birch Communications of the Northeast, Inc. Application of Birch Communications of the Northeast, Inc. for approval to offer, render, furnish or supply telecommunications services to the public as a competitive local exchange carrier in the service territories of Commonwealth Telephone Company, d/b/a Frontier Communications Commonwealth Telephone Company; Consolidated Communications of Pennsylvania Company; Frontier Communications of Pennsylvania, LLC; The United Telephone Company of Pennsylvania, LLC, d/b/a CenturyLink; Windstream Conestoga, Inc.; Windstream D&E, Inc.; and Windstream Pennsylvania, LLC.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities) on or before February 5, 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 and at the applicant's business address.

Applicant: Birch Communications of the Northeast, Inc.

Through and By Counsel: Susan E. Bruce, Esquire, Alessandra L. Hylander, Esquire, McNees, Wallace and Nurick, LLC, 100 Pine Street, P.O. Box 1166, Harrisburg PA 17108-1166

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 18-126. Filed for public inspection January 19, 2018, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Telecommunications Services

A-2017-2607866. Pennsylvania MSA, LLC. Application of Pennsylvania MSA, LLC for approval to offer, render, furnish or supply to the public as a competitive local exchange carrier in the service territories of Windstream Pennsylvania, LLC; Commonwealth Telephone Company, d/b/a Frontier Communications Commonwealth Telephone Company; Consolidated Communications of Pennsylvania Company; and The United Telephone Company of Pennsylvania, LLC, d/b/a CenturyLink.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities) on or before February 5, 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

nia Public Utility Commission's web site at www.puc.pa.gov and at the applicant's business address.

Applicant: Pennsylvania MSA, LLC

Through and By Counsel: E. Ashton Johnston, Esquire, Telecommunications Law Professionals, PLLC, 1025 Connecticut Avenue, NW, Suite 1011, Washington, DC 20036

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 18-127. Filed for public inspection January 19, 2018, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Telecommunications Services

A-2017-2635840. Wide Voice, LLC. Application of Wide Voice, LLC for approval to offer, render, furnish or supply telecommunications services as a competitive local exchange carrier to the public in this Commonwealth in the service territories of Verizon North, LLC; The United Telephone Company of Pennsylvania, LLC, d/b/a CenturyLink; Windstream Pennsylvania, LLC; Windstream Buffalo Valley, Inc.; Commonwealth Telephone Company, d/b/a Frontier Communications Commonwealth Telephone Company; Windstream Conestoga, Inc.; Windstream D&E, Inc.; Frontier Communications of Breezewood, LLC; Frontier Communications of Canton, LLC; Citizens Telecommunications of New York, Inc., d/b/a Frontier Communications of New York; Frontier Communications of Pennsylvania, LLC; Frontier Communications of Lakewood, LLC; and Frontier Communications of Oswayo River, LLC.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities) on or before February 5, 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 and at the applicant's business address.

Applicant: Wide Voice, LLC

Through and By Consultant: Carey Roesel, Technologies Management, Inc., 151 Southhall Lane, Suite 450, Maitland, FL 32751-7101

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 18-128. Filed for public inspection January 19, 2018, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Transfer of Control

A-2018-2640950. MassComm, Inc., d/b/a MASS Communications and Windstream Holdings, Inc. Joint application of MassComm, Inc., d/b/a MASS Com-

munications and Windstream Holdings, Inc. for approval of a transfer of control of MassComm, Inc., d/b/a MASS Communications.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities) on or before February 5, 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 and at the applicant's business address.

Applicant: MassComm, Inc., d/b/a MASS Communications; Windstream Holdings, Inc.

Through and By Counsel: Thomas T. Niesen, Esquire, Charles E. Thomas, III, Esquire, Charles E. Thomas, Jr., Esquire, Thomas, Niesen and Thomas, LLC, 212 Locust Street, Suite 302, Harrisburg, PA 17101; Russell Blau, Esquire, Danielle Burt, Esquire, Morgan, Lewis & Bockius, LLP, 1111 Pennsylvania Avenue, NW, Washington, DC 20004

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 18-129. Filed for public inspection January 19, 2018, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Transmission Line; Prehearing Conference

A-2017-2640195. Transource Pennsylvania, LLC. Application of Transource Pennsylvania, LLC for approval of the siting and construction of the 230 kV transmission line associated with the independence energy connection—east project in portions of York County.

A-2017-2640200. Transource Pennsylvania, LLC. Application of Transource Pennsylvania, LLC for approval of the siting and construction of the 230 kV transmission line associated with the independence energy connection—west project in portions of Franklin County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities) on or before February 20, 2018. Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, 400 North Street, Harrisburg, PA 17120, with a copy served on Administrative Law Judge Elizabeth H. Barnes, Administrative Law Judge Andrew M. Calvelli and 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, at the Pennsylvania Public Utility Commission's (Commission) web site at www.puc.pa.gov and at the applicant's business address.

Applicant: Transource Pennsylvania, LLC

Through and By Counsel: David B. MacGregor, Esquire, Post & Schell, PC, 17 North 2nd Street, 12th Floor, Harrisburg, PA 17101-1601; Amanda Riggs Conner, Esquire, Hector Garcia, Esquire, American Electric Power Service Corp., 1 Riverside Plaza, 29th Floor, Columbus, OH 43215; Anthony D. Kanagy, Esquire, Christopher T.

Wright, Esquire, Post & Schell, PC, 17 North 2nd Street, 12th Floor, Harrisburg, PA 17101-1601; Antonio Smith, Transource Pennsylvania, LLC, 1 Riverside Plaza, Columbus, OH 43215

Prehearing Conference

An initial prehearing conference on the previously-captioned case will be held as follows:

<i>Date:</i>	Tuesday, March 13, 2018
<i>Time:</i>	10 a.m.
<i>Location:</i>	Hearing Room 4 Plaza Level Commonwealth Keystone Building 400 North Street Harrisburg, PA 17120
<i>Presiding:</i>	Administrative Law Judges Elizabeth H. Barnes and Andrew M. Calvelli P.O. Box 3265 Harrisburg, PA 17105-3265 (717) 783-5452 Fax: (717) 787-0481

Persons with a disability who wish to attend the hearing should contact the Commission to make arrangements for their special needs. Call the scheduling office at the Commission at least 2 business days prior to the hearing:

- Scheduling Office: (717) 787-1399
- Pennsylvania AT&T Relay Service number for persons who are deaf or hearing-impaired: (800) 654-5988

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 18-130. Filed for public inspection January 19, 2018, 9:00 a.m.]

STATE BOARD OF NURSING

Bureau of Professional and Occupational Affairs v. Connie Johns McAninch, LPN; File No. 15-51-07335; Doc. No. 0761-51-16

On June 20, 2017, Connie Johns McAninch, LPN, license No. PN105612L, last known of Vandergrift, Westmoreland County, had her practical nursing license indefinitely suspended until at least the time as respondent proves that she is fit to practice practical nursing in this Commonwealth with reasonable skill and safety based on receiving disciplinary action by the proper licensing authority of New Mexico.

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. 18-131. Filed for public inspection January 19, 2018, 9:00 a.m.]

STATE BOARD OF NURSING

Commonwealth of Pennsylvania, Bureau of Professional and Occupational Affairs v. Foy L. Hastings, RN, Respondent; File No. 13-51-07973; Doc. No. 0888-51-15

Notice to Foy L. Hastings, RN:

On May 19, 2015, the Commonwealth of Pennsylvania, Department of State, Bureau of Professional and Occupational Affairs, instituted a formal administrative action against you by filing an Order to Show Cause, before the State Board of Nursing, alleging that you have violated certain provisions of the Professional Nursing Law, Act of May 22, 1951, P.L. 317, ("Act"). Pursuant to 1 Pa. Code § 33.31 and Rule 430 of the Pennsylvania Rules of Civil Procedure, 231 Pa. Code Rule 430, the State Board of Nursing has issued an Order authorizing service of process upon you by publication.

Notice

Formal disciplinary action has been filed against you. You may lose your license, certificate, registration or permit to practice your profession or occupation. You may be subject to civil penalties of up to \$10,000 for each violation, and the imposition of costs of investigation.

If you wish to defend against the charges in the attached Order to Show Cause or to present evidence to mitigate any penalty that may be imposed, the procedures for doing so are explained in the Order to Show Cause. You may obtain a copy of the Order to Show Cause from the Prothonotary for the Department of State, 2601 North Third Street, P.O. Box 2649, Harrisburg, PA 17105, telephone number, (717) 772-2686.

You have the right to retain an attorney. Although you may represent yourself without an attorney, you are advised to seek the help of an attorney. You also have the right to have an interpreter provided should you request one.

All proceedings are conducted under the Administrative Agency Law and the General Rules of Administrative Practice and Procedures.

You are directed to respond to the charges by filing a written answer within thirty (30) days of this NOTICE. IF YOU DO NOT FILE AN ANSWER, DISCIPLINARY ACTION MAY BE TAKEN AGAINST YOU WITHOUT A HEARING. To file your answer, you must bring or send an original and three (3) copies of your answer and any pleadings or other documents related to this matter to the following address:

Prothonotary
Department of State
2601 North Third Street
P.O. Box 2649
Harrisburg, PA 17105

You must also send a separate copy of your answer and any other pleadings or documents related to this case to the prosecuting attorney named in the Order to Show Cause.

LINDA L. KMETZ, PhD, RN,
Chairperson

[Pa.B. Doc. No. 18-132. Filed for public inspection January 19, 2018, 9:00 a.m.]