

PENNSYLVANIA BULLETIN

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Agencies in this issue

The Courts
Delaware River Basin Commission
Department of Aging
Department of Banking and Securities
Department of Conservation and Natural Resources
Department of Education
Department of Environmental Protection
Department of Health
Department of Revenue
Department of Transportation
Environmental Quality Board
Fish and Boat Commission
Independent Regulatory Review Commission
Insurance Department
Pennsylvania Public Utility Commission
Philadelphia Parking Authority
State Board of Dentistry
State Board of Nursing
State Real Estate Commission

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

No. 549, August 2020

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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.pacodeandbulletin.gov.

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.pacodeandbulletin.gov.

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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 2020.

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THE COURTS

Title 210—APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CHS. 1, 9, 11, 13, 17, 21 AND 25] Proposed Amendments of Pa.R.A.P. 124, 905, 909, 1111, 1301, 1732, 2187, 2189 and 2541

The Appellate Court Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pa.R.A.P. 124, 905, 909, 1111, 1301, 1732, 2187, 2189, and 2541 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 will neither 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:

Karla M. Shultz, Counsel
Appellate Court Procedural Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
FAX: 717-231-9551
appellaterules@pacourts.us

All communications in reference to the proposal should be received by October 2, 2020. 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 Appellate Court
Procedural Rules Committee*

PATRICIA A. McCULLOUGH,
Chair

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE I. PRELIMINARY PROVISIONS

CHAPTER 1. GENERAL PROVISIONS

DOCUMENTS GENERALLY

Rule 124. Form of [**Papers;**] **Documents**. Number of Copies **to be Filed**.

(a) *Size and other physical characteristics*.—All [**papers**] **documents** filed in an appellate court shall be on 8 1/2 inch by 11 inch [**paper**] **pages** and shall comply with the following requirements:

(1) The [**papers**] **documents** shall be prepared on white [**paper (except for covers, dividers and similar sheets) of good quality**] **background**.

(2) The first [**sheet (except the cover of a brief or reproduced record)**] **page** shall contain a 3 inch space from the top of the [**paper**] **document** for all court stampings, filing notices, etc.

(3) Text must be double spaced, but quotations more than two lines long may be indented and single spaced. Footnotes may be single spaced. Except as provided in [**subdivision (2)**] **paragraph (a)(2)**, margins must be at least one inch on all four sides.

(4) Lettering shall be clear and legible and no smaller than 14 point in the text and 12 point in footnotes. Lettering shall be on only one side of a page, except that exhibits and similar supporting documents, briefs and reproduced records may be lettered on both sides of a page.

(5) Any metal fasteners or staples must be covered. Originals must be unbound. Copies must be firmly bound.

(6) No backers shall be necessary.

(b) *Nonconforming [papers] documents*.—The prothonotary of an appellate court may accept any nonconforming [**papers**] **documents**.

(c) [**Copies**.—Except as otherwise prescribed by these rules:

(1) **An original of an application for continuance or advancement of a matter shall be filed.**

(2) **An original and three copies of any other application in the appellate courts shall be filed, but the court may require additional copies.]**

Number of copies to be filed.—A party shall file the number of copies as specified in:

(1) **the copy and fee requirements set forth on each appellate court's web page;**

(2) **correspondence from the court; or**

(3) **a court order.**

Official Note: The 2013 amendment increased the minimum text font size from 12 point to 14 point and added a minimum footnote font size of 12 point. This rule requires a clear and legible font. The Supreme, Superior, and Commonwealth Courts use Arial, Verdana, and Times New Roman, respectively, for their opinions. A brief using [**one**] **the respective court's font is preferred, but a brief using any** of these fonts will be satisfactory.

The number of copies to be filed in the Supreme Court can be found at <http://www.pacourts.us/courts/supreme-court/copy-and-fee-requirements>.

The number of copies to be filed in the Superior Court can be found at <http://www.pacourts.us/courts/superior-court/copy-and-fee-requirements>.

The number of copies to be filed in the Commonwealth Court can be found at <http://www.pacourts.us/courts/commonwealth-court/copy-and-fee-requirements>.

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 9. APPEALS FROM LOWER COURTS

Rule 905. Filing of Notice of Appeal.

(a) *Filing with clerk.*

(1) Two copies of the notice of appeal, the order for transcript, if any, and the proof of service required by Pa.R.A.P. 906, shall be filed with the clerk of the trial court. If the appeal is to the Supreme Court, the jurisdictional statement required by Pa.R.A.P. 909 shall also be filed with the clerk of the trial court.

(2) If the appeal is a children's fast track appeal, a concise statement of errors complained of on appeal as described in Pa.R.A.P. 1925(a)(2) shall be filed with the notice of appeal and served on the trial judge in accordance with Pa.R.A.P. 906(a)(2).

(3) Upon receipt of the notice of appeal, the clerk shall immediately stamp it with the date of receipt, and that date shall constitute the date when the appeal was taken, which date shall be shown on the docket.

(4) If a notice of appeal is mistakenly filed in an appellate court, or is otherwise filed in an incorrect office within the unified judicial system, the clerk shall immediately stamp it with the date of receipt and transmit it to the clerk of the court which entered the order appealed from, and upon payment of an additional filing fee the notice of appeal shall be deemed filed in the trial court on the date originally filed.

(5) A notice of appeal filed after the announcement of a determination but before the entry of an appealable order shall be treated as filed after such entry and on the day thereof.

(b) *Transmission to appellate court.*—The clerk shall immediately transmit to the prothonotary of the appellate court named in the notice of appeal a copy of the notice of appeal and all attachments, as well as a receipt showing collection of any docketing fee in the appellate court required under paragraph (c). If the appeal is a children's fast track appeal, the clerk shall stamp the notice of appeal with a "Children's Fast Track" designation in red ink, advising the appellate court that the appeal is a children's fast track appeal, and the clerk shall also transmit to the prothonotary of the appellate court named in the notice of appeal the concise statement of errors complained of on appeal required by subparagraph (a)(2) of this rule. The clerk shall also transmit with such **[papers] documents**:

[1.] (1) copies of all orders for transcripts relating to orders on appeal;

[2.] (2) a copy of any verified statement, application, or other document filed under Pa.R.A.P. 551—561 relating to *in forma pauperis*; and

[3.] (3) if the appeal is to the Supreme Court, the jurisdictional statement required by Pa.R.A.P. 909.

(c) *Fees.*—The appellant upon filing the notice of appeal shall pay any fees therefor (including docketing fees in the appellate court) prescribed by Chapter 27.

Official Note: To preserve a mailing date as the filing date for an appeal as of right from an order of the Commonwealth Court, see Pa.R.A.P. 1101(b).

[As to number of copies, see Pa.R.A.P. 124, note] To determine the number of copies to be filed, see Pa.R.A.P. 124(c) and its Official Note. The appellate

court portion of the filing fee will be transmitted pursuant to regulations adopted under 42 Pa.C.S. § 3502.

Rule 909. Appeals to the Supreme Court. Jurisdictional Statement. Sanctions. **Number of Copies to be Filed.**

(a) *General rule.*—Upon filing a notice of appeal to the Supreme Court, the appellant shall file with the prothonotary or clerk of the trial court a jurisdictional statement. The statement shall be in the form prescribed by **[Rule] Pa.R.A.P. 910(a) and (b)**. No statement need be filed in cases arising under Pa.R.A.P. 1941 (Review of Death Sentences).

(b) *Answer.*—Within 14 days after service of a jurisdictional statement, an adverse party may file with the Prothonotary of the Supreme Court **[an original and eight copies of]** an answer thereto in the form prescribed by **[Rule] Pa.R.A.P. 911**. The answer shall be deemed filed on the date of mailing if first class, express, or priority United States Postal Service mail is utilized. No separate motion to dismiss a jurisdictional statement will be received. A party entitled to file an answer 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 jurisdictional statement will not be filed. The failure to file an answer will not be construed as concurrence in the jurisdictional statement.

(c) *Action by the Supreme Court.*—After consideration of the jurisdictional statement and the brief in opposition thereto, if any, the Court will enter an appropriate order which may include summary dismissal for lack of subject matter jurisdiction. If the Supreme Court in its order notes probable jurisdiction or postpones consideration of jurisdiction to the hearing on the merits, the Prothonotary of the Supreme Court forthwith shall notify the court below and the attorneys of record of the noting or postponement, and the case will then stand for briefing and oral argument. In such case, the parties shall address the question of jurisdiction at the outset of their briefs and oral arguments.

(d) *Sanctions.*—If the court finds that the parties have not complied with **[Rules 909 through 911] Pa.R.A.P. 909—911**, it may impose appropriate sanctions including but not limited to dismissal of the action, imposition of costs or disciplinary sanction upon the attorneys.

(e) Number of copies to be filed.—To determine the number of copies to be filed, see Pa.R.A.P. 124(c) and its Official Note.

CHAPTER 11. APPEALS FROM COMMONWEALTH COURT AND SUPERIOR COURT

PETITION FOR ALLOWANCE OF APPEAL

Rule 1111. Form of **[Papers;] Documents**. Number of Copies **to be Filed**.

All **[papers] documents** filed under this chapter, other than under **[Rule] Pa.R.A.P. 1101** (appeals as of right from the Commonwealth Court), shall be prepared in the manner provided by **[Rule] Pa.R.A.P. 2171** (method of reproduction) through **[Rule] Pa.R.A.P. 2174** (tables of contents and citations). **[Eight copies shall be filed with the original.] To determine the number of copies to be filed, see Pa.R.A.P. 124(c) and its Official Note.**

Official Note: This rule does not apply to appeals taken under **[Rule] Pa.R.A.P. 1101** (appeals as of right

from the Commonwealth Court), since those appeals are taken pursuant to Chapter 9 (appeals from lower courts).

CHAPTER 13. INTERLOCUTORY APPEALS BY PERMISSION

Rule 1301. Form of [**Papers;**] **Documents.** Number of Copies **to be Filed.**

All [**papers**] **documents** filed under this chapter may be produced on a word processor/computer or typewriter. [**Eight copies shall be filed with the original in the Supreme Court. Six copies shall be filed with the original in the Superior Court. One copy and the original shall be filed in the Commonwealth Court.**] **To determine the number of copies to be filed, see Pa.R.A.P. 124(c) and its Official Note.**

[**Official Note:** Counsel are advised to check with the prothonotary of the appellate court before filing as the number of copies required may change from time to time without formal amendment of these rules.]

CHAPTER 17. EFFECT OF APPEALS; SUPERSEDEAS AND STAYS

STAY OR INJUNCTION IN CIVIL MATTERS

Rule 1732. Application for Stay or Injunction Pending Appeal. **Number of Copies to be Filed.**

(a) *Application to trial court.*—Application for a stay of an order of a 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 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 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 trial court for the relief sought is not practicable, or that the trial court has denied an application, or has failed to afford the relief which the applicant requested, with the reasons given by the 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 trial court. The application shall contain the certificate of compliance required by Pa.R.A.P. 127.

(c) *Number of copies to be filed.*—[**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.**] **To determine the number of copies to be filed, see Pa.R.A.P. 124(c) and its Official Note.**

Official Note: See generally *Pennsylvania Public Utility Commission v. Process Gas Consumers Group*, 467 A.2d 805 (Pa. 1983), for the criteria for the issuance of a stay pending appeal.

CHAPTER 21. BRIEFS AND REPRODUCED RECORD

FILING AND SERVICE

Rule 2187. Number of Copies [**to be Served and Filed**] **to be Filed and Served.**

[(a) *General rule.*—Unless the appellate court directs otherwise, each party shall file:

(1) 25 copies of each definitive brief and reproduced record in the Supreme Court;

(2) 15 copies of each definitive brief and five copies of each reproduced record in the Commonwealth Court;

(3) 7 copies of each definitive brief and reproduced record in the Superior Court.

Each party shall serve 2 copies of its definitive brief and reproduced record on every other party separately represented.

(b) *Advance text of briefs.*—If the record is being reproduced pursuant to Rule 2154(b) (large records) two copies of each brief without definitive reproduced record pagination shall be served on each party separately represented. Proof of service showing compliance with this rule (but not including the advance text of the brief) shall be filed with the prothonotary of the appellate court.

(c) *In forma pauperis.*—Unless the appellate court directs otherwise, a party who has been permitted to proceed in forma pauperis shall file:

(i) 15 copies of each definitive brief with the Supreme Court;

(ii) 15 copies of each definitive brief with the Commonwealth Court;

(iii) 7 copies of each definitive brief with the Superior Court.

Each party who has been permitted to proceed in forma pauperis shall serve one copy of each definitive brief on every other party separately represented.

Explanatory Note]

(a) *Filing.*—**To determine the number of copies to be filed, see Pa.R.A.P. 124(c) and its Official Note.**

(b) *Service.*

(1) *General rule.*—**A party shall serve one copy of its definitive brief and reproduced record on every other party separately represented.**

(2) *In forma pauperis.*—**A party proceeding in forma pauperis shall only serve one copy of each definitive brief on every other party separately represented. Pursuant to Pa.R.A.P. 2151(b), a party proceeding in forma pauperis is not required to reproduce the record.**

(3) *Advance text of briefs.*—**If the record is being reproduced pursuant to Pa.R.A.P. 2154(b) (large records) one copy of each brief without definitive reproduced record pagination shall be served on each party separately represented. Proof of service showing compliance with this rule, but not including the advance text of the brief, shall be filed with the prothonotary of the appellate court.**

Official Note: At the request of the appellate prothonotaries, it will no longer be necessary to file advance

copies (e.g., page proof) of the brief when service is made on the opposing party, but the requirement for the filing of a proof of such service is retained.

[Counsel are advised to check with the prothonotary of the appellate court before filing as the number of copies required may change from time to time without formal amendment of these rules.

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

Rule 2189. Reproduced Record in Cases Involving the Death Penalty.

(a) *Number of copies.*—Any provisions of these rules to the contrary notwithstanding, in all cases involving the death penalty, **[eight copies of]** the entire record shall be reproduced and filed with the prothonotary of the Supreme Court**[, unless the Supreme Court shall by order in a particular case direct filing of a lesser number]**. **To determine the number of copies to be filed, see Pa.R.A.P. 124(c) and its Official Note.**

(b) *Costs of reproduction.*—**[Appellant] The appellant**, or, in cases where **the** appellant has been permitted to proceed in *forma pauperis*, the county where the prosecution was commenced, shall bear the cost of reproduction.

(c) *Prior rules superseded.*—To the extent that this rule conflicts with provisions of **[Rule] Pa.R.A.P. 2151(a)**, **[Rule] Pa.R.A.P. 2152** (relating to necessity of reproduction of records); **[Rule] Pa.R.A.P. 2152** (relating to content of reproduced records); **[Rule] Pa.R.A.P. 2154(a)** (relating to designation of contents of reproduced records); **[Rule] and Pa.R.A.P. 2155** (allocating costs of reproduction of records)**[; and Rule 2187(a), (prescribing numbers of copies of reproduced record to be filed)]**, the same are superseded.

Official Note: The death penalty statute, 42 Pa.C.S. § 9711, provides that the Supreme Court Prothonotary must send a copy of the lower court record to the Governor after the Supreme Court affirms a sentence of death. The statute does not state who is responsible for preparing the copy. This amendment provides for preparation of the Governor's copy of the record before the record is sent to the Supreme Court.

CHAPTER 25. POST-SUBMISSION PROCEEDINGS

APPLICATION FOR REARGUMENT

Rule 2541. Form of **[Papers;] Documents**. Number of Copies **to be Filed**.

All **[papers] documents** relating to applications for reargument shall be prepared in the manner prescribed by **[Rule] Pa.R.A.P. 2171** (method of reproduction) through **[Rule] Pa.R.A.P. 2174** (table of contents and citations). **[An original and eight copies of each application for reargument shall be filed with the Supreme Court. An original and 23 copies of each application for reargument shall be filed with the Superior Court. An original and 11 copies of each application for reargument shall be filed with Commonwealth Court.] To determine the number of copies to be filed, see Pa.R.A.P. 124(c) and its Official Note.**

Official Note: This rule and the succeeding rules on reargument practice are patterned after the practice in **[Rules] Pa.R.A.P. 1111 et seq.** (petition for allowance of appeal).

[Counsel are advised to check with the prothonotary of the appellate court before filing as the number of copies required may change from time to time without formal amendment of these rules.]

PUBLICATION REPORT

The Appellate Court Procedural Rules Committee is considering proposing amendments to Pa.R.A.P. 124, 905, 909, 1111, 1301, 1732, 2187, 2189, and 2541 to direct practitioners to each appellate court's web page at www.pacourts.us for the number of copies of a document required for filing with that appellate court.

Currently, the Rules of Appellate Procedure specify the number of copies to be filed for a document. See, e.g., Pa.R.A.P. 124(c)(2) (requiring three copies of an application to be filed). Notwithstanding these specifications, each appellate court has the discretion to determine the number of copies required for filing. See the Official Notes to Pa.R.A.P. 1301, 2187, and 2541, which caution practitioners to consult the prothonotary's office of an appellate court before filing because the required number of copies may change from time to time without amendment of the rules.

Since technical requirements continually change, the Committee is proposing the amendment of Pa.R.A.P. 124(c) to require a party to file the number of copies as specified in (1) the "copy and fee requirements" found on each appellate court's web page, (2) correspondence from the court, or (3) a court order. The Official Note to Pa.R.A.P. 124 would be amended to provide the links to the specific web page for each appellate court's copy and fee requirements.

The proposed amendments of Pa.R.A.P. 905, 909, 1111, 1301, 1732, 2187, 2189, and 2541 delete any references to a specified number of copies to be filed. The Official Note of each rule is proposed to be amended to include a cross reference to Pa.R.A.P. 124(c) and its Official Note. Stylistic revisions to these rules are also proposed.

The Committee intends to consider similar amendments to number of copies requirements in Chapter 16 (Specialized Review) after those rules become effective.

All comments, concerns, and suggestions concerning this proposal are welcome.

[Pa.B. Doc. No. 20-1020. Filed for public inspection July 31, 2020, 9:00 a.m.]

**Title 231—RULES OF
CIVIL PROCEDURE**

PART I. GENERAL

[231 PA. CODE CH. 1915]

**Proposed Amendment of Pa.R.C.P. Nos. 1915.3-2,
1915.4-4, 1915.7 and 1915.10**

The Domestic Relations Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the amendment of Pa.R.C.P. Nos. 1915.3-2, 1915.4-4, 1915.7 and 1915.10 for the reasons set forth in the

accompanying publication 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:

Bruce J. Ferguson, Counsel
Domestic Relations Procedural Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
Fax: 717-231-9531
domesticrules@pacourts.us

All communications in reference to the proposal should be received by October 2, 2020. 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 Domestic Relations
Procedural Rules Committee*

WALTER J. McHUGH, Esq.,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1915. ACTIONS FOR CUSTODY OF MINOR CHILDREN

Rule 1915.3-2. Criminal Record or Abuse History.

[(a) *Criminal Record or Abuse History Verification*. A party must file and serve with the complaint, any petition for modification, any counterclaim, any petition for contempt or any count for custody in a divorce complaint or counterclaim a verification regarding any criminal record or abuse history of that party and anyone living in that party's household. The verification shall be substantially in the form set forth in subdivision (c) below. The party must attach a blank verification form to a complaint, counterclaim or petition served upon the other party. Although the party served need not file a responsive pleading pursuant to Rule 1915.5, he or she must file with the court a verification regarding his or her own criminal record or abuse history and that of anyone living in his or her household on or before the initial in-person contact with the court (including, but not limited to, a conference with a conference officer or judge or conciliation, depending upon the procedure in the judicial district) but not later than 30 days after service of the complaint or petition. A party's failure to file a Criminal Record or Abuse History Verification may result in sanctions against that party. Both parties shall file and serve updated verifications five days prior to trial.

(b) *Initial Evaluation*. At the initial in-person contact with the court, the judge, conference officer, conciliator or other appointed individual shall perform an initial evaluation to determine whether the existence of a criminal or abuse history of either party or a party's household member poses a threat to the child and whether counseling is necessary. The initial evaluation required by 23 Pa.C.S. § 5329(c) shall not be conducted by a mental health professional. After the initial evaluation, the court may order further evaluation or counseling by a mental health professional if the court determines it is necessary. Consistent with the best interests of the child, the court may enter a temporary custody order on behalf of a party with a criminal history or a party with a household member who has a criminal history, pending the party's or household member's evaluation and/or counseling.

Official Note: The court shall consider evidence of criminal record or abusive history presented by the parties. There is no obligation for the court to conduct an independent investigation of the criminal record or abusive history of either party or members of their household. The court should not consider ARD or other diversionary programs. When determining whether a party or household member requires further evaluation or counseling, or whether a party or household member poses a threat to a child, the court should give consideration to the severity of the offense, the age of the offense, whether the victim of the offense was a child or family member and whether the offense involved violence.]

(a) *Criminal Record/Abuse History Verification*.

(1) *Confidential Document*. A party's Criminal Record/Abuse History Verification form shall be confidential and shall not constitute a public record.

(2) *Plaintiff or Petitioner*. Contemperaneous with initiating a custody action or a contempt proceeding, the plaintiff or petitioner shall:

(i) complete and sign a Criminal Record/Abuse History Verification form;

Official Note: See subdivision (d) for the Criminal Record/Abuse History Verification form.

(ii) file the completed form and the complaint, petition, or counterclaim initiating the action or contempt proceeding with the prothonotary; and

(iii) serve on the defendant or respondent with the pleading initiating the custody action:

(A) his or her filed verification form; and

(B) a blank Criminal Record/Abuse History Verification form for the defendant or respondent to complete and file.

(3) *Defendant or Respondent*. After being served with a pleading initiating a custody action or contempt proceeding, the defendant or respondent shall:

(i) complete and sign the blank Criminal Record/Abuse History Verification form served with the initiating pleading;

(ii) file the completed form with the prothonotary before the initial in-person contact with the court

or within 30 days of service of the initiating pleading, whichever occurs first; and

(iii) serve his or her filed verification form on the plaintiff or petitioner.

(4) Updating Verification Form. A party shall complete, sign, file with the prothonotary, and serve on the other party an updated verification in the following circumstances.

(i) Pending Court Proceedings. At each of the following:

- (A) hearing;
- (B) pretrial conference; or
- (C) trial; or

(ii) After a Final Order. Provided the child remains subject to the court's jurisdiction, when a party knows the information on the most recently filed verification is inaccurate or has changed relative to him or her or his or her household member.

(5) Sanctions. A party's failure to file a Criminal Record/Abuse History Verification may result in sanctions against that party.

(b) Initial Evaluation.

(1) During the initial in-person custody proceeding, the judge, conference officer, conciliator, or other appointed individual shall evaluate whether a party or household member poses a threat to the child.

(i) In determining whether a party or household member poses a threat to the child or requires an additional evaluation or counseling, as provided in 23 Pa.C.S. § 5329(d)-(e), the judge, conference officer, conciliator, or other appointed individual shall consider:

(A) a party's Criminal Record/Abuse History Verification form; and

(B) other information or documentation of a party's or household member's criminal record or abuse history that are provided by a party.

(ii) To the extent a party or household member has a criminal record relating to an enumerated offense in 23 Pa.C.S. § 5329(a) or an abuse history, the judge, conference officer, conciliator, or other appointed individual shall consider:

- (A) the severity of the offense or abuse;
- (B) when the offense or abuse occurred;
- (C) if the victim was a child or family member; and
- (D) whether the offense or abuse involved physical violence.

(2) When the initial evaluation set forth in subdivision (b)(1) determines that a party or household member poses a threat to the child, the conference officer, conciliator, or other appointed individual conducting the evaluation may recommend to the judge, and the judge may order:

(i) a party or party's household member to undergo an additional evaluation or counseling by a mental health professional appointed by the court; or

(ii) temporary custody pending the additional evaluation or counseling, if it is in the child's best interest.

(c) Verification. The verification regarding criminal record or abuse history shall be substantially in the following form:

(Caption)

CRIMINAL RECORD/ABUSE HISTORY VERIFICATION

I _____, hereby swear or affirm[], subject to penalties of law including 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities] that:

[1. Unless indicated by my checking the box next to a crime below, neither I nor any other member of my household have been convicted or pled guilty or pled no contest or was adjudicated delinquent where the record is publicly available pursuant to the Juvenile Act, 42 Pa.C.S. § 6307 to any of the following crimes in Pennsylvania or a substantially equivalent crime in any other jurisdiction including pending charges:]

1. As to the following listed Pennsylvania crimes or offenses or other jurisdiction's substantially equivalent crimes or offenses, check the box(es) next to any applicable crime or offense in which you or a household member:

- has pleaded guilty or no contest;
- has been convicted;
- has charges pending; or
- has been adjudicated delinquent under the Juvenile Act, 42 Pa.C.S. §§ 6301—6375, and the record is publicly available as set forth in 42 Pa.C.S. § 6307.

A party should also identify a listed criminal offense even if the offense had been resolved by Accelerated Rehabilitative Disposition (ARD) or another diversionary program, had been expunged pursuant to 18 Pa.C.S. § 9122, or a court has entered an order for limited access, i.e., Clean Slate, pursuant to 18 Pa.C.S. §§ 9122.1 or 9122.2.

<i>Check all that apply</i>	<i>Crime</i>	<i>Self</i>	<i>Other household member</i>	<i>Date of conviction, guilty plea, no contest plea, or pending charges</i>	<i>Sentence</i>
<input type="checkbox"/>	18 Pa.C.S. Ch. 25 (relating to criminal homicide)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 2702 (relating to aggravated assault)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

<i>Check all that apply</i>	<i>Crime</i>	<i>Self</i>	<i>Other household member</i>	<i>Date of conviction, guilty plea, no contest plea, or pending charges</i>	<i>Sentence</i>
<input type="checkbox"/>	18 Pa.C.S. § 2706 (relating to terroristic threats)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 2709.1 (relating to stalking)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 2718 (related to strangulation)	<input type="checkbox"/>	<input type="checkbox"/>	=====	=====
<input type="checkbox"/>	18 Pa.C.S. § 2901 (relating to kidnapping)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 2902 (relating to unlawful restraint)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 2903 (relating to false imprisonment)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 2910 (relating to luring a child into a motor vehicle or structure)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 3121 (relating to rape)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 3122.1 (relating to statutory sexual assault)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 3124.1 (relating to sexual assault)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 3125 (relating to aggravated indecent assault)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 3126 (relating to indecent assault)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 3127 (relating to indecent exposure)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 3129 (relating to sexual intercourse with animal)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 3130 (relating to conduct relating to sex offenders)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 3301 (relating to arson and related offenses)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 4302 (relating to incest)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 4303 (relating to concealing death of child)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 4304 (relating to endangering welfare of children)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 4305 (relating to dealing in infant children)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 5902(b) (relating to prostitution and related offenses)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 5903(c) or (d) (relating to obscene and other sexual materials and performances)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 6301 (relating to corruption of minors)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 6312 (relating to sexual abuse of children)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

<i>Check all that apply</i>	<i>Crime</i>	<i>Self</i>	<i>Other household member</i>	<i>Date of conviction, guilty plea, no contest plea, or pending charges</i>	<i>Sentence</i>
<input type="checkbox"/>	18 Pa.C.S. § 6318 (relating to unlawful contact with minor)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 6320 (relating to sexual exploitation of children)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	Finding of contempt of a Protection from Abuse Order or agreement under 23 Pa.C.S. § 6114 [(relating to contempt for violation of protection order or agreement)]	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	Finding of contempt of a Protection of Victims of Sexual Violence and Intimidation order or agreement under 42 Pa.C.S. § 62A14	<input type="checkbox"/>	<input type="checkbox"/>	=====	=====
<input type="checkbox"/>	Driving under the influence of drugs or alcohol	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	Manufacture, sale, delivery, holding, offering for sale or possession of any controlled substance or other drug or device	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

[2. Unless indicated by my checking the box next to an item below, neither I nor any other member of my household have a history of violent or abusive conduct, or involvement with a Children & Youth agency, including the following:

<i>Check all that apply</i>	<i>Self</i>	<i>Other household member</i>	<i>Date</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____]

2. Check the box(es) next to the statements that apply to you, a household member, or your child.

<i>Check all that apply</i>	<i>Self</i>	<i>Household member</i>	<i>Child</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Check all that apply

- A history of "abuse" as that term is defined in the Protection from Abuse Act, 23 Pa.C.S. § 6102.
- A history of "sexual violence" or "intimidation" as those terms are defined in 42 Pa.C.S. § 62A03 (relating to Protection of Victims of Sexual Violence and Intimidation).

Self

Household member

Child

3. Please list any evaluation, counseling, or other treatment received following a conviction or finding of abuse:

4. If [any conviction above] you checked a box in (1) or (2) that applies to [a] your household member, who is not a party, state that person's name, date of birth, and relationship to the child.

5. If you are aware that the other party or [members of] the other party's household member has [or have] a criminal [record/abuse] record or abuse history, please explain:

I verify that the information above is true and correct to the best of my knowledge, information or belief. 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

Plaintiff/Defendant Signature

Printed Name

ONLY A PARTY CAN SIGN THIS FORM. IF A PARTY IS REPRESENTED BY AN ATTORNEY, THE ATTORNEY CANNOT SIGN THIS FORM ON BEHALF OF THE PARTY.

I certify that this filing complies with the provisions of the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania that require filing confidential information and documents differently than non-confidential information and documents.

Signature

Printed Name

(d) Child Abuse and Protective Services Involvement. A judicial district shall develop procedures by local rule, as necessary, for:

(1) obtaining the information required by 23 Pa.C.S. § 5329.1(a) from the county children and youth social service agency;

(2) distributing the information obtained in subdivision (d)(1) to the parties or the parties' counsel, as appropriate, while ensuring that sharing confidential reports and information is consistent with the law, including 23 Pa.C.S. § 6340; and

(3) introducing the relevant information into evidence at a hearing or trial, including authenticating witness testimony.

Comment—2020

There is no obligation for the court to conduct an independent investigation of a party's or his or her household member's criminal record or abuse history.

Subdivision (a)(1) provides that the Criminal Record/Abuse History Verification form is a confidential document under the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania. A party with a criminal offense expunged or granted limited access is generally not required to disclose such information. See 18 Pa.C.S. § 9122.5. However, the Verification form requires a party to disclose this information, including the information of a household member. Although most of the listed offenses would be ineligible for expungement or limited access due to

the severity and nature of the criminal offense, some listed criminal offenses could be expunged or subject to limited access. As such, to avoid inadvertently disclosing this information to individuals not associated with the court or the custody litigation, the rule deems the Verification form a confidential document under the *Public Access Policy*.

Additionally, a requirement for the parties to update the Verification form has been added in subdivision (a)(4). The rule’s intent is for the court and parties to have the most current information available, including after a final order—provided the child remains under the court’s jurisdiction. Although the rule provides for the filing of an amended Verification form at a hearing, pretrial conference, or trial, the terminology used by a judicial district may vary for these court proceedings.

Subdivision (d) requires a judicial district to develop local rules for obtaining, distributing, and introducing into evidence information from the county children and youth social service agency. In a judicial district with a “one family—one judge” policy or in a county in which a judge presides over the custody and dependency cases, a local rule may not be necessary as provided in subdivision (d) as the judge will have access to the requisite Section 5329.1 information as set forth in 23 Pa.C.S. §§ 5328(a)(2.1) and 5329(a). In contrast, a local procedure may be necessary in a judicial district in which the juvenile dependency court’s information and the county children and youth social service agency’s file are not readily accessible to a custody court judge who is not directly involved in the juvenile dependency case.

In several counties, judicial districts have developed forms to elicit the appropriate Section 5329.1 information from the children and youth social service agency. In a judicial district using such a form, the court should ensure that the information or documentation obtained from the agency, which may be confidential, is handled in accordance with applicable laws related to the distribution of confidential information and the Pennsylvania Rules of Evidence.

The Verification form has been updated to include a new criminal offense, 18 Pa.C.S. § 2718 (relating to strangulation), which was added to 23 Pa.C.S. § 5329 in Act 32 of 2020 (effective August 4, 2020). In addition, the Verification form has been amended to require the disclosure of a finding of contempt related to a Protection of Victims of Sexual Violence and Intimidation Order under 42 Pa.C.S. § 62A14. The form already required the disclosure of a finding of contempt in a PFA action.

Rule 1915.4-4. Pre-Trial Procedures.

* * * * *

(e) At the pre-trial conference, the court shall consider the following [shall be considered]:

- (1) issues for resolution by the court;
- (2) unresolved discovery matters;
- (3) [**any**] agreements of the parties;
- (4) issues relating to expert witnesses;
- (5) settlement [**and/or**] or mediation of the case;

(6) a party’s or household member’s criminal record or abuse history or a party’s, household member’s, or child’s involvement with the juvenile dependency court or the children and youth social service agency as outlined in 23 Pa.C.S. §§ 5329 and 5329.1, including the admissibility of related documents, other evidentiary issues, or testimony;

(7) such other matters as may aid in the disposition of the case; and

[(7)] (8) if a trial date has not been scheduled, [it shall be scheduled] the court shall schedule the trial at the pre-trial conference.

* * * * *

Rule 1915.7. Consent Order.

If the parties have an agreement regarding custody and request that the court enter a consent order incorporating the agreement’s terms:

(a) the parties shall submit to the court a proposed custody order bearing the parties’ written consent; or

(b) the parties may state the agreement on the record, provided that:

(1) within ten days of placing the agreement on the record, the parties comply with subdivision (a); or

(2) the court memorializes the oral agreement from the record into a written custody order.

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 *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*.

[See Pa.R.C.P. No. 1915.10(b) regarding written custody order requirements.]

* * * * *

Rule 1915.10. Decision. Order.

(a) The court may make the decision before the testimony has been transcribed. The court shall state the reasons for its decision on the record in open court or in a written opinion or order.

[*Official Note:* See 23 Pa.C.S. § 5323(d).]

(b) The court shall enter a custody order as a separate written order or in a separate section of a written opinion.

(1) The court’s order shall state sufficiently specific terms to enforce the order.

(2) If the court has made a finding that a party or child is at risk of harm, the court’s order shall include safety provisions for the endangered party’s or child’s protection.

(c) A custody order shall include a notice outlining the parties’ obligations under:

(1) 23 Pa.C.S. § 5337, regarding a party’s intention to relocate with a minor child; **and**

[*Official Note:* See 23 Pa.C.S. § 5323(c) and Pa.R.C.P. No. 1915.17.]

(2) Pa.R.C.P. No. 1915.3-2(a)(4)(ii), regarding a party’s ongoing obligation to complete, file, and serve the Criminal Record/Abuse History Verification form.

(d) A party may not file a motion for post-trial relief to an order of legal or physical custody.

* * * * *

Comment—2020

Similar to the rule’s requirement that the court include in a custody order provide a notice to the parties of his or her obligation with regard to relocation, the rule now provides that the custody court order contain a notice to the parties notifying him or her of the ongoing obligation to update the Criminal Record/Abuse History Verification form. Under no circumstances does a party filing an updated Verification form impose a duty on the court to respond or react to a newly revealed criminal record or abuse history absent another party petitioning the court for relief.

REPUBLICATION REPORT

Rule Proposal 154

The Domestic Relations Procedural Rules Committee (“Committee”) is proposing amendments to Pa.R.C.P. No. 1915.3-2, Criminal Record or Abuse History, Pa.R.C.P. No. 1915.4-4, Pre-Trial Procedures, Pa.R.C.P. No. 1915.7—Consent Order, and Pa.R.C.P. No. 1915.10—Decision. Order. Initially, Act 107 of 2013, effective January 1, 2014, prompted the Committee to discuss rule amendments to further those legislative changes, which included directing custody courts to consider child abuse and the involvement of a party, household member, or child with a child protective services agency when determining child custody under 23 Pa.C.S. §§ 5321—5340. Furthermore, Act 107 amended not only Title 23 as it relates to child custody, but also the Child Protective Services Law, 23 Pa.C.S. §§ 6301—6375, and the Juvenile Act, 42 Pa.C.S. §§ 6301—6375. Act 107 directed the Department of Public Welfare, now the Department of Human Services (DHS), the local county children and youth social services agency (CYS), and the court of common pleas to cooperate with the exchange of information that is necessary for a court to determine child custody.

As it relates to child custody determinations, Act 107 provided statutory changes requiring inter-branch cooperation between family courts and DHS, including CYs, for sharing reports and other information of families and children involved with CYs and a custody court. The information sharing is necessary for a custody court to determine the amended factors in 23 Pa.C.S. §§ 5328(a)(2.1) and 5329.1(a). These statutory changes also provide a number of procedural and evidentiary problems.

First, child custody proceedings are adversarial, and the parties are required to present evidence in support of his or her claim for custody, which address the Section 5328 factors, including (a)(2.1). Often the custody litigants are not the dependency action litigants (e.g., grandparents, other third parties). Those litigants may not have access to juvenile court records and CYs files, which may have relevancy in the custody action. Moreover, some dependency and CYs information or reports are confidential and, as such, a custody litigant may be precluded from obtaining evidence relevant to the custody action.

Second, the Act amends the Child Protective Services Law and Juvenile Act by granting courts of common pleas access to reports, files, and court records that would assist the court in determining custody. Allowing the custody judge access to CYs information and files places the judge in an investigative rather than an adjudicative

role. Previous published versions of this Rule Proposal had many comments objecting to this judicial investigative role.

Complicating matters are the varying judicial district court procedures for custody cases and juvenile dependency cases. In judicial districts in which a judge may hear both custody and dependency cases or the judicial district is “one family one judge,” the issues are less problematic since the custody court often would have knowledge of the parties’ or child’s involvement with CYs and dependency court. Additionally, the court would already have access to the dependency case records and files, and may have conducted hearings in which this information had been entered as evidence. However, even in these judicial districts, the issue of how CYs and dependency court information will be entered into evidence in the custody action is still problematic in many circumstances, as is third-party litigants accessing confidential CYs reports and information.

On three occasions, the Committee published for public comment in the *Pennsylvania Bulletin* a variation of this Rule Proposal. See 46 Pa.B. 3932 (July 23, 2016), 47 Pa.B. 3333 (June 17, 2017), and 49 Pa.B. 3469 (July 6, 2019). After reviewing comments from the most recent publication and additional Committee deliberations, the Committee has substantially revised the previous proposal, and the Committee is now republishing the Rule Proposal for public comment.

Initially, the Committee proposes reformatting Pa.R.C.P. No. 1915.3-2 into an outline format rather than the current narrative format. The current Rule Proposal significantly restructures the rule. The Committee believes this format is more easily understood and followed, especially in rules in which there are numerous procedural parts. As such, subdivisions (a) and (b) have been completely rewritten. The rule revision includes the current rule’s narrative provisions reformatted and enumerated into distinct subdivisions with additional provisions detailing when the parties must update the Criminal Records/Abuse History Verification form and addressing sanctions for failure to file the form.

Of significance, the Committee believes that it is critical that the court have the most current information on the parties and household member’s criminal record and abuse history to properly determine custody. As such, the Rule Proposal provides that the party’s shall have the ongoing obligation for updating the Verification form so that the parties and the court have current and accurate information so they can understand any potential threats of harm to the child. The Rule Proposal requires the parties to update the Verification form at each hearing, pretrial conference, or trial and after a final order, if the court has jurisdiction over the child, when a party’s or household member’s circumstances have changed relative to the required disclosures, which would impact the most recently filed Verification form’s accuracy.

Finally, as it relates to Pa.R.C.P. No. 1915.3-2(b), the Committee has deleted the Note following the current rule text and, instead, incorporated the relevant portions into the rule text. The Committee determined that the Note’s information would be better suited and have greater significance in practice by its inclusion into the rule text.

Also, the Committee proposes adding subdivision (d) to Pa.R.C.P. No. 1915.3-2, which will require judicial districts to develop local rules/procedures for obtaining the requisite information from CYs and the dependency

courts, as appropriate. As set forth in the accompanying Comment, the variation in judicial district procedures in custody and juvenile dependency cases makes a “one-size fits all” statewide rule difficult and impractical. The Committee’s deliberations suggested that the local courts were in a better position to develop procedures between two court divisions and a county agency.

Another statutory change impacting Pa.R.C.P. No. 1915.3-2 is a recent amendment to 23 Pa.C.S. § 5329. Act 32 of 2020 (effective August 4, 2020) amends Section 5329 and adds 18 Pa.C.S. § 2718 (related to strangulation) to the list of criminal offenses that the court must consider in awarding custody. The Committee proposes amending the Criminal Record/Abuse History Verification form to include that statutory amendment along with adding contempt of Protection of Victims of Sexual Violence and Intimidation order or agreement to the list of offenses included on the form.

As noted above, the Rule Proposal includes amendments to Pa.R.C.P. Nos. 1915.4-4, 1915.7, 1915.10. With regard to Rule 1915.4-4, the proposed amendment would require that the court address the parties’ criminal record or abuse history at a pre-trial conference. In addition, the proposed amendment would require the court to address the admissibility of the CYS documents and information and other related evidentiary issues, including authenticating CYS witness testimony, during a pretrial conference, as well.

Finally, the Committee proposes amending Rule 1915.10(c) by adding a provision requiring that the court’s custody order include a notice outlining the parties’ ongoing obligation to update the Verification form post-final order. The Committee reasoning in proposing this obligation is that often after a final order one party’s circumstances change that are unknown to the other party, which could have significant impact on the child and the child’s best interest. By requiring a party to update the Verification when his or her circumstances (or his or her household member’s circumstances) warrant, the other party can obtain information and assess whether a modification of the order is necessary. This requirement is fashioned after a similar relocation notice requirement. As proposed, subdivision (c) is subdivided so that both requirements, relocation and updating verifications, are in separate subdivisions.

The DRPRC invites comments, concerns, and suggestions regarding this rulemaking proposal.

[Pa.B. Doc. No. 20-1021. Filed for public inspection July 31, 2020, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 1915]

Proposed Amendment of Pa.R.C.P. No. 1915.11

The Domestic Relations Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania an amendment to Pa.R.C.P. No. 1915.11 for the reasons set forth in the accompanying publication 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:

Bruce J. Ferguson, Counsel
Domestic Relations Procedural Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
Fax: 717-231-9531
domesticrules@pacourts.us

All communications in reference to the proposal should be received by October 2, 2020. 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 Domestic Relations
Procedural Rules Committee*

WALTER J. MCHUGH, ESQ.,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1915. ACTIONS FOR CUSTODY OF MINOR CHILDREN

Rule 1915.11. [**Appointment of Attorney for Child. Interview of Child. Attendance of Child at Hearing or Conference.**] **Appointment of Attorney for Child. Child Interview by the Court. Child Attending Court Proceedings.**

[(a) **The court may on its own motion, or the motion of a party, appoint an attorney to represent the child in the action. Counsel for the child shall represent the child’s legal interests and zealously represent the child as any other client in an attorney-client relationship. Counsel for the child shall not perform the role of a guardian *ad litem* or best interests attorney. The court may assess the cost of the child’s attorney upon the parties in such proportions as the court deems appropriate or as otherwise provided by law. The order appointing an attorney to represent the child shall be in substantially the form set forth in Pa.R.C.P. No. 1915.19.**

(b) **The court may interview a child, whether or not the child is the subject of the action, in open court or in chambers. The interview shall be conducted in the presence of the attorneys and, if permitted by the court, the parties. The attorneys shall have the right to interview the child under the supervision of the court. The interview shall be part of the record.**

(c) **Unless otherwise directed by the court, the child who is the subject of the action shall not be required to attend a hearing before the court or a conference.**

Official Note: A party may bring a child to a conference or hearing but, in the absence of an order of court, is not required to do so.

Explanatory Comment—1991

Rule 1915.15(b) provides a form of order to appear at a conference or hearing in an action for custody, partial custody or visitation of minor children. Prior to its recent amendment, the form required that one or more children who are the subject of the action attend the hearing or conference.

However, the presence of a child in court is not always necessary or desirable. The experience may be traumatic and disruptive. Consequently, the child should not be required to attend a hearing or conference in every case. When the presence of a child is required and the custodial party does not voluntarily bring the child, the court may issue an order for the child's attendance.

Subdivision (c) has been added to Rule 1915.11 to provide that, in the absence of an order of court, a child who is the subject of the action need not be brought to a conference or a hearing before the court. The form of order to appear provided by Rule 1915.15(b) has been revised to implement this policy.]

(a) Appointment of Attorney for Minor Child.

(1) Upon its own motion or a motion of a party, the court may appoint an attorney to represent a child, who is the subject of the action.

(2) The court may apportion the cost of the child's attorney to the parties.

(3) The order appointing the child's attorney shall be substantially in the form in Pa.R.C.P. No. 1915.19.

(4) The child's attorney:

(i) shall represent the child's legal interest;

(ii) shall zealously represent the child as any other client in an attorney-client relationship; and

(iii) shall not act as the child's guardian ad litem or best interest attorney.

Official Note: See Pa.R.C.P. No. 1915.11-2 for the appointment of a guardian ad litem.

(b) Child Interview by the Court.

(1) The court shall interview the child, along with other minor children who are called to testify in the action, in open court or in chambers and on the record.

(i) Except as provided in (b)(1)(ii), a party and his or her attorney may observe the interview.

(ii) A party may waive observation of the interview, including by his or her attorney.

(iii) During the interview, the court shall permit a party's attorney or a self-represented party to either:

(A) question the child under the court's supervision; or

(B) submit written questions to the court, which the court may include in its interview.

(2) The court shall include the transcript of the interview in the record.

(c) Child Attending Court Proceedings. A child's attendance at a court proceeding, e.g., conference, hearing, or trial, is not required unless the court orders the child to attend the proceeding.

COMMENT—2020

Subdivision (b) permits a party or his or her attorney to observe the child interview process, which the party may waive. The rule further provides the court with an alternative to live questioning of the child by the attorney or self-represented party through submission of written questions to the court for the child's interview. This alternative participation would obviate circumstances in which the court determines that the attorney or self-represented party directly questioning the child could intimidate or otherwise adversely impact the child or the court's ability to acquire information from the child. As the rule provides that the questioning is under the court's supervision, the court has the ability to address inappropriate questions or conduct by the attorney or self-represented party during the interview process.

PUBLICATION REPORT

Rule Proposal 178

The Domestic Relations Procedural Rules Committee (Committee) is proposing an amendment to Pa.R.C.P. No. 1915.11. This rule addresses the appointment of an attorney for a child in a custody case, the child interview by the court, and children attending various court proceedings.

The Committee received correspondence suggesting the current rule infringes upon a self-represented party's ability to represent himself or herself by not permitting the self-represented party to participate in the child interview in the same manner as a represented party through his or her counsel. The Rule Proposal's primary purpose is amending subdivision (b) by allowing a self-represented party to directly participate in the child's interview. As in the current rule, the proposed rule requires the court to supervise the questioning of the child by a party's attorney or a self-represented party, which should ensure that inappropriate questions or behavior by a litigant or an attorney can be promptly addressed by the court.

Currently, Pa.R.C.P. No. 1915.11(b) provides that the court may interview the child in the presence of the parties' attorneys and, if the court permits, the parties. This aspect of the rule is unchanged, and the provision is rewritten into subdivision (b)(1)(i). Also, the Committee is proposing adding a waiver provision into subdivision (b)(1)(ii) in which a party may waive not only his or her observation of the child's interview, but also his or her attorney's observation. In practice, the parties and counsel often agree to not observe the child's interview to allow for a more fruitful and honest discussion between the court and the child. Proposed subdivision (b)(1)(ii) essentially codifies that current practice.

More significantly, however, the Rule Proposal incorporates and modifies the current rule's provision of permitting an attorney to interview the child under the court's supervision into subdivision (b)(1)(iii). The current rule permits only an attorney to interview the child. The Rule Proposal would allow a self-represented party the same

opportunity do so under the court's supervision. The Committee is cognizant of the potential problems associated with a parent or third party questioning a child; however, the few cases in which this becomes an issue should not thwart a self-represented party's ability to represent himself or herself, especially when the court supervises the interview. Moreover, the Committee is cognizant that a self-represented party has the same rights as a represented party and, as such, should be afforded the same opportunity to interview the child. Furthermore, as a self-represented party is obligated to understand the rules and the law and conduct himself or herself in the same manner as an attorney, it would seem incompatible to that requirement for this rule to hinder a party's ability to self-represent by not permitting the party to question the child. *See Rich v. Acrivos*, 815 A.2d 1106 (Pa. Super. 2003).

To help the court manage the child's interview by the attorneys or parties, the proposed rule provides that in lieu of live questioning of the child by the attorneys or parties, the court may request that a party or the party's attorney provide the court with questions for the child that the court may include in its interview. Similar to subdivision (b)(1)(ii), the Committee is essentially codifying this common practice into subdivision (b)(1)(iii).

Finally, the current rule's subdivisions (a) and (c) are substantively unchanged, but the Committee is proposing rewriting these narrative subdivisions into an outline format. As a result, Pa.R.C.P. No. 1915.11 is rewritten in its entirety.

Accordingly, the Committee invites all comments, objections, concerns, and suggestions regarding this proposed rulemaking.

[Pa.B. Doc. No. 20-1022. Filed for public inspection July 31, 2020, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CHS. 2 AND 3]

Proposed Amendments of Pa.R.J.C.P. 240 and 391

The Juvenile Court Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pennsylvania Rules of Juvenile Court Procedure 240 and 391 clarifying procedures to permit the extended detention of a juvenile when procedural requirements are not met 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:

Daniel A. Durst, Chief Counsel
 Juvenile Court Procedural Rules Committee
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All communications in reference to the proposal should be received by September 15, 2020. 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 Juvenile Court
 Procedural Rules Committee

JUDGE JOY REYNOLDS McCOY,
 Chair

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart A. DELINQUENCY MATTERS

CHAPTER 2. COMMENCEMENT OF PROCEEDINGS, ARREST PROCEDURES, WRITTEN ALLEGATION, AND PRE-ADJUDICATORY DETENTION

PART D. PRE-ADJUDICATORY DETENTION

Rule 240. Detention of Juvenile.

A. *Detention [requirements] Requirements.* If a juvenile is brought before the court or delivered to a detention facility designated by the court, the juvenile probation officer immediately shall:

- 1) examine the written allegation;
- 2) make an investigation, which may include an intake conference with the juvenile, the juvenile's attorney, guardian, or other interested and informed adult; and
- 3) release the juvenile, unless it appears that the juvenile's detention is warranted.

B. *Filing of [petition] Petition.* The release of the juvenile shall not prevent the subsequent filing of a petition.

C. *Prompt [hearing] Hearing.* If the juvenile is not released, a detention hearing shall be held no later than [**seventy-two**] **72** hours after the juvenile is placed in detention. Neither the juvenile nor the juvenile's attorney shall be permitted to waive the detention hearing.

D. *Time [restrictions] Restrictions.* Except as provided in [**paragraphs (D)(1) and (D)(2)**] **this paragraph**, if the adjudicatory hearing is not held [**or notice of request for transfer is not submitted within the ten-day period as specified in Rules 391 and 404**], **as required by Rule 404(A), or a transfer hearing is not held, as required by Rule 391(B)**, the juvenile shall be released.

1) [**A**] **Upon motion, a** juvenile may be detained for an additional single period not to exceed [**ten**] **10** days when the court determines that:

- a) evidence material to the case is unavailable;
- b) due diligence to obtain such evidence has been exercised; **and**
- c) there are reasonable grounds to believe that such evidence will be available at a later date[; and].

[d) the detention of the juvenile would be warranted.]

2) **[A] Upon motion, a juvenile may be detained for [successive ten-day intervals] additional periods, each of which shall not exceed 10 days,** if the delay is caused by the juvenile. The court shall state on the record if failure to hold the hearing resulted from delay caused by the juvenile. Delay caused by the juvenile shall include, but not be limited to:

- a) delay caused by the unavailability of the juvenile **[or the juvenile's attorney]**;
- b) delay caused by any continuance granted at the request of the juvenile **[or the juvenile's attorney]**; or
- c) delay caused by the unavailability of a witness resulting from conduct by or on behalf of the juvenile.

3) Whenever extended detention is sought under this paragraph, the court shall consider whether detention remains warranted.

Comment

If a juvenile is detained, the guardian should be notified immediately. See Rules 220 (Procedure in Cases Commenced by Arrest Without Warrant) and 313(B) (Detention from Intake—Notice to Guardian) for notification of the guardian.

Nothing in paragraph (C) is intended to preclude the use of stipulations or agreements among the parties, subject to court review and acceptance at the detention hearing.

Under paragraph (D)(2), if the juvenile causes delay, the juvenile may continue to be held in detention. **[The additional period] Additional periods** of detention should not **individually** exceed ten days. **[The court may continue such detention for successive ten-day intervals if the juvenile caused the delay.]** The time restrictions of paragraph (D) apply to a juvenile who is placed in detention, even if previously released.

[For time restrictions on detention for juveniles scheduled for a transfer hearing to criminal proceedings, see Rule 391.]

Under paragraph (D)(3), whenever extension of a juvenile's detention may result, the court should consider whether continued detention is warranted and whether a less restrictive alternative to secured detention is available.

For statutory provisions on detention, see 42 Pa.C.S. §§ 6325, 6331, 6335. For the Juvenile Court Judges Commission's Detention Standards, see 37 Pa. Code §§ 200.101 *et seq.* (2003).

If a juvenile is detained, the juvenile is to be placed in a detention facility, which does not include a county jail or state prison. See Rule 120 and its Comment for definition of "detention facility."

CHAPTER 3. PRE-ADJUDICATORY PROCEDURES

PART G. TRANSFER FOR CRIMINAL PROSECUTION

Rule 391. Time Restrictions for Detention of Juveniles Scheduled for Transfer Hearing.

A. *Generally.* The detention requirements of Rules 240, 241, 242, and 243 shall be followed for juveniles scheduled for a transfer hearing **[except for the time restrictions provided in paragraph (B) of this rule].**

B. *Time Restrictions.* If the transfer hearing is not held within ten days of the filing of the notice of request for transfer to criminal proceedings, the juvenile shall be released **[except as provided in paragraphs (B)(1) and (B)(2)] unless the exceptions of Rule 240(D) apply.**

[1) A juvenile may be detained for an additional single period not to exceed ten days when the court determines:

- a) that evidence material to the case is unavailable, including a psychological or psychiatric evaluation;
- b) that due diligence to obtain such evidence or evaluation has been exercised;
- c) that there are reasonable grounds to believe that such evidence or evaluation will be available at a later date; and
- d) that the detention of the juvenile would be warranted.

2) A juvenile may be detained for successive ten-day intervals if the result of delay is caused by the juvenile. The court shall state on the record if failure to hold the hearing resulted from delay caused by the juvenile. Delay caused by the juvenile shall include, but not be limited to:

- a) delay caused by the unavailability of the juvenile or the juvenile's attorney;
- b) delay caused by any continuance granted at the request of the juvenile or the juvenile's attorney; or
- c) delay caused by the unavailability of a witness resulting from conduct by or on behalf of the juvenile.]

Comment

The filing of a request for transfer to criminal proceedings resets the ten-day clock for a hearing for the juvenile in detention. The transfer hearing is to be held within ten days of the filing of a request for transfer to criminal proceedings, not ten days from the date of detention for the juvenile. This time requirement is different than the time requirement for the adjudicatory hearing under Rule 240(D). See Rule 800.

[Under Paragraph (B)(1), the case may be extended for only one single period of ten days. However, under paragraph (B)(2) when the juvenile causes delay, the case may be extended for successive ten-day intervals.]

* * * * *

REPORT

Proposed Amendment of Pa.R.J.C.P. 240 and 391

The Juvenile Court Procedural Rules Committee proposes the amendment of Pennsylvania Rules of Juvenile

Court Procedure 240 and 391 to clarify procedures to permit the extended detention of a juvenile when procedural requirements are not met.

First, Rule 391(B) states “if the transfer hearing is not held within ten days of the filing of the notice of request for transfer to criminal proceedings, the juvenile shall be released except as provided in paragraphs (B)(1) and (B)(2).” The text of paragraphs (B)(1) and (B)(2) are almost identical to Rule 240(D) with the exception of “including a psychological or psychiatric evaluation” in paragraph (B)(1)(a). Rather than repeat the language of Rule 240(D), the Committee proposes removing the language from Rule 391(B)(1) and B(2) and simply refer the reader to Rule 240(D). A similar approach has already been taken with Rule 404(A).

Second, Rule 240(D) states “except as provided in paragraph (D)(1) and (D)(2), if the adjudicatory hearing is not held or notice of request for transfer is not submitted within the ten-day period as specified in Rules 391 and 404, the juvenile shall be released.” It has become apparent to the Committee that the triggering event for continued detention when a transfer is initiated differs between Rule 391(B) and Rule 240(D). Rule 391(B) is triggered when a transfer hearing is untimely whereas Rule 240(D) is triggered when the notice of request for a transfer hearing is untimely.

The Committee believes that the triggering event under Rule 391(B) should be the transfer hearing, not the notice. Therefore, the Committee proposes amending Rule 240(D) to include the transfer hearing and remove mention of the notice.

Third, the Committee proposes introducing a motion requirement to paragraph (D). This requirement is not separate from that for seeking a continuance, but part of a motion for continuance pursuant to Rule 122. The Committee also proposes expanding the court’s consideration of the necessity for continued detention anytime that continued detention is sought. Finally, the Committee proposes removing the juvenile’s attorney as a cause for the juvenile’s continued detention.

The Committee invites all comments, concerns, and suggestions regarding this rulemaking proposal.

[Pa.B. Doc. No. 20-1023. Filed for public inspection July 31, 2020, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CHS. 5 AND 6]

Proposed Amendment of Pa.R.J.C.P. 515, 610 and 632

The Juvenile Court Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pennsylvania Rules of Juvenile Court Procedure 515, 610, and 632 concerning the imposition of financial obligations on juveniles at the time of disposition 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:

Daniel A. Durst, Chief Counsel
 Juvenile Court Procedural Rules Committee
 Supreme Court of Pennsylvania
 Pennsylvania Judicial Center
 PO Box 62635
 Harrisburg, PA 17106-2635
 FAX: 717-231-9541
 juvenilerules@pacourts.us

All communications in reference to the proposal should be received by September 15, 2020. 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 Juvenile Court
 Procedural Rules Committee*

JUDGE JOY REYNOLDS McCOY,
Chair

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart A. DELINQUENCY MATTERS

CHAPTER 5. DISPOSITIONAL HEARING

PART B. DISPOSITIONAL HEARING AND AIDS

Rule 515. Dispositional Order.

A. *Generally.* When the court enters a disposition after an adjudication of delinquency pursuant to Rule 409(A)(2), the court shall issue a written order, which provides balanced attention to the protection of the community, accountability for the offenses committed, and development of the juvenile’s competencies to enable the juvenile to become a responsible and productive member of the community. The order shall include:

- 1) the court’s findings pursuant to Rule 512(D);
- 2) a designation whether the case is eligible pursuant to 42 Pa.C.S. § 6307(b)(1.1)(i) for limited public information;
- 3) a directive that the juvenile shall submit to fingerprinting and photographing by, or arranged by, the law enforcement agency that submitted the written allegation in all cases in which the juvenile has not previously been fingerprinted or photographed;
- 4) the date of the order; and
- 5) the signature and printed name of the judge entering the order.

B. [*Restitution. If restitution is ordered in a case, the*] **Financial Obligations. If the court orders the payment of fines, costs, fees, or restitution, the amounts shall be reasonable and as part of a plan of rehabilitation considering the nature of the acts committed and the earning capacity of the juvenile.** The dispositional order shall include:

1) [a specific amount] the specific amounts of fines, costs, fees, or restitution to be paid by the juvenile;

2) to whom the [restitution] financial obligations shall be paid; and

3) a payment schedule[, if so determined by the court] based upon the juvenile's ability to pay.

C. *Guardian [participation] Participation.* The dispositional order shall include any conditions, limitations, restrictions, and obligations imposed upon the guardian.

D. *Disposition [reporting] Reporting.* The court shall forward the case disposition to the Juvenile Court Judges' Commission, as required by the Commission.

Comment

Pursuant to paragraph (A)(2), the court is to determine if the case is eligible for limited public information under the requirements of 42 Pa.C.S. § 6307(b)(1.1)(i). See 42 Pa.C.S. § 6307(b)(2). When the case is designated, the clerk of courts is to mark the file clearly. For information that is available to the public in those eligible cases, see Rule 160.

See 23 Pa.C.S. § 5503 and 42 Pa.C.S. §§ 6308, 6309 & 6310.

[**Dispositional orders should comport in substantial form and content to the Juvenile Court Judges' Commission model orders to receive funding under the federal Adoption and Safe Families Act (ASFA) of 1997 (P.L. 105-89). The model forms are also in compliance with Title IV-B and Title IV-E of the Social Security Act. For model orders, see <http://www.jcjc.state.pa.us> or <http://www.dpw.state.pa.us> or request a copy on diskette directly from the Juvenile Court Judges' Commission, Room 401, Finance Building, Harrisburg, PA 17120.**]

Pursuant to paragraph (B), financial obligations may be imposed as a plan of rehabilitation consistent with the goals of balanced and restorative justice: 1) the protection of the community; 2) the imposition of accountability for offenses committed; and 3) the development of competencies to enable the juvenile to become a responsible and productive member of the community. See 42 Pa.C.S. § 6352(a).

In determining the amount of the financial obligation pursuant to paragraph (B), the judge may include a contribution to a restitution fund. See 42 Pa.C.S. § 6352(a)(5). A juvenile's earning capacity can be determined by examining factors including, but not limited to, the juvenile's physical and intellectual capabilities, maturity, education, work history, availability of suitable employment, and the priority of other uses of earnings, including essential goods and services, dependents, and the pursuit of higher education. The primary purpose of a financial obligation should be the juvenile's rehabilitation, not the juvenile's punishment or the victim's recompense. See generally *Commonwealth v. Petrick*, 217 A.3d 1217 (Pa. 2019). The satisfaction of a financial obligation using third party funds does not further a juvenile's rehabilitation.

Assuming the court finds the juvenile has a sufficient earning capacity to impose a reasonable financial obligation, the court should determine the

juvenile's ability to pay the financial obligation pursuant to paragraph (B)(3). In determining a payment schedule, the court should include the frequency, amount, and duration of payments. A juvenile with a present ability to satisfy a financial obligation should be placed on an immediate and full payment schedule.

When a disposition is no longer consistent with the goals of balanced and restorative justice, a juvenile's plan of rehabilitation may be changed through a dispositional review hearing and modification of dispositional order, including an adjustment of financial obligations. See Rule 610(A)-(B).

The court shall retain jurisdiction over the juvenile until the financial obligation has been satisfied, the juvenile attains 21 years of age, or supervision has otherwise been terminated. See 42 Pa.C.S. § 6352(a)(5); see also Rule 632 (Early Termination of Court Supervision by Motion).

Official Note: Rule 515 adopted April 1, 2005, effective October 1, 2005. Amended August 20, 2007, effective December 1, 2007. Amended July 28, 2009, effective immediately. Amended December 24, 2009, effective immediately. Amended April 29, 2011, effective July 1, 2011. Amended February 13, 2019, effective June 28, 2019. Amended , 2020, effective , 2020.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 515 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 515 published with the Court's Order at 37 Pa.B. 4866 (September 8, 2007).

Final Report explaining the amendment to Rule 515 published with the Court's Order at 39 Pa.B. 4743 (August 8, 2009).

Final Report explaining the amendments to Rule 515 published with the Court's Order at 40 Pa.B. 222 (January 9, 2010).

Final Report explaining the amendments to Rule 515 published with the Courts Order at 41 Pa.B. 2413 (May 14, 2011).

Final Report explaining the amendments to Rule 515 published with the Court's Order at 49 Pa.B. 916 (March 2, 2019).

Final Report explaining the amendments to Rule 515 published with the Court's Order at Pa.B. (, 2020).

CHAPTER 6. POST-DISPOSITIONAL PROCEDURES

PART B. MODIFICATIONS AND REVIEWS

Rule 610. Dispositional and Commitment Review.

A. *Dispositional [review hearing] Review Hearing.* The court shall review its disposition and conduct dispositional review hearings for the purpose of ensuring that the juvenile is receiving necessary treatment and services and that the terms and conditions of the disposition are being met.

1) In all cases, the court shall conduct dispositional review hearings at least every six months.

2) In all cases, the juvenile shall appear in person at least once a year.

3) The court may schedule a review hearing at any time.

B. **[Change in] Modification of Dispositional Order.** Whenever there is a **[request for a change in] motion for a modification of** the dispositional order, other than a motion to revoke probation as provided in Rule 612, notice and an opportunity to be heard shall be given to the parties and the victim. **Any outstanding restitution amounts may not be reduced by modification of the dispositional order without specific notice to the victim prior to the hearing that a modification may be ordered.**

1) The juvenile may be detained pending a court hearing.

2) A detention hearing shall be held within **[seventy-two] 72** hours of the juvenile's detention, if detained.

3) The juvenile shall be given a statement of reasons for the discharge from a placement facility or **[request for change in] motion for modification of** the dispositional order.

4) A review hearing shall be held within **[twenty] 20** days of the discharge from the placement facility or **[request for change in] motion for modification of** the dispositional order.

C. **Advanced [communication technology] Communication Technology.** A court may utilize advanced communication technology pursuant to Rule 129 for a juvenile or a witness unless good cause is shown otherwise.

D. **Post-Dispositional Rights.** A colloquy and inquiry of post-dispositional rights shall be conducted when a juvenile is aggrieved by a **[change in] modification of** the dispositional order.

Comment

At any hearing, if it is determined that the juvenile is in need of an educational decision maker, the court is to appoint an educational decision maker pursuant to Rule 147.

Under paragraph (A), the court is to conduct dispositional review hearings as frequently as necessary to ensure that the juvenile is receiving necessary treatment and services and that the terms and conditions of the disposition are being met. *See* Rule 800.

When conducting a dispositional review hearing, the court is to ensure that the disposition continues to provide balanced attention to the protection of the community, the imposition of accountability for offenses committed, and the development of competencies to enable the juvenile to become a responsible and productive member of the community. **A change in the plan of rehabilitation may result in the adjustment of financial obligations imposed pursuant to Rule 515.**

Nothing in this rule prohibits the juvenile from requesting an earlier review hearing. The juvenile may file a motion requesting a hearing when there is a need for change in treatment or services.

Additionally, nothing in this rule is intended to prohibit the emergency transfer of a juvenile from a placement facility to a detention facility pending reconsideration of the dispositional order, and this rule is not intended to preclude a motion for modification of a dispositional order after the juvenile has been detained.

Under paragraph (B), the attorney for the Commonwealth or its designee is to notify the victim of the date, time, place, and purpose of the review hearing. Prior to ordering the **[change in] modification of** the dispositional order, the court is to give the victim an opportunity to submit an oral and/or written victim-impact statement if the victim so chooses. *See* **[Victim's]** Victims Bill of Rights, 18 P.S. **[§] §§ 11.201 et seq.** **Whenever a motion seeks a reduction of outstanding restitution, the victim should be given specific notice of the relief sought prior to the hearing. A court may not order a downward adjustment of outstanding restitution without first ensuring that notice was given to the victim of the possibility that such an adjustment was specifically being considered at the dispositional review hearing.**

Any persons may be subpoenaed to appear for the hearing. *See* Rule 123 and 42 Pa.C.S. § 6333. However, nothing in these rules requires the attendance of the victim unless subpoenaed. If the victim is not present, the victim is to be notified of the final outcome of the proceeding.

Some placement facilities are hours away from the dispositional court. Paragraph (C) allows a hearing to be conducted via teleconferencing, two-way simultaneous audio-visual communication, or similar method. The juvenile is to be afforded all the same rights and privileges as if the hearing was held with all present in the courtroom.

If a juvenile is detained or placed, the juvenile is to be placed in a detention facility or placement facility, which does not include a county jail or state prison. *See* Rule 120 and its Comment for definitions of "detention facility" and "placement facility."

For the colloquy and inquiry of post-dispositional rights, *see* Rule 512(C). If a change in disposition results in an out-of-home placement, then the court should also explain to the juvenile the availability of review of the out-of-home placement pursuant to Pa.R.A.P. 1770.

Official Note: Rule 610 adopted April 1, 2005, effective October 1, 2005. Amended December 30, 2005, effective immediately. Amended April 21, 2011, effective July 1, 2011. Amended April 29, 2011, effective July 1, 2011. Amended May 26, 2011, effective July 1, 2011. Amended June 28, 2013, effective immediately. Amended May 11, 2017, effective October 1, 2017. **Amended _____, 2020, effective _____, 2020.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 610 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the revisions of Rule 610 published with the Court's Order at 36 Pa.B. 186 (January 14, 2006).

Final Report explaining the amendments to Rule 610 published with the Court's Order at 41 Pa.B. 2319 (May 7, 2011).

Final Report explaining the amendments to Rule 610 published with the Court's Order at 41 Pa.B. 2413 (May 14, 2011).

Final Report explaining the amendments to Rule 610 published with the Court's Order at 41 Pa.B. 3180 (June 25, 2011).

Final Report explaining the amendments to Rule 610 published with the Court's Order at 43 Pa.B. 3938 (July 13, 2013).

Final Report explaining the amendments to Rule 610 published with the Court's Order at 47 Pa.B. 2969 (May 27, 2017).

Final Report explaining the amendments to Rule 610 published with the Court's Order at Pa.B. (, 2020).

PART D. CESSATION OF COURT JURISDICTION OR SUPERVISION

Rule 632. Early Termination of Court Supervision by Motion.

A *Motion*. Any party may move for early termination of court supervision. The motion shall state with specificity why early termination is sought and why the requirements of Rule 631(A) have not been met.

B. *Notice*.

1) In addition to the service requirements of Rule 345, any party moving for early termination shall serve the motion on the juvenile probation officer.

2) The victim shall provided notice of the motion for early termination of court supervision.

C. *Objection*.

1) A party or the juvenile probation officer may object to the motion under paragraph (A) and request a hearing.

2) Such objection shall be made within [**thirty**] **30** days of the date of the motion; otherwise, objections are deemed waived.

D. *Court's [**determination**] **Determination***. The court shall:

1) rule on the motion and any objections without a hearing; or

2) schedule a hearing.

E. *Hearing*. If objections have been made pursuant to paragraph (C) [**and/or**] **or** the court has determined a hearing is necessary, the court shall hold a hearing and give each party, the victim, and the juvenile probation officer an opportunity to be heard before the court enters its final order.

F. *Termination*. When the requirements of paragraphs (A) through (E) have been met and the court is satisfied that there [**are**] **is a** compelling [**reasons**] **reason** to discharge the juvenile prior to the completion of the requirements of Rule 631(A), the court may order an early discharge of the juvenile from its supervision.

Comment

If a party has moved for early termination of court supervision of a juvenile pursuant to paragraph (A) or the court has scheduled a hearing pursuant to paragraph (E), the attorney for the Commonwealth or its designee is to notify the victim of the motion for early termination and/or the date, time, place, and purpose of the hearing.

The victim may be present at the hearing and is to be afforded the opportunity to submit an oral and/or written victim-impact statement. See Rule 132 and the Victim's Bill of Rights, 18 P.S. [§] **§§** 11.201 *et seq.*

For the submission of victim-impact statements by victims of personal injury crimes prior to the release or transfer of a juvenile from a placement facility, see Victim's Bill of Rights, 18 P.S. § 11.201(8.1)(iii).

Any persons may be subpoenaed to appear for the hearing. See Rule 123 and 42 Pa.C.S. § 6333. However, nothing in these rules requires the attendance of the

victim unless subpoenaed. If the victim is not present, the victim is to be notified of the final outcome of the proceeding.

For procedures on motions, see Rule 344. For filing and service requirements, see Rule 345.

If all parties are in agreement with the termination, the court may terminate court supervision without a hearing.

For procedures on the dispositional order, see Rule 515. See also, 42 Pa.C.S. § 6352. For collection of outstanding restitution regardless of court supervision status, see 42 Pa.C.S. § 9728.

"Compelling reason," as set forth in paragraph (F), should reflect consideration of the statutory goals of balanced and restorative justice: 1) the protection of the community; 2) the imposition of accountability for offenses committed; and 3) the development of competencies to enable the juvenile to become a responsible and productive member of the community. See In the Interest of D.C.D., 171 A.3d 727 (Pa. 2017); 42 Pa.C.S. § 6352(a). The court has broad discretion in weighing each goal as appropriate to the individual juvenile. See id. at 742.

Official Note: Rule 632 adopted February 26, 2008, effective April 1, 2008. Amended May 26, 2011, effective July 1, 2011. **Amended , 2020, effective , 2020.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 632 published with the Court's Order at 38 Pa.B. 1146 (March 8, 2008).

Final Report explaining the amendments to Rule 632 published with the Court's Order at 41 Pa.B. 3180 (June 25, 2011).

Final Report explaining the amendments to Rule 632 published with the Court's Order at Pa.B. (, 2020).

REPORT

Proposed Amendment of Pa.R.J.C.P. 515, 610, and 632

The Juvenile Court Procedural Rules Committee herein proposes amendment of Pennsylvania Rules of Juvenile Court Procedure 515, 610, and 632 concerning the imposition of financial obligations on juveniles at the time of disposition.

The Committee previously published proposed amendments to Rules 515 and 610 concerning the imposition of financial obligations on juveniles at the time of disposition. See 49 Pa.B. 2474 (May 14, 2019). Although the proposal suggested a change to the rule text in Rule 515 to a more encompassing phrase of "financial obligations," most of the proposal involved revisions to the commentary. The purpose of these revisions was to explain the operation of the rules and Juvenile Act to permit subsequent modifications to outstanding financial obligations.

The Committee received 14 comments. After reviewing the comments, the Committee recognized, consistent with the prior publication report, the limits on which procedural rulemaking can address the issues of policy raised in the comments. The Committee did not disagree with the sentiment and seeming frustration expressed by some commenters regarding juveniles' ability to satisfy financial obligations. Nor did the Committee disagree with the

burden that such obligations place on a juvenile beyond the jurisdiction of the juvenile court. Further, the Committee acknowledged that perspectives on the imposition of financial obligations differed among stakeholders, especially when financial obligations are imposed as restitution. Moreover, while some commenters believe that some costs are “mandatory” regardless of circumstance and others contend that imposition of any cost must be consistent with the Juvenile Act, the Committee believed this difference of opinion is best resolved through adjudicatory proceedings or legislative action than by procedural rulemaking.

The Committee discussed at length the implication of modifying restitution after the initial imposition. Concerns were expressed that victims have notice and the opportunity to be heard prior to the court ordering a modification of restitution. Rule 610(B) currently requires notice to the victim when there is going to be a change in disposition. However, the notice is not specific to restitution so the victim does not know if the change concerns restitution.

What follows is a description of additional revisions contained in the current proposal:

- Rule 515(B)(3) is revised to make a payment schedule mandatory and based on the juvenile’s ability to pay. Likely, the juvenile is going to lack the present funds to immediately pay financial obligations unless the amount is relatively low. In that instance, the judge can order the immediate and full payment without burdening the court with creating a schedule. However, in response to comments, there would also be an inquiry into the juvenile’s ability to pay. The inquiry involves the *collection* of the financial obligation, not the *calculation* of that amount because the calculation requires consideration of the juvenile’s earning potential, per the Juvenile Act. Through scheduling, the judge will be informed just how long payments may extend including beyond the juvenile’s 21st birthday.

- In the Comment to Rule 515, users are reminded that the financial obligation must be consistent with the goals of balanced and restorative justice (“BARJ”). This statement is also intended to encompass the goals in the “plan of rehabilitation.”

- In the Comment to Rule 515, factors are included to determine a juvenile’s earning capacity. Several of these factors are from *Commonwealth v. B.D.G.*, 959 A.2d 362, 367-68 (Pa. Super. 2008) (*en banc*) (quoting *In Interest of Dublinski*, 695 A.2d 827, 830 (Pa. Super. 1997)). Additional factors include the availability of suitable employment, and the priority of other uses of earnings, including essential goods and services, dependents, and the pursuit of higher education.

- In the Comment to Rule 515, a reference to case law and the rehabilitative purpose of restitution was added. The word “primary” was chosen to describe “purpose” to indicate that a secondary purpose may be the compensation of the victim for loss caused by the juvenile. A citation to *Commonwealth v. Petrick*, 217 A.3d 1217 (Pa. 2019) was added in support of this premise.

- In the Comment to Rule 515, a statement is added indicating that the use of third party funds to satisfy financial obligations do not further a juvenile’s rehabilitation. This statement is intended to guard against parents paying a juvenile’s financial obligation and circumventing the accountability function of financial obligations. This statement was prompted by commenters’ citation of *In re C.W.*, 7 A.3d 891 (Pa. Cmwlth. 2010) for the proposition

that parental income is not relevant for the calculation of a juvenile’s earning capacity. Additionally, the statement is intended to address commenters’ concerns that juveniles from indigent families may be subject to longer terms of supervision relative to juveniles from families with the means to satisfy financial obligations. *See also* 42 Pa.C.S. § 6352(a)(5) (“[T]he court shall retain jurisdiction until there has been full compliance with the order.”).

The Committee is aware of 23 Pa.C.S. §§ 5503(a) & 5505, whereby parents of a juvenile can be held liable, subject to caps, for injury caused by the juvenile. The Committee specially invites comment on the interplay between consideration of a juvenile’s earning capacity and parental liability for restitution in determining financial obligations.

- In the Comment to Rule 515, further explanation is added indicating that a disposition should be reviewed when the disposition no longer meets the goals of BARJ.

- In the Comment to Rule 515, the last paragraph concerning the use and location of form orders is removed given the statewide use of PACMS for generating orders.

- Rule 610(B) is revised to add a second sentence requiring notice to the victim prior to any reduction of outstanding restitution in a dispositional review hearing. The specific notice provision is intended to address the use of more generalized language in a modification motion that fails to inform the other parties that the filing party may seek a decrease in restitution owed at the hearing. Corresponding commentary was added to the Comment.

- In the Comment to Rule 610, the proposed sentence in the 3rd paragraph is revised to replace “diminution” with “adjustment.”

- The text of Rule 632 is revised to clarify that only a single compelling reason is sufficient for early termination of court supervision. The current version, with pluralized “reasons,” suggests there must be more than one compelling reason.

- The Comment to Rule 632 is revised to include the definition for “compelling reason” discussed by the Court in *In the Interest of D.C.D.*, 1717 A.3d 727 (Pa. 2017). This commentary is intended to aid readers in applying the rule.

The Committee invites all comments, concerns, and suggestions regarding this rulemaking proposal.

[Pa.B. Doc. No. 20-1024. Filed for public inspection July 31, 2020, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Administrative Suspension

Notice is hereby given that the following attorneys have been Administratively Suspended by Order of the Supreme Court of Pennsylvania dated March 18, 2020, pursuant to Rule 111(b) Pa.R.C.L.E., which requires that every active lawyer shall annually complete, during the compliance period for which he or she is assigned, the continuing legal education required by the Continuing Legal Education Board. The Order became effective July 17, 2020 for Compliance Group 2.

Notice with respect to attorneys having Pennsylvania registration addresses, which have been administratively suspended by said Order, was published in the appropriate county legal journal.

Bigley, Sean F.
Rancho Palos Verdes, CA

Bilderback, Kathleen Woolsey
St. Louis, MO

Champagne, Leon H.
Wilmington, DE

Forgey, Jason Matthew
Frisco, TX

Holmes, Joshua David
Stephens City, VA

Johnson, Woodie, III
Fort Washington, MD

Kosik, Robert A.
Arlington, VA

Moxie, Dwight O.
Irvine, CA

Nelson, Andrea Louise
Rockville, MD

Sahai, Manjari
Chaska, MN

Shields, John Edward, Jr.
Willingboro, NJ

Sussman, Jonathan
Brooklyn, NY

Tran, Phong Ngoc
Cherry Hill, NJ

Walker, Cynthia
Sarasota, FL

Williams, LaMonte Jeffrey, II
Las Vegas, NV

SUZANNE E. PRICE,
Attorney Registrar

[Pa.B. Doc. No. 20-1025. Filed for public inspection July 31, 2020, 9:00 a.m.]

SUPREME COURT

Filing an Affidavit of Compliance with the Federal CARES Act in Landlord-Tenant Cases; No. 537 Judicial Administration Doc.

Order

Per Curiam

And Now, this 16th day of July, 2020, *It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania, that every action by a landlord against a tenant for the recovery of possession of real property filed on or after March 27, 2020 through August 24, 2020 shall be accompanied by an Affidavit of Compliance with the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (“CARES Act”) in the following form as available on the website of the Administrative Office of Pennsylvania Courts at <http://www.pacourts.us/forms/for-the-public> (for actions in magisterial district courts and courts of common pleas) or as available on the website of

the Philadelphia Municipal Court at <https://www.courts.phila.gov/municipal/civil/>, respectively. A copy of the completed affidavit shall be attached to the complaint and served upon the tenant.

Additionally, every action by a landlord who is a federally backed multifamily mortgage loan borrower, as defined by section 4023(f)(2)-(3) of the CARES Act, against a tenant for the recovery of real property shall continue to be accompanied by the Affidavit of Compliance with the CARES Act through the earlier of 60 days after the termination of the national emergency on COVID-19 as declared by the President or March 1, 2021. See Affidavit, questions 4 and 5.

Notwithstanding the provisions of Pa.R.E. 802, the affidavit is admissible at the hearing or trial for the recovery of possession of real property.

[CAPTION]

To the Landlord or Authorized Agent: Please see Supplemental Instructions for information about the CARES Act and definitions of terms used in this affidavit.

AFFIDAVIT OF COMPLIANCE WITH THE CARES ACT

In order to support my assertion that this filing complies with the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136, enacted March 27, 2020 (“CARES Act”), I affirm that:

1. Neither I, the property, nor any tenant of the property participates in or receives subsidies or benefits under any of covered housing programs or rural housing voucher programs listed:

- Public Housing (42 U.S.C. § 1437d)
- Section 8 Housing Choice Voucher (42 U.S.C. § 1437f)
- Section 8 Project-based Housing (42 U.S.C. § 1437f)
- Section 202 Housing for the Elderly (12 U.S.C. § 1701q)
- Section 811 Housing for Persons with Disabilities (42 U.S.C. § 8013)
- Section 236 Multifamily Housing (12 U.S.C. § 1715z-1)
- Below Market Interest Rate (BMIR) Housing (12 U.S.C. § 1715l(d))
 - HOME (42 U.S.C. §§ 12741 *et seq.*)
 - Housing Opportunities for Persons with AIDS (HOPWA) (42 U.S.C. §§ 12901 *et seq.*)
 - Continuum of Care or other McKinney-Vento Act Homelessness Programs (42 U.S.C. §§ 11360 *et seq.*)
 - Section 515 Rural Rental Housing (42 U.S.C. § 1485)
 - Sections 514 and 516 Farm Labor Housing (42 U.S.C. §§ 1484, 1486)
 - Section 533 Housing Preservation Grants (42 U.S.C. § 1490m)
 - Section 538 Multifamily Rental Housing (42 U.S.C. § 1490p-2)
 - Low-Income Housing Tax Credit (LIHTC) (26 U.S.C. § 42)
 - Rural Housing Voucher Program (42 U.S.C. § 1490r)

2. The property is not subject to a federally backed mortgage loan or a federally backed multifamily mortgage loan. Examples of a federally backed mortgage loan or federally backed multifamily mortgage loan include mortgage loans guaranteed by the Federal Housing Adminis-

tration, HUD, the Department of Veterans Affairs, or the USDA, and those that were purchased or securitized by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

□ 3. I have confirmed that there is no unsatisfied mortgage on the property that was purchased or securitized by the Federal Home Loan Mortgage Corporation (“Freddie Mac”) or the Federal National Mortgage Association (“Fannie Mae”) by checking the property via the mortgage lookup tool for Freddie Mac (www.FreddieMac.com/mymortgage) and Fannie Mae (www.KnowYourOptions.com/loanlookup).

For Landlords with Federally Backed Multifamily Loans After August 24, 2020

□ 4. If the property is the subject of a federally backed multifamily mortgage loan, there is no mortgage on the property that is currently in forbearance status, and there is no pending application for mortgage forbearance. See CARES Act, § 4023(d).

□ 5. If the property is the subject of a federally backed multifamily mortgage loan that was in forbearance status under the CARES Act that has now expired, I have provided the required notice to vacate to the tenant. See CARES Act, § 4023(d).

I, _____, verify that the facts set forth in this affidavit are true and correct to the best of my knowledge, information, and belief. This statement is made subject to the penalties of 18 Pa.C.S. § 4904 related to unsworn falsification to authorities.

Date Signature of Landlord or Authorized Agent

AFFIDAVIT OF COMPLIANCE WITH THE CARES ACT

Supplemental Instructions

The federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (“CARES Act”) was enacted on March 27, 2020. Among other things, the CARES Act provides a temporary moratorium related to certain eviction actions. During the 120-day period following enactment, *i.e.*, through July 25, 2020, a landlord may not “make, or cause to be made, any filing with the court of jurisdiction to initiate a legal action to recover possession of the covered dwelling from the tenant for nonpayment of rent or other fees or charges.” CARES Act, § 4024(b)(1). The moratorium also applies to the charging of “fees, penalties, or other charges to the tenant related to such nonpayment of rent.” CARES Act, § 4024(b)(2).

On July 16, 2020, the Supreme Court of Pennsylvania ordered that every action by a landlord against a tenant for the recovery of possession of real property filed in a magisterial district court or the Philadelphia Municipal Court shall be accompanied by an Affidavit of Compliance with the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 as available on the website of the Administrative Office of Pennsylvania Courts at <http://www.pacourts.us/forms/for-the-public> (for actions in magisterial district courts) or on the website of the Philadelphia Municipal Court at <https://www.courts.phila.gov/municipal/civil/>, respectively. The requirement is in effect through August 24, 2020 to ensure that a landlord has given the proper notice to vacate required by section 4024(c) of the CARES Act.

Landlords who are federally backed multifamily mortgage loan borrowers must continue to use the affidavit

through the earlier of 60 days after the termination of the national emergency on COVID-19 as declared by the President or March 1, 2021. This requirement ensures that the landlord is compliant with the renter protections during a forbearance period afforded by section 4023(d) of the CARES Act, as well as the notice to vacate requirement of section 4023(e) of the CARES Act.

In addition to filing the affidavit with the complaint, a landlord shall demonstrate compliance with the CARES Act by presenting testimony and evidence including, but not limited to, the affidavit filed by the landlord at the inception of the case at the time of the hearing for the recovery of possession of real property. A tenant may present testimony and evidence that the landlord is not in compliance with the CARES Act.

Terms used in the affidavit have the following meanings:

“Covered dwelling” means a dwelling that is occupied by a tenant pursuant to a residential lease or without a lease or with a lease terminable under State law, and is on or in a covered property. CARES Act, § 4024(a)(1).

“Covered property” means any property that participates in one of the covered housing programs or the rural housing voucher program listed on the affidavit or has a Federally backed mortgage loan or a Federally backed multifamily mortgage loan. CARES Act, § 4024(a)(2).

“Federally backed mortgage loan” includes any loan (other than temporary financing such as a construction loan) that (A) is secured by a first or subordinate lien on residential real property (including individual units of condominiums and cooperatives) designed principally for the occupancy of from 1 to 4 families, including any such secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property; and (B) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by any officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary of Housing and Urban Development or a housing or related program administered by any other such officer or agency, or is purchased or securitized by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association. CARES Act, § 4024(a)(4).

“Federally backed multifamily mortgage loan” includes any loan (other than temporary financing such as a construction loan) that (A) is secured by a first or subordinate lien on residential multifamily real property designed principally for the occupancy of 5 or more families, including any such secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property; and (B) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by any officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary of Housing and Urban Development or a housing or related program administered by any other such officer or agency, or is purchased or securitized by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association. CARES Act, §§ 4023(f)(2)(3), 4024(a)(5).

[Pa.B. Doc. No. 20-1026. Filed for public inspection July 31, 2020, 9:00 a.m.]

RULES AND REGULATIONS

Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 78A]

Unconventional Well Permit Application Fee Amendments

The Environmental Quality Board (Board) amends §§ 78a.1 and 78a.19 (relating to definitions; and permit application fee schedule) to read as set forth in Annex A. This final-form rulemaking satisfies the obligation of the Department of Environmental Protection (Department), as specified in §§ 78.19(e) and 78a.19(b), to provide the Board with an evaluation of the well permit application fees in Chapters 78 and 78a (relating to oil and gas wells; and unconventional wells) and recommend regulatory amendments to address any disparity between the income generated by well permit application fees and the cost of administering 58 Pa.C.S. Chapter 32 (relating to development) (2012 Oil and Gas Act) by the Department's Office of Oil and Gas Management (Oil and Gas Program or Program). This final-form rulemaking increases the well permit application fees from \$5,000 for nonvertical unconventional wells and \$4,200 for vertical unconventional wells to \$12,500 for all unconventional well permit applications to sustain the Program at current staff levels and operating costs. This final-form rulemaking does not amend the current fees for conventional well permit applications. This final-form rulemaking also removes definitions for "nonvertical unconventional well" and "vertical unconventional well" related to well permit applications as well permit application fees will now be the same for all unconventional well permit applications.

This final-form rulemaking was adopted by the Board at its meeting on January 21, 2020.

A. Effective Date

This final-form rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*.

B. Contact Persons

For further information, contact Kurt Klappkowski, Director, Bureau of Oil and Gas Planning and Program Management, Rachel Carson State Office Building, 15th Floor, 400 Market Street, P.O. Box 8765, Harrisburg, PA 17105-8765, (717) 772-2199; or Elizabeth Davis, Assistant Director, Bureau of Regulatory Counsel, P.O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the Pennsylvania AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final-form rulemaking is available on the Department's web site at www.dep.pa.gov (select "Public Participation," then "Environmental Quality Board").

C. Statutory Authority

This final-form rulemaking is being made under the authority of 58 Pa.C.S. § 3274 (relating to regulations), which directs the Board to adopt regulations necessary to implement the 2012 Oil and Gas Act; 58 Pa.C.S. § 3211(d) (relating to well permits), which authorizes the Board to establish well permit application fees that bear a reasonable relationship to the cost of administering the 2012 Oil and Gas Act; and section 1920-A of The Adminis-

trative Code of 1929 (71 P.S. § 510-20), which authorizes the Board to promulgate regulations of the Department.

D. Background and Summary

The purpose of this final-form rulemaking is to increase unconventional well permit application fees to sustain the Program at current staff levels and operating costs. This fee increase is needed because the current revenue generated by the well permit application fees are not adequate to cover the Program's current costs despite recent staff reductions and the implementation of several cost-saving measures.

The fee increase in this final-form rulemaking is intended to cover the costs to sustain the existing Program. The other sources of revenue currently available to the Program, including conventional well permit application fees and the \$6 million distributed to the Department from the Impact Fee established by 58 Pa.C.S. Chapter 23 (relating to unconventional gas well fee) currently allocated to the Program, are needed to provide a funding buffer. This buffer is necessary in the event that the actual permit applications the Department receives in the years following this final-form rulemaking do not meet the permit application projections that form the basis of this final-form rulemaking, as well as restore the Program to a full staff complement of 226 people, hire necessary additional staff and fund program enhancements.

Statutory framework for well permit application fees

The Department is tasked with implementing the 2012 Oil and Gas Act. Under section 3202 of the 2012 Oil and Gas Act (relating to declaration of purpose of chapter), the purposes of the 2012 Oil and Gas Act are to:

(1) Permit optimal development of oil and gas resources of this Commonwealth consistent with protection of the health, safety, environment and property of Pennsylvania citizens.

(2) Protect the safety of personnel and facilities employed in coal mining or exploration, development, storage and production of natural gas or oil.

(3) Protect the safety and property rights of persons residing in areas where mining, exploration, development, storage or production occurs.

(4) Protect the natural resources, environmental rights and values secured by the Constitution of Pennsylvania (58 Pa.C.S. § 3202).

The 2012 Oil and Gas Act contains requirements regarding the exploration, development and recovery of oil and gas resources in this Commonwealth, including permitting, bonding, well location restrictions, protecting water supplies, containment, well control emergencies, restoration, plugging, reporting and enforcement. See 58 Pa.C.S. §§ 3201—3274. Regulations found at 25 Pa. Code Chapters 78 and 78a implement the 2012 Oil and Gas Act. The Department administers the 2012 Oil and Gas Act and its implementing regulations through the functions of the Program, including data management, staffing, well permitting, surface activity permitting, inspections, compliance, and policy and program development.

Section 3211(d) of the 2012 Oil and Gas Act provides: "Each application for a well permit shall be accompanied by a permit fee, established by the Environmental Qual-

ity Board, which bears a reasonable relationship to the cost of administering [the 2012 Oil and Gas Act].” 58 Pa.C.S. § 3211(d). A well permit application fee is a one-time payment submitted with each well permit application that is deposited into the Well Plugging Fund as a dedicated revenue source for the Program. This fee is set by the Board in regulation and must be reasonably related to the cost of the Program to administer the 2012 Oil and Gas Act. The fees do not provide ongoing revenue to the Program. For that reason, the fees received in a given year must fund all of the Program’s functions beyond permitting.

Based on this funding mechanism, the Board has established reasonable fees to fund Program costs. Prior fee increases have established a fee structure based on several factors, including annual well permit applications projections, the different types of wells, total well bore length, the costs to develop the different well types and ability to pay.

In accordance with 25 Pa. Code §§ 78.19(e) and 78a.19(b), the Department evaluates these fees and recommends regulatory amendments to the Board every 3 years to address any disparity between the Program income generated by the fees and the Department’s cost of administering the Program with the objective of ensuring fees meet all Program costs and the Program is self-sustaining.

Prior well permit applications fee increases

The Oil and Gas Act, originally enacted in 1984, established a \$100 well permit application fee. See 58 P.S. § 601.201(d), repealed by the act of February 14, 2012, (P.L. 87, No. 13), § 3(2). This fee remained in place for 25 years. In 2009 and 2014, the Board increased well permit application fees to fund the Program’s increasing expenses and to establish a fee structure that sets different amounts for the different types of wells, including unconventional, conventional and home use wells. As stated previously, the Board has established reasonable fees to fund Program costs for these different types of wells based on several factors, including annual well permit application projections, total well bore length, the costs to develop the different well types and ability to pay.

Declining well permit revenues

When the Board last amended the unconventional well permit fees in 2014, it eliminated a sliding scale and established a flat fee of \$5,000 for nonvertical unconventional wells and \$4,200 for vertical unconventional wells. The Board projected that those increased fees would be adequate to support the Program with a full complement of 226 staff provided the Program receives 2,600 unconventional well permits annually.

However, while that projection was accurate during the pendency of that rulemaking, the number of unconventional well permit applications received since that time has been lower than anticipated. In Fiscal Year (FY) 2014-2015, the Program received 2,533 unconventional well permit applications. In FY 2015-2016, the Program received 1,646 unconventional well permit applications. And in, FY 2016-2017, the Program received 1,993 unconventional well permit applications. As a result, the well permit application fees have not generated the revenue needed to fund Program costs.

Cost-saving measures

Because of declining unconventional well permit application fee revenues, the Program reduced staff over time from 226 employees to 190 employees today. The Program

also reduced operating costs, including the purchase of fixed assets and supplies. Over 3 years, the Program reduced operating and fixed asset costs by 38%.

Increasing workload

Despite declining well permit application revenues, the Program’s workload has increased. Each year more wells are drilled than plugged resulting in a growing inventory of wells to be inspected to ensure compliance with the 2012 Oil and Gas Act and its implementing regulations. There is also a growing number of support facilities, including gathering pipelines, well development impoundments, water withdrawals and other support facilities, with separate authorizations and inspection obligations. As the result of a continually growing oil and gas industry, the Program has increasing responsibilities to develop guidance, update forms, provide training, improve data management, and to study and evaluate new and evolving issues all to ensure that the Program operates effectively and efficiently while providing clarity to the regulated community. Equally important are the Program’s responsibilities related to gas storage as well as orphaned and abandoned wells. Finally, the Program must ensure that it responds to complaints, emergencies and requests for public records related to the implementation of the 2012 Oil and Gas Act. All of these activities are essential program functions beyond well permit application reviews that are necessary to administer the 2012 Oil and Gas Act and are paid for by the one-time well permit application fees.

As a result, the Program now struggles to meet its gas storage field inspection goals, consistently achieve appropriate permit review time frames, adequately fund training opportunities for staff and provide trainings for the industry. Important Program development initiatives, such as policies, best practices and technical guidance documents, have been put on hold indefinitely due to the lack of sufficient staff to develop and update these important pieces of the Program necessary to administer the 2012 Oil and Gas Act. In short, the Program is challenged to provide an adequate level of high-quality service to the public and to the industry.

Fee report

To thoroughly address prior inaccurate well permit application projections and to comply with §§ 78.19(e) and 78a.19(b), which require the Department to provide an evaluation of well permit applications fees and recommend regulatory changes every 3 years, the Department prepared and presented to the Board a 3-Year Regulatory Fee and Program Cost Analysis Report (Fee Report) at the Board’s April 17, 2018, meeting. A copy of the Fee Report is available from the persons listed in Section B.

The Fee Report provided that the Program’s projected budget to sustain the Program with 190 staff and operating costs in FY 2018-2019 would be approximately \$25 million. Given this projected budget and the current well permit application fees, the Program would need to receive 5,000 nonvertical unconventional well permit applications per year to sustain the Program. However, based on the average of annual well permit applications the Department received in FYs 2015-2016, 2016-2017 and 2017-2018 discussed previously, the Department anticipated receiving 2,000 unconventional well permit applications per year. For that reason, the Department recommended that the Board revise the unconventional well permit application fee to \$12,500. This analysis provided the basis for the proposed rulemaking.

Current projections

Based on the Fee Report’s analysis of unconventional well permit application trends for FYs 2014-2015, 2015-2016, and 2016-2017, the Program continues to anticipate that it will receive approximately 2,000 unconventional well permit applications per year. Additionally, the Program continues to project the costs to fund the Program at its reduced complement of 190 employees and operating costs at approximately \$25 million as explained in the following table. For this reason, as recommended in the Fee Report and in the proposed rulemaking, this final-form rulemaking establishes an increased unconventional well permit application fee of \$12,500.

<i>Expense</i>	<i>Cost (in dollars)</i>
Staff (190 positions at \$106,000 per staff person)	20,140,000
Operating Expenses (FY 2018-2019)	4,519,000
TOTAL Cost	24,659,000

The Department’s well permit application projections are reasonable given the challenges in predicting the number of well permit applications. It is significant that in FY 2017-2018, the Department received 1,674 unconventional well permit applications. And in FY 2018-2019, the Department received 1,684 unconventional well permit applications. For the first half of FY 2019-2020, the Department is on track to receive fewer than 1,600 unconventional well permit applications. The variability of unconventional well permit applications can be attributed to various market and industry changes. The price of natural gas has remained low, which industry analysts suggest is the result of supply-demand imbalances between the Appalachian region and the rest of the United States market. It might also be because the first few years of Marcellus Shale gas development constituted an initial boom and was not representative of drilling patterns in a more mature shale production market. Also, improvements in technology are allowing operators to extract more gas from each well, thus requiring fewer wells to satisfy the same demand. All of these trends are outside of the Department’s control, may be subject to a vacillating commodity market, and are not readily predictable.

Because of this reasonable uncertainty, it is critical that the other sources of revenue currently available to the Program, including conventional well permit application fees and the \$6 million distributed to the Department from the Impact Fee established by 58 Pa.C.S. Chapter 23 currently allocated to the Program, provide a funding buffer in the event that the actual permit applications the Department receives in the years following this final-form rulemaking do not meet the permit application projections. If that happens, the Program will need these other revenue sources to sustain the Program. If not, these funds will be allocated for the additional Program needs described as follows.

Other revenue sources

Once received, unconventional and conventional well permit application fees are placed in the Well Plugging Fund as a dedicated revenue source for the Program. In addition to the one-time fee that the Department receives with each well permit application, the Program has the following other sources of revenue: (1) conventional well permit application fees; (2) an appropriation from the Act 13 Impact Fee; and (3) incidental civil penalties collected

for violations of the 2012 Oil and Gas Act (section 3271(a) of the 2012 Oil and Gas Act (58 Pa.C.S. § 3271(a) (relating to well plugging funds)). No General Fund revenue is used to support the Program.

Conventional well permit application fees

Section 78.19(a) provides a sliding scale for conventional well permit applications based on total well bore length from \$250 for a well bore up to 2,000 feet to \$1,950 for a well bore between 11,501 feet to 12,000 feet. Conventional wells exceeding 12,000 feet pay \$1,950 plus \$100 for every 500 feet the well bore extends over 12,000 feet. See § 78.19(b). Home use wells with a well bore length of 1,500 feet or less pay a \$200 well permit application fee. See § 78.19(e).

The Department receives approximately 240 conventional well permits per year. The average conventional well permit application fee is approximately \$365.

Similar to unconventional wells, the number of conventional well permit applications has declined in recent years. This decrease in applications has resulted in less revenue from conventional well permit application fees. In FY 2015-2016, the conventional well permit application fee revenue was \$97,750. In FY 2016-2017, the conventional well permit application fee revenue was \$84,300. And in FY 2017-2018, the conventional well permit application fee revenue was \$76,973. In the proposed rulemaking, the Board stated the conventional well permit application fees were not included in the fee analysis for this rulemaking. To clarify, these fees are included in the Program’s overall budget, and the revenue collected from the fees represents less than 0.5% of the Program’s annual operating costs.

Act 13 Impact Fees

Act 13 of 2012, (58 Pa.C.S. §§ 2301–3504) (Act 13), established an annual impact fee for the unconventional well industry and provided for the collection and distribution of this fee (Act 13 Impact Fee). Under section 2314 of Act 13 (58 Pa.C.S. § 2314 (relating to distribution of fee)), the Act 13 Impact Fee is collected and deposited in the Unconventional Gas Well Fund administered by the Pennsylvania Public Utility Commission. In accordance with section 2314(c.1)(3), \$6 million of the annual fees collected are distributed to the Department “for the administration of [Act 13] and the enforcement of acts relating to clean air and clean water.”

During the proposed rulemaking process, the Board stated that the \$6 million distributed to the Department from the Act 13 Impact Fees were not included in the fee analysis. To clarify, these fees are included in the Program’s overall budget. Currently, the \$6 million appropriated to the Department from the Act 13 Impact Fee is allocated to the Program. Significantly, these fees are not dedicated solely to the Program and may be used to support the Department’s air and water programs. Allocation of these funds ultimately depends on the Department’s immediate needs. The Department has determined that it is currently appropriate for the Program to receive all \$6 million dollars from the Department’s Act 13 Impact Fee appropriation due to declining well permit application revenue.

Civil penalties

The Program also receives revenue from fines and civil penalties assessed for violations of the 2012 Oil and Gas Act. The Department has not included fines and civil penalties in its well permit application fee analysis, because relying on penalties to fund fundamental ele-

ments of a regulatory program is not appropriate and is contrary to sound public policy.

Chapter 102 and Chapter 105 fees

The Department receives fees from permit applications under 25 Pa. Code Chapters 102 and 105 (relating to erosion and sediment control; and dam safety and waterway management), including the Erosion and Sediment Control General Permit. These fees are not currently distributed to the Program. Instead, they are deposited into the Clean Water Fund. These fees are committed to funding critical operations that support County Conservation Districts as well as Department staff who, among other responsibilities, provide support and training to staff within the Program that review Chapter 102 and Chapter 105 permit applications and inspect permitted projects. In the Department's analysis of these fees, it was determined that if the Chapter 102 and Chapter 105 permit application fees were re-allocated to the Program, the Program would receive less of the \$6 million from the Act 13 Impact Fee because the Chapter 102 and Chapter 105 programs would then need a portion of those funds to make up for this reallocation.

Legacy wells

Significantly, the well permit application fee does not include the Program's costs to plug orphaned and abandoned wells. Section 3271(b) of the 2012 Oil and Gas Act requires a \$50 surcharge paid in addition to the well permit application fee. This surcharge is deposited into a restricted revenue account known as the Abandoned Well Plugging Fund to indemnify the Commonwealth for the cost of plugging abandoned wells. Section 3271(c) of the 2012 Oil and Gas Act requires a \$100 surcharge for oil wells and a \$200 surcharge for gas wells paid in addition to the well permit application fee. These surcharges are deposited into a restricted revenue account known as the Orphan Well Plugging Fund for the Department to plug orphan wells. These surcharges have not changed since the act of December 19, 1984 (P.L. 1140, No. 223) (58 P.S. §§ 601.101—601.605) (repealed by the act of February 14, 2012 (P.L. 87, No. 13)). Significantly, these permit surcharges are insufficient to cover the cost of properly plugging all legacy wells in Pennsylvania.

Program enhancements and restoring program staff complement

In the event that the actual number of permit applications that the Program receives meet the permit application projections in this final-form rulemaking, the \$6 million Act 13 Impact Fee revenue and conventional well permit application fees are available for needed program enhancements, restoring staff complement and adding necessary staff to administer the 2012 Oil and Gas Act and its implementing regulations.

The Program estimates that approximately \$6.5 million is needed for the following program enhancements and staffing needs. The Department developed these estimates for this final-form rulemaking. These estimates clarify and update prior estimates in the Fee Report and proposed rulemaking. Notably, the staffing numbers have been updated to reflect that the Program recently reorganized the Office of Oil and Gas Management to create three new management positions to oversee Statewide subsurface and surface permitting. Additionally, the current estimated cost of an employee based on standard benefits and average salary is \$106,000 and prior estimates were based on a prior estimated cost of \$100,000 per employee.

Enhanced electronic data management

The Program will allocate a portion of any available revenue to information technology projects for the Program. These include enhancing the current mobile digital inspections tools, digitizing forms and developing new databases that will better enable analysis of the effectiveness of the regulatory programs. This investment in technology will yield efficiencies for the Program and the regulated community in terms of more predictable and timely permit issuance, more effective site inspections, increased availability of staff for compliance assistance, and more streamlined reporting to and communication with the Department. It will also make the Program's work more transparent to the public as electronic documents can be easily made available online.

Enhancements to the mobile digital inspection platform and mobile devices will create additional improvements and efficiencies through the establishment of a risk-based inspection protocol. Through the protocol, wells will be ranked and color coded based on a hierarchy of need for an inspection. This will give inspectors and supervisors a simple way of prioritizing their work and ensuring that all wells are inspected an appropriate number of times during all phases of a well's life.

The Program also intends to digitize all other oil and gas related forms. These include the well record and completion report, alternative waste management authorization request, well plugging forms and others. Electronic receipt and storage of the permitting documents and forms will also result in significant savings in terms of records storage and of staff time and costs associated with requests from the public to access records. The public will enjoy greater access to timely data and information as the Department receives it.

Finally, the Department intends to develop additional databases to house information it collects to enable better analysis of Program effectiveness. Two of these databases include water sample results and spills. The Program receives thousands of ground and surface water sample results; these records are not managed in a manner that allows analysis over time and location. A properly designed data management system would give the Department the ability to analyze trends in water quality across this Commonwealth. Similarly, the spills database could produce reports on spill volumes, types, locations and causes, which could provide the basis of Program enhancements and industry improvements.

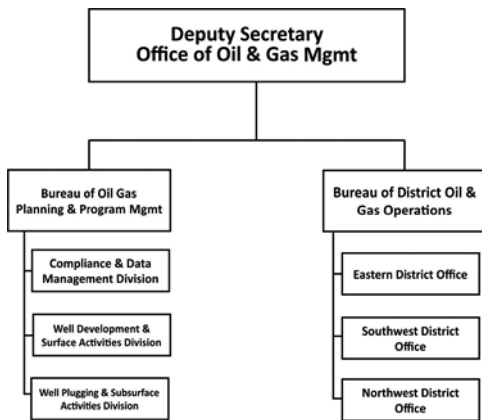
The enhanced electronic data management needs previously described are not new concepts. They are simply needs that are not yet met because the Department lacks the resources to pay for the information technology services required to meet these needs and create these tools. The Program currently pays the Bureau of Information Technology (BIT) \$700,000 each year. However, BIT services to the Program actually cost \$2 million annually. Allocating an additional \$1.3 million to fully fund these program enhancements will enable the Program to support the Program's information technology needs.

Additional Program staffing

As discussed previously, as a result of declining unconventional well permit application fee revenue following the 2014 fee rulemaking, the Program reduced staff from 226 employees to 190 employees. Allocating the other revenue sources to additional program staffing will enable the Program to restore previously reduced staff positions and add staff needed to administer the 2012 Oil and Gas Act and its implementing regulations.

In 2016, the Program conducted an analysis of permitting, inspections and compliance processes and developed a tool to aid in Program planning. To develop the current workload analysis, annual permitting, inspection and compliance-related data from 2017 was entered into the workload tool. This workload tool provides a high-level assessment of current staffing needs within the Program based on current data. However, the workload tool is limited and does not capture all of the various job duties performed by the Program. For example, it does not analyze staffing levels within the Bureau of Oil and Gas Planning and Program Management (BPPM) because of the significant variability of the work performed by those staff. The output of the model is confined to the Bureau of District Oil and Gas Operations (DOGO) staff only.

The Program consists of two Bureaus:



The Bureau of District Oil and Gas Operations

DOGO consists of three district offices primarily headquartered in three regional office locations (Pittsburgh, Meadville and Williamsport) in the oil and gas producing regions of this Commonwealth. DOGO staff are responsible for permitting, inspection, compliance and enforcement functions.

DOGO includes the following:

Permitting

When the previously-referenced staff reductions and cost-saving measures occurred, it included nine permitting positions. As a result, the Program faced challenges related to meeting permit review timeframes. To address this shortcoming, the Program reorganized the Office of Oil and Gas Management to create three new management positions to oversee statewide subsurface and surface permitting. The Program also reclassified certain vacant positions to well permit geologist positions. The well permit review timeframes then improved. For example, in the Southwestern District Office, the well permit review timeframes decreased from over 100 days to an average of approximately 35 days. For Erosion and Sediment Control General Permits, the review times decreased from more than 230 to approximately 125 days.

To further improve review timeframes, the Program needs to restore the nine previously eliminated permitting positions and fund the three new management positions resulting from the reorganization. These 12 positions would cost approximately \$1.27 million.

Inspections

Inspections staff perform the majority of the Program’s field inspection and investigatory work. Inspector positions include water quality specialists, oil and gas inspectors, environmental protection specialists and field geologists. These inspectors are also responsible for responding to citizen complaints regarding oil and gas activities throughout this Commonwealth. More inspectors of all types are needed across this Commonwealth. Two areas of critical need involve the inspection of gas storage wells and oil and gas inspectors focused drilling and construction of new wells and plugging legacy wells.

The workload tool estimates 16 additional inspectors are needed including three just for gas storage wells inspections at a cost of \$1.7 million to fund these positions.

Compliance

Compliance specialists perform a variety of important job duties, including handling and management of enforcement and compliance cases, development and execution of compliance documents, and document gathering of responsive information for the many requests from the public for records. Compliance specialists perform the majority of the duties responding to requests for records as many of the requests are for records regarding the Program’s enforcement efforts to ensure compliance with the 2012 Oil and Gas Act. Compliance specialists are vital to the Program’s administration of the 2012 Oil and Gas Act as they directly interface with the citizens of this Commonwealth residing in areas of active oil and gas development.

The workload tool estimates that 11 additional compliance positions are needed to perform these various duties at a cost of \$1.17 million annually to fund these positions.

The Bureau of Oil and Gas Planning and Program Management (BPPM)

BPPM is in the Department’s Central Office (Harrisburg) and is responsible for administrative, policy and regulatory development functions.

BPPM includes the following:

Division of Well Development and Surface Activities

The Division of Well Development and Surface Activities is responsible for developing policies and guidance regarding surface activities associated with well site and gathering line design, construction and operation. This includes waste management and engineered components, such as erosion and sediment control structures, postconstruction stormwater management features, spill and release reporting and remediation, and stream and wetland crossings and encroachments.

Division of Well Plugging and Subsurface Activities

The Division of Well Plugging and Subsurface Activities includes the Subsurface Activities Section and the Well Plugging Section. The Subsurface Activities Section is responsible for the management of subsurface oil and gas activities and offers expertise in drilling, casing, cementing, completion, workover, and production activities and operations. The Well Plugging Section maintains and implements the Department’s Orphaned and Abandoned Well Plugging Program.

The Division of Compliance and Data Management

The Division of Compliance and Data Management works closely with BIT to oversee the development, operation and maintenance of data management systems

that track reports, notifications, records, applications and other information or documents that are submitted to the Department by the regulated community. This division is also responsible for assisting in the development of Statewide data management tools, such as electronic well permitting and mobile site inspection, as well as Statewide enforcement efforts related to electronic data submissions.

As a result of staff reductions, BPPM has postponed several policy development projects including updated guidance documents, public information, internal training, external training, modernized well plugging regulations, standards for storing mine influenced water in well development impoundments and an established area of alternative methods for hydraulically fracturing Utica wells in western Pennsylvania. The Program estimates that 11 BPPM positions at a cost of \$1.17 million would enable the Program to begin work on these and other important projects.

In sum, based on prior staff reductions and the workload tool, the Program estimates that it needs 49 additional positions at a cost of approximately \$5.2 million to administer the 2012 Oil and Gas Act and its implementing regulations. Because of new permit review tools and mobile inspection tools, the Program will continue to evaluate staffing and hire staff when necessary and when funds are available.

No increase to conventional well permit application fees

As stated in the Fee Report, the Department decided to not increase conventional well permit application fees for conventional wells as a solution to correcting this funding imbalance. Significantly, section 3211(d) of the 2012 Oil and Gas Act requires that well permit application fees bear a "reasonable relationship" to the cost of administering the 2012 Oil and Gas Act. The determination to increase only unconventional well permit application fees and not conventional well permit applications is (1) within the Board's granted authority under section 3274 of the 2012 Oil and Gas Act to promulgate regulations to establish a permit application fee under section 3211(d) of the 2012 Oil and Gas Act for each application for a well permit which bears a reasonable relationship to the cost of administering the 2012 Oil and Gas Act, (2) advances the purposes of the 2012 Oil and Gas Act in Section 3202 of the 2012 Oil and Gas Act, and (3) is not contrary to the express language in the 2012 Oil and Gas Act.

Conventional well drilling has declined significantly over the last few years. In FY 2015-2016, the Program received 287 conventional well permit applications generating \$97,750. In FY 2016-2017, the Program received 205 conventional well permit applications generating \$84,300. In FY 2017-2018, the Program received 225 conventional well permit applications generating \$76,973. If the Program projects that it will receive 240 conventional well permit applications annually at the average conventional well permit application fee of \$365, the Program can anticipate receiving \$87,600 per year from conventional well permit application fees under the existing fee structure. These fees are included in the Program's overall budget, and the revenue collected from the fees represents less than 0.5% of the Program's annual operating costs.

The cost to drill a conventional oil well is approximately \$115,000, and the cost to drill a conventional gas well is approximately \$250,000. The 3-year average conventional well permit application fee paid was \$365.

Thus, the average conventional well permit accounts for between .15% and .3% of the cost to drill a conventional well. The cost to drill an unconventional well is approximately \$8 million. The \$12,500 unconventional well permit application fee established by this rulemaking accounts for .16% of the cost to drill an unconventional well. Accordingly, the fees are comparable in terms of the percentage of the costs to drill wells.

In developing the analysis for this final-form rulemaking, the Department considered that the conventional industry may account for approximately 40% of the costs to administer the Program. In doing so, the Department considered proportional costs related to fee amounts. Based on the projected budget of \$25 million to sustain current staff and operating costs, the conventional industry's proportional costs would be \$10 million. If the Program projects that it will receive 240 conventional well permit applications annually, the conventional well permit application fee would need to be set at a flat rate of nearly \$42,000 per application to account for the conventional industry's proportional costs. Increasing the conventional well permit applications fees from the average of \$365 to \$42,000 per well permit application is not reasonable or appropriate given the costs to drill conventional wells and because most, if not all, conventional well operators are small businesses.

It is reasonable for the conventional industry to pay less for well permit applications than the unconventional industry and for the Board to maintain the conventional well permit application fee at its current sliding scale structure. For these reasons, conventional well permit application fees are part of the Program's budget allocated for restoring staff, funding program enhancements or, if necessary, providing a funding buffer.

Public outreach

The Department consulted with the Oil and Gas Technical Advisory Board (TAB) in the development of the proposed rulemaking to raise the unconventional well permit application fee to \$12,500 and discussed this final-form rulemaking at the TAB meeting on September 19, 2019.

E. Summary of Regulatory Requirements

Current fee structure

The current well permit application fee structure in § 78a.19 assesses a flat well permit application fee of \$5,000 for every nonvertical unconventional well permit and \$4,200 for every vertical unconventional well permit.

Final-form fee structure

This final-form rulemaking amends §§ 78a.1 and 78a.19 to increase the well permit application fee on all unconventional wells to \$12,500. This final-form rulemaking also removes definitions for "nonvertical unconventional well" and "vertical unconventional well" related to well permit applications so that permit application fees will now be the same for all unconventional well permit applications. Assuming the Program will receive approximately 2,000 unconventional well permit applications annually following this final-form rulemaking, \$12,500 per unconventional well permit application is needed to sustain the Program at current staff levels and operating costs.

As discussed in Section D of this preamble, this final-form rulemaking does not amend the current conventional well permit application fees in § 78.19.

F. Changes from Proposed to Final-Form Rulemaking

This final rulemaking Annex A does not contain any changes from the proposed rulemaking Annex A.

G. Summary of Major Comments and Responses

The proposed rulemaking was adopted by the Board at its meeting on May 16, 2018, and published at 48 Pa.B. 4100 (July 14, 2018), with a 30-day comment period. No public hearings were held. The public comment period closed on August 13, 2018.

The Board received 51 comments from 14 commenters. One commenter was neutral on the rulemaking. Two commenters offered comments in support of the rulemaking while ten commenters opposed the rulemaking. The Independent Regulatory Review Commission (IRRC) also submitted comments on September 12, 2018.

Consider alternate sources of funding

The Board received comments from commenters that did not believe that well permit fees should be such a disproportionate source of program funding and that the Board should work with stakeholders to find an alternative, more stable source of funding. These commenters recommended forming a workgroup to identify cost saving measures, using General Fund money, reallocating Chapter 102 and Chapter 105 permit fees that are paid by the oil and gas industry from the Clean Water and Dam Safety Programs to the Oil and Gas Program, and use of the \$6 million Impact Fee.

The Board will work with stakeholders to identify more stable sources of funding. Reallocating general funds or permit fees received by other programs to the Program is not an option, as those programs are also underfunded. The Department noted that the Program currently receives the entire \$6 million Impact Fee even though that fee could be allocated to the Clean Air and Clean Water Programs in addition to or instead of the Oil and Gas Program.

Clarify benefits of well permit fee increase

Commenters requested that the Board identify cost saving measures that could be undertaken through an audit or workload analysis.

The Department implemented cost saving measures by reducing 36 positions and reducing operational costs by 38%. However, these cost savings have resulted in operational shortcomings which this final-form rulemaking, along with the conventional well permit fees and the \$6 million Impact Fee, is intended to address. The Program also developed a sophisticated workload analysis tool and used that tool to provide a detailed explanation for why additional staffing and financial resources are needed.

Justify that the fee is reasonably related to the cost of administering the Program

The Board received comments that a 150% increase in the cost of an unconventional well permit fee is disproportional to the Program's costs to administer a program that oversees both the conventional and unconventional industry.

In response, the Board relies on section 3211(d) of the 2012 Oil and Gas Act. As prescribed by section 3211(d), a well permit application fee is a one-time payment submitted with each well permit application that is deposited into the Well Plugging Fund as a dedicated revenue source for the Program. This fee is set by the Board in regulation and must be reasonably related to the cost of the Program to administer the 2012 Oil and Gas Act. The

fees do not provide ongoing revenue to the Program. For that reason, the fees received in a given year must fund all of the Program's functions beyond permitting.

Since 1984, the Board has increased the well permit application fees, in 2009 and 2014, to fund the Program's increasing expenses and established different amounts for the different classes of wells, including unconventional, conventional and home use wells. The Board established different amounts for these different classes of wells based on the cost of the Program related to well permit application projections, total well bore length for conventional wells, the costs to develop each class of well and the ability of the applicant to pay. The Board ensures that the well permit application fees bear a reasonable relationship to Program costs by using these factors to establish the different fee amounts.

The Board disagrees that fees must be based on proportional costs by industry sector. Section 3211(d) does not require that the fees be determined by the proportional costs of the Department based on the different segments of the industry. Section 3211(d) only requires that these fees bear a "reasonable relationship" to costs. Nonetheless, in developing this final-form rulemaking, the Board considered proportional costs related to fee amounts. The Board also considered that conventional well drilling has declined over recent years with only 225 conventional well permit applications submitted in FY 2017-18. In contrast, the Department received 1,706 unconventional well permit applications in 2018. This demonstrates that the unconventional industry is applying for the vast majority of the permits issued by the Department. The Board also considered the revenue generated by conventional well permit application fees. In FY 2017-18, the conventional well permit application fee revenue was \$76,973. The revenue collected from the fees represents less than 0.5% of the Program's annual operating costs. Further, the average conventional well permit fee accounts for between .14% and .3% of the cost to drill a conventional well. With the fee increase included in this rulemaking, the unconventional well permit application fee would cost .16% of the cost to drill an unconventional well.

Based on the previous information, the one-time nature of the well permit and Program costs, the Board decided not to increase the conventional well permit application fees. The determination to increase only unconventional well permit application fees and not conventional well permit applications is (1) within the Board's granted authority under section 3274 of the 2012 Oil and Gas Act to promulgate regulations to establish a permit application fee under section 3211(d) of the 2012 Oil and Gas Act for each application for a well permit which bears a reasonable relationship to the cost of administering the 2012 Oil and Gas Act, (2) advances the purposes of the 2012 Oil and Gas Act in section 3202 of the 2012 Oil and Gas Act, and (3) is not contrary to the express language in the 2012 Oil and Gas Act.

As such, the Board asserts that the existing conventional well permit application fees and the increase fee for unconventional well permit established in this final-form rulemaking bear a reasonable relationship to the cost of administering the Oil and Gas Program for both industries.

New fee will negatively impact small businesses and Pennsylvania's competitiveness

Some commenters expressed concern that the increased unconventional well permit application fee would nega-

tively impact Pennsylvania small businesses and the Commonwealth's ability to compete for business compared to other gas producing states.

In developing this final-form rulemaking, the Board thoroughly considered the impact of raising fees on companies engaged in unconventional natural gas extraction that qualify as small businesses and what impact that could have on Pennsylvania's competitiveness for future business. While a majority of the 80 unconventional natural gas extraction operators that will be impacted by this final-form rulemaking qualify as small businesses, the increased unconventional well permit application fee will now account for .16% of the cost to drill an unconventional well that costs approximately \$8 million to drill. Furthermore, the Marcellus and Utica Shales are the premier shale gas plays in the United States with Pennsylvania being the premier state in which to drill these wells. While the well permit fee in Pennsylvania will be higher than in other states, other state regulatory agencies receive significant funding from a severance tax to fund their oil and gas program operations and charge fees for a variety of activities other than well permit applications.

Due to the relatively small percentage that the well permit application fee will cost unconventional operators in the scheme of developing a well and the fee structure that Pennsylvania has compared to other states, the new unconventional well permit application fee will not negatively impact unconventional operators that qualify as small businesses or harm Pennsylvania's ability to be competitive with other gas producing states.

New fees will not assure faster permit review times

Commenters contended that the new fee will not result in faster permit reviews, which are the greatest challenge faced by the Department, and that additional permit reviewers should be prioritized over other staffing needs.

The Board acknowledged that the Oil and Gas Program was struggling to meet permit review timeframes in 2017. This was a direct result of the reduction in staff by 36 positions in response to a lack of revenue from well permit fees. To address this shortcoming, the Program reorganized the Office of Oil and Gas Management to create three new management positions to oversee statewide subsurface and surface permitting. The Program also reclassified certain vacant positions to well permit geologist positions. The well permit review timeframes then improved. For example, in the Southwestern District Office, the well permit review timeframes decreased from over 100 days to an average of approximately 35 days. For Erosion and Sediment Control General Permits, the review times decreased from more than 230 to approximately 125 days.

As discussed previously, the Program estimates that additional 12 permitting staff is needed to further improve review timeframes. The fee increase in this final-form rulemaking is to sustain the Program at current staff levels and operating costs. The other sources of revenue, including conventional well permit application fees and the \$6 million distributed to the Department from the Act 13 Impact Fee, provide a funding buffer in the event that the actual permit applications the Department receives in the years following this final-form rulemaking do not meet the permit application projections. If that happens, the Program will need these other revenue sources to sustain the Program. If not, these funds will be allocated for needed program enhancements, restoring staff complement and adding necessary staff to

administer the 2012 Oil and Gas Act and its implementing regulations. Because of new permit review tools and mobile inspection tools, the Program will continue to evaluate staffing and hire staff when necessary and when funds are available.

H. Benefits, Costs and Compliance

Benefits

The increased unconventional well permit application fee revenue will be used to sustain the Program at current staff levels and operating costs in order to administer the 2012 Oil and Gas Act and ensure the responsible development of oil and natural gas in this Commonwealth.

As long as the Department receives the projected number of unconventional well permit applications that form the basis of this final-form rulemaking in order to sustain the Program at its current staffing and operating costs, the other sources of revenue currently available to the Program, including conventional well permit application fees and the \$6 million distributed to the Department from the Impact Fee established by 58 Pa.C.S. Chapter 23 currently allocated to the Program, can be used to restore the Program to a full staff complement of 226 people, hire necessary additional staff and fund program enhancements.

Compliance costs

The fee paid for unconventional well permit applications is currently a \$5,000 fee for each nonvertical unconventional well and \$4,200 for each vertical unconventional well permit. The proposed fee increase is \$12,500 for all unconventional well permit applications. This is an increase of \$7,500 for each nonvertical unconventional well application and \$8,300 for each vertical unconventional well application. The Department assumes that if approximately 2,000 well permit applications are received annually this final-form rulemaking would result in an additional annual incremental permit application cost of \$15 million to the regulated community. This final-form rulemaking does not require new legal, accounting or consulting procedures.

Compliance assistance plan

The Department plans to educate and assist the public and regulated community in understanding the final-form amendment requirements and how to comply with them. This outreach initiative will be accomplished through the Department's ongoing compliance assistance program. Permit application forms and instructions would be amended to reflect the new fee structure.

Paperwork requirements

This final-form rulemaking does not create any additional paperwork requirements. Minor changes to the unconventional well permit application form, Permit Application to Drill and Operate an Unconventional Well (Document # 8000-PM-OOGM0001BU), will be necessary to implement this final-form rulemaking and a draft version of that form was submitted to IRRC.

I. Pollution Prevention

The Pollution Prevention Act of 1990 (42 U.S.C.A. §§ 13101—13109) established a National policy that promotes pollution prevention as the preferred means for achieving state environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally friendly materials, more efficient use of raw materials and the incorporation

of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance. The anticipated increased revenues would allow the Department to continue providing adequate oversight of the oil and gas industry in this Commonwealth, ensuring continued protection of the environment and the public health and welfare of the citizens of this Commonwealth.

J. Sunset Review

The Board is not establishing a sunset date for these regulations, since they are needed for the Department to carry out its statutory authority. The Department will continue to closely monitor these regulations for their effectiveness and recommend updates to the Board as necessary. In addition, in accordance with §§ 78.19(e) and 78a.19(b), the Department will evaluate these fees and recommend regulatory amendments to the Board to address any disparity between the Program income generated by the fees and the Department's cost of administering the Program with the objective of ensuring fees meet all Program costs and the Program is self-sustaining. This report and any proposed regulatory amendments will be presented to the Board no later than 3 years after the promulgation of this final-form rulemaking.

K. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on July 2, 2018, the Department submitted a copy of proposed rulemaking published at 48 Pa.B. 4100 (July 14, 2018) to IRRC and to the Chairpersons of the House and Senate Committees on Environmental Resources and Energy for review and comment.

Under section 5(c) of the Regulatory Review Act, the Department is required to submit to IRRC and the House and Senate Committees copies of comments received during the public comment period, as well as other documents when requested. In preparing this final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees, and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on June 17, 2020, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on June 18, 2020 and approved the final-form rulemaking.

L. Findings

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), known as the Commonwealth Documents Law and regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) A public comment period was provided as required by law, and all comments were considered.

(3) This final-form rulemaking does not enlarge the purpose of the proposed rulemaking published at 48 Pa.B. 4100.

(4) These regulations are necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this preamble.

M. Order

The Board, acting under the authorizing statutes, orders that:

(a) The regulations of the Department, 25 Pa. Code Chapter 78a, is amended by amending §§ 78a.1 and 78a.19 to read as set forth in Annex A, with ellipses referring to the existing text of the regulation.

(b) The Chairperson of the Board shall submit this regulation to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form, as required by law.

(c) The Chairperson of the Board shall submit this regulation to IRRC and the Committees as required by the Regulatory Review Act.

(d) The Chairperson of the Board shall certify this regulation and deposit them with the Legislative Reference Bureau as required by law.

(e) This regulation shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

PATRICK McDONNELL,
Chairperson

(*Editor's Note:* See 50 Pa.B. 3355 (July 4, 2020) for IRRC's approval order.)

Fiscal Note: Fiscal Note 7-542 remains valid for the final adoption of the subject regulations.

Annex A

**TITLE 25. ENVIRONMENTAL PROTECTION
PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION
Subpart C. PROTECTION OF NATURAL RESOURCES**

ARTICLE I. LAND RESOURCES

CHAPTER 78a. UNCONVENTIONAL WELLS

Subchapter A. GENERAL PROVISIONS

§ 78a.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise, or as otherwise provided in this chapter:

* * * * *

Nonporous material—Nontoxic earthen mud, drill cuttings, fire clay, gel, cement or equivalent materials approved by the Department that will equally retard the movement of fluids.

Observation well—A well used to monitor the operational integrity and conditions in a gas storage reservoir, the reservoir protective area, or strata above or below the gas storage horizon.

* * * * *

Unconventional well or *well*—A bore hole drilled or being drilled for the purpose of or to be used for the production of natural gas from an unconventional formation.

WMP—*Water management plan*—A plan associated with drilling or completing a well in an unconventional formation that demonstrates that the withdrawal and use of water sources within this Commonwealth protects those sources, as required under law, and protects public health, safety and welfare.

* * * * *

**Subchapter B. PERMITS, TRANSFERS AND
OBJECTIONS**

PERMITS AND TRANSFERS

§ 78a.19. Permit application fee schedule.

(a) An applicant for an unconventional well shall pay a permit application fee of \$12,500.

(b) At least every 3 years, the Department will provide the EQB with an evaluation of the fees in this chapter and recommend regulatory changes to the EQB to address any disparity between the program income generated by the fees and the Department's cost of administering the program with the objective of ensuring fees meet all program costs and programs are self-sustaining.

[Pa.B. Doc. No. 20-1027. Filed for public inspection July 31, 2020, 9:00 a.m.]

**Title 49—PROFESSIONAL AND
VOCATIONAL STANDARDS**

STATE BOARD OF DENTISTRY

[49 PA. CODE CH. 33]

Child Abuse Reporting Requirements

The State Board of Dentistry (Board) hereby amends §§ 33.1, 33.250—33.255 and 33.401 and adds §§ 33.256 and 33.257 (relating to child abuse recognition and reporting—mandatory training requirement; and child abuse recognition and reporting course approval process) to read as set forth in Annex A.

Effective Date

The amendments will be effective upon publication of this final-form rulemaking in the *Pennsylvania Bulletin*.

Statutory Authority

Section 3(o) of the Dental Law (63 P.S. § 122(o)) sets forth the Board's general rulemaking authority. Section 6383(b)(2) of the Child Protective Services Law (CPSL) (23 Pa.C.S. § 6383(b)(2) (relating to education and training)) requires the Board to promulgate regulations to implement the mandatory reporting requirements for Board-regulated practitioners.

Purpose and Explanation

Since 2014 the General Assembly has made numerous amendments to the CPSL, including the requirement imposed by the act of April 15, 2014 (P.L. 411, No. 31) (Act 31 of 2014) on all health-related Boards to require training in child abuse recognition and reporting for licensees who are considered "mandated reporters" under the CPSL. Section 2 of Act 31 of 2014 provided that these training requirements would apply to all persons applying for a license, or applying for renewal of a license, on or after January 1, 2015. The Board implemented the training requirements as mandated by Act 31 of 2014 at the beginning of 2015 and subsequently proposed this rulemaking to update the Board's existing regulations on the subject of child abuse reporting to be consistent with the CPSL, as amended.

The proposed rulemaking was published at 48 Pa.B. 1179 (February 24, 2018) for 30 days of public comment, but no public comments were received. The Independent Regulatory Review Commission (IRRC) submitted comments on April 25, 2018. The House Professional

Licensure Committee (HPLC) and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) did not submit comments. The following represents a summary of IRRC's comments and the Board's response, along with a description of the amendments made to this final-form rulemaking, some of which were necessitated by additional amendments made to the CPSL since publication of the proposed rulemaking.

*Summary of IRRC's Comments and the Board's Response
Section 33.1 (relating to definitions)*

IRRC first commented relating to definitions that the Board is adopting or amending from the CPSL that are not defined exactly as stated in the CPSL. First, IRRC noted that the Board indicated its intent to remove the definition of the term "perpetrator" because it is no longer used in the regulations. However, IRRC correctly pointed out that the term continues to appear in the definition of "serious physical neglect" as taken directly from the CPSL. IRRC suggests that the Board should either keep the defined term "perpetrator" or revise the definition of "serious physical neglect" not to include the use of that term.

The Board had intentionally deleted the definition of the term "perpetrator" from the regulation because the Board believed it could cause confusion when a Board regulated practitioner was unsure of who may have abused a child leading to an underreporting of suspected child abuse. The Board has added the statutory definition of "perpetrator" to the final-form rulemaking in response to IRRC's comment. However, this addition is being made to assure that the regulation is consistent with the CPSL, and is not intended to imply that a Board regulated practitioner has a duty to conduct an investigation to determine who abused or caused abuse to the child and then determine if they meet the statutory definition of "perpetrator" prior to making a report of suspected child abuse. If a Board regulated practitioner believes a child has been the subject of abuse, the Board regulated practitioner should make a report as set forth in the regulations so that the appropriate authorities may investigate.

IRRC also noted that the Board's intent is to amend the definition of "child abuse" to comport with amendments made to the CPSL. However, IRRC noted that the proposed definition varies from the CPSL. Specifically, section 6303(b.1)(8)(ii) of the CPSL states, "unreasonably restraining or confining a child, based on consideration of the method, location or duration of the restraint or confinement," whereas the equivalent definition in the Board's regulations only states "unreasonably restraining or confining a child."

Initially, the qualifying phrase "based on consideration of the method, location or duration of the restraint or confinement" was intentionally omitted from the proposed rulemaking because the Board did not want Board regulated practitioners to be making subjective determinations about whether the method, location or duration of the restraint or confinement was or was not "unreasonable" resulting in an underreporting of suspected child abuse. However, upon consideration of IRRC's comment, it appears to the Board that the phrase may be helpful to Board regulated practitioners by clarifying what aspects of restraint or confinement make it unreasonable. For that reason, and to assure that the definition is consistent with the CPSL, the qualifying phrase has been added to this final-form rulemaking.

IRRC also noted that the phrase "provided that the violation is being investigated by law enforcement" was

not carried over from section 6303(b.1)(8)(iv) of the CPSL to the Board's definition of "child abuse." This provision of the CPSL defines "child abuse" to include the act of "causing a child to be present at a location while a violation of 18 Pa.C.S. § 7508.2 (related to operation of methamphetamine laboratory) is occurring, provided that the violation is being investigated by law enforcement." In response to IRRC's comment, the Board has inserted the missing clause. Originally, the Board did not want to include the proviso at the end because it might imply that the Board regulated practitioner would have a duty to determine if the methamphetamine laboratory was being investigated by law enforcement, which was not the Board's intent. Again, the insertion of the proviso in the final-form rulemaking is being made to assure that the definition in the Board's regulation is consistent with the CPSL. It is not intended to imply that a Board regulated practitioner has such a duty. If a Board regulated practitioner believes that a child has been present at a methamphetamine laboratory, it should be reported as set forth in the regulation.

Additionally, IRRC noted that section 6303(b.1)(8)(vii)(D) of the CPSL was not included at all in the proposed rulemaking. This provision is related to leaving a child unsupervised with an individual, other than the child's parent, who has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.58 (relating to assessments) or has to register for life under 42 Pa.C.S. § 9799.55(b) (relating to registration). In response, the Board notes that section 6303(b.1)(8)(vii)(D) was added by the act of February 21, 2018 (P.L. 27, No. 10) (Act 10 of 2018), while the Board delivered the proposed rulemaking to IRRC and the standing committees of the House and Senate on February 9, 2018. Therefore, the Board could not have included it in the proposed rulemaking because it did exist as a requirement of the CPSL at the time of delivery. However, it has been added to the final-form rulemaking.

IRRC also noted that since it is the Board's intent to amend the regulations to be consistent with the CPSL to benefit licensees and so as to avoid confusion as to their responsibilities in this area, the Board should ensure that the final-form rulemaking is consistent with the CPSL. The final-form rulemaking has been reviewed and revised so that it comports with the CPSL, including more recent amendments that occurred after the proposed rulemaking was published. In addition, the Board will endeavor to keep up with future changes to the CPSL and to amend the regulations as needed.

Section 33.401 (relating to credit-hour requirements)

IRRC raised a concern that the proposed rulemaking does not provide direct notice that if the continuing education requirement for child abuse recognition and reporting is not met, a license or certificate cannot be renewed. IRRC suggests that direct and clear notice in the wording of the regulation will benefit both the Board and the regulated community in obtaining compliance. In response, the Board has added a clear notice to § 33.401(h) indicating that the Board will not renew a license or certificate unless the Bureau has received an electronic report from an approved provider documenting the attendance/participation of the licensee or certificate holder. Instead, the licensee or certificate holder will receive a "discrepancy notice" through the Pennsylvania Licensing System informing them that the Bureau/Board has not received an electronic report evidencing completion of the mandatory child abuse training and that their license or certificate cannot be renewed until such a report is received.

Description of Amendments to the Final-form Rulemaking

The definition of "child abuse" has been amended in response to IRRC's comments to be consistent with the definition in the CPSL as discussed previously. Additionally, the definition of "perpetrator" has been included in this final-form rulemaking.

In the proposed rulemaking, the Board had planned to add a new section, § 33.252a (relating to mandatory reporting of children under 1 year of age) as a result of amendments to section 6386 of the CPSL, which had required mandatory reporting when a health care provider is involved in the care of a child under 1 year of age who is born and identified as being affected by illegal substance abuse by the child's mother, withdrawal symptoms resulting from prenatal drug exposure, or a Fetal Alcohol Spectrum Disorder. However, section 6386 of the CPSL was amended in June of 2018, to change this requirement to a "notification" and to clarify that this "notification" does not constitute a child abuse report. Therefore, the Board determined that this section was no longer needed in this final-form rulemaking and it has been deleted. This, of course, does not relieve health care providers from the duty to make such notifications under the CPSL, but simply reflects the fact that the Board is not required to enforce this requirement by regulation. In addition, all cross references to proposed § 33.252a have been removed from this final-form rulemaking.

Section 33.255 (relating to noncompliance) has been amended in this final-form rulemaking to reflect recent amendments made to the CPSL by the act of November 26, 2019 (P.L. 648, No. 88), which were effective as of January 25, 2020, with regard to the criminal penalties related to the willful failure to report suspected child abuse.

Finally, the Board has amended § 33.401(h) to provide clear notice that the Board will not renew a license or certificate unless the Bureau has received an electronic report from an approved child abuse course provider documenting the attendance/participation by the licensee or certificateholder of the required 2 hours of continuing education in child abuse recognition and reporting requirements.

Fiscal Impact and Paperwork Requirements

The Board does not anticipate any significant fiscal impact or paperwork requirements relating to these amendments. Because licensees and certificateholders are already required to complete mandatory continuing education, and the 2 hours in child abuse recognition and reporting are incorporated in the existing requirement, there would be no increased burden. Only applicants for licensure or certification incur an additional requirement, and as there are many low-cost and free options available to complete the training, the Board anticipates this impact to also be minimal. Because all approved Act 31 training providers are required to report attendance/participation electronically, there are no additional paperwork requirements imposed on licensees. In addition, the implementation of an electronic reporting system for mandatory reporters of child abuse under the CPSL by the Department of Human Services has decreased the paperwork requirements related to the mandatory reporting requirements.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on February 9, 2018, the Board submitted a copy of the notice of proposed rulemaking,

published at 48 Pa.B. 1179, to IRRC and to the Chairpersons of the HPLC and SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing this final-form rulemaking, the Board has considered all comments from IRRC. No public comments were received. The Board also received no comments from the HPLC or the SCP/PLC.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on February 13, 2020, the Board delivered this final-form rulemaking to IRRC, the HPLC and the SCP/PLC. Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on June 17, 2020, the final-form rulemaking was deemed approved by the HPLC and the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on June 18, 2020, and approved the final-form rulemaking.

Additional Information

Individuals who need information about this final-form rulemaking may contact Lisa Burns, Board Administrator, State Board of Dentistry, at P.O. Box 2649, Harrisburg, PA 17105-2649, RA-DENTISTRY@pa.gov.

Findings

The Board finds that:

- (1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), known as the Commonwealth Documents Law and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to relating to notice of proposed rulemaking required; and adoption of regulations).
- (2) A public comment period was provided as required by law, but no comments were received.
- (3) The amendments to this final-form rulemaking do not enlarge the original purpose of the proposed rulemaking published at 48 Pa.B. 1179.
- (4) This final-form rulemaking is necessary and appropriate for the administration of the amendments to the Child Protective Services Law (23 Pa.C.S. §§ 6301—6387).

Order

The Board, therefore, orders that:

(a) The regulations of the Board at 49 Pa. Code Chapter 33, are amended by amending §§ 33.1, 33.250—33.255 and 33.401 and adding §§ 33.256 and 33.257 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(*Editor's Note:* Proposed § 33.252a in the proposed rulemaking published at 48 Pa.B. 1179, is not being adopted.)

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

(c) The Board shall submit this order and Annex A to IRRC, the HPLC and the SCP/PLC as required by law.

(d) The Board shall certify this Order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(e) This final-form rulemaking shall take effect upon publication in the *Pennsylvania Bulletin*.

IVAN R. LUGO, DMD,
Chairperson

(*Editor's Note:* See 50 Pa.B. 3355 (July 4, 2020) for IRRC's approval order.)

Fiscal Note: Fiscal Note 16A-4626 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 33. STATE BOARD OF DENTISTRY

Subchapter A. GENERAL PROVISIONS

§ 33.1 Definitions.

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

* * * * *

Board regulated practitioner—A dentist, restricted faculty license holder, dental hygienist, public health dental hygiene practitioner or expanded function dental assistant.

Bodily injury—Impairment of physical condition or substantial pain.

Bureau—The Bureau of Professional and Occupational Affairs of the Commonwealth.

Child—An individual under 18 years of age.

Child abuse—Intentionally, knowingly or recklessly doing any of the following:

- (i) Causing bodily injury to a child through any recent act or failure to act.
- (ii) Fabricating, feigning or intentionally exaggerating or inducing a medical symptom or disease which results in a potentially harmful medical evaluation or treatment to the child through any recent act.
- (iii) Causing or substantially contributing to serious mental injury to a child through any act or failure to act or a series of such acts or failures to act.
- (iv) Causing sexual abuse or exploitation of a child through any act or failure to act.
- (v) Creating a reasonable likelihood of bodily injury to a child through any recent act or failure to act.
- (vi) Creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act.
- (vii) Causing serious physical neglect of a child.
- (viii) Engaging in any of the following recent acts:
 - (A) Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child.
 - (B) Unreasonably restraining or confining a child, based on consideration of the method, location or duration of the restraint or confinement.
 - (C) Forcefully shaking a child under 1 year of age.
 - (D) Forcefully slapping or otherwise striking a child under 1 year of age.
 - (E) Interfering with the breathing of a child.

(F) Causing a child to be present at a location while a violation of 18 Pa.C.S. § 7508.2 (relating to operation of methamphetamine laboratory) is occurring, provided that the violation is being investigated by law enforcement.

(G) Leaving a child unsupervised with an individual, other than the child's parent, who the actor knows or reasonably should have known:

(I) Is required to register as a Tier II or Tier III sexual offender under 42 Pa.C.S. Chapter 97, Subchapter H (relating to registration of sexual offenders), where the victim of the sexual offense was under 18 years of age when the crime was committed.

(II) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.24 (relating to assessments) or any of its predecessors.

(III) Has been determined to be a sexually violent delinquent child as defined in 42 Pa.C.S. § 9799.12 (relating to definitions).

(IV) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.58 (relating to assessments) or has to register for life under 42 Pa.C.S. § 9799.55(b) (relating to registration).

(H) Causing the death of the child through any act or failure to act.

(I) Engaging a child in a severe form of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C.A. § 7102).

ChildLine—An organizational unit of the Department of Human Services, which operates a 24-hour a day Statewide toll free telephone system for receiving reports of suspected child abuse, referring reports for investigation and maintaining the reports in the appropriate file.

* * * * *

General supervision—In a dental facility, supervision by a dentist who examines the patient, develops a treatment plan, authorizes the performance of dental hygiene services to be performed within 1 year of the examination, and takes full professional responsibility for the performance of the dental hygienist. In facilities identified in § 33.205(c)(2) and (3) (relating to practice as a dental hygienist), general supervision is defined in § 33.205(d)(2).

Individual study—A course of continuing education offered by an approved program sponsor, which permits the participant to learn without interacting with an instructor or interactive learning methodologies and which requires a passing grade on a written examination or workbook.

Local anesthesia—The elimination of sensations, especially pain, in one part of the body by regional injection of an anesthetic agent.

Mandated reporter—A person who is required under 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse) to make a report of suspected child abuse. For purposes of this chapter, the term includes all Board regulated practitioners.

Parent—A biological parent, adoptive parent or legal guardian.

Perpetrator—A person who has committed child abuse as defined in this section.

(i) This term includes only the following:

(A) A parent of the child.

(B) A spouse or former spouse of the child's parent.

(C) A paramour or former paramour of the child's parent.

(D) A person 14 years of age or older and responsible for the child's welfare or having direct contact with children as an employee of child-care services, a school or through a program, activity or service.

(E) An individual 14 years of age or older who resides in the same home as the child.

(F) An individual 18 years of age or older who does not reside in the same home of the child but is related within the third degree of consanguinity or affinity by birth or adoption of the child.

(G) An individual 18 years of age or older who engages a child in severe forms of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C.A. § 7102).

(ii) Only the following may be considered a perpetrator for failing to act, as provided in this section:

(A) A parent of the child.

(B) A spouse or former spouse of the child's parent.

(C) A paramour or former paramour of the child's parent.

(D) A person 18 years of age or older and responsible for the child's welfare.

(E) A person 18 years of age or older who resides in the same home as the child.

Person responsible for the child's welfare—A person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control.

Program, activity or service—Any of the following in which children participate and which is sponsored by a school or a public or private organization:

(i) A youth camp or program.

(ii) A recreational camp or program.

(iii) A sports or athletic program.

(iv) A community or social outreach program.

(v) An enrichment or educational program.

(vi) A troop, club or similar organization.

Program sponsor—The party approved by the Board who is responsible for the development and presentation of the continuing dental education program.

Public health dental hygiene practitioner—A licensed dental hygienist who is certified by the Board as having met the requirements of section 11.9 of the act (63 P.S. § 130j), and who is authorized to perform dental hygiene services in accordance with § 33.205b (relating to practice as a public health dental hygiene practitioner) without the authorization, assignment or examination of a dentist.

Recent act or failure to act—An act or failure to act committed within 2 years of the date of the report to the Department of Human Services or county agency.

Serious mental injury—A psychological condition, as diagnosed by a physician or licensed psychologist, including the refusal of appropriate treatment, that does one or more of the following:

(i) Renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that the child's life or safety is threatened.

(ii) Seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks.

Serious physical neglect—Any of the following when committed by a perpetrator that endangers a child's life or health, threatens a child's well-being, causes bodily injury or impairs a child's health, development or functioning:

(i) A repeated, prolonged or egregious failure to supervise a child in a manner that is appropriate considering the child's developmental age and abilities.

(ii) The failure to provide a child with adequate essentials of life, including food, shelter or medical care.

Sexual abuse or exploitation—Any of the following:

(i) The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another individual to engage in sexually explicit conduct, which includes the following:

(A) Looking at the sexual or other intimate parts of a child or another individual for the purpose of arousing or gratifying sexual desire in any individual.

(B) Participating in sexually explicit conversation either in person, by telephone, by computer or by a computer-aided device for the purpose of sexual stimulation or gratification of any individual.

(C) Actual or simulated sexual activity or nudity for the purpose of sexual stimulation or gratification of any individual.

(D) Actual or simulated sexual activity for the purpose of producing visual depiction, including photographing, videotaping, computer depicting or filming.

(ii) Any of the following offenses committed against a child:

(A) Rape as defined in 18 Pa.C.S. § 3121 (relating to rape).

(B) Statutory sexual assault as defined in 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).

(C) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).

(D) Sexual assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault).

(E) Institutional sexual assault as defined in 18 Pa.C.S. 3124.2 (relating to institutional sexual assault).

(F) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

(G) Indecent assault as defined in 18 Pa.C.S. § 3126 (relating to indecent assault).

(H) Indecent exposure as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure).

(I) Incest as defined in 18 Pa.C.S. § 4302 (relating to incest).

(J) Prostitution as defined in 18 Pa.C.S. § 5902 (relating to prostitution and related offenses).

(K) Sexual abuse as defined in 18 Pa.C.S. § 6312 (relating to sexual abuse of children).

(L) Unlawful contact with a minor as defined in 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).

(M) Sexual exploitation as defined in 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).

(iii) For the purposes of subparagraph (i), the term does not include consensual activities between a child who is 14 years of age or older and another person who is 14 years of age or older and whose age is within 4 years of the child's age.

Sexual misconduct—Any conduct with a current patient, including words, gestures or expressions, actions or any combination thereof, which is sexual in nature, or which may be construed by a reasonable person as sexual in nature.

Subgingival agents—Therapeutic agents, including antimicrobials, antibiotics, antiseptics or anesthetics, placed below the free margin of the gingiva by a local delivery system or device, including injectable systems for ointments, gels or pastes, and degradable or nondegradable devices, such as fibers, films, strips, slaps, spheres, discs or chips.

Subchapter C. MINIMUM STANDARDS OF CONDUCT AND PRACTICE

§ 33.250. Suspected child abuse—mandated reporting requirements.

(a) *General rule.* Under 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse), all Board regulated practitioners are considered mandated reporters. A mandated reporter shall make a report of suspected child abuse in accordance with this section if the mandated reporter has reasonable cause to suspect that a child is a victim of child abuse under any of the following circumstances:

(1) The mandated reporter comes into contact with the child in the course of employment, occupation and practice of the profession or through a regularly scheduled program, activity or service.

(2) The mandated reporter is directly responsible for the care, supervision, guidance or training of the child, or is affiliated with an agency, institution, organization, school, regularly established church or religious organization or other entity that is directly responsible for the care, supervision, guidance or training of the child.

(3) A person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse.

(4) An individual 14 years of age or older makes a specific disclosure to the mandated reporter that the individual has committed child abuse.

(b) *Staff members of public or private agencies, institutions and facilities.* Whenever a Board regulated practitioner is required to make a report under subsection (a) in the capacity as a member of the staff of a medical, dental or other public or private institution, school, facility or agency, that Board regulated practitioner shall report immediately in accordance with subsection (c) and shall immediately thereafter notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge.

(c) *Reporting procedure.* A mandated reporter shall immediately make a report of suspected child abuse to the Department of Human Services by either:

(1) Making an oral report of suspected child abuse by telephone to ChildLine at (800) 932-0313, followed by a written report within 48 hours to the Department of Human Services or the county agency assigned to the case in a manner and format prescribed by the Department of Human Services. The written report submitted under this subparagraph may be submitted electronically.

(2) Making an electronic report of suspected child abuse in accordance with 23 Pa.C.S. § 6305 (related to electronic reporting) through the Department of Human Service's Child Welfare Information Solution self-service portal at www.compass.state.pa.us/cwis. A confirmation by the Department of Human Services of the receipt of a report of suspected child abuse submitted electronically relieves the mandated reporter of the duty to make an additional oral or written report.

(d) *Written or electronic reports.* A written or electronic report of suspected child abuse, shall include the following information, if known:

(1) The names and addresses of the child, the child's parents and any other person responsible for the child's welfare.

(2) Where the suspected child abuse occurred.

(3) The age and sex of the subject or subjects of the report.

(4) The nature and extent of the suspected child abuse, including any evidence of prior abuse to the child or sibling of the child.

(5) The name and relationship of the person or persons responsible for causing the suspected abuse and any evidence of prior abuse by those persons.

(6) Family composition.

(7) The source of the report.

(8) The name, telephone number and e-mail address of the person making the report.

(9) The actions taken by the person making the report, including actions taken under 23 Pa.C.S. §§ 6314—6317.

(10) Other information required by Federal law or regulation.

(11) Other information that the Department of Human Services may require by regulation.

§ 33.251. Photographs, medical tests and X-rays of child subject to report.

A Board regulated practitioner may take or cause to be taken photographs of the child who is subject to a report and, if clinically indicated, cause to be performed a radiological examination and other medical tests on the child. Medical summaries or reports of the photographs, X-rays and relevant medical tests taken shall be sent to the county children and youth social service agency at the time the written report is sent, or within 48 hours after an electronic report is made under § 33.250(c)(2) (relating to suspected child abuse—mandated reporting requirements), or as soon thereafter as possible. The county children and youth social service agency shall have access to actual photographs or duplicates and X-rays and may obtain them or duplicates of them upon request.

§ 33.252. Suspected death as a result of child abuse—mandated reporting requirement.

A Board regulated practitioner who has reasonable cause to suspect that a child died as a result of child abuse shall report that suspicion to the coroner or medical examiner of the county where death occurred or,

in the case where the child is transported to another county for medical treatment, to the coroner or medical examiner of the county where the injuries were sustained.

§ 33.253. Immunity from liability.

Under 23 Pa.C.S. § 6318 (relating to immunity from liability) a Board regulated practitioner who participates in good faith in the making of a report of suspected child abuse, making a referral for general protective services, cooperating or consulting with an investigation including providing information to a child fatality or near fatality review team, testifying in a proceeding arising out of an instance of suspected child abuse or general protective services or engaging in any action authorized under 23 Pa.C.S. §§ 6314—6317, shall have immunity from civil and criminal liability that might otherwise result by reason of the Board regulated practitioner's actions. For the purpose of any civil or criminal proceeding, the good faith of the Board regulated practitioner shall be presumed. The Board will uphold the same good faith presumption in any disciplinary proceeding that might result by reason of a Board regulated practitioner's actions under §§ 33.250—33.252 (relating to suspected child abuse—mandatory reporting requirements; photographs, medical tests and x-rays of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement).

§ 33.254. Confidentiality—waived.

To protect children from abuse, the reporting requirements of §§ 33.250—33.252 (relating to suspected child abuse—mandated reporting requirements; photographs, medical tests and X-rays of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement) take precedence over the provisions of any client confidentiality, ethical principle or professional standard that might otherwise apply. In accordance with 23 Pa.C.S. § 6311.1 (relating to privileged communications), privileged communications between a mandated reporter and a patient does not apply to a situation involving child abuse and does not relieve the mandated reporter of the duty to make a report of suspected child abuse.

§ 33.255. Noncompliance.

(a) *Disciplinary action.* A Board regulated practitioner who willfully fails to comply with the reporting requirements in §§ 33.250—33.252 (relating to suspected child abuse—mandated reporting requirements; photographs, medical tests and X-rays of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement) will be subject to disciplinary action under section 4.1 of the act (63 P.S. § 123.1).

(b) *Criminal penalties.* Under 23 Pa.C.S. § 6319 (relating to penalties), a Board regulated practitioner who is required to report a case of suspected child abuse or to make a referral to the appropriate authorities and who willfully fails to do so commits a criminal offense, as follows:

(1) An offense not otherwise specified in paragraphs (2), (3) or (4) is a misdemeanor of the second degree.

(2) An offense is a felony of the third degree if all of the following apply:

(i) The mandated reporter willfully fails to report.

(ii) The child abuse constitutes a felony of the first degree or higher.

(iii) The mandated reporter has direct knowledge of the nature of the abuse.

(3) If the willful failure to report continues while the mandated reporter knows or has reasonable cause to suspect a child is being subjected to child abuse by the same individual, or while the mandated reporter knows or has reasonable cause to suspect that the same individual continues to have direct contact with children through the individual's employment, program, activity or service, the mandated reporter commits a felony of the third degree, except that if the child abuse constitutes a felony of the first degree or higher, the mandated reporter commits a felony of the second degree.

(4) A mandated reporter who, at the time of sentencing for an offense under 23 Pa.C.S. § 6319, has been convicted of a prior offense under § 6319, commits a felony of the third degree, except that if the child abuse constitutes a felony of the first degree or higher, the penalty for the second or subsequent offense is a felony of the second degree.

§ 33.256. Child abuse recognition and reporting—mandatory training requirement.

(a) Except as provided in subsection (c), individuals applying to the Board for an initial license or certificate shall submit proof of completion of 3 hours of training in child abuse recognition and reporting requirements which has been approved by the Department of Human Services.

(b) Except as provided in subsection (c), licensees and certificate holders seeking renewal of a license or certificate issued by the Board shall complete, as a condition of biennial renewal of the license or certificate, 2 hours of approved continuing education in child abuse recognition and reporting requirements, as a portion of the total continuing education required for biennial renewal. For credit to be granted, the continuing education course or program must be approved by the Bureau, in consultation with the Department of Human Services, as set forth in § 33.257 (relating to child abuse recognition and reporting course approval process).

(c) An applicant, licensee or certificate holder may apply in writing for an exemption from the training/continuing education requirements set forth in subsections (a) and (b) provided the applicant, licensee or certificate holder meets one of the following:

(1) The applicant, licensee or certificate holder submits documentation demonstrating that:

(i) The applicant, licensee or certificate holder has already completed child abuse recognition training as required by section 1205.6 of the Public School Code of 1949 (24 P.S. § 12-1205.6).

(ii) The training was approved by the Department of Education in consultation with the Department of Human Services.

(iii) The amount of training received equals or exceeds the amount of training or continuing education required under subsection (a) or (b), as applicable.

(2) The applicant, licensee or certificate holder submits documentation demonstrating all of the following:

(i) The applicant, licensee or certificate holder has already completed child abuse recognition training required under 23 Pa.C.S. § 6383(c) (relating to education and training).

(ii) The training was approved by the Department of Human Services.

(iii) The amount of training received equals or exceeds the amount of training or continuing education required under subsection (a) or (b), as applicable.

(3) The applicant, licensee or certificate holder submits documentation demonstrating that the applicant, licensee or certificate holder should not be subject to the training or continuing education requirement. Each request for an exemption under this paragraph will be considered on a case-by-case basis.

§ 33.257. Child abuse recognition and reporting course approval process.

(a) An individual, entity or organization may apply for approval to provide mandated reporter training as required under 23 Pa.C.S. § 6383(b) (relating to education and training) by submitting the course materials set forth in subsection (b) simultaneously to the Department of Human Services (DHS), Office of Children, Youth and Families, and to the Bureau at the following addresses:

(1) Department of Human Services, Office of Children, Youth and Families, Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120 or electronically at RA-PWOCYFCPSL@pa.gov.

(2) Bureau of Professional and Occupational Affairs, 2601 North Third Street, P.O. Box 2649, Harrisburg, PA 17105-2649 or electronically at RA-steps1_course_app@pa.gov.

(b) Submissions must include all of the following:

(1) Contact information (mailing address, e-mail address and telephone number) for the agency/course administrator.

(2) General description of the training and course delivery method.

(3) Title of the course.

(4) Timed agenda and estimated hours of training.

(5) Learning objectives.

(6) Intended audience.

(7) All course related materials, including as applicable:

(i) Handouts.

(ii) Narrated script or talking points.

(iii) Interactive activities or exercises.

(iv) Videos and audio/visual content.

(v) Knowledge checks, quizzes or other means of assessing participant's understanding of the material.

(vi) For online courses, a transcript or recording of audio training.

(8) Citation of sources, including written permission to use copyrighted material, if applicable.

(9) Anticipated credentials or experience of the presenter, or biography of presenter, if known.

(10) Printed materials used to market the training.

(11) Evaluation used to assess participants' satisfaction with the training.

(12) Sample certificate of attendance/participation, which shall include:

(i) Name of participant.

(ii) Title of training.

(iii) Date of training.

- (iv) Length of training (2 or 3 hours).
 - (v) Name and signature of the authorized representative of the provider. The signature may be an electronic signature.
 - (vi) Statement affirming the participant attended the entire course.
- (13) Verification of ability to report participation/attendance electronically to the Bureau in a format prescribed by the Bureau.

(c) The Bureau will notify the applicant in writing upon approval of the course and will post a list of approved courses on the Bureau's web site and the Board's web site.

Subchapter F. CONTINUING DENTAL EDUCATION
§ 33.401. Credit-hour requirements.

* * * * *

(b) Except as provided in subsection (h), the required hours shall be taken in subject areas listed in § 33.402 (relating to continuing education subject areas) from a program sponsor listed in § 33.403 (relating to program sponsors).

* * * * *

(g) Exceptions are as follows:

(1) An applicant is exempt from the continuing education requirement in subsection (a) for only the biennial period during which the applicant passed the licensure or certification examination.

(2) An applicant who cannot meet the continuing education requirement due to illness, emergency or hardship may apply to the Board in writing for a waiver. The request must explain why compliance is impossible. Waiver requests will be evaluated on a case-by-case basis.

(h) All licensees and certificate holders shall complete 2 of the required hours of continuing education in approved courses on child abuse recognition and reporting as set forth in § 33.256 (relating to child abuse recognition and reporting—mandatory training requirement). The Board will not renew a license or certificate unless the bureau has received an electronic report from an approved course provider documenting the attendance/participation by the licensee or certificateholder.

[Pa.B. Doc. No. 20-1028. Filed for public inspection July 31, 2020, 9:00 a.m.]

Title 52—PUBLIC UTILITIES

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 54]

[L-2017-2628991]

Rulemaking Regarding Electricity Generation Customer Choice

Executive Summary

The Commission adopted this Final Rulemaking Order on February 27, 2020, to amend the customer information regulations at 52 Pa. Code §§ 54.3, 54.5, 54.7 and 54.10 providing for standards and pricing practices for retail electric services; a disclosure statement for residential and small business customers; marketing/sales activities; and the provision of notices of contract expiration or

changes in terms for residential and small business customers. With this Final Rulemaking Order, the Commission enhances these rules to provide customers ample protections and the necessary information to make informed decisions when shopping in Pennsylvania's competitive retail electricity market. As such, the Commission is amending its regulations to align its electric supplier regulations with the existing natural gas supplier regulations. In addition, the Commission is prohibiting the imposition of early termination fees once a supplier provides to customers the contract options notice required by 52 Pa. Code § 54.10(2). Furthermore, the Commission is requiring suppliers to disclose how they will handle customer account information and whether a contract is assignable.

Public Meeting held
 February 27, 2020

Commissioners Present: Gladys Brown Dutrieuille, Chairperson; David W. Sweet, Vice Chairperson; Andrew G. Place; John F. Coleman, Jr.; Ralph V. Yanora

Rulemaking Regarding Electricity Generation Customer Choice, 52 Pa. Code Chapter 54; L-2017-2628991

Final Rulemaking Order

By the Commission:

In this Final Rulemaking Order, the Pennsylvania Public Utility Commission (Commission) amends the customer information disclosure regulations at 52 Pa. Code §§ 54.3, 54.5, 54.7 and 54.10 providing for standards and pricing practices for retail electricity service; a disclosure statement for residential and small business customers; marketing/sales activities; and the provision of notices of contract expiration or changes in terms for residential and small business customers. With this Final Rulemaking Order, the Commission enhances these rules to provide customers ample protections and the necessary information to make informed decisions when shopping in Pennsylvania's competitive retail electricity market.

Background

The Pennsylvania Public Utility Code (Code) requires electric generation suppliers (EGSs) to provide adequate and accurate information to customers. Specifically, Section 2807(d)(2) requires the Commission to:

... establish regulations to require each electric distribution company, electricity supplier, marketer, aggregator and broker to provide adequate and accurate customer information to enable customers to make informed choices regarding the purchase of all electricity services offered by that provider. Information shall be provided to consumers in an understandable format that enables consumers to compare prices and services on a uniform basis.

66 Pa.C.S. § 2807(d)(2).

Pursuant to this statutory directive, the Commission first issued Interim Requirements in 1997.¹ This was followed by promulgated regulations in 1998.² See 52 Pa. Code §§ 54.1—54.9 (relating to customer information). The regulations at 52 Pa. Code §§ 54.4—54.6 (relating to bill format for residential and small business customers; disclosure statement for residential and small business customers; and request for information about

¹ See Chapter 28 Electric Generation Customer Choice and Competition Act—Customer Information—Interim Requirements, Docket No. M-00960890F0008 (Order entered July 11, 1997).

² See Final Rulemaking Order Establishing Customer Information Disclosure Requirements for Electricity Providers 52 Pa. Code, Chapter 54, Docket No. L-00970126 (Order entered May 1, 1998).

generation supply) were later amended in 2007, after receiving and incorporating comments from numerous stakeholders.³ In 2010, the Commission adopted Interim Guidelines which provided general guidance on the timing and content of advanced notifications that give customers important information about their options prior to the expiration of or a change in terms of their current contract for generation supply.⁴

In 2014, the Commission adopted amendments to 52 Pa. Code § 54.5 and added 52 Pa. Code § 54.10.⁵ The Commission amended these regulations to ensure, among other things, that future EGS disclosure statements include an EGS Contract Summary of key contractual terms and conditions; additional information regarding variable-priced products, including disclosure of the price to be charged for the first billing cycle of generation service; customer access to historical information; and more specific explanation of limits on variability.

With a December 7, 2017 Notice of Proposed Rule-making Order (December 2017 NOPR),⁶ the Commission proposed updates to 52 Pa. Code § 54.5 regarding disclosure statements for residential and small business customers to reflect the evolving competitive electric marketplace. This section of the customer information regulations requires that EGSs provide disclosure statements to residential and small business customers when those customers request an EGS to initiate service, when an EGS proposes to change the terms of service, or when service commences from a default service provider. See 52 Pa. Code § 54.5(b)(1–3). These disclosure statements must include, among other things: the generation charges; conditions of and any applicable limitations on variable prices; explanations of cancellation fees; and information regarding a customer's options upon the expiration of an agreement. See Annex A, § 54.5.

History of the Commission's Review of Its Customer Information Regulations

In September of 2010, the Commission reviewed its customer information regulations and provided Interim Guidelines, as noted previously. In its Interim Guidelines, the Commission provided general guidance on the timing and content of advanced notifications that give customers important information about their options prior to the expiration of or a change in terms of their current contract for generation supply.

Guidelines for Use of Fixed Price Labels

The Commission addressed some supplier pricing, labeling and disclosure issues in the November 2013 Final Order regarding Guidelines for Use of Fixed Price Labels for Products with a Pass-Through Clause.⁷ This Order, commonly referred to as the “Fixed Means Fixed” Order, finalized guidelines on the pricing labels used when selling electric generation service to residential customers. The Commission updated its “electric competition dictionary,” which is available on www.PAPowerSwitch.com. The updates provide guidance to electric generation

suppliers on the appropriate use of the “fixed-price” label when presenting offers to potential customers.

The revised definitions included:

- *Fixed Price*: An all-inclusive per kWh price that will remain the same for at least three billing cycles or the term of the contract, whichever is longer.
- *Variable Price*: An all-inclusive per kWh price that can change, by the hour, day, month, etc. according to the terms and conditions in the supplier's disclosure statement.
- *Introductory Price*: For new customers, an all-inclusive per kWh price that will remain the same for a limited period of time between one and three billing cycles followed by a different fixed or variable per kWh price that will be in effect for the remaining billing cycles of the contract term, consistent with terms and conditions in the supplier's “disclosure statement.”

Additionally, the Commission addressed what is meant and intended by the phrase “all-inclusive.” The Commission reminded suppliers and consumers that to facilitate the comparison of prices on a uniform basis (i.e. apples-to-apples) the Commission developed the concept of the PTC, which is defined at 52 Pa. Code § 54.182:

PTC—Price-to-compare—A line item that appears on a retail customer's monthly bill for default service. The PTC is equal to the sum of all unbundled generation and transmission related charges to a default service customer for that month of service.

While this definition specifies its use for default service, the intent is to provide a bundled price that a consumer can use to compare EGS prices. To make an “apples-to-apples” comparison possible, it follows that EGS prices should be similarly bundled. The Commission reiterated that the price that an EGS presents to a residential or small business customer is expected to be “all-inclusive,” including all of the pricing components found in the PTC for default service customers (generation, transmission where applicable, gross receipts tax, etc.).⁸ “Sales tax” is a notable exception in that it is not bundled within the PTC, but for residential consumers this is usually of no relevance since most residential accounts are exempt from this tax.⁹

We also emphasized the importance of disclosure and the disclosure regulations at 52 Pa. Code § 54.5 and that disclosures need to be clear, well-organized and in plain language so that consumers have the information they need to make informed decisions. Further, we reminded everyone of the regulation at 52 Pa. Code § 54.7 that requires EGSs to calculate and present to the customer the actual per kWh rate at 500, 1,000 and 2,000 usage levels. This regulation is of relevance if the supplier is using a pricing structure that varies depending upon usage (such as a declining or inclining block rate) and/or the supplier is using flat monthly charges in addition to the PTC that are sometimes referred to as monthly “service charges” or “customer charges.” This information must be presented to the customer to allow the “apples-to-apples” comparison discussed above.¹⁰

2014 Polar Vortex

During the winter of 2014, some retail electric customers with variable-rate contracts experienced sharp price

³ See Final Rulemaking Order Re Electric Distribution Companies' Obligation to Serve Retail Customers at the Conclusion of the Transition Period Pursuant To 66 Pa.C.S. § 2807(e)(2), Docket No. L-00040169 (Order entered May 10, 2007).

⁴ See Final Order Re Interim Guidelines Regarding Advance Notification by an Electric Generation Supplier of Impending Changes Affecting Customer Service; Amendment re: Supplier Contract Renewal/Change Notices, Docket Nos. M-2010-2195286 and M-0001437 (Order entered September 23, 2010).

⁵ See Final-Omitted Rulemaking Order Re Rulemaking to Amend the Provisions of 52 Pa. Code, Section 54.5 Regulations Regarding Disclosure Statement for Residential and Small Business Customers and to Add Section 54.10 Regulations Regarding the Provision of Notices of Contract Expiration or Changes in Terms for Residential and Small Business Customers, Docket No. L-2014-2409385 (Order entered April 3, 2014).

⁶ See Rulemaking Regarding Electricity Generation Customer Choice, 52 Pa. Code Chapter 54, Docket No. L-2017-2628991 (Order entered December 7, 2017).

⁷ See Final Order Re Guidelines for Use of Fixed Price Labels for Products with a Pass-Through Clause, Docket No. M-2013-2362961 (Order entered November 14, 2013).

⁸ See Final Order Re Guidelines for Use of Fixed Price Labels for Products with a Pass-Through Clause, Docket No. M-2013-2362961 at 28 (Order entered November 14, 2013).

⁹ *Id.*

¹⁰ *Id.* at 29.

increases resulting from price fluctuations in the wholesale and retail electricity markets. In light of this and after a review of the 2010 Interim Guidelines, the Commission concluded that codifying, strengthening, and augmenting the 2010 guidelines as expeditiously as possible was in the public interest.

In an Order adopted at its February 20, 2014 Public Meeting, the Commission reaffirmed the General Assembly's directive that EGSs provide:

“...adequate and accurate customer information to enable customers to make informed choices regarding the purchase of all electricity services offered by the provider. Information shall be provided to consumers in an understandable format that enables consumers to compare prices and services on a uniform basis.”¹¹

In the Variable Rate Order, the Commission expressed concern for customers receiving their electric supply service from an EGS under a contract with a monthly adjusted variable rate. As indicated supra, some of these customers experienced sharp increases in their bills during the early months of 2014, due to the demands of the winter heating season and unprecedented price spikes in the wholesale electricity market. While acknowledging that it is important for consumers to carefully review the terms of their supplier contracts, including conditions of variability, the Commission believed that EGSs had to take further steps to ensure that customers can easily find and understand information related to price, price variability, and history, as well as cancellation fees, renewal notices, and other terms and conditions.

To obtain feedback from stakeholders on the proposed changes to the regulations on customer information, the Commission issued a Secretarial Letter on March 19, 2014, alerting affected parties of the Commission's intention to promulgate a Final-Omitted Rulemaking that would amend existing regulations at 52 Pa. Code, Chapter 54, to revise disclosure statement requirements for residential and small business customers.¹² This Secretarial Letter noted that while some amendments would codify, with modifications, existing contract renewal and change in terms notice requirements contained in the Interim Guidelines, other changes raise new issues that had not previously been considered. Thus, the Commission requested comments on its proposed regulations to give those entities most affected an opportunity to provide recommendations prior to the issuance of a Final-Omitted Rulemaking Order.

The Commission determined that revising the customer information regulations, 52 Pa. Code § 54.5, and adding 52 Pa. Code § 54.10 by use of a Final-Omitted rulemaking process was necessary to serve and protect the public interest. Based upon the circumstances of the situation at the time, specifically, the unusually high electric supply bills incurred by customers receiving supply service through variable-priced contracts and fluctuations in wholesale energy markets, the Commission found good cause for omitting the traditional notice and comment procedures for the revisions as they were impractical, unnecessary, and contrary to the public interest.

¹¹ Order Re Review of Rules, Policies and Consumer Education Measures Regarding Variable Rate Retail Electric Products, Docket No. M-2014-2406134 (Order entered March 4, 2014) (Variable Rate Order) at 4-5 (citing 66 Pa.C.S. § 2807(d)).

¹² Secretarial Letter Re Rulemaking to Amend the Provisions of 52 Pa. Code, Section 54.5 Regulations Regarding Disclosure Statement for Residential and Small Business Customers and to Add Section 54.10 Regulations Regarding the Provision of Notices of Contract Renewal or Changes in Terms, Docket No. L-2014-2409385 (served March 19, 2014) (Secretarial Letter).

In response to the March 19, 2014 Secretarial Letter, twelve parties¹³ filed comments. In addition, Pennsylvania Senators Robert M. Tomlinson and Lisa M. Boscola sent a letter notifying the Commission that they had received numerous complaints from constituents enrolled in variable-priced contracts. In their letter, Senators Tomlinson and Boscola stated that the Commission should immediately begin revising its regulations regarding variable-priced contracts and the treatment of customers who have an expiring fixed-term contract.

After careful review and consideration of the comments, the Commission on April 3, 2014, adopted a Final-Omitted Rulemaking Order Regarding the Provisions of Notices of Contract Expiration or Changes in Terms for Residential & Small Business Customers (Final-Omitted Rulemaking).¹⁴ This Final-Omitted Rulemaking made numerous significant changes to the Chapter 54 customer information regulations, most of which were intended to provide consumers with more detailed information concerning variable priced products.

To codify the Interim Guidelines and to ensure EGS compliance with these requirements, the Commission added Section 54.10 (Notice of Contract Renewal or Change in Terms), to the customer information regulations. At the same time, the Commission augmented the notice rules by requiring that the EGS provide the new price the customer will be charged the first billing cycle following the expiration or change in terms and that the EGS provide 30 days' notice in advance of any subsequent price change.

2016 NGS Disclosure Regulation Revisions

In April 2016, as part of the Commission's continuing efforts to enhance customer protections in the competitive energy markets, the Commission revised the Chapter 62 natural gas customer information regulations.¹⁵ This rulemaking amended customer information disclosure regulations at 52 Pa. Code §§ 62.72 and 62.75 for residential and small business natural gas supply customers. Section 62.72 provides regulatory definitions while Section 62.75 discusses the disclosure statement and notice requirements of the natural gas supplier (NGS) to the customer.

The Commission noted that a principal reason for revising the NGS rules was to bring them into alignment with the analogous EGS rules that had been significantly revised in 2014 as discussed above. We believe that both customers and suppliers benefit from substantially consistent cross-industry rules. Inconsistencies between the two sets of rules can lead to customer confusion and inefficiencies for suppliers, especially for those customers who obtain both gas and electric service from the same supplier. Another important rationale for revising the natural gas rules in 2016 was the Commission's belief that concerns regarding variable rates and disclosure statements in the electric supply industry are relevant to the customer disclosure information in the natural gas industry. The Commission believes that concerns about

¹³ Pennsylvania Representatives Robert W. Godshall and Peter J. Daley; the Office of Consumer Advocate, the Office of Small Business Advocate, Citizen Power, UGI Energy Services, LLC, Washington Gas Energy Services, Inc., Constellation NewEnergy, Inc. and Constellation Energy Power Choice, Inc., IGS Energy, the Retail Energy Supply Association, NRG Retail Northeast Companies, Alphabuyer, the National Energy Marketers Association, and FirstEnergy Solutions Corp.

¹⁴ See Final-Omitted Rulemaking Order Regarding the Provisions of Notices of Contract Expiration or Changes in Terms for Residential & Small Business Customers, Docket No. L-2014-2409385 (Order entered April 3, 2014).

¹⁵ See Final Rulemaking Order—Rulemaking to Amend and Add Regulations to Title 52 of the *Pennsylvania Code*, Sections 62.72, 62.75, and 62.81 Regarding Customer Information Disclosure Requirements for Natural Gas Suppliers Providing Natural Gas Supply to Residential and Small Business Customers, Docket No. L-2015-2465942 (Order entered April 21, 2016).

wholesale market price spikes in the natural gas markets, similar to the electric price spikes of early 2014, cannot be dismissed.

Because of the extensive changes to the NGS disclosure rules in 2016, there are now some inconsistencies between those rules and the analogous electric disclosure rules. These differences include:

- *Introductory Pricing:* The NGS rules state that “If the price is introductory, the variable pricing statement must include a statement that the price is an introductory price, the duration of the introductory period and the price for the first billing cycle after the introductory period.” 52 Pa. Code § 62.75(c)(2)(ii). Introductory pricing is not mentioned in the EGS rules.
- If prices change (such as with a variable priced product), the NGS rules require the NGS to disclose when and how a customer is informed of the price change. “A description of when and how the customer will receive notification of price changes.” 52 Pa. Code § 62.75(c)(2)(iv).
- The NGS rules address contract assignment. “If the contract is assignable, the NGS shall inform the customer at the time the parties enter into the contract. Prior to a contract assignment, the NGS shall provide notice to the affected customer, the affected NGDC and the Commission. The customer notice must include the name of the new NGS, the contact information for the new NGS and language informing the customer that contract terms and conditions remain unchanged.” 52 Pa. Code § 62.75(j).
- Most references to the natural gas distribution company (NGDC) were removed from the NGS disclosure statement. The EGS disclosure rules still require including some references to the electric distribution company (EDC).

As noted above, the Commission recognizes the value in having the EGS and NGS disclosure rules be as consistent as possible (noting that some inherent operational differences between the two industries may make complete consistency impractical). We also acknowledge that our 2014 Final-Omitted proceeding provided a limited opportunity for parties to comment on electric customer information matters. Given the emergency conditions of 2014, the Commission had no alternative but to resort to an abbreviated process. Now we have time to more fully consider these matters again based on experience with the existing regulations. Accordingly, during an April 21, 2017 CHARGE¹⁶ conference call, the Commission’s Office of Competitive Market Oversight (OCMO) invited stakeholders to submit informal comments on possible revisions to the EGS disclosure rules at 52 Pa. Code § 54.5, with the intent of using the informal comments to develop a Notice of Proposed Rulemaking (NPRM) to revise the EGS disclosure rules.

Upon careful review of the informal comments received and input from various previous proceedings, and the authority granted the Commission under Sections 501 and 1501 of the Code, 66 Pa.C.S. §§ 501 and 1501, at a December 7, 2017 Public Meeting the Commission proposed amendments to regulations at 52 Pa. Code §§ 54.3, 54.5, 54.7, and 54.10.¹⁷ The December 2017 NPRM

¹⁶ CHARGE (Committee Handling Activities for Retail Growth in Electricity) participants include EDCs, EGSs, industry trade organizations, consumers, the Office of Consumer Advocate, and the Office of Small Business Advocate.

¹⁷ See Rulemaking Regarding Electricity Generation Customer Choice, 52 Pa. Code Chapter 54, Docket No. L-2017-2628991 (Order entered December 7, 2017).

provided for a 60-day comment period that commenced with publication in the *Pennsylvania Bulletin* on March 24, 2018.¹⁸

Thirteen parties filed comments, including AARP; Marion Biddle, the Consumer Advisory Council (CAC); Duquesne Light Company (Duquesne); FirstEnergy Solutions (FES); the Federal Trade Commission (FTC); Inspire Energy Holdings LLC (Inspire); Joint Comments of the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania and the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (collectively “Low Income Advocates”); the National Energy Marketers Association (NEMA); the Office of Consumer Advocate (OCA); the Retail Energy Supply Association (RESA); Shipley Choice d/b/a Shipley Energy (Shipley); and WGL Energy Services (WGL). All of the comments are available on the Commission’s website at this link to the electronic casefile:

http://www.puc.pa.gov/about_puc/consolidated_case_view.aspx?Docket=L-2017-2628991.

On June 21, 2018, the Independent Regulatory Review Commission (IRRC) filed their comments. These comments are available on the PUC’s website using the above referenced weblink and are also available on IRRC’s website at <http://www.irrc.state.pa.us/> referencing Regulation # 57-319 or IRRC # 3201.

Summary of Comments and Discussion

Independent Regulatory Review Commission Comments

IRRC commends the Commission for proposing amendments to address early termination fees (ETFs) and for encouraging affected parties to offer their perspectives relating to any possible unintended consequences. In addition to eliminating ETFs after the initial notice, IRRC has two suggestions. First, IRRC notes that under existing § 57.173(1), the customer can specify a future date for the switch to a new supplier, but that in practice, customers and their new suppliers do not appear to be specifying a future date for the switch. IRRC posits that instead, the switch request is immediately processed, creating problems for both the customer and current supplier. IRRC asks whether prospective suppliers should be required to better inform customers of the option to specify a future date to align a switch with the end of the customer’s current contract. Second, IRRC notes that commentators suggested that notices closer to the expiration date may more reasonably limit the economic impact on suppliers while still protecting the consumer. IRRC asks the Commission to consider whether, consistent with its statutory authority, the regulation can better balance the interests of both the suppliers and consumers by amending the customer notice process. IRRC at 1.

Also concerning § 54.3(1)(ii), IRRC notes that the terminology used in customer communications is to use the terms in accordance with the glossary posted at www.PaPowerswitch.com or other successor media platform as determined by the Commission. IRRC states that the regulation should specify how the reader can determine whether the Commission has opted to use another successor media platform. IRRC also asks whether the term “product” used in § 54.5(c) and (14)(i) should be defined. IRRC further asks whether the requirements in §§ 54.5(c)(3)(ii)(A) and (c)(11) relating to price variability are duplicative and whether they should be combined into one requirement. IRRC at 2.

IRRC points out that the expected date of delivery of the final regulation is January 2020. Given the current

¹⁸ 48 Pa.B. 1696.

and ongoing problems the PUC describes in its rationale for the revised rules, IRRC encourages the PUC to work toward filing the final regulation sooner, if possible. Finally, IRRC notes that economic and fiscal impacts of the regulation must be considered in their determination of whether a regulation is in the public interest. 71 P.S. § 745.5(a)(4) and (10), and § 745.5b(b)(1). IRRC indicates the responses submitted with the proposed regulation to the Regulatory Analysis Form (RAF) Questions (19), (23) and (23a) are not sufficient to determine whether the regulation is in the public interest relating to the criterion of economic impact. IRRC points out that these RAF questions ask for specific cost estimates and clarifies that even if costs or savings are estimated to be zero, the responses should reflect that rather than state the required cost data is “Not Applicable.” In addition, because commentators have stated there are impacts on pricing relating to elimination of ETFs toward the end of the contract period, IRRC asks the PUC to review its responses to these RAF questions and provide the best estimates of costs in the RAF submitted with the final regulation. This will allow IRRC to determine whether the final regulation is in the public interest, as required by the Regulatory Review Act. IRRC at 2.

As explained more completely in this Order, the Commission revised the proposed rules to address the concerns raised by the Independent Regulatory Review Commission (IRRC). The Commission revised the proposed rule to a more reasonable and still consumer-friendly alternative by revising the date the ETF exclusion period begins. We had proposed starting the exclusion period from the date of the initial notice—approximately 60 days from the end of the contract. Instead, the exclusion period will start on the date that the second (options) notice is sent to the customer. This second (options) notice is issued no later than 30 days prior to the expiration of the contract. This will in effect create an ETF-exclusion period of approximately 30 days; compared to a 60-day period originally proposed. One of our primary motives for this change is the fact that a customer has no control over the precise date of a supplier switch. While some of the commentators, including the FTC and IRRC, have interesting suggestions addressing this matter via the supplier switching rules and procedures, we find that those matters lie outside of the current rulemaking and that the approach adopted in this final rulemaking is more reasonable and balanced.

We agree with OCA and Duquesne that the customer must rely on the supplier to submit the drop/add request to the EDC. Significantly, the supplier submitting the request would be a new supplier that has no knowledge of the terms and conditions of the customer’s current supply contract and would have no business reason to act to protect the customer from any potential ETF. Once the supplier submits the request the EDC must complete the switch within three business days. See 52 Pa. Code § 57.174 (relating to the time frame requirement). Again, the actions of these two entities, the new supplier and the EDC, are beyond the customer’s control and their interests do not necessarily align with that of the customers.

While the regulations do permit an EGS to submit a drop/add request on a date specified by the customer,¹⁹ the customer still has no actual control over whether the request is submitted on the date requested. This process assumes that residential and small commercial customers know the utility business practices and regulations enough to precisely know when to have the new supplier

submit the request, especially when their time and energy is consumed with daily life activities or with running a small business.

While an EGS may be subject to financial risk if a customer switches to another EGS or default service before the end of a contract, we find that the customer is also subject to financial risk based on the actions of the supplier if a switch does not occur on the date requested. If the supplier submits the request early, the customer is subject to the ETF which, as pointed out by the OCA and Low Income Advocates, can be significant. If the supplier submits the request late, the customer may be subject to a higher price than the price offered by the new supplier or default service. We also find it significant that the customer has no real recourse against a supplier that does not submit the request on the date specified by the customer. We find that suppliers are sophisticated enough to be able to hedge against any potential losses that may occur due to a customer leaving a contract less than 30 days before it ends and should be the ones that bear that risk, not the residential or small business customer.

Regarding IRRC’s suggestion that the regulation should specify how the reader can determine whether the Commission has opted to use another successor media platform, we decline to codify in the regulation how the Commission will make such a determination or what other types of media platforms will be available in the future as such information or methods are unknown at this time. With that said, we note that as with the current www.PaPowerswitch.com, the Commission will use all appropriate methods and media available at the time of the change to inform customers.

We agree with IRRC that the term “product” used in these regulations may be ambiguous. Initially, we note that the purpose of this subchapter “is to require that electricity providers enable customers to make informed choices regarding the purchase of electricity services. . . .” 52 Pa. Code § 54.1(a). Furthermore, as we have consistently stated, the information provided must be in a form to permit customers to make an apples-to-apples comparison of all offers for retail electric service. We recognize that some suppliers may also offer other services or value-added products with the basic generation service. While these other products and services may induce consumers to choose that supplier, in the end, the consumer must know what they are purchasing and what the cost of all the products and services are. We also agree with the OCA that tangible products and services that can be provided in a manner that is distinct and separate from generation service, their costs or charges are to be disclosed separately. Accordingly, we have replaced the term “product” with the term “offer” or removed it to eliminate any potential confusion. Rather than attempting to develop a definition for product that encompasses all current and potential future product offerings, the Commission finds that simply referring to whatever the EGS is offering avoids any need for interpretation and avoids confusion.

Regarding IRRC’s question asking if the provisions of § 54.5(c)(3)(ii)(A) are duplicative of the requirements at subsection (c)(11). We do not view these two requirements as duplicative. Subsection (c)(3) addresses the content—what must be disclosed. Subsection (c)(11) concerns formatting—that this information must be in a larger font size.

Regarding IRRC’s request that we provide cost data, based on the best available data, the Commission believes that costs associated with the amendments to these rules

¹⁹ See 52 Pa. Code § 57.173 (relating to customer contacts the EGS to request a change in electric supply service).

are minimal and transitory. This is based on the comments provided indicating that EGSs can adjust their risk management practices to avoid or minimize any potential risk when developing new offers. In addition, at the suggestion of RESA, the Commission agreed to delay the effective date of the rules by 60 days to give suppliers time to revise their contracts and disclosure statements, further reducing the cost impacts of the rules. In addition, the new rules will reduce costs for customers, including small business customers, by eliminating ETFs in the last 30 days of a contract and providing enough information so that they can make an apples-to-apples comparison of supplier offers to determine which offer is beneficial to them. All of this demonstrates that the Commission has endeavored to obtain and present the cost information available.

General Comments

The FTC commends the PUC for its interest in providing parallel marketing rules for both electricity and natural gas retailers and agrees that parallel rules are likely to lessen the confusion that dissimilar rules can create for consumers. From a competition perspective, parallel marketing rules are highly appropriate for end uses in which electricity and natural gas compete head-to-head. Parallel marketing rules for retail electric and natural gas sectors are particularly timely in view of ongoing competition between electricity and natural gas for some end uses and increased national interest in efficient electrification. FTC at 7, 8.

The FTC argues that it is important for marketers to be allowed to explain their offers with enough detail. Limitations on disclosures run the risk of cutting off information that customers need to make fully informed decisions. For this reason, the FTC encourages the PUC to continue framing its disclosure requirements as minimum disclosure requirements, rather than as rules that limit disclosures to specific categories that may not be sufficient to describe some offers. The FTC encourages the PUC to continue with this generally positive approach to additional disclosures about contract offers for residential and small commercial customers. FTC at 10, 11.

While Shipley agrees that consistency between regulations for the electricity and natural gas markets is important, it should only be the goal in situations that are substantially similar. Shipley thinks that it is ironic, then, that the Commission proposes a substantial change in this proceeding that will divest EGSs of the benefits of existing and future contracts, by eliminating their ability to charge early termination fees (“ETF”) during what could be critical usage and cost periods of a contract. Shipley at 2.

FES appreciates the efforts the Commission has taken to clarify the rules related to (i) customer information regulations pertaining to standards and pricing practices for retail electricity services; (ii) disclosure statements for residential and small business customers; (iii) marketing and sales activities; and (iv) notices of contract expiration or changes in terms. FES is not opposed to the proposed changes and believes that standardization of such regulations with those for the natural gas industry will reduce potential customer confusion. FES further believes that clarification of terms and conditions will enhance the customer’s shopping experience, thus benefitting the overall competitive market in Pennsylvania. FES at 1, 2.

§ 54.3. Standards and pricing practices for retail electricity service

We proposed revisions to 52 Pa. Code § 54.3(1)(ii) to update the regulation by referring to the correct location

where the glossary of terms can be found (similar to our proposed revision relating to a similar requirement at 52 Pa. Code § 54.5(e)). We also proposed a new requirement at 52 Pa. Code § 54.3(2) that would in effect ban the imposition of early termination fees (ETFs) once a supplier has provided the initial contract expiration notice required by 52 Pa. Code § 54.10. We proposed this requirement in response to consumers who object to having an ETF assessed upon them simply because they acted on the expiration notices sent by the supplier. From the consumer’s perspective, they are acting on the expiration notice they received from the supplier by exercising one of the following options available to them—selecting a new supplier or returning to default service. In addition, we note that the early ending of a contract can be inadvertent—the customer miss-times the switch to a new supplier or default service resulting in the ETF being imposed. This is especially true given that the customer has no actual control over the timing of the switch, as it is ultimately up to the supplier and the utility as to just when a switch occurs. The imposition of an ETF under these circumstances can understandably frustrate and discourage customers from participating in the competitive market.

The proposed requirement would be in effect only during the final 45–60 days of the customer’s contract with the EGS (once the initial notice has gone out) and that this only impacts the residential and small business segment of the market. We acknowledged that this kind of requirement may not be appropriate for large commercial/industrial customers, where early exits can result in significant financial loss for the EGS and where the customer is more sophisticated and more able to manage such transitions due to the costs involved.

Duquesne supports the proposed changes to § 54.3(1)(ii) that provides a single, easily accessible and correct location for the glossary of terms related to electric choice in Pennsylvania. Duquesne notes that as technology continues to evolve and as more customers transition to accessing information mostly via electronic means, the transition to maintaining information on the www.PAPowerswitch.com website is a logical next step. Duquesne also supports the Commission’s proposal deleting § 54.3(1)(iii), which currently requires EDCs to distribute the “Common Electric Competition Terms” as part of its consumer education program. Duquesne agrees that this change is an important step toward a further understanding among consumers of the different roles of EGSs and EDCs in the retail marketplace and reduces the likelihood of consumer confusion regarding the involvement of EDCs in the retail market. Duquesne at 4, 5.

Additionally, Duquesne supports the Commission’s proposed language in § 54.3(2) that precludes any early termination fees being assessed against a residential or small business customer when the customer terminates a fixed duration contract after the notice of the contract expiration has been issued by the EGS. Duquesne states that as the retail market has evolved and as EDCs and EGSs have continued to refine the process by which customers are switched between suppliers or default service with automated transactions there is less customer control over the precise date a switch occurs. Duquesne agrees that penalizing a customer for when a transaction occurs over which the customer has no control discourages participation in the retail market and reduces customer satisfaction with both the EGS and the EDC. Duquesne at 4, 5.

OCA also notes that the customer has no control over the timing of the switch that is ultimately up to the supplier and the utility. OCA asserts that while many suppliers waive the ETF under certain circumstances, there is no certainty as to whether an ETF will be waived as the decision to waive the ETF is left to the sole discretion of the supplier. OCA also asserts that when a customer acts as a result of a contract expiration notice and faces the imposition of an ETF as a result, the customer typically perceives these charges as unfair, resulting in a lower level of customer interest in the retail energy market generally. Accordingly, the OCA supports the Commission's proposed revision as it provides a critical protection to customers who are acting in good faith based on the required notices. OCA at 3—5.

OCA also recommends that the Commission consider other protections regarding ETFs. OCA submits that it is not just the imposition of an ETF nearing the end of the contract that is of concern. OCA asserts that some ETFs are prohibitively high and discourage a customer from entering into a contract or leaving a contract that is harming the customer. OCA suggests that the Commission should consider whether it wants to limit the ETF charged to customers. OCA notes that both Illinois and Connecticut impose a maximum ETF limit of \$50 on residential customers on fixed rate contracts. OCA submits that an ETF exceeding \$50 discourages ratepayers from participating in the competitive market. OCA at 3—5.

The Low Income Advocates and the CAC support the Commission's proposal and believe that such a ban will reinforce the notion that customers are permitted to make a choice prior to expiration of their existing EGS contracts and should not be penalized for doing so. The Low Income Advocates assert that suppliers may penalize a consumer for making an active choice in response to information provided in the options notice. The Low Income Advocates agree wholeheartedly with the Commission's assessment that this practice leads to widespread customer frustration and often negative financial implications for the customer, who in many cases cannot afford to pay inflated charges. Low Income Advocates at 6—8; CAC at 2, 3.

The Low Income Advocates also agree that the practice damages the reputation of the market, causing many consumers to return to and remain with their default service provider to avoid further financial consequences. The Low Income Advocates assert that waivers and refunds do not mitigate the impact of the practice on consumers or the competitive market as fee waivers and refunds are not automatic. The Low Income Advocates state that current early termination fees range as high as \$200, but could go even higher, which for a low-income family can mean significant hardship. Low Income Advocates at 6—8.

AARP strongly urges the PUC to halt the process under which unsuspecting customers are hit with large penalties simply because they follow the instructions in their current supplier's contract expiration notice and let the supplier know that they do not wish to renew their contracts. AARP states that the proposed changes should be adopted. AARP at 2.

In the FTC's view, the proposed limitation on ETFs reduces customers' switching costs, but may also introduce additional risks for EGSs. The FTC proposes that the Commission consider making the switch effective at the end of the contract period unless the customer explicitly indicates that the switch should take place

earlier, resulting in the customer's payment of the ETF. The FTC notes that one potential unintended consequence of reducing switching costs is that marketers might increase the minimum duration of customer contracts. The FTC suggests that the Commission engage marketers in a discussion of whether these and other potential costs associated with the proposal are likely to occur, and then weigh the benefits against the costs in reaching a determination on this proposal. FTC at 2, 8.

RESA recommends that the Commission revise the proposal to limit the ban on the imposition of ETFs starting 14 days prior to the contract expiration date. RESA thinks this would be a reasonable balance between the information EGSs are required to provide to customers two months in advance and the EGSs' financial exposure. RESA notes that EGSs generally secure load for customer contracts through wholesale supply contracts consistent with the duration of the customer contract. RESA asserts that the EGS will likely be bound by a wholesale supply contract even if the customer cancels the contract early, depriving the EGS of the revenue to cover the wholesale contract. RESA notes that contracts with small business customers may have specific requirements that are negotiated as part of the contract and significant usage associated with the contract increasing the EGS' financial risks. For these reasons, RESA asserts that ETFs may play an important role in the ability of the EGS to offer a particular price to a customer. RESA asserts that since EGSs are already required to provide the date when the fixed duration contract is set to expire, consumers will know the appropriate timing in which they must act to cancel the contract to avoid imposition of an ETF. RESA at 12—15.

RESA proposes the following revisions for each of the impacted Sections:

Section 54.3(2) For residential and small commercial customers, contracts for retail electric service entered into after the effective date of this regulation may only impose a fee not include any fees to be paid by the retail electric customer for terminating a fixed duration contract up to 14 days prior to the date the contract expires between the date the initial notice required in § 54.10 (relating to notice of contract expiration or change in terms for residential and small business customers) is issued and the expiration of the fixed duration contract.

Section 54.5(c)(11) An explanation of limits on price variability, penalties, fees or exceptions, printed in type size larger than the type size appearing in the terms of service. Penalties and fees shall be disclosed in actual dollars or a specific method for determining the actual dollars shall be disclosed. This explanation shall include a statement advising the customer that the customer may will not be subject to any penalty or fee if the customer terminates the contract up to 14 days prior to the date the contract expires, at any time between the date the initial notice required in § 54.10 (relating to notice of contract expiration or change in terms for residential and small business customers) is issued and the expiration of the fixed duration contract.

Section 54.10(1)(vi) A statement indicating whether the existing fixed [term] duration contract has a cancellation fee, and an explanation [of the fee amount and how to avoid the fee, if possible, including notice of the date when the customer can choose a different product from the customer's existing EGS, choose an alternative EGS or return to default

service] that the customer may be is not subject to the cancellation fee if the customer terminates the contract up to 14 days prior to the date the contract expires. at any time between the date of the initial notice and the expiration date of the fixed duration contract.

RESA at 12—15.

NEMA does not recommend adoption of this proposal because requiring EGSs to send consumers notices of contract expiration and then penalizing EGSs for the result is a perverse outcome. NEMA suggests it may be more appropriate to explore how the date is placed on the notice and whether it could be improved to facilitate consumer awareness and understanding of the consequences. NEMA asserts that instances of consumer “objection” to the ETF are not enough to impose this material rule change on the industry. NEMA states that EGSs have the discretion to waive or forego an ETF as part of their business plan and desire to satisfy consumers if they deem it appropriate. NEMA states that the ETF serves an important role in mitigating supplier risks of serving consumers for the entire term of the contract. NEMA notes that EGSs hedge to provide service up to the point when the customer may be served by an alternative product, alternative supplier or the utility. NEMA asserts that prohibiting the imposition of ETFs may encourage EGSs to “front load” the ETF to avoid the impact of the prohibition. NEMA at 2—4.

Inspire suggests that EGSs should specify in the initial notice, or in subsequent communications with customers that a customer has two options: (1) to cancel the contract early and possibly incur a cancellation fee; or (2) request that the contract not be renewed, but with the understanding that the customer will continue to receive service from the supplier through the pendency of the existing term. Inspire at 2.

Shiplely states that, contrary to the speculation in the order, the proposed change poses the likelihood that serious supplier harm will result. Shiplely notes that the period during which a customer could exit a contract without an ETF would be, under the proposed rule, 1/6 of the length of a one-year contract or 1/3 of a six-month contract, which in either case is substantial and can mean the difference between a supplier making or losing money. Shiplely also states that if a customer’s contract renews in August and the notice is sent in June, and the customer leaves in early July, the supplier will lose the revenue for the high consumption months of July and August, thus inflicting even more substantial loss, which the ETF is intended to mitigate. Shiplely states that EGSs are willing to offer fixed prices because they can at least somewhat insure against loss with an ETF. Shiplely asserts that eliminating that bargain will harm consumers—more than the few customers who end up paying ETFs because they switched after they received a notice that their contract was ending. Shiplely at 2, 3.

Shiplely believes that the solution is to change to a single notice at 30—45 days before the end of the contract: a notice that includes the renewal price. Shiplely asserts that under this single notice proposal, EGSs might lose part of the last month of a contract, but if they did it would likely be because another supplier made a better offer, not because the customer was scared into shopping prematurely. Shiplely at 2, 3.

IRRC commends the Commission for proposing amendments to address ETFs and for encouraging affected parties to offer their perspectives relating to any possible

unintended consequences. In addition to eliminating ETFs after the initial notice, IRRC has two suggestions. First, IRRC notes that under existing § 57.173(1), the customer can specify a future date for the switch to a new supplier, but that in practice, customers and their new suppliers do not appear to be specifying a future date for the switch. IRRC posits that instead, the switch request is immediately processed, creating problems for both the customer and current supplier. IRRC asks whether prospective suppliers should be required to better inform customers of the option to specify a future date to align a switch with the end of the customer’s current contract. Second, IRRC notes that commentators suggested that notices closer to the expiration date may more reasonably limit the economic impact on suppliers while still protecting the consumer. IRRC asks the Commission to consider whether, consistent with its statutory authority, the regulation can better balance the interests of both the suppliers and consumers by amending the customer notice process. IRRC at 1.

Also concerning § 54.3(1)(ii), IRRC notes that the terminology used in customer communications is to use the terms in accordance with the glossary posted at www.PaPowerswitch.com or other successor media platform as determined by the Commission. IRRC states that the regulation should specify how the reader can determine whether the Commission has opted to use another successor media platform. IRRC at 2.

Discussion

Not surprisingly, there was a broad range of comments to the Commission’s proposal to restrict the imposition of ETFs as a contract expiration approaches, from enthusiastic support to vigorous disagreement. Nonetheless, some parties took a position between these two extremes, suggesting that there is some possible “middle-ground” that would address the Commission’s concerns while avoiding some of the more adverse unintended consequences. After considering the comments, we are convinced that there is a reasonable compromise here that will protect consumers while avoiding most of the hazards identified by some suppliers.

We think Shiplely has a point when they argue that barring ETFs for the final two months of a contract is substantial—in effect 1/6 of a one-year contract or 1/3 of a six-month contract—and that this could impose significant financial harm on suppliers. RESA agrees that requiring suppliers to possibly absorb two months of losses is overly prescriptive. The FTC and IRRC also point to this possibility and asked us to weigh these arguments against possible alternatives.

RESA offers as an alternative a 14-day ETF exclusion period at the end of a contract. While we appreciate RESA offering this alternative, we fear that this is unworkable from a consumer’s perspective as it assumes that a customer knows or will remember the precise date of their contract expiration and be able to identify when the 14-day ETF exclusion period begins. We are also concerned that a 14-day window may be too short. We also find that such a rule would require additional administrative costs on EGSs in that they would have to implement additional controls to track and identify when the 14-day ETF exclusion period begins. Whereas, setting the ETF exclusion period to coincide with the issuance of the second options notice would require little to no additional administrative costs for EGSs as they already have such processes in place.

We find that a more reasonable and still consumer-friendly alternative is to date the ETF exclusion period

from the date that the second (options) notice is sent to the customer. This second (options) notice is issued no later than 30 days prior to the expiration of the contract. This will in effect create an ETF-exclusion period of approximately 30 days; compared to a 60-day period originally proposed. While we understand and appreciate that some suppliers may waive or refund ETFs in these situations, we agree with the Low Income Advocates that consumers should not have to pursue such waivers, which they may or may not receive. We point again, as we did in the NPRM, that the impact of this ban will also be limited by the fact that it is contained within the Chapter 54 customer information regulations that only apply to residential and small business accounts. Large commercial and industrial accounts will not be covered by this ban, where we acknowledge that such a ban could expose a supplier to a far more substantial financial risk.

Again, one of our primary motives for this change is the fact that a customer has no control over the precise date of a supplier switch. While some of the commentators, including the FTC and IRRC, have interesting suggestions addressing this matter via the supplier switching rules and procedures, we find that those matters lie outside of the current rulemaking and that the approach adopted in this final rulemaking is more reasonable and balanced.

We agree with OCA and Duquesne that the customer must rely on the supplier to submit the drop/add request to the EDC. Significantly, the supplier submitting the request would be a new supplier that has no knowledge of the terms and conditions of the customer's current supply contract and would have no business reason to act to protect the customer from any potential ETF. Once the supplier submits the request, the EDC must complete the switch within three business days. See 52 Pa. Code § 57.174 (relating to the time frame requirement). Again, the actions of these two entities, the new supplier and the EDC, are beyond the customer's control and their interests do not necessarily align with that of the customers.

While the regulations do permit an EGS to submit a drop/add request on a date specified by the customer,²⁰ the customer still has no actual control over whether the request is submitted on the date requested. This process assumes that residential and small commercial customers know the utility business practices and regulations enough to precisely know when to have the new supplier submit the request, especially when their time and energy is consumed with daily life activities or with running a small business. EGSs are at a distinct advantage because the wholesale and retail electric market is their business and they know how to deal with such markets and how to mitigate any potential risks caused by customers leaving after the final options notice is provided.

While an EGS may be subject to financial risk if a customer switches to another EGS or default service before the end of a contract, we find that the customer is also subject to financial risk based on the actions of the supplier if a switch does not occur on the date requested. If the supplier submits the request early, the customer is subject to the ETF which, as pointed out by the OCA and Low Income Advocates, can be significant. If the supplier submits the request late, the customer may be subject to a higher price than the price offered by the new supplier or default service. We also find it significant that the customer has no real recourse against a supplier that

does not submit the request on the date specified by the customer. The only recourse is for the customer to request that the EGS they left to waive any ETF, which provides no significant improvement over the existing circumstances. We find that suppliers are sophisticated enough to be able to hedge against any potential losses that may occur due to a customer leaving a contract less than 30 days before it ends and should be the ones that bear that risk, not the residential or small business customer.

We also reject OCA's suggestion to impose caps on the amount charged by EGSs for ETFs. While we do have concerns about the perception of the competitive market caused by large ETF amounts and the resulting impact on consumers' willingness to participate and shop, imposing caps would be a significant change to the market and one that has not been fully vetted by all the stakeholders. We find that prohibiting the charging of ETFs after the second options notice is provided to the customer is more reasonable and balanced in that it protects customers from financial risk for actions beyond their control and allows EGSs to continue to hedge against potential losses due to a customer leaving the EGS before a significant portion of the contract term has lapsed.

Regarding IRRC's suggestion that the regulation should specify how the reader can determine whether the Commission has opted to use another successor media platform, we decline to codify in the regulation how the Commission will make such a determination or what other types of media platforms will be available in the future as such information or methods are unknown at this time. With that said, we note that as with the current www.PaPowerswitch.com, the Commission will use all appropriate methods and media available at the time of the change to inform customers.

§ 54.5. Disclosure statement for residential and small business customers

52 Pa. Code § 54.5(c)(1)

We proposed revising this Section to bring the electric rule into alignment with the natural gas rule at 52 Pa. Code § 62.75(c)(1). This requirement is intended to ensure that the prices presented to consumers are bundled appropriately to make "apples-to-apples" comparisons possible. However, we recognized that as we move forward to an electric market with advanced metering technology, new products and pricing structures are possible and we invited parties to comment on the need for this regulation to accommodate these possibilities or, at the least, not to obstruct or be an obstacle to future innovations.

OCA fully agrees with the Commission's proposal that generation charges should be disclosed in a price per kWh format. This will result in an apples-to-apples price comparison with the PTC and between supplier offers. OCA believes that new pricing structures will have to fit within this regulation to fully inform the customer and if there are enrollment fees or monthly fees, these will need to be incorporated and treated in accordance with § 54.5(c)(4). If a flat bill only option is proposed, it also will need to be treated as a price that changes with usage and show price/kWh at 500, 1000, and 2000, even though the flat bill is the same for each usage level. OCA at 5, 6.

OCA further notes that the word "product" is an undefined term that may require clarification from the Commission. OCA notes that if the EGS "product" is a pricing structure such as a time-of-use (TOU) rate, flat bill, or fee that is part of receiving the electric generation service, then the "product" should be converted to a cents

²⁰ See 52 Pa. Code § 57.173 (relating to customer contacts the EGS to request a change in electric supply service).

per-kilowatt-hour basis and disclosed to the customer since the “product” is part of the generation service. OCA states that if, however, the “product” is a tangible product or a service such as a home security system, an HVAC maintenance contract, or a smart thermostat, then these charges should be unbundled from the generation service and disclosed separately. OCA asserts that these charges are similar to non-basic services and must be disclosed to the customer as to their cost impact on the monthly bill. OCA states, however, that since these “products” are not a requirement of the generation service, they may not need to be disclosed on a price per-kilowatt-hour. OCA at 5, 6.

The Low Income Advocates strongly support the proposal to amend § 54.5(c)(1) to require suppliers to disclose generation charges in actual prices per kilowatt-hour as it will provide a critically important tool for consumers to conduct an apples-to-apples comparison of various offers. The Low Income Advocates assert that disclosure of the kilowatt-hour price will make these complicated pricing structures more transparent, enhancing the competitive market. The Low Income Advocates also assert that when a consumer is harmed by a pricing structure that they do not understand, they are less likely to engage in the market in the future and are more likely to sway others to follow their example. The Low Income Advocates state that the requirement will likely allow suppliers to more clearly translate their innovation into savings that consumers understand. Low Income Advocates at 9–13.

The Low Income Advocates opine that while suppliers may create offers which bundle the rate for electricity in various ways to serve specific consumer interests, or which offer bonuses, rewards, or additional products or services, the commodity sold remains the same. The Low Income Advocates note that unit pricing, which has been around since at least the early 1970s, appears in a multitude of other commodity markets and has not stifled competition or innovation in those markets. They point to, for example, the grocery store label for orange juice that includes both the total price and the unit price per ounce, allowing consumers to easily compare products and make a value judgment about the quantity and brand of juice they wish to consume. The Low Income Advocates assert that the electric generation market is no different: suppliers are offering the same commodity, electricity, but ultimately the unit price of energy—per kilowatt-hour—is the critical benchmark allowing consumers to make a value judgment about an offer they wish to accept. Low Income Advocates at 9–13.

The CAC believes that the Commission’s proposed requirement will reduce the likelihood that customers will be misled by low kilowatt hour fees that are often coupled with high monthly or one-time fees that might not be displayed as prominently in the materials provided by some marketers. The CAC notes, for example, that an examination of offers in the PECO service territory on the PAPowerSwitch website reveals the “lowest” price per kilowatt hour offered to residential customers is a mere 3.88 cents per kWh, as compared to the much higher PECO PTC of 7.09 cents. The CAC states that the low per kWh rate, however, is coupled with a fixed fee of \$29.95 per month. The CAC asserts that it is essential that these types of fees be readily identified, incorporated into the unit price of energy, and the information provided to consumers so that they can make intelligent choices for their retail electric service. CAC at 3, 4.

The FTC commends the Commission for focusing on improving customers’ ability to obtain the information they need to make fully informed electricity service

choices. The FTC states that this approach is particularly admirable and economically significant because it preserves the ability of residential and small commercial customers to contract with marketers for dynamic pricing rate plans. The FTC asserts that the proposal thus preserves an important link between wholesale and retail electricity markets—a link severed by flat rate offers. The FTC states that preserving this link improves the efficiency and reliability of electricity service in Pennsylvania and beyond. FTC at 1.

The FTC believes that the challenge for marketers is to develop a reasonable and truthful way to include the value of non-price elements in making price comparisons. The FTC notes that a key example is when a marketer’s electricity contract offer bundles electricity supply with a physical device that can help reduce the customer’s power use and bills. The FTC further notes that in other instances, the contract may bundle electricity supply with unrelated services, such as gift cards or entertainment discounts, that the customer receives at some point after the supply contract is signed. The FTC encourages the Commission to allow marketers to explore how best to incorporate the value of bundled goods or services for purposes of developing accurate and clear apples-to-apples price comparisons. The FTC asserts that a policy that requires marketers to value these bundled goods or services at zero does not allow for an apples-to-apples comparison. FTC at 8, 9.

RESA is concerned that several of the Commission’s proposed revisions mandating how EGSs are to present their pricing structure to customers will have the effect of limiting the creative pricing structures that can be developed in the competitive market. RESA notes that the increasing availability of smart meters provides important interval level usage data necessary to enable EGSs to develop creative and new products and services that are already beginning to emerge. Since these new products and services will not neatly fit within predefined boxes, RESA urges the Commission to avoid being too restrictive in these regulations such that it stymies this innovation. RESA asserts that consumers receive the greatest benefit of these inherent drivers when EGSs are not overly restricted in how they are required to explain their pricing structures. RESA at 4.

RESA states that the proposed restrictions on pricing presentation would have the effect of dampening some of the current innovation that is already beginning here in Pennsylvania. RESA states that flat billed products, for example, charge the customer the same amount on a monthly basis without regard for the number of kilowatt-hours used; thus, presenting a price per kilowatt-hour for this type of product is not relevant for the customer. RESA further states that some time-of-use products are not priced on a per kilowatt-hour basis but rather have pricing based on usage on certain days (i.e. “free week-ends”). RESA asserts that the expansion of on-site generation also impacts pricing presentation because pricing can be based on the credit that is applied for on-site generation. Accordingly, RESA suggests the following modification to § 54.5(c)(1) of the Commission’s proposal: “Generation charges shall be disclosed according to the actual prices per kilowatt-hour, as applicable.” RESA at 5, 6.

RESA recognizes that one purpose of the proposed language is to align the regulations with Commission precedent in the “Fixed Means Fixed” Order so that EGSs include an estimate of gross receipts tax (GRT) in the pricing offered to potential customers. RESA supports the inclusion of this language in the Commission’s regulations

for residential customers to better broadcast the Commission's expectations so that all EGSs are held accountable to the same standard. However, RESA offers that small business customers may need or want pricing to be shown in a different manner, for example, in a Request for Proposal process. Therefore, RESA suggests adding the following language to § 54.5(c)(1) to give EGSs the flexibility to satisfy the specific requirements of a potential customer: "Generation charges must include an estimate of all applicable taxes except for State sales tax and county tax, **unless the customer specifically requests a different price presentation.**" RESA at 6, 7.

WGL is also concerned that the proposed revision's mandate for per-kilowatt hour pricing does not allow for other types of products, such as flat-bill products or unlimited energy supply products that are growing in popularity among suppliers and customers. For this reason, WGL submits that the new proposed "per kilowatt-hour" reference at the end of the first sentence should be removed. WGL asserts that the current language in the first sentence of § 54.5(c)(1) sufficiently conveys the requirement for the contract to accurately disclose the actual price of generation charges, without unduly limiting the availability of price structures that are not based on a per kWh model. WGL submits that if the new "per kilowatt hour" language is retained, then the regulation needs to be expanded to address products that are not based on per kWh price. WGL proposes that § 54.5(c)(1) be further revised as follows:

Generation charges shall be disclosed according to actual prices per kilowatt hour, if the customer will be billed under per kilowatt hour price structure. If a customer will not be billed under a per kilowatt hour price structure, the contract's terms must clearly explain the pricing structure and what the customer's price for generation charges will be for a given period of time. Generation charges must include an estimate of all applicable taxes except for State sales tax and county sales tax.

WGL at 1, 2.

Inspire likewise opines that the proposed requirement, if interpreted strictly and without exception, will present a substantial obstacle to future and present innovations. Inspire notes that its subscription energy supply offering is a flat bill product in which customers are charged the same amount each month—regardless of usage—for the full term of the contract. Inspire states that this product is tailor-made for each customer, with Inspire looking at a variety of customer characteristics to generate a monthly energy supply price for a potential customer. Inspire's flat-bill plans are paired with a loyalty program, which offers generous bill credits to customers who reduce their consumption. Inspire asserts that few people understand the kWh and, specifically, what a kWh rate will mean for their ultimate bill. Inspire further asserts that what customers do understand, and what they care about, is how much they will ultimately pay each month. Inspire at 2—8.

Inspire insists that a requirement to present the price for an energy product as a cost per kWh at the point of sale would greatly limit innovation, and ultimately choice, and if applied strictly and without exception, it could essentially lock market participants into just two rate structures, fixed and variable. Inspire asserts that the best way to provide customer choice is to ensure that market rules are not so restrictive that innovation is stalled and that consumers are not presented with competitive options simply because suppliers cannot make

their products fit within the restrictive rules. Accordingly, Inspire urges the Commission to eliminate the cost per kWh requirement or, in the alternative, clarify its inapplicability to flat-bill and other innovative products. Inspire at 2—8.

IRRC asks if the term "product" should be defined. IRRC at 2.

Discussion

This is one of the more complex issues addressed in this rulemaking—one we urged stakeholders to comment upon, including a statement from then Vice Chairman Place specifically inviting comment on the impact of the proposed changes on sophisticated products made possible by advanced metering.²¹ This complexity was reflected in the thoughtful comments. Many of the parties acknowledged the tension between providing consumers with sufficient information to make informed decisions and comparisons, while at the same time not restricting innovative new products.

First, we agree with OCA and IRRC that the term "product" used in these regulations may be ambiguous. Initially, we note that the purpose of this subchapter "is to require that electricity providers enable customers to make informed choices regarding the purchase of electricity services. . . ." 52 Pa. Code § 54.1(a). Furthermore, as we have consistently stated, the information provided must be in a form to permit customers to make an apples-to-apples comparison of all offers for retail electric service. We recognize that some suppliers may also offer other services or value-added products with the basic generation service. While these other products and services may induce consumers to choose that supplier, in the end, the consumer must know what they are purchasing and what the cost of all the products and services are. With that said, we agree with the OCA that charges for generation service must be disclosed on a cents-per-kilowatt-hour basis, regardless of how they are structured, which includes time-of-use rates, flat bills or fees related to that service. We also agree with the OCA that for tangible products and services that can be provided in a manner that is distinct and separate from generation service, their costs or charges are to be disclosed separately. Accordingly, we have replaced the term "product" with the term "offer" or removed it altogether to eliminate any potential confusion.

Upon careful consideration of the comments, we believe that our original proposal to require prices to be expressed in a per-kWh rate is sound, while acknowledging some exceptions and the need to provide some additional guidance. The proposed requirement at § 54.5(c)(1) is fairly straight-forward if a traditional fixed per-kWh price is offered. We agree with many of the suppliers who argue that this requirement should only be applicable if the product is priced and presented to the customer on a per-kWh basis, and we will add language similar to what WGL suggests clarifying this point. If the product is priced on some other basis than per-kWh, the supplier is obligated to explain the pricing structure and what the customer charges are. Importantly, this does not mean that other types of products are necessarily exempt from calculating and displaying for the customer the per-kWh unit price for different usage levels, as will be explained later when we discuss our proposed § 54.5(c)(4) requirements. We find that RESA's suggestion to end this paragraph with a simple "as applicable" is too broad and

²¹ See Statement of Vice Chairman Andrew G. Place re Rulemaking Regarding Electricity Generation Customer Choice, 52 Pa. Code Chapter 54, Docket No. L-2017-2628991 (Public Meeting of December 7, 2017).

vague. We find that more detailed guidance on this point is needed and prefer a more descriptive revision similar to what WGL offered.

There was no opposition to our proposal that the prices presented to customers must include all applicable taxes (except for sales tax). The parties agree that this is necessary as to allow for “apples-to-apples” comparisons. However, RESA did ask for language permitting for different pricing presentation upon the customer’s request. While we understand that this may be of some use with small business customers, we find that it is not necessary to include this exception in the regulation. There is nothing to prevent a supplier from responding to such a customer request and providing a different pricing presentation, in addition to the required bundled price presentation. The regulation sets the minimum standard for what is required to be provided—a supplier is always free to provide the customer with additional information if desired by the customer.

52 Pa. Code § 54.5(c)(2)

We proposed revisions that would bring the electric rule into alignment with the natural gas rule at 52 Pa. Code § 62.75(c)(2)(ii). This requirement is also intended to provide for full price transparency when an EGS is offering an introductory price product. To make fully informed decisions in the energy marketplace, it is essential that a customer fully understands that the product is introductory, and that the customer know both the introductory price and the price they will be charged after the introductory period ends.

OCA notes that one of the hallmarks of the Customer Choice Act is that EGSs provide adequate and accurate customer information to enable customers to make informed choices. OCA submits that the proposed revision could be strengthened in several respects. Based on its experience, OCA states that many consumers make supplier decisions based on oral marketing and may not fully review the written disclosures that are not available to the customer in a telemarketing sales call. OCA asserts that even when the disclosure is provided customers often wait until a later time, after the agent has left, to read these materials. While customers have the legal option to review the multiple page contract terms and are given a three-day right of rescission without penalty, it is the OCA’s experience that customers rely on the oral presentation. As a result, the OCA recommends that suppliers be required to make an oral statement concerning introductory rates and the nature of the rate that will be charged after the introductory period, as well as include this information in the third-party verification (TPV) script. OCA at 6—8.

OCA further agrees that, due to the nature of variable rate contracts, the EGS should be required to, orally and in writing, state a specific price for the next billing period after the introductory period. Additionally, the OCA agrees with the Commission that the length of the introductory period should be disclosed. To strengthen this provision, the OCA proposes the following modification:

(2) If the price is introductory, the pricing statement, THE ORAL STATEMENT MADE BY THE SALES AGENT, AND THE THIRD PARTY VERIFICATION SCRIPT, must include a statement that the price is an introductory price, the duration of the introductory period and the price for the first billing cycle after the introductory period.

OCA at 6—8.

The Low Income Advocates support the proposed change. Notwithstanding their support, to further clarify the applicability of this disclosure, the Low Income Advocates recommend that the current definition of the term “introductory price” be modified. Low Income Advocates at 13, 14, 26.

AARP and the CAC support the requirement that marketers offering “introductory” rates include in their disclosure statements the duration of the introductory period and the price for the first billing cycle after the introductory period. The CAC asserts that in the absence of such information, customers really have no idea what they are purchasing. AARP at 3; CAC at 4, 5.

The FTC notes that the NPRM appropriately contains provisions requiring retailers to make clear whether introductory rates are lower than the rates that will apply after the introductory period. However, the FTC is concerned that the NPRM may focus too narrowly on problems with initial price discounting and does not account for innovations in retail electric marketing likely to involve bundling of price and non-price elements, where the non-price elements also provide value to customers. FTC at 8, 9.

WGL supports the requirement to provide customers with clear information regarding the duration of the introductory price. WGL, however, is concerned with the requirement to state a definitive price for the first billing period after the expiration of the introductory price for products that involve a variable pricing structure following the introductory price. WGL believes that if a supplier is required to state a specific price for a billing cycle following the introductory period at the time of contracting, the supplier will need to build in a risk adder to protect itself against the possibility that wholesale market prices will increase. Accordingly, instead of requiring a specific price be disclosed for the billing period following the introductory period, WGL submits that an EGS should only be required to explain whether the price following the introductory period will be fixed or variable, and how often the price is subject to change. WGL submits the following revisions:

If the price is introductory, the pricing statement must include a statement that the price is an introductory price, provide the duration of the introductory price, and state whether the price following the introductory period will be a fixed price or a variable price. If the price following the introductory period is fixed, the pricing statement must state what the fixed price will be. If the price following the introductory period is variable, the pricing statement must explain the conditions of variability and limits of variability in accordance with the remainder of this section 54.5.

WGL at 3, 4.

Discussion

There was little opposition voiced by the parties to our proposal, which we will retain as proposed. We decline to insert the language requested by OCA concerning the actions and scripting of sales agents. Not all sales transactions involve the use of agents (direct mail, electronic enrollment, PaPowerSwitch.com, etc.). Requirements for the actions by and scripting for sales agents are found in our Chapter 111 supplier marketing regulations and are beyond the scope of this rulemaking. We note that 52 Pa. Code § 111.12 (relating to consumer protection) requires agents to provide accurate and timely

information about products including the rates being offered. Specifically, 52 Pa. Code § 111.12(d)(4) requires a supplier to do the following:

Shall provide accurate and timely information about services and products being offered. Information includes rates being offered, contract terms, early termination fees and right of cancellation and rescission.

In complying with this regulation, an agent would be expected to inform the customer if the product is introductory in nature when discussing the rates being offered. With that said, we find that the suggestions provided by OCA are beyond the scope of this rulemaking.

For this same reason, we reject WGL's suggestion that variable-priced contracts be exempt from this requirement. While we understand that a variable price will vary, we established during the 2014 revisions of these rules that even customers on variable-priced contracts must at least know what their initial price will be. While a variable price is established using the stated conditions of variability, as will be discussed later, the customer must at least know the first month's price under those stated conditions before entering into the agreement.

52 Pa. Code § 54.5(c)(3)

We proposed a revision to clarify that a variable pricing statement is only necessary if the product is a variable-priced product. There was no opposition to this proposal. Accordingly, we have adopted it.

52 Pa. Code § 54.5(c)(3)(i)

This proposed addition reflects a long-standing similar requirement in the analogous natural gas rule at 52 Pa. Code § 62.75(c)(2)(i). The intent of this proposed amendment is to provide greater transparency with variable-priced products, allowing the potential consumer to make a better-informed decision.

OCA agrees that this proposed revision reflects the NGS rules but submits that the proposed revision could be improved by requiring the EGS to give an example of how its prices will be calculated using its disclosed pricing methodology by providing a price disclosure for a recent month. OCA suggests that suppliers be required to provide full terms and conditions for all their products on their websites, and once new disclosures are in place, the new disclosures should be sent to all existing customers. OCA asserts that this would enhance transparency and provide the customer with an explanation of how prices are determined during the billing period. Accordingly, the OCA submits the proposed modification:

(2) The] (3) If the price is variable, the variable pricing statement must include:

(i) Conditions of variability (state on what basis prices will vary) including the EGS's specific prescribed variable pricing methodology AND AN EXAMPLE OF HOW THE EGS'S PRICES WILL BE CALCULATED USING ITS DISCLOSED PRICING METHODOLOGY AND RELYING ON THE MOST RECENT MONTH'S DATA.

(ii) Limits on price variability:

(A) If there is a limit on price variability, such as a specific price cap, a maximum percentage increase in price between billing cycles or minimum/maximum charges per kilowatt-hour for electricity during the term of the contract, the EGS shall clearly explain the applicable limits AND THAT THE PRICE CAN CHANGE EACH BILLING PERIOD.

(B) If there is not a limit on price variability, the EGS shall clearly and conspicuously state that there is not a limit on how much the price may change from one billing cycle to the next AND THAT THE PRICE CAN CHANGE EACH BILLING PERIOD.

OCA at 8, 9.

The Low Income Advocates and AARP support requiring additional information in the variable pricing statement, as it will promote pricing transparency and will better inform consumers about the terms and conditions of a variable price offer. The Low Income Advocates assert that variable prices can be subject to extreme volatility and, unless they are subject to a price ceiling, can be particularly dangerous for vulnerable low and fixed-income consumers unable to absorb an unexpected price hike. Accordingly, the Low Income Advocates state that it is critical that consumers be equipped with tools to both understand and respond to price spikes to avoid excessive charges for electricity. Low Income Advocates at 15, AARP at 3-4.

The CAC also supports the Commission proposal at § 54.5(c)(3) that requires marketers who offer variable price products to disclose their specific prescribed variable pricing methodology. The CAC asserts that the proposal would impose some discipline on marketers and some protection for consumers by requiring the marketer to specify the formula or factors that the marketer will follow in implementing variable rate changes. CAC at 4-5.

The FTC commends these provisions as they preserve the ability of customers to contract for variable pricing services and do so without adding potentially crippling disclosure or notification requirements. The FTC is particularly interested in preserving the subset of variable price offers that entail dynamic prices—the kind of pricing that links short-term variations in retail prices to short-term variations in wholesale market prices. FTC at 4.

RESA notes that pricing is complicated and each EGS factors different components into determining the final price that it offers customers. RESA asserts that describing these complex calculations in a meaningful way for customers would be extremely difficult. Moreover, RESA states that EGSs view their pricing methodologies as trade secrets. While RESA recognizes the Commission's desire to provide the customer with useful information about how a specific EGS variable product will be priced, RESA does not interpret the Commission's proposal as requiring EGSs to provide their confidential, complex pricing calculations to customers. Accordingly, RESA states that the language as proposed appears to provide EGSs the appropriate flexibility to determine how to balance their need to keep confidential their pricing methodology with the Commission's goal of providing customers information about the basis upon which their variable price is subject to change. However, RESA would not support the creation of either: (1) a new obligation to disclose specific pricing calculations; or (2) a new affirmative obligation on EGSs to notify customers of when and how they will receive notification of price changes. RESA at 10—12.

WGL understands the Commission's goal of providing greater transparency to allow customers to make better informed decisions. WGL states that it will be difficult for an EGS to articulate a specific prescribed variable pricing methodology for variable price electricity products. WGL asserts that EGSs can, and should, be able to provide a list of factors that will be considered in establishing a

variable retail price. WGL submits that the language in this rule should be modified to read as follows: “Conditions of variability (state on what basis prices will vary), including the factors that the EGS will rely upon to establish the variable price.” WGL at 4-5.

Inspire disagrees that the proposed change will advance transparency and more informed decision making and instead believes that this change will likely undercut those interests and create greater confusion. Inspire asserts that energy pricing is inherently complex with many factors impacting pricing, including PJM market conditions, such as, locational marginal prices, capacity and ancillary services charges, customer cost to serve, transmission and distribution costs; weather; fees associated with the use of financial instruments to reduce price volatility; and taxes. Inspire insists that what a consumer considering a variable rate product must understand is that the rate can change. Inspire avers that further disclosures with detailed technical discussions of price setting methodologies, or complex formulas, only serve to distract from this core piece of information. Inspire at 8-9.

IRRC asks if the requirements in § 54.5(c)(3)(ii)(A) and (c)(11) relating to price variability are duplicative. If so, IRRC requests that they should be combined into one requirement. IRRC at 2.

Discussion

As is apparent from the comments, providing potential customers with the information they need about a variable-priced product in an understandable manner is a challenging task. The components that make-up electricity prices are many and complex, and the types of variable products that consumers may be offered can be diverse. Our objective has been to provide potential customers with the information they need in a useful and understandable format while not being so restrictive that we inappropriately limit the ability of suppliers to offer such products. The FTC notes the importance of variable and dynamically-priced products and urges the Commission to avoid potentially crippling disclosure requirements that discourage such offerings. At the same time, the advocates urge us to require suppliers to be as descriptive as possible, with some requesting that specific rate calculation formulas be required. We believe there is a reasonable middle-ground here that can accomplish our objectives.

We reject requiring suppliers to provide a specific rate calculation formula for several reasons. We agree with RESA that these formulae could be considered proprietary and thus not appropriate for public disclosure. We also agree with RESA, WGL and Inspire that such formulae would likely be too complex and include components that consumers do not understand, which is contrary to the intent of the regulation. However, we agree with WGL that suppliers should be able to provide a list of factors that will be considered in establishing the price and have added this to the regulation.

OCA asks us to require the supplier to give an example of how the price will be calculated and to give an example of the outcome. We note that our regulations at subsection (iii) of this rule requires the supplier to provide the price to be charged, per kilowatt-hour, for the first billing cycle of generation service. This price should reflect the outcome of any variable pricing methodology. Further, subsection (14), which will be discussed in detail below, requires that the supplier make available a price-history of the variable product they are selling. We find that these two provisions are sufficient in demonstrating to

the potential customer what the price has looked like in the past and what their price will be at the start of the product period. Accordingly, we decline to adopt OCA's suggestion. We also decline to adopt OCA's suggestion that we impose the new regulatory requirements of this section upon contracts entered into prior to the effective date of these regulations. However, we agree with OCA that the subsections addressing the limits on price variability should include an important reminder to the customer that “the price can change each billing period” and that this must be disclosed in a larger font type to increase its prominence. Accordingly, we have added language to subsections (ii)(A) and (ii)(B) requiring this reminder.

Regarding IRRC's question asking if the provisions of this section are duplicative of the requirements at (c)(11), we do not view these two requirements as duplicative. Subsection (c)(3) addresses the content—what must be disclosed. Subsection (c)(11) concerns formatting—that this information must be in a larger font size.

52 Pa. Code § 54.5(c)(3)(iv)

We proposed a revision intended to bring the electric rule into alignment with the natural gas rule at 52 Pa. Code § 62.75(c)(2)(iv). We also noted that while this requirement is not in the current electric disclosure rule, it has been in the electric contract summary since 2014. This requirement is intended to let the potential customer know when and how they will be informed of their variable-price changes. For example, if the customer will not be informed of the price until the time of billing, the EGS must disclose this. Or if advanced notice of price changes will be provided, the EGS must disclose the timeframe of those notices and how they are delivered (U.S. mail, electronically, etc.).

The OCA and the Low Income Advocates suggest that § 54.5(c)(3)(iv) provide that a price change notice will be provided before the new price is charged to the consumer. The OCA and the Low Income Advocates assert that without information about what price is being charged, the consumer cannot make informed decisions about their energy use or about whether a new price plan or supplier is needed. The OCA submits the following changes to § 54.5(c)(3)(iv) for the Commission's consideration:

(iv) A STATEMENT description of when the customer will receive notification of price changes. SUCH NOTIFICATION SHALL BE AT LEAST 10 DAYS BEFORE SUCH PRICE CHANGE GOES INTO EFFECT.

The Low Income Advocates offer the following language (in bold):

A description of when and how the customer will receive notification of price changes. At a minimum, an EGS must provide customers with notice of changes to a variable rate price at least three days in advance of a price change if the price change is based on usage, temperature, and other factors that are not immediately apparent to the EGS at the start of the contract. If the changes to the variable rate price are scheduled or predetermined, an EGS must provide the customer with notice of the proposed changes at least 30 days prior to the effective date of the change.

OCA at 9-10; Low Income Advocates at 16, 26.

The FTC agrees that customers should be informed about how and when they will be notified about price

changes for variable price offers and they suggest adding a provision under which sellers can refer customers to publicly available indices of electricity prices if such indices are key factors in determining power bills. The FTC further encourages the Commission to accommodate retailer experimentation regarding variable rate plan disclosures. The FTC asserts that restrictions on disclosures that do not permit customers to make an apples-to-apples price comparison could harm customers by dissuading them from accepting variable price offers that increase their ability to reduce their bills. FTC at 7.

RESA does not interpret the Commission’s proposal to create a new affirmative obligation on EGSs to provide customers advance notice of price changes for variable contracts. Rather, RESA understands this proposal to affirmatively obligate the EGS offering a variable price and voluntarily agreeing to provide notification of price changes to disclose to the customer how such notification will be provided; for example, an EGS could state that the change will be reflected on the next monthly bill the customer receives. RESA does not oppose this revision based on these assumptions. RESA at 11.

Discussion

While we disagree with the FTC about referring customers to publicly available indices of electricity prices out of a concern that electricity pricing is too complex to make any such indices of any use to residential and small business customers, we do agree with the FTC that we need to allow for flexibility and accommodate experimentation as we move into the advanced-metering era. Accordingly, we find OCA’s and the Low Income Advocate’s suggestion that we always require advanced notice of price changes too restrictive. For some products linked to spot-market or real-time pricing, advanced notice of price changes may not be possible and such a requirement would in effect ban these products. We find that it is important that the customer be told up-front in both the disclosure and in the contract summary that the price may change each billing cycle, if indeed that is the case. Based on this finding, and in response to the understandable concerns of OCA and the Low Income Advocates, we added language to § 54.5(c)(3)(iv) making it a requirement that if the customer is not going to know their price until the time of billing, not only must that be disclosed, it must be disclosed in a larger font size as to increase its prominence.

52 Pa. Code § 54.5(c)(4)

This proposed addition was intended to make the longstanding requirements at 52 Pa. Code § 54.7 more visible and effective. Stakeholders have noted that these requirements are often overlooked because they are not found or referenced in the disclosure rules. This requirement is intended to enable consumers to compare supplier offers on an “apples-to-apples” basis, especially when non-volumetric charges, such as monthly fees or one-time fees, are involved. We invited parties to comment on the need for this regulation to accommodate an evolving electric marketplace where new products and pricing structures are likely. Specifically, we proposed the following:

If the unit price changes based on customer usage or if the product includes fees in addition to the unit price, the price per kWh shall factor in all costs associated with the rate charged to the customer and show the average price per kWh for usages of 500, 1,000 and 2,000 kWh of electricity in a table format.

The OCA agrees that this requirement provides an apples-to-apples comparison, especially when one-time or

monthly fees are involved. OCA asserts that providing the customer with all the costs associated with the rate in a table format based on usage levels provides more transparency to the customer and allows the customer to make informed choices. Regarding the flat bill option, if permitted, OCA asserts that the flat bill will have to be treated under § 54.5(c)(4) as a price that changes with usage. For products that are separately charged and not required to receive generation service, OCA asks that the price of these separately charged non-generation products be disclosed both on a total charge basis and as a monthly impact to the bill. If a product is bundled with generation service and is required to receive generation service, however, OCA states that the price of the product should be disclosed on a price per kWh basis. OCA at 10.

The Low Income Advocates strongly support this proposed change, as it will allow for an honest and transparent comparison of EGS offers. The Low Income Advocates assert that inconsistent fee structures have confounded many consumers attempting to participate in the marketplace. The Low Income Advocates believe that clear and transparent disclosure of the price per kWh based on various consumption levels is critical to allow consumers to accurately compare offers and make value judgments about product offerings. Low Income Advocates at 9—13, 17-18.

AARP notes that customers who wish to shop for electricity in Pennsylvania have long been advised by the PUC and other consumer educators to look to the “Price to Compare” as a starting point, but that the Price to Compare has not always given consumers the full cost of switching to another retail marketer. AARP believes that the proposed requirement will reduce the likelihood that customers will be misled by low kilowatt hour fees that often mask high monthly or one-time fees charged by some retail marketers. AARP at 3.

The FTC agrees with the proposal to require offers that include non-volumetric charges to continue to disclose the total billing amounts corresponding to different consumption levels. To help ensure that customers understand the implications of non-volumetric charges, the FTC suggests that an additional or alternative approach could be to classify offers that include non-volumetric charges as variable rate plans, in which the average net per-unit price varies based on the level of consumption. FTC at 10.

RESA supports moving this requirement (to the extent it is applicable) into § 54.5(c) because this is where the Commission sets forth all the required information and language EGSs are expected to include in their customer contracts. RESA argues that the addition of the term “actual” to describe usage will provide clarity that the requirement does not apply to customized products which may be quoted based on historical usage data. Reorganizing the sentence to reference fees in the context of the requirement to display “all costs,” provides additional clarity that the table is expected to factor in the usage costs plus included fees. RESA suggests the addition of the term “actual” in the text as follows:

Section 54.5(c)(4): If the unit price changes based on **actual** customer usage or if the product include fees in addition to the unit price, the price per kWh shall factor in all costs associated with the rate charged to the customer **including any fees** and show the average price per kWh for usages of 500, 1,000 and 2,000 kWh of electricity in a table format.

RESA asserts that limiting the requirement to display the usage table for products where the unit price (plus

any fees) changes based on actual customer usage is important to ensure that the regulation does not constrain the ability of EGSs to develop new products and services with appropriate pricing structures that are not based on usage. RESA asserts that as EGSs strive to innovate pricing structures and products, they also endeavor to determine the most consumer-friendly way to present their product and pricing information to consumers. RESA suggests that overly restrictive regulations that constrain the creativity of EGSs in presenting their pricing and products should be avoided. RESA 8-9.

NEMA agrees that the Commission should be mindful of avoiding rules that prevent innovative products from being offered and prevent the benefits of advanced metering from being realized by consumers. Given the very nascent state of market development with respect to time variant rates for mass market consumers, and the potential for rigid disclosure requirements to hamper product development and availability, NEMA asserts that it is appropriate to expressly exempt time variant products from the disclosure requirement. NEMA at 4-5.

Inspire fears that the proposed requirement, if interpreted strictly and without exception, will present a substantial obstacle to future and present innovations. Inspire asserts that few people understand the kWh, and specifically, what a kWh rate will mean for their ultimate bill. Inspire posits that what customers do understand, and what they care about, is how much they will ultimately pay each month. Inspire insists that a requirement to present the price for an energy product as a cost per kWh at the point of sale would greatly limit innovation, and ultimately choice—and if applied strictly and without exception, could essentially lock market participants into just two rate structures, fixed and variable. Accordingly, Inspire urges the commission to eliminate the cost per kWh requirement or, in the alternative, clarify its inapplicability to flat-bill and other innovative products. Inspire at 2—8.

IRRC suggests that the term “product” used in § 54.5(c)(4) and (14)(i) should be defined. IRRC at 2.

Discussion

As we discussed earlier relative to subsection (c)(1), how to present pricing is one of the more complex issues we must address and one that stakeholders offered diverse and engaging comments upon. The challenge once again is to provide potential customers with the information they need to make informed decisions and to comparison-shop, while not being so restrictive that we inadvertently ban new and innovative products made possible by advanced metering. Once again, after carefully considering the comments, we believe there is a way to balance these interests and make this regulation both effective but not overly prescriptive. We find that our original proposal is basically sound but acknowledge that some refinements and additional guidance is needed.

We agree with OCA and the Low Income Advocates that this requirement should apply if one-time or monthly fees are involved and agree with RESA that additional language should be added to the regulation to make this clear. We also agree with OCA that this requirement should apply to “flat bill” products (products where a customer is billed a flat monthly, pre-disclosed amount regardless of usage). For such products, the supplier should provide the “flat bill” amount under subsection (c)(1), and what that works out to be on a per-kWh basis for subsection (c)(4). We see no reason why this cannot be done and reject arguments that this would inhibit or

prohibit such products. To the contrary, this should allow suppliers to highlight the advantages of such products and, again, allows the potential customer to comparison shop. We will also insert language clarifying that if the product also has an introductory component (see subsection (c)(2)), a table must be included showing the introductory pricing information and a separate table displaying the pricing that applies after the introductory period expires.

However, we agree with NEMA and RESA that not all pricing structures will fit this regulation. Dynamic, time-of-use products, where the amount of the customer’s monthly bill will be determined in part by when they used the service, will be difficult if not impossible to accurately project in advance. These types of products could become increasingly common as advanced metering becomes ubiquitous and new technologies (e.g. electric vehicles) increase the need and demand for such products.

At this time, no one really knows all the types of dynamic, time-of-use products that will be offered or what they will look like. This means flexibility is needed when crafting this regulation. We revised our proposal to create an exception for dynamic/time-of-use products—suppliers will not be expected to provide per kWh prices for three different usage levels. However, we also inserted new language directing suppliers to present time-of-use pricing information in a table format that displays what the “times” are and what the applicable per kWh rate is for the specified times. If the rate for such is variable, the supplier shall display in the table the first month’s initial pricing levels (see subsection (c)(3)(iii)) and a notation that the prices displayed are initial prices only.

We acknowledge that it is possible there could be products in the future that do not fit neatly into any of the requirements. In such instances, we expect suppliers to make a good-faith effort to provide adequate information to potential customers so they can make informed decisions and comparison shop. We advise suppliers to contact Commission staff for guidance when encountering such situations. We also remind suppliers of the Standards of conduct and disclosure for licensees at 52 Pa. Code § 54.43(1):

To protect consumers of this Commonwealth, licensees shall adhere to the following principles in the provision of electric generation service:

(1) A licensee shall provide accurate information about their electric generation services using plain language and common terms in communications with consumers. When new terms are used, the terms shall be defined again using plain language. Information shall be provided in a format that enables customers to compare the various electric generation services offered and the prices charged for each type of service.

We further note the requirements in our Chapter 111 supplier marketing regulations, specifically, 52 Pa. Code §§ 111.12(4) and (5) that require suppliers:

(4) Shall provide accurate and timely information about services and products being offered. Information includes rates being offered, contract terms, early termination fees and right of cancellation and rescission.

(5) Shall ensure that product or service offerings made by a supplier contain information, verbally or written, in plain language designed to be understood by the customer. This includes providing written information to the customer in a language which the

supplier's representative has had substantive discussions with the customer or in which a contract is negotiated.

Regarding the request by IRRC to define the term "product" used in § 54.5(c)(4) and (14)(i), we will revise the language in § 54.5(c)(4) to reference the "offer" in place of the term "product" as that makes it clear that the rule relates to whatever it is the EGS is offering to the customer. Rather than attempting to develop a definition for product that encompasses all current and potential future product offerings, the Commission finds that simply referring to whatever the EGS is offering avoids any need for interpretation and avoids confusion.

52 Pa. Code § 54.5(c)(6)

As we did with the analogous natural gas rule and in the interest of plain language, when describing how many months/years a contract is in effect, we proposed replacing the words "length" and "term" with "duration." We note that "term" can be particularly confusing because in addition to describing "duration" it can be used more generally to discuss all contract provisions, i.e. "terms and conditions."

Discussion

No party opposed this proposal, which we will retain in the interest of clarity and plain language.

52 Pa. Code § 54.5(c)(9)

As we did with the natural gas disclosure, we proposed removing all unnecessary references to the utility from the EGS disclosure statement. At the time these regulations were promulgated, the EDCs had robust consumer education programs and were expected to play a key role in informing consumers about the competitive market. At this time, it is unnecessary to require a display of EDC information on EGS documents, as this may invite customer confusion and even the risk of creating a false impression that the EGS is "affiliated with" or "partnering with" the EDC.

Duquesne Light generally supports the proposed removal of unnecessary references to the EDCs in the disclosure statement as eliminating customer confusion about the role played by EDCs and EGSs is important. However, Duquesne notes that § 52.5(c)(9), refers to the default service provider—not an EDC and that while EDCs currently serve in this role, there is no guarantee that EDCs will always be default service providers. Because of this, Duquesne believes that this information should remain. In addition, Duquesne believes there is still a purpose for having EDC information as part of the EGS Contract Summary, since the summary's goal is to provide, in an easy-to-read, one-page document, the most important terms of the disclosure statement.

While Duquesne acknowledges that in 2016 the Commission removed the reference to NGDCs as part of the NGS contract summary, Duquesne points out that there is no requirement that the format of NGS and EGS disclosure statements be identical. Duquesne at 5—7.

The OCA agrees with the Commission that prominent display of EDC information on EGS documents could create the false impression that the EGS is affiliated with or partnered with the EDC. The OCA reports receiving customer complaints regarding alleged EGS claims of partnership with the EDC and removing the requirement that the EGS list the EDC's name and telephone number in a prominent position is a step forward in reducing customer confusion. The OCA notes, however, that customers will still require information about their EDC and

the availability of default service and that retaining limited information about the EDC in a less prominent and less confusing manner may still be necessary. OCA at 10-11.

While the Low Income Advocates understand that the Commission's proposal was made with the well-intentioned goal of eliminating consumer confusion, they oppose the removal of information about the EDC and available universal service programming from the disclosure statement. In addition, they believe that further modifications are necessary to ensure that consumers are appropriately informed of the continued role of the EDC, the Commission, and the OCA, as well as the consumer's right to file a complaint with the Commission. The Low Income Advocates assert that the elimination of the contact information will only serve to further obscure the connection between the EDC and the EGS. The Low Income Advocates recommend requiring suppliers to include a statement in the disclosure that the EDC will remain the point of contact for quality of service, billing, collections, and termination questions, along with the contact information for the EDC. Accordingly, the Low Income Advocates offer the following revisions:

(9) The name and telephone number of the default service provider, **along with a statement informing the customer that entering into a contract with an EGS does not end their relationship with the EDC, and that the EDC will remain the primary contact for credit and collections, service termination, and service quality issues.**

Low Income Advocates at 18—21, 27.

The CAC urges the Commission to reconsider the proposals that would remove necessary information regarding consumers' EDC and default service provider. The CAC understands that the PUC desires to eliminate consumer confusion and that this is an appropriate and admirable goal that the CAC generally supports. However, the CAC is concerned that elimination of information about the EDC and available universal service programming from the disclosure statement may create more confusion than it eliminates. The CAC recommends that the PUC revise the language to disclose EDC contact information and require the EGS to state that the customer should continue to contact the EDC for quality of service, billing, collections, termination, and universal service questions. CAC at 5—7.

Inspire supports the removal of requirements that suppliers prominently display EDC information on the disclosure statement. Inspire notes that it works hard to build a unique brand identity, distinct from any local utility. Requirements to feature EDC information on Inspire documents can cause confusion and undermine their efforts to foster a strong, personal relationship with its customers. Inspire at 10.

Discussion

While we understand the concerns expressed by some parties with the Commission's proposal to remove EDC information from the disclosure, we agree with Inspire that such a requirement is no longer needed and no longer appropriate. The disclosure is an agreement between the supplier and the potential customer—the EDC is not a party to this agreement and repeatedly naming the EDC in the disclosure simply invites confusion and possible allegations of supplier misrepresentation. We shall, as we did with the analogous natural gas rule, remove references to the utility from the disclosure and the contract summary.

We also reject the Low Income Advocates' request that potential supplier customers be told that the EDC remains responsible for billing and collections because this is not always the case. While most residential and small business customers continue to be billed by the EDC for all services, including the supplier charges through the utility-consolidated bill, and continue to pay only the EDC, suppliers are free to render their own, separate bills and to collect directly from the customer their own charges.

52 Pa. Code § 54.5(c)(11)

We proposed revisions intended to bring the electric rule into alignment with the natural gas rule at 52 Pa. Code § 62.75(c)(9). This proposed revision was intended to provide full transparency concerning the potential customer's exposure to penalties and fees. Complex penalty or fee formulas with unspecified or unknown components may make it difficult for customers to arrive at informed decisions about generation choices. In addition to early termination fees, this requirement is intended to ensure the disclosure of other fees, including non-volumetric charges such as monthly fees or one-time fees. We invited parties to comment on the sufficiency of this regulation in the context of an evolving electric marketplace where new products and pricing structures are likely.

The OCA submits that the proposed revision should be strengthened to ensure that the customer is fully informed. Specifically, the OCA suggests that the supplier should be required to give an example of how the penalty or fee structure would be implemented and should be prepared to accurately describe these fees, how they are calculated, and provide the same example in their sales presentations. The OCA also recommends that the Commission specify a type size of no less than 12-point font. The OCA proposed the following:

(10) (11) An explanation of limits on price variability, penalties, fees or exceptions, printed in type size larger than the type size appearing in the terms of service BUT NO LESS THAN 12 POINT AND AN ORAL EXPLANATION OF THE EXISTENCE OF A PENALTY OR FEE IN THE CONTRACT'S TERMS AND CONDITIONS. Penalties and fees shall be disclosed in actual dollars or a specific method for determining the actual dollars shall be disclosed WITH AN EXAMPLE OF THE CALCULATION. This explanation shall include a statement advising the customer that the customer will not be subject to any penalty or fee if the customer terminates the contract at any time between the date the initial notice required in § 54.10 (relating to notice of contract expiration or change in terms for residential and small business customers) is issued and the expiration of the fixed duration contract.

OCA at 11-12.

The Low Income Advocates strongly support this disclosure as they believe consumers are growing increasingly frustrated at the additional fees and penalties levied against them. The Low Income Advocates assert that providing increased transparency about fees and penalties is critical and will help consumers gain confidence that they will not face surprise fees and penalties that they may be unable to afford. Low Income Advocates at 21-22.

Discussion

We decline to adopt OCA's suggested language regarding requirements for sales agents as we find that this type of requirement is more appropriate for the Commis-

sion's Chapter 111 supplier marketing regulations. We also note that not all supplier enrollments involve an agent. Further, an example calculation should not be necessary if the fee is expressed in dollar terms or the result of a simple formula, which is the point of the revisions we are adopting. However, we agree with OCA in that not only should penalty language be in a larger font, we should specify that at a minimum, it should be 12-point font. As the Low Income Advocates point out, these types of fees can be a source of consumer frustration and complaint, thus making their disclosure as prominent as possible using a larger font is crucial. Accordingly, we have added language requiring that fees and penalties be disclosed in font that is not less than 12-point font. Specifically, we revised the first sentence as follows: "An explanation of limits on price variability, penalties, fees or exceptions, printed in type size larger than the type size appearing in the terms of service, **but not less than 12-point font.**"

52 Pa. Code §§ 54.5(c)(12) and (13) (Current)

As discussed above, we proposed to remove all unnecessary references to the utility from the EGS disclosure statement. Including universal service program information in the EGS disclosure risks the customer thinking that these programs are operated or provided by EGSs when they are not.

OCA argues that, given the essential nature of low-income programs, the disclosure statement should inform and educate the customer as to the existence of the low-income programs. The OCA submits that the EGS disclosure statement should include the following language:

Pennsylvania utilities offer universal service programs that help low-income customers. Call the number on your utility bill or the Pennsylvania Public Utility Commission for more information.

OCA at 12-13.

Likewise, the Low Income Advocates offer a similar revision for the same reasons as OCA:

(13) The name and telephone number for universal service program information, **along with a statement that informs the customer that low income consumers may be eligible for utility assistance programs that are provided by the EDC.**

The Low Income Advocates argue that information about universal service programming is critically important and should not be removed from the disclosure statement. Low Income Advocates 17—20.

Discussion

Again, in endeavoring to minimize the chance of misrepresentation and customer confusion between the role of the EDC and the EGS, we will maintain our proposal to eliminate references to the EDC in the EGSs disclosure. While we understand the Low Income Advocates' and CAC's desire to include universal service information in the disclosure, we find that this would again cause confusion by implying that the supplier has a universal service program or is responsible for universal service in some manner. This is not the case. The EDC is solely and entirely responsible for universal service programs. This includes promoting the programs and informing customers of their availability—a task for which the EDC can recover all associated costs via utility rates. We further find that it is inappropriate to require suppliers to also promote and inform customers of the availability the EDC

universal service program as they are ill equipped to educate customers on the particulars of each EDC program. Accordingly, we decline to adopt the changes suggested by the CAC and the Low Income Advocates.

52 Pa. Code § 54.5(c)(13) (New)

This proposed revision was intended to bring the electric rule into alignment with the natural gas rule at 52 Pa. Code § 62.75(c)(11). Both the Commission's electric shopping website, www.PaPowerSwitch.com, and the OCA's website, www.oca.state.pa.us, include helpful consumer education information along with access to supplier offers. We proposed including a reference to these websites to provide another option, in addition to the Commission's phone number, for consumers to obtain information.

While the OCA appreciates the Commission's efforts, for the sake of clarity, the OCA recommends that the OCA's full name be provided as well as the OCA's telephone number so that consumers have full information regarding shopping. The OCA's proposed modification is as follows:

[(12)] (13) A statement [that directs a customer to the Commission if the customer is not satisfied after discussing the terms of service with the EGS] providing that information about shopping for an electric supplier is available at www.PaPowerSwitch.com or other successor media platform as determined by the Commission, by calling the Commission at (800) 692-7380 and OR BY CONTACTING THE OFFICE OF CONSUMER ADVOCATE at (800)-684-6560 OR AT www.oca.state.pa.us.

OCA at 13.

While the Low Income Advocates and the CAC are supportive of including information about papower switch.com, the Commission, and the OCA, they oppose elimination of the requirement that consumers be directed to the Commission if the customer is not satisfied after discussing the terms of service with the EGS as they believe this will fail to appropriately apprise consumers of their dispute rights. As such, the Low Income Advocates offer the following revisions:

(12) A statement that directs **informs** a customer of **their right to file an informal complaint with** the Commission if the customer is not satisfied after discussing the terms of service with the EGS.

* * * * *

(14) A statement providing that information about shopping for an electric supplier is available at www.PaPowerSwitch.com or other successor media platform as determined by the Commission, by calling the Commission at (800) 692-7380 and at www.oca.state.pa.us.

Low Income Advocates at 21 and 27; CAC at 5—7.

Discussion

We reject OCA's, CAC's and the Low Income Advocates' request that we retain the language directing consumers to contact the PUC if they are not satisfied with a supplier disclosure. The first option a potential customer should exercise if unhappy with what they are being offered by a supplier is to reject that supplier and seek other options they find more satisfying. This is how a competitive market with choice is supposed to work. However, we recognize that a potential customer may have general questions or be confused by a disclosure, and we find that our proposed language directing them to

call us and/or access our shopping website and OCA's website is more inviting than the current language about not being satisfied. A potential customer does not have to be dissatisfied before seeking answers to their questions. We welcome opportunities to inform customers of their shopping options and disclosure rules regardless of customer satisfaction with the offer.

52 Pa. Code § 54.5(c)(14)(i)

We proposed an addition to reflect the analogous natural gas rule at 52 Pa. Code § 62.75(c)(2)(v) which is intended to acknowledge the reality that a price history may not be available for all products. An example would include a supplier offering a variable-price product for the first time or a new supplier just entering the market. In these types of situations, the supplier would be expected to inform the customer that a price history is not available.

OCA believes that while it is correct that a price history may not be available for all products, the potential for the misuse of this exemption is significant. The OCA recommends that the EGS not be allowed to avoid disclosure of historical price information unless the supplier documents that the variable price being offered is significantly different from prior offers or cannot be reasonably replicated. The OCA also proposes that the exemption be limited to (a) a newly licensed supplier that is not otherwise an affiliate of an existing supplier for a period of 12 months, at which time the supplier shall provide the historical pricing information that is available; and (b) introduction of an EGS product that is materially different from other products offered by the EGS and any of its affiliates and for which there is no reasonable manner to present representative historical pricing information. OCA also advises that the Commission must ensure that a common approved approach is being used to develop the average price so that proper comparisons can be made. OCA asserts that EGSs should be required to disclose the highest and lowest price over the past 36 to 60 months that has been charged for the customer's rate class and service territory to ensure that customers have more complete information. The OCA proposes the following changes to proposed Section 54.5(c)(14) to address the issues identified:

A telephone number and Internet address at which a customer may obtain the previous 24 months' average monthly billed prices for that customer's rate class and EDC service territory, AND THE HIGHEST AND LOWEST PRICE BILLED FOR THAT CUSTOMER'S RATE CLASS AND EDC SERVICE TERRITORY FOR THE PREVIOUS 60 MONTHS. If an EGS has not been providing service in a rate class and EDC service territory for 24 months OR IS NEWLY LICENSED AND NOT AFFILIATED WITH AN EXISTING LICENSED EGS, the EGS shall provide the average monthly billed prices for the months available to date. If price history or representative price information is not available for the product AND THE PRODUCT IS MATERIALLY DIFFERENT FROM OTHER PRODUCTS OFFERED BY THE EGS OR ANY OF ITS AFFILIATES, the EGS shall inform the customer of this fact. IF THE EGS HAS NOT BEEN PROVIDING SERVICE IN A CUSTOMER RATE CLASS AND SERVICE TERRITORY FOR 60 MONTHS, THE EGS SHALL PROVIDE THE CUSTOMER THE HIGHEST AND LOWEST PRICES AS SET FORTH BY THE COMMISSION FOR SUCH PURPOSE.

OCA at 13—15.

IRRC suggests that the term “product” used in § 54.5(c)(4) and (14)(i) should be defined. IRRC at 2.

Discussion

We agree with the OCA that our proposed language is too permissive and needs to be strengthened to minimize the chances of it being circumvented. We will add “and the offer is materially different from other offers made by the EGS” to clarify that the offer must be substantially different than other offers by the same EGS to be exempt from the requirement to provide a pricing history. However, we find that the OCA’s suggestion to include the products of affiliates of the EGS is not appropriate in a competitive market. We also find that requiring pricing information for 24 months is sufficient to inform potential customers about the variability of the pricing and possible seasonal fluctuations.

Regarding the request by IRRC to define the term “product” used in § 54.5(c)(4) and (14)(i), we have revised the language in § 54.5(c)(14)(i) as follows: “If price history or representative price information is not available and the offer is materially different from other offers made by the EGS, the EGS shall inform the customer of this fact.” Eliminating the term product in this context makes it clear that the rule relates to whatever it is the EGS is offering to the customer. As we stated for §§ 54.5(c)(1) and (c)(4), rather than attempting to develop a definition for product that encompasses all current and potential future product offerings, the Commission finds that simply referring to whatever the EGS is offering avoids any need for interpretation and avoids confusion.

52 Pa. Code § 54.5(e)

We proposed revisions intended to update the regulation by referring to the correct location where the glossary of terms can be found. We also proposed that basic charges should be defined to bring this requirement into alignment with the analogous natural gas rule at 52 Pa. Code § 62.75(e). We also proposed replacing the word “bill” with “disclosure statement” as to correct an apparent error as this section contains requirements for electric disclosures (requirements for electric bills can be found at 52 Pa. Code § 54.4 (relating to bill format for residential and small business customers)).

IRRC notes that § 54.3(1)(ii) requires terminology used in customer communications to use the terms in accordance with the glossary posted at www.PaPowerswitch.com or other successor media platform as determined by the Commission. IRRC suggests that the regulation should specify how the reader can determine whether the Commission has opted to use another successor media platform. IRRC at 2.

Discussion

Without any opposition to our proposed language, we will retain the revisions that we proposed. Regarding IRRC’s suggestion that the regulation should specify how the reader can determine whether the Commission has opted to use another successor media platform, we decline to codify in the regulation how the Commission will make such a determination or what other types of media platforms will be available in the future as such information or methods are unknown at this time. With that said, we note that as with the current www.PaPowerswitch.com, the Commission will use all appropriate methods and media available at the time of the change to inform customers.

52 Pa. Code § 54.5(g)

We proposed to create two options for disclosure language concerning contract expiration or change notices—

one option for contracts with a fixed duration and a second option for contracts without a fixed duration, such as a month-to-month contract. Stakeholders have noted customer confusion can result from having just one standard statement that may not be applicable to all contracts.

The OCA recommends that the Commission further define “non-fixed” to provide additional clarity. The OCA also recommends that the proposed § 54.5(g) notification language include the time frame that consumers will receive the notices. Furthermore, the OCA notes that the phrase “whenever we propose to change the terms of service in any type of contract” could be misleading to consumers, as it suggests that an EGS can unilaterally change the terms of a contract. The OCA recommends the following changes to proposed § 54.5(g):

(g)(1) Disclosure statements shall include the following customer notification: “If you have a fixed duration contract approaching the expiration date, ~~or whenever we propose to change the terms of service~~ FOR THIS CONTRACT in any type of contract, you will receive two separate written notifications, THE FIRST APPROXIMATELY 60 TO 45 DAYS IN ADVANCE AND THE SECOND 30 DAYS IN ADVANCE OF ~~that precede~~ either the expiration date or the effective date of the proposed changes. These notifications will explain your options going forward.”

(2) Disclosure statements for ANY CONTRACT OTHER THAN FIXED ~~non-fixed~~ duration contracts must include the following customer notification: “Whenever we propose to change the terms of service FOR THIS CONTRACT in any type of contract, you will receive two separate written notifications, THE FIRST APPROXIMATELY 60 TO 45 DAYS IN ADVANCE AND THE SECOND 30 DAYS IN ADVANCE OF ~~that precede~~ either the expiration date or the effective date of the proposed changes. These notifications will explain your options going forward.”

OCA at 15-16.

Duquesne urges the Commission to be mindful of the reading skills of consumers when mandating specific language. Duquesne believes that the proposed language is arguably too complex. Duquesne offers the following revisions:

“If you have a fixed duration contract that will be ending, or whenever we change the contract, you will receive two separate letters before the contract ends or the changes happen. These letters will explain your options.”

Duquesne offers a similar change to the proposed language in section (2). Duquesne at 8-9.

NEMA believes that the Commission’s proposal is reasonable in that it permits EGSs to improve the clarity and quality of the disclosures that are made to consumers and should be adopted. WGL asserts that the new language for non-fixed duration contracts might be confusing, as its references an expiration date. WGL suggests that the Commission should remove the reference to expiration date and only state that the customer will receive two separate written notices that precede the effective date of proposed changes. NEMA at 5; WGL at 5.

Discussion

While there is general support for the concept of creating two different paragraphs, the commentators offer compelling reasons for revising the language. The Commission agrees with the OCA and WGL that some of the

specific wording needs to be revised. The Commission also agrees with Duquesne that simpler, less complex language is appropriate. Further, we think that the EGS should identify itself in these paragraphs. Accordingly, we included the language suggested by the Commentators and added a placeholder for the name of the EGS.

52 Pa. Code § 54.5(j)

We proposed an additional paragraph to reflect the analogous natural gas rule at 52 Pa. Code § 62.75(j) concerning contract assignment. We proposed adding the requirement that if the customer's contract is assignable, the supplier must disclose this to the customer. The assignment of contracts from one supplier to another, while not common, does occur frequently enough to be a source of some customer confusion. This requirement is also consistent with the guidance provided by a Commission order addressing assignment in the electric industry.²² In these guidelines, the Commission specified that "[a]ny assignment clause used in a supplier contract must be written in plain language, be prominently printed and explained fully in 'terms of service and disclosure.'"²³

The OCA submits that the EGS should be required to disclose this information at the time the consumer enters into the agreement and be required to provide the consumer with written notice if the contract is assigned to another supplier. The OCA also submits that customers should be permitted to return to default service or select another supplier without penalty in an assignment circumstance. OCA at 16-17.

The FTC asks that even if the contract terms remain the same, the PUC may wish to consider mandating an opt-out provision (without early termination penalties) if the customer is dissatisfied with the new supplier. FTC at 9.

Discussion

While we agree with OCA that the customer should be given a timeframe for the switch to the new supplier, we think providing a specific date is impractical and not always possible. Instead, we will insert language directing the supplier to provide the month and year that the assignment can be expected. However, we disagree with OCA and the FTC that the customer should have an option to reject the assignment. The Commission has previously determined that contracts are assignable. A customer objecting to an assignment may file a complaint with the Commission but would have the burden of proving that the assignment constitutes unreasonable service on the part of the supplier pursuant to 66 Pa.C.S. § 1501.²⁴ Further, by including the assignment provision in the disclosure as we are doing, the customer is aware of this possibility prior to accepting the supplier's service. If the potential customer does not want to have an assignable contract, they are free not to enter into an agreement with that supplier.

52 Pa. Code § 54.5(k)

We proposed adding a new paragraph (k) requiring that the disclosure inform the customer if the EGS intends to obtain customer account and usage information from the utility. In our experience, many EGSs already include such a provision in their disclosures. We simply proposed making this a uniform requirement for all disclosures. Customer privacy and third-party access to information is

²² See Order on the Interim Guidelines Regarding Notification by an Electric Generation Supplier of Operational Changes Affecting Customer Service and Contracts, Docket No. M-00960890F0013 (Order entered August 14, 1998).

²³ See id. at Appendix, Guideline (II)(B)(1).

²⁴ See id. at 9—13.

becoming an increasingly sensitive issue and we think that making this as transparent as possible is in the best interest of both consumers and suppliers. We acknowledged that this was a new proposal and invited all parties to comment on what should be included in such a provision.

Making this disclosure a uniform requirement increases transparency regarding customer privacy and is necessary as a matter of Pennsylvania regulations and law and, as such, the OCA supports this addition but submits that modifications are necessary to fully address consent issues. Regarding smart meter technology, the Public Utility Code requires explicit consent to release information to third parties as follows:

(3) Electric distribution companies shall, with customer consent, make available direct meter access and electronic access to customer meter data to third parties, including electric generation suppliers and providers of conservation and load management services.

66 Pa.C.S. § 2807(f)(3).

The OCA submits that heightened specificity and explicit consent is required to obtain sensitive customer account information from the EDC, such as smart meter data. The OCA asserts that EGSs should be required to retain this explicit authorization in the event that questions arise. Additionally, the OCA submits that certain types of account information should not be provided to the EGS, such as payment history. The OCA proposes the following modifications:

(k) If the EGS intends on obtaining customer account information from the EDC, the EGS shall inform the customer OF THE SPECIFIC TYPE what type of information THAT may be obtained, INCLUDING WHETHER USAGE DATA the purpose for obtaining this information and inform the customer that they are consenting by entering into this contract. The EGS shall also inform the customer that the EGS will maintain the confidentiality of a customer's personal information including their name, address, telephone number, electric usage and historic payment information as required by applicable Commission regulations and federal and State laws. PAYMENT HISTORY SHALL NOT BE PROVIDED TO THE EGS.

The OCA also submits that the contract summary should include this information as it is critical to protecting sensitive customer information. OCA at 17-18.

The Low Income Advocates support this change, as it will better shield consumers from unwanted, unauthorized, or otherwise inappropriate disclosure of sensitive personal data. To ensure that the provision has the desired effect, they suggest two additional modifications. First, they suggest that this notice be in a larger font size, and perhaps either bolded, underlined or capitalized to draw the consumer's attention. They further recommend that the supplier be required to disclose the information it may seek from an EDC with specificity. The Low Income Advocates assert that information which the consumer does not wish to share, such as the existence of a Protection From Abuse Order, prior payment arrangements, or prior participation in an assistance program should not be included. The Low Income Advocates offer suggested language:

If the EGS intends on obtaining customer account information from the EDC, the EGS shall request the customer's consent to the EDC disclosure.

The EGS must specifically state the nature of the information requested along with reason for the request. ~~the EGS shall inform the customer what type of information may be obtained, the purpose for obtaining this information and inform the customer that they are consenting by entering into this contract. The EGS shall also inform the customer that the EGS will maintain the confidentiality of a customer's personal information including their name, address, telephone number, electric usage and historic payment information as required by applicable Commission regulations and federal and State laws.~~

Low Income Advocates at 22-23, 28.

Duquesne suggests that the disclosure also provide, in plain and simple language, that signing the contract is consent for the EGS to obtain personal information from the EDC. Duquesne proposes that the EGS disclosure be required to state that any information obtained for the purposes of providing electric service will not be provided by EDCs to third parties without the customer's express consent and that should the customer's information be inadvertently released, the customer will be notified. Duquesne at 9.

RESA supports the Commission's proposal but recommends additional language be added to make it clear that the customer is consenting to the release of information by the EDC to the EGS by entering into the contract with the EGS. RESA asserts that adding this language will streamline the ability of the EGSs to request and receive information about their customers from the EDC without the need for additional paperwork. RESA further asserts that unfettering the ability of EGSs to gain access to important customer account information will enable EGSs to provide better and more timely service to their customers and avoid time consuming disputes between the EDCs and EGSs regarding whether the EGS has the appropriate customer consent. RESA recommends the following revisions to the Commission's proposed new regulation:

Section 54.5(k) If the EGS intends on obtaining customer account information from the EDC, the EGS shall inform the customer what type of information may be obtained, the purpose for obtaining this information and inform the customer that he or she is they are providing consenting to the EDC to release this information by entering into this contract. The EGS shall also inform the customer that the EGS will maintain the confidentiality of a customer's personal information including their name, address, telephone number, electric usage and historic payment information as required by applicable Commission regulations and federal and State laws.

RESA at 15-16.

NEMA asserts that it is appropriate to memorialize this requirement in the regulations, as it has become a standard practice, and to make clear to all stakeholders—EGS, consumers, utilities—the Commission's expectations in this regard. NEMA at 5.

Discussion

No party expressed opposition to the Commission's proposal, with the commentators generally supporting the concept that the disclosure should include a section addressing the EGS's need to obtain customer data from the EDC and the customer being informed of this and consenting to such. We agree with OCA and the Low Income Advocates that just saying "type of information"

may be too broad. Accordingly, we have inserted language directing the supplier to be more specific about the information they intend to obtain from the EDC. We also agree with RESA and Duquesne that the section should be clearer and explicitly inform the customer that he or she is consenting to the EDC releasing information to the EGS by entering into the contract.

However, we disagree with OCA's request that customer payment information never be provided to an EGS. While currently, most residential customers and suppliers participate in EDC Purchase of Receivables (POR) programs where the supplier is relieved of billing and collection responsibilities, this may not always be the case. Further, the Commission has recently ruled, relative to a POR claw-back program, that suppliers have the right to customer payment data in some circumstances even while operating under a POR program.²⁵ We also decline OCA's and the Low Income Advocates' request that this information be highlighted in the disclosure and included in the contract summary. We already require other information be highlighted in the disclosure and find that highlighting too many things reduces the impact of such highlighting. While the information disclosure/consent provision is important, in our opinion this importance does not rise to the same level as information about fees, penalties, and pricing that can have financial consequences for the customer if overlooked.

§ 54.7. Marketing/sales activities

When this section was first promulgated in 1997, electric utility rate structures often featured declining or inclining block rate structures—the unit rate (per kWh) would vary depending upon the customer's usage. It was envisioned back in 1997 that EGS pricing structures might reflect similar rate structures. This regulation was created to inform consumers of how their supplier unit price would change depending upon their usage.

Since then, electric utility rate structures have been simplified, including the elimination of most block rate structures. See 52 Pa. Code § 69.1810 (relating to retail rate design).²⁶ As a result, EGSs offering block pricing structures are relatively rare, meaning that this regulation has become outdated. We proposed to update this regulation by clarifying that it is only effective if the supplier is offering a product where the unit price changes depending upon the customer's usage or if the supplier is charging a fee, such as a monthly customer service charge, in addition to the unit price. In these situations, this regulation provides important information that allows the customer to make an "apples-to-apples" comparison to another supplier's offer. We also proposed to simplify the rule by eliminating the separate requirements for fixed and variable prices as the proposed amendment applies the same rule regardless of whether the product is fixed or variable.

The OCA supports this revision and asserts that requiring usage tables only if a supplier offers a product where the unit price changes depending upon the customer's usage or if the supplier charges a monthly fee is reasonable. The Low Income Advocates support these revisions, as they will better align required marketing and sales

²⁵ See Opinion and Order Re Petition of Metropolitan Edison Company for Approval of a Default Service Program for the Period Beginning June 1, 2019 through May 31, 2023, et al., Docket Nos. P-2017-2637855, et al. (Opinion and Order entered Sept. 4, 2018).

²⁶ 52 Pa. Code § 69.1810. Retail rate design. Retail rates should be designed to reflect the actual, incurred cost of energy and therefore encourage energy conservation. The PTC should not incorporate declining blocks, demand charges or similar elements. The PTC for a particular customer class may be converted to a time of use design if the Commission finds it to be in the public interest.

activities with the requirements for the disclosure statement. OCA at 18-19; Low Income Advocates at 23-24.

The FTC applauds the PUC's practice of periodically updating marketing rules in both sectors to keep pace with new products, new services, and new marketing approaches. Overall, the FTC commends the PUC for its consistent focus on helping customers in both the electricity and natural gas retail sectors to make well-informed decisions rather than imposing particular views of what choices electricity customers should be allowed to make. FTC at 11.

RESA recommends that the Commission delete § 54.7(b) in its entirety. RESA asserts that maintaining the usage table requirement in a section that is not specifically focused on the information to be included in the customer contract is confusing for EGSs who ensure that they are compliant with § 54.5(c) but do not realize that additional requirements are located in a different section of the regulations. RESA also asserts that the requirement that this usage table be included in marketing materials is potentially confusing. RESA posits that requiring this additional information on marketing pieces is not only costly but also reduces the amount of space available on these marketing pieces to present more useful information. Finally, RESA argues that it is unnecessary for the newly proposed language for § 54.7(b) to specifically include the requirement that the usage table be included in the contract summary per § 54.5(i). RESA at 9-10.

While Shipley agrees that this provision is somewhat anachronistic at this point, since most utility rates are not declining block rates, it also believes that the proposed change is a solution in search of a problem. Shipley questions the need for the chart at all given the sheer lack of such rates in the market. If the chart will be required, however, Shipley suggests that clarification of the phrase "that offer terms of service for acceptance by customers" may be warranted. Shipley also states that it is not clear whether the supplier must include the chart if its rates do not vary on usage, but it does charge a monthly customer charge-like fee. Shipley at 4-5.

Discussion

There was general agreement among the commentators that this section is outdated and in need of revision, but varying opinions as to how to revise it—with some believing it is unnecessary, unclear, and duplicative and should be abolished altogether. As noted earlier relative to subsections (c)(1) and (c)(4), how to present pricing is one of the more complex issues we have to address. The challenge is to provide potential customers with the information they need to make informed decisions and to comparison-shop, while not being so restrictive that we inadvertently ban new and innovative supply products made possible by advanced metering. Once again, after carefully considering the comments, we find that there is a way to balance these interests and update this regulation to make it clearer and more effective.

We agree with the FTC that we need to ensure that consumers have the information needed to make well-informed decisions when selecting from an array of choices, rather than imposing particular views of what choices electricity customers should make. However, we agree with OCA and the Low Income Advocates that this proposed requirement should apply to "flat bill" products so that customers can compare the product to other products and determine if it is right for them given their needs and wants. We also agree with OCA and the Low

Income Advocates that this requirement applies to products that have one-time or monthly fees. We have inserted language clarifying that if the product also has an introductory component (see subsection (c)(2)), a table must be included showing the introductory pricing information and a separate table displaying the pricing that applies after the introductory period expires.

As we discussed previously relative to subsection (c)(4), we agree with NEMA and RESA that not all pricing structures will fit this regulation. Dynamic, time-of-use products, where the amount of the customer's monthly bill will be determined in part by *when* they use the service, will be difficult if not impossible to accurately project in advance. As we did earlier with paragraph (c)(4), we revised our proposal to create an exception for dynamic/time-of-use products. Suppliers will not be expected to provide per kWh prices for three different usage levels but instead will be expected to present time-of-use pricing information in a table format that displays what the "times" are and what the applicable per kWh rate is for the specified times. If the rate for such is variable, the supplier shall display in the table the first month's initial pricing levels (see subsection (c)(3)(iii)) and a notation that the prices displayed are initial prices only.

We agree with RESA that the language "including contract summaries" is unnecessary and possibly problematic. As RESA points out, in 2014 we deliberately decided not to codify the precise contents of the contract summary as to allow us flexibility to revise the contract summary as needed via Commission Order process rather than a rulemaking. We still want this information in the contract summary, which we discuss further in relation to paragraph (i) of § 54.5, under the "Contract Summary" section.

We agree with RESA and Shipley that the language "marketing materials that offer terms of service for acceptance by consumers" is unclear and needs to be more focused. We do not intend for this requirement to apply to all advertising and general marketing. We agree with Shipley that this requirement should be relevant only to written or electronic marketing materials that include enrollment documents that invites and allows a customer to authorize a switch of supply service and will revise the regulation accordingly.

§ 54.10. Notice of contract expiration or change in terms for residential and small business customers

We proposed some minor modifications to the Notice of Contract Expiration or Change in Terms rules at 52 Pa. Code § 54.10. As we did with the disclosure rules at 52 Pa. Code § 54.5(c) and (g) and discussed above, we proposed using the phrase "fixed duration" in place of "fixed term" to avoid confusion over the use of the word "term" with its multiple-meanings. A more significant, proposed revision to this section is to 52 Pa. Code § 54.10(1)(vi):

(vi) A statement indicating whether the existing fixed [term] duration contract has a cancellation fee, and an explanation [of the fee amount and how to avoid the fee, if possible, including notice of the date when the customer can choose a different product from the customer's existing EGS, choose an alternative EGS or return to default service] that the customer is not subject to the cancellation fee if the customer terminates the contract at any time between the date of the initial notice and the expiration date of the fixed duration contract.

We proposed this revision to align with our proposed revisions to 52 Pa. Code § 54.3 (relating to standards and

pricing practices for retail electricity service). As discussed previously, we proposed a new requirement that would in effect ban the imposition of early termination fees (ETFs) once a supplier has provided the contract expiration notices required by 52 Pa. Code § 54.10. In addition to placing this new requirement in § 54.3, we believe it is appropriate to place this same requirement in § 54.10, since this restriction is based upon the issuing of the notices required by § 54.10.

OCA again notes, as mentioned regarding § 54.3, the termination of a contract by a customer may be inadvertent due to the timing of the customer switching to another supplier. The OCA asserts that imposing an ETF on a customer for switching after receiving the notice of contract expiration discourages customers from shopping in the competitive marketplace. OCA at 19.

Discussion

As discussed earlier relative to § 54.3, we modified our proposal so that the ETF ban goes into effect from the date that the second, options notice is sent to the customer—not the first, initial notice. This second, options notice, is to go out no later than 30 days prior to the expiration of the contract. This will in effect create an ETF-ban period of approximately 30 days, compared to a 60-day period as we originally proposed. We revised § 54.10 accordingly to reflect this modification of our original proposal.

Contract Summary (Attachment A)

As discussed previously, in 2014 we developed and adopted a contract summary that highlights key provisions of a supplier contract in a plain-language box format. This increased the visibility of the most important contract items and allows the consumer to make an easier comparison of different supplier offerings when shopping.

We did not imbed the contract summary into the regulations in 2014 because we wanted to preserve the flexibility to revise it as the market evolves. However, we did commit to using a process to revise the contract summary in a way that would allow all stakeholders an opportunity to have a voice in any such revisions. Accordingly, we think this rulemaking is an appropriate venue for revising the contract summary, and proposed several revisions in our December 2017 NPRM, included with the order as Attachment A. The proposed changes are intended both to bring it into as much alignment with the natural gas contract summary as possible and to reflect changes in the market since 2014.

Among the updates, we proposed clarifying that some terms outlined in the EGS Contract Summary template may not be relevant to all contracts by specifying which ones may be omitted entirely if not applicable. We also, as discussed previously, proposed replacing the word “term” with “duration” when discussing length of the contract. Another general revision was the removal of information related to the utility. As discussed previously, we believe that including utility information is unnecessary and increases the risk that the consumer may confuse the supplier with the utility or get the impression that the supplier is affiliated with the utility. Omitting this information will also shorten the contract summary. We believe that the contract summary must be as concise as possible and needs to fit on no more than one page. The key revisions we proposed included the following:

Generation/Supply Price: Requiring that the customer be informed if the price is introductory, what the introductory price is, and what the price is upon expiration of the introductory period. As discussed

previously in the context of the proposed revisions to 52 Pa. Code § 54.5(c)(2), this proposed revision would bring the electric rule into alignment with the natural gas rule and is intended to provide for full price transparency when an EGS is offering an introductory price product.

Generation Price at Various Usage Levels: This proposed new row would only be required if the unit price varies by usage level and/or there are fees in addition to the unit price. This is intended to align with the proposed changes to 52 Pa. Code §§ 54.5(c)(4) and 54.7.

Incentives: In the interest of brevity, we proposed to clarify that if the supplier is not offering any special incentives this row can be omitted from the summary.

End of Contract: We proposed minor revisions to the language to make this contract summary the same as the NGS contract summary. This row should be informing the customer that they should look for the two notices required by 52 Pa. Code § 54.10 as their contract nears expiration.

Right of Rescission: We proposed adding this new row to highlight the customer’s 3-day right of rescission as found in 52 Pa. Code § 54.5(d). We believe this is a key consumer protection and needs to be visible and understandable to the customer.

In addition to the above proposed revisions, we invited parties to contribute any other changes they believe are needed to the contract summary, while urging all parties to keep conciseness in mind when they consider the contract summary.

OCA notes that currently, there are three documents that provide information to consumers about the supplier agreement: a contract summary, a disclosure statement, and the terms and conditions. The OCA submits that the contract summary and the disclosure statement be combined or designed for a single one-page document. The OCA asserts that it is not useful for customers to be given two different summary documents concerning their formal terms of service document. The OCA submits that there is significant confusion around the disclosure statement, the contract terms and conditions, the contract summary, and the enrollment form. The OCA states that most customers interacting with an EGS via door-to-door, telemarketing, and even kiosk locations are enrolled with the EGS before ever seeing the disclosure statement, contract, or contract summary. The OCA remains concerned that we have gone to great lengths to develop a disclosure statement and contract summary that the customer never sees until it is too late. The OCA submits that it is necessary to address these timing issues with the disclosure statement, contract summary, and contract terms and conditions.

The OCA agrees with the Commission that the generation/supply price, the generation price at various usage levels, any applicable incentives, end of contract notification, and the right of rescission are appropriate items to include in the contract summary. The OCA also agrees that requiring the disclosure of introductory prices and the price upon expiration of the introductory period is an important revision that will lead to enhanced customer understanding of the agreement. Additionally, the OCA supports the new row that requires generation price at various usage levels if the unit price varies by usage level and/or if there are fees in addition to the unit price as it helps the residential customer make an informed decision. However, OCA believes that these important con-

tract terms should be disclosed to the customer orally as well. Since the contract summary is a concise explanation of a binding agreement between the customer and the EGS, the OCA asserts that orally stating all of the material items that are required to appear in the contract summary is logically necessary to ensure that the customer is fully informed of the key items in the agreement before the sale is complete. All too often, the OCA has heard from consumers that supplier agents make oral representations that are different from or that are not otherwise included in the terms of service. The OCA asserts that requiring suppliers and their agents to make oral disclosures that reflect the contract summary would halt this practice.

Finally, the OCA submits that, if a customer's consent to release data is included in the contract, it should also be disclosed in the contract summary. The OCA asserts that release of customer account information requires an explicit agreement between the customer and the company. To ensure that the customer's attention is properly drawn to this information, the OCA submits that an additional row be added to the contract summary if such consent is being sought as part of the contract. The OCA states that the contract summary should detail the specific type of account information that the EGS may receive from the EDC. OCA at 19—21.

The Low Income Advocates largely support the proposed changes, as they will align the contract summary with the other proposed changes throughout the Chapter and will better inform customers of important rights. However, the Low Income Advocates oppose the Commission's proposal to eliminate EDC contact information from the contract summary as well as information indicating that the EDC is responsible for outages, emergencies, and other critical service-related issues. The Low Income Advocates assert that failure to disclose and explain this information will only increase customer confusion and heighten frustration experienced by consumers who must make multiple calls to resolve a pressing service-related issue and/or access relief to which they are entitled. Low Income Advocates at 24-25.

Shipleigh generally agrees with the contract summary. However, Shipleigh would suggest making sure that the format includes the Right of Rescission section directly adjacent to the Cancellation section, simply because the two are similar and it will be easier for customers to understand. Shipleigh at 5.

Discussion

In response to OCA's questions and concerns about the timing and delivery of the disclosure statement and contract summary, we first note that § 54.5(b) addresses when a written disclosure must be provided:

- (b) The EGS shall provide the customer written disclosure of the terms of service at no charge whenever:
 - (1) The customer requests that an EGS initiate service.
 - (2) The EGS proposes to change the terms of service.
 - (3) Service commences from a default service provider.

Notably, this regulation does not include a specific time-period for providing the disclosure. However, importantly, § 54.5(d) makes it clear that the customer's 3-day right of rescission does not begin until the customer receives the disclosure:

(d) Customers shall be provided a 3-day right of rescission period following receipt of the disclosure statement.

- (1) The 3-day right of rescission is 3 business days.
- (2) The 3-day right of rescission begins when the customer receives the written disclosure.
- (3) The customer may cancel in writing, orally or electronically, if available.
- (4) Waivers of the 3-day right of rescission are not permitted.

Disclosure delivery timeframes are addressed in more detail in the Chapter 111 residential supplier marketing regulations, specifically at 52 Pa. Code § 111.11:

§ 111.11. Receipt of disclosure statement and right to rescind transaction

(a) When a transaction is completed by a customer without the presence of or interaction with an agent and is not submitted to the verification process, a supplier shall provide the customer with a copy of its disclosure statement as soon as it is practical. A customer shall have the right to rescind the transaction within 3 business days after receiving the disclosure statement. See § 54.5(d) (relating to disclosure statement for residential and small business customers), which applies to EGSs, and § 62.75(d) (relating to disclosure statement for residential and small business customers), which applies to NGSs.

(b) After a transaction that involved an agent has been completed and verified, a supplier shall provide the customer with a copy of its disclosure statement. The disclosure statement may be provided in-person or by United States mail. The disclosure statement may be provided electronically if the customer consents to electronic delivery. A customer shall have the right to rescind the transaction within 3 business days after receiving the disclosure statement.

(c) There shall be a rebuttable presumption that a disclosure statement correctly addressed to a customer with sufficient first class postage attached shall be received by the customer 3 days after it has been properly deposited in the United States mail. If delivered in-person, the disclosure will be considered received by the customer on the date of delivery. If delivered electronically, the disclosure will be considered received by the customer on the date it was transmitted electronically.

Further, the electric switching regulations at 52 Pa. Code § 57.173(1) direct the supplier to wait until the end of the 3-business day rescission period ends before transmitting the enrollment to the EDC (although different timeframes are permissible with the customer's consent):

§ 57.173. Customer contacts the EGS to request a change in electric supply service

When a customer contacts an EGS to request a change from the current EGS or default service provider to a new selected EGS, the following actions shall be taken by the selected EGS and the customer's EDC:

- (1) The selected EGS shall notify the EDC of the customer's EGS selection at the end of the 3-business day rescission period under § 54.5(d) (relating to disclosure statement for residential and small business customers) or a future date specified by the customer. The selected EGS may notify the EDC by

the end of the next business day following the customer contact upon customer consent.

As a result of the above regulations, the customer always has an opportunity to rescind the contract—a right that neither the customer nor the supplier can waive per the above-noted regulation at § 54.5(d). The enrollment cannot proceed until the customer has received a written disclosure and has been given 3 business days to review and rescind if desired. It is the critical importance of this rescission right that compels us to maintain our proposal to include information about this right in the contract summary and to agree with Shipley to place it in a more logical, prominent location in the summary. The contract summary is to accompany the disclosure statement per paragraph (i) of § 54.5.

We decline OCA's suggestion that we require an oral presentation of the disclosure in addition to a written version. First, not all sales involve an agent who would be able to provide an oral presentation (direct mail, internet, etc.). Secondly, we find this type of requirement is more appropriately addressed in the Chapter 111 residential supplier marketing regulations and, in fact, those rules do have requirements similar to what OCA is suggesting. See 52 Pa. Code §§ 111.12(4) and (5) for examples of requirements upon sales agents. If more is needed in this regard, that can be considered during a future rule-making specifically addressing marketing. We also decline to include the customer consent to the EDC information release in the contract summary. While this is important, and as such we are now including this in the disclosure statement, we find that this is not key information that a customer needs to compare or evaluate supplier offers. Again, we find that the contract summary must be kept as short and concise as possible to retain its effectiveness. For similar reasons, we reject the Low Income Advocates' appeal to keep EDC information in the summary. This information is not needed to evaluate or compare supplier offers. Further, having the EDC mentioned in the contract summary increases the risk of the customer confusing the EGS with the EDC and possibly concluding that the EDC endorses the product being offered or is a partner with the EGS.

Finally, we reiterate that the contract summary should ideally be limited to one page if possible, recognizing that some supplier products may require additional explanation that necessitates more. The contract summary should be prominent and not buried among other enrollment documents. It should be in plain language and in a prominent, easy-to-read font size. It also needs to accompany the disclosure statement.

Other Topics

RESA notes that the Commission did not propose any revisions to § 54.38 that requires EGSs to pay assessments pursuant to 66 Pa.C.S. § 510 of the Public Utility Code, even though this Section was invalidated by action of the Pennsylvania Supreme Court in 2005 and does not accurately describe the annual fee implemented by the Commission during its 2015-2016 Fiscal Year. Since the Commission does not collect the assessments as described in § 54.38, the continued inclusion of this section creates confusion because it does not accurately describe the annual fee collected by the Commission. Therefore, RESA recommends that § 54.38 be deleted in its entirety. RESA at 17.

Discussion

We decline to adopt RESA's recommendation as it is beyond the scope of this proceeding and requires the

Commission to republish the proposed changes for comment. The NPRM at this Docket addressed Subchapter A of Chapter 54 (relating to customer information). Whereas, § 54.38 is in Subchapter B of Chapter 54 (relating to electricity generation supplier licensing). See Section 202 of the Commonwealth Documents Law ("The agency text of any administrative regulation of change therein as finally adopted may contain such modifications to the proposed text as published pursuant to Section 201 as do not enlarge its original purpose..."). 45 P.S. § 1202.

Environmental Disclosure

Marion Biddle writes to request that the proposed amendments to the regulations include a requirement to identify the source of the electricity customers will be purchasing and the resulting CO₂ produced by each type of fuel. She realizes the focus of these changes is fair pricing but believes that it also extremely important to stress the environmental cost of purchasing electricity based on different fuel sources. Biddle at 1.

Discussion

Marion Biddle is correct in that the instant rulemaking concerns disclosure of terms and conditions at § 54.5, and that much of this is primarily related to pricing. We do note that if the customer is purchasing a renewable product or related products and services, this should be included in the disclosure under paragraphs (c)(5) and (c)(6) but this is not the same thing as the environmental disclosure Marion Biddle proposes. However, elsewhere, the Chapter 54 regulations do include a subsection addressing generation-source disclosure and renewable marketing. Specifically, 52 Pa. Code § 54.6 addresses supplier obligations to disclose generation-sources upon customer request, energy-efficiency information, environmental marketing claims, auditable trails of generation sources, use of the term "green," etc. Admittedly, this regulation was promulgated in the 1990's and is in possible need of updating, which can be considered during a future rule-making.

Implementation Timeline

RESA notes that, generally, the changes proposed by the Commission would require EGSs to implement new business and operational protocols to ensure that their future customer disclosure statements and communications with customers conform with the content of the final regulations. More specifically, changes to the customer contract will require EGSs to review existing contracts, identify revisions that are needed and then undertake programmatic system changes to ensure that the changes are incorporated into the EGS's systems. Given that EGSs likely will already have other information technology changes underway or scheduled, RESA suggests that the Commission provide an additional 60 days after the date of publication of the final IRRC approved rules for EGSs to implement the final regulations.

Relatedly, as part of the Commission's Final Rule-making Order specifying the approved revisions, RESA requests that the Commission clarify that the new requirements are prospective and should be incorporated into EGS contracts starting 60 days after the date of final publication of the IRRC approved revisions. Thus, pre-existing contracts prior to that start date in compliance with the current regulations will not be abrogated due to the passage of the new revised regulations. This clarity will ensure that then-existing customer contracts in compliance with then-existing regulations are not disrupted

and all EGSs will be operating in the same manner to incorporate the new requirements in their future contracts. RESA at 17-18.

IRRC points out that the expected date of delivery of the final regulation is January 2020. Given the current and ongoing problems the PUC describes in its rationale for the revised rules, IRRC encourages the PUC to work toward filing the final regulation sooner, if possible. IRRC at 2.

Discussion

We agree with RESA that suppliers will need time to revise their disclosure documents and contract summaries, and to put in place the new ban on ETFs during the last 30 days of a contract. Accordingly, we will provide 60 days after the date of publication of the final IRRC approved rules for EGSs to implement the final regulations. We further agree with RESA that the new requirements are prospective and should be incorporated into EGS contracts starting 60 days after the date of final publication. Accordingly, pre-existing contracts prior to that start date will not be interfered with nor abrogated due to the enactment of the new revised regulations.

Costs and Economic Impact

IRRC notes that economic and fiscal impacts of the regulation must be considered in their determination of whether a regulation is in the public interest. 71 P.S. § 745.5(a)(4) and (10), and § 745.5b(b)(1). IRRC indicates that the responses submitted with the proposed regulation to the Regulatory Analysis Form (RAF) Questions (19), (23) and (23a) are not sufficient to determine whether the regulation is in the public interest relating to the criterion of economic impact and clarifies that these RAF questions do not ask whether costs and savings are due or undue, but rather ask for specific cost estimates. Even if costs or savings are estimated to be zero, the PUC's responses should reflect that rather than state the required cost data is "Not Applicable." In addition, commentators have stated there are impacts on pricing relating to elimination of ETFs toward the end of the contract period. Therefore, IRRC asks the PUC to review its responses to these RAF questions and provide the best estimates of costs in the RAF submitted with the final regulation so that IRRC has the information required by the Regulatory Review Act to determine whether the final regulation is in the public interest. IRRC at 2.

Discussion

Initially, we note that EGS cost data is not available to the Commission and EGSs are not willing to provide such data as it would reveal market sensitive proprietary information. The Commission had sought EGS cost impacts through the Notice of Proposed Rulemaking (NPRM) Order. Specifically, in the NPRM Order we acknowledged that the ETF prohibition was not appropriate for large commercial or industrial customers as early exits from contracts can result in significant financial loss for the EGS. We then invited parties to provide perspectives relating to any possible unintended consequences that could result from the new rule to prohibit ETS in the last 60 days of a contract.²⁷ The Commission received several responses from suppliers indicating the potential cost impacts to EGSs if the proposed rule was adopted. While these responses indicated that there was a potential that EGSs may lose money if a customer left the contract early, these comments indicated that such losses, if incurred at all, would depend on the particular situa-

tion. See NEMA Comments at 2—4; RESA Comments at 12-13; Shipley Comments at 2-3. Thus, even the EGSs that commented on cost impacts admitted that the number and magnitude of related costs was speculative at best. With that said, the Commission recognized that there are costs involved and revised the final rule shortening the ETF prohibition period to when the options notice is given to the customer about 30 days before the end of the contract. This revision further minimizes any cost impacts to EGSs, as acknowledged by Shipley, who proposed that the ETF prohibition be subsequent to a single customer notice given 30 to 45 days before the end of a contract. See Shipley Comments at 2-3.

The Commission also recognized the cost impacts to customers, which include small business customers. We recognized that the customer is also subject to financial risk based on the actions of the supplier if a switch does not occur on the date the customer requested. We specifically noted that if the supplier would submit the request early, the customer would be subject to the ETF or if submitted late be subject to higher prices. The Commission found, in recognizing that costs may result if a customer leaves a contract early, that suppliers are sophisticated enough to be able to hedge against any potential losses that may occur due to a customer leaving a contract less than 30 days before it ends and that the supplier, not the residential or small commercial customer, should be the one to bear that risk.

Regarding potential costs related to complying with the remainder of the amendment to the EGS disclosure rules, we note that the EGSs already have an obligation to craft and provide the disclosures to customers. We also note that EGSs must revise these disclosures as necessary to conform to any new or revised offers they are making to the public. Accordingly, any new costs would be marginal to revise any existing supplier offers. We note that several of the changes are intended to reduce supplier costs by making the disclosure requirements similar to the natural gas supplier disclosure rules, for those suppliers that serve both markets, and by eliminating information, such as EDC contact information, that are likely to reduce customer confusion and result in fewer customer service calls.

Based on the best available data, the Commission believes that costs associated with the amendments to these rules are minimal and transitory. This is based on the comments provided indicating that EGSs can adjust their risk management practices to avoid or minimize any potential risk when developing new offers. In addition, at the suggestion of RESA, the Commission agreed to delay the effective date of the rules by 60 days to give suppliers time to revise their contracts and disclosure statements, further reducing the cost impacts of the rules. In addition, the new rules will reduce costs for customers, including small business customers, by eliminating ETFs in the last 30 days of a contract and providing enough information so that they can make an apples-to-apples comparison of supplier offers to determine which offer is beneficial to them. All of this demonstrates that the Commission has endeavored to obtain and present the cost information available.

Regulatory Review

Under Section 5(a) of the Regulatory Review Act, the Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. §§ 745.1—745.15), the agency submitted a copy of the proposed rulemaking, which was published as proposed at 48 Pa.B. 1696 on March 24, 2018, and served March 13, 2018, to IRRC, the Chairpersons of the House Committee on

²⁷ NPRM Order at 12-13.

Consumer Affairs, and the Chairpersons of the Senate Committee on Consumer Protection and Professional Licensure, for review and comment. In compliance with Section 5(c), the agency also provided the Commission and the Committees with copies of all comments received.

This final form regulation was deemed approved by the House Committee on Consumer Affairs, was deemed approved by the Senate Committee on Consumer Protection and Professional Licensure, and was approved by the Independent Regulatory Review Commission on June 18, 2020, in accordance with Section 5.1(e) of the Act.

Conclusion

The revisions of the standards and pricing practices for retail electricity service at Section 54.3; the disclosure statement for residential and small business customers at Section 54.5, including the proposed changes to the EGS Contract Summary; marketing/sales activities at Section 54.7; and Section 54.10, notice of contract expiration or change in terms for residential and small business customers, are intended to increase consumer protection and better inform customers about the terms and conditions of an EGS contract. The changes will also make these regulations more consistent with the analogous natural gas regulations by reducing consumer confusion and costs for suppliers that provide both services. These regulations, as developed after consideration of comments from affected parties and from the previous proceedings leading up to this, provide for enhanced information from EGSs to customers and help ensure that customers will have this information at hand when considering the various alternatives for purchasing future electric generation supply.

Well-informed customers are essential participants in a successful competitive retail market. By updating these regulations to provide customers with accurate, timely pricing information when they are shopping for electric generation supply, we intend to create a more user-friendly marketplace that should continue to attract increased numbers of customers.

Accordingly, under Sections 501 and 1501 of the Public Utility Code, 66 Pa.C.S. §§ 501 and 1501; sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240), known as the Commonwealth Documents Law (45 P.S. §§ 1201 and 1202), and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2 and 7.5; the Regulatory Review Act, 71 P.S. §§ 745.1 et seq.; section 204(b) of the Commonwealth Attorneys Act, 71 P.S. § 732-204(b); and section 612 of The Administrative Code of 1929 (71 P.S. § 232), and the regulations promulgated thereunder at 4 Pa. Code §§ 7.231—7.234, the Commission seeks to finalize amendments to regulations at 52 Pa. Code §§ 54.3, 54.5, 54.7, and 54.10, as set forth in Annex A, attached hereto; *Therefore*,

It Is Ordered That:

1. The regulations of the Commission, 52 Pa. Code Chapter 54, are amended by amending §§ 54.3, 54.5, 54.7 and 54.10 to read as set forth in Annex A,
2. The Law Bureau shall submit this Order, Attachment A and Annex A for review by the Independent Regulatory Review Commission and the Legislative Standing Committees.
3. The Law Bureau shall submit this Order, Attachment A and Annex A to the Office of Attorney General for review and approval and to the Governor’s Budget Office for review for fiscal impact.
4. The Law Bureau shall deposit this Order, Attachment A and Annex A with the Legislative Reference Bureau to be published as final in the *Pennsylvania Bulletin*.
5. The final regulations embodied in Annex A shall become effective 60 days after publication in the *Pennsylvania Bulletin*.
6. The Secretary shall serve a copy of this Order, Attachment A and Annex A upon all licensed Electric Generation Suppliers, jurisdictional electric distribution companies, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, and the Office of Small Business Advocate.
7. The Office of Competitive Market Oversight shall electronically send a copy of this Order, Attachment A and Annex A, to all persons on the contact list for the Committee Handling Activities for Retail Growth in Electricity.
8. A copy of this Order, Attachment A and Annex A, shall be posted on the Commission’s website at the Office of Competitive Market Oversight web page.

9. The contact persons for this matter are Daniel Mumford in the Office of Competitive Market Oversight (717) 783-1957, dmumford@pa.gov; Matthew Hrivnak in Bureau of Consumer Services (717) 783-1678, mhrivnak@pa.gov, and Kriss Brown in the Law Bureau (717) 787-4518, kribrown@pa.gov. Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Laura Griffin, Regulatory Review Assistant, Law Bureau, (717) 772-4597.

ROSEMARY CHIAVETTA,
Secretary

(Editor’s Note: See 50 Pa.B. 3355 (July 4, 2020) for IRRC’s approval order.)

Fiscal Note: Fiscal Note 57-319 remains valid for the final adoption of the subject regulations.

Attachment A

Electric Generation Supplier Contract Summary

Electric Generation Supplier Information	<i>Name, telephone number, website, etc. Plain language statement that EGS is responsible for generation charges.</i>
Price Structure	<i>Fixed or variable. If variable, based on what? If variable, how often is the rate expected to vary? If variable, give any applicable ranges/ceilings. If no ranges/ceilings, a plain language statement indicating this fact. If variable, describe when the customer will receive notification of price changes in relation to time of month, final monthly meter read, billing cycle or when the price takes effect.</i>

Electric Generation Supplier Information	<i>Name, telephone number, website, etc. Plain language statement that EGS is responsible for generation charges.</i>			
Generation/Supply Price	<i>\$/kWh or ¢/kWh. If variable rate, the first billing cycle's rate. Full disclosure of any introductory price, including the introductory price and the price after the introductory period expires. Full disclosure of any fees in addition to the per kWh price.</i>			
Generation Price at Various Usage Levels <i>(This row is required only if the price varies by usage and/or there are fees in addition to the per kWh price. See 52 Pa. Code §§ 54.5(c)(4) and 54.7.)</i>	Usage:	500 kWh	1,000 kWh	2,000 kWh
	Price per kWh:			
Statement Regarding Savings	<i>Plain language that the supply price may not always provide savings to the customer.</i>			
Deposit Requirements	<i>Any deposit requirements necessary for a customer and any terms associated with that deposit, in plain language.</i>			
Incentives <i>(This row is required only if the supplier is offering any special incentives.)</i>	<i>Any bonuses, discounts, cashback, etc. offers and any associated terms, in plain language.</i>			
Contract Start Date	<i>Plain language regarding start of EGS service (meter reads/billing cycles/etc.).</i>			
Contract Duration/Length	<i>In months, billing cycles, etc.</i>			
Cancellation/Early Termination Fees	<i>Yes or no. If yes, describe the amount of the fee and how to avoid that fee, if possible.</i>			
End of Contract	<i>Treatment of customer at end of contract. Timing of notices.</i>			
Right of Rescission:	<i>An explanation of the customer's 3-day right of rescission per 52 Pa. Code § 54.5(d) and how to exercise this right.</i>			

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 54. ELECTRICITY GENERATION CUSTOMER CHOICE

Subchapter A. CUSTOMER INFORMATION

§ 54.3. Standards and pricing practices for retail electricity service.

In furnishing retail electricity service, EDCs and EGSs or any entity that otherwise provides retail electricity service information to customers, shall comply with the following:

(1) Use common and consistent terminology in customer communications, including marketing, billing and disclosure statements.

(i) Use the term EDC as described in § 54.2 (relating to definitions) as a standard term.

(ii) Use the terms in accordance with the glossary posted at www.PaPowerswitch.com or other successor media platform as determined by the Commission.

(2) For residential and small commercial customers, contracts for retail electric service entered into after September 30, 2020, may not include any fees to be paid by the retail electric customer for terminating a fixed duration contract between the date the options notice required in § 54.10(2) (relating to notice of contract

expiration or change in terms for residential and small business customers) is issued and the expiration of the fixed duration contract.

§ 54.5. Disclosure statement for residential and small business customers.

(a) The agreed upon prices in the disclosure statement must reflect the marketed prices and the billed prices.

(b) The EGS shall provide the customer written disclosure of the terms of service at no charge whenever:

- (1) The customer requests that an EGS initiate service.
- (2) The EGS proposes to change the terms of service.
- (3) Service commences from a default service provider.

(c) The contract's terms of service shall be disclosed, including the following terms and conditions, if applicable:

(1) Disclosure of generation charges must conform to the following requirements:

(i) If the customer will be billed under a price per kilowatt-hour price structure, generation charges must be disclosed according to the actual prices per kilowatt-hour.

(ii) If a customer will not be billed under a price per kilowatt-hour price structure, the contract's terms must clearly explain the pricing structure and what the customer's price for generation charges will be for a given period of time.

(iii) Generation charges must include an estimate of all applicable taxes except for State sales tax and county tax.

(2) If the price is introductory, the pricing statement must include a statement that the price is an introductory price, the duration of the introductory period and the price for the first billing cycle after the introductory period.

(3) If the price is variable, the variable pricing statement must include:

(i) Conditions of variability (state on what basis prices will vary) including the factors that the EGS will rely upon to establish the variable price.

(ii) Limits on price variability:

(A) If there is a limit on price variability, such as a specific price cap, a maximum percentage increase in price between billing cycles or minimum/maximum charges per kilowatt-hour for electricity during the duration of the contract, the EGS shall clearly explain the applicable limits. The EGS shall also state that the price can change each billing period, which must be printed in font size larger than the font size appearing in the terms of service.

(B) If there is not a limit on price variability, the EGS shall clearly and conspicuously state that there is not a limit on how much the price may change from one billing cycle to the next. The EGS shall also state that the price can change each billing period, which must be printed in font size larger than the font size appearing in the terms of service.

(iii) The price to be charged, per kilowatt-hour, for the first billing cycle of generation service.

(iv) A description of when and how the customer will receive notification of price changes. If the customer will not know the price until the time of billing, this must be disclosed in font size larger than the font size appearing in the terms of service.

(4) If the unit price changes based on actual customer usage or if the offer includes fees in addition to the unit price, the price per kWh must factor in all costs associated with the rate charged to the customer, including any fees, and show the average price per kWh for usages of 500, 1,000 and 2,000 kWh of electricity in a table format. If the offer includes an introductory price, the disclosure statement must show the average price per kWh of the introductory price, including any fees, and the price offered after the introductory period, including any fees, in separate tables.

(i) If the price is a fixed monthly amount, including any fees, that does not change based on actual customer usage, the disclosure statement must show the average price per kWh for usages of 500, 1,000 and 2,000 kWh of electricity in a table format.

(ii) If the price varies based on when the customer actually uses electricity, such as a time-of-use offer, the disclosure statement must show the price per kWh for each time period in table format.

(5) An itemization of basic and nonbasic charges distinctly separate and clearly labeled.

(6) The duration of the agreement, which includes:

(i) The starting date.

(ii) The expiration date, if applicable.

(7) An explanation of sign-up bonuses, add-ons, limited time offers, other sales promotions and exclusions, if applicable.

(8) An explanation of prices, terms and conditions for special services, including advanced metering deployment, if applicable.

(9) The cancellation provisions, if applicable.

(10) The renewal provisions, if applicable.

(11) An explanation of limits on price variability, penalties, fees or exceptions, printed in font size larger than the font size appearing in the terms of service, but not less than 12-point font. Penalties and fees must be disclosed in actual dollars or a specific method for determining the actual dollars must be disclosed. This explanation must include a statement advising the customer that the customer will not be subject to a penalty or fee if the customer terminates the contract at any time between the date the options notice required under § 54.10(2) (relating to notice of contract expiration or change in terms for residential and small business customers) is issued and the expiration of the fixed duration contract.

(12) Customer contact information that includes the name of the EGS, the EGS's address, telephone number, Commission license number and Internet address, if available.

(13) A statement providing that information about shopping for an electric supplier is available at www.PaPowerSwitch.com or other successor media platform as determined by the Commission, by calling the Commission at (800) 692-7380 and the Office of Consumer Advocate at (800) 684-6560 or at www.oca.state.pa.us.

(14) For contracts with variable pricing, the EGS shall provide:

(i) A telephone number and Internet address at which a customer may obtain the previous 24 months' average monthly billed prices for that customer's rate class and EDC service territory. If an EGS has not been providing generation service in a rate class and EDC service territory for 24 months, the EGS shall provide the average monthly billed prices for the months available to date. If price history or representative price information is not available and the offer is materially different from other offers made by the EGS, the EGS shall inform the customer of this fact.

(ii) In plain language, a statement that historical pricing is not indicative of present or future pricing.

(d) Customers shall be provided a 3-day right of rescission period following receipt of the disclosure statement.

(1) The 3-day right of rescission is 3 business days.

(2) The 3-day right of rescission begins when the customer receives the written disclosure.

(3) The customer may cancel in writing, orally or electronically, if available.

(4) Waivers of the 3-day right of rescission are not permitted.

(e) Definitions for generation charges and transmission charges, if applicable, are required on electric disclosure statements and must be defined in accordance with the glossary posted at www.PaPowerSwitch.com or other successor media platform as determined by the Commission. Definitions for each of the basic and nonbasic services, if applicable, are required. The definition section of the disclosure statement must be distinctly separate.

(f) The EGS shall include in the customer's disclosure statement the following statements which may appear together in a paragraph:

(1) "Generation prices and charges are set by the electric generation supplier you have chosen."

(2) "The Public Utility Commission regulates distribution prices and services."

(3) "The Federal Energy Regulatory Commission regulates transmission prices and services."

(g) Disclosure statements must include the following customer notifications for fixed duration or non-fixed duration contracts:

(1) For fixed-duration contracts, disclosure statements must include the following notification: "If you have a fixed duration contract that will be ending, or whenever <EGS name> wants to change the contract, you will receive two separate notices before the contract ends or the changes happen. You will receive the first notice 45 to 60 days before, and the second notice 30 days before the expiration date or the date the change becomes effective. These notices will explain your options."

(2) For contracts that are not fixed-duration contracts, disclosure statements must include the following notification: "If <EGS name> wants to change the contract, you will receive two separate notices before the changes happen. You will receive the first notice 45 to 60 days before the change, and the second notice 30 days before the change. These notices will explain your options."

(h) If the default service provider changes, the new default service provider shall notify customers of that change, and provide customers with its name, address, telephone number and Internet address, if available.

(i) The EGS shall provide, with the disclosure statement, a separate EGS contract summary in a format provided by the Commission.

(j) If the contract is assignable, the EGS shall inform the customer at the time the parties enter into the contract. Prior to a contract assignment, the EGS shall provide notice to the affected customer, the affected EDC and the Commission. The customer notice must include the name of the new EGS, the contact information for the new EGS, the estimated month and year that the assignment is expected to occur, and language informing the customer that contract terms and conditions remain unchanged.

(k) If the EGS intends on obtaining customer account information from the EDC, the EGS shall inform the customer of the specific type of information that may be obtained, such as usage data, the purpose for obtaining this information and that the customer is consenting to the EDC releasing this information by entering into this contract. The EGS shall also inform the customer that the EGS will maintain the confidentiality of a customer's personal information including the customer's name, address, telephone number, electric usage and historic payment information, as required by applicable Commission regulations and Federal and State laws.

§ 54.7. Marketing/sales activities.

(a) Advertised prices must reflect prices in disclosure statements and billed prices.

(b) If the unit price changes based on actual customer usage or if the offer includes fees in addition to unit prices, written or electronic marketing materials that offer terms of service for acceptance by consumers and authorizes enrollment must factor in all costs associated

with the rate charged, including any fees, and show the average price per kWh for usages of 500, 1,000 and 2,000 kWh of electricity in a table format. If the offer includes an introductory price, the EGS shall show the average price per kWh of the introductory price, including any fees, and the price offered after the introductory period, including any fees, in separate tables.

(1) If the price is a fixed monthly amount, including any fees, that does not change based on actual customer usage, the EGS shall show the average price per kWh for usages of 500, 1,000 and 2,000 kWh of electricity in a table format.

(2) If the price varies based on when the customer uses electricity, such as a time-of-use offer, the EGS shall show the price per kWh for each time period in a table format.

(3) The EGS shall note the effective date of the prices shown in the table provided under paragraph (1) or (2).

(c) Advertising materials targeted for residential and small business sales shall be made available upon request of the Commission in the event of a formal or informal complaint or investigation.

§ 54.10. Notice of contract expiration or change in terms for residential and small business customers.

An EGS shall provide the following notices to customers prior to the expiration of a fixed duration contract or prior to a change in contract terms:

(1) An initial notice shall be provided to each affected customer 45 to 60 days prior to the expiration date of the fixed duration contract or the effective date of the proposed change in terms. For customers who have elected to receive electronic communications from the EGS, the notice shall be transmitted in the manner chosen by the customer. The initial notice must include:

(i) A general description of the proposed change in terms of service.

(ii) The date a change shall be effective or when the fixed duration contract is to expire.

(iii) An explanation of why a change in contract terms is necessary.

(iv) A statement indicating when a follow-up options notice shall be issued with details regarding the proposed change.

(v) A statement explaining that the options notice must discuss the customer's options to the proposed change in terms of service or expiring fixed duration contract.

(vi) A statement indicating whether the existing fixed duration contract has a cancellation fee, and an explanation of the fee amount and how to avoid the fee, including a notice that the customer is not subject to the cancellation fee if the customer terminates the contract at any time after the customer receives the options notice required under § 54.10(2).

(2) An options notice shall be provided, by first class mail, to each affected customer at least 30 days prior to the expiration date of the fixed duration contract or the effective date of the proposed change in terms. The options notice must include:

(i) A statement advising the customer of the specific changes being proposed by the EGS and informing the customer of how to exercise the customer's options, including the customer's ability to accept the proposed

changes, to choose another product offering from the customer's existing EGS, to select another EGS or to return to default service.

(ii) Information regarding new pricing or renewal pricing including the price to be charged, per kilowatt-hour, for the first billing cycle of generation service:

(A) If a customer fails to respond to the options notice and is converted to a month-to-month contract, the EGS shall provide a disclosure statement under § 54.5 (relating to disclosure statement for residential and small business customers).

(I) Notice of a subsequent change in pricing shall be provided to the customer at least 30 days prior to the new price being charged.

(II) For customers who have elected to receive electronic communications from the EGS, notice of the change in pricing shall be transmitted in the manner chosen by the customer. For all other customers, notice shall be provided by first class mail.

(B) If a customer fails to respond to the options notice and is entered into a new fixed duration contract, the EGS shall provide the fixed, per kilowatt-hour price to be charged and term length of the contract.

(iii) The telephone numbers and Internet addresses, as applicable, for the Office of Consumer Advocate, the Commission and PaPowerSwitch.com.

(iv) Language clearly visible on the front of the envelope used to provide the options notice stating that it contains important information regarding the expiration or changes in terms of the customer's electric supply contract.

(v) A statement indicating whether the existing fixed duration contract has a cancellation fee and, if so, that the customer is not subject to the cancellation fee if the customer terminates the contract at any time between the date of the options notice and the expiration date of the fixed duration contract.

(3) When a customer fails to respond to either notice, the following apply:

(i) A fixed duration contract shall be converted to one of the following:

(A) A month-to-month contract, either at the same terms and conditions or at revised terms and conditions, as long as the contract does not contain cancellation fees.

(B) Another fixed duration contract, as long as the new contract includes a customer-initiated cancellation provision that allows the customer to cancel at any time, for any reason, and does not contain cancellation fees.

(ii) The converted contracts shall remain in place until the customer chooses one of the following options:

(A) Select another product offering from the existing EGS.

(B) Enroll with another EGS.

(C) Return to the default service provider.

[Pa.B. Doc. No. 20-1029. Filed for public inspection July 31, 2020, 9:00 a.m.]

Title 58—RECREATION

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 63]

Fishing; General Fishing Regulations

The Fish and Boat Commission (Commission) amends Chapter 63 (relating to general fishing regulations). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The amendments update the Commission's regulations for enforcing tautog tagging requirements in accordance with the Atlantic States Marine Fisheries Commission (ASMFC).

A. Effective Date

This final-form rulemaking will go into effect upon publication in the *Pennsylvania Bulletin*.

B. Contact Person

For further information on this final-form rulemaking, contact Wayne Melnick, Esq., P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This final-form rulemaking is available on the Commission's web site at www.fishandboat.com.

C. Statutory Authority

The amendments to § 63.50 (relating to importation of tautog) are published under the statutory authority of section 2102(c) of the code (relating to rules and regulations).

D. Purpose and Background

The specific purpose and background of the amendments is described in more detail under the summary of changes.

E. Summary of Changes

Tautog (*Tautoga onitis*), also known as "Tog" or "Blackfish," are an Atlantic Ocean, coastal, bottom-dwelling marine fish most commonly found around structures such as wrecks and reefs in offshore waters and jetties, piers and rocky areas in near shore waters. Tautog range from Nova Scotia to Georgia, but their core populations reside between Virginia and Massachusetts. They are stout, solidly built fish averaging between 2 and 8 pounds, with the current world record at 28 pounds. They are slow growing and can reach 35 to 40 years of age. Because they strongly relate to structure, tautog are easy for commercial and recreational anglers to locate and not difficult to catch with the right bait and tackle. Tautog are considered excellent table fare by both recreational and commercial fishers. In the mid-1980s, tautog harvests peaked at over 7 million fish but in recent years declined to approximately 500,000 fish. There was a trend towards substantial numbers of tautog being caught by "recreational" anglers without commercial licenses and sold into the commercial market. These fish are unaccounted for in distribution between recreational and commercial fishing quotas and confound fisheries management planning. Due to their commercial value and reduced population levels, the ASMFC determined that additional regulatory action must take place to address illegal harvest.

The Commonwealth is a member of the ASMFC and the Commission's Executive Director, Timothy D. Schaeffer, is the administrative member for the Commonwealth. At its fall 2019 meeting, the ASMFC requested the Commonwealth develop regulations requiring all tautog

possessed for commercial purposes or sold in this Commonwealth to be properly tagged following the ASMFC tautog tagging program guidelines. States along the Atlantic Coast with commercial tautog fisheries must issue serial numbered tags to commercial harvesters and all fish sold in these states must be tagged with a metal band on the fish's gill cover. The Commonwealth will not be tagging tautog, but this Commonwealth is an important marketplace of commercial seafood including tautog. Providing Commission waterways conservation officers with the authority to inspect for and enforce tautog tagging regulations will close a potential loophole in the ASMFC tautog tagging program and advance tautog conservation along the Atlantic Coast.

The Commission therefore amends § 63.50 to read as set forth in the proposed rulemaking published at 50 Pa.B. 1247 (February 29, 2020).

F. Paperwork

This final-form rulemaking will not increase paperwork and will not create new paperwork requirements.

G. Fiscal Impact

This final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions.

H. Public Comments

A notice of proposed rulemaking was published at 50 Pa.B. 1247. The Commission did not receive any public comments regarding the proposal.

Findings

The Commission finds that:

(1) Public notice of intention to adopt the amendments adopted by this order has been given under sections

201 and 202 of the Act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), known as the Commonwealth Documents Law, and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) A public comment period was provided, and no comments were received.

(3) The adoption of the amendments of the Commission in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statutes.

Order

The Commission, acting under the authorizing statutes, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 63, are amended by amending § 63.50 to read as set forth at 50 Pa.B. 1247.

(b) The Executive Director will submit this order and 50 Pa.B. 1247 to the Office of Attorney General for approval as to legality and form as required by law.

(c) The Executive Director shall certify this order and 50 Pa.B. 1247 and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

TIMOTHY D. SCHAEFFER,
Executive Director

Fiscal Note: Fiscal Note 48A-296 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 20-1030. Filed for public inspection July 31, 2020, 9:00 a.m.]

PROPOSED RULEMAKING

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 51]

Administrative Provisions

The Fish and Boat Commission (Commission) proposes to amend Chapter 51 (relating to administrative provisions). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The proposed amendments update the Commission's regulations concerning royalty rates for sand and gravel permits.

A. Effective Date

This proposed rulemaking, if approved on final-form rulemaking, will go into effect upon publication in the *Pennsylvania Bulletin*.

B. Contact Person

For further information on this proposed rulemaking, contact Wayne Melnick, Esq., P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rulemaking is available on the Commission's web site at www.fishandboat.com.

C. Statutory Authority

The proposed amendments to § 51.92 (relating to royalty rates) are published under the statutory authority of section 503(c) of the Conservation and Natural Resources Act (CNRA) (71 P.S. § 1340.503(c)).

D. Purpose and Background

The specific purpose and background of the proposed amendments is described in more detail under the summary of proposal.

E. Summary of Proposal

Under section 503(c) of the CNRA, the Commission, with the concurrence of the Department of Environmental Protection (Department), is authorized to adjust the amount of royalty payments per ton or cubic yard of usable or merchantable, or both, sand or gravel, or both, extracted from Commonwealth waters.

There are four companies currently maintaining permits which allow the dredging of material from navigable waters of this Commonwealth. Historically, royalty rates were set in 1970 and involved establishing a flat rate of \$0.10 per adjusted dry ton that was about 6% of the selling price. The rate was adjusted \$0.05 each year from 1998 to 2001 culminating in \$0.30 per dry ton. Between January 1, 2002, and December 31, 2010, a variable calculation using the change in the producer price index (PPI) for sand and gravel from the base year (2002) was used. This was an administratively burdensome process that required the carry forward calculations from 2002 with annual adjustments to make the Commission whole due to the timing of PPI rate releases.

In 2010, dredger representatives, the Department and the Commission simplified the process into its current configuration using a straightforward calculation with a fair rate that multiplied the immediately preceding year's published price, average value, dollars per metric ton (converted to U.S. ton) for the commodity sand and gravel in the *United States Geological Survey, Mineral Commodity Summary* per dry ton, provided that the rate per dry ton is not less than \$0.48. This straightforward approach

removed any ambiguity in the rate setting process and has been successful for the past decade.

As such, the current royalty rate schedule, which was adopted in 2011 and is set forth in the Commission's regulations at § 51.92, expires on December 31, 2020. The Commission and four representatives from the sand and gravel dredging industry have unanimously agreed to extend the previous fair and equitable process for setting royalty rates for the 10-year period of January 1, 2021, through December 31, 2030.

The Commission proposes that § 51.92 be amended to read as set forth in Annex A.

F. Paperwork

This proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. Fiscal Impact

This proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions.

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about this proposed rulemaking to the Executive Director, Fish and Boat Commission, P.O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

TIMOTHY D. SCHAEFFER,
Executive Director

Fiscal Note: 48A-298. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart A. GENERAL PROVISIONS

CHAPTER 51. ADMINISTRATIVE PROVISIONS

Subchapter J. ROYALTIES FOR SAND AND GRAVEL PERMITS

§ 51.92. Royalty rates.

Persons holding permits granting them nonexclusive rights and privileges of dredging, excavating, removing and carrying away merchantable sand and gravel under agreements between the permittees and the Department of Environmental Protection shall pay royalties in accordance with the following schedule:

[(1) During the period, January 1 through December 31, 2011, the greater of \$1,000 or \$0.48 per dry ton.

(2) During the period, January 1, 2012 through December 31, 2015, the greater of \$1,000 or 6.75% of the immediately preceding year's published price, average value, dollars per metric ton (converted to U.S. ton) for the commodity sand and gravel in the *United States Geological Survey, Mineral Commodity*

ity Summary per dry ton, provided that the rate per dry ton is not less than \$0.48.

(3) During the period, January 1, 2016, through December 31, 2020, the greater of \$1,000 or 7.0% of the immediately preceding year's published price, average value, dollars per metric ton (converted to U.S. ton) for the commodity sand and gravel in the *United States Geological Survey, Mineral Commodity Summary per dry ton, provided that the rate per dry ton is not less than \$0.48.*]

(1) During the period, January 1, 2021, through December 31, 2030, the greater of \$1,000 or 7.0% of the immediately preceding year's published price, average value, dollars per metric ton (converted to U.S. ton) for the commodity sand and gravel in the United States Geological Survey, Mineral Commodity Summary per dry ton, provided that the rate per dry ton is not less than \$0.48.

[Pa.B. Doc. No. 20-1031. Filed for public inspection July 31, 2020, 9:00 a.m.]

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 61]

Fishing; Seasons, Sizes and Creel Limits

The Fish and Boat Commission (Commission) proposes to amend Chapter 61 (relating to seasons, sizes and creel limits). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The proposed amendments update the Commission's regulations concerning Striped Bass fishing in the Delaware River and Estuary.

A. Effective Date

This proposed rulemaking, if approved on final-form rulemaking, will go into effect upon publication in the *Pennsylvania Bulletin*.

B. Contact Person

For further information on this proposed rulemaking, contact Wayne Melnick, Esq., P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rulemaking is available on the Commission's web site at www.fishandboat.com.

C. Statutory Authority

The proposed amendments to § 61.2 (relating to Delaware River, West Branch Delaware River and River Estuary) are published under the statutory authority of 2102(b) of the code (relating to rules and regulations).

D. Purpose and Background

The specific purpose and background of the proposed amendments is described in more detail under the summary of proposal.

E. Summary of Proposal

The Atlantic States Marine Fisheries Commission's (ASMFC) management plan for Striped Bass calls for management actions when the coast-wide spawning stock biomass (SSB) or fishing mortality rates reach thresholds set within the management plan. The SSB threshold is 201 million pounds, and the current SSB is 151 million pounds. At the current fishing mortality rates, there is concern that the SSB will fall further below the threshold. Also, because catch and release practices contribute

substantially to overall fishing mortality, states are also required to implement mandatory circle hook requirements when fishing with bait to reduce release mortality in recreational Striped Bass fisheries. The ASMFC Striped Bass Management Board, which includes the Commonwealth as a member, has directed all coastal states to reduce fishing mortality rates by 18% beginning in 2020 and require circle hooks by 2021. This Commonwealth is taking proactive measures to implement circle hook requirements beginning in 2020 to inform anglers and facilitate compliance with this important conservation measure ahead of the ASMFC mandate for implementation beginning in 2021. The amendments to § 61.2 are designed to meet this objective.

The ASMFC has directed that the reduction in harvest be implemented no later than April 1, 2020. To meet this deadline, the Commission's Executive Director, acting under the authority of § 65.25 (relating to temporary changes to fishing regulations), has taken immediate action to amend § 61.2. Specifically, the Executive Director has amended this section to change the minimum size limit for Striped Bass to a 28 inches to less than 35 inches slot limit in the Delaware Estuary (from the Pennsylvania line upstream to Calhoun Street Bridge) and Delaware River (from the Calhoun Street Bridge upstream) during the periods January 1 through March 31 and June 1 through December 31 (one fish daily limit), and to change the slot limit during the period April 1 through May 31 to 21 inches to less than 24 inches (two fish daily limit). The Executive Director also has amended the section to require the use of non-offset (in-line) circle hooks when fishing with bait for any species of fish in the tidal Delaware Estuary, including tributaries from the mouths of the tributaries upstream to the limit of tidal influence. These actions were taken to meet the requirements of the ASMFC and a notice of a Temporary Change to Fishing Regulations appeared in the *Pennsylvania Bulletin* at 50 Pa.B. 1625 (March 14, 2020). The temporary changes went into effect on April 1, 2020, and will remain in effect until the Commission, by appropriate action, amends § 61.2.

The Commission proposes that § 61.2 be amended to read as set forth in Annex A.

F. Paperwork

This proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. Fiscal Impact

This proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions.

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about this proposed rulemaking to the Executive Director, Fish and Boat Commission, P.O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

TIMOTHY D. SCHAEFFER,
Executive Director

Fiscal Note: 48A-299. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 58. RECREATION
PART II. FISH AND BOAT COMMISSION
Subpart B. FISHING
CHAPTER 61. SEASONS, SIZES
AND CREEL LIMITS

§ 61.2. Delaware River, West Branch Delaware River and River Estuary.

* * * * *

(c) It is unlawful to take, catch or kill more than 1 day's limit of any species of fish as specified in the following chart during 1 calendar day. It is unlawful to possess more than 1 day's limit of any species of fish as specified in the following chart except under the following circumstances:

* * * * *

(5) Fish may be given to another person, but the fish shall be counted in the donor's creel limit and neither the

donor nor the recipient may kill or possess (while in the act of fishing) more than the limit allowed.

(d) It is unlawful to fish with bait for any species of fish in the tidal Delaware Estuary, including tributaries from the mouths of the tributaries upstream to the limit of tidal influence using any hook type other than non-offset (in-line) circle hooks. The definition of a non-offset (in-line) circle hook is a non-offset hook where the point is pointed perpendicularly back towards the shank. The term "non-offset" means the point and the barb are in the same plane as the shank.

[(d)] (e) The following seasons, sizes, and creel limits apply to the Delaware River, West Branch Delaware River and Delaware River tributaries, from the mouths of the tributaries upstream to the limit of the tidal influence and the Lehigh River from its mouth upstream to the first dam in Easton, Pennsylvania:

SPECIES	SEASONS	MINIMUM SIZE	DAILY LIMIT
	* * * * *		
STRIPED BASS and HYBRID STRIPED BASS	From Pennsylvania line upstream to Calhoun Street Bridge: January 1 until March 31 and June 1 until December 31.	28 to less than 35 inches	1
	April 1 through May 31	21 to [25] less than 24 inches	2
	From Calhoun Street Bridge upstream: open year-round	28 to less than 35 inches	1
	* * * * *		

[Pa.B. Doc. No. 20-1032. Filed for public inspection July 31, 2020, 9:00 a.m.]

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 65]

Fishing; Special Fishing Regulations

The Fish and Boat Commission (Commission) proposes to amend Chapter 65 (relating to special fishing regulations). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The proposed amendments update the Commission's regulations for use of bait while angling at or on Lake Pleasant.

A. Effective Date

This proposed rulemaking, if approved on final-form rulemaking, will go into effect on January 1, 2021.

B. Contact Person

For further information on this proposed rulemaking, contact Wayne Melnick, Esq., P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rulemaking is available on the Commission's web site at www.fishandboat.com.

C. Statutory Authority

The proposed amendments to § 65.24 (relating to miscellaneous special regulations) are published under the statutory authority of section 2307(a) of the code (relating to waters limited to specific purposes).

D. Purpose and Background

The specific purpose and background of the proposed amendments is described in more detail under the summary of proposal.

E. Summary of Proposal

Lake Pleasant, a 61-acre natural lake owned by the Commonwealth and managed by the Commission, is located in Greene, Venango and Waterford Townships in Erie County, approximately 10.5 miles southeast of the City of Erie. The lake's cold-water and warm-water fish populations are managed with Commonwealth Inland Waters angling regulations. The lake supports high-quality panfish and Largemouth Bass populations that are sustained through natural reproduction. To maintain a high-quality fishery for stocked trout, the lake receives annual plants of adult trout during the pre-season, in-season and winter stocking periods which coincide with the peak periods of angler use and interest in trout angling. Recreational boating is permitted but is restricted to un-powered boats only. The Commission does not own or lease property adjacent to the lake and approximately 80% of the lake's shoreline is owned and maintained by the Western Pennsylvania Conservancy (WPC) with the remainder owned privately.

Lake Pleasant is one of the least impacted glacial lakes in the region and its natural flora and fauna are arguably the most intact among this category of waterbodies. The shoreline is nearly undeveloped, with much of the surrounding wetlands undisturbed. The WPC owns 350 acres around the lake, and the Pennsylvania Game Commission owns State Game Lands (SGL) 161 to the west and SGL 155 to the east. These collectively managed tracts of land act as a buffer for the lake. The lake is spring fed, relatively pristine and clear. The fish community that resides in Lake Pleasant is a result of unique historic glacial events and contains at least three of the Common-

wealth’s list of species (Blackchin Shiner, Warmouth and Iowa Darter). Two of these species, the Blackchin Shiner and Iowa Darter, are rare throughout the region due to extensive habitat degradation. The lake is difficult to survey for nongame fishes and thus has not received an intensive inventory to date; hence, it is possible that other rare species requiring pristine glacial lake habitats exist here and have yet to be documented.

Many of the lakes in northwestern Pennsylvania have experienced the release of undesirable fishes, presumably in the process of being used as bait fish. White Perch have inexplicably appeared in multiple lakes within the region. The Round Goby was recently discovered in Lake LeBeouf (French Creek watershed) and now threatens the receiving waters with ecological modification from a well-documented, aggressive and prolific aquatic invasive species. Given the acknowledged value and history of preservation of Lake Pleasant, additional protection in the form of a new miscellaneous special regulation is warranted and herein proposed. The new regulation would prohibit the use of live or dead fish as bait (that is, “minnows”) on Lake Pleasant; however, would allow for the use of “salted minnows” and terrestrial invertebrates as bait (that is, worms) for angling purposes. Additionally, the regulation would prohibit the release of fish in the lake, except for those caught while angling. This prohibition aims to preserve the existing ecosystem characteristics of Lake Pleasant and protect native and at-risk species from harmful impacts that may be associated with non-native species.

The Commission proposes that § 65.24 be amended to read as set forth in Annex A.

F. Paperwork

This proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. Fiscal Impact

This proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions.

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about this proposed rulemaking to the Executive Director, Fish and Boat Commission, P.O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

TIMOTHY D. SCHAEFFER,
Executive Director

Fiscal Note: 48A-297. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 65. SPECIAL FISHING REGULATIONS

§ 65.24. Miscellaneous special regulations.

The following waters are subject to the following miscellaneous special regulations:

County	Name of Water	Special Regulations
		* * * * *
Dauphin, Juniata, Perry	Juniata River (31.7 miles) from SR0075 bridge at Port Royal downstream to the mouth, including all tributaries to a point 1/2 mile upstream from the confluence	Bass (Smallmouth and Largemouth)—No harvest year-round—catch and immediate release only. From 12:01 a.m. the first Saturday after April 11 to 12:01 a.m. the first Saturday after June 11—No Bass tournaments. Remainder of the year—Catch-measure-immediate release tournaments only. It is unlawful for an angler to repeatedly cast into a clearly visible bass spawning nest or bed in an effort to catch or take bass. A bass caught and immediately returned unharmed to the waters from which taken will not be considered a violation of this section.
<u>Erie</u>	<u>Lake Pleasant</u>	<u>It is unlawful to use any fish, live or dead, as bait while angling at Lake Pleasant, except for “salted minnows.” Further, it is unlawful to release any fish into Lake Pleasant, except for those caught while angling.</u>
Huntingdon	Raystown Lake (includes Raystown Branch from the Raystown Dam downstream to the confluence with the Juniata River).	Trout (all species)—no closed season. Daily limit: First Saturday after April 11 until Labor Day—5 trout per day; day after Labor Day to first Saturday after April 11 of the following year—3 trout per day. Size limits: Inland rules apply. Smelt may be taken from shore or by wading by means of dip nets not to exceed 20 inches in diameter or 20 inches square. The daily limit per person is the greater of 1 gallon of smelt by volume or 200 smelt by number.
		* * * * *

[Pa.B. Doc. No. 20-1033. Filed for public inspection July 31, 2020, 9:00 a.m.]

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 65]

Special Fishing Regulations

The Fish and Boat Commission (Commission) proposes to amend Chapter 65 (relating to special fishing regulations). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The proposed amendments update the Commission's regulations for angling on Penns Creek.

A. *Effective Date*

This proposed rulemaking, if approved on final-form rulemaking, will go into effect on January 1, 2021.

B. *Contact Person*

For further information on this proposed rulemaking, contact Wayne Melnick, Esq., P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rulemaking is available on the Commission's web site at www.fishandboat.com.

C. *Statutory Authority*

The proposed amendments to § 65.24 (relating to miscellaneous special regulations) are published under the statutory authority of section 2307(a) of the code (relating to waters limited to specific purposes).

D. *Purpose and Background*

The specific purpose and background of the proposed amendments is described in more detail under the summary of proposal.

E. *Summary of Proposal*

Penns Creek is a large, limestone-influenced stream that supports one of the most popular and renowned wild Brown Trout fisheries in this Commonwealth and the eastern United States. Its excellent insect hatches, large size, and scenic setting in the mountains of Central Pennsylvania draws anglers from across the United States. Penns Creek is delineated into eight stream sections for fisheries management purposes, with sections 01—07 managed for trout. Penns Creek, Section 03, extends for 7 miles from the confluence with Elk Creek in Coburn, PA downstream to 600 meters downstream of the confluence with Swift Run. Section 03 was managed as a stocked trout fishery until 1992 when it was designated by the Commission as a Class A wild trout stream and the stocking of hatchery trout was discontinued in favor of wild trout management.

During 1993, landowner and angler surveys were conducted on Section 03 to inform management decisions. Based on this information and biological data collected during 1991 and 1992, miscellaneous special regulations (later renamed all-tackle trophy trout under § 65.4a (relating to all-tackle trophy trout)) were developed for Section 03 and implemented on January 1, 1995. Section 03 was managed with all-tackle trophy trout regulations for 19 years from 1995 to 2013.

During 2012, Commission staff conducted a review of the management of Penns Creek, Section 03. Staff solicited feedback regarding a potential regulation change from landowners and anglers by means of letters and a public meeting. Additionally, staff conducted an angler use, harvest and opinion survey to help inform a regulation change. To address landowner and angler feedback,

to further increase the abundance of large wild brown trout, and provide the opportunity to use all tackle types and harvest some trout, a new miscellaneous special regulation (slot limit) was established for a 7-year period from January 1, 2014, through December 31, 2020. The slot limit regulation allows for year-round fishing, use of all tackle types, and the harvest of two trout per day that are at least 7 inches but less than 12 inches in length from the opening day of trout season through Labor Day, with no harvest permitted the remainder of the year.

The trout population was monitored before and after implementation of the slot limit regulation in Section 03. Results of the monitoring showed a significant increase in the electrofishing catch rates of larger (≥ 16 inches) brown trout during the post-slot limit regulation implementation period (2014—2019). These results suggest that the slot limit regulations likely played an important role in the increased electrofishing catch of large brown trout in Section 03.

In 2019, staff conducted an angler use, harvest and opinion survey to evaluate the social aspects of the regulation change and estimate angler harvest. Results showed low harvest of trout occurred and high angler support for continuing the slot limit regulations on Penns Creek, Section 03. Despite low angler harvest under the slot limit rule, these regulations provide the opportunity for anglers to harvest a trout if they desire, which was an important social consideration when the regulations were implemented.

Given the success of the experimental slot limit regulation program on Penns Creek, Section 03, staff recommended that the Commission continue this regulatory approach until further notice. The regulation would allow for the use of all tackle types and harvest of up to two trout per day that are at least 7 inches but less than 12 inches in length from the opening day of trout season through Labor Day. No harvest would be permitted for the remainder of the year.

The Commission proposes that § 65.24 be amended to read as set forth in Annex A.

F. *Paperwork*

This proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. *Fiscal Impact*

This proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions.

H. *Public Comments*

Interested persons are invited to submit written comments, objections or suggestions about this proposed rulemaking to the Executive Director, Fish and Boat Commission, P.O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

TIMOTHY D. SCHAEFFER,
Executive Director

Fiscal Note: 48A-300. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 65. SPECIAL FISHING REGULATIONS

§ 65.24. Miscellaneous special regulations.

The following waters are subject to the following miscellaneous special regulations:

<i>County</i>	<i>Name of Water</i>	<i>Special Regulations</i>
* * * * *		
Centre and Mifflin	Penns Creek, from the confluence of Elk Creek downstream 7 miles to 600 meters downstream of Swift Run	<p>Open to fishing year-round. All tackle types are permitted. From 8 a.m. on the first Saturday after April 11 through Labor Day—the daily creel limit for trout is 2 (combined species). Trout must be at least 7 inches but less than 12 inches in length to be killed or possessed.</p> <p>From the day after Labor Day until 8 a.m. on the first Saturday after April 11, no trout may be killed or possessed.</p> <p>Inland regulations apply to all other species.</p> <p>This miscellaneous special regulation will remain in effect until [December 31, 2020] further notice.</p>
* * * * *		

[Pa.B. Doc. No. 20-1034. Filed for public inspection July 31, 2020, 9:00 a.m.]

NOTICES

DELAWARE RIVER BASIN COMMISSION

Public Hearing and Business Meeting

The Delaware River Basin Commission (Commission) will hold a public hearing on Wednesday, August 12, 2020. A business meeting will be held the following month on Thursday, September 10, 2020. Both the hearing and the business meeting are open to the public. In light of the novel coronavirus (COVID-19) mitigation measures in effect for Commission member states, however, both meetings will be conducted remotely. Check the Commission's web site at www.drbc.gov, on or after July 29, 2020, for details about the meeting formats and how to attend.

Public hearing. The telephonic public hearing on August 12, 2020, will begin at 1:30 p.m. The hearing items include the draft dockets listed as follows for withdrawals, discharges and other projects that could have a substantial effect on the basin's water resources, as well as resolutions to: (a) adopt the Commission's current expense and capital budgets for the fiscal year ending June 30, 2021; and (b) apportion among the signatory parties the amounts required for the support of the current expense and capital budgets for the fiscal year ending June 30, 2021.

Written comments on matters scheduled for hearing on August 12, 2020, will be accepted through 5 p.m. on August 17, 2020.

The public is advised to check the Commission's web site periodically prior to the hearing date, as items scheduled for hearing may be postponed if additional time is needed to complete the Commission's review, and items may be added up to 10 days prior to the hearing date. In reviewing docket descriptions, the public is also asked to be aware that the details of projects may change during the Commission's review, which is ongoing.

1. *Martins Creek, LLC/Talen Energy, D-1970-025 CP-2.* An application to renew Commission Docket No. D-1970-025 CP, which approved the construction of additional electric generating facilities, a surface water withdrawal and discharge of cooling water, and consumptive use at the Martins Creek Generating Station. The application was submitted as required by Section VIII.B. of Resolution No. 2018-5, adopted by the Commission on June 13, 2018. The applicant requested a total allocation of 785.54 million gallons per month (mgm) of surface water from the Delaware River for industrial cooling of the electric generating facilities known as Martins Creek and Lower Mount Bethel Energy. The project is located in Lower Mount Bethel Township, Northampton County, PA within the drainage area of the section of the main stem Delaware River known as the Lower Delaware, which the Commission has classified as Special Protection Waters.

2. *Birdsboro Municipal Authority, D-1974-126 CP-4.* An application to renew the approval of the applicant's existing 1.35 million gallons per day (mgd) wastewater treatment plant (WWTP) and its discharge. The WWTP will continue to discharge treated effluent to Hay Creek at River Mile 92.5—63.1—0.3 (Delaware River—Schuylkill River—Hay Creek) in the Borough of Birdsboro, Berks County, PA.

3. *West Grove Borough Authority, D-1987-024 CP-4.* An application to renew the approval of the docket holder's

existing 0.25 mgd WWTP and its discharge. The existing WWTP will continue to discharge to Middle Branch White Clay Creek at River Mile 70.2—10.0—15.9—9.5 (Delaware River—Christina River—White Clay Creek—Middle Branch White Clay Creek) by means of Outfall No. 001, in London Grove Township, Chester County, PA.

4. *Mount Airy # 1, LCC, D-1989-037-4.* An application to renew the approval of an existing groundwater withdrawal of up to 9.82 mgm to supply the applicant's public water supply distribution system from existing Wells Nos. 1 and 2 and to renew the approval of an existing surface water withdrawal of up to 14.47 mgm to irrigate the applicant's golf course from an existing intake in Mount Airy Lake. The requested allocations are not an increase from the previous allocations. The project wells are completed in the Long Run Member of the Catskill Formation. The project is located in the Forest Hills Run Watershed in Paradise Township, Monroe County, PA within the drainage area of the section of the main stem Delaware River known as the Middle Delaware, which the Commission has classified as Special Protection Waters.

5. *Manwalamink Water Co., D-1989-050 CP-6.* An application to renew the approval to withdraw up to 15.0 mgm of groundwater from existing Wells Nos. 1—3, 5 and 6 for continued use in the docket holder's public water system. Wells Nos. 1 and 2 are screened in sand and gravel and Wells Nos. 3, 5 and 6 are completed in the Ridgeley-Coeymans Formation in the Shawnee Creek and Delaware River watersheds, within the drainage area of the section of the main stem Delaware River known as the Middle Delaware, which the Commission has classified as Special Protection Waters, in Smithfield Township, Monroe County, PA.

6. *Aqua Pennsylvania, Inc., D-1993-083 CP-3.* An application to renew the approval of an existing groundwater withdrawal of up to 40.3 mgm to supply the applicant's Chalfont public water supply distribution system from existing Wells Nos. 8A and 11—14. The project wells are completed in the Stockton Formation. The project is located in the Commission's Southeastern Pennsylvania Ground Water Protected Area (SEPA GWPA) within the North Branch Neshaminy Creek, Pine Run and Neshaminy Creek Watersheds in the Borough of Chalfont, Bucks County, PA.

7. *JBS Souderton, Inc., D-1996-021-5.* An application to renew approval of the applicant's existing 1.0 mgd industrial wastewater treatment plant (IWTP) and its discharge. The IWTP will continue to discharge treated effluent to Skippack Creek at River Mile 92.5—32.3—3.0—12.8 (Delaware River—Schuylkill River—Perkiomen Creek—Skippack Creek) in Franconia Township, Montgomery County, PA.

8. *Sunnybrook Golf Club, D-1997-007-3.* An application to renew the approval of an existing groundwater withdrawal of up to 4.65 mgm to irrigate the applicant's golf course from existing Wells Nos. 1 and 2. The project wells are completed in the Ledger Dolomite Formation. The requested allocation is not an increase from the previous allocation. The project is located in the Commission's SEPA GWPA in the Wissahickon Creek Watershed in Whitmarsh Township, Montgomery County, PA.

9. *Northampton Generating Company, D-1998-040-2.* An application to renew the approval of an existing

surface water withdrawal of up to 77.5 mgm to supply the applicant's 112 megawatt cogeneration facility from an existing intake on the Lehigh River. The requested allocation is not an increase from the previous allocation. The project is located in the Lehigh River Watershed in Northampton Borough and Allen Township, both in Northampton County, PA within the drainage area of the section of the main stem Delaware River known as the Lower Delaware, which the Commission has classified as Special Protection Waters.

10. *New Hanover Township Authority, D-1999-040 CP-5*. An application to renew the approval of the applicant's existing 1.925 mgd WWTP and its discharge. The WWTP will continue to discharge treated effluent to Swamp Creek at River Mile 92.5—32.3—12.9—4.8 (Delaware River—Schuylkill River—Perkiomen Creek—Swamp Creek) in New Hanover Township, Montgomery County, PA.

11. *Fairless Energy, LLC, D-2001-028 CP-3*. An application to renew the approval of the existing Fairless Energy Electric Generating Station and its use of up to 356.5 mgm of surface water from the United States Steel Delaware River Intake. The electric generating station is located adjacent to Delaware River Water Quality Zone 2 in Falls Township, Bucks County, PA.

12. *Bedminster Municipal Authority, D-2006-010 CP-4*. An application to renew the approval of the applicant's existing 0.06 mgd Pennland Farms WWTP and its discharge. The WWTP will continue to discharge treated wastewater effluent to an unnamed tributary (UNT) of Deep Run Creek at River Mile 157.0—4.7—7.1—0.1 (Delaware River—Tohickon Creek—Deep Run Creek—UNT) by means of Outfall No. 001, within the drainage area of the section of the main stem Delaware River known as the Lower Delaware, which the Commission has classified as Special Protection Waters, in Bedminster Township, Bucks County, PA.

13. *East Brandywine Township Municipal Authority, D-2007-002 CP-4*. An application to renew the approval of the existing 0.3 mgd Applecross WWTP and its discharges to land and to surface water. The WWTP will continue to discharge treated effluent to land by means of spray irrigation and drip disposal and to Beaver Creek at River Mile 70.7—1.7—20.2—8.8—6.1 (Delaware River—Christina River—Brandywine Creek—East Brandywine Creek—Beaver Creek) in East Brandywine Township, Chester County, PA.

14. *Franconia Sewer Authority, D-2007-041 CP-3*. An application to renew the approval of the applicant's existing 0.15 mgd WWTP and its discharge. The WWTP will continue to discharge treated effluent to Skippack Creek at River Mile 92.5—32.3—3.0—12.5 (Delaware River—Schuylkill River—Perkiomen Creek—Skippack Creek) in Franconia Township, Montgomery County, PA.

15. *United States Steel Real Estate, D-2009-006-2*. An application to renew the approval of a total allocation of 7,288.1 mgm of surface water from two intakes for industrial processes, cooling, fire suppression and potable water supply at the docket holder's industrial park facility. The surface water withdraw is located in Water Quality Zone 2 of the Delaware River at River Mile 127.0 in Falls Township, Bucks County, PA.

16. *Pineville Facility Company, LLC, D-2009-031-2*. An application to renew the approval of an existing groundwater withdrawal with a total system allocation of 4.4 mgm for nurse stock irrigation from existing Wells Nos. 1—6. The project wells are completed in the Brunswick

Formation. The wells are located in the Commission's designated SEPA GWPA in the Pidcock and Mill Creek Watersheds in Buckingham Township, Bucks County, PA.

17. *Beaver Lake Estates, D-2009-038 CP-3*. An application to renew the approval of the existing 0.14 mgd Beaver Lake Estates WWTP and its discharge. The WWTP will continue to discharge to a UNT of Barnum Brook at River Mile 253.6—25.2—2.0—1.1 (Delaware River—Neversink River—Barnum Brook—UNT) within the drainage area of the section of the main stem Delaware River known as the Middle Delaware, which the Commission has classified as Special Protection Waters, in the Town of Thompson, Sullivan County, NY.

18. *Reading Area Water Authority, D-2010-009 CP-3*. An application to renew approval of the applicant's existing 35 mgd Maiden Creek water filtration plant (WFP) and its discharge of 3.26 mgd of filter backwash and process water. The WFP will continue to discharge from two existing outfalls to Maiden Creek at River Mile 92.5—85.6—0.2 (Delaware River—Schuylkill River—Maiden Creek) in Ontelaunee Township, Berks County, PA.

19. *RALHAL Corp. and Concord Estates Condominiums, LLC, D-2012-019 CP-2*. An application to renew the approval of the applicant's existing 0.137 mgd WWTP and its discharge. The WWTP will continue to discharge treated effluent to Sheldrake Stream at River Mile 253.6—27.3—2.7 (Delaware River—Neversink River—Sheldrake Stream) within the drainage area of the section of the nontidal Delaware River known as the Middle Delaware, which the Commission has classified as Special Protection Waters, in the Town of Fallsburg, Sullivan County, NY.

20. *MHC Lil Wolf, LP, D-2015-005 CP-2*. An application to renew the approval of the existing 0.07 mgd Lil Wolf Mobile Home Park WWTP and its discharge. The WWTP will continue to discharge treated effluent to an unnamed tributary to Coplay Creek at River Mile 183.7—21.1—9.9—0.6 (Delaware River—Lehigh River—Coplay Creek—UNT) and is located in the drainage area of the section of the main stem Delaware River known as the Lower Delaware, which the Commission has classified as Special Protection Waters, in North Whitehall Township, Lehigh County, PA.

21. *Pechiney Plastic Packaging, Inc., D-2015-013-2*. An application to renew the approval of a 0.72 mgd groundwater remediation IWTP and its discharge to groundwater by means of injection wells. The IWTP will continue to treat groundwater from the Pohatcong Valley Groundwater Contamination Superfund Site utilizing airstripping, after which the treated groundwater will be reinjected into the regional groundwater aquifer. The project IWTP and its discharge are located in the Pohatcong Creek Watershed within the drainage area of the section of the main stem Delaware River known as the Lower Delaware, which the Commission has classified as Special Protection Waters, in Washington Township, Warren County, NJ. Wells Nos. 1 and 2 are screened in sand and gravel, and Wells Nos. 3, 5 and 6 are completed in the Ridgeley-Coeymans Formation in the Shawnee Creek and Delaware River watersheds, within the drainage area of the section of the main stem Delaware River known as the Middle Delaware, which the Commission has classified as Special Protection Waters, in Smithfield Township, Monroe County, PA.

22. *Pottstown Borough Water Authority, D-1989-055 CP-4*. An application to renew approval of the applicant's

existing 12.85 mgd WWTP and its discharge. The WWTP will continue to discharge treated effluent to the Schuylkill River at River Mile 92.5—51.3 (Delaware River—Schuylkill River) in the Borough of Pottstown, Montgomery County, PA. The application also includes a request to renew a total dissolved solids determination consisting of effluent limits of 3,000 milligrams per liter (mg/l) when the WWTP flow is less than or equal to 8.935 mgd and 2,238 mg/l when flow is greater than 8.935 mgd.

23. *Municipal Authority of the Borough of Milford, D-1965-168 CP-2.* An application to approve a surface water withdrawal of up to 6.0 mgm to supply water to the applicant's public water supply distribution system from existing Springs 1 and 2. The springs are located in the drainage area of Vantine Brook within the Sawkill Creek Watershed in the Borough of Milford, Pike County, PA within the drainage area of the section of the main stem Delaware River known as the Middle Delaware, which the Commission has designated as Special Protection Waters.

24. *Aqua Pennsylvania, Inc., D-2019-007 CP-1.* An application to approve an existing discharge from the 0.220 mgd Aqua Pennsylvania Ingram's Mill Water Filtration Plant. Filtered backwash will continue to discharge to the East Branch Brandywine Creek at River Mile 70.6—1.8—20.0—3.9 (Delaware River—Christina River—Brandywine Creek—East Branch Brandywine Creek) in West Chester Borough, Chester County, PA.

Public meeting. The public business meeting on September 10, 2020, will begin at 10:30 a.m. and will include: adoption of the minutes of the Commission's June 10, 2020, business meeting; announcement of upcoming meetings and events; a report on hydrologic conditions; resolutions to: (a) adopt the Commission's annual current expense and capital budgets for the fiscal year ending June 30, 2021; and (b) apportion among the signatory parties the amounts required for the support of the current expense and capital budgets for the fiscal year ending June 30, 2021; and consideration of any items for which a hearing has been completed or is not required.

After all scheduled business has been completed and as time allows, the business meeting will be followed by up to 1 hour of open public comment.

There will be no opportunity for additional public comment for the record at the September 10, 2020, business meeting on items for which a hearing was completed on August 12, 2020, or a previous date. Commission consideration on September 10, 2020, of items for which the public hearing is closed may result in approval of the item (by docket or resolution) as proposed, approval with changes, denial or deferral. When the Commissioners defer an action, they may announce an additional period for written comment on the item, with or without an additional hearing date, or they may take additional time to consider the input they have already received without requesting further public input. Any deferred items will be considered for action at a public meeting of the Commission on a future date.

Advance sign-up for oral comment. Individuals who wish to comment on the record during the public hearing

on August 12, 2020, or to address the Commissioners informally during the open public comment portion of the meeting on September 10, 2020, are asked to sign-up in advance through EventBrite. Links to EventBrite for the public hearing and the business meeting will be available at www.drbc.gov at least 10 days before the public hearing. For assistance contact Patricia Hausler at patricia.hausler@drbc.gov.

Submitting written comment. Written comment on items scheduled for hearing may be made through the Commission's web-based comment system, a link to which is provided at www.drbc.gov. Use of the web-based system ensures that all submissions are captured in a single location and their receipt is acknowledged. Exceptions to the use of this system are available based on need, by writing to the attention of the Commission Secretary, Delaware River Basin Commission, P.O. Box 7360, 25 Cosey Road, West Trenton, NJ 08628-0360. For assistance in using the web-based comment system contact Patricia Hausler at patricia.hausler@drbc.gov.

Accommodations for special needs. Individuals in need of an accommodation as provided for in the Americans with Disabilities Act who wish to attend the meeting or hearing should contact the Commission Secretary directly at (609) 883-9500, Ext. 203 or through the Telecommunications Relay Services (TRS) at 711, to discuss how the Commission can accommodate their needs.

Additional information and contacts. Additional public records relating to hearing items may be examined at the Commission's offices by appointment by contacting Denise McHugh, (609) 883-9500, Ext. 240. For other questions concerning hearing items contact David Kovach, Project Review Section Manager, at (609) 883-9500, Ext. 264.

PAMELA M. BUSH,
Secretary

[Pa.B. Doc. No. 20-1035. Filed for public inspection July 31, 2020, 9:00 a.m.]

DEPARTMENT OF AGING

Pennsylvania Long-Term Care Council; Location Change for the August 20, 2020, Meeting

Due to the novel coronavirus (COVID-19) pandemic, the Pennsylvania Long-Term Care Council's (Council) August 20, 2020, meeting will now be held remotely by means of WebEx. The start time will remain at 10 a.m. Individuals who wish to attend the meeting are asked to contact Charles Quinnan, Council Executive Director, (717) 705-7296, cquinnan@pa.gov.

Individuals in need of accommodations as provided for in the Americans with Disabilities Act of 1990 should contact Charles Quinnan, Council Executive Director, (717) 705-7296, cquinnan@pa.gov.

ROBERT TORRES,
Secretary

[Pa.B. Doc. No. 20-1036. Filed for public inspection July 31, 2020, 9:00 a.m.]

DEPARTMENT OF BANKING AND SECURITIES

Actions on Applications

The Department of Banking and Securities (Department), under the authority in the Banking Code of 1965 (7 P.S. §§ 101—2204), the Department of Banking and Securities Code (71 P.S. §§ 733-1—733-1203) and 17 Pa.C.S. (relating to Credit Union Code), has taken the following actions on applications received for the week ending July 21, 2020.

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, Bank Supervision or Credit Union and Trust Supervision (as applicable), 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, for banks (717) 783-8240 and for credit unions and trust companies (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

Branch Applications

De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
03-14-2020	Brentwood Bank Bethel Park Allegheny County	1001 Hastings Park Drive Bridgeville Allegheny County (Limited Service Facility)	Opened
07-21-2020	Fleetwood Bank Fleetwood Berks County	61 Kings Plaza Oley Berks County	Approved

Articles of Amendment

<i>Date</i>	<i>Name and Location of Institution</i>	<i>Action</i>
07-20-2020	Bank of Bird-in-Hand Bird-in-Hand Lancaster County	Filed

Amendment to Article V of the institution's Articles of Incorporation provides for an increase in the authorized number of shares of common stock, par value \$1 per share, from 20 million to 50 million and to authorize 2 million shares of preferred stock, par value \$1 per share, and provide the bank's Board of Directors with the ability to establish classes of preferred stock with differing rights, privileges, preferences, redemption and voting rights.

Articles of Amendment provide for the institution's Articles of Incorporation to be amended and restated in their entirety.

CREDIT UNIONS

No activity.

The Department's web site at www.dobs.pa.gov includes public notices for more recently filed applications.

RICHARD VAGUE,
Acting Secretary

[Pa.B. Doc. No. 20-1037. Filed for public inspection July 31, 2020, 9:00 a.m.]

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Revisions to Schedule of Prices for State Parks

A. Summary and Background

Under section 314 of the Conservation and Natural Resources Act (71 P.S. § 1340.314) and 17 Pa. Code § 11.224 (relating to prices), the Department of Conservation and Natural Resources (Department), Bureau of

State Parks, will revise its price schedule for State park activities, uses and privileges effective August 1, 2020. The new schedule, which is in section D as follows, includes revisions to the schedule to add a transaction fee range for the Ohiopyle whitewater shuttle token.

The ending point for all whitewater river trips at Ohiopyle State Park (State Park), near Bruner Run, is 2 miles below the nearest parking area. Due to the sensitive nature of the resource, a 2-mile single lane paved road between Bruner Run and the nearest parking area at Old Mitchell Place is the only way in or out. The

single lane road is narrow, steep and very winding, making it hazardous for vehicles. Limited parking at the bottom is designed only for shuttle service, and the proximity of a crossing of the Great Allegheny Passage will compound parking issues and quickly become hazardous in terms of public safety if no shuttle service is provided.

To protect the natural resources and to ensure the safety of the State Park's thousands of boaters, the provision of a shuttle bus service is essential. This fee recovers a portion of the Department's cost of operating the shuttle.

For comparison purposes, the current price schedule along with the new price schedule can be found at the State Parks web site at <http://www.dcnr.state.pa.us/stateparks/prices/index.htm>. It can also be obtained by calling Pennsylvania State Parks Reservations and Information at (888) PA-PARKS. When the new price schedule becomes effective, it will be posted on the Department's State Parks previously listed web site.

B. Contact Person

Any questions may be directed to Ryan Dysinger, Assistant Director, Bureau of State Parks, Rachel Carson State Office Building, P.O. Box 8551, Harrisburg, PA 17105-8551, (717) 787-6640, rdysinger@pa.gov. Persons with a disability may use the Pennsylvania AT&T Relay Service by calling (800) 654-5984 (TDD users).

C. Effective Date

The effective date of the new price schedule is August 1, 2020.

D. Price Schedule

<i>Facility Type Unit</i>	<i>Unit</i>	<i>Resident</i>	<i>Non-Resident</i>
Shuttle Token Rate	Per Reservation/Registration	\$4—\$24	\$4—\$24

CINDY ADAMS DUNN,
Secretary

[Pa.B. Doc. No. 20-1038. Filed for public inspection July 31, 2020, 9:00 a.m.]

DEPARTMENT OF EDUCATION

Cyber Charter School Application; Virtual Hearing Cancellation

The Department of Education previously scheduled a virtual public hearing regarding a cyber charter school application that it received on or before October 1, 2019, that was published at 50 Pa.B. 3311 (July 4, 2020).

The virtual public hearing scheduled for August 3, 2020, has been cancelled.

For questions regarding this hearing, contact the Division of Charter Schools, (717) 787-9744, ra-charterschools@pa.gov.

PEDRO RIVERA,
Secretary

[Pa.B. Doc. No. 20-1039. Filed for public inspection July 31, 2020, 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.

Northcentral Region: Clean Water Program Manager, 208 W Third Street, Suite 101, Williamsport, PA 17701-6448, Phone: 570.327.3636.

<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>
PA0008575 (Industrial)	Wirerope Works Inc. 100 Maynard Street Williamsport, PA 17701-5809	Lycoming County City of Williamsport	West Branch Susquehanna River (WWF) (10-B)	Yes

Southwest Region: Clean Water Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Email: RA-EPNPDES_SWRO@pa.gov.

<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>
PA0090981 (Sewage)	Footedale STP 2 Long Street McClellandtown, PA 15458-0287	Fayette County German Township	Unnamed Tributary of Dunlap Creek (WWF) (19-C)	Yes
PA0254118 (Sewage)	Shroyer SRSTP 146 Lee Street Hyndman, PA 15545	Somerset County Southampton Township	North Branch Jennings Run (CWF) (13-A)	Yes

Northwest Region: Clean Water Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481, Phone: 814.332.6942, Email: RA-EPNPDES_NWRO@pa.gov.

<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>
PA0102181 (Sewage)	Two Mile Run County Park 471 Beach Road Franklin, PA 16323-7519	Venango County Sugarcreek Borough	Twomile Run (CWF) (16-E)	Yes
PA0263532 (Sewage)	Matthew Supel SRSTP 3329 Ivanhoe Road Sharpsville, PA 16150	Mercer County South Pymatuning Township	Unnamed Tributary to McCullough Run (WWF) (20-A)	Yes

II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Non-Waived Permit Applications.

Southeast Region: Clean Water Program Manager, 2 East Main Street, Norristown, PA 19401, Email: RA-EPNPDES_SERO@pa.gov.

PA0245160, Storm Water, SIC Code 5015, **First Choice Auto Salvage & Recycling, LLC**, P.O. Box 52, Baptistown, NJ 08803. Facility Name: First Choice Auto Salvage & Recycling. This proposed facility is located in, **Bucks County**.

Description of Proposed Activity: The application is for a new NPDES permit for a new discharge of industrial stormwater.

The receiving stream(s), Unnamed Tributary to Cooks Creek (EV, MF), is located in State Water Plan watershed 2-D and is classified for Exceptional Value Waters and Migratory Fish, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfalls 001, 002, and 003 are based on a design flow of 0 MGD.—Limits.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		IMAX
	Average Monthly	Average Weekly		Daily Maximum	Average Monthly	
Total Suspended Solids	XXX	XXX	XXX	30	XXX	XXX
Oil and Grease	XXX	XXX	XXX	5	XXX	XXX
Aluminum, Total	XXX	XXX	XXX	0.75	XXX	XXX
Copper, Total	XXX	XXX	XXX	0.009	XXX	XXX
Iron, Total	XXX	XXX	XXX	1.5	XXX	XXX
Lead, Total	XXX	XXX	XXX	0.003	XXX	XXX
Zinc, Total	XXX	XXX	XXX	0.12	XXX	XXX
Mercury, Total	XXX	XXX	XXX	0.0002	XXX	XXX

In addition, the permit contains the following major special conditions:

- Stormwater outfalls & authorized non-stormwater discharges
- Site-Specific BMPs for the facility
- Stormwater monitoring requirements

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 484-250-5910.

The EPA Waiver is in effect.

PA0026701, Sewage, SIC Code 4952, **Municipal Authority of the Borough of Morrisville**, 35 Union Street, Morrisville, PA 19067-6246. Facility Name: Morrisville County STP. This existing facility is located in Morrisville Borough, **Bucks County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated sewage.

The receiving stream(s), Delaware River, is located in State Water Plan watershed 2-E and is classified for, 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 7.1 MGD.—Limits.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		IMAX
	Total Monthly	Daily Maximum		Average Monthly	Maximum	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
Duration of Discharge (minutes)	Report	Report	XXX	XXX	XXX	XXX

The proposed effluent limits for Outfall 002 are based on a design flow of 7.1 MGD.—Limits.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		IMAX
	Average Monthly	Average Weekly		Average Monthly	Maximum	
Flow (MGD)	Report	Report Daily Max	XXX	XXX	XXX	XXX

The proposed effluent limits for Outfall 003 are based on a design flow of 0 MGD.—Limits.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		IMAX
	Average Monthly	Average Weekly		Average Monthly	Daily Maximum	
pH (S.U.)	XXX	XXX	XXX	XXX	Report	XXX
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	XXX	XXX	XXX	XXX	Report	XXX
Chemical Oxygen Demand (COD)	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Weekly Average</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	XXX	Report	XXX
Total Phosphorus	XXX	XXX	XXX	XXX	Report	XXX
Iron, Dissolved	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Outfall 201 are based on a design flow of 7.1 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Weekly Average</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
Flow (MGD)	Report	Report Daily Max	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0 Inst Min	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0 Inst Min	XXX	XXX	XXX
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.5	XXX	1.2
Color (Pt-Co Units) (Pt-Co Units)	XXX	XXX	XXX	100	XXX	150
Carbonaceous Biochemical Oxygen Demand (CBOD ₅) Raw Sewage Influent	Report	XXX	XXX	Report	XXX	XXX
Carbonaceous Biochemical Oxygen Demand (CBOD ₅) Biochemical Oxygen Demand (BOD ₅) Raw Sewage Influent	1,302	1,954	XXX	22	33 Wkly Avg	44
CBOD ₅ Minimum % Removal (%) Percent Removal	Report	XXX	XXX	Report	XXX	XXX
Total Suspended Solids	XXX	XXX	XXX	88.50 Min Mo Avg	XXX	XXX
Total Suspended Solids Raw Sewage Influent	1,775	2,665	XXX	30	45 Wkly Avg	60
Total Dissolved Solids	Report	XXX	XXX	Report	XXX	XXX
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	1,000.0 200 Geo Mean	1,500.0 XXX	XXX 1,000
Total Nitrogen Ammonia-Nitrogen	Report	XXX	XXX	Report	XXX	XXX
Total Phosphorus Copper, Total	1,184	XXX	XXX	20	XXX	40
Zinc, Total	Report	XXX	XXX	Report	XXX	XXX
1,4-Dioxane Phenolics, Total	4.0	5.9	XXX	0.067	0.10	0.135
	35	Daily Max 52.7	XXX	0.594	0.89	1.18
	XXX	Daily Max Report	XXX	Report	XXX	XXX
	Report	Report Daily Max	XXX	Report	Report	XXX

The proposed effluent limits for Outfall 201 are based on a design flow of 7.1 MGD—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Weekly Average</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
Toxicity, Chronic - Ceriodaphnia Survival (TUc)	XXX	XXX	XXX	XXX	Report	XXX
Toxicity, Chronic - Ceriodaphnia Reproduction (TUc)	XXX	XXX	XXX	XXX	Report	XXX
Toxicity, Chronic - Pimephales Survival (TUc)	XXX	XXX	XXX	XXX	Report	XXX
Toxicity, Chronic - Pimephales Growth (TUc)	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Outfall 201 are based on a design flow of 7.1 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Weekly Average</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
PCBs Dry Weather Analysis (pg/L)	XXX	XXX	XXX	XXX	Report	XXX
PCBs Wet Weather Analysis (pg/L)	XXX	XXX	XXX	XXX	Report	XXX

Sludge use and disposal description and location(s): sludge is hauled to a landfill.

In addition, the permit contains the following major special conditions:

- Collected screenings, slurries, sludges and solids shall be disposed properly
- Permittee shall optimize chlorine dosages for disinfection
- Notification of the designation of responsible operator
- Permittee shall develop and maintain O & M plan
- POTW Pretreatment Program Implementation
- WET Testing requirements
- Stormwater Monitoring requirements
- PCB Minimization Plan and Monitoring

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 484-250-5910.

The EPA Waiver is not in effect.

PA0024376, Sewage, SIC Code 4952, **Boyertown Borough**, Boyertown Borough Hall, 100 South Washington Street, Boyertown, PA 19512-1521. Facility Name: Boyertown STP. This existing facility is located in Douglass Township, **Montgomery County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated sewage.

The receiving stream, Swamp Creek (TSF, MF), is located in State Water Plan watershed 3-E and is classified for Migratory Fishes and Trout Stocking, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of .75 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Weekly Average</i>		<i>Average Monthly</i>	<i>Weekly Average</i>	
Flow (MGD)	Report	Report Daily Max	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0 Inst Min	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0 Inst Min	XXX	XXX	XXX
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.34	XXX	1.1
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	125	188	XXX	20	30	40
Raw Sewage Influent Biochemical Oxygen Demand (BOD ₅)	Report	XXX	XXX	Report	XXX	XXX
Raw Sewage Influent Total Suspended Solids	Report	XXX	XXX	Report	XXX	XXX
Raw Sewage Influent Total Suspended Solids	Report	XXX	XXX	Report	XXX	XXX
Total Suspended Solids	125	188	XXX	20	30	40
Total Dissolved Solids	6,255	15,637 Daily Max	XXX	1,000	2,000 Daily Max	2,500
Fecal Coliform (No./100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	200 Geo Mean	XXX	1,000*
May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	1,000
Nitrate-Nitrite as N	Report	XXX	XXX	Report	XXX	XXX
Total Nitrogen	Report	XXX	XXX	Report	XXX	XXX
Ammonia-Nitrogen						
Nov 1 - Apr 30	30	XXX	XXX	4.8	XXX	9.6
May 1 - Oct 31	10	XXX	XXX	1.6	XXX	3.2
Total Phosphorus	9.4	XXX	XXX	1.5	XXX	3
Copper, Total	Report	XXX	XXX	Report	XXX	XXX

*Shall not exceed in more than 10% of samples.

Sludge use and disposal description and location: Sewage sludge is hauled away to landfill.

In addition, the permit contains the following major special conditions:

- A. No Stormwater
- B. Acquire Necessary Property Rights

- C. Proper Sludge Disposal
- D. Chlorine Optimization
- E. Operator Notification
- F. Fecal Coliform Reporting
- G. Solids Management

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 484-250-5910.

The EPA Waiver is in effect.

Northcentral Region: Regional Clean Water Program Manager, 208 W Third Street, Suite 101, Williamsport, PA 17701-6448. Phone: 570.327.3636, Email: RA-EPNPDES_NCRO@pa.gov.

PA0027375, Sewage, SIC Code 4952, **City of DuBois**, 16 W Scribner Avenue, DuBois, PA 15801-2210. Facility Name: City of DuBois Wastewater Treatment Plant. This existing facility is located in City of DuBois, **Clearfield County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated sewage.

The receiving stream(s), Sandy Lick Creek (TSF), is located in State Water Plan watershed 17-C and is classified for Trout Stocking, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 4.4 MGD.—Interim Limits.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		IMAX
	Average Monthly	Daily Maximum		Average Monthly	Daily Maximum	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	Inst Min 6.5	XXX	XXX	XXX
Total Residual Chlorine (TRC)	XXX	XXX	Inst Min XXX	0.16	XXX	0.52
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)						
Nov 1 - Apr 30	770	1,155	XXX	21.0	31.5	42
		Wkly Avg			Wkly Avg	
May 1 - Oct 31	255	385	XXX	7.0	10.5	14
		Wkly Avg			Wkly Avg	
Total Suspended Solids	1,100	1,650	XXX	30.0	45.0	60
		Wkly Avg			Wkly Avg	
Fecal Coliform (No./100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2,000	XXX	10,000
				Geo Mean		
May 1 - Sep 30	XXX	XXX	XXX	200	XXX	1,000
				Geo Mean		
Total Nitrogen	XXX	Report	XXX	XXX	Report	XXX
Ammonia-Nitrogen						
Nov 1 - Apr 30	230	340	XXX	6.3	9.3	12.6
		Wkly Avg			Wkly Avg	
May 1 - Oct 31	75	110	XXX	2.1	3.1	4.2
		Wkly Avg			Wkly Avg	
Total Phosphorus	XXX	Report	XXX	XXX	Report	XXX
Aluminum, Total	Report	Report	XXX	Report	Report	XXX
Copper, Total (ug/L)	0.48	0.76	XXX	13.27	20.71	33.17
Cyanide, Free (ug/L)	0.32	0.50	XXX	8.75	13.65	21.87
Lead, Total (ug/L)	0.22	0.28	XXX	6.03	7.80	15.07
Mercury, Total (ug/L)	0.003	0.004	XXX	0.084	0.131	0.21
Zinc, Total	4.03	8.07	XXX	0.11	0.22	0.27
Dichlorobromomethane (ug/L)	0.10	0.16	XXX	2.85	4.44	7.12
Bis(2-Ethylhexyl) Phthalate (ug/L)	0.22	0.35	XXX	6.21	9.70	15.52
Chloroform (ug/L)	XXX	Report	XXX	XXX	Report	XXX
Isophorone (ug/L)	2.16	4.32	XXX	58.90	117.8	147.25
Biochemical Oxygen Demand (BOD ₅)						
Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
Total Suspended Solids						
Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX

The proposed effluent limits for Outfall 001 are based on a design flow of 4.4 MGD.—Final Limits.

Parameters	Mass Units (lbs/day)		Instantaneous Minimum	Concentrations (mg/L)		IMAX
	Average Monthly	Daily Maximum		Average Monthly	Daily Maximum	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	6.5	XXX	XXX	XXX
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)						
Nov 1 - Apr 30	770	1,155	XXX	21.0	31.5	42
May 1 - Oct 31	255	Wkly Avg 385	XXX	7.0	Wkly Avg 10.5	14
Total Suspended Solids	1,100	Wkly Avg 1,650	XXX	30.0	Wkly Avg 45.0	60
Fecal Coliform (No./100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2,000	XXX	10,000
May 1 - Sep 30	XXX	XXX	XXX	Geo Mean 200	XXX	1,000
Ultraviolet light intensity (mW/cm ²)	XXX	XXX	Report	Geo Mean XXX	XXX	XXX
Total Nitrogen	XXX	Report	XXX	XXX	Report	XXX
Ammonia-Nitrogen						
Nov 1 - Apr 30	230	340	XXX	6.3	9.3	12.6
May 1 - Oct 31	75	Wkly Avg 110	XXX	2.1	Wkly Avg 3.1	4.2
Total Phosphorus	XXX	Report	XXX	XXX	Report	XXX
Aluminum, Total	27	27	XXX	0.75	0.75	0.75
Copper, Total (ug/L)	0.48	0.76	XXX	13.27	20.71	33.17
Cyanide, Free (ug/L)	0.32	0.50	XXX	8.75	13.65	21.87
Lead, Total (ug/L)	0.22	0.28	XXX	6.03	7.80	15.07
Mercury, Total (ug/L)	0.003	0.004	XXX	0.084	0.131	0.21
Zinc, Total	4.03	8.07	XXX	0.11	0.22	0.27
Dichlorobromomethane (ug/L)	0.10	0.16	XXX	2.85	4.44	7.12
Bis(2-Ethylhexyl) Phthalate (ug/L)	0.22	0.35	XXX	6.21	9.70	15.52
Chloroform (ug/L)	XXX	Report	XXX	XXX	Report	XXX
Isophorone (ug/L)	2.16	4.32	XXX	58.90	117.8	147.25
Biochemical Oxygen Demand (BOD ₅)						
Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
Total Suspended Solids						
Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX

Sludge use and disposal description and location(s): Landfill.

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 570-327-3693.

The EPA Waiver is not in effect.

Northwest Region: Clean Water Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481, Phone: 814.332.6942, Email: RA-EPNPDES_NWRO@pa.gov.

PA0288543, Sewage, SIC Code 8800, **Christopher Boltz**, 221 Hannahstown Road, Cabot, PA 16023-2117. Facility Name: Christopher Boltz SFTF. This proposed facility is located in Jefferson Township, **Butler County**.

Description of Proposed Activity: The application is for a new NPDES permit for a new discharge of treated SFTF sewage.

The receiving stream(s), Sarver Run (HQ-TSF), is located in State Water Plan watershed 18-F and is classified for High Quality Waters—Trout Stocking, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of .0008 MGD.—Limits.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		IMAX
	Average Monthly	Average Weekly		Annual Average	Maximum	
Flow (GPD)	Report Annl Avg	XXX	XXX	XXX	XXX	XXX

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>		<i>Annual Average</i>	<i>Maximum</i>	
pH (S.U.)	XXX	XXX	6.0 Inst Min	XXX	XXX	9.0
Biochemical Oxygen Demand (BOD ₅)	XXX	XXX	XXX	10.0	XXX	20
Total Suspended Solids	XXX	XXX	XXX	10.0	XXX	20
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200	XXX	XXX

Sludge use and disposal description and location(s): Septage will be pumped and hauled off-site by a septage hauler for land application under a general permit authorized by DEP or disposal at an STP.

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 814-332-6078.

The EPA Waiver is in effect.

PA0288471, Sewage, SIC Code 4952, 8800, **Gino Nicastro**, 421 Pike Street, Farrell, PA 16121-1543. Facility Name: Gino Nicastro SRSTP. This proposed facility is located in Hermitage City, **Mercer County**.

Description of Proposed Activity: The application is for a new NPDES permit for a new discharge of treated sewage.

The receiving stream is an Unnamed Tributary of Hogback Run, located in State Water Plan watershed 20-A and classified for Warm Water Fish, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0004 MGD.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>		<i>Annual Average</i>	<i>Maximum</i>	
Flow (MGD)	Report Annl Avg	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0 Inst Min	XXX	XXX	9.0
Total Residual Chlorine (TRC)	XXX	XXX	XXX	Report	XXX	XXX
Biochemical Oxygen Demand (BOD ₅)	XXX	XXX	XXX	10.0	XXX	20.0
Total Suspended Solids	XXX	XXX	XXX	10.0	XXX	20.0
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200	XXX	XXX

Offsite Sludge disposal is proposed.

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 814-332-6078.

The EPA Waiver is in effect.

PA0288560, Sewage, SIC Code 8800, **Samuel Melaragno**, 4151 McLaughlin Road, McKean, PA 16426-2034. Facility Name: Samuel Melaragno SRSTP. This proposed facility is located in Washington Township, **Erie County**.

Description of Proposed Activity: The application is for a new NPDES permit for a new discharge of treated SRSTP sewage.

The receiving stream(s), Unnamed Tributary 53014 to Little Conneauttee Creek (CWF), is located in State Water Plan watershed 16-A and is classified for Cold Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of .0004 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>		<i>Annual Average</i>	<i>Maximum</i>	
Flow (GPD)	Report Annl Avg	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0 Inst Min	XXX	XXX	9.0
Biochemical Oxygen Demand (BOD ₅)	XXX	XXX	XXX	10.0	XXX	20
Total Suspended Solids	XXX	XXX	XXX	10.0	XXX	20
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200	XXX	XXX

Sludge use and disposal description and location(s): Septage must be pumped and hauled off-site by a septage hauler for land application under a general permit authorized by DEP or disposal at an STP.

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 814-332-6340.

The EPA Waiver is in effect.

PA0288578, Sewage, SIC Code 8800, **Steven McNeil**, 2093 Mapleview Road, Brookville, PA 15825. Facility Name: Steven McNeil SRSTP. This proposed facility is located at 1295 Slalom Run Road, Clarion, PA 16214, located in Clarion Township, **Clarion County**.

Description of Proposed Activity: The application is for a new NPDES permit for a new discharge of treated SRSTP sewage.

The receiving stream(s), Unnamed Tributary 49701 (CWF) to Clarion River, is located in State Water Plan watershed 17-B and is classified for Cold Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of .0004 MGD.—Limits.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		IMAX
	Average Monthly	Average Weekly		Annual Average	Maximum	
Flow (GPD)	Report Annl Avg	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0 Inst Min	XXX	XXX	9.0
Biochemical Oxygen Demand (BOD ₅)	XXX	XXX	XXX	10.0	XXX	20
Total Suspended Solids	XXX	XXX	XXX	10.0	XXX	20
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200	XXX	XXX

Sludge use and disposal description and location(s): Septage must be pumped and hauled off-site by a septage hauler for land application under a general permit authorized by DEP or disposal at an STP.

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 814-332-6340.

The EPA Waiver is in effect.

III. WQM Industrial Waste and Sewerage Applications under The Clean Streams Law (35 P.S. §§ 691.1—691.1001).

Southcentral Region: Clean Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

WQM Permit No. 2120401, Sewerage, **Brian Negley**, 110 Clover Lane, Carlisle, PA 17015.

This proposed facility is located in Lower Frankford Township, **Cumberland County**.

Description of Proposed Action/Activity: Seeking permit approval for the construction/operation of a single residence sewage treatment system to serve their residence.

Southwest Region: Clean Water Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

WQM Permit No. 465S118 A-3, Sewage, **PA State University**, 2 Admin Bldg, New Kensington, PA 15068.

This existing facility is located in Upper Burrell Township, **Westmoreland County**.

Description of Proposed Action/Activity: Replacement of existing chlorine contact tank with a new chlorine contact tank.

WQM Permit No. 6379410 A-1, Sewage, **Washington County Coal Company**, 46226 National Road, Saint Clairsville, OH 43950.

This existing facility is located in South Strabane Township, **Washington County**.

Description of Proposed Action/Activity: Installation of a dechlorination unit at the Livingston Portal STP.

WQM Permit No. 1120403, Sewage, **Ebensburg Municipal Authority**, 300 West High Street, Ebensburg, PA 15931.

This proposed facility is located in the Ebensburg Borough/Cambria Township, **Cambria County**.

Description of Proposed Action/Activity: Proposed construction of the removal of the existing Griffith's Field—Combined Sewer Overflow (CSO) located in Ebensburg Borough/Cambria Township. Treatment to be provided at the existing Ebensburg Municipal Authority STP.

Northwest Region: Clean Water Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

WQM Permit No. 0320402, Sewage, **Manor Township Joint Municipal Authority**, 160 Schley Street, Ford Cliff, PA 16228.

This proposed facility is located in Manor Township, **Armstrong County**.

Description of Proposed Action/Activity: Replacement of existing Tub Mill Run Sewage Pump Station with new suction lift pump station.

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, Email: ra-epww-sero@pa.gov.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD090056	Jerome Giuliano 2774 Sugas Road Solebury, PA 18963-0135	Bucks	Solebury Township	Paunacussing Creek and Unnamed Tributary to Paunacussing Creek HQ-CWF-MF
PAD090057	Alpha Genesis Design Build, LLC 6600 Greenhill Road New Hope, PA 18938-9646	Bucks	Solebury Township	Paunacussing Creek HQ-CWF

Northeast Region: Clean Water Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Contact: Gillian Ostrum, Clerk Typist 2, 570-830-3077.

Luzerne Conservation District, 325 Smiths Pond Road, Shavertown, PA 18708, 570-674-7991.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD400011 A-1	Sand Springs Dev Corp Michael Tuskes 4511 Fulmer Dr Bethlehem, PA 18020	Luzerne	Butler Twp	Long Run (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, Email: RA-EPNPDES_SCRO@pa.gov.

NPDES Permit No. PA0266060, CAFO, **Wentzel Timothy M**, 3819 Powells Valley Road, Halifax, PA 17032-9629.

This existing facility is located in Jefferson Township, **Dauphin County**.

Description of size and scope of existing operation/activity: Poultry (Layers), Beef (Finishing), Swine (Grow—Finish): 446.35 AEU's.

The receiving stream, Unnamed Tributary to North Fork Powell Creek (CWF, MF), is in watershed 6-C 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.

NPDES Permit No. PA0260495, CAFO, **Hershey Steve**, 2024 Donegal Springs Road, Mount Joy, PA 17552-8906.

This existing facility is located in East Donegal Township, **Lancaster County**.

Description of size and scope of existing operation/activity: Beef (Finishers), Swine (Grow—Finish), Poultry (Pullets): 592.57 AEU's.

The receiving stream, Unnamed Tributary to Donegal Creek (CWF, MF) and Donegal Creek (HQ-CWF, MF), is in watershed 7-G and classified for: Cold Water Fishes, Migratory Fishes, High Quality—Cold Water, and Migratory Fish.

The proposed effluent limits for the operation/activity include: Except for the chronic or catastrophic rainfall events defined as over the 25-year/24-hour rain storms, the CAFO general permit is a non-discharge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with the Pennsylvania Nutrient Management Act and the Clean Stream Law constitutes compliance with the State narrative water quality standards.

NPDES Permit No. PA0266078, CAFO, **Dickinson Danyell L & Dickinson Robbie L**, 199 W McKinleyville Road, Hustontown, PA 17229-9215.

This existing facility is located in Taylor Township, **Fulton County**.

Description of size and scope of existing operation/activity: Swine (Grow—Finish): 693.59 AEU's.

The receiving stream, Unnamed Tributary to Sideling Hill Creek (HQ-CWF, MF), is in watershed 12-C and classified for: High Quality—Cold Water and Migratory Fish.

The proposed effluent limits for the operation/activity include: Except for the chronic or catastrophic rainfall events defined as over the 25-year/24-hour rain storms, the CAFO general permit is a non-discharge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with the Pennsylvania Nutrient Management Act and the Clean Stream Law constitutes compliance with the State narrative water quality standards.

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 (National Pollutant Discharge Elimination System) 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>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Renewal/ New</i>
Lamar Sensenig 114 Huckleberry Rd. Jonestown, PA 17018	Lebanon	56.4	319.90	Broilers/ Sheep	NA	Renewal
M.W. Smith Farms 851 Meadow Grove Road Newport, PA 17074	Perry	1,478.2	1,923.00	Dairy	WWF, MF	Renewal
Jonathan W. Stauffer 6430 Route 225 Elizabethville, PA 17023 Operation at 3535 Old State Road Leck Kill, PA 17836	Northumberland	10	263.76	Layer	NA	Renewal
Landis Hoover 1453 Diamon Station Road Ephrata, PA 17522	Lancaster	23.5	314.1	Swine/ Veal	NA	Renewal

WATER ALLOCATIONS

Applications received under the Act of June 24, 1939 (P.L. 842, No. 365) (35 P.S. §§ 631—641) relating to the Acquisition of Rights to Divert Waters of the Commonwealth.

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, 570-826-2511.

Contact: Gillian Ostrum, Clerk Typist 2, 570-830-3077.

WA40-184B, Water Allocation, **Hazleton City Authority**, 400 East Arthur Gardner Highway, Hazleton, PA 18201, City of Hazleton, **Luzerne County**. The applicant is requesting the right to withdraw up to a maximum of 5.0 million gallons per day (MGD) from the Lehigh River intake near Rockport in Lehigh Township, Carbon County, PA. The requested withdrawal is a revised quantity versus the original application request of 3.0 MGD as published in the March 19, 2016 *Pennsylvania Bulletin*.

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—6026.908).

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (Act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of any Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent (NOI) 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. Persons intending to use the background standard, Statewide health standard, the site-specific standard, or who intend to remediate a site as a special industrial area, must file a (NOI) to Remediate with the Department. A NOI 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 the cleanup standards, or who 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 any 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 NOI to Remediate is published in a newspaper of general circulation in the area of the site. For the following identified site(s), 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 following specified date. During this comment period the municipality may request that the following identified person, 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 NOI to Remediate, please contact the Environmental Cleanup Program Manager in the Department of Environmental Protection Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department of Environmental Protection has received the following Notice(s) of Intent to Remediate:

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.

Young & Diberandino Residences, 656 & 658 East Broad Street, Quakertown Borough, **Bucks County**. Geoffrey Kristof, PG, Aquaterra Technologies, Inc., P.O. Box 744, West Chester, PA 19381 on behalf of Micheal Berger, Erie Insurance Group, 2200 West Broad Street, Bethlehem, PA 18018 submitted a Notice of Intent to Remediate. Soil and groundwater have been contaminated with the release of No. 2 fuel oil. The proposed future use of the property will be residential. The proposed cleanup standard for the site is the Statewide Health Standard. The Notice of Intent to Remediate was published in the *Montgomery Digital News* on May 31, 2020.

210 North Aberdeen Avenue, 210 North Aberdeen Avenue, Radnor Township, **Delaware County**. Paul White, P.G., Brickhouse Environmental, 515 South Franklin Street, West Chester, PA 19382 on behalf of Christy Flynn, 210 North Aberdeen Associates, LLC, 126 East State Street, Media, PA 19063 submitted a Notice of Intent to Remediate. Site soil has been found to be impacted by low levels of SVOCs. The property owners are proposing to redevelop the property for multi-unit residential use. The proposed cleanup standard for the site is the Site-Specific Standard. The Notice of Intent to Remediate was published in *The Delaware County Daily Times* on May 14, 2020.

Sears Site, 6301 Market Street, Milbourne Borough/City of Philadelphia, **Delaware County/Philadelphia County**. Craig Herr, PG, RT Environmental Services, Inc., 215 West Church Road, King of Prussia, PA 19406 on behalf of Michael Willner, WRD Sears, LP, 33 Rock Hill Road, Suite 350, Bala Cynwyd, PA 19004 submitted a Notice of Intent to Remediate. Soil has been found to be contaminated with No. 2 fuel oil and lead. The intended future use of the subject property will remain commercial (warehouse). The proposed cleanup standard for the site is the Statewide Health Standard. The Notice of Intent to Remediate was published in *The Delaware County Daily Times* on May 22, 2020.

Northeast Region: Environmental Cleanup & Brownfields Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915, 570-826-2511.

Kessler Property, 2210 Henderson Street, Bethlehem, PA 18017, Bethlehem City, **Northampton County**. JMT Industrial & Environmental Contracting Services, 710 Uhler Road, Easton, PA 18040, on behalf of Darcy Lettieri, 41 Dover Street, Cambridge, MA 02140, submitted a Notice of Intent to Remediate. Soil was contaminated by a release of heating oil from an underground storage tank. Future use of the site will be residential. The Notice of Intent to Remediate was published in *The Morning Call* on July 3, 2020.

Former Pittston Manufactured Gas Plant, Main Street and Kennedy Boulevard, Pittston, PA 18640, Pittston City, **Luzerne County**. GEI Consultants, 18000 Horizon Way, Suite 200, Mount Laurel, NJ 08054 on behalf of UGI Utilities Inc., 1 UGI Drive, Denver, PA 17517, submitted a Notice of Intent to Remediate. Soil and groundwater were impacted by volatile organic compounds, semi-volatile organic compounds and metals from historic use as a manufactured gas plant. Future use of the site will be for residential and nonresidential purposes. The Notice of Intent to Remediate was published in the *Sunday Dispatch* on June 21, 2020.

Southcentral Region: Environmental Cleanup and Brownfields Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Zenith Energy Altoona Terminal, 6033 6th Avenue, Altoona, PA 16602, Allegheny Township, **Blair County**. Onesky Engineering, Inc., 510 Wellington Square, # 412, Exton, PA 19341, on behalf of Zenith Energy Terminals/Pennsylvania Holdings, LLC, 3000 Essex Lane, Suite 700, Houston, TX 77027, submitted a Notice of Intent to Remediate site soil contaminated with volatile organic compounds (VOCs). The site will be remediated to the Residential Statewide Health Standard. Future use of the site will remain non-residential as a bulk petroleum storage facility. The Notice of Intent to Remediate was published in the *Altoona Mirror* on May 29, 2020.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701, Telephone number: 570-327-3636.

Walton Residence Heating Oil Release, 2475 Steam Mill Hollow Road, Laceyville, Tuscarora Township, **Bradford County**. Environmental Products & Services of Vermont, Inc., 1539 Bobali Drive, Harrisburg, PA 17104, on behalf of Dan Walton, 2475 Steam Mill Hollow Road, Laceyville, PA 18623, has submitted a Notice of Intent to Remediate concerning site soil contaminated with No. 2 fuel oil. The applicant proposes to remediate site to meet the Residential Statewide Health Standard.

State Line Compressor Station, 671 O'Donnell Road, Genesee Township, **Potter County**. Groundwater and Environmental Services, Inc., 301 Commerce Park Drive, Cranberry Township, PA 16066, on behalf of Dominion Energy Transmission, Inc., 518 E. Pittsburgh Street, Greensburg, PA 15601, has submitted a Notice of Intent to Remediate concerning site soil and groundwater contaminated with Ethylene Glycol. The applicant proposes to remediate site to meet the Residential Statewide Health Standard.

McHugh Residence, 222 Julia Street, Dushore Borough, **Sullivan County**. Aquaterra Technologies, Inc., P.O. Box 744, West Chester, PA 19381 on behalf of WOC Energy Services, 44 Reuter Boulevard, Towanda, PA 18848, has submitted a Notice of Intent to Remediate concerning site soil and groundwater contaminated with No. 2 fuel oil. The applicant proposes to remediate site to meet the Residential Statewide Health Standard. A summary of the Notice of Intent to Remediate was published in *The Sullivan Review* on June 24, 2020.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Application(s) Renewal Under the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P.S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.

Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 101701, Republic Services of Pennsylvania, LLC, Highspire Transfer Station, 205 Industrial Road, Highspire Borough, **Dauphin County**, PA 17034.

An application for permit renewal for the Highspire Transfer Station was submitted by Republic Services of Pennsylvania, LLC. This application was deemed administratively complete by the Southcentral Regional Office on June 30, 2020. The Department will accept comments

from the general public recommending revisions to, and approval or denial of, the application during the entire time the Department is reviewing the permit application.

Comments concerning the application should be directed to Mr. John Oren, Permits Chief, Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200. Persons interested in obtaining more information about this permit application may contact the Southcentral Regional Office at (717) 705-4706. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

Permit No. 101671. Park's Garbage Service, Inc., 11763 Shirley Ayr Road, Mount Union, PA 17066, Shirley Township, **Huntingdon County**. An application for a permit renewal was submitted by Park's Garbage Service, Inc., for continued operation of the Park's Transfer & Recycling Center located in Shirley Township, Huntingdon County. The current permit expires November 28, 2020. This application was deemed administratively complete by the Southcentral Regional Office on July 14, 2020.

Comments concerning the application should be directed to Mr. John Oren, Permits Chief, Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200. Persons interested in obtaining more information about this permit application may contact the Southcentral Regional Office at (717) 705-4706. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

The Department has developed an "integrated" plan approval, State Operating Permit and Title V Operating Permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the general public. This approach allows the owner or operator of a facility to submit permitting documents relevant to its application for all sources related to a facility or a proposed project, affords an opportunity for public input, and provides for a decision on the issuance of the necessary permits.

The Department received applications for Plan Approvals or Operating Permits from the following facilities. Copies of the application, the Department's analysis, all pertinent documents used in the evaluation of the application and subsequently prepared proposed plan approvals/operating permits are available for public review during normal business hours at the appropriate Department Regional Office. Appointments for scheduling a review must be made by calling the appropriate Department Regional Office. The address and phone number of the Regional Office is listed before the application notices.

Persons wishing to file a written protest or provide comments or additional information, which they believe should be considered prior to the issuance of a permit, may submit the information to the Department's Regional Office. A 30-day comment period from the date of this publication will exist for the submission of comments, protests and information. Each submission must contain the name, address and telephone number of the person submitting the comments, identification of the proposed

Plan Approval/Operating Permit including the permit number and a concise statement regarding the relevancy of the information or objections to issuance of the permit.

A person wishing to request a hearing may do so during the 30-day comment period. A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted based on the information received. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper, the *Pennsylvania Bulletin* or by telephone, when the Department determines this type of notification is sufficient. Requests for a public hearing and any relevant information should be directed to the appropriate Department Regional Office.

Permits issued to the owners or operators of sources subject to 25 Pa. Code Chapter 127, Subchapter D or E, or located within a Title V facility or subject to 25 Pa. Code § 129.51(a) or permits issued for sources with limitations on their potential to emit used to avoid otherwise applicable Federal requirements may be submitted to the United States Environmental Protection Agency for review and approval as a revision to the State Implementation Plan. Final Plan Approvals and Operating Permits will contain terms and conditions to ensure that the sources are constructed and operating in compliance with applicable requirements in the Air Pollution Control Act (35 P.S. §§ 4001—4015), 25 Pa. Code Chapters 121—145, the Federal Clean Air Act (42 U.S.C.A. §§ 7401—7671q) and regulations adopted under the Federal Clean Air Act.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the Regional Office listed before the application. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401.

Contact: James Beach, New Source Review Chief, (484) 250-5920.

09-0245: Penn Engineering & Manufacturing Corp. (5190 Old Easton Road, Danboro, PA 18916) for the installation of an automated barrel plating system and related air pollution control technology equipment, including a packed-bed scrubber. This facility, located in Plumstead Township, **Bucks County**, is a non-Title V facility. The plating system is an acid zinc system and will be used to plate various metal parts and fasteners with zinc and will also allow the facility to apply various trivalent chromium passivates or chromate conversion coatings to the electroplated zinc deposits. The proposed potential emissions in tons per year (tpy) from the new plating system are as follows: 2.06 tpy PM; 0.002 tpy HNO₃; 0.885 tpy HAPs. These proposed emission limits may be subject to change based on stack test results and may include additional pollutants found during stack testing. The proposed plan approval will contain record-keeping requirements, monitoring requirements, operating conditions and performance testing requirements designed to keep the facility operating within the allowable emission limitations and all applicable air quality requirements.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Contact: Ed Orris, P.E., New Source Review Chief, (412) 442-4168.

65-00713: Greenridge Reclamation, LLC (234 Landfill Road, Scottsdale, PA 15683). In accordance with 25 Pa. Code §§ 127.424, 127.425 and 127.521, the Department of Environmental Protection (DEP) is providing notice that it intends to issue a Title V Operating Permit (TVOP-56-000181) renewal to Southern Greenridge Reclamation, LLC for the operation of a municipal solid waste landfill in Conemaugh Township, **Somerset County, PA.**

The Greenridge landfill accepts municipal solid wastes, construction/demolition wastes, and approved residual and special handling wastes. The disposal capacity of the landfill is estimated at 11.8 million tons of waste. Sources and the control devices at this facility are: Paved and Unpaved Roads, Landfill Gas Fugitive, Emergency Generators, LFG Ground Flare (Enclosed Flare), Utility candle flare, Water Truck, and Landfill Gas collection system.

This facility has the potential emissions of the following type and quantity of air contaminants (on an annual basis): 104 tons of carbon monoxide, 35 tons of nitrogen oxides, 92 tons of particulate matter, 94 tons of sulfur oxides, 19 tons of volatile organic compounds, and 13 tons of hazardous air pollutants. The emission restriction, testing, monitoring, recordkeeping, reporting and work practice conditions of the TVOP have been derived from the applicable requirements of 40 CFR Parts 60, 40 CFR Parts 61, 40 CFR Parts 63 and 25 Pa. Code Article III, Chapters 121—145.

Copies of the application, DEP's analyses and other documents used in the evaluation of the application are available for public review during normal business hours at the Department's Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222. Appointments for scheduling a review must be made by calling 412-442-4000.

Any person may submit comments, a request for the Department to hold a public hearing, or a protest to the operating permit or a proposed condition thereof, by filing such submissions in writing with the Department at the Southwest Regional Office. A 30-day comment period from the date of this publication will exist for the submission of comments.

All requests for a public hearing, and all protests to a proposed action, shall be filed with the Department within 30 days of the date the notice of the proposed action was published under 25 Pa. Code § 127.521(b) (relating to public notice). A protest must include the name, address and telephone number of the person filing the protest, identification of the proposed permit issuance being opposed (Operating Permit TV-65-00713) and a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based.

A public hearing may be held in accordance with 25 Pa. Code § 127.429, if the Department, in its discretion, decides that such a hearing is warranted based on the information received. If a public hearing is held, all persons who have properly filed a protest under 25 Pa. Code § 127.426 may appear and give testimony. The applicant, the protestant and other participants will be notified of the decision to hold a hearing (and the time, place and purpose of such hearing) by publication in the newspaper or by the *Pennsylvania Bulletin*, or by tele-

phone, where the Department determines such notification by telephone is sufficient.

Written comments, protests and requests for a public hearing should be directed to Noor Nahar, Air Quality Engineering Specialist, Department of Environmental Protection, Southwest Region, 400 Waterfront Drive, Pittsburgh, PA 15222.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.

Contact: David Balog, New Source Review Chief, (814) 332-6940.

20-040L: Advanced Cast Products Inc., Meadville Plant (18771 Mill Street, Meadville, PA 16335-3644) for a permit modification to increase particulate emission limits for sources 101 (Charge & Preheating) and 102 (Melting-Transfer-Mag Trea). This facility is in Vernon Township, **Crawford County**.

Pursuant to 25 Pa. Code §§ 127.44(a) and 127.424, the Pennsylvania Department of Environmental Protection (DEP) intends to issue Plan Approval 20-040L to Advanced Cast Products Inc. for a modification of particulate matter emissions for sources 101 and 102. This facility is located in Vernon Township, Crawford County. The Plan Approval will subsequently be incorporated into the facility Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

Plan Approval No. 20-040L is for the modification of permit particulate matter emission limits for sources 101 and 102. Based on the information provided by the applicant and DEP's own analysis, the facility will have projected actual emissions of approximately 4.5 tons per year (tpy) of particulate matter and PM₁₀ emissions.

The Plan Approval will contain emission and control device efficiency restrictions, along with, testing, monitoring, recordkeeping, work practice and additional requirements designed to keep the facility operating within all applicable air quality requirements. Copies of the application, the Department's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at the Department of Environmental Protection, Air Quality Program, 230 Chestnut Street, Meadville, PA 16335. Any person(s) wishing to provide the Department with additional information, which they believe should be considered prior to the issuance of this permit, may submit the information to the address shown in the preceding paragraph. The Department will consider any written comments received within 30 days of the publication of this notice.

Each written comment must contain the name, address and telephone number of the person submitting the comments, identification of the proposed permit No. 20-040L, Advanced Cast Products Inc., Meadville Plant and a concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted based on the comments received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to: New Source Review Section, Air Quality Program, Department of Environmental Protection, 230 Chestnut Street, Meadville, PA 16335, Phone:

814-332-6940. Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so should by calling 814-332-6940, or the Pennsylvania AT&T Relay Service at 1-800-654-5984 (TDD) to discuss how the Department may accommodate their needs.

Intent to Issue Operating Permits under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401.

Contact: Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.

46-00269: IPX 2201 Renaissance Investors, LLC (previously owned and operated by hibü, Inc.) (2201 Renaissance Boulevard, King of Prussia, PA 19406) owns and operates an office building in Upper Merion Township, **Montgomery County**. The source of air emissions from this facility is a 1.5 MW emergency generator engine. Two 1-MW emergency generator engines were emission sources under hibü, Inc.; however, these two generator engines are not part of this renewal operating permit. The facility elects to limit NO_x emissions to less than 25 tons per year; therefore, the facility is considered a Synthetic Minor (State Only Operating Permit). The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Contact: Norman Frederick, Facility Permitting Chief, (570) 826-2409.

54-00077: Northeast Prestressed Products, LLC (121 River Street, Cressona, PA 17929-1108). The Department intends to issue a State-Only Operating Permit for the operation of a precast concrete operation in North Manheim Township, **Schuylkill County**. The sources consist of one (1) concrete forms coating process, one (1) concrete product coating process, and three (3) parts washers. This is a renewal of a State-Only Operating Permit. The State-Only Operating Permit includes emission limits, work practice standards, testing, monitoring, recordkeeping and reporting requirements designed to ensure compliance with all applicable Federal and State air pollution control requirements.

45-00007: National Electric Carbon Products/East Stroudsburg (100 Mill Creek Road, East Stroudsburg, PA 18301-1122). The Department intends to issue a renewal State-Only (Natural Minor) Permit for the manufacture of Carbon and Graphite Products located in East Stroudsburg Borough, **Monroe County**. The primary sources consist of kilns, mixers, and bake ovens. The control devices are baghouses and afterburners on the bake ovens. The sources are considered minor emission sources of nitrogen oxide (NO_x), sulfur oxides (SO_x), carbon monoxide (CO), total suspended particulate (TSP), and volatile organic compounds (VOC) emissions. The proposed 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.

39-00101: Bimbo Bakeries USA Inc., Lehigh Valley Plant (150 Boulder Drive, Breinigsville, PA 18031-1838). The Department intends to issue a renewal State-Only

(Synthetic Minor) Permit for the manufacture of Bread, Cake, and Related Products located in Upper Macungie Township, **Lehigh County**. The primary sources consist of roll ovens and a bread oven. The control devices are a catalytic oxidizer. The sources are considered minor emission sources of nitrogen oxide (NO_x), sulfur oxides (SO_x), carbon monoxide (CO), total suspended particulate (TSP), and volatile organic compounds (VOC) emissions. The proposed 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.

48-00070: Prime Conduit Inc./Upper Nazareth (26961 Lake Rd., Bay Village, OH 44140). The Department intends to issue a renewal State-Only (Natural Minor) Permit for the manufacture of noncurrent-carrying wiring devices located in Upper Nazareth Township, **Northampton County**. The primary sources are extrusion lines and storage silos. The control devices are dust collectors. The sources are considered minor emission sources of nitrogen oxide (NO_x), sulfur oxides (SO_x), carbon monoxide (CO), total suspended particulate (TSP), and volatile organic compounds (VOC) emissions. The proposed 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 Elmerston Avenue, Harrisburg, PA 17110.

Contact: Thomas Hanlon, Facilities Permitting Chief, (717) 705-4862, Thomas Bianca, New Source Review Chief, (717) 705-4863, or William Weaver, Regional Air Quality Manager, (717) 705-4702.

06-03104: Bean Funeral Homes & Cremation Services, Inc. (129 East Lancaster Avenue, Shillington, PA 19607-2613) to issue a State Only Operating Permit for their crematory operation controlled by a secondary afterburner chamber in Sinking Spring Borough, **Berks County**. The potential emissions from the facility are in the form of particulate matter (i.e., PM₁₀) at 1.0 ton per year (tpy) and NO_x at 0.7 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.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701.

Contact: Muhammad Q. Zaman, Program Manager, 570-327-3648.

41-00024: UPMC Susquehanna (1100 Grampian Boulevard, Williamsport, PA 17701), for the Divine Providence Hospital located in Williamsport, **Lycoming County**. The facility's main sources include five (5) natural gas/No. 2 fuel oil-fired boilers and five (5) emergency generator engines. In accordance with 25 Pa. Code §§ 127.424 and 127.425, the Department of Environmental Protection (DEP) has received an application and intends to issue an Air Quality Operating Permit for the previously-mentioned facility. The subject facility has the following potential emissions: 24.41 TPY of carbon monoxide; 34.10 TPY of nitrogen oxides; 0.30 TPY of sulfur oxides; 1.93 TPY of particulate matter; 1.71 TPY of volatile organic compounds and 33,141 TPY of greenhouse gases. The Department has determined that the sources at the facility satisfy best available technology

(BAT) requirements, pursuant to 25 Pa. Code §§ 127.1 and 127.12, the New Source Performance Standards (NSPS) pursuant to 40 CFR Part 60 Subpart IIII and the National Emission Standards for Hazardous Air Pollutants (NESHAP) pursuant to 40 CFR Part 63 Subparts ZZZZ and JJJJJJ. The operating permit will include emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with all applicable air quality regulations. All pertinent documents used in the evaluation of the application are available for public review during normal business hours at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review must be made by calling 570-327-3636.

41-00015: Pennsylvania Department of Corrections (1920 Technology Parkway, Mechanicsburg, PA 17050-8507) for a State Only Operating Permit for their Muncy Correctional Institution located in Clinton Township, **Lycoming County**. The facility's sources include, two (2) natural gas-fired boilers, four (4) diesel-fired generator engines, two (2) propane-fired generator engines and several small # 2 fuel oil and propane-fired combustion units. In accordance with 25 Pa. Code §§ 127.424 and 127.425, the Department of Environmental Protection (DEP) has received an application and intends to issue an Air Quality Operating Permit for the previously-mentioned facility. The subject facility has the following potential emissions: 34.45 TPY of carbon monoxide; 50.30 TPY of nitrogen oxides; 0.60 TPY of sulfur oxides; 3.10 TPY of particulate matter; 2.44 TPY of volatile organic compounds and 45,877 TPY of greenhouse gases.

The Department has determined that the sources at the facility satisfy best available technology (BAT) requirements, pursuant to 25 Pa. Code §§ 127.1 and 127.12, the New Source Performance Standards (NSPS) pursuant to 40 CFR Part 60 Subpart IIII, 40 CFR Part 60 Subpart JJJJ and 40 CFR Part 60 Subpart Dc and the National Emission Standards for Hazardous Air Pollutants (NESHAP) pursuant to 40 CFR Part 63 Subpart ZZZZ. The proposed operating permit renewal includes emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with all applicable air quality regulations.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.

Contact: Matthew Williams, Facilities Permitting Chief, (814) 332-6940.

37-00266: Shenango Area School District (2501 Old Pittsburgh Road, New Castle, PA 16101-6095), to issue a renewal of the State Only Operating Permit for the two Tri-Fuel Boilers (6.4 MMBtu/hr, each), miscellaneous natural gas combustion units (total of 2.5 MMBtu/hr), and two diesel fired emergency generators at the High School located in Shenango Township, **Venango County**. The facility is a Natural Minor. The permit contains a requirement which only allows natural gas fuel usage since the boilers have not been fired on coal since April 2010. The emergency generator is exempt from 40 CFR 63 Subpart ZZZZ provided the facility operates the engine in compliance with § 63.6640(f).

43-00260: Mercer Area School District, Middle/High School (545 West Butler St., Mercer, PA 16137-1061). The Department intends to issue the renewal of the State-Only Operating Permit of a school located in

Mercer Borough, **Mercer County**. Permitted air contamination sources at the facility are one bituminous coal-fired boiler, two natural gas-fired boilers, and one natural gas-fired hot water heater. With PTEs below major source thresholds, the school is Natural Minor for permitting purposes. In this renewal, permit conditions based on conditional exemptions from plan approval requirements are removed.

PLAN APPROVALS

Receipt of Plan Approval Applications and Intent to Issue Plan Approvals, and Intent to Issue Amended Operating Permits under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B and Subchapter F. These actions may include the administrative amendments of an associated operating permit.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Contact: Raymond Kempa, New Source Review Chief, (570) 826-2705.

Notice is hereby given in accordance with 25 Pa. Code §§ 127.44(a) and 127.45(a), that the Department of Environmental Protection (DEP) has received and intends to issue a Plan Approval to **Silgan Containers Manufacturing Corp.** (8201 Industrial Drive, Breinigsville, PA 18031) for their facility located in Upper Macungie Twp., **Lehigh County**. This Plan Approval No. 39-00110A will be incorporated into a State Only Permit through an administrative amendment at a later date.

Plan Approval No. 39-00110A is for the installation of a two food can assembly lines and one draw redraw can assembly line with filters and curing ovens. VOC emissions from the plant will remain under 50 TPY threshold limit, 12-month rolling sum. Particulate emissions will not exceed 0.04 grains/dscf from the filters. The company shall be subject to and comply with all applicable 25 Pa. Code § 129.52 for VOC emission limits. Total HAP emissions from the facility will be under 25 TPY, 12-month rolling sum. Single HAP emissions will be under 10 TPY, 12-month rolling sum. The company shall be subject to and comply with 25 Pa. Code § 123.31 for malodorous emissions. The company shall be subject to and comply with 25 Pa. Code § 123.41 for Visible emissions. Emissions from the lines will be controlled by the use of a dry filters and curing oven. These limits will meet BAT requirements for this source. The Plan Approval and Operating permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

Copies of the application, DEP's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711.

Any person(s) wishing to provide DEP with additional information, which they believe should be considered prior to the issuance of this permit, may submit the information to the address shown in the preceding paragraph. Each written comment must contain the name, address and telephone number of the person submitting the comments, identification of the proposed permit No. 39-00110A and a concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department of Environmental Protection, in its discretion, decides that such a hearing is warranted based on the comments received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, where DEP determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Ray Kempa, Chief, New Source Review Section, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711, phone number 570-826-2511 within 30 days after publication date.

Contact: Norman Frederick, Facility Permitting Chief, (570) 826-2409.

35-00079A: Notice is hereby given in accordance with 25 Pa. Code §§ 127.44(a) and 127.45(a), that the Department of Environmental Protection (DEP) has received and intends to issue a Plan Approval to **Westlake Plastics Company** (91 Hickory Street, Mayfield, PA 18433) for the construction & operation of a 63.1 MMBtu boiler which will fire on Natural Gas at the Westlake Plastics Company located in Mayfield Borough, **Lackawanna County**.

The Department of Environmental Protection's (Department) review of the information submitted by Westlake Plastics Company indicates that the boiler to be constructed will comply with all regulatory requirements pertaining to air contamination source and the emission of air contaminants including 25 Pa. Code § 123.41 for Visible emissions, 25 Pa. Code § 123.22 for Sulfur Compound Emissions, NSPS Subpart Dc requirements and the best available technology requirement (BAT) of 25 Pa. Code §§ 127.1 and 127.12. Nitrous Oxides emissions will be minimized by using Low NO_x burner for boiler. Expected NO_x emissions from the proposed boiler will be less than 30 PPM when firing with natural gas. Based on this finding, the Department proposes to issue a plan approval for the proposed construction. The Plan approval and Operating Permit will include testing, monitoring, recordkeeping, and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

The facility is a State Only facility. If the Department determines that the boiler is constructed and operated in compliance with the plan approval conditions and the specification of the application for Plan Approval 35-00079A, the requirements established in the plan approval will be incorporated into State Only Operating Permit 35-00079 pursuant to the administrative amendment provisions of 25 Pa. Code § 127.450.

All pertinent documents used in the evaluation of the application are available for public review during normal business hours at the Department's Northeast Regional Office, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915. Appointments for scheduling a review must be made by calling 570-826-2511.

Any person(s) wishing to provide DEP with additional information, which they believe should be considered prior to the issuance of this permit, may submit the information to the address shown in the preceding paragraph. Each written comment must contain the name, address and telephone number of the person submitting the comments, identification of the proposed permit No. 35-00079A and a concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department of Environmental Protection, in its discretion, decides that

such a hearing is warranted based on the comments received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, where DEP determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Ray Kempa, Environmental Engineer Manager, New Source Review Section, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915, phone 570-826-2511 within 30 days after publication date.

**COAL & NONCOAL MINING
ACTIVITY APPLICATIONS**

Applications under the Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.1—1396.31); 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); the Bituminous Mine Subsidence and Land Conservation Act (52 P.S. §§ 1406.1—1406.21). 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 of Environmental Protection. A copy of the application is available for inspection at the District Mining Office indicated above 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 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 above 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 (relating to public notices of filing of permit applications, opportunity for comment, and informal conferences).

Written comments or objections related to 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.

Requests for an informal conference, or a public hearing, as applicable, on a mining permit application, as provided by 25 Pa. Code § 77.123 (relating to public hearing-informal conferences) or § 86.34 (relating to informal conferences), 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.

Where a National Pollutant Discharge Elimination System (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

Effluent Limits—The following range of effluent limits will apply to NPDES permits issued in conjunction with the associated coal mining activity permit and, in some cases, noncoal mining permits:

Table 1

Parameter	30-Day Average	Daily Maximum	Instantaneous Maximum
Iron (total)	1.5 to 3.0 mg/l	3.0 to 6.0 mg/l	3.5 to 7.0 mg/l
Manganese (total)	1.0 to 2.0 mg/l	2.0 to 4.0 mg/l	2.5 to 5.0 mg/l
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Aluminum (Total)	0.75 to 2.0 mg/l	1.5 to 4.0 mg/l	2.0 to 5.0 mg/l
pH ¹		greater than 6.0; less than 9.0	
Alkalinity greater than acidity ¹			

¹ 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) from active mining areas; active areas disturbed by coal refuse disposal activities; and mined areas backfilled and revegetated; and drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900, (Contact: Melanie Wigfield).

Permit 56090103 and NPDES No. PA0262358. Mountaineer Mining Corp., 1010 Garrett Shortcut Road, Berlin, PA 15530, permit renewal for reclamation only of a bituminous surface mine in Brothersvalley Township, **Somerset County**, affecting 58.1 acres. Receiving streams: unnamed tributaries to/and Buffalo Creek classified for the following use: cold water fishes. There are no potable water supply intakes within 10 miles downstream. Application received: July 17, 2020.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200, (Contact: Ashley Smith).

17080114 and NPDES PA0256951. Waroquier Coal Company. (P.O. Box 128, Clearfield, PA 16830). Permit renewal for reclamation only of a bituminous surface coal and auger mining in Jordan Township, **Clearfield County** affecting

97.0 acres. Receiving stream(s): Unnamed tributaries to North Witmer Run and Davidson Run classified for the following use(s): CWF. There are no potable water supply intakes within 10 miles downstream. Application received: July 15, 2020.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118, (Contact: Theresa Reilly-Flannery).

Permit No. 54200102. Rausch Creek Coal Mining Branchdale, LLC (978 Gap Street, Valley View, PA 17983), commencement, operation and restoration of an anthracite surface mine operation in Reilly Township, **Schuylkill County**, affecting 473.5 acres. Receiving stream: Muddy Branch Creek and unnamed tributary to Swatara Creek, classified for the following uses: cold water fishes and cold-water fishes and migratory fishes. Application received: July 6, 2020.

Noncoal Applications Received

Effluent Limits—The following effluent limits will apply to NPDES permits issued in conjunction with a noncoal mining permit:

Table 2

Parameter	30-day Average	Daily Maximum	Instantaneous Maximum
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Alkalinity exceeding acidity* pH*		greater than 6.0; less than 9.0	

* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900, (Contact: Melanie Ford-Wigfield).

Permit 32040301 and NPDES No. PA0249611. Penn Run Quarry 2 Spruce Mine, 590 Spruce Grove Road, Penn Run, PA 15765, renewal of an NPDES permit located in Cherryhill and Pine Townships, **Indiana County**. Receiving streams: unnamed tributaries to Yellow Creek to Two Lick Creek to Blacklick Creek, classified for the following uses: cold water fishery & trout stocked fishery. The first downstream potable water supply intake from the point of discharge is Central Indiana County Water Authority Intake on Yellow Creek. Application received: July 15, 2020.

New Stanton District Office: P.O. Box 133, New Stanton, PA 15672, (724) 925-5500, (Contact: Tracy Norbert).

03200401 and NPDES No. PA0278467. Brady's Bend Limestone Company, LLC, Box 217, 10900 South Avenue, North Lima, OH 44452. Application for commencement, operation and restoration of a large noncoal underground mine in Brady's Bend Township, **Armstrong County**, affecting 658.0 acres. Receiving stream(s): Pine Run to Sugar Creek to the Allegheny River classified for the following use(s): WWF. There is no downstream potable water supply intake from the point of discharge. Application received: July 8, 2020.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118, (Contact: Theresa Reilly-Flannery).

Permit No. 09890301C21 and NPDES Permit No. PA0594466. Naceville Materials (305 South Main Street, Suite 207, Doylestown, PA 18901), renewal of an NPDES permit for discharge of treated mine drainage from a quarry operation in West Rockhill Township, **Bucks County** affecting 100.63 acres. Receiving stream: unnamed tributary to Ridge Valley Creek, classified for the following use. Trout stocking fishes. Application received: June 27, 2019.

Permit No. 58202503 and NPDES Permit No. PA0226114. Donald Twining (232 SR 2036, Thompson, PA 18465), commencement, operation and restoration of a GP105 bluestone permit that include an NPDES permit for discharge of treated mine drainage in Gibson Township, **Susquehanna County** affecting 10.0 acres. Receiving stream: unnamed tributary to Tunkhannock Creek, classified for the following use: EV—migratory fishes. Application received: June 24, 2020.

Permit No. 7475SM5C8 and NPDES Permit No. PA0223522. Lehigh Cement Co., LLC (7660 Imperial Way, Allentown, PA 18195), renewal of an NPDES permit for discharge of treated mine drainage from a quarry operation in Nazareth Borough, **Northampton County** affecting 32.7 acres. Receiving stream: unnamed tributary to Schoneck Creek, classified for the following uses: warm water and migratory fishes. Application received: June 9, 2020.

MINING ACTIVITY NPDES DRAFT PERMITS

This notice provides information about applications for a new, amended or renewed NPDES permits associated with mining activity (coal or noncoal) permits. The applications concern industrial waste (mining) discharges to surface water and discharges of stormwater associated with mining activities. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92a and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P.S. §§ 691.1—691.1001) and the Federal Clean Water Act (33 U.S.C.A. §§ 1251—1376).

The Department of Environmental Protection (Department) has prepared a draft NPDES permit and made a tentative determination to issue the NPDES permit in conjunction with the associated mining activity permit.

Effluent Limits for Coal Mining Activities

For coal mining activities, NPDES permits, when issued, will contain effluent limits that are the more stringent of technology-based (BAT) effluent limitations or Water Quality Based Effluent Limits (WQBEL).

The BAT limits for coal mining activities, as provided in 40 CFR Part 434 and 25 Pa. Code Chapters 87—90 are as follows:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (Total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
Manganese (Total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0; less than 9.0	

Alkalinity greater than acidity*

*The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applies to: surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; mined areas backfilled and revegetated; and all other discharges and drainage (resulting from a precipitation event of greater than 1-year 24-hour to less than or equal to a 10-year 24-hour event) from coal refuse disposal piles. Similarly, modified BAT limits apply to iron, manganese and suspended solids in surface runoff, discharges and drainage resulting from these precipitation events and those of greater magnitude in accordance with 25 Pa. Code §§ 87.102, 88.92, 88.187, 88.292, 89.52 and 90.102.

Exceptions to BAT effluent limits may be applicable in accordance with 25 Pa. Code §§ 87.102, 88.92, 88.187, 88.292, 89.52 and 90.102.

Effluent Limits for Noncoal Mining Activities

The limits for noncoal mining activities as provided in 25 Pa. Code Chapter 77 are pH 6 to 9 and other parameters the Department may require.

Discharges from noncoal mines located in some geologic settings (for example, in the coal fields) may require additional water quality based effluent limits. If additional effluent limits are needed for an NPDES permit associated with a noncoal mining permit, then the permit description specifies the parameters.

In addition to BAT or WQBEL limits, coal and noncoal NPDES permits establish effluent limitations in the form of implemented Best Management Practices (BMPs) identified in the associated Erosion and Sedimentation Plan, the Reclamation Plan and the NPDES permit application. These BMPs restrict the rates and quantities of associated pollutants from being discharged into surface waters in this Commonwealth.

More restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining that may occur are incorporated into an NPDES permit when necessary for compliance with water quality standards and antidegradation requirements (in accordance with 25 Pa. Code Chapters 91—96). The procedures for determining the final effluent limits, using a mass-balance equation or model, are found in Technical Guidance Document 563-2112-115, Developing National Pollutant Discharge Elimination System (NPDES) Permits for Mining Activities. Other specific factors to be considered include public comments and Total Maximum Daily Load(s). Additional discharge limitations may apply in the event that unexpected discharges occur.

Discharge rates for surface mining activities are precipitation driven. Discharge rates for proposed discharges associated with underground mining are noted in the permit description.

Persons wishing to comment on an NPDES draft permit should submit a written statement to the Department at the address of the district mining office indicated before each draft permit within 30-days of this public notice. Comments received within the comment period will be considered in the final determinations regarding the NPDES permit applications. Comments must include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests or petitions for a public hearing on NPDES permit applications, as provided in 25 Pa. Code § 92a.82(d). The request or petition for a public hearing shall be filed within 30-days of this public notice and contain the name, address, telephone number and the interest of the party filing the request and state the reasons why a hearing is warranted. A public hearing may be held if the Department considers the public interest significant. If a hearing is scheduled, a notice of the hearing on the NPDES permit application will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. When a public hearing is held, the Department will consider comments from the public hearing in the final determination on the NPDES permit application.

Coal NPDES Draft Permits

California District Mining Office: 25 Technology Drive, California Technology Park, Coal Center, PA 15423, 724-769-1100, (Contact: Bonnie Herbert).

NPDES No. PA0600156 (Mining Permit No. 14743701), Pennsylvania Mines, LLC, 835 Hamilton Street, Suite 150, Allentown, PA 18101, a renewal to the NPDES and mining activity permit for coal refuse disposal activities for Pauline Hollow Coal Refuse Disposal Area in Rush Township, **Centre County**, affecting 150.0 surface acres. Receiving stream(s): Unnamed Tributary to Moshannon Creek for the following use: TSF. Moshannon Creek Watershed TMDL. The application was considered administratively complete: January 14, 2019. The application was received: April 9, 2018.

Unless otherwise noted for a specific outfall, the proposed effluent limits for all outfalls in this permit are the BAT limits described previously for coal mining activities.

Outfall 001 discharges to: Unnamed Tributary to Moshannon Creek

The proposed effluent limits for *Outfall 001* (Lat: 40° 52' 21.3" Long: -78° 14' 2.3") are:

The following effluent limitations and monitoring requirements apply to the subject outfall from PERMIT EFFECTIVE DATE to PERMIT EXPIRATION DATE:

Parameter		Minimum	30-Day Average	Daily Maximum	Instant. Maximum
Flow	(mgd)	-	-	-	Report
Iron	(mg/l)	-	1.5	3.0	3.8
Manganese	(mg/l)	-	1.0	2.0	2.5
Aluminum	(mg/l)	-	0.75	0.75	0.75
Suspended Solids	(mg/l)	-	35	70	90
pH	(S.U.)	6.0	-	-	9.0
Alkalinity, Total as CaCO ₃	(mg/l)	-	-	-	Report
Acidity, Total as CaCO ₃	(mg/l)	-	-	-	Report
Alkalinity, Net	(mg/l)	0.0	-	-	-
Osmotic Pressure	(mOs/kg)	-	50	50	50
Total Dissolved Solids	(mg/l)	-	-	-	Report
Sulfate	(mg/l)	-	-	-	Report
Chloride	(mg/l)	-	-	-	Report
Bromide	(mg/l)	-	-	-	Report

The EPA Waiver is not in effect (Moshannon Creek Watershed TMDL).

Noncoal NPDES Draft Permits

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118, (Contact: Theresa Reilly-Flannery).

Permit No. PA0224332 on SMP No. 64030301. E.R Linde Construction Corporation (9 Collan Park, Honesdale, PA 18431), renewal of an NPDES Permit for a sandstone quarry operation in Palmyra Township, **Wayne County**, affecting 94.3 acres. Receiving stream: Middle Creek, classified for the following use: HQ—cold water fish. The first downstream potable water supply intake from the point of discharge is NRG Energy Portland Generating Station. The Department has made a tentative determination to impose effluent limitations, within the ranges specified in Table 1 for pH, total suspended solids, turbidity, oil and grease, acidity, alkalinity and net alkalinity which apply to dry weather discharges. in addition to the limits identified in Table 2, which apply to precipitation events less than and equal to the 10-year/24-hour precipitation event. Application received: July 23, 2019.

Outfall Nos.		New Outfall (Y/N)		Type
SP-02		N		Stormwater
<i>Outfalls: SP-02</i>				
<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
Total Suspended Solids (mg/L)		35.0	70.0	90.0
Turbidity NTU (HQ & EV Only, E&S/Storm water)		40.0	80.0	100.0
Oil and Grease (mg/l)				Report
Total Acidity (mg/L)				Report
Net Alkalinity (mg/L)	0.0			
Total Alkalinity (mg/L)				Report
<i>Outfalls: SP-02</i>				
<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
pH (S.U.)	6.0			9.0
Total Settleable Solids (mL/L)				0.5
Total Acidity (mg/L)				Report
Net Alkalinity (mg/L)	0.0			
Total Alkalinity (mg/L)				Report

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 of Environmental Protection. Section 401 of the Federal Water Pollution Control Act (FWPCA)

(33 U.S.C.A. § 1341), requires the State to certify that the involved projects will not violate the applicable provisions of 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 or to the issuance of a Dam Permit or Water Obstruction and Encroachment Permit, or the approval of an Environ-

mental Assessment must submit any comments, suggestions or objections within 30-days of the date of this notice, as well as any questions to the office noted above the 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 the hours of 8:00 AM and 4:00 PM on each working day at the office noted above the application.

If you are a person with a disability and wish to attend the hearing and you require an auxiliary aid, service or other accommodation to participate in the proceedings, please contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

WATER OBSTRUCTIONS AND ENCROACHMENTS

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 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

Southeast Region: Waterways & Wetlands Program Manager, 2 East Main Street, Norristown, PA 19401, Telephone 484.250.5160, E-mail: ra-epww-sero@pa.gov.

Permit No. E23-551, Swarthmore College, 500 College Avenue, Swarthmore, PA 19081-1390, Swarthmore Borough, **Delaware County**, ACOE Philadelphia District.

To restore, rehabilitate, and maintain an approximately 834-foot long eroded stream and banks along the swale and UNT to Crum Creek, (WWF/MF) associated with the improvements and several aspects of ecological uplift. The project will include the installation of riffles, Log Vanes, and about 30-inch high imbricated rock walls to support the stabilization.

The site is located about 500-feet southwest of Cedar Lane and Collegeville Avenue (Lansdowne, PA, USGS Quadrangle Latitude: 39.904427; Longitude: -75.356854) in Swarthmore Borough, Delaware County.

Northeast Region: Waterways & Wetlands Program, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Contact: Gillian Ostrum, Clerk Typist 2, 570-830-3077.

E5402220-023. Minersville Sewer Authority, 2 East Sunbury Street, Minersville, PA 17954, in Branch Township, **Schuylkill County**, U.S. Army Corps of Engineers, Philadelphia District.

To fill and maintain a 0.01-acre area within the floodplain of the West Branch of the Schuylkill River (CWF, MF) consisting of a 20-foot long, 12-foot wide emergency generator facility and concrete pad. The project is located directly west of the existing Minersville Sewer Authority Wastewater Treatment Plant building, approximately 0.38 mile south of the intersection of

Pottsville-Minersville Highway (S.R. 901) and East Sunbury Street (Swatara Hill, PA Quadrangle Latitude: 40° 41' 9" Longitude: -76° 15' 20") in Branch Township, Schuylkill County. (Swatara Hill, PA Quadrangle, Latitude: 40° 41' 9"; Longitude: -76° 15' 20").

E4802220-023. John Cornell, 1606 Sullivan Trail, Forks, PA 18040, in Forks Township, **Northampton County**, U.S. Army Corps of Engineers, Philadelphia District.

To construct approximately 8,300 feet of new roadways and supporting utilities and includes the construction of a precast concrete arch bridge. This is part of a larger project (PAD480116) of a proposed residential development located in Forks Township, Northampton County. The proposed 40-foot span arch bridge will carry Ben Jon Road over UNT to Bushkill Creek (CWF, MF), there are no other proposed road crossings for this project. Grading is proposed along the outer edges of the channel and to relocate an existing Forks Township sanitary sewer interceptor, which runs parallel to the channel. The proposed bridge will reduce water surface elevations upstream, by eliminating existing inadequate culverts at this location. The project is located on the north side of Zucksville Road (SR 2036) in Fork Township, Northampton County. Quadrangle Latitude: 40° 43' 18" Longitude: -75° 14' 07". (Easton, PA Quadrangle, Latitude: 40° 43' 18"; Longitude: -75° 14' 07").

Southcentral Region: Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110.

E0603220-025. UGI Utilities, 1 UGI Drive, Denver, PA 17517 in Amity Township, **Berks County**, U.S. Army Corps of Engineers Philadelphia District.

To fill and relocate 31-linear feet of a UNT to Monocacy Creek (WWF, MF) permanently impacting 775 square feet of UNT to Monocacy Creek, 99 square feet of Monocacy Creek (WWF, MF) and 702 square feet of forested wetlands all for the purpose of restoring cover to an exposed 12-inch gas pipeline. The project is located all US Highway 422 Business north of the intersection of Limekiln Road (Latitude: 40.274576, Longitude -76.781549) in Amity Township, Berks County.

E2103220-021. Sporting Hill I LP, 2 Kacey Court, Suite 201, Mechanicsburg, PA 17055 in Hampden Township, **Cumberland County**, U.S. Army Corps of Engineers Baltimore District.

The applicant proposes to 1) place and maintain fill in 0.03 acre of Palustrine Emergent (PEM) wetland within the watershed of Conodoguinet Creek (WWF) and 2) enclose 160 linear feet of stream channel under waiver 25 Pa. Code § 105.12(a)(2), all for the purpose of constructing two multi-family residential buildings along Sporting Hill Road in Hampden Township, Cumberland County (Latitude: 40° 14' 18"; Longitude: -76° 58' 15.58").

E0103120-021. PA Department of Transportation Engineering District 8-0, 2140 Herr Street, Harrisburg, PA 17103-1699 in, Latimore Township, **Adams County**, U.S. Army Corps of Engineers Baltimore District.

To rehabilitate and maintain a three-span, camelback stone masonry 70.5 foot x 16.5 foot bridge over Bermudian Creek (WWF, MF) along S.R. 1005, Section 009 (Latimore Valley Road) and replace and maintain pipe culvert in UNT to Bermudian Creek (WWF) for the purpose of improving transportation safety in Latimore Township, Adams County (40.001520; -77.58616) or (40° 00' 03", -77° 03' 30"). The project proposes to permanently impact 44 linear feet of stream channel and

0.01 acre and temporarily impacting 48 linear feet of stream channel and 0.01 acre wetland.

ENVIRONMENTAL ASSESSMENTS

Central Office: Bureau of Waterways Engineering and Wetlands, Rachel Carson State Office Building, Floor 2, 400 Market Street, Harrisburg, PA 17101, telephone number: 717-787-3411.

D04-031. Albert Wasilewski, PA DCNR, 3000 State Route 18, Hookstown, PA 15050. Hanover Township, **Beaver County**, USACOE Pittsburgh District.

Project proposes to remove the Group Camp Dam to eliminate a threat to public safety and to restore approximately 2,000 feet of stream channel to a free-flowing condition. The proposed restoration project includes con-

struction of a stream channel through the north side of the impoundment where accumulated sediment is significantly less than most of the impoundment. The project includes construction of valley-wide grade control structures, and root wad and log habitat enhancement and stream bank armoring structures in the stream channel through the former reservoir. Given the significant volume of sediment stored in the impoundment, four feet of the dam will remain in place to retain the sediment. The downstream surface will be built up to the top of the remaining dam and an artificial riffle/stream channel will be constructed and will transition to the natural stream invert approximately 200 feet downstream from the dam. The project is located across Traverse Creek (HQ-CWF, TSF) (Hookstown, PA Quadrangle, Latitude: 40.5133; Longitude: -80.4452).

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—691.1001) 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 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, P.O. 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.

Southcentral Region: Clean Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, Email: RA-EPNPDES_SCRO@pa.gov.

<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>
PA0084328 (Sewage) Issued	Magnesita Refractories York Quarry 425 S Salem Church Road York, PA 17408-5955	York County West Manchester Township	UNT to Honey Run (TSF) and Unnamed Tributary of Codorus Creek (WWF, MF) in Watershed(s) 7-H and 7-F	Y
PA0031992 (Sewage) Issued	Greenwood Furnace State Park 15795 Greenwood Road Huntingdon, PA 16652-5831	Huntingdon County Jackson Township	East Branch Standing Stone Creek (HQ-CWF) in Watershed(s) 11-B	Y
PA0248029 (Sewage) Issued	Hustontown STP P.O. Box 606 Hustontown, PA 17229-0606	Fulton County Dublin Township	Unnamed Tributary to Lamberson Branch (HQ-CWF) in Watershed(s) 12-C	Y
PA0080586 (Sewage) Issued	Morton Bldg. Manufacturing 3370 York Road Gettysburg, PA 17325-8258	Adams County Straban Township	Unnamed Tributary to Swift Run (WWF) in Watershed(s) 7-F	Y
PA0085073 (Sewage) Issued	Wood Broad Top Wells P.O. Box 7 Wood, PA 16694-0007	Huntingdon County Wood Township	Unnamed Tributary to Great Trough Creek (TSF) in Watershed(s) 11-D	Y
PA0087408 (Sewage) Issued	Trainers Midway Lodgings P.O. Box 6 Bethel, PA 19507-0006	Berks County Bethel Township	Unnamed Tributary to Little Swatara Creek (CWF) in Watershed(s) 7-D	Y

Northcentral Region: Clean Water Program Manager, 208 W Third Street, Suite 101, Williamsport, PA 17701-6448. Phone: 570.327.3636.

<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>
PA0020583 (Sewage)	Middleburg Municipal Authority Wastewater Treatment Plant 13 N Main Street Middleburg, PA 17842-1082	Snyder County Middleburg Borough	Middle Creek (TSF) (6-A)	No

Southwest Region: Clean Water Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Email: RA-EPNPDES_SWRO@pa.gov.

<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>
PA0255688 (Sewage)	Miller SRSTP 135 Sandy Drive Clinton, PA 15026-1325	Beaver County Hanover Township	Unnamed Tributary to Traverse Creek (HQ-CWF) (20-D)	Yes

Northwest Region: Clean Water Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481, Phone: 814.332.6942, Email: RA-EPNPDES_NWRO@pa.gov.

<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>
PA0263541 (Sewage)	Thomas Young SFTF 209 Center Drive Chicora, PA 16025	Butler County Oakland Township	Unnamed Tributary to the Thorn Creek (HQ-WWF) (20-C)	Yes
PA0101176 (Sewage)	Harvey J. Wolfe SFTF 1547 Rosely Road Saint Marys, PA 15857	Elk County Saint Marys City	Unnamed Tributary to the South Fork West Creek (HQ-CWF, MF) (8-A)	Yes
PA0222780 (Sewage)	Scott Zimmerman SFTF 4822 Glen Hazel Road Wilcox, PA 15870	Elk County Jones Township	Unnamed Tributary to the East Branch Clarion River (HQ-CWF) (17-A)	Yes

II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions.

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

NPDES Permit No. PA0058840, Sewage, SIC Code 4952, **Hilltown Township Water & Sewer Authority, Bucks County**, 316 Highland Park Road, Sellersville, PA 18960-0365.

This existing facility is located in Hilltown Township, **Bucks County**.

Description of Existing Action/Activity: Issuance of an NPDES Permit for an existing discharge of treated sewage.

Southwest Region: Clean Water Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Email: RA-EPNPDES_SWRO@pa.gov.

NPDES Permit No. PA0026751, Sewage, SIC Code 4952, **Indiana Borough, Indiana County**, 80 N 8th Street, Indiana, PA 15701.

This existing facility is located in Indiana Borough, **Indiana County**.

Description of Existing Action/Activity: Issuance of an NPDES Permit for an existing discharge of treated sewage.

Northwest Region: Clean Water Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

NPDES Permit No. PA0288292, Sewage, SIC Code 8800, **Susan Strohmeier**, 5906 Footemill Road, Erie, PA 16509-3806.

This proposed facility is located in Greene Township, **Erie County**.

Description of Proposed Action/Activity: Issuance of an NPDES Permit for a new discharge of treated sewage.

NPDES Permit No. PA0288306, Sewage, SIC Code 8800, **Susan Strohmeier**, 5906 Footemill Road, Erie, PA 16509-3806.

This proposed facility is located in Greene Township, **Erie County**.

Description of Proposed Action/Activity: Issuance of an NPDES Permit for a new discharge of treated sewage.

NPDES Permit No. PA0288268, Sewage, SIC Code 8800, **Aldo DeSanto**, 1660 Headin Lane, Southaven, MS 38672-8502.

This proposed facility is located in Greene Township, **Erie County**.

Description of Proposed Action/Activity: Issuance of an NPDES Permit for a new discharge of treated sewage.

NPDES Permit No. PA0288098, Sewage, SIC Code 8800, **Sarah Eberle**, 304 Margaret Avenue, Evans City, PA 16033.

This proposed facility is located in Forward Township, **Butler County**.

Description of Proposed Action/Activity: Issuance of an NPDES Permit for a new discharge of treated sewage.

NPDES Permit No. PA0288438, Sewage, SIC Code 8800, **Anne Slanina**, 286 Donation Road, Greenville, PA 16125-8008.

This proposed facility is located in Hempfield Township, **Mercer County**.

Description of Proposed Action/Activity: Issuance of an NPDES Permit for a new discharge of treated sewage.

III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law.

Southcentral Region: Clean Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, Email: RA-EPNPDES_SCRO@pa.gov.

WQM Permit No. 0186409 A1, Sewerage, SIC Code 4952, **York Springs STP**, PA Route 94 & US Route 15, York Springs, PA 17372.

This proposed facility is located in York Springs Borough, **Adams County**.

Description of Proposed Action/Activity:

This (permit/amendment) approves the (construction/modification) of sewage facilities consisting of: The Trojan ultraviolet disinfection system (or equivalent) is proposed to replace an existing chlorine system. The electrical and controls for the UV system will be located in the existing chlorine contact structure. The UV system will be modular in nature, with lights, controls, and a stainless-steel channel and flow control weir. The UV system consists of 2 banks with 4 modules per bank and 2 lamps per module. Each bank is sized to disinfect up to 100% of the maximum potential peak flow up to 0.56 MGD at a dose of 30.0 mJ/cm² at 65% minimum transmission. The system will allow for ease of maintenance and the ability to take one rack (channel) out of service while continuing to utilize the other fully redundant rack (channel). The system will be equipped with number UV intensity monitor in mW/cm².

WQM Permit No. 0683408 A-1, Sewerage, SIC Code 4952, **Robeson Township STP**, 8 Boonetown Road, Birdsboro, PA 19508

This proposed facility is located in Robeson Township, **Berks County**.

Description of Proposed Action/Activity:

This permit approves the construction of sewage facilities consisting of:

- Two (2) Peristaltic Pumps capable of pumping 8.0 GPD at a maximum pressure of 100 psi.

- Duplex Chemical Metering Skid.
- Three (3) 55-gallon polyethylene drums placed on a Secondary Containment Pallet (66-gallon capacity).

Northcentral Region: Regional Clean Water Program Manager, 208 W Third Street, Suite 101, Williamsport, PA 17701-6448, Phone: 570.327.3636.

WQM Permit No. 4173403 A-1, Sewage, SIC Code 5271, **Happy Homes Kehrer LLC**, 5567 Reseda Boulevard, Suite 330, Tarzana, CA 91356-2673.

This existing facility is located in Fairfield Township, **Lycoming County**.

Description of Proposed Action/Activity: Construction/installation of a new chlorine contact tank and aeration system improvements.

Northwest Region: Clean Water Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

WQM Permit No. 2520408, Sewage, SIC Code 8800, **Susan Strohmeier**, 5906 Footemill Road, Erie, PA 16509-3806.

This proposed facility is located in Greene Township, **Erie County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

WQM Permit No. 2520409, Sewage, SIC Code 8800, **Susan Strohmeier**, 5906 Footemill Road, Erie, PA 16509-3806.

This proposed facility is located in Greene Township, **Erie County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

WQM Permit No. 2589409 A-1, Sewage, SIC Code 8800, **Aldo Desanto**, 1660 Headin Lane, Southaven, MS 38672-8502.

This existing facility is located in Greene Township, **Erie County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

WQM Permit No. 1020402, Sewage, SIC Code 8800, **Sarah Eberle**, 304 Margaret Avenue, 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. 4320406, Sewage, SIC Code 8800, **Anne Slanina**, 286 Donation Road, Greenville, PA 16125-8008.

This proposed facility is located in Hempfield Township, **Mercer County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

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, 570-826-2511.

Contact: Gillian Ostrum, Clerk Typist 2, 570-830-3077.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD390009 Authorization/ Issuance	Dorney Park & Wildwater Kingdom 3830 Dorney Park Road Allentown, PA 18104	Lehigh	South Whitehall Township	Little Lehigh Creek (HQ-CWF, MF)
PAD450100 Authorization/ Issuance	Robert K. Latzanich P.O. Box 759 Mount Pocono, PA 18344	Monroe	Coolbaugh Township	EV Wetlands (EV) to Red Run (HQ-CWF, MF)
PAD640022 Authorization/ Issuance	PPL Electric Utilities Corp. c/o Luke Portieles 2 North 9th Street GENN 4 Allentown, PA 18101	Wayne	South Canaan Lake and Salem Townships	Middle Creek (HQ-CWF, MF); Jones Creek (HQ-CWF, MF); Ariel Creek (HQ-CWF, MF); Moss Hollow Creek (HQ-CWF, MF) and Wallenpaupack Creek (HQ-CWF, MF)

Southcentral Region: Waterways & Wetlands Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD380001 A-1 Issued	Keystone Protein Company 154 West Main Street Fredericksburg, PA 17026	Lebanon	Bethel Township	UNT Elizabeth Run (WWF, MF) Erlakill Run (WWF, MF)

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD210056 Issued	Lexington Land Developers Corporation 336 West King Street Lancaster, PA 17603	Cumberland	South Middleton Township	Letort Spring Run (EV)
PAD210051 Issued	Laughner + Patel 4075 Linglestown Road Harrisburg, PA 17112	Cumberland	South Middleton Township	Letort Spring Run (HQ-CWF, MF)

Southwest Region: Dana Drake, Waterways and Wetlands Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD040006	GK Bowser, LLC 1001 Clairton Boulevard Pleasant Hills, PA 15236	Beaver County	Chippewa Township	UNT to Wallace Run (WWF); UNT to North Fork Little Beaver Creek (HQ-CWF)

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-01	General Permit for Discharges for Stormwater Discharges Associated with Small Construction Activities.
PAG-02	General Permit for Discharges of Stormwater Associated with Construction Activities
PAG-03	General Permit for Discharges of Stormwater from Industrial Activities
PAG-04	General Permit for Discharges from Small Flow Treatment Facilities
PAG-05	General Permit for Discharges from Petroleum Product Contaminated Groundwater Remediation Systems
PAG-06	General Permit for Wet Weather Overflow Discharges from Combined Sewer Systems (CSO)
PAG-07	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-08	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-08 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-08 General Permit Coverage
PAG-09	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-09 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-09 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

Southeast Region: Waterways & Wetlands Program Manager, 2 East Main Street, Norristown, PA 19401, Telephone 484-250-5160, Email: ra-epww-sero@pa.gov.

<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Facility Location: Municipality & County</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
PAC510116	PolySAT Incorporated 7240 State Road Philadelphia, PA 19135-1412	City of Philadelphia Philadelphia County	Pompeston Creek— Delaware River WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900

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<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Facility Location: Municipality & County</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
PAC230065 A-1 Major Amendment	Toll Mid-Atlantic, L.P. Company 4 Hillman Drive, Suite 120 Chadds Ford, PA 19317	Middletown Township Delaware County	Unnamed Tributary to Chester Creek and Chester Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
PAC230116 (Formerly PAG02002314006) Renewal	PennDot District 6-0 7000 Geerdes Boulevard King of Prussia, PA 19406-1525	Bethel Township Concord Township Thornbury Township Delaware County	Webb Creek TSF-MF Green Creek CWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
PAC090369	Forest Park at Southampton LLC 37 West 47th Street New York, NY 10036	Upper Southampton Township Bucks County	Mill Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
PAC090373	Chick-fil-A 5200 Buffington Road Atlanta, GA 30359-2945	Middletown Township Bucks County	Unnamed Tributary to/Queen Anne Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
PAC090346	Nicholas Kownurko 217 Eagle Road Newtown, PA 18940	Newtown Township Bucks County	Unnamed Tributary to/Newtown Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
PAC090284	LMCC North Acquisitions, LLC 2929 Arch Street Philadelphia, PA 19104-2857	Lower Makefield Township Bucks County	Core Creek CWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
PAC090379 (PAG0200915080 Major Amendment)	Warwick Mill, LLC 330 South Randolphville Road Piscataway, NJ 08855-4110	Warwick Township Bucks County	Unnamed Tributary/ Neshaminy Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
PAC090092	Zaveta Custom Homes, LLC 4030 Skyron Drive Suite G Doylestown, PA 18901	Upper Makefield Township Bucks County	Unnamed Tributary/ Jericho Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
PAC090118	PA Biotechnology Center 3805 Old Easton Road Doylestown, PA 18901	Buckingham Township Bucks County	Unnamed Tributary/ Pine Run TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
PAC090364	Buckingham Township 4613 Hughesian Drive Buckingham, PA 18912-0413	Buckingham Township Bucks County	Watson Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900

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<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Facility Location: Municipality & County</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
PAC090332	Scott Wolfinger 3 Geranium Court Newtown, PA 18940-9270	Upper Makefield Township Bucks County	Houghs Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
PAC510168	Chestnut Street L.P. 900 7th Street, NW Suite 600 Washington, D.C. 20001	City of Philadelphia Philadelphia County	Delaware River WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
PAC510169	1101 Chestnut Street L.P. 900 7th Street, NW Suite 600 Washington, D.C. 2001	City of Philadelphia Philadelphia County	Delaware River WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
PAC510116	PolySAT Incorporated 7240 State Road Philadelphia, PA 19135-1412	City of Philadelphia Philadelphia County	Pompeston Creek— Delaware River WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
PAC510165	Amazon 300 Boren Avenue Seattle, WA 98109-5305	City of Philadelphia Philadelphia County	Schuylkill River WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
PAC510152	Soz De Ave Apartments Owner, LLC 2301 Washington Avenue Suite 111 Philadelphia, PA 19146	City of Philadelphia Philadelphia County	Delaware River WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
PAC230145	Ray Iacobucci 1 Raymond Drive Havertown, PA 19083	Chester Heights Borough Delaware County	Chester Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
PAC230149	Sarah Peck 125 Stafford Avenue Wayne, PA 19047	Nether Providence Township Delaware County	Vernon Run TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
PAC230158	Robert Riegel 50 East Eagle Road Havertown, PA 19083	Haverford Township Delaware County	Cobbs Creek Naylor's Run WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900

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Northeast Region: Waterways and Wetlands Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915, 570-826-2511.

Contact: Gillian Ostrum, Clerk Typist 2, 570-830-3077.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone Number</i>
PAC400170 Authorization/ Issuance	PPL Electric Utilities Corp Luke Portieles 2 N Ninth St Genn 4 Allentown, PA 18101-1139	Luzerne	Plains Twp Jenkins Twp Lafin Boro	Mill Creek (CWF, MF) Gardner Creek (CWF, MF)	Luzerne Conservation District 325 Smiths Pond Road Shavertown, PA 18708 570-674-7991
PAC400017 A-1 Authorization/ Issuance	Neal A Deangelo 8 W Broad St Ste 1000 Hazle Twp, PA 18201	Luzerne	Hazle Twp	UNT to Stony Creek (CWF, MF)	Luzerne Conservation District 325 Smiths Pond Road Shavertown, PA 18708 570-674-7991
PAC400168 Authorization/ Issuance	Geisinger Wyoming Valley Medical Center Alan Neuner 1000 E Mtn Blvd. Wilkes-Barre, PA 18711	Luzerne	Plains Twp	Mill Creek (CWF, MF)	Luzerne Conservation District 325 Smiths Pond Road Shavertown, PA 18708 570-674-7991

Southcentral Region: Waterways and Wetlands Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone Number</i>
PAC010135 Issued	John H. McAlister 1004 Washington Road Westminster, MD 21157	Adams	Mount Joy Township	UNT 59082 Littles Run (WWF)	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325-3404 717.334.0636
PAC010131 Issued	Lexington Land Developers Corp 336 West King Street Lancaster, PA 17603	Adams	Reading Township	UNT Conewago Creek (WWF) UNT 57470757 Conewago Creek (WWF) UNT 57471109 Conewago Creek (WWF)	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325-3404 717.334.0636
PAC220034 Issued	Cider Press Assoc. LLC 4712 Smith Street Harrisburg, PA 17109	Dauphin	Lower Paxton Township	UNT Nyes Run (WWF)	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717.921.8100
PAC220056 Issued	Deodate Assoc, LLP 4400 Deer Path Road Harrisburg, PA 17110	Dauphin	Conewago Township Londonderry Township	Brills Run (TSF)	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717.921.8100

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone Number</i>
PAC220031 Issued	Penn Grant Assoc LLC 633 West Germantown Pike Plymouth Meeting, PA 19462	Dauphin	Lower Paxton Township	Spring Creek (CWF)	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717.921.8100
PAC220014 Issued	Triple Crown Corporation 5351 Jaycee Avenue Harrisburg, PA 17112	Dauphin	Lower Paxton Township Susquehanna Township	Paxton Creek (WWF)	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717.921.8100
PAC220052 Issued	Penn State Health Hershey Med Center 90 Hope Drive Hershey, PA 17033	Dauphin	Derry Township	UNT Spring Creek East (WWF)	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717.921.8100
PAC220229 Issued	City of Harrisburg Wayne Martin 123 Walnut Street Suite 212 Harrisburg, PA 17057	Dauphin	Harrisburg City	Paxton Creek (WWF)	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717.921.8100
PAC220013 Issued	Susquehanna Area Regional Airport Authority One Terminal Drive Suite 300 Middletown, PA 17057	Dauphin	Lower Swatara Township	Susquehanna River (WWF)	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717.921.8100
PAC220218 Issued	DH Warehouse 6259 Reynolds Mill Road Seven Valleys, PA 17360	Dauphin	Lower Swatara Township	UNT Susquehanna River (WWF)	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717.921.8100
PAC220203 Issued	Fishing Creek Valley Associates, LLP 4712 Smith Street Harrisburg, PA 17109	Dauphin	West Hanover Township	Walnut Run (WWF, MF)	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717.921.8100
PAC220223 Issued	Michael & Elizabeth Federici 436 Laurel Drive Hershey, PA 17033	Dauphin	Derry Township	UNT Spring Creek East (WWF, MF)	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717.921.8100
PAC220232 Issued	Mission Land Company 5755 Union Deposit Road Harrisburg, PA 17111	Dauphin	South Hanover Township	Kellock Run (WWF)	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717.921.8100
PAC220236 Issued	PPL Electric Utilities Corporation 2 North 9th Street Glenn 4 Allentown, PA 18101	Dauphin	Washington Township Wiconisco Township	Wiconisco Creek (WWF)	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717.921.8100

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<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone Number</i>
PAC310014 Issued	PA Game Commission 2001 Elmerton Avenue Harrisburg, PA 17110	Huntingdon	Smithfield Township	UNT Juniata River (WWF, MF)	Huntingdon County Conservation District 10605 Raystown Road Suite A Huntingdon, PA 16652-9603 814.627.1627
PAC670388 Issued	Dover Highlands LP 1 Waterford Professional Center York, PA 17402	York	Dover Township	UNT Fox Run (TSF)	York County Conservation District 118 Pleasant Acres Road York, PA 17402 717-840-7430
PAC670336 Issued	Poplar Partners 130 Carlisle Street Hanover, PA 17331	York	Jackson Township	Codorus Creek (WWF)	York County Conservation District 118 Pleasant Acres Road York, PA 17402 717-840-7430
PAC670384 Issued	Clover Lane Development LP 160 Ram Drive Hanover, PA 17331	York	Penn Township	UNT Plum Creek (WWF)	York County Conservation District 118 Pleasant Acres Road York, PA 17402 717-840-7430

Northwest Region: Waterways & Wetlands Program, 230 Chestnut Street, Meadville, PA 16335-3481.

<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Facility Location: Municipality & County</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
PAC240017	Allegheny Coatings Inc P.O. Box 186 Ridgway, PA 15853	Ridgway Township Elk County	Mahon Run CWF	Elk County Conservation District 850 Washington Street St. Marys, PA 15857 814-776-5373
PAC240019	Kenneth Huey 150 Upper Cherry Road Kersey, PA 15846	Fox Township Elk County	UNT to Daguscahonda Run CWF	Elk County Conservation District 850 Washington Street St. Marys, PA 15857 814-776-5373

General Permit Type—PAG-03

Southcentral Region: Clean Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, Email: RA-EPNPDES_SCRO@pa.gov.

<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Facility Location: Municipality & County</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
PAR123555 A-1	DFA Dairy Brands Fluid LLC 2401 Walnut Street Lebanon, PA 17042-9444	Cornwall Township Lebanon County	Snitz Creek (TSF, MF) in Watershed(s) 7-D	SCRO, Clean Water Program 717-705-4812

STATE CONSERVATION COMMISSION
NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR NPDES
PERMITS FOR CAFOs

The State Conservation Commission has taken the following actions on previously received applications for nutrient management plans under 3 Pa.C.S. Chapter 5, for agricultural operations that have or anticipate submitting applications for new, amended or renewed NPDES permits or NOIs for coverage under a general permit for CAFOs under 25 Pa. Code Chapter 92a. This notice is provided in accordance with 25 Pa. Code Chapter 92a and 40 CFR Part 122, implementing The Clean Streams Law and the Federal Clean Water Act.

Persons aggrieved by an action may appeal under 3 Pa.C.S. § 517, section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704 to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service at (800) 654-5984. Appeals must be filed with the Board within 30-days of publication of this notice in the *Pennsylvania Bulletin*. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge actions, appeals must reach the Board within 30-days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary of the Board at (717) 787-3483 for more information.

NUTRIENT MANAGEMENT PLAN
CAFO PUBLIC NOTICE SPREADSHEET—ACTIONS

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>AEU's</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Approved or Disapproved</i>
Rick Cramer Noah W. Kreider & Sons, LLP— Mt. Pleasant Facility 1486 Mt. Pleasant Road Lebanon, PA 17042	Lebanon	115.5	7,396.8	Layer	NA	Approved
Ben Moyer 20 Dead End Road Annville, PA 17003	Lebanon	55	269.09	Broiler	NA	Approved
S&J Farms, LLC 9454 Newburg Road Newburg, PA 17240	Franklin	542	658.79	Poultry and Beef	NA	Approved
Mercer Vu Farms, Inc. 12275 Mt. Pleasant Road Mercersburg, PA 17236	Franklin	2,917.3	2,917.24	Dairy	HQ	Approved
David Brenize 7201 Sunset Rd Newburg, PA 17240	Franklin	0	384.43	Poultry	NA	Approved

PUBLIC WATER SUPPLY PERMITS

The Department has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P.S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704. The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. 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 (35 P.S. §§ 721.1—721.17).

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, 570-826-2511.

Contact: Gillian Ostrum, Clerk Typist 2, 570-830-3077.

Permit No. 2640036, Operation Permit, Public Water Supply.

Applicant **Wallenpaupack Lake Estates Property Owners Association**
114 Wallenpaupack Drive
Lake Ariel, PA 18436

Municipality Paupack Township

County **Wayne**

Type of Facility Public Water Supply

Consulting Engineer Douglas E. Berg, P.E.
Entech Engineering, Inc.
8 Silk Mill Drive
Hawley, PA 18428

Permit to Operate Issued July 20, 2020

Permit No. 3130004, Operation Permit, Public Water Supply.

Applicant **Lansford-Coaldale Joint Water Authority**
1 East Ridge Street
P.O. Box 147
Lansford, PA 18232

Municipality Nesquehoning Borough

County **Carbon**

Type of Facility Public Water Supply

Consulting Engineer Keith R. Showalter, P.E.
Systems Design Engineering, Inc.
1032 James Drive
Leesport, PA 19533

Permit to Operate Issued July 21, 2020

Southcentral Region: Safe Drinking Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 2120501, Public Water Supply.

Applicant **SUEZ Water Pennsylvania, Inc.**

Municipality Upper Allen Township

County **Cumberland**

Responsible Official John D. Hollenbach
General Manager
4211 East Park Circle
Harrisburg, PA 17111-0151

Type of Facility The consolidation of SUEZ Mechanicsburg (PWS ID No. 7210028), SUEZ Grantham (PWS ID No. 7210027), and SUEZ Center Square (PWS ID No. 7210054) public water systems, which includes the installation of two (2) pressure-reducing valve vaults and the cessation of fluoridation in PWS ID No. 7210028.

Consulting Engineer Brendan West, P.E.
Suez Water Pennsylvania Inc.
6310 Allentown Blvd
Harrisburg, PA 17112

Permit to Construct Issued July 14, 2020

Northcentral Region: Safe Drinking Water Program Manager, 208 West Third Street, Williamsport, PA 17701.

Permit No. 1720502MA, Construction/Operation, Public Water Supply.

Applicant **Westover Municipal Authority**
P.O. Box 199
Westover, PA 16692-0199

Borough or Township Westover Borough

County **Clearfield County**

Type of Facility 6170040

Consulting Engineer Joseph Hunt, P.E.
JHA Companies
466 S Main St
Montrose, PA 18801

Permit Issued July 15, 2020

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted Under the Pennsylvania Sewage Facilities Act, Act of January 24, 1966, P.L. 1535, as amended, 35 P.S. § 750.5.

Southcentral Region: Clean Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Lower Swatara Township	1499 Spring Garden Drive Middletown, PA 17057	Dauphin County

Plan Description: Approval of a revision to the official plan of Lower Swatara Township, Dauphin County has been issued. This action is a result of the review of a planning module for the Wilsbach Distribution Facility Development (DEP Code No. B3-22922-203-3; APS ID No. 1014340). The proposed development—to be located at 1977 Oberlin Road in Lower Swatara Township—consists of the construction of one warehouse and one office building with total sewage flows of 1,500 gpd. The Department’s review of the plan revision has not identified any significant impacts resulting from this proposal. Permits for onlot sewage disposal systems must be obtained from the municipality.

SEWAGE FACILITIES ACT PLAN DISAPPROVAL

Plan Disapprovals Granted Under the Pennsylvania Sewage Facilities Act, Act of January 24, 1966, P.L. 1535, as amended, 35 P.S. § 750.5.

Southcentral Region: Clean Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Plan Location:

Borough or Township	Borough or Township Address	County
East Lampeter Township	2250 Old Philadelphia Pike Lancaster, PA 17602	Lancaster County

Plan Description: The planning module for the Hyatt House & Marriott Towneplace Hotels Development (DEP Code No. B3-36929-430-3; APS ID No. 1016814) has been disapproved. The proposed development—to be located on the 2200 block of Lincoln Highway East in Lancaster—consists of the demolition of three existing commercial buildings and a residential building to be replaced by two extended-stay hotels. This planning module has been disapproved because the submission did not include payment of the module review fee.

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—6026.908).

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 con-

cerning 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 & Brownfields Program Manager, 2 East Main Street, Norristown, PA 19401.

4801 West Jefferson Street, 4801 West Jefferson Street, City of Philadelphia, **Philadelphia County**. Juddson Herr, PG, Langan Engineering and Environmental Services, Inc., 2700 Kelly Road, Warrington, PA 18976 on behalf of Marlin E. Thomas, Supra Enterprises Limited Liability Company, 5070 Parkside Avenue, Suite 3200, Philadelphia, PA 19131 submitted a Baseline Environmental Report concerning remediation of site soil and groundwater contaminated with antimony, arsenic, lead, mercury naphthalene and benzo(g,h,i)perylene. The report is intended to document remediation of the site to meet the Special Industrial Area Designation.

Proposed AutoZone Store, 6301 North Broad Street, City of Philadelphia, **Philadelphia County**. James M. Connor, PG, LSRP, AEI Consultants, 20 Gibson Place, Suite 310, Freehold, NJ 07728 on behalf of Bill Roundtree, AZ Broad Street, LLC, 20 South Olive Street, Suite 203, Media, PA 19063 submitted Baseline Remedial Investigation Work Plan concerning remediation of site soil and groundwater contaminated with gasoline constituents including benzene, toluene, ethylbenzene and total xylenes. The report is intended to document remediation of the site to meet the Special Industrial Area Designation.

Harmony House Nursing Home, 8420 Roosevelt Boulevard, City of Philadelphia, **Philadelphia County**. Jeremy W. Boly, Environmental Maintenance, 1420 East Mermaid Lane, Glenside, PA 19038 on behalf of Andrea Natchione, DePaul Healthcare, 8410 Roosevelt Boulevard, Philadelphia, PA 19152 submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Dreshertown Plaza, 1424 Dreshertown Road, Upper Dublin Township, **Montgomery County**. Craig Herr, RT Environmental Services, Inc., 215 West Church Road, King of Prussia, PA 19406 on behalf of Jim Bladel, Dreshertown Plaza, LP, 1301 Lancaster Avenue, Berwyn, PA 19312 submitted a 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.

Sears Site, 6301 Market Street, Milbourne Borough/City of Philadelphia, **Delaware County/Philadelphia County**. Craig Herr, PG, RT Environmental Services Inc., 215 West Church Road, King of Prussia, PA 19406 on behalf of Michael Willner, WRD Sears, LP, 33 Rock Hill Road, Suite 350, Bala Cynwyd, PA 19004 submitted a Final Report concerning remediation of site soil contaminated with lead and No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Northeast Region: Environmental Cleanup & Brownfields Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915, 570-826-2511.

Frei Property, 1315 North Main Street, Honesdale, PA 18431, Honesdale Borough, **Wayne County**. Blue-

stone, 196 Beach Lake Highway, Honesdale, PA 18431, on behalf of John Frei, 1315 North Main Street, Honesdale, PA 18431, submitted a Final Report concerning remediation of soil contaminated by heating oil. The report is intended to document remediation of the site to meet Statewide Health Standards.

Francis Property, 311 Hickory Drive, Lakeville, PA 18438, Paupack Township, **Wayne County**. Bluestone, 196 Beach Lake Highway, Honesdale, PA 18431, on behalf of Rick Francis, 450 Quaker Hill Road, Morgantown, PA 19543, submitted a Final Report concerning remediation of soil contaminated by heating oil. The report is intended to document remediation of the site to meet Statewide Health Standards.

EMI Tamaqua (former ICI Americas), Near Route 443 West, West Penn Township, **Schuylkill County**. Element Environmental Solutions, Inc., 61 Willow Street, P.O. Box 921, Adamstown, PA 19501, on behalf of Expert Management, Inc., 525 West Van Buren Street, Chicago, IL 60607, submitted a Site-Specific Remedial Investigation Report concerning remediation of site groundwater contaminated with solvents and metals. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Gulf Oil Fullerton Terminal, 2451 Main Street, Whitehall, PA 18052, Whitehall Township, **Lehigh County**. AECOM, 510 Carnegie Center, Princeton, NJ 08540, on behalf of Lucknow Highspire Terminals LLC, 900 South Eisenhower Boulevard, Middletown, PA 17057, submitted a combined Remedial Investigation Report and Cleanup Plan concerning remediation of soil and groundwater contaminated by historic releases of petroleum products at the site. The report is intended to document remediation of the site to meet Site-Specific Standards.

Southcentral Region: Environmental Cleanup and Brownfields Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Kutztown II Aggregates, 654 Baldy Road, Kutztown, PA 19530, Maxatawny Township, **Berks County**. Reliance Environmental, Inc., 235 North Duke Street, Lancaster, PA 17602, on behalf of New Enterprises Stone & Lime Company, Inc., 350 Division Highway, East Earl, PA 17557, submitted a Final Report concerning remediation of site soil contaminated with polychlorinated biphenyls (PCBs). The Final Report is intended to document remediation of the site to meet the Residential Statewide Health Standard.

Kenneth Lehman Residence, 1239 Middletown Road, Hummelstown, PA 17036, Derry Township, **Dauphin County**. Environmental Maintenance Company, Inc., 1420 East Mermaid Lane, Glenside, PA 19038, on behalf of Hummelstown Fuel Oil Service, Inc., 10 Cameron Street, Hummelstown, PA 17036, and Kenneth Lehman, 1239 Middletown Road, Hummelstown, PA 17036, submitted a Final Report concerning remediation of site soil and groundwater contaminated with No. 2 Fuel Oil. The Final Report is intended to document remediation of the site to meet the Residential Statewide Health Standard.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701, Telephone number: 570-327-3636.

Walton Residence Heating Oil Release, 2475 Steam Mill Hollow Road, Laceyville, Tuscarora Township, **Bradford County**. Environmental Products & Services of Vermont, Inc., 1539 Bobali Drive, Harrisburg, PA 17104, on behalf of Dan Walton, 2475 Steam Mill Hollow Road, Laceyville, PA 18623, has submitted a Final Report

concerning site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Residential Statewide Health Standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995 PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P.S. §§ 6026.101—6026.907).

Section 250.8 of 25 Pa. Code and administration of the Land Recycling and Environmental Remediation Standards Act (act) require the Department to publish in the *Pennsylvania Bulletin* a notice of its final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation; concentration of regulated substances in environmental media; benefits of reuse of the property; and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the environmental cleanup program manager in the Department Regional Office under which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the community relations coordinator at the appropriate Regional Office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.

Lansdale Finishers, 117 South Broad Street, Lansdale Borough, **Montgomery County**. Marc Chartier,

Pennoni Associates, Inc., 1900 Market Street, Philadelphia, PA 19103 on behalf of Commerce Pursuit Capital, L.P. c/o Mr. Jon Herzog, Westrum Development Company, 1300 Virginia Drive, Suite 215, Fort Washington, PA 19034 submitted a Remedial Investigation Report/Clean-up Plan concerning the remediation of site groundwater contaminated with TCE. The Report was reviewed by the Department which issued a technical deficiency letter on July 13, 2020.

Southcentral Region: Environmental Cleanup and Brownfields Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Miller's Smorgasbord, 2811 Lincoln Highway, Ronks, PA 17572, East Lampeter Township, **Lancaster County**. Reliance Environmental, 235 North Duke Street, Lancaster, PA 17602, on behalf of Thomas E. Strauss, Inc., 2811 Lincoln Highway, Ronks, PA 17572, submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Non-Residential Statewide Health Standard and was approved by the Department on July 16, 2020.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701, Telephone number: 570-327-3636.

Frisbee BRA Pad, 3168 Cragle Road, Rome, Orwell Township, **Bradford County**. Creston Environmental LLC, P.O. Box 1373, Camp Hill PA 17001, on behalf of Chesapeake Appalachia, LLC, 300 N 2nd Street, 5th FL, Harrisburg, PA 17101, has submitted a Final Report concerning remediation of Site soil contaminated with produced fluid. The Final Report demonstrated attainment of the Residential Statewide Health Standard for soil and was approved by the Department on July 7, 2020.

Former LaFarge Road Marking Facility, 373 Village Road, Pennsdale, Muncy Township, **Lycoming County**. Environmental Planning Specialists, Inc., 400 Northridge Road, Suite 400, Sandy Springs, GA 30350, on behalf of LaFarge Road Marking, Inc., 67 Jaime Court, Morris Plains, NJ 07950, has submitted a Final Report concerning site soil and groundwater contaminated with chlorinated solvents and petroleum constituents. The Final Report demonstrated attainment of the Site-Specific Standard and was approved by the Department on July 16, 2020.

North Shore Railroad Company Project, US Route 11N Near Epler Road, Point Township, **Northumberland County**. Northridge Group, Inc., P.O. Box 231, Northumberland, PA 17857, on behalf of North Shore Railroad Company, 356 Priestley Avenue, Northumberland, PA 17857, has submitted a Final Report concerning remediation of site soil contaminated with diesel fuel. The Final Report demonstrated attainment of the Non-Residential Statewide Health Standard and was approved by the Department on July 13, 2020.

Czop Unit Pad, 314 Cold Spring Road, Shunk, Fox Township, **Sullivan County**. Resource Environmental Management, Inc., 50 Maple Street, Montrose, PA 18801, on behalf of Chief Oil & Gas, LLC, 1720 Sycamore Road, Montoursville, PA 17754, has submitted a Final Report concerning remediation of site soil contaminated with produced fluid. The Final Report demonstrated attainment of the Residential Statewide Health Standard and was approved by the Department on July 15, 2020.

Ingalls 710 Well Pad, 11759 Route 414, Ogdensburg, Liberty Township, **Tioga County**. Civil & Environmental

Consultants, Inc., 333 Baldwin Road, Pittsburgh, 15205, on behalf of Rockdale Marcellus, LLC, 4600 J Barry Court, Suite 120, Canonsburg, PA 15317, has submitted a Final Report concerning remediation of site soil contaminated with produced water. The Final Report demonstrated attainment of the Residential Background and Statewide Health Standards and was approved by the Department on July 8, 2020.

T Pierson 801 Pad, 497 Wetmore Road, Gaines Township, **Tioga County**. Civil & Environmental Consultants, Inc., 333 Baldwin Road, Pittsburgh, PA 15205, on behalf of Tilden Marcellus, LLC, 4600 J Barry Court, Suite 220, Canonsburg, PA 15317, has submitted a Final report concerning remediation of site soil contaminated with produced fluid. The Final Report demonstrated attainment of the Background and Residential Statewide Health Standards and was approved by the Department on July 10, 2020.

SMJ Trucking LLC Diesel Fuel & Motor Oil Cleanup, Interstate 80 at MM 204.2 E, New Columbia, White Deer Township, **Union County**. Northridge Group, Inc., P.O. Box 231, Northumberland, PA 17857, on behalf of SMJ Trucking, LLC, 33 Pamparo Avenue, FL 2, Jersey City, NJ 07305, has submitted a Final Report concerning remediation of soil contaminated with diesel fuel and motor oil. The Final Report demonstrated attainment of the Non-Residential Statewide Health Standard for soil and was approved by the Department on July 14, 2020.

HAZARDOUS WASTE TRANSPORTER LICENSE

Actions on applications for Hazardous Waste Transporter License received under the Solid Waste Management Act of July 7, 1980 (P.L. 380, No. 97) (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, P.O. Box 69170, Harrisburg, PA 17106-9170.

Renewal Applications Received

U.S. Industrial Technologies, Inc., 12000 Globe Street, Livonia, MI 48150. License No. PA-AH 0747. Effective June 25, 2020.

Stericycle Specialty Waste Solutions, Inc., 395 Baird St, Akron, OH 44311. License No. PA-AH 0770. Effective June 25, 2020.

Ryan Environmental Transport, LLC, 5793 West Veterans Memorial Highway, Bridgeport, WV 26330. License No. PA-AH 0815. Effective June 25, 2020.

Tri-County Industries, Inc., 159 TCI Park Drive, Grove City, PA 16127. License No. PA-AH 0820. Effective July 9, 2020.

Florida Transformer LLC dba Emerald Transformer, P.O. Box 507, Defuniak Springs, FL 32435. License No. PA-AH 0868. Effective July 1, 2020.

AWT Environmental Services, P.O. Box 128, Sayreville, NJ 08871. License No. PA-AH 0871. Effective July 1, 2020.

Midwest Sanitary Service, Inc., P.O. Box 83, Wood River, IL 62095. License No. PA-AH 0872. Effective July 9, 2020.

Westmoreland Sanitary Landfill, 111 Conner Lane, Belle Vernon, PA 15012. License No. PA-AH 0874. Effective June 25, 2020.

Radiac Research Corp., 261 Kent Avenue, Brooklyn, NY 11211. License No. PA-AH S007. Effective July 1, 2020.

Transporter Licenses Reissued

U.S. Industrial Technologies, Inc., 12000 Globe Street, Livonia, MI 48150. License No. PA-AH 0747. Effective June 25, 2020.

Stericycle Specialty Waste Solutions, Inc., 395 Baird St, Akron, OH 44311. License No. PA-AH 0770. Effective June 25, 2020.

Ryan Environmental Transport, LLC, 5793 West Veterans Memorial Highway, Bridgeport, WV 26330. License No. PA-AH 0815. Effective June 25, 2020.

Tri-County Industries, Inc., 159 TCI Park Drive, Grove City, PA 16127. License No. PA-AH 0820. Effective July 9, 2020.

Florida Transformer LLC dba Emerald Transformer, P.O. Box 507, Defuniak Springs, FL 32435. License No. PA-AH 0868. Effective July 1, 2020.

AWT Environmental Services, P.O. Box 128, Sayreville, NJ 08871. License No. PA-AH 0871. Effective July 1, 2020.

Midwest Sanitary Service, Inc., P.O. Box 83, Wood River, IL 62095. License No. PA-AH 0872. Effective July 9, 2020.

Westmoreland Sanitary Landfill, 111 Conner Lane, Belle Vernon, PA 15012. License No. PA-AH 0874. Effective June 25, 2020.

Radiac Research Corp., 261 Kent Avenue, Brooklyn, NY 11211. License No. PA-AH S007. Effective July 1, 2020.

HAZARDOUS WASTE TRANSPORTER LICENSE

Actions on applications for Hazardous Waste Transporter License received under the Solid Waste Management Act of July 7, 1980 (P.L. 380, No. 97) (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, P.O. Box 69170, Harrisburg, PA 17106-9170.

New Applications Received

CCI Transportation Group, LLC, 25600 Brest Rd., Taylor, MI 48180. License No. PA-AH 0902. Effective June 8, 2020.

New Transporter Licenses Issued

CCI Transportation Group, LLC, 25600 Brest Rd., Taylor, MI 48180. License No. PA-AH 0902. Effective July 9, 2020.

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 of July 7, 1980 (P.L. 380, No. 97) (35 P.S. §§ 6018.101—6018.1003) and Act 93 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, P.O. Box 69170, Harrisburg, PA 17106-9170.

New Applications Received

IPC Services, LLC, 232 E Lancaster Rd., Harmony, PA 16037. License No. PA-HC 0282. Effective June 17, 2020.

Transporter License Issued

IPC Services, LLC, 232 E Lancaster Rd., Harmony, PA 16037. License No. PA-HC 0282. Effective June 17, 2020.

HAZARDOUS WASTE TREATMENT, STORAGE & DISPOSAL FACILITIES

Permit terminated under the Solid Waste Management Act of July 7, 1980 (P.L. 380, No. 97) (35 P.S. §§ 6018.101—6018.1003) and Regulations to Operate a Hazardous Waste Treatment, Storage, or Disposal Facility.

Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.

PAR000537548. Waste Management of Fairless LLC, 1000 New Ford Mill Road, Morrisville, PA 19067. The RCRA Part B permit No. PAR000537548 has been terminated in response to the permittee's request to approve the clean closure certification report for Borrow Pit-20 (BP-20), a closed hazardous waste management unit (HWMU) that is located within the footprint of Fairless Landfill at the Keystone Industrial Port Complex (KIPC)—the former U.S. Steel Fairless Works in Falls Township, **Bucks County**. Permit termination and facility's clean closure certification report was approved by the Southeast Regional Office on June 25, 2020.

Persons interested in reviewing the clean closure certification report for the facility may contact the Pennsylvania Department of Environmental Protection (DEP) Waste Management Program Manager, Southeast Regional Office, 2 East Main Street, Norristown, PA 19401-4915, or by telephone at 484.250.5960. TDD users may contact the DEP through the Pennsylvania AT&T Relay Service, (800) 654.5984.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Permit Issued Under the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P.S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.

Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.

Permit No. 301350. Eldredge Inc., 898 Fernhill Road, West Chester PA 19380-4202. This major permit modification permit of the Solid Waste Permit No. 301350 approves several modifications of the waste processing and operations at Eldredge, Inc.'s residual waste oil processing facility located in West Goshen Township, **Chester County**. These modifications include: i) receiving additional residual waste codes; ii) performing bulk liquid solidification/stabilization; iii) modifying Form U procedures for outbound materials; iv) revising waste acceptance procedures; v) receiving liquids with elevated halogens; vi) increasing temporary storage capacity; and

vii) storing multiple materials in storage tanks. The permit modification was issued by the Southeast Regional Office on July 9, 2020.

Persons interested in reviewing the permit may contact the Pennsylvania Department of Environmental Protection (DEP) Waste Management Program Manager, Southeast Regional Office, 2 East Main Street, Norristown, PA 19401-4915, or by telephone at 484.250.5960. TDD users may contact the DEP through the Pennsylvania AT&T Relay Service, (800) 654.5984.

Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Permit No. 101634. Marsico's Septic & Environmental Services LLC, 628 Hunlock Harveyville Road, Shickshinny, PA 18655-4007. A permit reissuance to transfer the permit for the Chapin Sewage Disposal Transfer Facility located in New Columbus Borough, **Luzerne County** to Marsico's Septic & Environmental Services LLC. The permit transfer was issued by the Regional Office on July 17, 2020.

Persons interested in reviewing the general permit may contact Roger Bellas, Environmental Program Manager, Northeast Regional Office, 2 Public Square, Wilkes-Barre, PA 18701-1915 at 570-826-2511. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Contact: Raymond Kempa, New Source Review Chief—Telephone: 570-826-2531.

GP3-64-012B: Rutledge Unlimited LLC (2495 Hancock Highway, Equinunk, PA 18417) on July 20, 2020 for the operation of a portable crushing operation with water sprays located at the site in Damascus Twp., **Wayne County**.

GP9-64-012A: Rutledge Unlimited LLC (2495 Hancock Highway, Equinunk, PA 18417) on July 20, 2020 for the operation of a diesel engine located at the site in Damascus Twp., **Wayne County**.

Southcentral Region: Air Quality Program, 909 Elmer-ton Avenue, Harrisburg, PA 17110.

Contact: Thomas Hanlon, Facilities Permitting Chief, 717-705-4862, Thomas Bianca, New Source Review Chief, 717-705-4863, or William Weaver, Regional Air Quality Manager, 717-705-4702.

GP1-22-03007: UPMC Pinnacle Hospital (218 South 2nd Street, Harrisburg, PA 17104) on July 16, 2020, for two (2) existing natural gas/# 2 oil-fired boilers, 25.1 MMBtu/hr. each, at the Polyclinic Hospital located in the City of Harrisburg, **Dauphin County**. The general permit authorization was renewed.

GP13-67-05121A: York Materials Group, LLC (950 Smile Way, York, PA 17404) on July 16, 2020 for a new batch asphalt plant, under GP13, at the Roosevelt Avenue facility in West Manchester Township, **York County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701.

Contact: Muhammad Q. Zaman, Program Manager, (570) 327-3648.

AG9-49-00001A: Cherokee Pharmaceuticals, LLC (100 Avenue C, Riverside, PA 17868) on July 15, 2020 for the construction and operation of a 324 hp Cummins model C150D6D diesel-fired emergency generator engine pursuant to the General Plan Approval and/or General Operating Permit for Diesel or No. 2 Fuel-fired Internal Combustion Engines (BAQ-GPA/GP-9) at their Riverside Borough Plant in Riverside Borough, **Northumberland County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.

Contact: David Balog, New Source Review Chief—Telephone: 814-332-6940.

GP5-10-391B: Superior Appalachian Pipeline, LLC, Clinton Compressor Station (Larintown Road, Sarver, PA 16055) on July 16, 2020, for the authority to authorize a new Responsible Official (BAQ-GPA/GP5) located at their facility in Clinton Township, **Butler County**.

GP5-62-139D: Emkey Gathering LLC, Warren Compressor Station (Catline Road, Sugar Grove, PA 16350) on July 15, 2020, for the authority to continue operating existing equipment without modification in a GP-5 renewal (BAQ-GPA/GP5) located at their facility in Sugar Grove Township, **Warren County**.

Plan Approvals Issued under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

Southcentral Region: Air Quality Program, 909 Elmer-ton Avenue, Harrisburg, PA 17110.

Contact: Thomas Hanlon, Facilities Permitting Chief, 717-705-4862, Thomas Bianca, New Source Review Chief, 717-705-4863, or William Weaver, Regional Air Quality Manager, 717-705-4702.

21-03054A: Hollinger Funeral Home & Cremation, Inc. (501 North Baltimore Avenue, Mount Holly Springs, PA 17065-1609) on July 15, 2020, for the operation of a human crematory and pet crematory located in Mount Holly Springs Borough and South Middletown Township respectively in **Cumberland County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.

Contact: David Balog, New Source Review Chief—Telephone: 814-332-6940.

32-206C: Rosebud Mining Company (301 Market St., Kittanning, PA 16201). On July 15, 2020, the Department issued Air Quality Plan Approval PA-32-206C authorizing the modification of Air Quality Plan Approval PA-32-00206B to allow the increase in the maximum Raw/ROM coal to be processed to 3,000,000 tons per consecutive 12-month period at their facility known as the Clymer Tipple Coal Preparation Plant located in Cherryhill Township, **Indiana County**.

32-387C: Rosebud Mining Company (301 Market St., Kittanning, PA 16201). On July 14, 2020, the Department issued Plan Approval PA-32-387C to authorize the

installation and the temporary operation of a 450 tph wet coal preparation plant with a Raw/ROM coal throughput limitation of 4,000,000 tons per consecutive 12-month period and a clean and refuse loadout limitation of 5,500,000 tons per consecutive 12-month period at the Crooked Creek Coal Preparation Plant located in Washington Township, **Indiana County**.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401.

Contact: James Beach, New Source Review Chief—Telephone: 484-250-5920.

46-0296A: Woot Services (2455 Boulevard of the Generals, Norristown, PA 19403-3661) on July 15, 2020 an extension for the initial authorization to use a 2nd ink line (production resignation: “0902”) for the digital apparel printing at an existing facility. In addition, the site-wide VOC and HAP emission rates and the allowable usage rates for the one of the Cleanup Solvents (Source ID: 301) (product designation: F-200) have been revised for West Norriton Township, **Montgomery County**.

46-0040D: Lux Global Label Co. LLC (2025 Joshua Road, Lafayette Hill, Pa 19444-2431) on July 13 an extension to re-route the VOC exhaust of thirteen (13) existing solvent-based rotogravure printing stations (previously permitted as Source 112) from directly to the outdoor atmosphere to an existing regenerative thermal oxidizer (C03) in Whitmarsh Township, **Montgomery County**.

Southcentral Region: Air Quality Program, 909 Elmerston Avenue, Harrisburg, PA 17110.

Contact: Thomas Hanlon, Facilities Permitting Chief, 717-705-4862, Thomas Bianca, New Source Review Chief, 717-705-4863, or William Weaver, Regional Air Quality Manager, 717-705-4702.

36-05015H: Dart Container Corp. of PA (60 East Main Street, Leola, PA 17540) on July 15, 2020, for the construction of new extrusion and thermoforming lines and construction of new equipment for the recycling of consumer EPS scrap at the facility located in Upper Leacock Township, **Lancaster County**. The plan approval was extended.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701.

Contact: Muhammad Q. Zaman, Program Manager, (570) 327-3648.

14-00002R: Graymont (PA), Inc. (375 Graymont Rd., Bellefonte, PA 16823) was issued an extension to allow for continued operation of the Source ID P313 lime processing system at the Pleasant Gap plant in Spring Township, **Centre County**, pending issuance of an operating permit for the new sources. The extension is valid for 180 days to January 15, 2021.

18-00030C: First Quality Tissue, LLC (904 Woods Avenue, Lock Haven, PA 17745) on July 12, 2020, to extend the authorization to construct a paper towel and tissue manufacturing operation at their facility located in Castanea Township, **Clinton County** to January 9, 2021. The plan approval has been extended.

18-00030D: First Quality Tissue, LLC (904 Woods Avenue, Lock Haven, PA 17745) on July 12, 2020, to extend the authorization to construct a paper towel and tissue manufacturing operation at their facility located in Castanea Township, **Clinton County** to January 9, 2021. The plan approval has been extended.

19-00007B: Transcontinental Gas Pipe Line Company, LLC (P.O. Box 1396, Houston, TX 77251-1396) on July 20, 2020, to extend the authorization to operate the sources pursuant to the plan approval an additional 180 days from July 21, 2020 to January 17, 2021, at their Compressor Station 517 located in Jackson Township, **Columbia County**. The plan approval has been extended.

Title V Operating Permits Issued under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Southcentral Region: Air Quality Program, 909 Elmerston Avenue, Harrisburg, PA 17110.

Contact: Thomas Hanlon, Facilities Permitting Chief, 717-705-4862, Thomas Bianca, New Source Review Chief, 717-705-4863, or William Weaver, Regional Air Quality Manager, 717-705-4702.

07-05004B: Altoona Terminals, DE LLC (P.O. Box 2621, Harrisburg, PA 17105) on July 15, 2020, for the petroleum products distribution terminal in Allegheny Township, **Blair County**. The Title V permit was renewed.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701.

Contact: Muhammad Q. Zaman, Program Manager, 570-327-3648.

14-00005: Pennsylvania Department of Corrections (P.O. Box A, Bellefonte, PA 16823) on July 15, 2020, was issued a renewal Title V operating permit for their Rockview State correctional Institution located in Benner Township, **Centre County**. The Title V operating permit contains emission limits, work practice standards, monitoring, recordkeeping and reporting conditions to ensure the facility complies with all applicable Federal and State air quality regulations.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401.

Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.

15-00049: Taylor Industries, Inc. (35 Anderson Rd., Parkerford, PA 19457) on July 15, 2020, for a renewal of Synthetic Minor operating permit in East Coventry Township, **Chester County**.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Contact: Norman Frederick, Facility Permitting Chief—Telephone: 570-826-2409.

39-00037: Nestle Purina Petcare Co., Petcare Plant (2050 Pope Rd., Allentown, PA 18104-9308). On July 14, 2020, the Department issued a renewal State-Only (Synthetic Minor) Permit for manufacturing of dog and cat food in South Whitehall Township, **Lehigh County**. The

primary sources consist of boilers. The sources are considered minor emission sources of nitrogen oxide (NO_x), sulfur oxides (SO_x), carbon monoxide (CO), total suspended particulate (TSP), and volatile organic compounds (VOC) emissions. 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 Elmerston Avenue, Harrisburg, PA 17110.

Contact: Thomas Hanlon, Facilities Permitting Chief, 717-705-4862, Thomas Bianca, New Source Review Chief, 717-705-4863, or William Weaver, Regional Air Quality Manager, 717-705-4702.

06-05008: SFS Intec, Inc. (P.O. Box 6326, Wyomissing, PA 19610-0326) on July 15, 2020, for the metal fastener manufacturing facility in Wyomissing Borough, **Berks County**. The State-Only Permit was renewed.

01-05025: New Enterprise Stone & Lime Co., Inc. (P.O. Box J, Chambersburg, PA 17201-0809) on July 15, 2020, for the stone crushing and asphalt production operations at the Gettysburg Quarry located in Cumberland Township, **Adams County**. The State-Only Permit was renewed.

67-05107: Crown Cork & Seal Co., USA, Inc. (1650 Broadway, Hanover, PA 17331-8118) on July 15, 2020, for the metal can manufacturing facility in Penn Township, **York County**. The State-Only Permit was renewed.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701.

Contact: Muhammad Q. Zaman, Program Manager, 570-327-3648.

59-00009: PA State System of Higher Education (115 Sherwood St., Mansfield, PA 16933) on July 15, 2020 was issued a renewal State Only Operating Permit for the Mansfield University Campus located in Mansfield Borough, **Tioga County**. The State Only Operating Permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

53-00016: Tennessee Gas Pipeline, LLC (1001 Louisiana St., Ste. 1000, Houston, TX 77002) on July 20, 2020 was issued a State Only Operating Permit for the Ellisburg Booster Station (313A) located in Genesee Township, **Potter County**. The State Only Operating Permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.

Contact: Matthew Williams, Facilities Permitting Chief—Telephone: 814-332-6940.

03-00182: Peoples Gas Company LLC Fisher Station (375 N Shore Drive, Suite 600, Pittsburgh, PA 15212). On July 15, 2020 the Department issued a State Only Operating Permit for compression and transfer of natural gas located in Redbank Township, **Armstrong County**. The subject facility consists of two natural gas compressor engines (1-600 hp and 1-66 hp). The reported 2019 Annual Emission Summary (TPY) for the Fisher Station is: 4.84 CO, 7.23 NO_x, 6.69 VOC, 1.05 HAPs, 0.12 PM, 0.007 SO_x, 182.8 Methane, and 1,461.38 Carbon Dioxide. The facility is a natural minor and is subject to State Regulations and Federal Regulations (40 CFR

Part 63 ZZZZ). The permit includes additional operation requirements, monitoring requirements, and recordkeeping requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act.

03-00238: Curran-Shaffer Funeral Home and Crematory, Inc./Apollo (100 Owen View Avenue, Apollo, PA 15613). On July 14, 2020, the Department issued a Natural Minor State Only Operating Permit for the operation of a natural gas incinerator located in Kiskiminetas Township, **Armstrong County**. The subject facility consists of one 100 lb/hr human crematory incinerator, Power-Pak II natural gas-fired rated at 700 MBtu/hr primary chamber and 1.4 MMBtu/hr secondary chamber. The potential emissions are 1.5 tpy NO_x and less than 0.5 tpy for all other criteria pollutants. The facility is subject to State Regulations. The permit includes additional operation requirements, monitoring requirements, and recordkeeping requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act.

24-00145: Amphenol Thermometrics, Inc. (967 Windfall Rd., St. Marys, PA 15857-3333). On July 14, 2020, the Department issued the renewal State Only Synthetic Minor Operating Permit for the electronic component manufacturing facility located in the City of Saint Marys, **Elk County**. The facility's primary emission sources include various VOC-emitting sources (such as solder lines, solvent usage, and measuring fluids), mixers, dryers, a transmission fluid bath, miscellaneous natural gas usage, and an emergency generator. The potential emissions, after permit limitations, of the major pollutants from the facility are as follows: 0.59 TPY (tons per year) NO_x, 6.15 TPY CO, 49.0 TPY VOC, 24.9 TPY total HAPs (hazardous air pollutants), 13.58 TPY PM₁₀, 13.54 TPY PM_{2.5}, and 0.00 TPY SO_x. The facility is a synthetic minor and has taken voluntary emission limits of VOC (49.0 TPY), combined HAPs (24.9 TPY) and a single speciated HAP (9.9 TPY) so as to not exceed major source thresholds. The engine is subject to 40 CFR 60 Subpart JJJJ, Standards of Performance for Stationary Spark Ignition Internal Combustion Engines. 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.

25-00337: Custom Engineering Co. (2800 McClelland Avenue, Erie, PA 16510-2544), on July 14, 2020, the Department issued the renewal of the State-Only Operating Permit of a metal fabrication and machining facility located in Erie City, **Erie County**. Permitted air contamination sources at the facility are two paint booths, burntables for torch cutting, dry abrasive blasting operations, machining operations, welding operations, a spray gun cleaning system, rust inhibitor application, and natural gas-fired combustion sources. The facility is subject to a VOC restriction of 8.2 TPY, on a 12-month rolling basis, established through a plan approval. In this renewal, major permit change is the incorporation of 25 Pa. Code § 129.52d, which may potentially replace 25 Pa. Code § 129.52, for the facility's metal parts surface coating operations. For permitting purposes, the facility is Natural Minor.

Philadelphia: Air Management Services, 321 University Avenue, Philadelphia, PA 19104-4543.

Contact: Edward Wiener, Chief, Source Registration at 215-685-9426.

The City of Philadelphia, Air Management Services (AMS) issued on July 17, 2020 a renewal for a Minor State Only Operating Permit for the following facility:

OP20-000006: RR Donnelley Philadelphia (9985 Gaty Road, Philadelphia, PA 19115) for the operation of a commercial printing facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include five (5) non-heatset sheetfed lithographic printing presses ranging from a capacity of 10,000—16,000 impressions per hour, and a 30-gallon remote reservoir parts washer.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701.

Contact: Muhammad Q. Zaman, Program Manager, 570-327-3648.

49-00028: Wildwood Cemetery Co. (1151 Cemetery St., Williamsport, PA 17701-1605) on July 17, 2020, was issued a revised State-Only Operating Permit to incorporate the terms and conditions of Plan Approval 49-00028A for their Pomfret Manor Cemetery facility located in the City of Sunbury, **Northumberland County**. The revised State-Only Operating Permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

47-00014: United States Gypsum Company (86 PPL Road, Danville, PA 17821) was issued a Title V permit revision on July 20, 2020, to include not limited to bag leak detection monitoring for the Compliance Assurance Monitoring for the Source ID P101 and P102 dryer mills at their Washingtonville Plant facility, in accordance with 40 CFR Part 64. The facility is located in Derry Township, **Montour County**.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.1—1396.31); 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); the Bituminous Mine Subsidence and Land Conservation Act (52 P.S. §§ 1406.1—1406.21). 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 such applications will also address the application permitting requirements of the following statutes; the Air Quality 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).

Coal Permits Issued

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900, (Contact: Melanie Ford-Wigfield).

Permit No. 11130101 and NPDES No. PA0269387, Laurel Sand & Stone Inc., 210 East Main Street, P.O. Box 556, Ligonier, PA 15658, commencement, operation and restoration of a bituminous surface & auger mine to add Lower Kittanning Coal to the mining plan in Elder & Susquehanna Townships, **Cambria County**, affecting 382 acres. Receiving stream(s): Little Brubaker Run classified for the following use(s): CWF. There are no potable water supply intakes within 10 miles downstream. Application received: February 24, 2020. Permit issued: July 14, 2020.

Permit 11040101 and NPDES No. PA0249661. E.P. Bender Coal Co., Inc., P.O. Box 594, Carrolltown, PA 15722, permit renewal for reclamation of a bituminous surface and auger mine in Reade Township, **Cambria County**, affecting 69 acres. Receiving streams: unnamed tributaries to/and Powell Run classified for the following use: cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: April 24, 2020. Permit issued: July 16, 2020.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200, (Contact: Ashley Smith).

17814000 and NPDES PA0608769. Rob Holland Enterprises (52 Holland Lane, Curwensville, PA 16833). Permit renewal for continued operation and restoration of a bituminous surface coal and auger mine located in Penn Township, **Clearfield County** affecting 206.9 acres. Receiving stream(s): Irish Run and Unnamed tributaries to Irish Run classified for the following use(s): CWF. There are no potable water supply intakes within 10 miles downstream. Application received: September 23, 2019. Permit issued: July 9, 2020.

Noncoal Permits Issued

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200, (Contact: Ashley Smith).

NPDES No. PA0257214 (Mining Permit No. 08090305). Johnson Quarries, Inc. (P.O. Box 136, LeRaysville, PA 18829). NPDES renewal for continue operation on a large noncoal surface mining site located in Wilmot Township, **Bradford County** affecting 53.55 acres. Receiving stream(s): Rocky Forest Creek and Unnamed Tributary to the Susquehanna River classified for the following use(s): CWF and MF. Application received: December 20, 2019. Permit issued: July 9, 2020.

PAM220002. Rock Ridge Quarries, Inc. (403 Ice Harvest Drive, Mountain Top, PA 18707). Renew coverage under General NPDES permit for stormwater discharges associated with mining activities (BMP GP-104) on GP-105 Bluestone Mining No. 08202501 located in Wilmot Township, **Bradford County**. Receiving stream(s): Sugar Run Creek classified for the following use(s): CWF, MF. There are no potable water supply intakes within 10 miles downstream. Notice of Intent for Coverage received: January 28, 2020. Permit issued: July 9, 2020.

NPDES No. PA0257192 (Mining Permit No. 08090303). DeCristo Inc., 9070 Route 414, Canton, PA 17724, renewal of an NPDES permit for discharge of water resulting from noncoal surface mining in LeRoy Township, **Bradford County**, affecting 71.5 acres. Receiving stream(s): unnamed tributary to Towanda Creek, classified for the following use(s): CWF, MF. Application received: December 2, 2019. Permit issued: July 9, 2020.

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, (Contact: Theresa Reilly-Flannery).

Permit No. 06204109. Maine Drilling & Blasting, Inc. (P.O. Box 1140, Gardiner, ME 04345), construction blasting for Berks Park 183 in Bern Township, **Berks County** with an expiration date of July 21, 2021. Permit issued: July 15, 2020.

Permit No. 15204102. American Rock Mechanics, Inc. (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for Atwater 11 B in Tredyffrin Township, **Chester County** with an expiration date of June 9, 2021. Permit issued: July 15, 2020.

Permit No. 09204104. American Rock Mechanics, Inc. (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for Cedar Ridge in Perkasio Borough, **Bucks County** with an expiration date of July 10, 2021. Permit issued: July 16, 2020.

Permit No. 36204120. Maine Drilling & Blasting, Inc. (P.O. Box 1140, Gardiner, ME 04345), construction blasting for Buckton Reserve in Manheim Township, **Lancaster County** with an expiration date of July 13, 2021. Permit issued: July 16, 2020.

Permit No. 38204108. Maine Drilling & Blasting, Inc. (P.O. Box 1140, Gardiner, ME 04345), construction blasting for Hershey Beta in South Annville Township, **Lebanon County** with an expiration date of July 14, 2021. Permit issued: July 16, 2020.

Permit No. 67204108. Maine Drilling & Blasting, Inc. (P.O. Box 1140, Gardiner, ME 04345), construction blasting for Codorus Core 5 in East Manchester and Manchester Townships, **York County** with an expiration date of July 14, 2021. Permit issued: July 16, 2020.

Permit No. 22204105. Maine Drilling & Blasting, Inc. (P.O. Box 1140, Gardiner, ME 04345), construction blasting for D & H Warehouse in Lower Swatara Township, **Dauphin County** with an expiration date of June 23, 2021. Permit issued: July 20, 2020.

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 the applicable provisions of 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.

Any person aggrieved by these actions may appeal, pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. § 7514, and the Administrative Agency Law, 2 Pa.C.S. Chapter 5A, 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 may contact the Board through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing 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 any right of appeal beyond that permitted by applicable statutes and decisional law.

If you want to challenge this action, your appeal must reach the Board within 30-days. You do not need a lawyer to file an appeal with the Board.

Important legal rights are at stake, however, so you should show this notice to a lawyer at once. If you cannot afford a lawyer, you may qualify for free pro bono representation. Call the Secretary to the Board (717) 787-3483 for more information.

WATER OBSTRUCTIONS AND ENCROACHMENTS

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.

Southeast Region: Waterways & Wetlands Program Manager, 2 East Main Street, Norristown, PA 19401, Telephone 484.250.5160, E-mail: ra-epww-sero@pa.gov.

Permit No. E09-1041, Pennsylvania Department of Transportation Engineering District 6-0, 7000 Geerdes Boulevard, King of Prussia, PA 19406, Wrightstown Township, **Bucks County**, ACOE Philadelphia District.

The Pennsylvania Department of Transportation is proposing to perform the following water obstruction and encroachment activities associated with the S.R. 0232 Interchange Improvement Project:

1. To construct and maintain 371 linear feet of new stream channel associated with the relocation of Water Course 3 to existing Wetland Area 1 (PEM). This activity also includes the removal of a 24-inch RCP culvert and an 18-inch RCP culvert under SR 0232 and in its place, construct and maintain a 24-inch RCP culvert with 371 linear feet (928 square feet) of relocated stream channel resulting in 228 linear feet (2,227 square feet) of permanent watercourse impact. In place of the previous location of the Water Course 3, an existing concrete channel will be converted to 230 linear feet of riprap lined channel to facilitate drainage to proposed stormwater facilities.

2. To place fill within Wetland Area 1 (PEM) associated with the construction and maintenance of two stormwater facilities and three constructed wetland stormwater facilities resulting in 157 square feet (0.004 acre) of permanent wetland impact and 580 square feet (0.013 acre) of

temporary wetland impact with the intention to create 3,746 square feet (0.086 acre) of new wetlands. This activity also includes impacts to floodway and floodplain which include 3,696 square feet (230 cubic yards) of floodway impact and 26,899 square feet (1,500 cubic yards) of floodplain impact due to placement of fill.

3. To construct and maintain a permanent wetland crossing within Wetland Area 1 (PEM) for access to construct and maintain stormwater facilities stated in Item 4 and will result in 1,739 square feet (0.040 acre) of permanent wetland impact and 348 square feet (0.008 acre) of temporary wetland impact. This activity also includes the installation of a 24-inch diameter pipe to supply hydrology to the remainder of Wetland Area 1.

4. To construct and maintain a 36-inch diameter outfall associated with the discharge from the stormwater facilities to an unnamed tributary to Neshaminy Creek (WWF) resulting in 380 square feet (0.009 acre) of permanent floodway impact. This activity also includes the placement of rock riprap apron.

This project is located on 2nd Street Pike between the SR 0232 Bridge over Neshaminy Creek up to and including the Swamp Road and 2nd Street Pike Intersection in Wrightstown Township, Bucks County (USGS PA Norristown Quadrangle—Latitude 40.254828 N, Longitude 75.007289 W). Permit issued July 20, 2020.

Northeast Region: Waterways and Wetlands Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Contact: Gillian Ostrum, Clerk Typist 2, 570-830-3077.

E1302220-021. Kenneth & Elaine Tucker, 1761 Mulberry Way, Yardley, PA 19067. Penn Forest Township, **Carbon County**, Army Corps of Engineers Philadelphia District.

To construct and maintain a pile supported recreation dock with an associated beach area in Towamensing Lake (HQ-CWF, MF). The dock will be composed of three 4 feet by 8 feet aluminum frame sections, for a total of 96 square feet. The proposed beach area will be 6 inches in depth and extend into the lake by a length of 8 feet and a width of 16 feet. The total encroachment from the proposed dock and beach area is 224 square feet. The project is located at Tax Lot 22A-51-EV9 on Longfellow Circle in the Towamensing Trails community.

E4002220-002. Maryjane Henry, 301 Bulford Road, Shavertown, PA 18708. Harvey's Lake Borough, **Luzerne County**, Army Corps of Engineers Baltimore District.

To construct and maintain a pile supported addition to an existing boathouse and dock. The proposed boathouse is a 1,175 sq. ft. addition and 925 sq. ft addition to an existing dock, for a total impervious area of 2,100 sq. ft. The existing boathouse is 476 sq. ft. and the existing dock is 1,000 sq. ft., for a total existing impervious area of 1,476 sq. ft. Disturbance to the lake will be for the installation of several 30-inch galvalume pipes to be driven into the lake bottom as pier supports for the new dock in Harvey's Lake (HQ-CWF, MF). The project is located at Pole # 244, located in Harveys Lake Borough, Luzerne County.

Southwest Region: Dana Drake, Waterways and Wetlands Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E65051-1003, PennDOT District 12-0, 825 North Gallatin Avenue Extension, Uniontown, PA 15401, Allegheny Township, **Westmoreland County**; Pittsburgh ACOE District.

Has been given consent to:

Remove the existing 6' wide, 3.5' high, 70' long concrete arch culvert and construct and maintain 12' wide, 5.5' high, 112' long concrete arch culvert, having a permanent impact of 112 LF to perennial STR-1 (WWF) (287.85 acres drainage area).

Construct and maintain two outfalls having 24 LF and 20 LF impact to STR-1.

Remove the existing headwall and construct and maintain a replacement, having approximately 1 LF of impact to intermittent STR-2 (WWF) (23.587 acres drainage area).

Construct and maintain an outlet, having an impact of 10 LF of perennial STR-1, and 33 LF of intermittent STR-8 (WWF).

Remove the existing 10' wide, 9.5' high, 78' long concrete arch culvert, and construct and maintain a replacement 10' wide, 11.5' high, 98' box culvert, having a total impact of 134 LF to perennial stream STR-3 (WWF) (584.04 acres drainage area).

Construct and maintain an outfall having a permanent impact of 17 LF to STR-3.

Remove the existing headwall and construct and maintain a replacement having approximately 1 LF of impact to perennial STR-4 (WWF) (21.965 acres drainage area).

Construct and maintain an outfall, headwall, and outfall protection having an impact of 35 LF to STR-4.

Construct and maintain a 30' long pipe extension, to the existing 101 long steel pipe, having a permanent impact of 48 LF on intermittent STR-5 (WWF) (12.110 acres drainage area). This activity will also have 0.017 acre of impact to Wetland 4 (POW).

Construct and maintain a 30 ft extension to an existing 30', 101' long steel pipe, having an impact of 48 LF to intermittent STR-5 (12.110 acres drainage area).

Remove the existing 12' wide, 7' high, 62' long Garvers Ferry Road concrete arch culvert, and construct and maintain a replacement 12' wide, 10' high, 54' long concrete box culvert, having a permanent impact of 54 LF to perennial STR-6 (WWF) (460.68 acres drainage area). The culvert replacement will also require a 72 LF relocation of STR-6 channel upstream, and a 132 LF relocation downstream of the proposed culvert.

Remove the existing 11' wide, 9' high, 46' long slab bridge, and construct and maintain a replacement 20' wide, 8.5' high, 85' long concrete box culvert, having a permanent impact of 105 LF to STR-6.

Construct and maintain three channel outfalls having permanent impacts of 15 LF, 23 LF, and 16 LF of STR-6.

Remove the existing headwall and construct and maintain a replacement having a permanent impact of 1 LF to perennial STR-7 (86.653 acres drainage area).

For the purpose of the SR 356 Corridor Safety Improvement Project. This project will have 769 LF of permanent impacts and 1,023 LF of temporary impacts to perennial streams. The project will have 82 LF of permanent impacts and 101 LF of temporary impacts to intermittent streams. The project will also involve 1,554 LF of permanent impacts and 1,786 LF of temporary impacts to seven ephemeral channels within the project area. Impacts for the SR 356 Corridor Safety Improvement Project include 70 feet of perennial stream loss, 48 feet of intermittent stream loss, and 145 feet of ephemeral channel loss. Total wetland impacts for the project are de minimis

(0.017 acre). Stream mitigation for the project will improve 246 feet of stream bank and floodplain, along perennial stream STR-3, below the culvert replacement.

The project site is located on SR 0356 between White Cloud Road and SR 0056 (Leechburg Road), (Freeport and New Kensington East, PA USGS topographic quadrangle; N: 40°, 38', 7.7784"; W: 79°, 39', 11.7955"; Sub-basin 18B; USACE Pittsburgh District), in Allegheny Township, Westmoreland County.

Northwest Region: Waterways & Wetlands Program, 230 Chestnut Street, Meadville, PA 16335-3481.

E1006120-021, PA Department of Transportation, District 10-0, SR 0228-270 Balls Bend, in Middlesex Township, **Butler County**, ACOE Pittsburgh District (Valencia, PA Quadrangle N: 40.699353°, W: -79.948779°).

To conduct the following activities associated with the widening and realignment of approximately 1.6 mile of SR 0228-270 extending west from its intersection with S.R. 0008 (Valencia, PA Quadrangle N: 40.699353°; W: -79.948779°) in Middlesex Township, Butler County:

1. Construct and maintain a 228-foot long, 18-foot wide by 8-foot high (7-foot effective w/ invert depression and baffles) single cell pre-cast concrete box stream enclosure in a tributary to Glade Run at Station 287+80 and to realign a total of 228 feet of the stream channel extending approximately 140 feet upstream and 88 feet downstream of the structure.

2. Construct and maintain an 88.7-foot wide steel plate girder bridge on integral abutments providing a normal span of 165.15 feet and minimum underclearance of 15.65 feet across Glade Run at station 294+40 and to realign approximately 130 feet of the channel of Glade Run at approximately station 291+30 LT associated with the construction of the approach fill to the bridge.

3. Construct and maintain a 207-foot long, 14-foot wide by 10-foot high (9-foot effective w/ invert depression and baffles) single cell pre-cast concrete box stream enclosure in a tributary to Glade Run at station 326+10 and to realign a total of 906 feet of the channel extending approximately 125 feet upstream and 781 feet downstream of the structure.

4. To construct and maintain a 89-foot long, 24-foot wide by 10-foot high (9-foot effective w/ invert depression and baffles) single cell pre-cast concrete box culvert in a tributary to Glade Run on Park Road and to realign a total of approximately 544 feet of the channel of a tributary to Glade Run extending 419 downstream and 125 feet upstream from the structure.

5. To place fill within the floodplain of tributary to Glade Run to maintain private driveway access from Park Road starting at station 104+20.

6. To remove the existing structure and to construct and maintain a 120-foot long, 36-inch diameter reinforced concrete pipe carrying tributary to Glade Run (Stream 13) at Station 344+90, with an outfall and rock apron discharging to tributary to Glade Run (UNT 7) and to place fill within the floodplain of UNT 7 as part of the proposed roadway fill slope.

7. To permanently fill a 0.23-acre pond at station 203+50 along a relocated section of Harbison Road to accommodate the new roadway alignment.

8. To remove the existing concrete arch from a tributary to Glade Run at station 154+10 on the existing S.R. 228 alignment.

9. To remove the existing concrete slab bridge across Glade Run at station 184+50 on the existing S.R. 228 alignment. Permit No. E1006120-021

10. To permanently impact a total of 1.216 acre of wetlands.

11. To temporarily impact a total of 0.137 acre of wetlands.

The project will result in a total of 3,311 feet of permanent impacts to existing stream channel, which includes 613 feet of proposed structure length. A total of 1,813 feet of stream relocation and 2,602 feet of stream improvements are authorized within the corridor as stream mitigation. A total of 721 ft of temporary stream impacts are authorized during construction. Existing structures will be removed, and areas of existing roadway not required for the new alignment will be restored to vegetated conditions. A total of 2.35 acres of wetland will be created onsite to offset the permanent wetland impacts

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, P.O. 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.

Eastern Region: Oil and Gas Management Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.

ESCGP-3 # ESX29-115-18-0077(01)
Applicant Name Cabot Oil & Gas Corporation
Contact Person Kenneth Marcum
Address 2000 Park Lane, Suite 300
City, State, Zip Pittsburgh, PA 15275
County Susquehanna
Township(s) Dimock Twp
Receiving Stream(s) and Classification(s) UNT to White Creek (CWF, MF)

ESCGP-3 # ESG295820012-00
Applicant Name SWN Prod Co LLC
Contact Person Marsha Vogel
Address P.O. Box 12359

City, State, Zip Spring, TX 77391-2359
 County Susquehanna
 Township(s) Jackson Twp
 Receiving Stream(s) and Classification(s) UNT to
 Tunkhannock Creek (CWF, MF)
 Secondary: Tunkhannock Creek (CWF, MF)

ESCGP-3 # ESG291220002-00
 Applicant Name NFG Midstream Clermont LLC
 Contact Person Duane Wassum
 Address 6363 Main Street
 City, State, Zip Williamsville, NY 14221-5855
 County Cameron
 Township(s) Shippen
 Receiving Stream(s) and Classification(s) Cherry Run
 (HQ-CWF, MF), Indian Camp Run (HQ-CWF, MF),
 UNT to Elk Fork
 Secondary: Driftwood Branch Sinnemahoning Creek
 (HQ-CWF, MF), Driftwood Brank Sinnemahoning Creek
 (HQ-CWF, MF), Driftwood Branch Sinnemahoning
 Creek (HQ-CWF, MF)

ESCGP-3 # ESG294120001-00
 Applicant Name Seneca Resources Company, LLC
 Contact Person Cindy Jones
 Address 51 Zents Blvd
 City, State, Zip Brookville, PA 15825-2701
 County Lycoming
 Township(s) Gamble
 Receiving Stream(s) and Classification(s) UNTs to Lycom-
 ing Creek (HQ-CWF, MF), UNTs to Mill Creek (TSF,
 MF)
 Secondary: Lycoming Creek (CWF, MF), Mill Creek
 (TSF, MF)

ESCGP-3 # ESG290820023-00
 Applicant Name Chief Oil & Gas, LLC
 Contact Person Joel Ward
 Address 1720 Sycamore Road
 City, State, Zip Montoursville, PA 17754-9306
 County Bradford
 Township(s) Franklin
 Receiving Stream(s) and Classification(s) Coal Run (HQ-
 CWF, MF)
 Secondary: Schrader Creek (HQ-CWF, MF)

ESCGP-3 # ESG290820018-00
 Applicant Name Chesapeake Appalachia, LLC
 Contact Person Marlene Williams
 Address 14 Chesapeake Lane
 City, State, Zip Sayre, PA 18840-1567
 County Bradford
 Township(s) Wyalusing
 Receiving Stream(s) and Classification(s) UNT to Susque-
 hanna River (WWF, MF), UNT to Susquehanna River
 (WWF, MF)
 Secondary: Susquehanna River (WWF, MF), Susque-
 hanna River (WWF, MF)

CORRECTIVE ACTION UNDER ACT 32, 1989

PREAMBLE 2

The following plans and reports were submitted
 under the Storage Tank and Spill Prevention Act
 (35 P.S. §§ 6021.101—6021.2104).

Provisions of 25 Pa. Code Chapter 245 Subchapter D,
 Administration of the Storage Tank and Spill Prevention
 Program, require the Department of Environmental Pro-
 tection (DEP) to publish in the *Pennsylvania Bulletin* a
 notice of submission of plans and reports. A remedial

action plan is submitted to summarize the site character-
 ization, document the design and construction details for
 the remedial action, and describe how the remedial action
 will attain the selected remediation standard. The reme-
 dial action plan also provides results of studies performed
 and data collected to support the remedial action and a
 description of postremediation care requirements. A reme-
 dial action completion report is submitted to document
 cleanup of a release of a regulated substance at a site to
 the selected remediation standard. A remedial action
 completion report provides a description of the site inves-
 tigation to characterize the nature and extent of contami-
 nants in environmental media, the basis of selecting the
 environmental media of concern, documentation support-
 ing the selection of residential or non-residential exposure
 factors, a description of the remediation performed and
 summaries of sampling methodology and analytical re-
 sults which demonstrate that the remediation has at-
 tained the cleanup standard selected.

For further information concerning plans or reports,
 please contact the Environmental Cleanup Program Man-
 ager in the DEP Regional Office under which the notice of
 receipt of plans or reports appears. If information con-
 cerning plans or reports is required in an alternative
 form, contact the Community Relations Coordinator at
 the appropriate Regional Office listed. TDD users may
 telephone the DEP through the Pennsylvania AT&T
 Relay Service at (800) 654-5984.

The Department has received the following plans and
 reports:

*Southeast Region: Environmental Cleanup & Brown-
 fields Program, 2 East Main Street, Norristown, PA
 19401, 484-250-5960.*

Contact: Richard Staron, Professional Geologist.

Speedway 6803, 46-14499, 749 Bethlehem Pike, Mont-
 gomery Township, **Montgomery County**. EMS Environ-
 mental, Inc., 4550 Bath Pike, Bethlehem, PA 18017, on
 behalf of Speedway LLC, 500 Speedway Drive, Enon, OH
 45323 submitted a Remedial Action Plan concerning
 remediation of soil and groundwater contaminated with
 petroleum products. The report is intended to document
 remediation of the site to meet nonresidential Statewide
 health and site-specific standards.

Getty 67435, 09-23947, 192 Durham Rd, Pennel
 Borough, **Bucks County**. Antea USA, Inc., 535 Route 38,
 Suite 203, Cherry Hill, NJ 08002 USA, on behalf of Getty
 Properties Corp., Two Jericho Plaza, Suite 110, Wing C,
 Jericho, NY 11753 submitted a Remedial Action Comple-
 tion Report concerning remediation of soil and groundwa-
 ter contaminated with unleaded gasoline. The report is
 intended to document remediation of the site to meet
 site-specific standards.

121 Point Breeze Term, 51-07149, 6310 Passyunk
 Ave., **City of Philadelphia**. Groundwater & Environ-
 mental Services, Inc., 440 Creamery Way, Suite 500,
 Exton, PA 19341, on behalf of Kinder Morgan Liquids
 Term, 6310 Passyunk Ave., Philadelphia, PA 19134 sub-
 mitted a Site Characterization Report and Remedial
 Action Plan concerning remediation of soil contaminated
 with unleaded gasoline. The report is intended to docu-
 ment remediation of the site to meet site-specific stan-
 dards.

Mobil Oil 16 DEF, 46-43630, 1940 Old York Rd,
 Abington Township, **Montgomery County**. Arcadis U.S.,
 Inc., 6041 Wallace Road Ext., Suite 300, Wexford, PA
 15090, on behalf of ExxonMobil Environmental Property
 Solutions Services, 875 West Poplar Avenue, Suite 23,

353, Collierville, TN 38017 submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with petroleum products. The report is intended to document remediation of the site to meet site-specific standards.

Datta Enterprises, 51-04438, 6400 Roosevelt Blvd, **City of Philadelphia**. Antea USA, Inc., 535 Route 38, Suite 203, Cherry Hill, NJ 08002, on behalf of BP Products North America, Inc., 1 West Pennsylvania Avenue, Towson, MD 21204 submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with unleaded gasoline. The report is intended to document remediation of the site to meet nonresidential site-specific standards.

Jeffersonville East Coast, 46-09109, 2000 W, Main St., West Norriton Township, **Montgomery County**. Comstock Environmental Services LLC, P.O. Box 509, Lafayette Hill, PA 19444, on behalf of East Coast Gas Station, 2000 West Main Street, Jeffersonville, PA 19403, submitted a Remedial Action Plan concerning remediation of soil and groundwater contaminated with unleaded gasoline. The report is intended to document remediation of the site to meet nonresidential Statewide health standards.

Northeast Region: Environmental Cleanup & Brownfields Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915, 570-826-2511.

Cramer's Cashway, Storage Tank ID # 45-23206, 131 Scenic Drive, Polk Township, **Monroe County**. LaBella, 1000 Dunham Drive, Suite B, Dunmore, PA 18512, on behalf of Cramer's Home Building Center, 320 North Courtland Street, East Stroudsburg, PA 18301, submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with gasoline. The report is intended to document remediation of the site to meet a combination of Site-Specific and Statewide Health Standards.

Tolino's Speedbreak # 35, Storage Tank ID # 48-35164, 1035 Blue Valley Drive, Pen Argyl, PA 18072, Plainfield Township, **Northampton County**. MEA, 1365 Ackermanville Road, Bangor, PA 18013, on behalf of Tolino's Fuel Service, 225 Flicksville Road, Flicksville, PA 18050, has submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with petroleum. The report is intended to document remediation of the site to meet a combination of Site-Specific and Statewide Health Standards.

Canadensis Gulf Station, Storage Tank ID # 45-16982, Route 390 & Route 447, Canadensis, PA 18325, Barrett Township, **Monroe County**. MEA, 1365 Ackermanville Road, Bangor, PA 18013, on behalf of W.S. Peeney, Inc., 1745 West Main Street, Stroudsburg, PA 18360, submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with gasoline. The report is intended to document remediation of the site to meet Statewide health standards.

Southcentral Region: Environmental Cleanup & Brownfields Program, 909 Elmerton Avenue, Harrisburg, PA 17110, 717-705-4705.

Contact: Cherie M. Campbell, Soil Scientist.

Lancaster Travel Plaza, Storage Tank Facility ID # 36-09430, 2622 Lincoln Highway East, Ronks, PA 17572-9772, East Lampeter Township, **Lancaster County**. Aquaterra Technologies, Inc., P.O. Box 744, West Chester, PA 19381, on behalf of Jyotsna Jivani,

103 Nevermore Circle, North Wales, PA 19454-4423 submitted a combined Remedial Action Plan and Remedial Action Completion Report concerning remediation of soil contaminated with PADEP diesel short list constituents. The combined Remedial Action Plan and Remedial Action Completion Report demonstrated attainment of the Non-Residential Statewide Health Standard.

Contact: Gregory Bowman, Environmental Group Manager.

Top Star 120, Storage Tank Facility ID # 22-18136, 2826 East Harrisburg Pike, Middletown, PA 17057, Londonderry Township, **Dauphin County**. Synergy Environmental, Inc., 155 Railroad Plaza, Royersford, PA 19468 on behalf of Top Star, Inc., 14 East Main Street, Emmaus, PA 18049 submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with petroleum constituents. The plan is intended to document remediation of the site to meet the Site-Specific Standard.

Exide Technologies, Storage Tank Facility ID # 06-55324, 280 Grand Street, Hamburg, PA 19526, Hamburg Borough, **Berks County**. Advanced Geoservices, 1055 Andrew Drive, Suite A, West Chester, PA 19380 on behalf of Exide Technologies, Milton, GA submitted a Remedial Action Plan concerning remediation of soil and groundwater contaminated with petroleum constituents. The plan is intended to document remediation of the site to meet the Statewide Health Standard.

Former Getty Service Station # 67639, Storage Tank Facility ID # 21-26025, 816 West High Street, Carlisle, PA 17013, Carlisle Borough, **Cumberland County**. Antea USA, Inc., 535 Route 38, Suite 203, Cherry Hill, NJ 08002 on behalf of Getty Properties Corporation, Two Jericho Plaza, Suite 110, Wing C, Jericho, NY 11753 submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with petroleum constituents. The plan is intended to document remediation of the site to meet the Site-Specific Standard.

HET Enterprises, Storage Tank Facility ID # 67-21063, 701 Loucks Road, York, PA 17404, York City, **York County**. Sovereign Consulting Inc., 50 West Welsh Pool Road, Suite 6, Exton, PA 19341 on behalf of Equilon Enterprises, LLC dba Shell Oil Products US, 20945 S. Wilmington Avenue, Carson City, CA 90810 submitted a Remedial Action Completion Report concerning remediation of groundwater contaminated with petroleum constituents. The plan is intended to document remediation of the site to meet the Site-Specific Standard.

Rutters 16, Storage Tank Facility ID # 67-26955, 4430 West Market Street, York, PA 17408, West Manchester Township, **York County**. United Environmental Services, Inc., P.O. Box 701, Schuylkill Haven, PA 17972 on behalf of CHR Corporation, 2295 Susquehanna Trail, Suite C, York, PA 17404 submitted a Remedial Action Plan concerning remediation of soil and groundwater contaminated with petroleum constituents. The plan is intended to document remediation of the site to meet the Statewide Health Standard.

Snyder's Sunoco Station, Storage Tank Facility ID # 06-61933, 325 East Main Street, Fleetwood, PA 19522, Fleetwood Borough, **Berks County**. MEA, Inc., 1365 Ackermanville Road, Bangor, PA 19610 on behalf of Ms. Viola Snyder submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with petroleum constituents. The plan is intended to document remediation of the site to meet the Site-Specific Standard.

Reynolds Jr. High School, Storage Tank Facility ID # 36-60204, 605 West Walnut Street, Lancaster, PA 17404, Lancaster City, **Lancaster County**. Reliance Environmental, Inc., 235 North Duke Street, Lancaster, PA 17602 on behalf of School District of Lancaster, 1020 Lehigh Avenue, Lancaster, PA 17602 submitted a Remedial Action Completion Report concerning remediation of groundwater contaminated with petroleum constituents. The plan is intended to document remediation of the site to meet the Statewide Health Standard.

Arconic Lancaster Corporation, Storage Tank Facility ID # 36-20858, 1480 Manheim Pike, Lancaster, PA 17601, Manheim Township, **Lancaster County**. Reliance Environmental, Inc., 235 North Duke Street, Lancaster, PA 17602 on behalf of Lancaster Arconic Corporation, 1480 Manheim Pike, Lancaster, PA 17601 submitted a Remedial Action Plan concerning remediation of groundwater contaminated with petroleum constituents. The plan is intended to document remediation of the site to meet the Site-Specific Standard and the Statewide Health Standard.

CORRECTIVE ACTION UNDER ACT 32, 1989

PREAMBLE 3

The DEP has taken action on the following plans and reports under the Storage Tank and Spill Prevention Act (35 P.S. §§ 6021.101—6021.2104).

Provisions of 25 Pa. Code Chapter 245 Subchapter D, Administration of the Storage Tank and Spill Prevention Program, require the Department of Environmental Protection (DEP) to publish in the *Pennsylvania Bulletin* a notice of its final actions on plans and reports.

A remedial action plan is submitted to summarize the site characterization, document the design and construction details for the remedial action, and describe how the remedial action will attain the selected remediation standard. The remedial action plan also provides results of studies performed and data collected to support the remedial action and a description of postremediation care requirements. A remedial action completion report is submitted to document cleanup of a release of a regulated substance at a site to the selected remediation standard. A remedial action completion 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 non-residential 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.

The DEP may approve or disapprove plans and reports submitted. This notice provides the DEP's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, please contact the Environmental Cleanup Program Manager in the DEP Regional Office under which the notice of the plan or report appears. If information concerning a report is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the DEP through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The DEP has received the following plans and reports:

Southeast Region: Environmental Cleanup & Brownfields Program, 2 East Main Street, Norristown, PA 19401, 484-250-5960.

Contact: Richard Staron, Professional Geologist.

Marcus Hook Ind Complex, 23-14224, 100 Green St., Marcus Hook Borough, **Delaware County**. Stantec Consulting Service Inc., 1060 Andrew Drive, Suite 140, West Chester, PA 19380, on behalf of Evergreen Resources Management Operations, 2 Righter Parkway, Suite 120, Wilmington, DE 19803 submitted a Remedial Action Completion Report concerning remediation of soil contaminated with crude oil. The Remedial Action Completion Reports demonstrated attainment of nonresidential Statewide health and site-specific standards and was approved by the Department on July 14, 2020.

Northeast Region: Environmental Cleanup & Brownfields Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915, 570-826-2511.

Friendly Food Mart III, Storage Tank ID # 39-13934, 906 3rd Street, Whitehall, PA 18052, Whitehall Township, **Lehigh County**. MEA, 1365 Ackermanville Road, Bangor, PA 18013, on behalf of M&B Sons Property LLC, 906 3rd Street, Whitehall, PA 18052, has submitted a combined Site Characterization Report and Remedial Action Completion Report concerning remediation of soil contaminated with gasoline. The report demonstrated attainment Statewide health standards and was approved by DEP on July 16, 2020.

Dorrance Sunoco, Storage Tank ID # 40-20336, 80 Springtown Road, Mountain Top, PA 18707, Dorrance Township, **Luzerne County**. MEA, 1365 Ackermanville Road, Bangor, PA 18013, on behalf of Liberty Truck Center, Inc., 2277 Scranton Carbondale Highway, Scranton, PA 18508, has submitted a combined Site Characterization Report and Remedial Action Plan concerning remediation of soil contaminated with petroleum. The Site Characterization Report was approved, but the Remedial Action Plan was not acceptable to meet Statewide health standards and was disapproved by DEP on July 14, 2020.

Sunrise Mart, Storage Tank ID # 39-06734, 1510 West Tilghman Street, Allentown, PA 18102, Allentown City, **Lehigh County**. Geo-Environmental Consulting & Remediation, 371 Hoes Lane, Suite 200, Piscataway, NJ 08854, on behalf of, Greyhound Investment Group LLC, 1 Bustleton Pike, Feasterville, PA 29053, has submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with gasoline. The report was not acceptable to meet Statewide health standards and was disapproved by DEP on July 17, 2020.

Southcentral Region: Environmental Cleanup & Brownfields Program, 909 Elmerton Avenue, Harrisburg, PA 17110, 717-705-4705.

Contact: Cynthia Stine, LPG.

Point Store, Storage Tank Facility ID # 44-12044, 5867 Highway 522 North, McClure, PA 17841, Decatur Township, **Mifflin County**. Mountain Research, LLC, 825 25th Street, Altoona, PA 16601, on behalf of Mr. Jeff Bell, Point Store, 5867 Highway 522 North, McClure, PA 17841 submitted a Remedial Action Plan concerning remediation of soil and groundwater contaminated with petroleum constituents. The plan is intended to document remediation of the site to meet the Site-Specific Standard. The Remedial Action Plan was acceptable to meet the Standards and was approved by DEP on June 30, 2020.

Contact: Michael Stefanic, P.G., Licensed Professional Geologist.

Exide Technologies, Storage Tank Facility ID # 06-55324, 280 Grand Street, Hamburg, PA 19526, Hamburg Borough, **Berks County**. Advanced Geoservices, 1055 Andrew Drive, Suite A, West Chester, PA

19380 on behalf of Exide Technologies, Milton, GA submitted a Remedial Action Plan concerning remediation of soil and groundwater contaminated with petroleum constituents. The Remedial Action Plan was acceptable to meet the Site-Specific and Statewide Health Standards and was approved with modifications by DEP on July 8, 2020.

SPECIAL NOTICES

RADIATION PROTECTION

Notice of Certification to Perform Radon-Related Activities in Pennsylvania

In the months of March through May 2020, Department of Environmental Protection of the Commonwealth of Pennsylvania, under the authority contained in the Radon Certification Act, act of July 9, 1987, P.L. 238, No. 43 (63 P.S. §§ 2001—2014) and regulations promulgated thereunder at 25 Pa. Code Chapter 240, has certified the following persons to perform radon related activities in Pennsylvania. The period of certification is two years. (For a complete list of persons currently certified to perform radon-related activities in Pennsylvania and for information as to the specific testing devices that persons certified for testing or laboratory are certified to use, contact the Bureau of Radiation Protection, Radon Division, P.O. Box 8469, Harrisburg, PA 17105-8469, (1-800-23RADON).

<i>Name</i>	<i>Address</i>	<i>Certification</i>
Celia Rajkovich	122 W 5th Ave Derry, PA 15627	Labratory
Don Cessna	407 W Sample St Ebensburg, PA 15931	Testing
Dante Galan Radon Testing Corp.	2 Hayes Street Elmsford, NY 10523	Labratory
Dana Hillerby	P.O. Box 193 Hatfield, PA 19440	Testing
David Lovic US Radon Professional	501 James St Springdale, PA 15144	Mitigation
Robert Johnson A1 House Prep, LLC	340 Freed Rd Harleysville, PA 19438	Testing
Jeffrey Ralston	420 Valley Rd Bloomsburg, PA 17815	Mitigation
James Budzeak Swat Environmental of Pittsburgh	11676 Perry Hwy Ste 1207 Wexford, PA 15090	Mitigation
Paul Fletcher Alpha Energy Laboratories, Inc.	2501 Mayes Rd Ste 100 Carrollton, TX 75006	Laboratory
Michael Stabile	182 Heather Dr Blakeslee, PA 18610	Testing
Joshua Supik	2879 N Meadow St Natrona Heights, PA 15065	Testing
Erik Funkhouser	145 Dehaven Rd Beaver Falls, PA 15010	Testing
Troy Baughman	823 W Weber Ave Dubois, PA 15801	Testing
Mike Sheely	1000 Wolfe Rd Enola, PA 17025	Testing
Bruce Kollmeyer, Jr Radon Techno	828 Oak St Royersford, PA 19468	Mitigation
James Zamiska	523 Burnside Rd McDonald, PA 15057	Testing
Thomas Grove	118 Dolores Dr Irwin, PA 15642	Testing
Waqas Anwar	1619 Charles St Allentown, PA 18104	Mitigation

<i>Name</i>	<i>Address</i>	<i>Certification</i>
Richard Garzony	815 Montour St Coraopolis, PA 15108	Testing
Alexander Micco	121 Cottonwood Dr Aliquippa, PA 15001	Testing
Spencer Conrad	555 Jamestown St Philadelphia, PA 19128	Testing
Greg Karkowsky	5850 Centre Ave Apt 407 Pittsburgh, PA 15206	Testing
Michael Foglia	2427 Anneto Dr Pottstown, PA 19464	Testing
Elliott Hoffman RJH Radon Mitigation, Inc	P.O. Box 91 Akron, PA 17501	Mitigation
Gregory Gibson	P.O. Box 733 Tannersville, PA 18372	Testing
Kevin Thompson The Green Valley Group	P.O. Box 242 Unionville, PA 19375	Testing
Seth Gitman	530 South 2nd Street Unit 610 Philadelphia, PA 19147	Testing
Matthew Muehling	106 Canvasback Lane Elizabethtown, PA 17022	Testing
Lawrence Transue BPG Inspection, LLC	4300 Alexander Dr Ste 200 Alphratta, GA 30022	Testing
Wayne Stevens	1619 Forest Acres Dr Clarks Summit, PA 18411	Mitigation
Raymond Hutchison	25 Westmoreland Ave Montvale, NJ 7645	Testing
Kevin Barnaba Home Land Environmental Health Labs	9106 Philadelphia Rd Ste 106 Rosedale, MD 21237	Testing
Jody Viscomi	1304 Eynon St Scranton, PA 18504	Testing
Daniel Horvath	7713 Francis Ave Pittsburgh, PA 15218	Testing
Ronald Laporta, Jr	623 N Pottstown Pike Exton, PA 19341	Testing
Joseph Donnelly, III	2 Waterview Rd Apt F10 West Chester, PA 19380	Testing
Jeffrey Ralston	420 Valley Rd Bloomsburg, PA 17815	Testing
Jose Figueroa	1675 N Commerce Pkwy Weston, FL 33326	Laboratory
Matthew Weiss	238 Center Ave Emsworth, PA 15202	Testing
Dante Galan Radon Testing Corp. of America	2 Hayes St Elmsford, NY 10523	Labratory
Dennis Skladanowski	5140 Amherst Rd Erie, PA 16506	Testing
Stephen Fiorelli Quality Home	700 Braxton Rd Ridley Park, PA 19078	Testing
Ryan Reichert	23 Hallton Hill Rd Pine Grove, PA 17963	Testing
Brian Stumm	PO BOX 1520 Havertown, PA 19083	Testing

WATER MANAGEMENT

Proposed Total Maximum Daily Loads (TMDLs) for the Imlertown Run Watershed in Bedford County Request for Comment.

Central Office: Bureau of Clean Water, PO Box 8774, Harrisburg, PA 17105-8774.

The Department of Environmental Protection will accept comments on the proposed TMDLs developed for the Imlertown Run Watershed in Bedford County. The TMDLs were established in accordance with the requirements of Section 303(d) of the Clean Water Act. The Pennsylvania Integrated Water Quality Monitoring and Assessment Report included stream segments impaired for aquatic life in the watershed. The impairments addressed by this document were caused by excessive siltation and nutrients from agriculture and/or crop related agriculture.

There currently are no State or Federal in-stream numerical water quality criteria for sediment or nutrients. Therefore, the Department utilized a reference watershed approach to implement the applicable narrative criteria. The proposed TMDL document sets allowable loading of sediment and phosphorus in the Imlertown Run Watershed. The TMDLs included allocations for nonpoint sources, reserves for future point sources, as well as margin of safety factors. Nonpoint source load allocations were made for cropland, hay/pasture land, streambank and farm animal source sectors present in the watershed. Data used in establishing the TMDL were primarily generated using a water quality analysis model (Model My Watershed) made available through the Stroud Water Research Center.

The following table shows the estimated current sediment and phosphorus loadings within the watershed, the prescribed "TMDL" values, and % reductions needed under annual average conditions.

Summary of "TMDL"—Based Load Reductions (expressed as annual averages) in the Imlertown Run Watershed				
<i>Watershed</i>	<i>Pollutant</i>	<i>Existing Load (lbs/yr)</i>	<i>"TMDL" (lbs/yr)</i>	<i>% Reduction</i>
Imlertown Run	Sediment	1,027,080	577,120	44
Imlertown Run	Phosphorus	2,648	1,854	30

The following table shows the estimated current sediment and phosphorus loadings within the watershed, the prescribed "TMDL" values, and % reductions needed under 99th percentile daily loading conditions.

Summary of "TMDL"—Based Load Reductions (expressed as 99th percentile daily loading) in the Imlertown Run Watershed				
<i>Watershed</i>	<i>Pollutant</i>	<i>Existing Load (lbs/d)</i>	<i>TMDL (lbs/d)</i>	<i>% Reduction</i>
Imlertown Run	Sediment	31,290	14,466	54
Imlertown Run	Phosphorus	106	89	16

The proposed TMDL document can be viewed at <http://www.dep.state.pa.us/dep/deputate/watermgt/wqp/wqstandards/tmdl/ImlertownRunTMDL.pdf>.

Otherwise, copies of the proposed TMDL document or supporting information may be requested by emailing Michael Morris at michamorri@pa.gov.

Written/typed comments will be accepted at the above email address. Comment submissions must be submitted within 30 days after publication of this notice in the August 1st, 2020 issue of the *Pennsylvania Bulletin*. The Department will consider all written/typed comments submitted within the deadline prior to submitting the final TMDL to EPA for approval. To ensure timely receipt of comments given the office closure and work from home order, please do not mail hard copies of comments. Rather please submit them by email at michamorri@pa.gov. If comments cannot be emailed, please call Michael Morris at 717.772.5670 to request another method of comment submission.

Proposed Total Maximum Daily Load (TMDL) for the Mummasburg Run Watershed in Adams County Request for Comment.

Previously, a Bulletin notice for this TMDL document was published in the July 11, 2020 Edition of the *Pennsylvania Bulletin*. However, the original notice contained an error stating that there would be a 30-day comment period from its publication in the July 4, 2020 Edition of the *Pennsylvania Bulletin*. To prevent this error from limiting the public's ability to comment on this TMDL document, the public comment period is being extended by another two weeks. Therefore, comments will be accepted by August 24, 2020. See below for a revised notice.

The Department of Environmental Protection will accept comments on the proposed TMDLs developed for the Mummasburg Run Watershed in Adams County. The TMDLs were established in accordance with the requirements of Section 303(d) of the Clean Water Act. The Pennsylvania Integrated Water Quality Monitoring and Assessment Report included stream segments impaired for aquatic life in the watershed. The cause of the impairments addressed by this TMDL document were excessive siltation and nutrients from agriculture.

There currently are no State or Federal in-stream numerical water quality criteria for sediment or nutrients. Therefore, the Department utilized a reference watershed approach to implement the applicable narrative criteria. The proposed TMDL document sets allowable loading of sediment and nutrients (phosphorus) in the Mummasburg Run Watershed. The TMDLs included allocations for nonpoint sources, reserves for future point sources, as well as margin of safety factors. Nonpoint source load allocations were made for cropland, hay/pasture land, streambank and farm animal source sectors

present in the watershed. Data used in establishing the TMDL were primarily generated using a water quality analysis model (Model My Watershed) made available through the Stroud Water Research Center.

The following table shows the estimated current sediment and phosphorus loading within the watershed, the prescribed “TMDL” values, and % reductions needed under annual average conditions.

Summary of “TMDL”—Based Load Reductions (expressed as annual averages) in the Mummasburg Run Watershed				
<i>Watershed</i>	<i>Pollutant</i>	<i>Existing Load (lbs/yr)</i>	<i>“TMDL” (lbs/yr)</i>	<i>% Reduction</i>
Mummasburg Run	Sediment	1,995,664	760,817	62
Mummasburg Run	Phosphorus	3,342	1,252	63

The following table shows the estimated current sediment and phosphorus loading within the watershed, the prescribed “TMDL” values, and % reductions needed under 99th percentile daily loading conditions.

Summary of “TMDL”—Based Load Reductions (expressed as 99th percentile daily loading) in the Mummasburg Run Watershed				
<i>Watershed</i>	<i>Pollutant</i>	<i>Existing Load (lbs/d)</i>	<i>TMDL (lbs/d)</i>	<i>% Reduction</i>
Mummasburg Run	Sediment	100,882	28,509	72
Mummasburg Run	Phosphorus	168	48	71

The proposed TMDL document can be viewed at <http://www.dep.state.pa.us/dep/deputate/watermgt/wqp/wqstandards/tmdl/MummasburgRunTMDL.pdf>.

Otherwise, copies of the proposed TMDL document or supporting information may be requested by emailing Michael Morris at michamorri@pa.gov.

Written/typed comments will be accepted at the above email address. The Department will consider all written/typed comments submitted within the deadline prior to submitting the final TMDL to EPA for approval. To ensure timely receipt of comments given the office closure and work from home order, please do not mail hard copies of comments. Rather please submit them by email at michamorri@pa.gov. If comments cannot be emailed, please call Michael Morris at 717.772.5670 to request another method of comment submission.

[Pa.B. Doc. No. 20-1040. Filed for public inspection July 31, 2020, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Availability of Technical Guidance

Technical guidance documents (TGD) are available on the Department of Environmental Protection’s (Department) web site at www.depgreenport.state.pa.us/elibrary/. The “Technical Guidance Final Documents” heading is the link to a menu of the various Department bureaus where each bureau’s final TGDs are posted. The “Technical Guidance Draft Documents” heading is the link to the Department’s draft TGDs.

Ordering Paper Copies of Department Technical Guidance

The Department encourages the use of the Internet to view and download TGDs. When this option is not available, persons can order a paper copy of any of the Department’s draft or final TGDs 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 TGDs

Following is the current list of recent changes. Persons who have questions or comments about a particular document should contact the person whose name and phone number are listed with each document.

Final Technical Guidance: Substantive Revision

DEP ID: 563-2112-217. *Title:* Alkaline Addition for Surface Coal Mines. *Description:* This guidance explains the situations where alkaline addition at surface coal mine sites is appropriate and describes the options and procedures for operators when using alkaline addition to maintain and achieve compliance with environmental protection standards, including calculation of application rates and placement of alkaline material. The existing guidance document had previously not been updated since 1997. This revision focuses on updates related to the Department’s experience in issuing permits with alkaline addition over the last 20 years, including best practices regarding location and mixing of alkaline material, use of coal ash and co-products/general permits for alkaline addition, and updates to the process determining target net neutralization potential required for a site. This guidance document was available for public comment from March 30, 2019, to April 29, 2019. The Department received comments from one commenter and based on the suggestions provided, adjusted the guidance accordingly.

Contact: Questions regarding this TGD can be directed to Greg Greenfield at grgreenfie@pa.gov or (717) 787-3174.

Effective Date: August 1, 2020

Rescission of Technical Guidance

DEP ID: 263-3300-002. *Title:* Permeability of Secondary Containment and Emergency Containment. *Description:* This guidance provides permeability recommendations to owners of aboveground storage tanks for sec-

ondary and emergency containment and was first published on December 22, 1993. Since this time, amendments to 25 Pa. Code Chapter 245 (relating to administration of the Storage Tank and Spill Prevention Program), have been published with permeability requirements set forth in regulation. This guidance document is now obsolete.

Contact: Questions regarding this action can be directed to Kris A. Shiffer at kshiffer@pa.gov or (717) 772-5809.

Effective Date: August 1, 2020

PATRICK McDONNELL,
Secretary

[Pa.B. Doc. No. 20-1041. Filed for public inspection July 31, 2020, 9:00 a.m.]

DEPARTMENT OF HEALTH

Ambulatory Surgical Facilities; Requests for Exceptions

The following ambulatory surgical facilities (ASF) 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 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).

<i>Facility Name</i>	<i>Regulation and relating to</i>
Children's Dental Surgery	28 Pa. Code § 551.22(3)(i) (relating to criteria for performance of ambulatory surgery on pediatric patients)
Children's Dental Surgery of Bethlehem	28 Pa. Code § 551.22(3)(i)
Children's Dental Surgery of Malvern	28 Pa. Code § 551.22(3)(i)
Hypertension-Nephrology Associates Vascular Center	28 Pa. Code § 551.21(d)(3) (relating to criteria for ambulatory surgery)
	28 Pa. Code § 551.21(d)(3).
Pocono Ambulatory Surgery Center, Limited	28 Pa. Code § 551.21(d)(1)
UPMC West Mifflin Outpatient Surgery Center	28 Pa. Code § 567.53(1) and (2) (relating to sterilization control)
	28 Pa. Code § 553.1 (relating to principle)
	28 Pa. Code § 557.2 (relating to plan)
	28 Pa. Code § 557.3 (relating to Quality Assurance and Improvement Program)
	28 Pa. Code § 555.1 (relating to principle)

These 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,
Secretary

[Pa.B. Doc. No. 20-1042. Filed for public inspection July 31, 2020, 9:00 a.m.]

DEPARTMENT OF HEALTH

Approved Prearrest and Evidential Breath Testing Devices

The Department of Health (Department) has statutory authority to approve both prearrest and evidential breath testing devices for use by law enforcement officials to determine the alcohol content of blood by analysis of a person's breath. This notice contains the combined approved lists of prearrest breath testing devices and evidential breath testing devices.

Prearrest Breath Testing Devices

The Department approves prearrest breath testing devices as required by 28 Pa. Code §§ 5.101—5.104 (relating to equipment to determine blood alcohol content under the Vehicle Code and the Fish and Boat Code). Authority to promulgate these regulations is contained in the Vehicle Code, 75 Pa.C.S. § 1547(k) (relating to chemical testing to determine amount of alcohol or controlled substance), the Fish and Boat Code, 30 Pa.C.S. § 5125(k) (relating to chemical testing to determine amount of alcohol or controlled substance), the Game and Wildlife Code, 34 Pa.C.S. § 2502(j) (relating to chemical test to

determine amount of alcohol) and section 2102(g) of The Administrative Code of 1929 (71 P.S. § 532(g)).

Prearrest breath testing devices approved under this authority may be used by police officers, waterways patrolmen and officers enforcing the Vehicle Code, the Fish and Boat Code and the Game and Wildlife Code in conducting preliminary determinations of the alcohol content of blood of persons suspected of driving, boating, hunting or furtaking while under the influence of alcohol. Officers and patrolmen use these devices to assist them in determining whether or not a person should be placed under arrest for violation of 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance), for violation of 30 Pa.C.S. § 5502 (relating to operating watercraft under influence of alcohol or controlled substance), for violation of 34 Pa.C.S. § 2501 (relating to hunting or furtaking prohibited while under influence of alcohol or controlled substance) or for any other criminal offense under the Vehicle Code, the Fish and Boat Code or the Game and Wildlife Code which involves operating a vehicle or boat, hunting or furtaking while under the influence of alcohol.

The National Highway Traffic Safety Administration (NHTSA) of the United States Department of Transportation published model specifications for Screening Devices to Measure Alcohol in Bodily Fluids at 59 FR 39382 (August 2, 1994). These specifications established performance criteria and methods for testing alcohol screening devices to measure alcohol content. The NHTSA established these specifications to support state laws and the United States Department of Transportation's workplace alcohol testing program. The Department has elected to use the NHTSA criteria for approving devices for the prearrest testing of a person's breath to determine the alcohol content of the person's blood.

The NHTSA published its first Conforming Products List (CPL) for screening devices at 59 FR 61923 (December 2, 1994), with corrections at 59 FR 65128 (December 16, 1994), identifying the devices that meet the NHTSA's Model Specifications for Screening Devices to Measure Alcohol in Bodily Fluids. Thereafter, the NHTSA updated the CPL at 60 FR 42214 (August 15, 1995), 66 FR 22639 (May 4, 2001), 70 FR 54972 (September 19, 2005), with corrections at 70 FR 72502 (December 5, 2005) and 72 FR 44559 (January 31, 2007).

The NHTSA published revised Model Specifications for Screening Devices to Measure Alcohol in Bodily Fluids at 73 FR 16956 (March 31, 2008). These specifications removed from use interpretive screening devices (ISD) because ISDs did not provide an unambiguous test result. These specifications also removed from use the Breath Alcohol Sample Simulator as it is not necessary for testing breath alcohol screening devices. All other performance criteria and test methods were maintained. The NHTSA published an additional update to the CPL at 74 FR 66398 (December 15, 2009). The current list was published at 77 FR 35745 (June 14, 2012).

Evidential Breath Testing Devices

The Department approves evidential breath testing devices under the authority of the Vehicle Code (75 Pa.C.S. § 1547(c)(1)), the Fish and Boat Code (30 Pa.C.S. § 5125(c)(1)) and the Game and Wildlife Code (34 Pa.C.S. § 2502(c)).

Evidential breath testing devices approved under this notice may be used by law enforcement officials to obtain test results which will be admissible in evidence in any summary or criminal proceeding in which the defendant

is charged with a violation of 75 Pa.C.S. § 3802 or any other violation of the Vehicle Code arising out of the same action or 30 Pa.C.S. § 5502 or any other violation of the Fish and Boat Code arising out of the same action or 34 Pa.C.S. § 2501 or any other violation of the Game and Wildlife Code arising out of the same action.

The NHTSA published the Standards for Devices to Measure Breath Alcohol at 38 FR 30459 (November 5, 1973). A Qualified Products List of Evidential Breath Measurement Devices comprised of instruments that met this standard was first issued at 39 FR 41399 (November 21, 1974).

The NHTSA converted the Standards for Devices to Measure Breath Alcohol to Model Specifications for Evidential Breath Testing Devices (Model Specifications) and published a CPL of instruments that were found to conform to the Model Specifications as Appendix D to that notice at 49 FR 48854 (December 14, 1984).

The NHTSA published a notice to amend the Model Specifications at 58 FR 48705 (September 17, 1993) and to update the CPL. That notice changed the alcohol concentration levels at which instruments are evaluated for precision and accuracy, from 0.000, 0.050, 0.101 and 0.151 BAC, to 0.000, 0.020, 0.040, 0.080 and 0.160 BAC, respectively. It also included a test for the presence of acetone and an expanded definition of alcohol to include other low molecular weight alcohols, for example, methyl or isopropyl. Since that time, the CPL has been annotated to indicate which instruments have been determined to meet the Model Specifications published in 1984 and which have been determined to meet the Model Specifications, as revised and published in 1993.

Thereafter, the NHTSA has periodically updated the CPL with those breath instruments found to conform to the Model Specifications.

The NHTSA published an additional update to the CPL at 77 FR 35747 (June 14, 2012) for instruments that conform to the Model Specifications for Evidential Breath Alcohol Measurement Devices at 58 FR 48705 (September 17, 1993). The Department's list of evidential breath testing devices contains updates to the CPL published at 77 FR 35747 (June 14, 2012) for instruments that conform to the Model Specifications for Evidential Breath Alcohol Measurement Devices at 58 FR 48705 (September 17, 1993). This current list was published at 82 FR 50940 (November 2, 2017).

Instruments marked with an asterisk (*) meet the Model Specifications detailed in 49 FR 48854 (December 14, 1984) (that is, instruments tested at 0.000, 0.050, 0.101 and 0.151 BAC). Instruments not marked with an asterisk meet the Model Specifications detailed in 58 FR 48705 (September 17, 1993) and were tested at BACs = 0.000, 0.020, 0.040, 0.080 and 0.160. All instruments that meet the Model Specifications currently in effect (dated September 17, 1993) also meet the Model Specifications for Screening Devices to Measure Alcohol in Bodily Fluids.

The NHTSA also evaluates equipment to determine if it must be operated at fixed locations (that is, nonmobile equipment) or can be transported to nonfixed operational sites in the field (that is, mobile equipment). Most equipment on the following list is approved for mobile and nonmobile operation. The instruments on the list not marked with an asterisk meet the specifications for use as prearrest or evidentiary breath testing devices. The instruments on the list marked with an asterisk may be used as evidentiary devices for blood alcohol concentra-

tions at or above 0.050%. These instruments may also be used as prearrest breath testing devices if they are approved for mobile operations. However, these instruments may not be used for making arrests under the Vehicle Code, the Fish and Boat Code or the Game and Wildlife Code where blood alcohol concentrations below 0.050% must be determined. Nonmobile devices can only be used as evidentiary testing instruments since they are not portable. Before purchasing breath testing devices, law enforcement officials should consult with the manufacturer of the equipment they intend to purchase to verify that the devices can be used for their intended purposes.

The update to the CPL published at 82 FR 50940 (November 2, 2017) adds twelve (12) new instruments that have been evaluated and found to conform to the Model Specifications, as amended on September 17, 1993 for mobile and nonmobile use. One instrument is distributed by two different companies, so it has been listed twice. One manufacturer changed their legal name. One manufacturer added a new product option for USB and Ethernet connectivity. One manufacturer added a Bluetooth keyboard accessory to two devices and a calibration accessory for seven of its devices. These devices were found to conform with or without the accessories. Another seven instruments are now being listed under a different distributor/manufacturer and those devices will be cross-referenced for legacy purposes. In alphabetical order by company, the new devices are:

(1) The “AlcoMate TS600” distributed by AK GlobalTech Corporation, Palisades Park, NJ. This device will be known as the Alcoscan ALP—1 outside of the U.S. The AlcoMate TS600 is a hand-held device with an electrochemical (EC) fuel cell sensor. This device is powered by internal batteries and is intended for mobile or stationary operations.

(2) The “Intoxilyzer 500” manufactured by CMI, Inc., Owensboro, KY. This instrument is currently listed on the CPL for Alcohol Screening Devices and will be removed when that CPL is updated. Improvements to the device’s sampling system allow it to conform as an EBT. It is a hand-held instrument intended for use in mobile or stationary operations. It uses a fuel cell sensor and is powered by an internal battery. The Intoxilyzer 500 is also distributed as the Lion Alcolmeter 500 by Lion Laboratories outside the United States, so it has been listed twice on the CPL, once under each of its distributors/manufacturers.

(3) The “Intoxilyzer 9000” manufactured by CMI, Inc., Owensboro, KY. This is a bench-top device that is intended for use in mobile or stationary operations. This device uses an infrared (IR) sensor to measure ethanol concentration. The Intoxilyzer 9000 can be powered by either 110 volts alternate current (AC) or 12 volts direct current (DC).

(4) The “Alcotest 3820” manufactured by Draeger, Inc., Irving, TX. The Alcotest 3820 is a hand-held device that uses an EC fuel cell sensor to measure ethanol concentration. This instrument is powered by internal batteries and is intended for use in stationary or mobile operations.

(5) The “Alcotest 5510” manufactured by Draeger, Inc., Irving, TX. The Alcotest 5510 is a hand-held device that uses an EC fuel cell sensor to measure ethanol. This device is powered by internal batteries and is intended for use in mobile or stationary operations.

(6) The “Alcotest 5820” manufactured by Draeger, Inc., Irving, TX. The Alcotest 5820 is a hand-held device that uses an EC fuel cell sensor to measure ethanol. This

device is powered by internal batteries and is intended for use in mobile or stationary operations.

(7) The “Alcotest 6820” manufactured by Draeger, Inc., Irving, TX. The Alcotest 6820 is a hand-held device that uses an EC fuel cell sensor to measure ethanol. This device is powered by internal batteries and is intended for use in mobile or stationary operations.

(8) The “AlcoQuant 6020 Plus” manufactured by EnviteC, Wismar, Germany and distributed by Honeywell GmbH, Fond du Lac, WI. The AlcoQuant 6020 Plus is a hand-held device with a fuel cell sensor. This device is powered by internal batteries and is intended for use in mobile and stationary operations.

(9) The Alco-Sensor FST manufactured by Intoximeters, Inc., Saint Louis, MO. The Alco-Sensor FST is a hand-held Evidential Breath Tester that uses an EC fuel cell sensor to measure ethanol concentration. This instrument is powered by internal batteries and is intended for use in stationary or mobile operations.

(10) The Intox DMT Dual Sensor manufactured by Intoximeters, Inc., Saint Louis, MO. The Intox DMT Dual Sensor is a bench-top Evidential Breath Tester that is intended for use in stationary or mobile operations. This device uses both an IR sensor and an EC fuel cell sensor. The Intox DMT Dual Sensor can be powered by either 110 volts AC or 12 volts DC.

(11) The “Intox EC/IR II.t” manufactured by Intoximeters, Inc., Saint Louis, MO. This is a benchtop device intended for use in mobile or stationary operations. This device uses both an EC fuel cell sensor and an IR sensor to measure ethanol concentrations. The Intox EC/IR II.t can be powered by either 110 volts AC or 12 volts DC.

(12) The “FC10Plus” manufactured by Lifeloc Technologies, Inc., Wheat Ridge, CO. This is a hand-held device that is intended for use in mobile or stationary operations. This device uses a fuel cell sensor and is powered by internal batteries.

This update indicates that two (2) devices (the Phoenix 6.0 and the FC20, manufactured by Lifeloc Technologies, Inc., Wheat Ridge, CO) come with Bluetooth keyboard support and five additional fields that users can use to enter additional information. With these features, these devices will be listed on the CPL as the “Phoenix 6.0BT” and the “FC20BT.” This update indicates also that seven (7) devices manufactured by Lifeloc come with the EASYCAL calibration accessory. Those devices include the FC10, FC10Plus, FC20, FC20BT, EV30, Phoenix 6.0 and the Phoenix 6.0BT. The CPL specifies that each of these devices conforms to the model specifications “w/or without the EASYCAL accessory.”

Intoximeters, Inc., Saint Louis, MO acquired the breath alcohol testing business of National Patent Analytical Systems, Inc. (NPAS). Since there have been no changes to the devices other than ownership and a device name change, all six devices previously listed under NPAS (BAC DataMaster (with or without the Delta-1 accessory), BAC Verifier DataMaster (w/or without the Delta-1 accessory), DataMaster cdm (w/or without the Delta-1 accessory), DataMaster DMT w/Fuel Cell option, DataMaster DMT w/Rev A Fuel Cell option, and DataMaster DMT) will now be listed under both Intoximeters and NPAS. The NPAS DataMaster DMT will now be known as the Intoximeters Intox DMT. Accordingly, this device will be listed under Intoximeters under both names.

The CPL has been updated to reflect that Draeger Safety Diagnostics, Inc. will begin operating under the

name Draeger, Inc. effective July 1, 2017 in order to align all sales and service operations for Draeger in the United States. Law enforcement agencies should determine that an approved training program in the use of the equipment is available in accordance with the previously referenced statutes before purchasing any of the devices contained on this list. Law enforcement agencies that plan to utilize a device that does not appear on the following list should contact the manufacturer of the equipment to verify that it has been evaluated by the NHTSA and found to meet the NHTSA's performance requirements. If a device is approved by the NHTSA after the date of this publication, the manufacturer of the device will need to forward documentation of the NHTSA acceptability to Jennifer Okraska at the address given as follows so that the Department has information sufficient to enable it to include the device in the next revision of this notice in the *Pennsylvania Bulletin*.

Some of the devices included in this notice are listed under the name of more than one manufacturer due to the fact that the name of the manufacturer has changed or the right to produce a device has been transferred to a different company. In these instances, the device is listed under the name of every company that was ever associated with the device to allow law enforcement agencies to continue using devices bearing the name of a previous manufacturer.

To facilitate accessibility of information concerning breath alcohol testing devices which are approved for law enforcement purposes in this Commonwealth, the Department will publish revisions of this list of equipment semiannually as notices in the *Pennsylvania Bulletin*. Questions regarding this list should be directed to Jennifer Okraska, Director, Division of Chemistry and Toxicology, Department of Health, Bureau of Laboratories, P.O. Box 500, Exton, PA 19341-0500, (610) 280-3464.

CONFORMING PRODUCTS LIST OF ALCOHOL SCREENING DEVICES

Distributors/Manufacturers	Devices
AK Solutions, USA, LLC., Palisades Park, New Jersey ¹	<ul style="list-style-type: none"> AlcoScan AL-2500. SafeMate.² SafeDrive. AlcoMate.³ (aka: AlcoHAWK Pro by Q3 Innovations). AlcoMate Accu Cell AL-9000. AlcoMate Pro.³ AlcoMate Core.⁴ AlcoMate Premium AL-7000, with replaceable Premium Sensor Modules (SM-7000).^{4 5} AlcoMate Prestige AL-6000, with replaceable Prestige Sensor Modules (SM-6000).^{4 6} AlcoMate SafeGuard (Model AL-2500, aka: AlcoScan AL-2500).
Alco Check International, Hudsonville, Michigan	Alco Check 3000 D.O.T. ⁷ Alco Check 9000. ⁷
Akers Biosciences, Inc., Thorofare, New Jersey	Breath Alcohol® .02 Detection System. ⁸
Alcohol Countermeasure Systems Corp., Toronto, Ontario, Canada	DRIVESAFE. ALERT J4X ALERT J5
BAC Solutions, Inc., Birmingham, Michigan	BACmaster.
B.E.S.T. Labs., Boardman, Ohio	PB 9000e.
Chematics, Inc., North Webster, Indiana	ALCO-SCREEN 02 ^{TM 9} .
Express Diagnostics Int'l, Inc., Blue Earth, Minnesota	AlcoCheck FC90 (aka: AT578 by Skyfine).
First Innovative Technology Group, Ltd., Hong Kong	AAT198—Pro.
Guth Laboratories, Inc., Harrisburg, Pennsylvania	<ul style="list-style-type: none"> Alco Tector Mark X. Mark X Alcohol Checker. Alcotector WAT89EC-1. Alcotector WAT90.
Han International Co., Ltd., ² Seoul, Korea	A.B.I. (Alcohol Breath Indicator) (aka: AlcoHAWK ABI by Q3 Innovations).
KHN Solutions, LLC, San Francisco, California	<ul style="list-style-type: none"> BACTRACK Select S50.¹⁰ BACTRACK Select S80.¹⁰ BACTRACK Element. BACTRACK S 75 Pro.
Lion Laboratories, Ltd., Wales, United Kingdom	Alcometer 500 (aka: Intoxilyzer 500-CMI, Inc.).
OraSure Technologies, Inc., Bethlehem, Pennsylvania	Q.E.D. A150 Saliva Alcohol Test.
PAS Systems International, Inc., Fredericksburg, Virginia	<ul style="list-style-type: none"> PAS Vr. Alcovisor MARS.

Distributors/Manufacturers	Devices
Q3 Innovations, Inc., Independence, Iowa	<ul style="list-style-type: none"> AlcoHAWK Precision. AlcoHAWK Slim. AlcoHAWK Slim 2. AlcoHAWK Elite. AlcoHAWK ABI (aka: A.B.I. (Alcohol Breath Indicator) by Han Intl.). AlcoHAWK Micro. AlcoHAWK PRO (aka: AlcoMate by AK Solutions). AlcoHAWK PT 500. CA2010.
RepcO Marketing, Inc., Raleigh, North Carolina	Alco Tec III.
Seju Engineering Co., Taejeon, Korea	Safe-Slim.
Skyfine Inc., Ltd., Kwai Chung, NT, Hong Kong	<ul style="list-style-type: none"> AT577. AT578 (aka: AlcoCheck FC90). AT579.
Sound Off, Inc., Hudsonville, Michigan	Digitox D.O.T. ⁷
Varian, Inc., Lake Forest, California	On-Site Alcohol. ¹⁰

¹ The AlcoMate was manufactured by Han International of Seoul, Korea, but marketed and sold in the United States by AK Solutions.

² Manufactured by Seju Engineering, Korea.

³ Han International does not market or sell devices directly in the United States market. Other devices manufactured by Han International are listed under AK Solutions, Inc. and Q3 Innovations, Inc.

⁴ Manufactured by Sentech Korea Corp.

⁵ These devices utilize replaceable semiconductor detectors. Instead of recalibrating the device, a new calibrated detector can be installed. The device comes with 4 detectors including the one that was already installed.

⁶ These devices utilize replaceable semiconductor detectors. Instead of recalibrating the device, a new calibrated detector can be installed. This device comes with 5 detectors including the one that was already installed.

⁷ While these devices are still being sold, they are no longer manufactured or supported.

⁸ The Breath Alcohol® .02 Detection System consists of a single-use disposable breath tube used in conjunction with an electronic analyzer that determines the test result. The electronic analyzer and the disposable breath tubes are lot specific and manufactured to remain calibrated throughout the shelf-life of the device. This screening device cannot be used after the expiration date.

⁹ While the ALCO-SCREEN 02™ saliva-alcohol screening device manufactured by Chematics, Inc. passed the requirements of the Model Specifications when tested at 40°C (104°F), the manufacturer has indicated that the device cannot exceed storage temperatures of 27°C (80°F). Instructions to this effect are stated on all packaging accompanying the device. Accordingly, the device should not be stored at temperatures above 27°C (80°F). If the device is stored at or below 27°C (80°F) and used at higher temperatures (that is, within a minute), the device meets the Model Specifications and the results persist for 10–15 minutes. If the device is stored at or below 27°C (80°F) and equilibrated at 40°C (104°F) for an hour prior to sample application, the device fails to meet the Model Specifications. Storage at temperatures above 27°C (80°F), for even brief periods of time, may result in false negative readings.

¹⁰ While this device passed all of the requirements of the Model Specifications, readings should be taken only after the time specified by the manufacturer. For valid readings, the user should follow the manufacturer's instructions. Readings should be taken 1 minute after a sample is introduced at or above 30°C (86°F); readings should be taken after 2 minutes at 18°C–29°C (64.4°F–84.2°F); and readings should be taken after 5 minutes when testing at temperatures at or below 17°C (62.6°F). If the reading is taken before 5 minutes has elapsed under the cold conditions, the user is likely to obtain a reading that underestimates the actual saliva-alcohol level.

CONFORMING PRODUCTS LIST OF EVIDENTIAL BREATH MEASUREMENT DEVICES

Manufacturer/Distributor and Model	Mobile	Nonmobile
AK GlobalTech Corporation, Palisades Park, New Jersey:		
AlcoMate TS600 (aka: Alcoscan ALP-1 outside the U.S.)	X	X
Alcohol Countermeasure Systems Corp., Toronto, Ontario, Canada:		
Alert J3AD*	X	X
Alert J4X.ec	X	X
PBA3000C	X	X
SAF [®] IR Evolution	X	X
BAC Systems, Inc., Ontario, Canada:		
Breath Analysis Computer*	X	X

Manufacturer/Distributor and Model	Mobile	Nonmobile
CAMEC Ltd., North Shields, Tyne and Ware, England:		
IR Breath Analyzer*	X	X
CMI, Inc., Owensboro, Kentucky:		
Intoxilyzer Model:		
200	X	X
200D	X	X
240 (aka: Lion Alcolmeter 400+ outside the U.S.)	X	X
300	X	X
400	X	X
400PA	X	X
500 (aka: Lion Alcolmeter 500 outside the U.S.)	X	X
600 (aka: Lion Alcolmeter 600 outside the U.S.)	X	X
800	X	—
1400	X	X
4011*	X	X
4011A*	X	X
4011AS*	X	X
4011AS-A*	X	X
4011AS-AQ*	X	X
4011 AW*	X	X
4011A27-10100*	X	X
4011A27-10100 with filter*	X	X
5000	X	X
5000 (w/Cal. Vapor Re-Circ.)	X	X
5000 (w/3/8" ID Hose option)	X	X
5000CD	X	X
5000CD/FG5	X	X
5000EN	X	X
5000 (CAL DOJ)	X	X
5000VA	X	X
8000	X	X
9000	X	X
9000 (serial numbers 90-000500 and above)	X	X
PAC 1200*	X	X
S-D2	X	X
S-D5 (aka: Lion Alcolmeter SD-5 outside the U.S.)	X	X
Draeger, Inc. (aka: Draeger Safety Diagnostics, Inc. or National Draeger) Irving, Texas:		
Alcotest Model:		
3820	X	X
5510	X	X
5820	X	X
6510	X	X
6810	X	X
6820	X	X
7010*	X	X
7110*	X	X
7110 MKIII	X	X
7110 MKIII-C	X	X

Manufacturer/Distributor and Model	Mobile	Nonmobile
7410	X	X
7410 Plus	X	X
7510	X	X
9510	X	X
Breathalyzer Model:		
900	X	X
900A*	X	X
900BG*	X	X
7410	X	X
7410-II	X	X
EnviteC, Wismar, Germany, distributed by Honeywell GmbH, Fond du Lac, Wisconsin:		
AlcoQuant 6020	X	X
AlcoQuant 6020 Plus	X	X
Gall's Inc., Lexington, Kentucky:		
Alcohol Detection System—A.D.S. 500	X	X
Guth Laboratories, Inc., Harrisburg, Pennsylvania:		
Alcotector BAC-100	X	X
Alcotector C2H5OH	X	X
Guth 38	X	X
Intoximeters, Inc., St. Louis, Missouri:		
Auto Intoximeter*	X	X
GC Intoximeter MK II*	X	X
GC Intoximeter MK IV*	X	X
Photo Electric Intoximeter*	—	X
Intoximeter Model:		
3000	X	X
3000 (rev B1)*	X	X
3000 (rev B2)*	X	X
3000 (rev B2A)*	X	X
3000 (rev B2A) w/FM option*	X	X
3000 (Fuel Cell)*	X	X
3000 D*	X	X
3000 DFC*	X	X
Alcomonitor	—	X
Alcomonitor CC	X	X
Alco-Sensor III	X	X
Alco-Sensor III (Enhanced with Serial Numbers above 1,200,000)	X	X
Alco-Sensor IV	X	X
Alco-Sensor IV XL	X	X
Alco-Sensor V	X	X
Alco-Sensor V XL	X	X
Alco-Sensor AZ	X	X
Alco-Sensor FST	X	X
Intox DMT Dual Sensor	X	X
Intox EC/IR	X	X
Intox EC/IR II	X	X
Intox EC/IR II (Enhanced with serial number 10,000 or higher)	—	X
Intox EC/IR II.t	X	X

Manufacturer/Distributor and Model	Mobile	Nonmobile
Portable Intox EC/IR	X	X
RBT-AZ	X	X
RBT-III	X	X
RBT III-A	X	X
RBT IV	X	X
RBT IV with CEM (cell enhancement module)	X	X
(Also Listed under National Patent Analytical Systems, Inc.) BAC DataMaster (with or without the Delta-1 accessory)	X	X
BAC Verifier DataMaster (w/or without the Delta-1 accessory)	X	X
DataMaster cdm (w/or without the Delta-1 accessory)	X	X
DataMaster DMT w/Fuel Cell option	X	X
DataMaster DMT w/Rev A Fuel Cell option	X	X
DataMaster DMT (aka: Intox MT)	X	X
Intox DMT (aka: DataMaster DMT)	X	X
Komyo Kitagawa, Kogyo, K.K., Japan:		
Alcolyzer DPA-2*	X	X
Breath Alcohol Meter PAM 101B*	X	X
Lifeloc Technologies, Inc., (formerly Lifeloc, Inc.), Wheat Ridge, Colorado:		
EV 30 (w/or without EASYCAL accessory)	X	X
FC 10 (w/or without EASYCAL accessory)	X	X
FC 10Plus (w/or without EASYCAL accessory)	X	X
FC 20 (w/or without EASYCAL accessory)	X	X
FC 20BT (w/or without EASYCAL accessory)	X	X
LifeGuard Pro	X	X
Phoenix	X	X
Phoenix 6.0 (w/or without EASYCAL accessory)	X	X
Phoenix 6.0BT (w/or without EASYCAL accessory)	X	X
Lion Laboratories, Ltd., Cardiff, Wales, United Kingdom:		
Alcolmeter Model:		
300	X	X
400	X	X
400+ (aka: Intoxilyzer 240 in the U.S.)	X	X
500 (aka: Intoxilyzer 500 in the U.S.)	X	X
600 (aka: Intoxilyzer 600 in the U.S.)	X	X
EBA*	X	X
SD-2*	X	X
SD-5 (aka: S-D5 in the U.S.)	X	X
Intoxilyzer Model:		
200	X	X
200D	X	X
1400	X	X
5000 CD/FG5	X	X
5000 EN	X	X
Luckey Laboratories, San Bernardino, California:		
Alco-Analyzer Model:		
1000*	—	X
2000*	—	X

Manufacturer/Distributor and Model	Mobile	Nonmobile
Nanopuls AB, Uppsala, Sweden:		
Evidenzer	X	X
National Patent Analytical Systems, Inc. (NPAS), Mansfield, Ohio:		
BAC DataMaster (with or without the Delta-1 accessory)	X	X
BAC Verifier DataMaster (w/or without the Delta-1 accessory)	X	X
DataMaster cdm (w/or without the Delta-1 accessory)	X	X
DataMaster DMT (aka: Intox DMT)	X	X
DataMaster DMT w/Fuel Cell option SN: 555555	X	X
DataMaster DMT w/ Rev A Fuel Cell option SN: 100630	X	X
Omicron Systems, Palo Alto, California:		
Intoxilyzer Model:		
4011*	X	X
4011AW*	X	X
PAS International, Fredericksburg, Virginia:		
Alcovisor Jupiter	X	X
Alcovisor Mercury	X	X
Mark V Alcovisor	X	X
Plus 4 Engineering, Minturn, Colorado:		
5000 Plus 4*	X	X
Seres, Paris, France:		
Alco Master	X	X
Alcopro	X	X
Siemens-Allis, Cherry Hill, New Jersey:		
Alcomat*	X	X
Alcomat F*	X	X
Smith and Wesson Electronics, Springfield, Massachusetts:		
Breathalyzer Model:		
900*	X	X
900A*	X	X
1000*	X	X
2000*	X	X
2000 (non-Humidity Sensor)*	X	X
Sound-Off, Inc., Hudsonville, Michigan:		
AlcoData	X	X
Seres Alco Master	X	X
Seres Alcopro	X	X
Stephenson Corp.:		
Breathalyzer 900*	X	X
Tokai-Denshi Inc., Tokyo, Japan:		
ALC-PRO II (U.S.)	X	X
U.S. Alcohol Testing, Inc./Protection Devices, Inc., Rancho Cucamonga, California:		
Alco-Analyzer 1000	—	X
Alco-Analyzer 2000	—	X
Alco-Analyzer 2100	X	X
Verax Systems, Inc., Fairport, New York:		
BAC Verifier*	X	X
BAC Verifier Datamaster	X	X
BAC Verifier Datamaster II*	X	X

Persons with a disability who require an alternative format of this notice (for example, large print, audiotope, Braille) should contact Jennifer Okraska, Director, Division of Chemistry and Toxicology, Department of Health, Bureau of Laboratories, P.O. Box 500, Exton, PA 19341-0500, (610) 280-3464. Persons who are speech or hearing impaired may call the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

RACHEL L. LEVINE, MD,
Secretary

[Pa.B. Doc. No. 20-1043. Filed for public inspection July 31, 2020, 9:00 a.m.]

DEPARTMENT OF HEALTH

Health Research Advisory Committee Special Virtual Meeting

The Department of Health's Health Research Advisory Committee (Committee), established by section 903(b) of the Tobacco Settlement Act (35 P.S. § 5701.903(b)), will hold a special public meeting on Monday, August 10, 2020, from 11 a.m. to 12 p.m. The meeting will be held virtually by means of Skype at +1 267-332-8737 with Conference ID: 612338865.

The purpose of the special meeting is to review the work of the Committee and to discuss changes to the health research priority for the State Fiscal Year 2020-2021.

For additional information or persons with disabilities who wish to attend the meeting and require an auxiliary aid, service or other accommodation, contact Penny E. Harris, MEd, CAC, LPC, Director, Health Research Office, or Pamela Brown, Management Technician, Health Research Office, (717) 231-2825, ra-healthresearch@pa.gov. 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).

Check the Department of Health, Health Research Office CURE Health Research Advisory Committee web site at <https://www.health.pa.gov/topics/Research/CURE/Pages/Committee.aspx> for any changes to this special public meeting.

This meeting is subject to cancellation without notice.

RACHEL L. LEVINE, MD,
Secretary

[Pa.B. Doc. No. 20-1044. Filed for public inspection July 31, 2020, 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).

<i>Facility Name</i>	<i>Regulation and relating to</i>
AHN Wexford Hospital	28 Pa. Code § 103.31 (relating to the chief executive officer)
Grove City Medical Center	28 Pa. Code § 103.31

The following hospitals have filed requests for exceptions under 28 Pa. Code § 153.1 (relating to minimum standards). 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—2014 Edition*, or *Guidelines for Design and Construction of Hospitals—2018 Edition*, *Guidelines for Design and Construction of Outpatient Facilities—2018 Edition*. The following list includes the citation to the section under the Guidelines that the hospital is seeking an exception.

<i>Facility Name</i>	<i>FGI Guidelines Section and relating to</i>	<i>Yr¹</i>
Chester County Hospital, The	7.1(a)(3) (relating to general requirements)	14
Crozer-Chester Medical Center	2.1-7.2.2.1 (relating to corridor width)	14
	2.1-7.2.2.3(2)(a)(i) (relating to doors and door hardware)	14
	2.2-2.6.2.2(2) and (3)(b) (relating to space requirements)	18
	2.5-2.2.2.1 (relating to capacity)	14
Encompass Health Rehabilitation Hospital of Sewickley, LLC	2.6-2.2.2.2(2)(a)	18
	2.6-2.3.1.2(1) (relating to dining, recreation and day spaces)	18
	2.6-2.3.2.1(1)(b) (relating to activities of daily living unit)	18
	2.6-3.1.10(1) and (2) (relating to support areas for patients)	18
Geisinger Wyoming Valley Medical Center	2.1-2.8.8.2(1)(c) (relating to medication preparation room)	18
	2.1-2.8.8.2(2)(a) (relating to medication-dispensing units, stations and carts)	18

<i>Facility Name</i>	<i>FGI Guidelines Section and relating to</i>	<i>Yr¹</i>
Grand View Health	2.1-3.5.8.19(2)(b) (relating to facilities for processing ultrasound probes)	18-O
Robert Packer Hospital, The	2.2-3.4.7.3(6)(c) (relating to patient uptake/cool-down room)	18
Thomas Jefferson University Hospitals, Inc.	2.1-2.2.5.1(1) (relating to location)	18
	2.1-2.2.6.2 (relating to patient toilet room)	18
	2.1-2.2.6.3(2) (relating to room features)	18
	2.1-7.2.2.3(1)(b)(iii) (relating to doors and door hardware)	18
	2.1-7.2.2.3(2)(a)(i) (relating to door openings)	18
	2.2-2.5.4.2(1)—(3) (relating to airborne infection isolation (AII) room)	18
	2.2-2.6.2.2(2) (relating to area)	18
	2.2-2.6.2.2(3)(a)—(c) (relating to clearances)	18
	2.2-2.6.2.2(2) and (3)(b) and (c) (relating to space requirements)	18
	2.2-2.6.2.6(1) (relating to toilet room or human waste disposal room)	18
	2.2-3.2.2.5 (relating to hand-washing station)	18
	2.2-3.2.2.7 (relating to shower room)	18
	2.2-3.2.8.1(1) (relating to support areas for the observation unit)	18
	2.2-3.2.9.2 (relating to staff toilet room)	18
UPMC Hamot	2.1-3.4.1.2 (relating to location)	18
	2.2-3.3.3.5(2) (relating to other design requirements)	18
	2.2-3.3.4.1 (relating to application)	18
	2.2-3.3.6.1 (relating to general)	18
	2.2-3.3.6.2(1)—(3) (relating to nurse or control station(s))	18
	2.2-3.3.6.14(2) (relating to environmental services room)	18
	2.2-3.4.2.1(3) (relating to general)	18
York Hospital	2.8-3.2.1 (relating to holding area)	18

¹ 2018 Year FGI Regulations for Outpatient Facilities are indicated by “-O.”

The 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,
Secretary

[Pa.B. Doc. No. 20-1045. Filed for public inspection July 31, 2020, 9:00 a.m.]

DEPARTMENT OF HEALTH

Human Immunodeficiency Virus (HIV) Community Prevention Planning Committee Public Virtual Meetings

The Statewide HIV Planning Group, established by the Department of Health (Department) under sections 301(a) and 317 of the Public Health Service Act (42 U.S.C.A. §§ 241(a) and 247b), will hold virtual meetings on Wednesday, August 19, 2020, from 9 a.m. to 12 p.m. and on Thursday, August 20, 2020, from 9 a.m. to 12 p.m.

Participants can access the meetings through the following options:

Wednesday, August 19th—Meeting Day 1

To log-in by Zoom:
<https://pitt.zoom.us/j/98226145247>
 Meeting ID: 982 2614 5247
 Password: AugustHPG

To dial-in by phone:
 +1 267 831 0333 US
 Meeting ID: 982 2614 5247

Thursday, August 20th—Meeting Day 2

To log-in by Zoom:
<https://pitt.zoom.us/j/94713956519>
 Meeting ID: 947 1395 6519
 Password: AugustHPG2

To dial-in by phone:
 +1 267 831 0333 US
 Meeting ID: 947 1395 6519

Jurisdictional HIV prevention planning is a required activity of the Department's Centers for Disease Control and Prevention Integrated HIV Surveillance and Prevention Programs for Health Departments grant. Additionally, the Ryan White HIV/AIDS Treatment Extension Act of 2009 (Pub.L. No. 111-87), previously known as the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (42 U.S.C.A. §§ 300ff-21—300ff-38), requires that the Department engage in a public advisory planning process in developing a comprehensive plan. The purpose of these meetings is to conduct an integrated prevention and care HIV planning process by which the Department works in partnership with the community and stakeholders to enhance access to HIV prevention, care and treatment services.

For additional information or persons with a disability who wish to attend the meeting who require an auxiliary aid, service or other accommodation to do so should contact Kyle Fait, Planning Coordinator, Department of Health, Bureau of Communicable Diseases, 625 Forster Street, Health and Welfare Building, Harrisburg, PA 17120, (717) 260-8929, 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).

The Department reserves the right to cancel these meetings without prior notice.

RACHEL L. LEVINE, MD,
Secretary

[Pa.B. Doc. No. 20-1046. Filed for public inspection July 31, 2020, 9:00 a.m.]

DEPARTMENT OF HEALTH

Laboratories Approved to Perform Blood Lead and/or Erythrocyte Protoporphyrin Determinations under The Clinical Laboratory Act

The following laboratories are licensed in accordance with The Clinical Laboratory Act (35 P.S. §§ 2151—2165) and are currently approved under 28 Pa. Code § 5.50 (relating to approval to provide special analytical services) to perform analyses of blood for lead or erythrocyte protoporphyrin content. This approval is based on demonstrated proficiency in periodic evaluations conducted by the Bureau of Laboratories of the Department of Health (Department).

Lead poisoning is reportable. Approved laboratories that offer blood lead testing services are required to inform the Department of actual or possible incidents of this condition in accordance with 28 Pa. Code § 27.34 (relating to reporting cases of lead poisoning). These regulations specify the following requirements for reporting by clinical laboratories:

(1) A clinical laboratory shall report all blood lead test results on both venous and capillary specimens for per-

sons under 16 years of age to the Department's Childhood Lead Poisoning Prevention Program, Division of Maternal and Child Health, Bureau of Family Health.

(2) A clinical laboratory shall report an elevated blood lead level in a person 16 years of age or older to the Department's Division of Environmental Health Epidemiology, Bureau of Epidemiology or to other locations as designated by the Department. An elevated blood lead level is defined by the National Institute for Occupational Safety and Health (NIOSH). As of January 26, 2002, NIOSH defines an elevated blood lead level as a venous blood lead level of 25 micrograms per deciliter (µg/dL) or higher. The Department will publish in the *Pennsylvania Bulletin* any NIOSH update of the definition within 30 days of NIOSH's notification to the Department.

(3) A clinical laboratory which conducts blood lead tests of 100 or more specimens per month shall submit results electronically in a format specified by the Department.

(4) A clinical laboratory which conducts blood lead tests of less than 100 blood lead specimens per month shall submit results either electronically or by hard copy in the format specified by the Department.

(5) A laboratory which performs blood lead tests on blood specimens collected in this Commonwealth shall be licensed as a clinical laboratory and shall be specifically approved by the Department to conduct those tests.

(6) Blood lead analyses requested for occupational health purposes on blood specimens collected in this Commonwealth shall be performed only by laboratories which are licensed and approved as specified in paragraph (5), and which are also approved by the Occupational Safety and Health Administration of the United States Department of Labor under 29 CFR 1910.1025(j)(2)(iii) (relating to lead).

(7) A clinical laboratory shall complete a blood lead test within 5 work days of the receipt of the blood specimen and shall submit the case report to the Department by the close of business of the next work day after the day on which the test was performed. The clinical laboratory shall submit a report of lead poisoning using either the hard copy form or electronic transmission format specified by the Department.

(8) When a clinical laboratory receives a blood specimen without all of the information required for reporting purposes, the clinical laboratory shall test the specimen and shall submit the incomplete report to the Department.

Erythrocyte protoporphyrin determinations may be performed as an adjunct determination to substantiate blood lead levels of 25 micrograms per deciliter or higher. Since erythrocyte protoporphyrin concentrations may not increase as a result of low-level exposures to lead, direct blood lead analysis is the only reliable method for identifying individuals with blood lead concentrations below 25 micrograms per deciliter.

Persons seeking blood lead or erythrocyte protoporphyrin analyses should determine that the laboratory employs techniques and procedures acceptable for the purpose for which the analyses are sought.

The list of approved laboratories will be revised approximately semiannually and published in the *Pennsylvania Bulletin*.

The name or location of a laboratory, as well as the personnel and testing procedures, can change. When changes of this type occur, the clinical laboratory permit

number does not change. If questions arise about the identity of a laboratory due to a name or location change, the clinical laboratory permit number should be used as the primary identifier. To assist in identifying a laboratory that performed a test, the clinical laboratory permit number of the facility at the time the list was prepared is included in the list of approved laboratories above the name of the laboratory.

The Department's blood lead proficiency testing program is approved by the United States Department of Health and Human Services in accordance with 42 CFR 493.901 and 493.937 (relating to approval of proficiency testing programs; and toxicology) which are administered by the Centers for Medicare & Medicaid Services. Successful participation in the Department's proficiency testing program will satisfy the compliance requirements for both the Department and Centers for Medicare & Medicaid Services.

Questions regarding this list should be directed to Jennifer Okraska, Director, Division of Chemistry and Toxicology, Department of Health, Bureau of Laboratories, P.O. Box 500, Exton, PA 19341-0500, (610) 280-3464.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotape, Braille) should contact Jennifer Okraska at the previously referenced address or phone number. Persons who are speech or hearing impaired may call the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

The symbols L and P indicate the following:

L = approved for blood lead analyses

P = approved for erythrocyte protoporphyrin analyses

LP = approved for blood lead and erythrocyte protoporphyrin analyses

31609
ACCU REFERENCE MEDICAL LABORATORY—L
1901 EAST LINDEN AVENUE
SUITE 4
LINDEN, NJ 07036
(908) 474-1004

34723
AHN PEDIATRICS BLOOMFIELD—L
4815 LIBERTY AVE, SUITE 154
WEST PENN HOSPITAL—MELLON PAVILION
PITTSBURGH, PA 15224
(412) 578-4003

10167
AHN PEDIATRICS CHARTIERS—L
1370 WASHINGTON PIKE, SUITE 107
BRIDGEVILLE, PA 15017
(412) 221-0160

30286
AHN PEDIATRICS FOX CHAPEL—L
3394 SAXONBURG BLVD, SUITE 600
GLENSHAW, PA 15116
(412) 767-0707

34549
AHN PEDIATRICS JEFFERSON—L
1200 BROOKS LANE, SUITE 130
JEFFERSON MEDICAL ARTS BLDG
JEFFERSON HILLS, PA 15025
(412) 460-8111

AHN PEDIATRICS MCMURRAY—L
3001 WATERDAM PLAZA
SUITE 200
MCMURRAY, PA 15317
(724) 941-2747

28416
AHN PEDIATRICS, ARCADIA—L
9795 PERRY HIGHWAY, SUITE 100
WEXFORD, PA 15090
(412) 358-9548

22712
AHN PEDS PAL GREENTREE—L
969 GREENTREE ROAD
PRIMARY CARE CENTER OF GREENTREE
PITTSBURGH, PA 15220

34233
AHN PEDS, PED ALL'NCE WEXFORD—L
12311 PERRY HIGHWAY, SUITE D
WEXFORD, PA 15090
(878) 332-4920

02125
AHN, PEDIATRICS, ST. CLAIR—L
1580 MCLAUGHLIN RUN ROAD
PINERIDGE COMMONS, SUITE 208
UPPER ST CLAIR, PA 15241
(412) 221-2121

35986
ALLEGHENY COUNTY HEALTH DEPARTMENT—L
425 FIRST AVE, HARTLEY ROSE BUILDING, 4TH
FLOOR
PITTSBURGH, PA 15219
(412) 578-8070

10286
ALLENTOWN HEALTH BUREAU—L
245 NORTH 6TH ST ALLIANCE HALL
ALLENTOWN, PA 18102
(610) 437-7577

00016
ANGELINE KIRBY MEM HEALTH CENTER—L
71 NORTH FRANKLIN STREET
WILKES-BARRE, PA 18701
(570) 822-4278

21613
ARUP LABORATORIES INC—LP
500 CHIPETA WAY
SALT LAKE CITY, UT 84108
(800) 242-2787

24997
ATLANTIC DIAGNOSTIC LABORATORIES LLC—LP
3520 PROGRESS DRIVE UNIT C
BENSALEM, PA 19020
(267) 525-2470

22757
BIOREFERENCE LABORATORIES INC—L
481 EDWARD H ROSS DRIVE
ELMWOOD PARK, NJ 07407
(201) 791-3600

30248
CARING HANDS PEDIATRICS—L
300 CEDAR RIDGE DRIVE SUITE 309
PITTSBURGH, PA 15205
(412) 921-2345

- 30249
CARING HANDS PEDIATRICS—L
105 BRAUNLICH DRIVE, SUITE 102
PITTSBURGH, PA 15237
(412) 369-7720
- 00228
CHILDRENS HOSP OF PHILADELPHIA—L
3401 CIVIC CENTER BLVD
MAIN BLDG—5TH FLOOR—ROOM 5135
PHILADELPHIA, PA 19104
(215) 590-4446
- 33794
CLINICAL PATHOLOGY LABORATORIES, INC—L
9200 WALL STREET
AUSTIN, TX 78754
(512) 339-1275
- 31847
DOCTOR'S DATA, INC—L
3755 ILLINOIS AVENUE
ST CHARLES, IL 60174-2420
(630) 377-8139
- 35906
EAST LIBERTY FAMILY HEALTH CARE CTR—HILL
DISTRICT—L
373 BURROWS ST.
PITTSBURGH, PA 15213
(412) 661-2802
- 00561
EAST PENN MFG CO INC—LP
DEKA RD KELLER TECH CENTER
PO BOX 147
LYONS STATION, PA 19536
(610) 682-6361
- 25549
EAST SUBURBAN PEDIATRICS—L
40 LINCOLN WAY, SUITE 400
NORTH HUNTINGDON, PA 15642
(724) 863-8811
- 29302
EAST SUBURBAN PEDIATRICS—L
2566 HAYMAKER ROAD SUITE 105
MONROEVILLE, PA 15146
(412) 858-2777
- 10390
EAST SUBURBAN PEDIATRICS—L
4262 OLD WILLIAM PENN HWY, SUITE 208
MURRYSVILLE, PA 15668
(724) 325-2133
- 32339
EDEN PARK PEDIATRIC ASSOCIATES—L
779 E MAIN STREET
MOUNT JOY, PA 17552
(717) 569-8518
- 29462
EDEN PARK PEDIATRIC ASSOCIATES—L
4221 OREGON PIKE
EPHRATA, PA 17522
(717) 859-1434
- 10266
EDEN PARK PEDIATRIC ASSOCIATES—L
1725 OREGON PIKE
LANCASTER, PA 17601
(717) 569-8518
- 31378
ENZO CLINICAL LABS—L
60 EXECUTIVE BLVD
FARMINGDALE, NY 11735
(631) 755-5500
- 31400
FRANCES WARDE MEDICAL LABORATORY—LP
300 WEST TEXTILE ROAD
ANN ARBOR, MI 48108
(734) 214-0300
- 00173
GEISINGER MEDICAL CENTER—L
100 N ACADEMY AVENUE
DANVILLE, PA 17822-0131
(570) 271-7443
- 32839
GENOVA DIAGNOSTICS—L
3425 CORPORATE WAY
DULUTH, GA 30096
(678) 638-2918
- 31348
GREENVILLE COMMUNITY HEALTH CENTER—L
348 MAIN STREET
GREENVILLE, PA 16125
(724) 588-5250
- 31393
HAMILTON HEALTH CENTER, INC.—L
1313 MONROE STREET
HARRISBURG, PA 17103
(717) 230-3946
- 30487
HAMILTON HEALTH CENTER, INC—L
1301 SYCAMORE STREET
HARRISBURG, PA 17104
(717) 232-9971
- 00547
HAMILTON HEALTH CENTER, INC—L
110 SOUTH 17TH STREET
HARRISBURG, PA 17104
(717) 230-3946
- 01711
HANOVER PEDIATRICS—L
217 BROADWAY
HANOVER, PA 17331
(717) 632-3911
- 24655
HEALTH NETWORK LABORATORIES—L
794 ROBLE ROAD
ALLENTOWN, PA 18109-9110
(610) 402-8150
- 29054
HILLTOP COMMUNITY HEALTHCARE CENTER—L
151 RUTH STREET
PITTSBURGH, PA 15211
(412) 431-3520
- 26490
HOPE PEDIATRICS—L
3512 STATE ROUTE 257 SUITE 106
SENECA, PA 16346
(814) 677-3717
- 34794
KIDS CARE PEDIATRICS INC—L
8279 STATE RT 22 SUITE 2
NEW ALEXANDREIA, PA 15670
(724) 668-5023

3970

29136
KIDS PLUS PEDIATRICS—L
108 HORNER LANE
LATROBE, PA 15650
(724) 537-2131

21885
LAB CORP OF AMERICA HOLDINGS—LP
1447 YORK COURT
BURLINGTON, NC 27215
(800) 334-5161

05618
LAB CORP OF AMERICA HOLDINGS—LP
6370 WILCOX ROAD
DUBLIN, OH 43016-1296
(800) 282-7300

01088
LABCORP OF AMERICA HOLDINGS—LP
69 FIRST AVENUE PO BOX 500
RARITAN, NJ 08869
(908) 526-2400

22715
LABONE LLC DBA QUEST DIAGNOSTICS—LP
10101 RENNEN BOULEVARD
LENEXA, KS 66219-9752
(913) 577-1703

29855
LANCASTER HEALTH CENTER AT BRIGHTSIDE—L
515 B HERSHEY AVENUE
LANCASTER, PA 17603
(717) 299-6372

10289
LANCASTER HEALTH CENTER AT DUKE ST.—L
625 SOUTH DUKE STREET
LANCASTER, PA 17602
(717) 299-6372

35866
LANCASTER HEALTH CENTER AT NHA—L
802 NEW HOLLAND AVE. # 200
LANCASTER, PA 17602
(717) 299-6371

31622
LANCASTER HEALTH CENTER AT WATER ST.—L
304 N. WATER ST
LANCASTER, PA 17603
(717) 299-6372

23380
LANCASTER PEDIATRIC ASSOC LTD—L
222 WILLOW VALLEY LAKES DRIVE
SUITE 100
WILLOW STREET, PA 17584-9463
(717) 464-9555

10270
LANCASTER PEDIATRIC ASSOCIATES—L
2106 HARRISBURG PIKE
SUITE 1 MED OFFICE PO BOX 3200
LANCASTER, PA 17601
(717) 291-5931

02555
LEHIGH VALLEY PEDIATRIC ASSOC—L
401 NORTH 17TH STREET STE 307
ALLENTOWN, PA 18104
(610) 434-2162

NOTICES

25678
LEHIGH VALLEY PEDIATRIC ASSOC INC—L
612 ELM ST
BETHLEHEM, PA 18018
(610) 865-3151

34187
LENCO DIAGNOSTIC LABORATORIES INC—L
1857 86TH STREET
BROOKLYN, NY 11214
(718) 232-1515

29898
LGHP/PENN MEDICINE ROSEVILLE PEDIATRICS—L
51 PETERS ROAD SUITE 202
LITITZ, PA 17543
(717) 569-6481

29685
MAYO CLINIC LABS-ROCH SUPERIOR DR—LP
3050 SUPERIOR DRIVE NW
ROCHESTER, MN 55901
(507) 538-3458

24668
MCMURRAY PEDIATRIC & ADOLESCENT MEDI-
CINE—L
6000 WATERDAM PLAZA DRIVE # 280
MCMURRAY, PA 15317
(724) 941-8199

28806
MEDIA PEDIATRICS—L
401 MOORE ROAD
WALLINGFORD, PA 19086
(610) 565-3336

05574
MEDTOX LABORATORIES INC—LP
402 COUNTY ROAD D WEST
ST PAUL, MN 55112
(651) 636-7466

26760
METRO COMMUNITY HEALTH CENTER—L
1789 S BRODDOCK AVENUE, SUITE 410
PITTSBURGH, PA 15218
(412) 247-2316

00504
NATIONAL MED SVCS INC-DBA/NMS LABS—LP
3701 WELSH ROAD
WILLOW GROVE, PA 19090
(215) 657-4900

30553
NATIONWIDE CHILDRENS HOSPITAL—LP
CORE LAB AND LAB INFORMATION SYSTEMS
700 CHILDRENS DRIVE
COLUMBUS, OH 43205
(614) 722-5335

28787
NEXT GENERATION PEDIATRICS—L
100 TECHNOLOGY DRIVE
SUITE 2
BUTLER, PA 16001
(724) 482-2220

31166
NHCLV—ALLENTOWN—L
218 NORTH SECOND STREET
ALLENTOWN, PA 18102
(610) 841-8400

- 30162
NHCLV—BETHLEHEM—L
1210 E 4TH STREET
BETHLEHEM, PA 18015
(610) 820-7605
- 35491
NHCLV @ TWO RIVERS H & W—L
1101 NORTHAMPTON ST.
EASTON, PA 18042
(610) 841-9400
- 23205
NORTHSIDE CHRISTIAN HEALTH CENTER—L
816 MIDDLE STREET
PITTSBURGH, PA 15212
(412) 321-4001
- 30505
NORTHSIDE CHRISTIAN HEALTH CENTER NVH—L
525 MOUNT PLEASANT ROAD NORTHVIEW
HEIGHTS
PITTSBURGH, PA 15214
(412) 321-4001
- 23801
PACIFIC TOXICOLOGY LABORATORIES—LP
9348 DE SOTO AVENUE
CHATSWORTH, CA 91311
(818) 598-3110
- 31516
PAML LLC—L
110 W CLIFF AVENUE
SPOKANE, WA 99204
(509) 755-8670
- 35190
PEDIATRIC ALLIANCE PC WITH AHN ALLE-
GHENY—L
490 E NORTH ST, SUITE 207
PITTSBURGH, PA 15212
(412) 930-0908
- 25436
PEDIATRIC SPECIALISTS OF FRANKLIN COUNTY—L
27 VISTA DRIVE
UNIT 3
WAYNESBORO, PA 17268
(717) 765-6621
- 33953
PEDIATRIC URGENT CARE OF FRANKLIN
COUNTY—L
5 ROADSIDE AVE
WAYNESBORO, PA 17268
(717) 765-6621
- 20407
PEDIATRICS—TOWER HEALTH MEDICAL GROUP—L
301 SOUTH 7TH AVENUE
SUITE 3170
WEST READING, PA 19611
(610) 898-5624
- 10184
PEDIATRICS OF NORTHEASTERN PA—L
920 VIEWMONT DRIVE
DICKSON CITY, PA 18519
(570) 346-1464
- 10248
PENN MEDICINE LGHP ROSEVILLE PEDIATRICS—L
1570 FRUITVILLE PIKE
LANCASTER, PA 17601
(717) 569-6481
- 29610
PENN STATE HEALTH ALL ABOUT CHILDREN—L
655 WALNUT STREET
WEST READING, PA 19611
(610) 372-9222
- 22533
PENNSYLVANIA DEPT OF HEALTH—L
110 PICKERING WAY
EXTON, PA 19341
(610) 280-3464
- 21982
PS MEDICAL GROUP-CORNERSTONE—L
6 WEST NEWPORT ROAD
LITITZ, PA 17543
(717) 627-2108
- 10222
PSHMG LIME SPRING—L
2221 NOLL DRIVE
LANCASTER, PA 17603
(717) 715-1001
- 22899
PSMG-RED ROSE PEDIATRICS—L
233 COLLEGE AVENUE
SUITE 200
LANCASTER, PA 17603
(717) 291-7221
- 00669
QUEST DIAGNOSTICS INCORPORATED—LP
ONE MALCOLM AVENUE
TETERBORO, NJ 07608
(201) 393-5895
- 01136
QUEST DIAGNOSTICS NICHOLS INSTITUTE—LP
14225 NEWBROOK DRIVE
CHANTILLY, VA 20151
(703) 802-6900
- 22376
QUEST DIAGNOSTICS NICHOLS INSTITUTE OF
VALENCIA—LP
27027 TOURNEY ROAD
VALENCIA, CA 91355
(661) 799-6543
- 00482
QUEST DIAGNOSTICS OF PA INC—LP
875 GREENTREE ROAD 4 PARKWAY CENTER
PITTSBURGH, PA 15220-3610
(412) 920-7600
- 25461
QUEST DIAGNOSTICS VENTURE LLC—LP
875 GREENTREE ROAD 4 PARKWAY CENTER
PITTSBURGH, PA 15220-3610
(412) 920-7675
- 01216
READING PEDIATRICS INC—L
40 BERKSHIRE COURT, SUITE 1
WYOMISSING, PA 19610
(610) 374-7400
- 29871
READING PEDIATRICS INC—L
108 PLAZA DRIVE 2ND FLOOR
BLANDON, PA 19510
(610) 374-7400

29873
READING PEDIATRICS INC—L
25 LORANE ROAD
READING, PA 19606
(610) 374-7400

32983
READING PEDIATRICS INC—L
541 W. PENN AVE
ROBESONIA, PA 19551
(610) 374-7400

24657
SANDY LAKE COMMUNITY HEALTH CENTER—L
3205 SOUTH MAIN STREET
SANDY LAKE, PA 16145
(724) 342-3002

22196
SHARON MEDICAL GROUP—L
63 PITT STREET
SHARON, PA 16146
(724) 342-6604

24508
SHEAKLEYVILLE HEALTH CENTER—L
3339 PERRY HIGHWAY
SHEAKLEYVILLE, PA 16151
(724) 253-3428

27649
SMA MEDICAL LABORATORIES—L
940 PENNSYLVANIA BOULEVARD UNIT E
FEASTERVILLE, PA 19053
(215) 322-6590

24582
SOUTH PHILA PEDIATRICS—L
1400 S 5TH STREET
PHILADELPHIA, PA 19147
(215) 467-3515

00151
ST JOSEPH QUALITY MEDICAL LAB—L
2500 BERNVILLE ROAD
READING, PA 19605-9453
(610) 378-2200

01683
STO-ROX FAMILY HEALTH CENTER—L
710 THOMPSON AVE
MCKEES ROCKS, PA 15136
(412) 771-6462

22718
SUNRISE MEDICAL LABORATORIES INC—L
250 MILLER PLACE
HICKSVILLE, NY 11801
(631) 435-1515

22134
TAN & GARCIA PEDIATRICS PC—L
4700 UNION DEPOSIT RD SUITE 220
HARRISBURG, PA 17111
(717) 540-1743

10296
TAN & GARCIA PEDIATRICS PC—L
153 SOUTH 32ND STREET
CAMP HILL, PA 17011
(717) 761-7901

26198
THE WRIGHT CENTER MEDICAL GROUP PC—L
5 SOUTH WASHINGTON AVENUE
JERMYN, PA 18433
(570) 343-2383

32536
THE WRIGHT CENTER MEDICAL GROUP PC—L
335 S. FRANKLIN STREET
WILKES-BARRE, PA 18702-3808
(570) 343-2383

32537
THE WRIGHT CENTER MEDICAL GROUP PC—L
1145 NORTHERN BLVD
CLARKS SUMMIT, PA 18411
(570) 343-2383

30336
TRI COUNTY PEDIATRICS—L
821 HUNTINGDON PIKE, SUITE 207
HUNTINGDON VALLEY, PA 19006
(215) 379-3022

29164
TRI COUNTY PEDIATRICS INC—L
9121 E ROOSEVELT BLVD
PHILADELPHIA, PA 19114
(215) 884-5715

27432
TRI COUNTY PEDIATRICS INC—L
140 EAST BUTLER AVENUE
CHALFONT, PA 18914
(215) 822-1770

04159
TRI COUNTY PEDIATRICS INC—L
205 NEWTOWN ROAD SUITE 210
WARMINSTER, PA 18974
(215) 884-5715

04575
TRI COUNTY PEDIATRICS INC—L
1939 CHELTENHAM AVENUE
ELKINS PARK, PA 19027
(215) 884-5715

30337
TRI COUNTY PEDIATRICS, INC—L
729 GROVE AVENUE
SUITE 1
SOUTHAMPTON, PA 18966
(215) 322-0800

31700
TRUE HEALTH DIAGNOSTICS, LLC—L
737 N 5TH ST SUITE 103
RICHMOND, VA 23219
(804) 343-2718

25506
UNIVERSITY PHYSICIAN GROUP—L
35 HOPE DRIVE
HERSHEY, PA 17033
(717) 531-1818

00083
UPMC PRESBYTERIAN SHADYSIDE CP PUH—L
UPMC CLINICAL LABORATORY BUILDING
3477 EULER WAY
PITTSBURGH, PA 15213
(412) 647-5855

34352
WARREN COMMUNITY HEALTH CENTER—L
1885 MARKET STREET, SUITE B
WARREN, PA 16365
(814) 723-0100

00539
 WASHINGTON PED & ADOLESCENT MED—L
 100 WELLNESS WAY BLDG 2
 WASHINGTON, PA 15301
 (724) 250-6001

RACHEL L. LEVINE, MD,
Secretary

[Pa.B. Doc. No. 20-1047. Filed for public inspection July 31, 2020, 9:00 a.m.]

DEPARTMENT OF HEALTH

Long-Term Care Nursing Facilities; Requests for Exception

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 201.22(j) (relating to prevention, control and surveillance of tuberculosis (TB)):

Hermitage Nursing and Rehabilitation
 500 Clarksville Road
 Hermitage, PA 16148
 FAC ID # 140702

The following long-term care nursing facilities are seeking exceptions to 28 Pa. Code § 205.20(a) (relating to resident bedrooms):

Crosslands
 P.O. Box 100 Route 926
 1660 East Street Road
 Kennett Square, PA 19348
 FAC ID # 551202

Elizabeth Manor Healthcare and Rehabilitation Center
 320 South Market Street
 Elizabethtown, PA 17022
 FAC ID # 023202

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, ra-paexcept@pa.gov.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the 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 the request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone number, 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,
Secretary

[Pa.B. Doc. No. 20-1048. Filed for public inspection July 31, 2020, 9:00 a.m.]

DEPARTMENT OF HEALTH

Medical Marijuana Advisory Board Virtual Meeting

The Medical Marijuana Advisory Board (Board), established under section 1201 of the Medical Marijuana Act (35 P.S. § 10231.1201), hereby gives notice that the Board will hold a virtual meeting on Tuesday, August 11, 2020, from 10 a.m. to 12 p.m. At this meeting, the Board will discuss Medical Marijuana Program updates and the Medical Marijuana 2-year final report.

This meeting will be broadcast live for the public through Commonwealth Media Services. Check www.medicalmarijuana.pa.gov and click on the 'Medical Marijuana Advisory Board' tab for live streaming information the day of the meeting.

For additional information, including an alternative format of this notice (for example, large print, audiotape, Braille) or for persons with a disability who wish to attend the meeting who require an auxiliary aid, service or other accommodation to do so, contact Holli Senior, Special Assistant, Office of Medical Marijuana, 625 Forster Street, Room 628, Health and Welfare Building, Harrisburg, PA, 17120 (717) 547-3047, 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).

This meeting is subject to cancellation without notice.

RACHEL L. LEVINE, MD,
Secretary

[Pa.B. Doc. No. 20-1049. Filed for public inspection July 31, 2020, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania Eagles Fast Play Game 5091

Under the State Lottery Law (72 P.S. §§ 3761-101—3761-314) and 61 Pa. Code § 803.11 (relating to powers and duties of the Secretary of Revenue), the Secretary of Revenue hereby provides public notice of the rules for the following lottery game:

1. *Name*: The name of the lottery game is Pennsylvania Eagles (hereinafter "Eagles"). The game number is PA-5091.

2. *Definitions*:

(a) *Authorized retailer* or *retailer*: A person who is properly licensed by the Lottery pursuant to 61 Pa. Code §§ 805.1—805.17.

(b) *Bar code*: The symbology on the ticket containing certain encrypted validation and accounting data used for identifying winning and losing tickets.

(c) *Game Ticket*: A bearer instrument produced through a Lottery Terminal that is the player's record of a play for a Fast Play lottery game and sold by an authorized retailer containing the play and validation data as published in this game notice.

(d) *GOAL POST BONUS*: The area on a ticket that may contain either an FG (FLDGL) or a TD (TCHDXP) symbol that is applied to any winning combination to increase the total amount won according to the instructions.

(e) *Lottery Central Computer System*: The computer gaming system on which all Fast Play plays are recorded.

(f) *Lottery Terminal*: A device authorized by the Lottery to function in an interactive mode with the Lottery Central Computer System for the purpose of issuing plays, executing Quick Pick selections, and entering, receiving, and processing lottery transactions, including making purchases, validating plays, transmitting reports, and performing inventory functions.

(g) *Play*: A chance to participate in a particular Fast Play lottery game.

(h) *Play Area*: The area on a ticket, which contains one or more play symbols.

(i) *Play Symbol*: A number, letter, symbol, image or other character found in the play area, which is used to determine whether a player wins a prize.

(j) *Prize*: A non-monetary item, money, or experience that can be won as specified in section 7 (relating to prizes available to be won and determination of prize winners) of this game notice.

(k) *WINNING NUMBERS*: The numbers, letters, symbols or other characters found in the play area that, when matched against the "YOUR NUMBERS" play symbols, determine whether a player wins a prize.

(l) *Winning ticket*: A game ticket which has been validated and qualifies for a prize.

(m) *YOUR NUMBERS*: The numbers, letters, symbols or other characters found in the play area that, when matched against the "WINNING NUMBERS" play symbols, determine whether a player wins a prize.

3. *Price*: The price of an Eagles ticket is \$5.

4. *Description of the Eagles Fast Play lottery game*:

(a) The Eagles lottery game is an instant win game printed from a Lottery Terminal. All prizes are predetermined, and the player does not have the ability to select their own play symbols. Eagles tickets may be purchased from an authorized retailer or at a Lottery self-service terminal that sells terminal-based Lottery game tickets. Tickets purchased from an authorized retailer shall be printed on-demand at the time of purchase and may not be preprinted by the retailer.

(b) Eagles is played by matching any of the play symbols in the "YOUR NUMBERS" area to any of the play symbols located in the "WINNING NUMBERS" area. A player matching play symbols in this manner will win the prize shown under the matching "YOUR NUMBERS" play symbol. A bet slip is not used to play this game.

(c) Eagles tickets contain a "GOAL POST BONUS" area. When a FG (FLDGL) symbol appears in the "GOAL POST BONUS" area, add \$3 to the total amount won in the "YOUR NUMBERS" area and win that amount. When a TD (TCHDXP) symbol appears in the "GOAL POST BONUS" area, add \$7 to the total amount won in the "YOUR NUMBERS" area and win that amount.

(d) Players can win the prizes identified in section 7 (relating to prizes available to be won and determination of prize winners).

(e) An Eagles game ticket cannot be canceled or voided once printed by the Lottery Terminal, even if printed in error.

(f) To purchase a ticket at an authorized retailer, a player must remit the purchase price to the retailer and verbally request an Eagles game ticket. The ticket shall

be the only valid proof of the bet placed and the only valid receipt for claiming a prize.

(g) To purchase a ticket at a Pennsylvania Lottery self-service terminal, the player must insert into the self-service terminal a dollar amount equal to the total purchase price of a Eagles game ticket and select the Eagles option on the Lottery self-service terminal. The ticket shall be the only valid proof of the bet placed and the only valid receipt for claiming a prize.

5. *Eagles ticket characteristics*:

(a) An Eagles ticket shall contain a play area, the cost of the play, the date of sale, and a bar code.

(b) *Play Symbols*: Each Eagles ticket play area will contain a "WINNING NUMBERS" area, a "YOUR NUMBERS" area and a "GOAL POST BONUS" area. The play symbols and their captions, located in the "WINNING NUMBERS" and "YOUR NUMBERS" areas, are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVEN), 12 (TWELVE), 13 (THIRTY), 14 (FORTY), 15 (FIFTY), 16 (SIXTY), 17 (SEVENTY), 18 (EIGHTY), 19 (NINETY), 20 (TWENTY), 21 (TWENTYONE), 22 (TWENTYTWO), 23 (TWENTYTHREE), 24 (TWENTYFOUR), 25 (TWENTYFIVE), 26 (TWENTYSIX), 27 (TWENTYSEVEN), 28 (TWENTYEIGHT), 29 (TWENTYNINE) and 30 (THIRTY). The play symbols and their captions, located in the "GOAL POST BONUS" area, are: FBL (FUMBLE) symbol, BK (BLOCK) symbol, INT (INTRICPT) symbol, FG (FLDGL) symbol and TD (TCHDXP) symbol.

(c) *Prize Symbols*: The prize symbols and their captions, located in the "YOUR NUMBERS" area, are: \$5⁰⁰ (FIV DOL), \$8⁰⁰ (EGT DOL), \$10⁰⁰ (TEN DOL), \$12⁰⁰ (TWELVE), \$15⁰⁰ (FIFTEEN), \$20⁰⁰ (TWENTY), \$30⁰⁰ (THIRTY), \$50⁰⁰ (FIFTY), \$100 (ONE HUN), \$200 (TWO HUN), \$500 (FIV HUN), \$1,000 (ONE THO), \$5,000 (FIV THO) and \$50,000 (FTY THO).

(d) *Prizes*: The prizes that can be won in this game are: \$5, \$8, \$10, \$12, \$15, \$20, \$30, \$50, \$100, \$200, \$500, \$1,000, \$5,000 and \$50,000. The prizes that can be won in the "GOAL POST BONUS" area are: \$3 and \$7. Eagles contains a feature that can increase the prize shown by \$3 or \$7 as detailed in section 4 (related to description of the Eagles Fast Play lottery game). For a complete list of all prizes that can be won in this game, see section 8 (relating to number and description of prizes and approximate chances of winning). A player can win up to 12 times on a ticket.

(e) *Approximate number of tickets available for the game*: Approximately 2,400,000 tickets will be available for sale for the Eagles lottery game.

6. *Second-Chance Drawing*: The Pennsylvania Lottery will conduct an Eagles Second-Chance Drawing for which non-winning Eagles lottery game tickets may be eligible as provided for in section 9.

7. *Prizes available to be won and determination of prize winners*:

(a) All Eagles prize payments will be made as one-time, lump-sum cash payments.

(b) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$50,000 (FTY THO) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$50,000.

(c) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING

NUMBERS” play symbols and a prize symbol of \$5,000 (FIV THO) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$5,000.

(d) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$1,000 (ONE THO) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(e) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$500 (FIV HUN) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$500.

(f) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$200 (TWO HUN) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$200.

(g) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$100 (ONE HUN) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$100.

(h) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$50.00 (FIFTY) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, ticket, shall be entitled to a prize of \$50.

(i) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$30.00 (THIRTY) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$30.

(j) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$20.00 (TWENTY) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol on a single ticket, shall be entitled to a prize of \$20.

(k) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$15.00 (FIFTEEN) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$15.

(l) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$12.00 (TWELVE) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$12.

(m) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$10.00 (TEN DOL) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$10.

(n) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$8.00 (EGT DOL) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$8.

(o) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$5.00 (FIV DOL) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$5.

8. *Number and description of prizes and approximate chances of winning.* The following table sets forth the approximate number of winners, amounts of prizes, and approximate chances of winning:

<i>When Any Of YOUR NUMBERS Match Any WINNING NUMBER, Win Prize Shown Under The Matching Number. Win With:</i>	<i>GOAL POST BONUS Win With:</i>	<i>Win:</i>	<i>Approximate Chances Of Winning Are 1 In:</i>	<i>Approximate No. Of Winners Per 2,400,000 Tickets:</i>
\$5		\$5	9.09	264,000
\$5	\$3 w/ FG SYMBOL	\$8	100	24,000
\$8		\$8	100	24,000
\$5 × 2		\$10	45.05	53,280
\$10		\$10	37.04	64,800
\$5	\$7 w/ TD SYMBOL	\$12	76.92	31,200
\$12		\$12	76.92	31,200
\$5 × 3		\$15	111.11	21,600
\$8	\$7 w/ TD SYMBOL	\$15	100	24,000
\$12	\$3 w/ FG SYMBOL	\$15	100	24,000
\$15		\$15	250	9,600

<i>When Any Of YOUR NUMBERS Match Any WINNING NUMBER, Win Prize Shown Under The Matching Number. Win With:</i>	<i>GOAL POST BONUS Win With:</i>	<i>Win:</i>	<i>Approximate Chances Of Winning Are 1 In:</i>	<i>Approximate No. Of Winners Per 2,400,000 Tickets:</i>
\$10 × 2		\$20	200	12,000
\$15 + \$5		\$20	166.67	14,400
\$8 + \$5	\$7 w/ TD SYMBOL	\$20	163.93	14,640
\$12 + \$5	\$3 w/ FG SYMBOL	\$20	166.67	14,400
\$20		\$20	909.09	2,640
\$10 × 3		\$30	2,000	1,200
\$15 × 2		\$30	2,500	960
(\$5 × 3) + \$8	\$7 w/ TD SYMBOL	\$30	333.33	7,200
\$10 + \$8 + \$5	\$7 w/ TD SYMBOL	\$30	400	6,000
\$10 + \$12 + \$5	\$3 w/ FG SYMBOL	\$30	400	6,000
\$15 + \$12	\$3 w/ FG SYMBOL	\$30	666.67	3,600
\$30		\$30	2,000	1,200
\$10 × 5		\$50	2,400	1,000
(\$5 × 4) + \$15 + \$12	\$3 w/ FG SYMBOL	\$50	2,400	1,000
(\$5 × 3) + \$20 + \$8	\$7 w/ TD SYMBOL	\$50	2,000	1,200
(\$10 × 2) + (\$5 × 3) + \$8	\$7 w/ TD SYMBOL	\$50	1,600	1,500
(\$10 × 3) + \$8 + \$5	\$7 w/ TD SYMBOL	\$50	1,714	1,400
\$20 + \$10 + \$12 + \$5	\$3 w/ FG SYMBOL	\$50	1,500	1,600
\$20 + \$15 + \$12	\$3 w/ FG SYMBOL	\$50	1,500	1,600
\$50		\$50	2,400	1,000
\$50 × 2		\$100	12,000	200
(\$10 × 3) + \$50 + \$8 + \$5	\$7 w/ TD SYMBOL	\$100	3,000	800
(\$10 × 3) + \$30 + \$20 + \$8 + \$5	\$7 w/ TD SYMBOL	\$100	6,000	400
\$50 + \$20 + \$15 + \$12	\$3 w/ FG SYMBOL	\$100	6,000	400
\$50 + \$20 + \$10 + \$12 + \$5	\$3 w/ FG SYMBOL	\$100	6,000	400
\$100		\$100	12,000	200
\$50 × 4		\$200	12,000	200
\$100 × 2		\$200	12,000	200
(\$20 × 4) + (\$10 × 2) + \$100		\$200	12,000	200
(\$20 × 3) + (\$10 × 4) + \$50 + \$30 + \$8 + \$5	\$7 w/ TD SYMBOL	\$200	12,000	200
(\$50 × 2) + (\$10 × 3) + \$30 + \$20 + \$8 + \$5	\$7 w/ TD SYMBOL	\$200	12,000	200
(\$50 × 2) + (\$20 × 2) + \$30 + \$15 + \$12	\$3 w/ FG SYMBOL	\$200	24,000	100

<i>When Any Of YOUR NUMBERS Match Any WINNING NUMBER, Win Prize Shown Under The Matching Number. Win With:</i>	<i>GOAL POST BONUS Win With:</i>	<i>Win:</i>	<i>Approximate Chances Of Winning Are 1 In:</i>	<i>Approximate No. Of Winners Per 2,400,000 Tickets:</i>
\$200		\$200	24,000	100
\$100 × 5		\$500	60,000	40
(\$100 × 3) + (\$50 × 2) + (\$30 × 2) + \$20 + \$8 + \$5	\$7 w/ TD SYMBOL	\$500	60,000	40
(\$100 × 4) + (\$20 × 2) + \$30 + \$15 + \$12	\$3 w/ FG SYMBOL	\$500	60,000	40
\$500		\$500	60,000	40
\$500 × 2		\$1,000	120,000	20
(\$100 × 4) + (\$30 × 2) + \$500 + \$20 + \$8 + \$5	\$7 w/ TD SYMBOL	\$1,000	120,000	20
(\$200 × 2) + (\$20 × 2) + \$500 + \$30 + \$15 + \$12	\$3 w/ FG SYMBOL	\$1,000	120,000	20
\$1,000		\$1,000	120,000	20
\$1,000 × 5		\$5,000	240,000	10
\$5,000		\$5,000	240,000	10
\$50,000		\$50,000	240,000	10

GOAL POST BONUS: When a "FG" (FLDGL) symbol appears, add \$3 to any prize won above and win that total amount. When a "TD" (TCHDXP) symbol appears, add \$7 to any prize won above and win that total amount.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Second-Chance Drawing:* The Pennsylvania Lottery's (hereafter, the "Lottery") Eagles Second-Chance Drawing for qualifying Fast Play lottery game tickets (hereafter, the "Drawing").

(a) *Qualifying Tickets:* Non-winning PA-5091 Eagles (\$5) Fast Play lottery game tickets ("Qualifying Tickets") are eligible for entry in the Drawing.

(b) *Participation and entry:*

(1) Entrants must be members of the Pennsylvania Lottery VIP Players Club to participate in the Drawing. To join the VIP Players Club, visit <http://www.palottery.state.pa.us/vipplayersclub/login.aspx>. Becoming a VIP Players Club member is free.

(2) To enter the Drawing, entrants must submit the identifying information from at least one Qualifying Ticket via the Drawing's promotional web site, available at <http://www.palottery.com>, or the Lottery's official mobile application during the entry period. The identifying information from a Qualifying Ticket may be submitted only once in the Drawing. No other method of submission will be accepted, and entries submitted using any other method, including entries mailed or hand-delivered to the Lottery, are not valid and will be disqualified.

(3) Each entry must be complete and the information supplied by the entrant must be accurate. Incomplete entries cannot be accepted.

(4) Only one claimant per entry is allowed.

(5) Entrants must be 18 years of age or older.

(6) Players may submit the identifying information from an unlimited number of Qualifying Tickets in the Drawing.

(7) Once an entry has been submitted it cannot be withdrawn or changed.

(c) *Drawing description:*

(1) The Lottery will conduct one Eagles Second-Chance Drawing for qualifying Fast Play Lottery game tickets. All time references are Eastern Prevailing Time.

(2) All entries received after 11:59:59 p.m. August 3, 2020, through 11:59:59 p.m. October 8, 2020, will be entered into the Drawing to be held between October 13, 2020 and October 21, 2020.

(3) The entry period for the Drawing will be posted to the Lottery's publicly accessible web site at <http://www.palottery.com>.

(4) When a Qualifying Ticket is entered into the Drawing, the entry has a chance to be multiplied by three or seven (hereafter the "Entry Multiplier Prize"). Each Qualifying Ticket will have a predetermined ticket file assigned at the time the ticket is printed that will determine whether an entry will be multiplied. If an entry is multiplied, the entrant will be notified during the entry process.

(5) The number of entries an entrant will receive for the Drawing is determined by the purchase price of the Qualifying Ticket entered and the Entry Multiplier Prize, if applicable. The respective purchase price and corresponding number of entries for the Qualifying Ticket is as follows: PA-5091 Eagles (\$5) = five entries.

(6) Players may review prizes won and their entries for the Drawing via the Drawing's promotional web site.

(d) *Prizes available to be won, determination of winners, and odds of winning:*

(1) The prize entitlements described below are subject to all restrictions and limitations described in section 9(f), or mentioned anywhere else in these rules.

(2) The following table sets forth the approximate number of Entry Multiplier Prizes and the approximate odds of winning an Entry Multiplier Prize:

Approximate Number of Entry Multiplier Prizes:		Approximate Odds of Winning a 3X or 7X Multiplier Are 1 In:	
3X	7X	3X	7X
172,991	432,478	10	4

(3) The Lottery will conduct one Drawing from among all the entries received during the entry period as described in section 9(c)(2).

(i) The first through the seventieth entries selected in the Drawing will be winning entries and the entrants who submitted those winning entries shall each be entitled to a prize of one Regular Season Loaded Ticket Prize. Each Regular Season Loaded Ticket Prize includes two tickets, with \$30 of stadium concession or Pro Shop credit loaded onto each ticket, for a Philadelphia Eagles home game to be held during the 2021 season.

(ii) The seventy-first through the one hundred and thirty-fifth entries selected in the Drawing will be winning entries and the entrants who submitted those winning entries shall each be entitled to a prize of one Regular Season Loaded Ticket Prize. Each Regular Season Loaded Ticket Prize includes two tickets, with \$30 of stadium concession or Pro Shop credit loaded onto each ticket, for a Philadelphia Eagles home game to be held during the 2021 season.

(iii) The one hundred and thirty-sixth through the two hundred and thirtieth entries selected in the Drawing will be winning entries and the entrants who submitted those winning entries shall each be entitled to a prize of one Eagles Insiders Private Event Prize. Each Eagles Insiders Private Event Prize includes two, one-day tickets to attend a private event at a Philadelphia Eagles facility, with an Eagles host and three Eagles alumni player appearances, food and beverages, and a behind-the-scenes tour of the facility, to be held in 2021.

(iv) The two hundred and thirty-first through the two hundred and eightieth entries selected in the Drawing will be winning entries and the entrants who submitted the winning entries shall each be entitled to a prize of one autographed Eagles merchandise.

(v) The two hundred and eighty-first through the three hundred and thirtieth entries selected in the Drawing will be winning entries and the entrants who submitted the winning entries shall each be entitled to a prize of \$100 iLottery Bonus Money.

(4) Winners of iLottery Bonus Money are not required to claim a prize. Winners of iLottery Bonus Money will have the iLottery Bonus Money credited to their Lottery account and will receive an email notifying them that they won a prize.

(5) The number of winning entries to be selected for the Drawing will be posted to the Lottery's publicly accessible web site.

(6) The odds of winning in the Drawing depend upon the number of entries received for the Drawing.

(7) A computer-generated randomizer will be used to select the Drawing winners.

(e) *Prize claim procedures:*

(1) Winners of any prize awarded in the Drawing will be contacted by email by the Pennsylvania Lottery to initiate the prize claim procedure.

(2) Winners will have seven calendar days from the date they are notified by the Pennsylvania Lottery, pursuant to this section, to claim their prizes. In order to claim their prizes, winners must respond to the Pennsylvania Lottery's email regarding prize claim procedures and must submit a properly completed prize claim form within seven calendar days from the date they are notified by the Pennsylvania Lottery. Failure to comply with the prize claim requirements as set forth herein, for any reason, shall result in the winner forfeiting their right to receive the prize. An alternate winner will be awarded the respective prize, according to Lottery procedure.

(3) By entering a ticket into the Drawing, the entrant agrees to be bound by these rules, the prize claim requirements set forth herein, and expressly waives any claim against the Pennsylvania Lottery for a prize not awarded in conformance with these rules.

(f) *Drawing restrictions:*

(1) Each winner, their respective heirs, legal representatives, and assigns, agree to indemnify, defend, release, and discharge the Pennsylvania Lottery, Philadelphia Eagles, LLC, Eagles Stadium Operator, LLC, and the NFL, as well as their employees, officers, directors and commissioners from and against any loss, claim, damage, suit, or injury arising out of or relating to this promotion. By entering into the Drawing, the winner indemnifies, releases, discharges, and agrees to hold harmless the Pennsylvania Lottery, Philadelphia Eagles, LLC, Eagles Stadium Operator, LLC, and the NFL, as well as their employees, officers, directors and commissioners from unanticipated cancellation, suspension, or postponement of the promotion due to natural disaster, national emergency, or other unforeseen act of God or man. Winners participate solely at their own risk and responsibility.

(2) To be eligible to participate in the Drawing, entrants must have complied with the requirements of these rules.

(3) The Lottery is not responsible for late, lost or misdirected entries not entered into the Drawing. The Lottery is not responsible for entries that are not entered into the Drawing because of incompatible internet browsers, mobile Lottery application failure or other technical issues. If an entry is selected as a winner and rejected or otherwise disqualified during or following the Drawing, the Lottery will select another entry to replace the rejected or otherwise disqualified entry in accordance with these rules and Lottery procedure.

(4) If any discrepancy exists between these rules and any material describing the Drawing, these rules shall govern.

(5) Employees of the Lottery, MARC USA, Scientific Games International Inc., MDI Entertainment, LLC, and their subcontractors, or a spouse, child, brother, sister or parent residing as a member of the same household of any such person are not eligible to participate in the Drawing. Offer void where prohibited or restricted.

(6) The Pennsylvania Lottery reserves the right, in its sole discretion, to cancel or suspend the Drawing and change these rules if the Drawing cannot be conducted as planned due to errors in these rules or advertising, unauthorized intervention, tampering, fraud, technical errors, viruses, worms, bugs, or any other cause beyond the control of the Lottery that, in the Lottery's sole judgment, could corrupt or impair the administration, security, fairness, integrity, or proper conduct of the Drawing.

(7) All entries shall be subject to verification by the Lottery.

(8) The Pennsylvania Lottery reserves the right, in its sole discretion, to disqualify an entrant found to be tampering with the operation of the Drawing or to be acting in violation of these rules or applicable law.

(9) The Drawing is governed by the laws of the Commonwealth of Pennsylvania. Applicable laws and regulations apply.

(10) Final determination of winners will be made by the Secretary, whose judgment will be final and binding.

(11) A prize awarded in the Drawing to a person who dies before receiving the prize shall be paid according to 61 Pa. Code § 811.16 (relating to prizes payable after death of a prize winner).

(12) A winner is responsible for all taxes arising from or in connection with any prize won.

(13) A player may only win the prize for which the player is first selected in the Drawing. Subsequent entries, from the same individual, selected in the Drawing will be disqualified and a replacement entry will be selected.

(14) Winners of iLottery Bonus Money must abide by the iLottery Terms & Conditions, the iLottery Bonus Policy and these rules. iLottery Bonus Money will expire 90 days from the date on which the winner was notified, via email, of the prize win, as further detailed in section 9(d)(4). iLottery Bonus Money has a five times play through requirement in order to convert the iLottery Bonus Money into cash. For example, for a player winning \$100 of iLottery Bonus Money, the player is required to place \$500 in wagers before the iLottery Bonus Money awarded is converted into cash which may be withdrawn from the player's Lottery account.

(15) Prizes are not transferrable.

(16) Winners and guests must abide by all venue policies. Any promotional partner reserves the right to revoke full or partial prize from any winner or winner's guest whom it or venue personnel, or both, may deem, in their sole discretion, to be intoxicated, a safety risk, to have violated any venue policy or law or may bring the promotional partner into disrepute.

(17) The winner is responsible for all costs, expenses and transportation, not specifically included in the prize won in the Drawing, arising from or in connection with any prize won.

(18) Prizes are not redeemable for cash.

(19) If a date is provided for a game or event that is part of a prize described in section 9(d), the date is subject to change at the sole discretion of the Philadelphia Eagles.

(20) If no date is provided for a game or event that is part of a prize described in section 9(d), the date will be determined by the Philadelphia Eagles and will be communicated to the winner by either the Philadelphia Eagles or the Lottery.

(21) In the event the winner is not available on the date of the game or event that is part of a prize described in section 9(d), there will be no extensions or substitutions of prizes and the winner will not receive any reimbursement for the unused prize.

(22) In the event a prize described in section 9(d) is not available, the Lottery may either provide a substitute prize, determined by the Secretary to have an equivalent

value to the prize won, or make a cash payment to the winner, in an amount determined by the Secretary to have an equivalent value to the prize won.

(23) The specific seats to be provided as part of any prize described in section 9(d) will be determined at the sole discretion of the Philadelphia Eagles.

(24) The food and beverages to be provided as part of any prize described in section 9(d) will be selected at the sole discretion of the Philadelphia Eagles.

(25) The Philadelphia Eagles Players and Alumni Players referenced as part of any prize described in section 9(d) will be selected at the sole discretion of the Philadelphia Eagles.

(26) Other restrictions may apply.

10. *Ticket responsibility:*

(a) A Fast Play lottery game ticket is a bearer document deemed to be owned by the person holding the game ticket, except that if a name is contained on the back of the game ticket, the person named will, for all purposes, be considered the owner of the game ticket.

(b) The holder of a Fast Play lottery game ticket has the sole responsibility for checking the accuracy and condition of the data printed on the game ticket.

(c) The Commonwealth shall not be responsible for a lost or stolen Fast Play lottery game ticket, or for a Fast Play ticket redeemed by a player in error.

11. *Ticket validation and requirements:*

(a) *Valid Fast Play lottery game tickets.* To be a valid Fast Play lottery game ticket, the presented game ticket must meet the following requirements:

(1) The game ticket's bar code shall be present in its entirety.

(2) The game ticket must be intact.

(3) The game ticket may not be mutilated, altered, reconstituted or tampered with.

(4) The game ticket may not be counterfeit or a duplicate of a winning ticket.

(5) The game ticket must have been validly issued.

(6) The game ticket data shall have been recorded on the Lottery Central Computer System and the game ticket data shall match the computer record in every respect.

(7) The game ticket must not be defectively printed or printed or produced in error such that it cannot be processed or validated by the Lottery.

(8) The game ticket must pass other confidential security checks of the Lottery.

(b) *Invalid or defective game tickets:* A game ticket not passing the validation requirements in subsection (a) will be considered invalid and no payment will be made on account of any play recorded thereon. The determination of the Secretary in this regard is final.

12. *Procedures for claiming and payment of prizes:*

(a) A prize may be claimed through an authorized retailer or the Lottery, as provided in this section. A prize must be claimed within 1 year of the sale date of the Fast Play lottery game ticket.

(b) An authorized retailer is authorized to pay prizes of \$2,500 or less. The holder of a game ticket evidencing a winning play representing a prize of \$2,500 or less may

be paid by a participating authorized retailer if a proper validation pay ticket was issued by the retailer's Lottery Terminal.

(c) The holder of a game ticket evidencing a winning play representing a prize in excess of \$2,500 may present the game ticket to an authorized retailer, Lottery District Office, or Lottery Headquarters.

(d) The holder of a game ticket evidencing a winning play shall present the ticket, in person, to an authorized retailer, Lottery Headquarters or a Lottery District Office. The retailer or the Lottery will issue payment if:

(1) The game ticket is scanned and the play is validated through the Lottery Terminal or the Lottery Central Computer System;

(2) A claim form is properly and fully completed;

(3) The identification of the claimant is confirmed; and

(4) The winning ticket has not expired, pursuant to this section or section 14 (relating to unclaimed prizes).

(e) The Commonwealth shall not be responsible for a winning play paid in error by an authorized retailer.

(f) In the event a prize described in these rules is not available, the Lottery may either provide a substitute prize, determined by the Secretary to have an equivalent value to the prize won, or make a cash payment to the winner, in an amount determined by the Secretary to have an equivalent value to the prize won.

13. *Funding for prizes:* Moneys will be drawn from the State Lottery Fund, to the extent necessary, to fund the payment of prizes under this section. If this lottery game is terminated for any cause, prize moneys remaining undistributed will remain in the State Lottery Fund and used for purposes otherwise provided for by law.

14. *Unclaimed prizes:* Unclaimed prize money on winning Fast Play lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto for 1 year from the sale date of the Fast Play lottery game ticket. If no claim is made within 1 year from the sale date of the Fast Play lottery game ticket, the right of a ticket holder to claim the prize represented by that ticket, if any, shall expire.

15. *Purchase and prize restrictions:* A Fast Play lottery game ticket may not be purchased by, and a prize may not be paid, to an officer or employee of the Lottery, Lottery professional services contractors or subcontractors, or to a spouse, child, brother, sister or parent residing in the same household of an officer, employee, contractor or subcontractor who is involved in the production, distribution or operation of systems for the validation or accounting of Fast Play games.

16. *Governing law:*

(a) By purchasing a ticket, the purchaser agrees to comply with and abide by the State Lottery Law (72 P.S. §§ 3761-101—3761-314), this notice, instructions, conditions and final decisions of the Secretary, and procedures established by the Secretary for the conduct of the Fast Play Eagles lottery game.

(b) Decisions made by the Secretary, including the declaration of prizes and the payment thereof, in interpretation of this notice are final and binding on players and persons making a claim in respect thereof.

17. *Retailer compensation:*

(a) Authorized retailers may be entitled to compensation as determined by the Lottery.

(b) No authorized retailer or employee of an authorized retailer shall request, demand, or accept gratuities or any compensation other than as provided in subsection (a) in exchange for the performance of duties authorized pursuant to the Lottery retailer's license without the Lottery's prior written authorization.

18. *Retailer Incentive Programs:* The Lottery may conduct a separate Retailer Incentive Program for retailers who sell Pennsylvania Fast Play Eagles lottery game tickets.

19. *Retailer bonus:* The Lottery may offer a retailer bonus in connection with the sale of Pennsylvania Fast Play lottery game tickets. If a retailer bonus is offered, a Lottery retailer shall be eligible for a bonus as described in this section. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$100,000 and not exceeding \$500,000 shall be paid a bonus of \$500. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$500,001 and not exceeding \$1,000,000 shall be paid a bonus of \$5,000. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$1,000,001 and not exceeding \$10,000,000 shall be paid a bonus of \$10,000. A Lottery retailer is entitled only to the largest bonus for which they qualify on a winning ticket. A bonus will be initiated for payment after the Fast Play game ticket is claimed and validated. A bonus will not be awarded to a Lottery retailer that sells a non-winning Pennsylvania Lottery Fast Play game ticket used to enter a Pennsylvania Lottery second-chance drawing or promotion that is subsequently selected to win a prize.

20. *Termination of the game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Eagles or through normal communications methods.

21. *Applicability:* This notice applies only to the Eagles lottery game announced in this notice.

C. DANIEL HASSELL,
Secretary

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DEPARTMENT OF REVENUE

Pennsylvania Gone Fishin' Fast Play Game 5093

Under the State Lottery Law (72 P.S. §§ 3761-101—3761-314) and 61 Pa. Code § 803.11 (relating to powers and duties of the Secretary of Revenue), the Secretary of Revenue hereby provides public notice of the rules for the following lottery game:

1. *Name:* The name of the lottery game is Pennsylvania Gone Fishin' (hereinafter "Gone Fishin'"). The game number is PA-5093.

2. *Definitions:*

(a) *Authorized retailer or retailer:* A person who is properly licensed by the Lottery pursuant to 61 Pa. Code §§ 805.1—805.17.

(b) *Bar code*: The symbology on the ticket containing certain encrypted validation and accounting data used for identifying winning and losing tickets.

(c) *BONUS*: A feature of the Gone Fishin' game that, when played according to the instructions, may award the player an automatic win of \$1.

(d) *Game Ticket*: A bearer instrument produced through a Lottery Terminal that is the player's record of a play for a Fast Play lottery game and sold by an authorized retailer containing the play and validation data as published in this game notice.

(e) *Lottery Central Computer System*: The computer gaming system on which all Fast Play plays are recorded.

(f) *Lottery Terminal*: A device authorized by the Lottery to function in an interactive mode with the Lottery Central Computer System for the purpose of issuing plays, executing Quick Pick selections, and entering, receiving, and processing lottery transactions, including making purchases, validating plays, transmitting reports, and performing inventory functions.

(g) *Play*: A chance to participate in a particular Fast Play lottery game.

(h) *Play Area*: The area on a ticket, which contains one or more play symbols.

(i) *Play Symbol*: A number, letter, symbol, image or other character found in the play area, which is used to determine whether a player wins a prize.

(j) *Prize*: A non-monetary item, money, or experience that can be won as specified in section 6 (relating to prizes available to be won and determination of prize winners) of this game notice.

(k) *PROGRESSIVE TOP PRIZE*: The top prize available for this game that begins with a minimum prize amount that grows at a pre-determined rate every time a ticket is purchased, and then resets to the minimum prize amount whenever a top prize winning ticket is sold.

(l) *WINNING NUMBERS*: The numbers, letters, symbols or other characters found in the play area that, when matched against the "YOUR NUMBERS" play symbols determine whether a player wins a prize.

(m) *Winning ticket*: A game ticket which has been validated and qualifies for a prize.

(n) *YOUR NUMBERS*: The numbers, letters, symbols or other characters found in the play area that, when matched against the "WINNING NUMBERS" play symbols, determine whether a player wins a prize.

3. *Price*: The price of a Gone Fishin' ticket is \$1.

4. *Description of the Gone Fishin' Fast Play lottery game*:

(a) The Gone Fishin' lottery game is an instant win game printed from a Lottery Terminal. With the exception of the "PROGRESSIVE TOP PRIZE," prizes are predetermined, and the player does not have the ability to select their own play symbols. Gone Fishin' tickets may be purchased from an authorized retailer or at a Lottery self-service terminal that sells terminal-based Lottery game tickets. Tickets purchased from an authorized retailer shall be printed on-demand at the time of purchase and may not be preprinted by the retailer.

(b) Gone Fishin' is played by matching any of the play symbols located in the "YOUR NUMBERS" area to any of the play symbols located in the "WINNING NUMBERS" area. A player matching play symbols in this manner will

win the prize shown under the matching "YOUR NUMBERS" play symbol. A bet slip is not used to play this game.

(c) Gone Fishin' tickets contain a "BONUS" area. When the player hooks a "DOLLAR" symbol in the "BONUS" area, the player wins \$1 instantly. The "BONUS" area is played separately.

(d) Players can win the prizes identified in section 6 (relating to prizes available to be won and determination of prize winners).

(e) A Gone Fishin' game ticket cannot be canceled or voided once printed by the Lottery Terminal, even if printed in error.

(f) To purchase a ticket at an authorized retailer, a player must remit the purchase price to the retailer and verbally request a Gone Fishin' game ticket. The ticket shall be the only valid proof of the bet placed and the only valid receipt for claiming a prize.

(g) To purchase a ticket at a Pennsylvania Lottery self-service terminal, the player must insert into the self-service terminal a dollar amount equal to the total purchase price of a Gone Fishin' game ticket and select the Gone Fishin' option on the Lottery self-service terminal. The ticket shall be the only valid proof of the bet placed and the only valid receipt for claiming a prize.

5. *Gone Fishin' ticket characteristics*:

(a) A Gone Fishin' ticket shall contain a play area, the cost of the play, the date of sale, and a bar code.

(b) *Play Symbols*: Each Gone Fishin' ticket play area will contain a "WINNING NUMBERS" area, a "YOUR NUMBERS" area and a "BONUS" area. The play symbols and their captions, located in the "WINNING NUMBERS" and "YOUR NUMBERS" areas, are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN) and 20 (TWENT). The play symbols located in the "BONUS" area are: Dollar symbol and a Worm symbol.

(c) *Prize Symbols*: The prize symbols and their captions, located in the "YOUR NUMBERS" area, are: FREE (TICKET), \$1⁰⁰ (ONE DOL), \$2⁰⁰ (TWO DOL), \$4⁰⁰ (FOR DOL), \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$20⁰⁰ (TWENTY), \$50⁰⁰ (FIFTY), \$100 (ONE HUN) and PROG (TOP PRIZE).

(d) *Prizes*: The prizes that can be won in this game are: Free \$1 Fast Play Ticket, \$1, \$2, \$4, \$5, \$10, \$20, \$50, \$100 and the "PROGRESSIVE TOP PRIZE." The "PROGRESSIVE TOP PRIZE" amount starts at \$2,000 and increases by \$0.10 every time a Gone Fishin' ticket is purchased. When a "PROGRESSIVE TOP PRIZE" winning ticket is sold, the "PROGRESSIVE TOP PRIZE" resets to \$2,000. A player can win up to nine times on a ticket.

(e) *Approximate number of tickets available for the game*: Approximately 2,400,000 tickets will be available for sale for the Gone Fishin' lottery game.

6. *Prizes available to be won and determination of prize winners*:

(a) All Gone Fishin' prize payments will be made as one-time, lump-sum cash payments.

(b) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol

of PROG (TOP PRIZE) appears in the "Prize" area, on a single ticket, shall be entitled to a prize of a "PROGRESSIVE TOP PRIZE." The amount won under this paragraph is the amount of the "PROGRESSIVE TOP PRIZE," determined by the Lottery Central Computer System, as of the time the winning ticket was purchased. The amount won will be a minimum of \$2,000.

(c) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$100 (ONE HUN) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(d) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$50⁰⁰ (FIFTY) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(e) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$20⁰⁰ (TWENTY) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(f) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$10⁰⁰ (TEN DOL) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(g) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol

of \$5⁰⁰ (FIV DOL) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(h) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$4⁰⁰ (FOR DOL) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$4.

(i) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$2⁰⁰ (TWO DOL) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$2.

(j) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$1⁰⁰ (ONE DOL) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1.

(k) Holders of tickets upon which a Dollar symbol is hooked in the "BONUS" area, on a single ticket, shall be entitled to a prize of \$1.

(l) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of FREE (TICKET) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of one Gone Fishin' game ticket.

7. *Number and description of prizes and approximate chances of winning.* The following table sets forth the approximate number of winners, amounts of prizes, and approximate chances of winning:

<i>When Any Of YOUR NUMBERS Match Any WINNING NUMBER, Win Prize Shown Under The Matching Number. Win With:</i>	<i>BONUS Win With:</i>	<i>Win:</i>	<i>Approximate Chances Of Winning Are 1 In:</i>	<i>Approximate No. Of Winners Per 2,400,000 Tickets:</i>
FREE		FREE \$1 TICKET	10	240,000
	\$1 w/ DOLLAR	\$1	40	60,000
\$1		\$1	40	60,000
\$1 × 2		\$2	100	24,000
\$1	\$1 w/ DOLLAR	\$2	33.33	72,000
\$2		\$2	100	24,000
\$2 × 2		\$4	200	12,000
\$2 + \$1	\$1 w/ DOLLAR	\$4	66.67	36,000
\$4		\$4	200	12,000
\$1 × 4	\$1 w/ DOLLAR	\$5	1,000	2,400
\$2 × 2	\$1 w/ DOLLAR	\$5	500	4,800
(\$1 × 2) + \$2	\$1 w/ DOLLAR	\$5	500	4,800
(\$2 × 2) + \$1		\$5	500	4,800
\$4 + \$1		\$5	1,000	2,400
\$4	\$1 w/ DOLLAR	\$5	500	4,800
\$5		\$5	1,000	2,400
\$5 × 2		\$10	3,333	720
(\$2 × 3) + (\$1 × 3)	\$1 w/ DOLLAR	\$10	1,000	2,400

<i>When Any Of YOUR NUMBERS Match Any WINNING NUMBER, Win Prize Shown Under The Matching Number. Win With:</i>	<i>BONUS Win With:</i>	<i>Win:</i>	<i>Approximate Chances Of Winning Are 1 In:</i>	<i>Approximate No. Of Winners Per 2,400,000 Tickets:</i>
(\$4 × 2) + \$1	\$1 w/ DOLLAR	\$10	1,000	2,400
\$5 + \$4	\$1 w/ DOLLAR	\$10	1,000	2,400
\$10		\$10	3,333	720
(\$4 × 4) + (\$1 × 3)	\$1 w/ DOLLAR	\$20	2,400	1,000
(\$5 × 3) + (\$1 × 4)	\$1 w/ DOLLAR	\$20	2,400	1,000
(\$2 × 2) + \$10 + \$5	\$1 w/ DOLLAR	\$20	3,000	800
(\$4 × 3) + (\$2 × 4)		\$20	6,000	400
\$10 × 2		\$20	6,000	400
\$20		\$20	6,000	400
(\$20 × 2) + \$10		\$50	12,000	200
(\$5 × 2) + \$20 + \$10 + \$5 + \$4	\$1 w/ DOLLAR	\$50	8,000	300
(\$10 × 3) + (\$5 × 2) + (\$4 × 2) + \$1	\$1 w/ DOLLAR	\$50	8,000	300
\$50		\$50	12,000	200
\$50 × 2		\$100	24,000	100
(\$20 × 2) + (\$2 × 2) + \$50 + \$5	\$1 w/ DOLLAR	\$100	12,000	200
(\$20 × 2) + (\$1 × 2) + \$50 + \$5 + \$2	\$1 w/ DOLLAR	\$100	12,000	200
(\$10 × 4) + \$50 + \$5 + \$4	\$1 w/ DOLLAR	\$100	24,000	100
\$100		\$100	24,000	100
PROGRESSIVE TOP PRIZE*		\$2,000*	80,000	30

BONUS: When you hook a "DOLLAR," win \$1 instantly!

*PROGRESSIVE TOP PRIZE: The minimum value of the PROGRESSIVE TOP PRIZE is \$2,000. The PROGRESSIVE TOP PRIZE increases by \$0.10 every time a ticket is purchased, and resets to \$2,000 whenever a top prize winning ticket is sold.

Prizes, including top prizes, are subject to availability at the time of purchase.

8. *Ticket responsibility:*

(a) A Fast Play lottery game ticket is a bearer document deemed to be owned by the person holding the game ticket, except that if a name is contained on the back of the game ticket, the person named will, for all purposes, be considered the owner of the game ticket.

(b) The holder of a Fast Play lottery game ticket has the sole responsibility for checking the accuracy and condition of the data printed on the game ticket.

(c) The Commonwealth shall not be responsible for a lost or stolen Fast Play lottery game ticket, or for a Fast Play ticket redeemed by a player in error.

9. *Ticket validation and requirements:*

(a) *Valid Fast Play lottery game tickets.* To be a valid Fast Play lottery game ticket, the presented game ticket must meet the following requirements:

(1) The game ticket's bar code shall be present in its entirety.

(2) The game ticket must be intact.

(3) The game ticket may not be mutilated, altered, reconstituted or tampered with.

(4) The game ticket may not be counterfeit or a duplicate of a winning ticket.

(5) The game ticket must have been validly issued.

(6) The game ticket data shall have been recorded on the Lottery Central Computer System and the game ticket data shall match the computer record in every respect.

(7) The game ticket must not be defectively printed or printed or produced in error such that it cannot be processed or validated by the Lottery.

(8) The game ticket must pass other confidential security checks of the Lottery.

(b) *Invalid or defective game tickets:* A game ticket not passing the validation requirements in subsection (a) will be considered invalid and no payment will be made on account of any play recorded thereon. The determination of the Secretary in this regard is final.

10. *Procedures for claiming and payment of prizes:*

(a) A prize may be claimed through an authorized retailer or the Lottery, as provided in this section. A prize must be claimed within 1 year of the sale date of the Fast Play lottery game ticket.

(b) An authorized retailer is authorized to pay prizes of \$2,500 or less. The holder of a game ticket evidencing a winning play representing a prize of \$2,500 or less may be paid by a participating authorized retailer if a proper validation pay ticket was issued by the retailer's Lottery Terminal.

(c) The holder of a game ticket evidencing a winning play representing a prize in excess of \$2,500 may present

the game ticket to an authorized retailer, Lottery District Office, or Lottery Headquarters.

(d) The holder of a game ticket evidencing a winning play shall present the ticket, in person, to an authorized retailer, Lottery Headquarters or a Lottery District Office. The retailer or the Lottery will issue payment if:

(1) The game ticket is scanned and the play is validated through the Lottery Terminal or the Lottery Central Computer System;

(2) A claim form is properly and fully completed;

(3) The identification of the claimant is confirmed; and

(4) The winning ticket has not expired, pursuant to this section or section 12 (relating to unclaimed prizes).

(e) The Commonwealth shall not be responsible for a winning play paid in error by an authorized retailer.

(f) In the event a prize described in these rules is not available, the Lottery may either provide a substitute prize, determined by the Secretary to have an equivalent value to the prize won, or make a cash payment to the winner, in an amount determined by the Secretary to have an equivalent value to the prize won.

11. *Funding for prizes:* Moneys will be drawn from the State Lottery Fund, to the extent necessary, to fund the payment of prizes under this section. If this lottery game is terminated for any cause, prize moneys remaining undistributed will remain in the State Lottery Fund and used for purposes otherwise provided for by law.

12. *Unclaimed prizes:* Unclaimed prize money on winning Fast Play lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto for 1 year from the sale date of the Fast Play lottery game ticket. If no claim is made within 1 year from the sale date of the Fast Play lottery game ticket, the right of a ticket holder to claim the prize represented by that ticket, if any, shall expire.

13. *Purchase and prize restrictions:* A Fast Play lottery game ticket may not be purchased by, and a prize may not be paid, to an officer or employee of the Lottery, Lottery professional services contractors or subcontractors, or to a spouse, child, brother, sister or parent residing in the same household of an officer, employee, contractor or subcontractor who is involved in the production, distribution or operation of systems for the validation or accounting of Fast Play games.

14. *“PROGRESSIVE TOP PRIZE” restrictions:*

(a) An amount of \$0.10 from the sale of each Gone Fishin’ Cash ticket will be accumulated in the “PROGRESSIVE TOP PRIZE” pool.

(b) *Prize Amount:* The amount of the “PROGRESSIVE TOP PRIZE” at the time a ticket is purchased can only be verified through the Lottery’s Central Computer System. Any advertisement or any materials describing the amount of the “PROGRESSIVE TOP PRIZE” are only valid as of the time they are posted. If any discrepancy exists between this notice and any material describing or advertising the Gone Fishin’ game, this notice and the data contained in the Lottery’s Central Computer System shall govern.

(c) The “PROGRESSIVE TOP PRIZE” and all other prizes are subject to availability at the time of purchase. The Lottery is not responsible for prizes that are not awarded due to technical issues. In the event of a “PROGRESSIVE TOP PRIZE” being reset without the actual sale of a “PROGRESSIVE TOP PRIZE” winning ticket, all prize money that had accumulated into the “PROGRESSIVE TOP PRIZE” pool (i.e. \$0.10 from the sale of each ticket) shall be awarded as part of the next “PROGRESSIVE TOP PRIZE” won.

(d) Prizes payable to “PROGRESSIVE TOP PRIZE” winners will be paid as a one-time cash payment. For the purposes of calculation of the prize to be paid to “PROGRESSIVE TOP PRIZE” winners, the “PROGRESSIVE TOP PRIZE” amount will be rounded up to the nearest \$0.50.

15. *Governing law:*

(a) By purchasing a ticket, the purchaser agrees to comply with and abide by the State Lottery Law (72 P.S. §§ 3761-101—3761-314), this notice, instructions, conditions and final decisions of the Secretary, and procedures established by the Secretary for the conduct of the Fast Play Gone Fishin’ lottery game.

(b) Decisions made by the Secretary, including the declaration of prizes and the payment thereof, in interpretation of this notice are final and binding on players and persons making a claim in respect thereof.

16. *Retailer compensation:*

(a) Authorized retailers may be entitled to compensation as determined by the Lottery.

(b) No authorized retailer or employee of an authorized retailer shall request, demand, or accept gratuities or any compensation other than as provided in subsection (a) in exchange for the performance of duties authorized pursuant to the Lottery retailer’s license without the Lottery’s prior written authorization.

17. *Retailer Incentive Programs:* The Lottery may conduct a separate Retailer Incentive Program for retailers who sell Pennsylvania Fast Play Gone Fishin’ lottery game tickets.

18. *Retailer bonus:* The Lottery may offer a retailer bonus in connection with the sale of Pennsylvania Fast Play lottery game tickets. If a retailer bonus is offered, a Lottery retailer shall be eligible for a bonus as described in this section. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$100,000 and not exceeding \$500,000 shall be paid a bonus of \$500. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$500,001 and not exceeding \$1,000,000 shall be paid a bonus of \$5,000. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$1,000,001 and not exceeding \$10,000,000 shall be paid a bonus of \$10,000. A Lottery retailer is entitled only to the largest bonus for which they qualify on a winning ticket. A bonus will be initiated for payment after the Fast Play game ticket is claimed and validated. A bonus will not be awarded to a Lottery retailer that sells a non-winning Pennsylvania Lottery Fast Play game ticket used to enter a Pennsylvania Lottery second-chance drawing or promotion that is subsequently selected to win a prize.

19. *Termination of the game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Gone Fishin' or through normal communications methods.

20. *Applicability:* This notice applies only to the Gone Fishin' lottery game announced in this notice.

C. DANIEL HASSELL,
Secretary

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DEPARTMENT OF REVENUE

Pennsylvania Steelers Fast Play Game 5092

Under the State Lottery Law (72 P.S. §§ 3761-101—3761-314) and 61 Pa. Code § 803.11 (relating to powers and duties of the Secretary of Revenue), the Secretary of Revenue hereby provides public notice of the rules for the following lottery game:

1. *Name:* The name of the lottery game is Pennsylvania Steelers (hereinafter “Steelers”). The game number is PA-5092.

2. *Definitions:*

(a) *Authorized retailer or retailer:* A person who is properly licensed by the Lottery pursuant to 61 Pa. Code §§ 805.1—805.17.

(b) *Bar code:* The symbology on the ticket containing certain encrypted validation and accounting data used for identifying winning and losing tickets.

(c) *Game Ticket:* A bearer instrument produced through a Lottery Terminal that is the player's record of a play for a Fast Play lottery game and sold by an authorized retailer containing the play and validation data as published in this game notice.

(d) *GOAL POST BONUS:* The area on a ticket that may contain either an FG (FLDGL) or a TD (TCHDXP) symbol that is applied to any winning combination to increase the total amount won according to the instructions.

(e) *Lottery Central Computer System:* The computer gaming system on which all Fast Play plays are recorded.

(f) *Lottery Terminal:* A device authorized by the Lottery to function in an interactive mode with the Lottery Central Computer System for the purpose of issuing plays, executing Quick Pick selections, and entering, receiving, and processing lottery transactions, including making purchases, validating plays, transmitting reports, and performing inventory functions.

(g) *Play:* A chance to participate in a particular Fast Play lottery game.

(h) *Play Area:* The area on a ticket, which contains one or more play symbols.

(i) *Play Symbol:* A number, letter, symbol, image or other character found in the play area, which is used to determine whether a player wins a prize.

(j) *Prize:* A non-monetary item, money, or experience that can be won as specified in section 7 (relating to prizes available to be won and determination of prize winners) of this game notice.

(k) *WINNING NUMBERS:* The numbers, letters, symbols or other characters found in the play area that, when matched against the “YOUR NUMBERS” play symbols, determine whether a player wins a prize.

(l) *Winning ticket:* A game ticket which has been validated and qualifies for a prize.

(m) *YOUR NUMBERS:* The numbers, letters, symbols or other characters found in the play area that, when matched against the “WINNING NUMBERS” play symbols, determine whether a player wins a prize.

3. *Price:* The price of a Steelers ticket is \$5.

4. *Description of the Steelers Fast Play lottery game:*

(a) The Steelers lottery game is an instant win game printed from a Lottery Terminal. All prizes are predetermined, and the player does not have the ability to select their own play symbols. Steelers tickets may be purchased from an authorized retailer or at a Lottery self-service terminal that sells terminal-based Lottery game tickets. Tickets purchased from an authorized retailer shall be printed on-demand at the time of purchase and may not be preprinted by the retailer.

(b) Steelers is played by matching any of the play symbols in the “YOUR NUMBERS” area to any of the play symbols located in the “WINNING NUMBERS” area. A player matching play symbols in this manner will win the prize shown under the matching “YOUR NUMBERS” play symbol. A bet slip is not used to play this game.

(c) Steelers tickets contain a “GOAL POST BONUS” area. When a FG (FLDGL) symbol appears in the “GOAL POST BONUS” area, add \$3 to the total amount won in the “YOUR NUMBERS” area and win that amount. When a TD (TCHDXP) symbol appears in the “GOAL POST BONUS” area, add \$7 to the total amount won in the “YOUR NUMBERS” area and win that amount.

(d) Players can win the prizes identified in section 7 (relating to prizes available to be won and determination of prize winners).

(e) A Steelers game ticket cannot be canceled or voided once printed by the Lottery Terminal, even if printed in error.

(f) To purchase a ticket at an authorized retailer, a player must remit the purchase price to the retailer and verbally request a Steelers game ticket. The ticket shall be the only valid proof of the bet placed and the only valid receipt for claiming a prize.

(g) To purchase a ticket at a Pennsylvania Lottery self-service terminal, the player must insert into the self-service terminal a dollar amount equal to the total purchase price of a Steelers game ticket and select the Steelers option on the Lottery self-service terminal. The ticket shall be the only valid proof of the bet placed and the only valid receipt for claiming a prize.

5. *Steelers ticket characteristics:*

(a) A Steelers ticket shall contain a play area, the cost of the play, the date of sale, and a bar code.

(b) *Play Symbols:* Each Steelers ticket play area will contain a “WINNING NUMBERS” area, a “YOUR NUMBERS” area and a “GOAL POST BONUS” area. The play symbols and their captions, located in the “WINNING NUMBERS” and “YOUR NUMBERS” areas are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVEN), 12 (TWELVE), 13 (THIRTY), 14 (FORTY), 15 (FIFTY), 16 (SIXTY), 17 (SEVENTY), 18 (EIGHTY), 19 (NINETY), 20

(TWENT), 21 (TWYONE), 22 (TWY TWO), 23 (TWY THR), 24 (TWY FOR), 25 (TWY FIV), 26 (TWY SIX), 27 (TWY SVN), 28 (TWY EGT), 29 (TWY NIN) and 30 (THIRT). The play symbols and their captions, located in the "GOAL POST BONUS" area, are: FBL (FUMBLE) symbol, BK (BLOCK) symbol, INT (INTRCPT) symbol, FG (FLDGL) symbol and TD (TCHDXP) symbol.

(c) *Prize Symbols:* The prize symbols and their captions located in the "YOUR NUMBERS" area, are: \$5⁰⁰ (FIV DOL), \$8⁰⁰ (EGT DOL), \$10⁰⁰ (TEN DOL), \$12⁰⁰ (TWELVE), \$15⁰⁰ (FIFTEEN), \$20⁰⁰ (TWENTY), \$30⁰⁰ (THIRTY), \$50⁰⁰ (FIFTY), \$100 (ONE HUN), \$200 (TWO HUN), \$500 (FIV HUN), \$1,000 (ONE THO), \$5,000 (FIV THO) and \$50,000 (FTY THO).

(d) *Prizes:* The prizes that can be won in this game are: \$5, \$8, \$10, \$12, \$15, \$20, \$30, \$50, \$100, \$200, \$500, \$1,000, \$5,000 and \$50,000. Steelers contains a feature that can increase the prize shown by \$3 or \$7 as detailed in section 4 (related to description of the Steelers Fast Play lottery game). For a complete list of all prizes that can be won in this game, see section 8 (relating to number and description of prizes and approximate chances of winning). The prizes that can be won in the "GOAL POST BONUS" area are: \$3 and \$7. A player can win up to 12 times on a ticket.

(e) *Approximate number of tickets available for the game:* Approximately 2,400,000 tickets will be available for sale for the Steelers lottery game.

6. *Second-Chance Drawing:* The Pennsylvania Lottery will conduct a Steelers Second-Chance Drawing for which non-winning Steelers lottery game tickets may be eligible as provided for in section 9.

7. *Prizes available to be won and determination of prize winners:*

(a) All Steelers prize payments will be made as one-time, lump-sum cash payments.

(b) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$50,000 (FTY THO) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$50,000.

(c) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$5,000 (FIV THO) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$5,000.

(d) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$1,000 (ONE THO) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(e) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$500 (FIV HUN) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(f) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING

NUMBERS" play symbols and a prize symbol of \$200 (TWO HUN) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$200.

(g) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$100 (ONE HUN) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(h) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$50⁰⁰ (FIFTY) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, ticket, shall be entitled to a prize of \$50.

(i) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$30⁰⁰ (THIRTY) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$30.

(j) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$20⁰⁰ (TWENTY) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol on a single ticket, shall be entitled to a prize of \$20.

(k) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$15⁰⁰ (FIFTEEN) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$15.

(l) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$12⁰⁰ (TWELVE) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$12.

(m) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$10⁰⁰ (TEN DOL) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(n) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$8⁰⁰ (EGT DOL) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$8.

(o) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$5⁰⁰ (FIV DOL) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$5.

8. *Number and description of prizes and approximate chances of winning.* The following table sets forth the approximate number of winners, amounts of prizes, and approximate chances of winning:

<i>When Any Of YOUR NUMBERS Match Any WINNING NUMBER, Win Prize Shown Under The Matching Number. Win With:</i>	<i>GOAL POST BONUS Win With:</i>	<i>Win:</i>	<i>Approximate Chances Of Winning Are 1 In:</i>	<i>Approximate No. Of Winners Per 2,400,000 Tickets:</i>
\$5		\$5	9.09	264,000
\$5	\$3 w/ FG SYMBOL	\$8	100	24,000
\$8		\$8	100	24,000
\$5 × 2		\$10	45.05	53,280
\$10		\$10	37.04	64,800
\$5	\$7 w/ TD SYMBOL	\$12	76.92	31,200
\$12		\$12	76.92	31,200
\$5 × 3		\$15	111.11	21,600
\$8	\$7 w/ TD SYMBOL	\$15	100	24,000
\$12	\$3 w/ FG SYMBOL	\$15	100	24,000
\$15		\$15	250	9,600
\$10 × 2		\$20	200	12,000
\$15 + \$5		\$20	166.67	14,400
\$8 + \$5	\$7 w/ TD SYMBOL	\$20	163.93	14,640
\$12 + \$5	\$3 w/ FG SYMBOL	\$20	166.67	14,400
\$20		\$20	909.09	2,640
\$10 × 3		\$30	2,000	1,200
\$15 × 2		\$30	2,500	960
(\$5 × 3) + \$8	\$7 w/ TD SYMBOL	\$30	333.33	7,200
\$10 + \$8 + \$5	\$7 w/ TD SYMBOL	\$30	400	6,000
\$10 + \$12 + \$5	\$3 w/ FG SYMBOL	\$30	400	6,000
\$15 + \$12	\$3 w/ FG SYMBOL	\$30	666.67	3,600
\$30		\$30	2,000	1,200
\$10 × 5		\$50	2,400	1,000
(\$5 × 4) + \$15 + \$12	\$3 w/ FG SYMBOL	\$50	2,400	1,000
(\$5 × 3) + \$20 + \$8	\$7 w/ TD SYMBOL	\$50	2,000	1,200
(\$10 × 2) + (\$5 × 3) + \$8	\$7 w/ TD SYMBOL	\$50	1,600	1,500
(\$10 × 3) + \$8 + \$5	\$7 w/ TD SYMBOL	\$50	1,714	1,400
\$20 + \$10 + \$12 + \$5	\$3 w/ FG SYMBOL	\$50	1,500	1,600
\$20 + \$15 + \$12	\$3 w/ FG SYMBOL	\$50	1,500	1,600
\$50		\$50	2,400	1,000
\$50 × 2		\$100	12,000	200
(\$10 × 3) + \$50 + \$8 + \$5	\$7 w/ TD SYMBOL	\$100	3,000	800

<i>When Any Of YOUR NUMBERS Match Any WINNING NUMBER, Win Prize Shown Under The Matching Number. Win With:</i>	<i>GOAL POST BONUS Win With:</i>	<i>Win:</i>	<i>Approximate Chances Of Winning Are 1 In:</i>	<i>Approximate No. Of Winners Per 2,400,000 Tickets:</i>
$(\$10 \times 3) + \$30 + \$20 + \$8 + \$5$	\$7 w/ TD SYMBOL	\$100	6,000	400
$\$50 + \$20 + \$15 + \12	\$3 w/ FG SYMBOL	\$100	6,000	400
$\$50 + \$20 + \$10 + \$12 + \$5$	\$3 w/ FG SYMBOL	\$100	6,000	400
\$100		\$100	12,000	200
$\$50 \times 4$		\$200	12,000	200
$\$100 \times 2$		\$200	12,000	200
$(\$20 \times 4) + (\$10 \times 2) + \$100$		\$200	12,000	200
$(\$20 \times 3) + (\$10 \times 4) + \$50 + \$30 + \$8 + \5	\$7 w/ TD SYMBOL	\$200	12,000	200
$(\$50 \times 2) + (\$10 \times 3) + \$30 + \$20 + \$8 + \5	\$7 w/ TD SYMBOL	\$200	12,000	200
$(\$50 \times 2) + (\$20 \times 2) + \$30 + \$15 + \$12$	\$3 w/ FG SYMBOL	\$200	24,000	100
\$200		\$200	24,000	100
$\$100 \times 5$		\$500	60,000	40
$(\$100 \times 3) + (\$50 \times 2) + (\$30 \times 2) + \$20 + \$8 + \5	\$7 w/ TD SYMBOL	\$500	60,000	40
$(\$100 \times 4) + (\$20 \times 2) + \$30 + \$15 + \$12$	\$3 w/ FG SYMBOL	\$500	60,000	40
\$500		\$500	60,000	40
$\$500 \times 2$		\$1,000	120,000	20
$(\$100 \times 4) + (\$30 \times 2) + \$500 + \$20 + \$8 + \5	\$7 w/ TD SYMBOL	\$1,000	120,000	20
$(\$200 \times 2) + (\$20 \times 2) + \$500 + \$30 + \$15 + \12	\$3 w/ FG SYMBOL	\$1,000	120,000	20
\$1,000		\$1,000	120,000	20
$\$1,000 \times 5$		\$5,000	240,000	10
\$5,000		\$5,000	240,000	10
\$50,000		\$50,000	240,000	10

GOAL POST BONUS: When a "FG" (FLDGL) symbol appears, add \$3 to any prize won above and win that total amount. When a "TD" (TCHDXP) symbol appears, add \$7 to any prize won above and win that total amount.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Second-Chance Drawing:* The Pennsylvania Lottery's (hereafter, the "Lottery") Steelers Second-Chance Drawing for qualifying Fast Play lottery game tickets (hereafter, the "Drawing").

(a) *Qualifying Tickets:* Non-winning PA-5092 Steelers (\$5) Fast Play lottery game tickets ("Qualifying Tickets") are eligible for entry in the Drawing.

(b) *Participation and entry:*

(1) Entrants must be members of the Pennsylvania Lottery VIP Players Club to participate in the Drawing. To join the VIP Players Club, visit <http://www.palottery.state.pa.us/vipplayersclub/login.aspx>. Becoming a VIP Players Club member is free.

(2) To enter the Drawing, entrants must submit the identifying information from at least one Qualifying

Ticket via the Drawing's promotional web site, available at <http://www.palottery.com>, or the Lottery's official mobile application during the entry period. The identifying information from a Qualifying Ticket may be submitted only once in the Drawing. No other method of submission will be accepted, and entries submitted using any other method, including entries mailed or hand-delivered to the Lottery, are not valid and will be disqualified.

(3) Each entry must be complete and the information supplied by the entrant must be accurate. Incomplete entries cannot be accepted.

(4) Only one claimant per entry is allowed.

(5) Entrants must be 18 years of age or older.

(6) Players may submit the identifying information from an unlimited number of Qualifying Tickets in the Drawing.

(7) Once an entry has been submitted it cannot be withdrawn or changed.

(c) *Drawing description:*

(1) The Lottery will conduct one Steelers Second-Chance Drawing for qualifying Fast Play Lottery game tickets. All time references are Eastern Prevailing Time.

(2) All entries received after 11:59:59 p.m. August 3, 2020, through 11:59:59 p.m. October 8, 2020, will be entered into the Drawing to be held between October 13, 2020 and October 21, 2020.

(3) The entry period for the Drawing will be posted to the Lottery's publicly accessible web site at <http://www.palottery.com>.

(4) When a Qualifying Ticket is entered into the Drawing, the entry has a chance to be multiplied by three or seven (hereafter the "Entry Multiplier Prize"). Each Qualifying Ticket will have a predetermined ticket file assigned at the time the ticket is printed that will determine whether an entry will be multiplied. If an entry is multiplied, the entrant will be notified during the entry process.

(5) The number of entries an entrant will receive for the Drawing is determined by the purchase price of the Qualifying Ticket entered and the Entry Multiplier Prize, if applicable. The respective purchase price and corresponding number of entries for the Qualifying Ticket is as follows: PA-5092 Steelers (\$5) = five entries.

(6) Players may review prizes won and their entries for the Drawing via the Drawing's promotional web site.

(d) *Prizes available to be won, determination of winners, and odds of winning:*

(1) The prize entitlements described below are subject to all restrictions and limitations described in section 9(f), or mentioned anywhere else in these rules.

(2) The following table sets forth the approximate number of Entry Multiplier Prizes and the approximate odds of winning an Entry Multiplier Prize:

Approximate Number of Entry Multiplier Prizes:		Approximate Odds of Winning a 3X or 7X Multiplier Are 1 In:	
3X	7X	3X	7X
172,991	432,478	10	4

(3) The Lottery will conduct one Drawing from among all the entries received during the entry period as described in section 9(c)(2).

(i) The first through the tenth entries selected in the Drawing will be winning entries and the entrants who submitted those winning entries shall each be entitled to a prize of one Tailgate Party Tent Ticket Prize. Each Tailgate Party Tent Ticket Prize includes access to the exclusive Lottery Winners Tent # 1 on Art Rooney Avenue in Pittsburgh, PA, food and beverages and two tickets for the Pittsburgh Steelers home game to be held during the 2021 season.

(ii) The eleventh through the twentieth entries selected in the Drawing will be winning entries and the entrants who submitted those winning entries shall each be entitled to a prize of one Tailgate Party Tent Ticket Prize. Each Tailgate Party Tent Ticket Prize includes access to the exclusive Lottery Winners Tent # 2 on Art Rooney Avenue in Pittsburgh, PA, food and beverages and two tickets for the Pittsburgh Steelers home game to be held during the 2021 season.

(iii) The twenty-first through the thirtieth entries selected in the Drawing will be winning entries and the entrants who submitted those winning entries shall each be entitled to a prize of one Tailgate Party Tent Ticket Prize. Each Tailgate Party Tent Ticket Prize includes access to the exclusive Lottery Winners Tent # 1 on Art Rooney Avenue in Pittsburgh, PA, food and beverages and two tickets for the Pittsburgh Steelers home game to be held during the 2021 season.

(iv) The thirty-first through the fortieth entries selected in the Drawing will be winning entries and the entrants who submitted those winning entries shall each be entitled to a prize of one Tailgate Party Tent Ticket Prize. Each Tailgate Party Tent Ticket Prize includes access to the exclusive Lottery Winners Tent # 2 on Art Rooney Avenue in Pittsburgh, PA, food and beverages and two tickets for the Pittsburgh Steelers home game to be held during the 2021 season.

(v) The forty-first through the fifty-seventh entries selected in the Drawing will be winning entries and the entrants who submitted those winning entries shall each be entitled to a prize of one Party Suite Ticket Prize. Each Party Suite Ticket Prize includes food and beverages and two tickets for the Pittsburgh Steelers home game to be held during the 2021 season.

(vi) The fifty-eighth through the sixty-second entries selected in the Drawing will be winning entries and the entrants who submitted those winning entries shall each be entitled to a prize of one VIP Training Camp Meet and Greet Ticket Prize. Each VIP Training Camp Meet and Greet Ticket Prize includes two, one-day tickets to the Pittsburgh Steelers training camp, on field access, food and beverages, a special gift and a Meet and Greet with current or alumni players, or both, to be held at St. Vincent College in Latrobe, PA, during the summer of 2021.

(vii) The sixty-third through the one hundred and twelfth entries selected in the Drawing will be winning entries and the entrants who submitted the winning entries shall each be entitled to a prize of \$100 iLottery Bonus Money.

(4) Winners of iLottery Bonus Money are not required to claim a prize. Winners of iLottery Bonus Money will have the iLottery Bonus Money credited to their Lottery account and will receive an email notifying them that they won a prize.

(5) The number of winning entries to be selected for the Drawing will be posted to the Lottery's publicly accessible web site.

(6) The odds of winning in the Drawing depend upon the number of entries received for the Drawing.

(7) A computer-generated randomizer will be used to select the Drawing winners.

(e) *Prize claim procedures:*

(1) Winners of any prize awarded in the Drawing will be contacted by email by the Pennsylvania Lottery to initiate the prize claim procedure.

(2) Winners will have seven calendar days from the date they are notified by the Pennsylvania Lottery, pursuant to this section to claim their prizes. In order to claim their prizes, winners must respond to the Pennsyl-

vania Lottery's email regarding prize claim procedure, and must submit a properly completed prize claim form within seven calendar days from the date they are notified by the Pennsylvania Lottery. Failure to comply with the prize claim requirements as set forth herein, for any reason, shall result in the winner forfeiting their right to receive the prize. An alternate winner will be awarded the respective prize, according to Lottery procedure.

(3) By entering a ticket into the Drawing, the entrant agrees to be bound by these rules, the prize claim requirements set forth herein, and expressly waives any claim against the Pennsylvania Lottery for a prize not awarded in conformance with these rules.

(f) *Drawing restrictions:*

(1) Each winner, their respective heirs, legal representatives, and assigns, agree to indemnify, defend, release, and discharge the Pennsylvania Lottery, Pittsburgh Steelers, LLC, Steelers Stadium Operator, LLC, and the NFL, as well as their employees, officers, directors and commissioners from and against any loss, claim, damage, suit, or injury arising out of or relating to this promotion. By entering, the winner indemnifies, releases, discharges, and agrees to hold harmless the Pennsylvania Lottery, Pittsburgh Steelers, LLC, Steelers Stadium Operator, LLC, and the NFL, as well as their employees, officers, directors and commissioners from unanticipated cancellation, suspension, or postponement of the promotion due to natural disaster, national emergency, or other unforeseen act of God or man. Winners participate solely at their own risk and responsibility.

(2) To be eligible to participate in the Drawing, entrants must have complied with the requirements of these rules.

(3) The Lottery is not responsible for late, lost or misdirected entries not entered into the Drawing. The Lottery is not responsible for entries that are not entered into the Drawing because of incompatible internet browsers, mobile Lottery application failure or other technical issues. If an entry is selected as a winner and rejected or otherwise disqualified during or following the Drawing, the Lottery will select another entry to replace the rejected or otherwise disqualified entry in accordance with these rules and Lottery procedure.

(4) If any discrepancy exists between these rules and any material describing the Drawing, these rules shall govern.

(5) Employees of the Lottery, MARC USA, Scientific Games International Inc., MDI Entertainment, LLC, and their subcontractors, or a spouse, child, brother, sister or parent residing as a member of the same household of any such person are not eligible to participate in the Drawing. Offer void where prohibited or restricted.

(6) The Pennsylvania Lottery reserves the right, in its sole discretion, to cancel or suspend the Drawing and change these rules if the Drawing cannot be conducted as planned due to errors in these rules or advertising, unauthorized intervention, tampering, fraud, technical errors, viruses, worms, bugs, or any other cause beyond the control of the Lottery that, in the Lottery's sole judgment, could corrupt or impair the administration, security, fairness, integrity, or proper conduct of the Drawing.

(7) All entries shall be subject to verification by the Lottery.

(8) The Pennsylvania Lottery reserves the right, in its sole discretion, to disqualify an entrant found to be tampering with the operation of the Drawing or to be acting in violation of these rules or applicable law.

(9) The Drawing is governed by the laws of the Commonwealth of Pennsylvania. Applicable laws and regulations apply.

(10) Final determination of winners will be made by the Secretary, whose judgment will be final and binding.

(11) A prize awarded in the Drawing to a person who dies before receiving the prize shall be paid according to 61 Pa. Code § 811.16 (relating to prizes payable after death of a prize winner).

(12) A winner is responsible for all taxes arising from or in connection with any prize won.

(13) A player may only win the prize for which the player is first selected in the Drawing. Subsequent entries, from the same individual, selected in the Drawing will be disqualified and a replacement entry will be selected.

(14) Winners of iLottery Bonus Money must abide by the iLottery Terms & Conditions, the iLottery Bonus Policy and these rules. iLottery Bonus Money will expire 90 days from the date on which the winner was notified, via email, of the prize win, as further detailed in section 9(d)(4). iLottery Bonus Money has a five times play through requirement in order to convert the iLottery Bonus Money into cash. For example, for a player winning \$100 of iLottery Bonus Money, the player is required to place \$500 in wagers before the iLottery Bonus Money awarded is converted into cash which may be withdrawn from the player's Lottery account.

(15) Prizes are not transferrable.

(16) Winners and guests must abide by all venue policies. Any promotional partner reserves the right to revoke full or partial prize from any winner or winner's guest whom it or venue personnel, or both, may deem, in their sole discretion, to be intoxicated, a safety risk, to have violated any venue policy or law or may bring the promotional partner into disrepute.

(17) The winner is responsible for all costs, expenses and transportation, not specifically included in the prize won in the Drawing, arising from or in connection with any prize won.

(18) Prizes are not redeemable for cash.

(19) If a date is provided for a game or event that is part of a prize described in section 9(d), the date is subject to change at the sole discretion of the Pittsburgh Steelers.

(20) If no date is provided for a game or event that is part of a prize described in section 9(d), the date will be determined by the Pittsburgh Steelers and will be communicated to the winner by either the Pittsburgh Steelers or the Lottery.

(21) In the event the winner is not available on the date of the game or event that is part of a prize described in section 9(d), there will be no extensions or substitutions of prizes and the winner will not receive any reimbursement for the unused prize.

(22) In the event a prize described in section 9(d) is not available, the Lottery may either provide a substitute prize, determined by the Secretary to have an equivalent value to the prize won, or make a cash payment to the winner, in an amount determined by the Secretary to have an equivalent value to the prize won.

(23) The specific seats to be provided as part of any prize described in section 9(d) will be determined at the sole discretion of the Pittsburgh Steelers.

(24) The food and beverages to be provided as part of any prize described in section 9(d) will be selected at the sole discretion of the Pittsburgh Steelers.

(25) The Pittsburgh Steelers Players or Alumni Players referenced as part of any prize described in section 9(d) will be selected at the sole discretion of the Pittsburgh Steelers.

(26) Other restrictions may apply.

10. *Ticket responsibility:*

(a) A Fast Play lottery game ticket is a bearer document deemed to be owned by the person holding the game ticket, except that if a name is contained on the back of the game ticket, the person named will, for all purposes, be considered the owner of the game ticket.

(b) The holder of a Fast Play lottery game ticket has the sole responsibility for checking the accuracy and condition of the data printed on the game ticket.

(c) The Commonwealth shall not be responsible for a lost or stolen Fast Play lottery game ticket, or for a Fast Play ticket redeemed by a player in error.

11. *Ticket validation and requirements:*

(a) *Valid Fast Play lottery game tickets.* To be a valid Fast Play lottery game ticket, the presented game ticket must meet the following requirements:

(1) The game ticket's bar code shall be present in its entirety.

(2) The game ticket must be intact.

(3) The game ticket may not be mutilated, altered, reconstituted or tampered with.

(4) The game ticket may not be counterfeit or a duplicate of a winning ticket.

(5) The game ticket must have been validly issued.

(6) The game ticket data shall have been recorded on the Lottery Central Computer System and the game ticket data shall match the computer record in every respect.

(7) The game ticket must not be defectively printed or printed or produced in error such that it cannot be processed or validated by the Lottery.

(8) The game ticket must pass other confidential security checks of the Lottery.

(b) *Invalid or defective game tickets:* A game ticket not passing the validation requirements in subsection (a) will be considered invalid and no payment will be made on account of any play recorded thereon. The determination of the Secretary in this regard is final.

12. *Procedures for claiming and payment of prizes:*

(a) A prize may be claimed through an authorized retailer or the Lottery, as provided in this section. A prize must be claimed within 1 year of the sale date of the Fast Play lottery game ticket.

(b) An authorized retailer is authorized to pay prizes of \$2,500 or less. The holder of a game ticket evidencing a winning play representing a prize of \$2,500 or less may be paid by a participating authorized retailer if a proper validation pay ticket was issued by the retailer's Lottery Terminal.

(c) The holder of a game ticket evidencing a winning play representing a prize in excess of \$2,500 may present the game ticket to an authorized retailer, Lottery District Office, or Lottery Headquarters.

(d) The holder of a game ticket evidencing a winning play shall present the ticket, in person, to an authorized retailer, Lottery Headquarters or a Lottery District Office. The retailer or the Lottery will issue payment if:

(1) The game ticket is scanned and the play is validated through the Lottery Terminal or the Lottery Central Computer System;

(2) A claim form is properly and fully completed;

(3) The identification of the claimant is confirmed; and

(4) The winning ticket has not expired, pursuant to this section or section 14 (relating to unclaimed prizes).

(e) The Commonwealth shall not be responsible for a winning play paid in error by an authorized retailer.

(f) In the event a prize described in these rules is not available, the Lottery may either provide a substitute prize, determined by the Secretary to have an equivalent value to the prize won, or make a cash payment to the winner, in an amount determined by the Secretary to have an equivalent value to the prize won.

13. *Funding for prizes:* Moneys will be drawn from the State Lottery Fund, to the extent necessary, to fund the payment of prizes under this section. If this lottery game is terminated for any cause, prize moneys remaining undistributed will remain in the State Lottery Fund and used for purposes otherwise provided for by law.

14. *Unclaimed prizes:* Unclaimed prize money on winning Fast Play lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto for 1 year from the sale date of the Fast Play lottery game ticket. If no claim is made within 1 year from the sale date of the Fast Play lottery game ticket, the right of a ticket holder to claim the prize represented by that ticket, if any, shall expire.

15. *Purchase and prize restrictions:* A Fast Play lottery game ticket may not be purchased by, and a prize may not be paid, to an officer or employee of the Lottery, Lottery professional services contractors or subcontractors, or to a spouse, child, brother, sister or parent residing in the same household of an officer, employee, contractor or subcontractor who is involved in the production, distribution or operation of systems for the validation or accounting of Fast Play games.

16. *Governing law:*

(a) By purchasing a ticket, the purchaser agrees to comply with and abide by the State Lottery Law (72 P.S. §§ 3761-101—3761-314), this notice, instructions, conditions and final decisions of the Secretary, and procedures established by the Secretary for the conduct of the Fast Play Steelers lottery game.

(b) Decisions made by the Secretary, including the declaration of prizes and the payment thereof, in interpretation of this notice are final and binding on players and persons making a claim in respect thereof.

17. *Retailer compensation:*

(a) Authorized retailers may be entitled to compensation as determined by the Lottery.

(b) No authorized retailer or employee of an authorized retailer shall request, demand, or accept gratuities or any compensation other than as provided in subsection (a) in exchange for the performance of duties authorized pursuant to the Lottery retailer's license without the Lottery's prior written authorization.

18. *Retailer Incentive Programs:* The Lottery may conduct a separate Retailer Incentive Program for retailers who sell Pennsylvania Fast Play Steelers lottery game tickets.

19. *Retailer bonus:* The Lottery may offer a retailer bonus in connection with the sale of Pennsylvania Fast Play lottery game tickets. If a retailer bonus is offered, a Lottery retailer shall be eligible for a bonus as described in this section. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$100,000 and not exceeding \$500,000 shall be paid a bonus of \$500. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$500,001 and not exceeding \$1,000,000 shall be paid a bonus of \$5,000. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$1,000,001 and not exceeding \$10,000,000 shall be paid a bonus of \$10,000. A Lottery retailer is entitled only to the largest bonus for which they qualify on a winning ticket. A bonus will be initiated for payment after the Fast Play game ticket is claimed and validated. A bonus will not be awarded to a Lottery retailer that sells a non-winning Pennsylvania Lottery Fast Play game ticket used to enter a Pennsylvania Lottery second-chance drawing or promotion that is subsequently selected to win a prize.

20. *Termination of the game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Steelers or through normal communications methods.

21. *Applicability:* This notice applies only to the Steelers lottery game announced in this notice.

C. DANIEL HASSELL,
Secretary

[Pa.B. Doc. No. 20-1052. Filed for public inspection July 31, 2020, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Highly Automated Vehicle Advisory Committee Virtual Meeting

The Highly Automated Vehicle Advisory Committee will hold a Skype teleconference meeting on Wednesday, Au-

gust 12, 2020, between 1 p.m. and 3 p.m. All attendees from the public should RSVP to the following e-mail address to receive call-in information. For more information or to RSVP, contact Mark C. Kopko, Director, Office of Transformational Technology, (717) 783-1903, markkopko@pa.gov.

YASSMIN GRAMIAN,
Secretary

[Pa.B. Doc. No. 20-1053. Filed for public inspection July 31, 2020, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Actions Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10 a.m., Thursday, July 16, 2020, and announced the following:

Actions Taken—Regulation Approved:

State Board of Osteopathic Medicine # 16A-5334: Fees (amends 49 Pa. Code §§ 25.231 and 25.503)

Approval Order

Public Meeting Held
July 16, 2020

Commissioners Voting: George D. Bedwick, Chairperson; John F. Mizner, Esq., Vice Chairperson; John J. Soroko, Esq.; Murray Ufberg, Esq.; Dennis A. Watson, Esq.

State Board of Osteopathic Medicine Fees

Regulation No. 16A-5334 (# 3254)

On February 21, 2020, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Osteopathic Medicine (Board). This rulemaking amends 49 Pa. Code §§ 25.231 and 25.503. The proposed regulation was published in the March 7, 2020 *Pennsylvania Bulletin* with a public comment period ending on April 6, 2020. The final-form regulation was submitted to the Commission on June 15, 2020.

This final-form rulemaking raises application and biennial renewal fees for osteopathic physicians, physician assistants, acupuncturists, respiratory therapists, athletic trainers perfusionists and genetic counselors.

We have determined this regulation is consistent with the statutory authority of the Board (63 P.S. §§ 271.13a(a) and 271.13a(c)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

GEORGE D. BEDWICK,
Chairperson

[Pa.B. Doc. No. 20-1054. Filed for public inspection July 31, 2020, 9:00 a.m.]

INSURANCE DEPARTMENT

Application and Request for a Certificate of Authority to Provide a Continuing Care Retirement Community by LECOM at Village Square, LLC

LECOM at Village Square, LLC has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at LECOM at Village Square in Erie, PA. The initial filing was received on July 17, 2020, and was made under the Continuing-Care Provider Registration and Disclosure Act (40 P.S. §§ 3201—3225).

Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party; identification of the application to which the statement is addressed; and a concise statement with sufficient details to inform the Insurance Department of the exact basis of the statement. Written statements should be directed to Karen M. Feather, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, kfeather@pa.gov.

JESSICA K. ALTMAN,
Insurance Commissioner

[Pa.B. Doc. No. 20-1055. Filed for public inspection July 31, 2020, 9:00 a.m.]

INSURANCE DEPARTMENT

Application and Request for a Certificate of Authority to Provide a Continuing Care Retirement Community by Wyndmoor SNF Operating Company, LLC

Wyndmoor SNF Operating Company, LLC has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at Wyndmoor Hills Rehabilitation and Nursing Center in Wyndmoor, PA. The initial filing was received on July 17, 2020, and was made under the Continuing-Care Provider Registration and Disclosure Act (40 P.S. §§ 3201—3225).

Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party; identification of the application to which the statement is addressed; and a concise statement with sufficient details to inform the Department of the exact basis of the statement. Written statements should be directed to Karen M. Feather, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, kfeather@pa.gov.

JESSICA K. ALTMAN,
Insurance Commissioner

[Pa.B. Doc. No. 20-1056. Filed for public inspection July 31, 2020, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Buffalo-Lake Erie Wireless Systems Co., LLC, d/b/a Blue Wireless Letter Request for Relinquishment of Eligible Telecommunications Carrier Designation

Public Meeting held
July 16, 2020

Commissioners Present: Gladys Brown Dutrieuille, Chairperson; David W. Sweet, Vice Chairperson; John F. Coleman, Jr.; Ralph V. Yanora

Buffalo-Lake Erie Wireless Systems Co., LLC, d/b/a Blue Wireless Letter Request for Relinquishment of Eligible Telecommunications Carrier Designation;
Docket Number P-2013-2382739

Order

Before the Commission:

On June 10, 2020, Buffalo-Lake Erie Wireless Systems Co., LLC, d/b/a Blue Wireless (Blue Wireless) filed a Notice with this Commission pursuant to 47 U.S.C. § 214(e)(4) seeking relinquishment of its designation as a Lifeline-only eligible telecommunications carrier (ETC) in the Commonwealth of Pennsylvania (Notice of Relinquishment). Blue Wireless served its Notice of Relinquishment on the Office of Consumer Advocate, the Office of Small Business Advocate, the Commission's Bureau of Investigation and Enforcement, the Commission's Law Bureau and the Office of Attorney General as evidenced by its certificate of service. No responses were filed to the Notice. The Commission will be treating Blue Wireless' Notice of Relinquishment as a petition for relief and hereby grants the requested relief in part and denies the requested relief in part.

Background

Blue Wireless is a Maryland Limited Liability Company (LLC), with its principal place of business at 4915 Auburn Avenue, Suite 200, Bethesda, MD, 20814. Blue Wireless is a "facilities based" wireless telecommunications carrier holding a number of CMRS licenses issued by the Federal Communications Commission (FCC) and providing prepaid wireless services within Pennsylvania. Specifically, Blue Wireless provides wireless service coverage in the service areas of the following seventeen incumbent local exchange carriers (ILECs): Verizon North LLC, Verizon Pennsylvania, LLC, Citizens Telecommunications of New York, Inc., Consolidated Communications of Pennsylvania Company LLC, Frontier Communications Commonwealth Telephone Company, Frontier Communications of Canton, LLC, Frontier Communications of Oswayo River, LLC, Frontier Communications of Pennsylvania, LLC, Lackawaxen Telecommunications Services, Inc., The North-Eastern PA Telephone Company, North Penn Telephone Company, Palmerton Telephone Company, South Canaan Telephone Company, The United Telephone Company of Pennsylvania, d/b/a Century Link, Venus Telephone Corporation, Windstream Conestoga, Inc. and Windstream Pennsylvania, LLC.

On September 10, 2013, at Docket Number P-2013-2382739, Blue Wireless filed a Petition seeking Commission approval to be designated as an ETC in the Commonwealth of Pennsylvania, pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended, in the geographic areas in Pennsylvania where it offered

and provided facilities-based wireless services. However, Blue Wireless sought designation as an ETC only for the limited purpose of receiving federal low-income universal service support for prepaid wireless services or what is commonly referred to as a Lifeline-only ETC.

By an Order entered on November 13, 2014, the Commission designated Blue Wireless as a Lifeline-only ETC in the Commonwealth of Pennsylvania throughout its wireless service coverage area. Blue Wireless was directed to notify its existing customer base and the general public in the geographic service areas where it provides wireless services that it had been designated as a Lifeline-only ETC in Pennsylvania and to publicize the availability of its Lifeline program through general distribution media which may include print, radio and social network media. Additionally, Blue Wireless was advised that if at some point in the future it desired to relinquish its Lifeline-only ETC designation, it would agree to comply with the requirements of 47 CFR § 54.205.

In its Notice of Relinquishment, Blue Wireless states that it is in the process of winding down and closing its wireless mobile voice telephone service and evaluating a shift of its business towards providing mobile broadband service only.¹ Blue Wireless further stated that it has ceased enrolling new mobile voice wireless subscribers effective April 27, 2020, and will cease the provision of mobile voice wireless telephone service to its existing customers, including its federal Lifeline customers, effective July 30, 2020. Specifically, Blue Wireless stated that it provided advanced notice of its cessation of service to its customers by mail and text messages on April 27 and 28, 2020. Additional text notifications were sent to all Lifeline customers on May 26, 2020 and on June 30, 2020. In addition, on June 1, 2020, Blue Wireless place calls to all Lifeline customers with a pre-recorded message to inform them of the pending end of service.² Lastly, Blue Wireless avers that its Lifeline customers will not be disadvantaged by its abandonment since other ETCs are currently providing Lifeline Service throughout Blue Wireless' designated service area.

Discussion

In accordance with 47 CFR § 54.205(a), an ETC that seeks to relinquish its ETC status must give advance notice to the state commission of such relinquishment. Additionally, prior to permitting a telecommunications carrier designated as an ETC to cease providing universal service in an area served by more than one ETC, the state commission shall require the remaining ETC(s) to ensure that all customers served by the relinquishing carrier will continue to be served. 47 CFR § 54.205(b).

In a September 3, 2013 Secretarial Letter that was sent to all Pennsylvania ETCs at Docket No. M-2013-2380576, the Commission basically adopted the same above criteria

¹ The Commission notes that the United States Court of Appeals for the District of Columbia Circuit issued its ruling in the *Mozilla Corporation vs Federal Communications Commission (Mozilla)* case and largely upheld the FCC's decision in the 2018 Restoring Internet Freedom Order, Restoring Internet Freedom, Declaratory Ruling, Report and Order, and Order, 33 FCC Red 311 (2017) (Restoring Internet Freedom Order), reclassifying broadband internet access service (BIAS) as an "information service" and repealing network neutrality rules. The implication of the reclassification decision is that broadband-only providers appear to be wholly outside of the jurisdiction of the states. However, the *Mozilla* Court also remanded aspects of the Restoring Internet Freedom Order to address the implications on this reclassification for public safety, pole attachments, and the Lifeline program. With regards to Lifeline, the *Mozilla* Court questioned the FCC's authority to continue to direct that Lifeline support be provided to ETCs providing broadband service to qualifying low-income consumers. In particular, the *Mozilla* Court determined that the BIAS reclassification decision affects the FCC's prior determination that it has the legal "authority under Section 254(e) of the Act to provide Lifeline support to ETCs that provide broadband service over facilities-based broadband-capable networks that support voice service," and that "[t]his legal authority does not depend on the regulatory classification of broadband internet access service." *Mozilla*, 940 F.3d at 68–70 (internal citations removed) (citing Restoring Internet Freedom Order, 33 FCC Red at 426, para. 193).

² Corrected Supplemental Notice dated July 13, 2020.

for relinquishment in its own rules and requirements for a carrier seeking the relinquishing of its ETC status in Pennsylvania. In the letter, the Commission advised all certificated ETCs that before they are allowed to relinquish their ETC designation in Pennsylvania, they must satisfy the criteria under the Telecommunications Act of 1996 (TA-96) and our rules governing petitions for relief. Specifically, we advised them that this Commission may grant a request to relinquish ETC status if the petitioning ETC demonstrates reliable, probative and substantial evidence of the following:

1. More than one ETC serves the service area(s) in question;
2. The ETC seeking to relinquish its ETC designation has provided advance notice to the Commission of such relinquishment;
3. The Commission, prior to authorizing the relinquishment, requires:
 - a. Remaining ETC(s) to ensure that all customers served by the relinquishing carrier will continue to be served;
 - b. Sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier.

See generally 47 U.S.C. § 214(e)(4); 47 CFR § 54.205.

While TA-96 allows an ETC to relinquish its ETC status, and thus forego access to various federal funding sources, we note that the relinquishment process still remains focused on preservation of universal service. To further the federal and state universal service goals, the Commission also requires the following of a carrier that is seeking to relinquish its ETC designation:

1. All Petitions to relinquish ETC status must be accompanied by an affidavit or verification of an authorized individual;
2. The Petition must be served upon the statutory advocates, the Office of Consumer Advocate, Office of Small business Advocate, the Commission's Bureau of Enforcement & Investigation and all carriers referenced in the petition as being alternative ETCs;
3. Notice must be provided to all affected Lifeline customers as follows:
 - a. Written notice 90 days prior to the discontinuation of Lifeline service in the form of a stand-alone mailing separate from any billing or collections mailing;
 - b. Telephonic notice 60 days prior to the discontinuation of Lifeline service
 - c. Written notice 30 days prior to the discontinuation of Lifeline service in the form of a billing insert or stand-alone mailing;
4. The notices should inform affected customers of a date certain that Lifeline service will end, list alternative lifeline providers and offer assistance to those customers who wish to retain Lifeline service;
5. These notices must be attached to the Petition to Relinquish;
6. Petitioners are directed to ensure that the transition to another Lifeline provider is seamless for the Lifeline customer and ensure that the customer is not subject to additional connection fees or deposits. Also, the Petitioner is to assist the Lifeline customer with any lifeline certification occasioned by the petition.

As mentioned earlier, Blue Wireless states in its Notice of Relinquishment that it will cease its provision of wireless telephone service to its existing customers effective July 30, 2020 and thus, seeks to relinquish its designation as a Lifeline-only ETC in Pennsylvania. The Commission's regulations allow for a party seeking relief to file a petition as set forth in 52 Pa. Code § 5.41 (relating to Petitions). In this proceeding, Blue Wireless has only filed a Notice of Relinquishment and related information with the Commission seeking our approval to relinquish its designation as a Lifeline-only ETC.

While Blue Wireless' request for relief does not comply with Section 5.41 of our regulations, instead of dismissing the filing, the Commission will exercise its discretion to treat the Notice of Relinquishment as a petition that was rightfully filed in compliance with the Commission's procedural regulations. Generally, we may overlook minor procedural defects in order to secure the just speedy or inexpensive determination of every matter or proceeding to which its regulations apply. 52 Pa. Code § 1.2(a). Additionally, we note that Blue Wireless served its Notice of Relinquishment on the statutory advocates and the Commission's Bureau of Investigation and Enforcement and no party opposed the filing. Thus, in the interest of a just and expeditious resolution of the matter, the Commission will overlook the minor procedural defects of the instant filing and rule on its merits as any procedural defect regarding Blue Wireless' request for relief does not affect the substantive rights of any interested party.

Blue Wireless advised the Commission that 1,206 Lifeline customers are subject to its decision to relinquish its Lifeline-only ETC designation. In support of its request, Blue Wireless asserts that it has complied with all of the federal and state notice requirements regarding the relinquishment of its ETC designation. In particular, Blue Wireless states that it has provided the required advanced customer notices regarding its plans to cease providing service to its Lifeline customers and also advised them in the customer notice that it is necessary for them to obtain a new cell phone provider.³

The Commission notes that all of Blue Wireless's Lifeline service plans are offered on a prepaid basis and that its Lifeline customers were to be advised of the billing method prior to establishing Lifeline service with the company. We also note that generally a Lifeline subscriber that chooses a Blue Wireless Lifeline Plan will be billed by text message, but Blue Wireless has stated that it would accommodate individual requests for paper bills as needed. Notwithstanding, Blue Wireless has stated that it provided the requisite ninety-days advance notice of its cessation of service to its customers both by mail and via text messages on April 27 and 28, 2020.

Additionally, Blue Wireless sent additional customer notifications to its Lifeline customers of the pending cessation of service on May 24, 2020. Further, in a supplement to the Notice of Relinquishment that was filed on July 9, 2020, in response to a staff inquiry, Blue Wireless stated that it also sent its customers text messages on May 26, 2020 and June 3, 2020, reminding them that their service would be ending on July 30, 2020.⁴ Also, in this supplemental filing, Blue Wireless stated that on June 1, 2020, the company placed calls to all Lifeline customers with a pre-recorded message regarding the pending cessation of Lifeline service. Lastly, Blue Wireless asserts that it planned to send another customer notification regarding the pending cessation of

service on June 30, 2020. Accordingly, based on this information, we find that Blue Wireless has given appropriate and sufficient advanced notice regarding its planned cessation of Lifeline service to its Lifeline customers.

Further, in support of its request to relinquish its Lifeline-only ETC designation, Blue Wireless states that several Lifeline service providers including SafeLink and Assurance Wireless operate and serve customers in its wireless coverage area. Blue Wireless also asserts that in addition to these competitive certificated Lifeline providers in its wireless service area, there are also incumbent local exchange carriers in its wireless service coverage area that provide Lifeline service. While it does not appear that Blue Wireless served its Notice of Relinquishment on these other Lifeline service providers as required by our September 3, 2013 Secretarial letter, we note that as recently of July 8, 2020, 88 of Blue Wireless' 1,206 Lifeline customers had migrated to another Lifeline service provider after receiving the customer notices.⁵

Taking note of this fact, we understand that Blue Wireless is still serving approximately 1,118 Lifeline customers. The Commission requires the relinquishing ETC to make good faith efforts to ensure that its remaining customers are being transferred to other competitive ETCs in its service area. Consequently, it is incumbent for Blue Wireless to ensure that its remaining Lifeline customers are transferred or migrated to another Lifeline service provider in a seamless manner so that the customers are not subject to additional connection fees or deposits by the new Lifeline service provider. Also, Blue Wireless must assist the migrating Lifeline customer with any Lifeline certification that is necessary to obtain service from the new Lifeline provider.

It is the responsibility of the state commission to ensure that all remaining customers served by the relinquishing carrier will continue to be served prior to permitting a telecommunications carrier designated as an ETC to cease providing service in an area served by more than one ETC. Since not all of Blue Wireless' Lifeline customers have been migrated to a new Lifeline service provider, we are directing Blue Wireless to continue providing Lifeline service to its remaining Lifeline customers until they have all been successfully migrated to one of the remaining ETC(s) in the service areas. Accordingly, Blue Wireless may not discontinue service and abandon customers without our approval and until this condition is fully met.

To fulfill this condition, Blue Wireless is directed to track the progress of the customer migrations for its remaining Lifeline customers and provide to the Commission's Bureau of Consumer Services a progress report on the number of Lifeline customers that have and have not migrated to a new Lifeline service provider within twenty days of the entry of this Order. Blue Wireless shall continue to provide Lifeline service to its remaining Lifeline customers until such time as those customers have obtained comparable service from an alternate Lifeline service provider.

Upon full consideration of all matters of record pertaining to this request for relinquishment of an ETC designation, we determine that is in the public interest to grant Blue Wireless' request in part, and deny it in part consistent with the above discussion; *Therefore*,

³ See fn. 4 of the Notice of Relinquishment.

⁴ July 9th Supplemental filing.

⁵ July 9th Supplemental filing.

It Is Ordered That:

1. Buffalo-Lake Erie Wireless Systems Co., LLC, d/b/a Blue Wireless' request to relinquish its ETC designation is hereby approved in part and denied in part.

2. Buffalo-Lake Erie Wireless Systems Co., LLC, d/b/a Blue Wireless shall not be authorized to cease providing Lifeline services in Pennsylvania, but rather shall continue to provide Lifeline service to its remaining Lifeline customers until such time as those Lifeline customers have migrated and obtained comparable service from another Lifeline provider in Blue Wireless' designated service area.

3. If necessary, Buffalo-Lake Erie Wireless Systems Co., LLC, d/b/a Blue Wireless shall assist the migrating Lifeline customer with any Lifeline certification that is necessary to obtain service from the new Lifeline provider.

4. Buffalo-Lake Erie Wireless Systems Co., LLC, d/b/a Blue Wireless shall track the progress of customer migrations for its remaining Lifeline customers and shall provide the Commission's Bureau of Consumer Services with a progress report on the number of remaining Lifeline customers that have and have not migrated to a new Lifeline service provider within twenty days of the entry of this Order.

5. Buffalo-Lake Erie Wireless Systems Co., LLC, d/b/a Blue Wireless shall aver in its twenty-day customer migration progress report that all remaining Lifeline customers have obtained Lifeline service from alternate competitive Lifeline providers in a seamless manner so that the migrating Lifeline customer is not subject to additional connection fees or deposits by the new Lifeline service provider.

6. Upon successful completion of the directive in Ordering Paragraph No. 4 above, Buffalo-Lake Erie Wireless Systems Co., LLC, d/b/a Blue Wireless shall continue to file progress reports regarding customer migrations until all remaining Life customers have obtained comparable service from another Lifeline provider in Blue Wireless' designated service area and shall aver in its customer migration progress report that all remaining Lifeline customers have obtained Lifeline service from alternate competitive Lifeline providers in a seamless manner as denoted in Ordering Paragraph No. 5.

7. The Secretary's Bureau serve a copy of this Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, and the Bureau of Investigation & Enforcement, and also cause a copy of this Order to be published in the *Pennsylvania Bulletin*.

8. Upon Buffalo-Lake Erie Wireless Systems Co., LLC, d/b/a Blue Wireless' successful completion of migrating all of its remaining Lifeline customers to other Lifeline providers operating in its designated service area, it shall be authorized to relinquish its Lifeline-only ETC designation in Pennsylvania and the record shall be mark closed.

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 20-1057. Filed for public inspection July 31, 2020, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Electric Generation Supplier License Cancellations of Companies with an Expired Financial Security, Insufficient Financial Security Amount or Language

Public Meeting held
July 16, 2020

Commissioners Present: Gladys Brown Dutrieuille, Chairperson; David W. Sweet, Vice Chairperson; John F. Coleman, Jr.; Ralph V. Yanora

*Electric Generation Supplier License Cancellations of
Companies with an Expired Financial Security,
Insufficient Financial Security Amount or Language;
M-2020-3015227*

Tentative Order

By the Commission:

The Commission's regulations at 52 Pa. Code § 54.40(a) state that an Electric Generation Supplier (EGS) license will not be issued or remain in force until the licensee furnishes a bond or other security approved by the Commission. In addition, 52 Pa. Code § 54.40(d) states that the maintenance of an EGS license is contingent on the licensee providing proof to the Commission that a bond or other approved security in the amount directed by the Commission has been obtained.

Each EGS must file an original bond, letter of credit, continuation certificate, amendment, or other approved financial instrument with Rosemary Chiavetta, Secretary, Pennsylvania Public Utility Commission, 400 North Street, Harrisburg, PA 17120 prior to the EGS's current security expiration date. Each financial instrument must be an original document that displays a "wet" signature or digital signature, preferable in blue ink, and displays a "raised seal" or original notary stamp. The name of the principal on the original financial instrument must match exactly with the name that appears on the EGS's license issued by the Commission.

Failure to file before the financial security's expiration date may cause Commission staff to initiate a formal proceeding that may lead to the following: cancellation of each company's electric supplier license, removal of each company's information from the Commission's website and notification to all electric distribution companies, in which each company is licensed to do business, of the cancellation of the license.

As of July 7, 2020, each EGS listed in the Supplier Table has not provided proof to the Commission that it has a bond or other approved security in the amount or language directed by the Commission, to replace a bond which is expired or which is non-compliant with Commission regulations.

While we recognize that the COVID-19 pandemic has provided some challenges related to the continuance of normal business operations, it is imperative that the Commission have an approved financial security in place with each EGS to ensure compliance with 52 Pa. Code § 54.40(d). On March 25, 2020, Commission staff issued an EGS Financial Security Filing Guidance Memo that stated the following:

- Where practical, EGSs should file an original bond, letter of credit, continuation certificate, amendment,

or other financial instrument. These original financial instruments should display “wet” signatures or digital signatures, preferably in blue ink, and display a “raised seal” or original notary stamp.

- EGSs should email a copy of the original financial instrument directly to Secretary Chiavetta at rchiavetta@pa.gov. Secretary Chiavetta has waived the restriction on emailed filings that contain confidential and proprietary material. As such, financial security instruments will be permitted to be filed by email for the duration of the Commission’s work from home order.
- If an EGS is unable to acquire a “raised seal” or original notary stamp on the financial security during the pendency of the COVID-19 emergency, the Secretary’s Bureau will not reject the financial security.
- If an EGS has been granted a reduction in its financial security, and it is time to renew the annual

reduction, please file an original annual compliance filing with the Secretary’s Bureau and a copy via email at rchiavetta@pa.gov.

Please note that the requirement that EGSs maintain a valid financial security on file with the Commission, remains in effect.

Be advised that emailed financial security instruments—after review and acceptance of the Secretary’s Bureau and the Bureau of Technical Utility Services—will be provisionally approved by the Commission until Commission staff resume working in the Keystone Building. EGSs must still mail the original bond with original signatures and notary stamp as per the Commission’s normal practice.

Based on the Commission’s records, the EGSs listed in the Supplier Table have not provided an original approved financial security, nor have they emailed a copy of the original financial instrument to Secretary Chiavetta as directed by the staff memo.

Supplier Table—List of Electric Generation Suppliers that failed to email a copy or provide an original financial security document to the Commission.

<i>Docket Number</i>	<i>Company Name</i>	<i>Financial Security Expiration Date</i>	<i>Commission Approved Amount or Language</i>
A-2016-2575063*	FREEPOINT ENERGY SOLUTIONS, LLC	7/1/2021	No
A-2016-2575177	NATIONAL UTILITIES REFUND, LLC	6/20/2020	Yes
A-2014-2457160	NORESCO, LLC	6/24/2020	Yes
A-2016-2579236	TRIANGLEENERGY, LLC	6/13/2020	Yes
A-2019-3012205	WATTB, INC.	6/17/2020	Yes

*Taking title to electricity

An EGS listed in the Supplier Table that believes it has provided its original financial security to the Commission and was listed in error, should contact the Commission’s Bureau of Technical Services at pc-puc-tus-energy@pagov.onmicrosoft.com.

As part of its EGS license validation procedures, the Commission’s Bureau of Technical Utility Services sent a 90-day Security Renewal Notice Letter to each entity in the Supplier Table above stating that original documentation of a bond, or other approved security in the amount and language directed by the Commission, must be filed within 30 days prior to each entity’s security expiration date. None of the companies listed provided the required documentation.

Based on the above facts, we tentatively conclude that the EGSs listed in the Supplier Table are not in compliance with 52 Pa. Code § 54.40(a) and (d) and therefore it is appropriate to initiate the cancellation process for the EGS license of each company listed in the Supplier Table, without the necessity of a formal complaint, as being in the public interest; *Therefore,*

It Is Ordered That:

1. Cancellation of the Electric Generation Supplier License of each company listed in the Supplier Table is hereby tentatively approved as being in the public interest.
2. The Secretary serve a copy of this Tentative Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Bureau of Investigation & Enforcement, all electric distribution companies, all of the

Electric Generation Suppliers in the Supplier Table, and publish a copy of this Tentative Order in the *Pennsylvania Bulletin* with a 45-day comment period.

3. The Secretary serve a copy of this Tentative Order upon the Pennsylvania Department of Revenue—Bureau of Compliance, Business License Clearance Division.

4. Absent the filing of adverse public comment or the filing of an approved security within 45 days after publication in the *Pennsylvania Bulletin*, the Bureau of Technical Utility Services shall prepare a Final Order for entry by the Secretary.

5. Upon entry of the Final Order described in Ordering Paragraph No. 4 above, each company listed in the Supplier Table will be stricken from all active utility lists maintained by the Commission’s Bureau of Technical Utility Services and the Assessment Section of the Bureau of Administration, removed from the Commission’s website, and notifications be sent to all electric distribution companies in which the Electric Generation Suppliers are licensed to do business.

6. Upon entry of the Final Order described in Ordering Paragraph No. 4, each electric distribution company in which the Electric Generation Suppliers are licensed to do business, shall return the customers of the Electric Generation Suppliers to default service.

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 20-1058. Filed for public inspection July 31, 2020, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Protests may only be filed if there is evidence that the applicant lacks fitness. Protests based on endangering or impairing operations of an existing carrier will not be honored. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, 400 North Street, Harrisburg, PA 17120, with a copy served on the applicant by August 17, 2020. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Applications of the following for approval to *begin operating as common carriers for transportation of persons as described under each application.*

A-2020-3019241 (Corrected). Wisa Enterprises, LLC (4601 Locust Lane, Suite 104, Harrisburg, Dauphin County, PA 17109) in paratransit service, from points in the Counties of Cumberland, Dauphin, Lancaster, Lebanon and York, to points in Pennsylvania, and return.

A-2020-3019438. Anba Bola, LLC (411 Germantown Pike, Collegeville, Montgomery County, PA 19426) persons in paratransit service, from points in the Counties of Bucks, Delaware and Montgomery, and the City and County of Philadelphia, to points in Pennsylvania, and return.

A-2020-3020872. Reading Checker Cabs, LLC (615 Elm Street, Unit 2, Reading, Berks County, PA 19601) in call or demand, in the Counties of Berks, Dauphin, Lebanon, Luzerne and Schuylkill.

Applications of the following for approval of the *beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of household goods as described under each application.*

A-2020-3020871. Elite Moving Company (229 Bonita Drive, Greensburg, Westmoreland County, PA 15601) for the right to begin to transport, as a common carrier, by motor vehicle, household goods in use, between points in Pennsylvania.

A-2020-3020875. Pennsylvania & New Jersey Industries, LLC, t/a College Hunks Moving, Lehigh Valley (6690 Apple Butter Road, Slatington, Lehigh County, PA 18080) for the right to begin to transport, as a common carrier, by motor vehicle, household goods in use, between points in Pennsylvania. *Attorney:* Andrew Horowitz, 500 Grant Street, Suite 5240, Pittsburgh, PA 15219.

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-2020-3020840. Michael Wetherhold, t/a Mike Wetherhold Transit Service (P.O. Box 393, Adamstown, Berks County, PA 19501) discontinuance of service and cancellation of its certificate, to transport, as a common carrier, by motor vehicle, at A-2019-3012832, persons in paratransit service, from points in Lancaster County, to points in Pennsylvania, and return.

A-2020-3020867. Ray Cab Company, LLC, d/b/a Pittsburgh City Cab, d/b/a Peoples Cab (1825 Liverpool Street, Pittsburgh, Allegheny County, PA 15233) discontinuance of service and cancellation of its certificate, to transport, as a common carrier, by motor vehicle, at A-6310022, persons, upon call or demand in the City of Pittsburgh, Allegheny County, as more thoroughly described in the original ordering paragraphs at A-2008-2036424. *Attorney:* Ray F. Middleman, Esquire, U.S. Steel Tower, 44th Floor, Pittsburgh, PA 15219.

A-2020-3020897. Corry Ambulance Service, Inc. (1926 Peach Street, Erie, Erie County, PA 16502) for the discontinuance and cancellation of its authority, to transport, as a common carrier, by motor vehicle, persons, in paratransit service, from points in the Counties of Crawford, Erie and Warren, to points in Pennsylvania, and return.

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 20-1059. Filed for public inspection July 31, 2020, 9:00 a.m.]

PHILADELPHIA PARKING AUTHORITY

Service of Notice of Motor Carrier Applications in the City of Philadelphia

The following permanent authority applications to render service as common carriers in the City of Philadelphia have been filed with the Philadelphia Parking Authority's (PPA) Taxicab and Limousine Division (TLD). Formal protests must be filed in accordance with 52 Pa. Code Part II (relating to Philadelphia Parking Authority) with the TLD's Office of the Clerk, 2415 South Swanson Street, Philadelphia, PA 19148, no later than August 17, 2020. The nonrefundable protest filing fee is \$5,000 payable to the PPA by certified check or money order. The applications are available for inspection at the TLD between 9 a.m. and 4 p.m., Monday through Friday (contact TLD Director Christine Kirlin, Esq. at (215) 683-9653 to make an appointment) or may be inspected at the business addresses of the respective applicants or attorneys, or both.

Doc. No. A-20-07-02. Amiya Taxi, LLC (4807 Paschall Avenue, Philadelphia, PA 19143): An application for a medallion taxicab certificate of public convenience to transport, as a common carrier, persons in taxicab service between points within the City of Philadelphia and from points in the City of Philadelphia to points in Pennsylvania, and return. *Attorney for Applicant:* David R. Alperstein, Esq., 314 Cherry Avenue, Voorhees, NJ 08043.

SCOTT PETRI,
Executive Director

[Pa.B. Doc. No. 20-1060. Filed for public inspection July 31, 2020, 9:00 a.m.]

STATE BOARD OF NURSING

Automatic Suspension of the License to Practice Professional Nursing of Georgeann Leuzzi, RN; Case No. 18-51-02212

Notice to Georgeann Leuzzi, RN:

The Commonwealth of Pennsylvania, Department of State, Bureau of Professional and Occupational Affairs, instituted formal administrative action against you by filing a Petition for Automatic Suspension before the State Board of Nursing (Board) alleging that your license to practice professional nursing is subject to automatic suspension under section 23(c) of the Controlled Substance, Drug, Device and Cosmetic Act ("Drug Act"). This notice is being published pursuant to 1 Pa. Code § 33.31 and Rule 430 of the Pennsylvania Rules of Civil Procedure, 231 Pa. Code Rule 430, providing service of process upon you by publication.

Your license to practice professional nursing in the Commonwealth of Pennsylvania was **AUTOMATICALLY SUSPENDED** under the authority of Section 23(c) of the Drug Act, **EFFECTIVE**, September 18, 2019.

If you wish to defend against the charges in the Petition or request a hearing you must do so within twenty days from the date of publication of this Notice. The procedure for doing so is explained in the Petition, Notice and Order of Automatic Suspension. You may obtain a copy of the Petition, Notice and Order online or by contacting the Prothonotary for the Department of State, 2601 North Third Street, P.O. Box 2649, Harrisburg, PA 17105-2649; (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 assistance of an attorney. All proceedings before the Board are conducted under the Administrative Agency Law and the General Rules of Administrative Practice and Procedure. If a response and request for a hearing are not filed within 20 days of publication of this Notice, an order making the suspension of your license final will be issued by the State Board of Nursing. The response and any pleadings or other documents related to this matter must be filed with the Prothonotary for the Department of State at the above address. A copy of the response and request for hearing shall also be served on the prosecuting attorney identified in the Petition.

ANN M. COUGHLIN, MBA, MSN, RN,
Chairperson

[Pa.B. Doc. No. 20-1061. Filed for public inspection July 31, 2020, 9:00 a.m.]

STATE BOARD OF NURSING

Bureau of Professional and Occupational Affairs v. Michele L. Rice, LPN; Case No. 17-51-02511

On April 4, 2019, Michele L. Rice, LPN, license No. PN265155, last known of New Castle, Lawrence County, had her license indefinitely suspended by the State Board of Nursing (Board) for having received accelerated rehabilitative disposition in the disposition of a felony.

Individuals may obtain a copy of the adjudication at www.pals.pa.gov.

This order represents the final Board decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of their petition for review.

ANN M. COUGHLIN, MBA, MSN, RN,
Chairperson

[Pa.B. Doc. No. 20-1062. Filed for public inspection July 31, 2020, 9:00 a.m.]

STATE REAL ESTATE COMMISSION

Bureau of Professional and Occupational Affairs v. Locust Grove Cemetery Association; Case No. 14-56-07941

On February 5, 2020, Locust Grove Cemetery Association, registration No. CE000061A, of Ellwood City, Lawrence County, was assessed a \$1,000 civil penalty for practicing as a cemetery company without a current and valid registration.

Individuals may obtain a copy of the adjudication at www.pals.pa.gov.

This order represents the final State Real Estate Commission (Commission) 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 Commission with a copy of their petition for review.

ANNE M. RUBIN,
Chairperson

[Pa.B. Doc. No. 20-1063. Filed for public inspection July 31, 2020, 9:00 a.m.]

